



**MEETING OF THE
TEMPLE CITY COUNCIL
MUNICIPAL BUILDING
2 NORTH MAIN STREET
3rd FLOOR – CONFERENCE ROOM
THURSDAY, MARCH 21, 2019
3:00 P.M.
AGENDA**

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, March 21, 2019.
2. Receive a presentation on the Hillcrest Cemetery.
3. Discuss the Strategic Investment Zone Program.
4. Discuss the status of right-of-way acquisitions for the Poison Oak Road and Outer Loop, Phases 1-6, expansion projects.

Pursuant to Texas Government Code Section 551.072, the City Council may meet in closed session to deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

5:00 P.M.

MUNICIPAL BUILDING

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

**TEMPLE CITY COUNCIL
REGULAR MEETING AGENDA**

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PUBLIC APPEARANCE

3. (A) Receive comments from Barbara Cooper related to right-of-way acquisition for the Outer Loop Phase 6 project parcels 5, 6, and 7.

(B) Receive comments from Steve Ward related to right-of-way acquisition for the Outer Loop Phase 6 Project parcels 15 and 16.

III. PUBLIC COMMENTS

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

IV. AWARDS AND RECOGNITIONS

4. Recognize Park and Maintenance Staff for The Texas Recreation and Parks Society (TRAPS) Maintenance Rodeo.
5. Recognize Jackson Park for receiving The Texas Recreation and Parks Society (TRAPS) Lone Star Legacy Park distinction.
6. Presentation of the 25th Anniversary of Habitat for Humanity – Fort Hood Chapter.

V. CONSENT AGENDA

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

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

Minutes

- (A) [March 7, 2019 Special & Regular Called Meeting](#)

Contracts, Leases, & Bids

- (B) [2019-9585-R](#): Consider adopting a resolution authorizing a professional services agreement with Kimley-Horn and Associates, Inc., of Austin, in the amount of \$331,210 for professional services required to design and bid South Pea Ridge Road from Westwood Hills Boulevard to the proposed realignment of Poison Oak Road, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2019 Combination Tax & Revenue Bonds.
- (C) [2019-9586-R](#): Consider adopting a resolution authorizing a professional services agreement with MRB Group, of Temple, to perform the South 41st to 57th Street Utility Assessment in the amount of \$263,800.
- (D) [2019-9587-R](#): Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, for final design of the Outer Loop Phase 4 Drainage Channel in the amount of \$85,042.50.
- (E) [2019-9588-R](#): Consider adopting a resolution authorizing a services agreement for West Temple Parks maintenance, turf management, and athletic field management with Sports Field Holdings, dba Sports Field Solutions, of Dallas in the estimated annual amount of \$440,000.
- (F) [2019-9589-R](#): Consider adopting a resolution authorizing an interlocal agreement with Bell County for the use of the election equipment necessary for the May 4, 2019 General Election.
- (G) [2019-9590-R](#): Consider adopting a resolution ratifying a meet and confer agreement with the Temple Police Association.
- (H) [2019-9591-R](#): Consider adopting a resolution authorizing an Airport Hangar Lease Agreement with Kachemak Bay Flying Service, Inc. for the lease of Hangar No. 26 at the Draughon-Miller Central Texas Regional Airport.
- (I) [2019-9592-R](#): Consider adopting a resolution authorizing a contract with Lone Star Grading & Materials, LLC of Salado, to construct roadway and sidewalk improvements on 7th Street from Avenue H south to the dead-end, in the amount of \$344,616.16.
- (J) [2019-9593-R](#): Consider adopting a resolution authorizing a contract between the City of Temple and the Department of the Army, Corps of Engineers to reimburse the city for salary and benefit expenses and vehicle cost related to police patrols at Temple Lake Park from May 4, 2019 through September 2, 2019.
- (K) [2019-9594-R](#): Consider adopting a resolution authorizing the submission of an application and acceptance of funding for a Victims of Crime Assistance Grant through the Criminal Justice Division of the Governor's Office.

- (L) [2019-9595-R](#): Consider adopting a resolution authorizing a one-year renewal to the lease between the City of Temple, City of Belton and the Secretary of the Army for the Miller Springs Nature Center.
- (M) [2019-9596-R](#): Consider adopting a resolution granting an easement to Oncor Electric Delivery Company, LLC for electric utilities necessary for the construction of Crossroads Park.
- (N) [2019-9597-R](#): Consider adopting a resolution ratifying an emergency construction contract for the repair of a 30-inch transmission main repair with McLean Construction, Inc. of Killeen in the amount of \$49,119.
- (O) [2019-9598-R](#): Consider adopting a resolution ratifying a change order to an emergency construction contract for the repair of a 20-inch water transmission main at 909 West Park with All-Tex Utilities, LLC of Hillsboro, in the amount of \$63,000.
- (P) [2019-9599-R](#): Consider adopting a resolution ratifying the purchase of property situated 515 South 18th Street in an amount not to exceed \$10,500.
- (Q) [2019-9600-R](#): Consider adopting a resolution ratifying the conveyance of 16.659 acres of property from the Temple Economic Development Corporation to the City of Temple for use as public right-of-way.
- (R) [2019-9601-R](#): Consider adopting a resolution authorizing the purchase of right-of-way and a temporary construction easement necessary for the Poison Oak Road Expansion Project and authorizing closing costs associated with the purchase in an estimated amount of \$46,000.
- (S) [2019-9602-R](#): Consider adopting a resolution authorizing the purchase of two rights-of-way necessary for the expansion of Old Waco Road, Outer Loop Phase 6, and authorizing closing costs associated with the purchase in an estimated amount of \$305,000 and relocation benefits associated with this project in estimated amount of \$150,000.

Ordinances- Second & Final Reading

- (T) [2019-4957](#): SECOND READING – FINAL HEARING – FY-19-4-ZC: Consider adopting an ordinance authorizing the rezoning of 86.91 +/- acres, situated in the Redding Roberts Survey, Abstract 692, and located at the intersection of FM 93 and Southwood Drive from Agricultural district to Planned Development Agricultural, with a required site/development plan.

Misc.

- (U) [2019-9603-R](#): Consider adopting a resolution appointing election judge(s) and setting their compensation for the City's General election to be held on Saturday, May 4, 2019.
- (V) [2019-9604-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.

VI. REGULAR AGENDA

ORDINANCES – SECOND READINGS

8. [2019-4955](#): SECOND & FINAL READING – PUBLIC HEARING – Consider adopting the following ordinances amending:
- (A) The Code of Ordinances, Chapter 4, “Alcoholic Beverages,” to include a general update of the Chapter, additional clarification of terms used in Chapter, a better alignment of City’s regulations with state law, and an addition of an enforcement provision.
 - (B) Temple Unified Development Code Section 5.3.15, “Alcoholic Beverage Sales for On-Premise Consumption,” by clarifying Subsection 5.3.15(A)(2) with additional language and removing the reference to City Code, Chapter 4, “Alcoholic Beverages,” Subsection 5.3.15(B)(2) to better conform with state law.

ORDINANCES

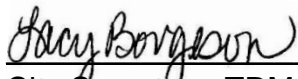
9. [2019-4958](#): FIRST READING – PUBLIC HEARING – Z-FY-19-6-ZC: Consider adopting an ordinance authorizing a rezoning with a site/development plan, from Commercial district to Planned Development Multi-Family Two district, with conditions and requiring a site development plan, on 9.055 +/- acres, and 0.433 +/- acres, out of and a part of Block One, Temple Commercial Park, Section 1, Bell County, Texas, as 2602 South 39th Street, Temple.
10. [2019-4959](#): FIRST READING – PUBLIC HEARING – FY-19-7-ZC: Consider adopting an ordinance authorizing a rezoning request from Agricultural zoning district to Planned Development-General Retail zoning district, on 54.592 +/- acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8901 West Adams Avenue.
11. [2019-4960](#): FIRST READING – PUBLIC HEARING – FY-19-8-ZC: Consider adopting an ordinance authorizing rezoning from Light Industrial zoning district to Single-Family One zoning district, on 0.189 +/- acres, being Lot 7, Block 5, Rylander Addition, addressed as 14 North 12th Street.
12. [2019-4961](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance granting to Oncor Electric Delivery Company LLC an electric power franchise to use the present and future streets, alleys, highways, public utility easements, public ways, and public property of the City of Temple.

RESOLUTIONS

13. [2019-9605-R](#): Consider adopting a resolution to take action on the Temple Professional Firefighters Association’s “Petition Requesting Recognition of Bargaining Agent” as required by Texas Local Government Code Chapter 142.
14. [2019-9606-R](#): Consider adopting a resolution pursuant to Chapter 2206, Government Code § 2206.053 finding that two properties situated in the Nancy Chance Survey, Abstract #5, Bell County, Texas, are necessary for the Outer Loop Phase 6 project and authorizing the use of eminent domain to condemn the properties.

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 8:45 am, on Monday March 18, 2019.



City Secretary, TRMC

SPECIAL ACCOMMODATIONS: *Persons with disabilities who have special communication or accommodation needs and desire to attend this meeting should notify the City Secretary's Office by mail or telephone 48 hours prior to the meeting date.*

I certify that this Notice of Meeting Agenda was removed by me from the outside bulletin board in front of the City Municipal Building on _____ day of _____ 2018.

Title _____



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Timothy A. Davis, Mayor

ITEM DESCRIPTION:

- (A) Receive comments from Barbara Cooper related to right-of-way acquisition for the Outer Loop Phase 6 Project parcels 5, 6, and 7.
- (B) Receive comments from Steve Ward related to right-of-way acquisition for the Outer Loop Phase 6 Project parcels 15 and 16.

STAFF RECOMMENDATION: Receive comments as presented in item description.

ITEM SUMMARY: (A) Ms. Cooper submitted a Request for Placement on the City Council Agenda, please see the attached forms.

(B) Mr. Ward submitted a Request for Placement on the City Council Agenda, please see the attached forms.

FISCAL IMPACT: None

ATTACHMENTS:

[Requests for placement on agenda](#)



CITY OF TEMPLE, TEXAS

CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

__Priority

NAME OF PRESENTER: BARBARA COOPER

ADDRESS: 4302 CHARTER OAK DR

TELEPHONE NO. 254-718-4630

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note – The City Council meets the first and third Thursdays of each month.) 3/21/19

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.) _____

Subject:

Right of way acquisition for the Outer Loop Phase 6 Project parcels 5, 6 & 7.

Action Requested:

Request the Council make a decision to either approve the settlement that has been negotiated over the past year or approve invoking Eminent Domain so the condemnation process can begin.

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.

Barbara Cooper
SIGNATURE OF PRESENTER

3/12/19
DATE

RECEIVED

MAR 12 2019

CITY OF TEMPLE
CITY SECRETARY

For Office Use:



CITY OF TEMPLE, TEXAS

CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

__Priority

NAME OF PRESENTER: STEVE WARD

ADDRESS: 4302 CHARTER OAK DR

TELEPHONE NO. 254-718-0197

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note – The City Council meets the first and third Thursdays of each month.) 3/21/19

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.) _____

Subject:

Right of way acquisition for the Outer Loop Phase 6 Project parcels 15 and 16.

Action Requested:

Request the Council make a decision to either approve the settlement that has been negotiated over the past year or approve invoking Eminent Domain so the condemnation process can begin.

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]
SIGNATURE OF PRESENTER

3/12/19
DATE

RECEIVED

MAR 12 2019

CITY OF TEMPLE
CITY SECRETARY [Signature]

For Office Use:



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) March 7, 2019 Special & Regular Meeting

STAFF RECOMMENDATION: Approve minutes as presented in item description.

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

FISCAL IMPACT: N/A

ATTACHMENTS:

[March 7, 2019 Special & Regular Meeting Minutes / Video](#)

TEMPLE CITY COUNCIL

MARCH 7, 2019

The City Council of the City of Temple, Texas conducted a workshop on Thursday, March 7, 2019 at 3:30 PM, at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

PRESENT:

Councilmember Susan Long
Councilmember Jessica Walker
Mayor Timothy A. Davis

ABSENT:

Mayor Pro Tem Judy Morales

- 1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, March 7, 2019.**

Ms. Myers, City Manager, offered a brief presentation regarding item 5 on the regular agenda related to zoning case FY-19-4-ZC. This case is to rezone a 86.91 +/- acres located at the intersection of FM 93 and Southwood Drive from Agriculture to Planned Development Agriculture, with a site/development plan. We have heard several proposals for this property over the last year.

The current proposal is different from the last, as it is for a Planned Development Agriculture; while the most recent was for Planned Development Urban Estates. The proposal today is much less dense. By right in the AG District you can construct on one acre lots. The developer is asking for flexibility, providing some of the lots can be less than one-acre. His proposal is the minimum lot be 0.75-acre.

The lots closest to the Valley Ranch are being proposed to be the more dense and the larger tracts will be near the creek. In exchange for flexibility, the developer has agreed to construct only single family homes. By right, HUD Manufactured Homes could be located on the is property. That too, is part of the what is being requested with the flexibility, that only on-site homes be allowed. At this density the developer would also, by right, be allowed to construct on one-acre lots with one site septic systems.

At the P&Z level, there was a recommendation was to approve the request with the trail easement. That trail easement is not part of Staff's recommendation at this time. There is a lot of neighboring opposition from property owners, but it does not trigger a majority vote. Ms. Myers noted

concern has been expressed by some at the P&Z Meeting. Planning and Zoning hear zoning cases and then make a recommendation to the Council; they are not the final authority. Whether the P&Z Commission votes to approve, disapprove, or no motion is made, the case being heard would still move forward to the Council. Had this particular case died for lack of a second, the case would still be before you tonight.

Councilmember Walker, asked about the five courtesy notices.

Ms. Myers stated that if the property owner was in the ETJ and still within 200-feet, they were sent notices.

2. Discuss possible amendments to the City's Code of Ordinances, Chapter 6, "Animals & Fowl".

Amanda Rice, Deputy City Attorney provided a brief presentation.

Kayla Landeros, City Attorney explained this presentation would be a high level overview of Chapter 6 as it currently reads, as well as some proposed amendments. Staff has completely rewritten this Chapter, but there are some policy decisions that will need to be addressed. There are many departments involved with the Chapter, and it will be necessary to offer presentation to the Animal Services Advisory Board.

Chapter 6 covers a variety of topics related to keeping and care of animals. This includes the city's regulations for at-large animals; animal cruelty; impounding of animals at our shelter; adoption of animals; dangerous animals; and rabies regulations. Dangerous animals, and rabies regulations are also regulated by State law; but we've incorporated that into Chapter 6.

Chapter 6 establishes the Animal Services Division, which consists of the Animal Services Manager who is appointed by the City Manager. Recently, the Animal Services Division moved under the supervision and management of the Police Department. In doing this, the Animal Services Manager title no longer exists; instead there are two supervisor positions managed by a Lieutenant at the Police Department. The Animal Services Division will still include Animal Service Officers and other employees, and will be tasked with enforcing the regulations in Chapter 6 as well as managing Animal Services.

Mr. Landeros review some of the current regulations.

At-Large Animals is defined as an animal that is off the premises of the owner, and not on a leash, or otherwise under the immediate control of a person physically capable of restraining the animal. It is unlawful to allow or permit an animal to run "at-large" within the City limits. All animals at-large may be impounded by Animal Services. We are not as strict on the leash laws as other cities are.

Animal Nuisance is defined as an animal that unreasonably annoys humans; endangers the life or health of person or other animals; or substantially interferes with the rights of citizens to enjoy life or property. Ms. Landeros noted this is very outdated and broad language. But this would include, (1) an at-large animal; (2) an animal that damages, soils, or defecates on any property other than that of its owner; (3) an animal that makes continued and repeated noises (howling, barking, etc.) that causes an unreasonable disturbance; (4) an animal that chases motor vehicles in an public right-of-way; or (5) an animal that attacks other domestic animals without provocation.

Care of Animals provides that owners give proper care to include food, water, shelter, and veterinary care if ill or injured. The owner may not abandon an animal. Leaving it without proper food, water, or shelter for more than three days, or in conditions which endanger the health, life, and safety of the animal, or it will be considered abandoned and other actions may be taken.

Animal Cruelty prohibits a person from striking or beating an animal; intentionally running over an animal; dog fighting; poisoning an animal; or leaving an animal inside a vehicle and subjecting it to extreme temperatures.

Ms. Landeros continued, noting there are several instances where the City many impound an animal. If an owner later redeems the animal, the owner must pay impoundment fees or reclaimed fees. An animal may be adopted after three days, if not reclaimed by the owner.

Ms. Landeros noted dogs and cats must be vaccinated against rabies and a vaccination tag must be worn. Dogs and cats suspected of having rabies may be quarantined by the City of Temple or at the home of the animal. A person may only keep up to three dogs, and up to three cats, plus a litter of puppies and/or kitten up to the age of three months.

A person may not have more than two rabbits or hares as pets. Pigs are allowed only in a pen or enclosure on land 10-acres or larger, which is zone agriculture. A person may not keep any animal or bird in a pen or enclosure that is in, near, or on a creek or stream. It is prohibited to keep guineas, peacocks, horses, mules, donkeys, cattle, goats, sheep, chicken, turkeys, geese, ducks, or pigeons in a pen, yard, or other place that is less than 150-feet from the residence of another person. The only exception is that in a residentially zone area, a person may keep up to 6 hens if the pen or enclosure is more than 50-feet away from the nearest residence.

Bees may not be kept less than 300-feet from the residence of any person.

Councilmember Long asked if 'pigs' includes pot bellied pigs.

Ms. Landeros, replied yes. This was addressed in 2014.

There are processes set out in the Health and Safety Code, Chapter 822 that sets forth regulations related to "dangerous dogs"; and those have been adopted and incorporated into Chapter 6. Ms. Rice explained that Chapter 822 regulates dangerous dogs and is very complicated. She noted this allows the Animal Control Authority to determine if the dog is dangerous, and requires the owner to comply with this section and requirements. This is typically done as part of an investigation. Once determined the dog is dangerous, a letter is mailed and time is allowed for the owner to become compliant with the regulations within Chapter 822. This includes, always keeping the dog in an enclosure, on a leash, and acquiring insurance, as well as registering with the City. The City may add additional restrictions if they choose.

If/should the owner not comply, there are Municipal Court hearing procedures; the court would rule on the matter, and determine whether the dog is dangerous and allow time for the owner to comply. The only exception for dog that cause serious bodily injury, is to appeal to County Court.

Ms. Rice continued noting that cities may elect to be governed by Chapter 822.0422, but we are not. This requires that an owner of dangerous dog, turn the dog over to the City within five days of the determination, and allow the City to seize the dog, if the owner does not turn it over. This process is another layer of protection for the surrounding neighbors. It allows the dog to be impounded until the dangerous dog hearing is held. If the dog is found to be dangerous by the Court, the Court can order that the dog remain impounded until the owner complies with the requirements as set out. Currently, the dog is allowed to remain at the owner's home until all dangerous dog requirements are met.

Ms. Landeros noted this is a very important part of Chapter 6 because we want the ability to regulate dangerous dogs. Dangerous dogs are defined as a dog that causes serious injury to a human.

Ms. Rice added that a dangerous dog is a dog that makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than the enclosure in which the dog is being kept, and the enclosure was reasonably certain to keep the dog inside; or a dog that has an unprovoked attack in a place other than the enclosure the dog is being kept, and is reasonably secured to keep the dog from leaving on its own, and has caused a person to believe the dog will attack on cause bodily injury to that person. Seriously bodily injury to a person is the tearing of a muscle, or laceration severe enough to seek medical attention. At that point, the owner does not have an opportunity to appeal the determination, and the dog could be destroyed.

Ms. Landeros added, we currently have a section in our code for

dangerous animals, but we need to incorporate the State law, and lay out a detailed process to allow people to know what their rights are in this situation.

Ms. Landeros then discussed some of the possible amendments. Further discussion will be needed with the Animal Services Advisory Board and Council on whether or not we're comfortable with our current leash laws or do we want to make it more strict. Several cities have enacted some part of a leash law that requires an animal to be on a leash if off he property of their owner, except in designated area such as dog parks, or if an electronic device is used, or if it's a service dog.

We currently don't have restrictions in our code on tethering, which means tying a dog/animal to a stationary object. At the State level, there have been attempts made to implement some laws regarding this, but they have been unsuccessful. In response to the lack of success, some cities have incorporated their own regulations on tethering. Staff would like to present some options on this.

As for the Animal Nuisance, we'd like to address specifically barking dogs and the process for filing a complaint. Currently, the complainant must send the owner of the dog a letter, notifying him of the 'nuisance' or violation. The City cannot take any action until this process has been completed. We'd like to look at other options, and what can be required such as audio recordings, or logging of the instances. We want the process to be helpful for our citizens; and clear for Staff.

Staff needs to update and clarify the vaccinations and sterilization process.

We'd like to discuss the number of dogs and cats that are allowed, and make sure everyone is comfortable with the current standard.

One of the more critical amendments is to incorporate the "dangerous dogs" section and Chapter 822 of the Health and Safety Code. Other cities have done this by adding a definition and procedures for 'aggressive dogs'. This would include dogs that have not caused serious bodily injury to anyone (human), but have maybe attacked other animals. This would then allow the City the ability to take those dogs if necessary.

Ms. Landeros noted that people are very protective and attached to their animals, and so any regulations that we propose for this Chapter, will be discussed so that everyone is comfortable.

- 3. Discuss receipt of the Petition Requesting Recognition of Temple Professional Firefighters Association, Local 846 of the International Association of Fire Fighters as the bargaining agent for all the firefighters employed by the City of Temple.**

Brynn Myers, City Manager provided a presentation to the Council. This process allows a venue for communication and collaboration between the Firefighters and the City regarding employment issues. On February 27, 2019, the Temple Professional Firefighters Association (TPFA) filed a petition with the City Secretary, requesting recognition of TPFA as the sole and exclusive bargaining agent. The petition contained 105 of the 119 signatures from those eligible; this excludes the Fire Chief, and his Assistant.

The Meet and Confer process is governed by Chapter 142, of the Local Government Code. It allows a "firefighters association" to file a petition with the City seeking such recognition. Once the petition is filed, the Council must determine whether or not, it recognizes the association as the sole and exclusive bargaining agent, and adopt the Meet and Confer process. If, the Meet and Confer process is adopted by the Council, or through an election, the city may then meet and confer with the TPFA over issues such as wages, salaries, rates of pay, hour of work, or any other terms and conditions of employment. The City Manager must also select one or more person(s) to represent the City as its sole and exclusive agent during this process. Ms. Myers noted that all deliberations must occur in a meeting that is open to the public. During this process, the City and TPFA are not required to reach any agreement on any topic, or any agreement at all.

Should an agreement be reached on any issue discussed, it must be in writing, and then ratified by the Council, and a majority of the firefighters. A written Meet and Confer agreement preempts all contrary State statutes, local ordinances, executive orders, and civil service provisions or rules. Ms. Myers added that while a Meet and Confer agreement is in effect, the City may not accept a petition requesting an election to adopt Collective Bargaining under Chapter 174 of the Local Government Code.

Ms. Myers reviewed the different options that could be taken by the Council. Action by the Council must be taken within 30-days of filing the petition.

Option 1: Grant the petition to the Temple Professional Firefighters Association as requested in the petition, and determine by a majority vote that the City may meet and confer under Chapter 142 of the Local Government Code. If council chooses this option, the Council may withdraw the recognition at a later date providing TPFA not less than 90-day written notice that the City Council is withdrawing recognition. Any agreement reached between the parties, will not be renewed.

Option 2: Defer granting the recognition of the Temple Professional Firefighters Association and order an election by the voters in the City to determine whether the City may meet and confer. This would be done at the next regularly scheduled municipal election in May 2020. The ballot language would read as "Authorizing the City of Temple to operate under the state law allowing a municipality to meet and confer and make

agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages.” If an election is had in May, you could not order another election, any sooner than the second anniversary of the date of the election, to determine whether the City may continue to meet and confer.

Mayor Davis if an election is order, but denied by the voters what is the option?

Ms. Myers noted that the Association would have to wait two years before filing another petition.

Option 3: Order a Certification Election to determine whether the Temple Professional Firefighters Association represents a majority of the affected firefighters. Ms. Myers noted that typically this process is used in situations where there may be a question as to whether the association bringing forward the petition, truly represents the majority of the firefighters. Staff would work with the TPFA to determine how the certification election would be conducted. All costs associated with the certification election would be the responsibility of TPFA.

If a certification election is conducted, and a majority of the firefighters vote to have TPFA serve as their representative, then the Council retains the option to then grant recognition (option 1) or order an election (option 2).

Ms. Myers reminded Council that in October 2015, the Meet and Confer process was adopted for the Police Department, after the Temple Police Association (TPA) filed a petition. The course of action was to first certify that TPA was the preferred association for the majority. Temple Police Department has three different associations within the department. Once the certification election was conducted, and it was determined that the majority wanted TPA to represent them as their agent, the Council then granted TPA recognition by resolution.

Temple Professional Firefighters Association is the only known association within the Fire Department.

Councilmember Long added that 105 of the 119 is indicative of a majority of the firefighters.

Ms. Myers added another consideration is that the petition is a secret ballot, and some may have felt pressured to sign it. She didn't believe this to be the case for the current petition. The Meet and Confer process is timely and could have cost associated with any agreements that are reached.

Mayor Davis noted he was part of the 2015 process for the Police Department and thought it went smooth. Staff likes the Meet and Confer

process and how it works for communication and collaboration.

Ms. Myers noted that if the Meet and Confer process is adopted by the Council, she would recommend interest based bargaining training similar to what was done in the process for the Police Department, TPA and the City. This helps to identify mutual interests and how to negotiate.

Councilmember Long asked that Staff provide a recommendation.

At approximately, 4:17 p.m., Mayor Davis announced the City Council would enter into an executive session, with no final action. Mayor Pro Tem was present for this item.

- 4. Discuss the status of right-of-way acquisitions for the Poison Oak Road and Outer Loop, Phases 1-6, expansion projects. Pursuant to Texas Government Code Section 551.072, the City Council may meet in closed session to deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.**

At approximately, 4:59 p.m., Mayor Davis adjourned the executive session.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, March 7, 2019 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Susan Long
Councilmember Jessica Walker
Mayor Pro Tem Judy Morales
Mayor Timothy A. Davis

I. CALL TO ORDER

1. Invocation

Superintendent Shelton Rhodes, voiced the Invocation.

2. Pledge of Allegiance

Troy Myers, son of Brynn & Blake Myers lead the Pledge of Allegiance.

II. PUBLIC COMMENTS

Laurissa Dodson, 6917 Sun Valley Drive, spoke in opposition of the FM 93 and Southwood Drive (regular agenda item 5). Ms. Dodson wants the tree line behind her fence to be used as a buffer, so that homes in the new

development could not use her fence as their fence. There is also concern that ONCOR will not have adequate access to the telephone poles in this area.

III. REPORTS

3. Receive the annual Temple Economic Development Corporation report.

Adrian Cannady, President of Temple Economic Development Corporation provided the Annual Report. The Funding and Operating Agreement allows TEDC to give an annual report to the City each year. He recognized the staff, Scott Connell, Vice President; Bridget Weber, Communications and Marketing; and Jennifer Avery, Operations. Mr. Cannady, stated TEDC has been busy in 2018.

We are truly in growth mode as a community. Over the past five to six years the number of jobs has grown from 41,000 to 44,000; and the Temple Metro population has grown. This is all very positive for the community. We are faced with projects that provide the opportunity to pitch on, that are higher in capital investment, but also high in job creation. This is critical, as our unemployment rate is 3.6% -3.7%.

He reviewed the investment growth over the last ten years. There is over 1/2 a billion dollars in new investment in the community which is significant. That excludes the Panda Temple Power Plant at \$2.1 billion. There has been a lot of activity and job growth, resulting in over 1,500 new jobs.

Sales tax revenue continues to trend upward over the last seven years, more than \$5 million. In 2018 specifically, we have seen \$16.55 million in capital investment due to three projects, Hudson MFG \$2.35 million; Reynolds Consumer Products, LLC \$3.2 million; and Temple Bellaire North, LLC \$11 million. All investments have an age, and the new investment in the community is a significant part of the growth in 2018.

The expansion project of the year is Cargill for \$32 million. Excellence in Workforce, goes to TTEC for hiring more than 800 customer care associates at the Temple location. Corporate Partner of the Year, is Johnson Brothers Ford Lincoln for their support and involvement in the community.

The existing industry is so important to the community. These are the companies that have been creating hundreds of jobs and millions of dollars have been invested over decades. It is our job to ensure that we understand their needs and are continuing to support them.

Workforce development is also critical. With our unemployment rate at 3.6%-3.7% it can be challenging to fill the new jobs being created by the investments being made. Our partners are essential to this process. Our partners are, P2O Regional Council; Temple ISD Career Day; and the Temple ISD Industry Advisory Council. This is done in an effort to see that connections between the industry and our local resources are made.

A recent success in FY19 is the East Penn, Battery Finishing Facility at \$106 million in capital investment, and creating 266 new jobs. The other is Niagara, water bottling company, a \$90 million capital investment project.

Mr. Cannady mentioned the the FY19 Initiative, (1) Maintain & Improve High Quality Capital & Jobs in Temple - "Temple Business First" Program; (2) Manage Opportunities for Target Industry Expansion & Growth - Marketing Plan Execution; (3) Help to Build a Higher Quality Workforce in Temple and Across the Region - Workforce Ready Strategy; (4) Tell the Temple story - Reimagined Storytelling; and (5) Be a leader for directed economic development & growth within Temple: Statewide Community Engagement.

Ms. Myers thanked Mr. Cannady and the TEDC Staff. The partnership is strong between the two entities.

Mayor Davis added that Mr. Cannady hit the ground running in September 2018, and is doing a great job.

IV. 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.

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

(A) February 21, 2019 Special & Regular Called Meeting

(B) 2019-9575-R: Consider adopting a resolution authorizing a professional services agreement with Clark & Fuller, PLLC, of Temple, to perform the Garden District Utility Assessment in an amount of \$219,492.50.

(C) 2019-9576-R: Consider adopting a resolution authorizing contract amendment #3 with Clark & Fuller, PLLC, of Temple, for additional services required to complete final design of Phase IV of the Knob Creek Trunk Sewer Improvements in the amount of \$36,100.

(D) 2019-9577-R: Consider adopting a resolution authorizing change order #4 to the construction contract with Archer Western Construction, LLC, of Irving, to construct Phase 1 of the Temple-Belton Wastewater Treatment Plant Expansion in the amount of \$91,397.85.

(E) 2019-9578-R: Consider adopting a resolution authorizing granting an easement to Oncor Electric Delivery Company, LLC for electric utilities necessary for the construction of the Shallowford Lift Station.

(F) 2019-9579-R: Consider adopting a resolution authorizing an amendment to Resolution 2018-9445-R for additional funds to purchase properties necessary for the Poison Oak Road Expansion Project and authorizing closing costs and relocation benefits associated with the purchases in an additional estimated amount of \$35,000.

(G) 2019-9580-R: Consider adopting a resolution authorizing the purchase of playground equipment for a pocket park within the Alta Vista subdivision from Gametime/Total Recreation Products, Inc. of Cypress in the estimated amount of \$43,867.07.

(H) 2019-9581-R: Consider adopting a resolution authorizing the purchase of one marked police vehicle from Caldwell Country Ford dba Rockdale Country Ford of Rockdale in the amount of \$52,958.

(I) 2019-9582-R: Consider adopting a resolution authorizing the purchase of a property necessary for the Poison Oak Road Expansion Project and authorizing closing costs and relocation benefits associated with the purchase in an estimated amount of \$171,000.

(J) 2019-4956: SECOND READING – FINAL HEARING – FY-19-5-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural zoning district to Neighborhood Service zoning district on 1.28 +/- acres, situated in the J.J. Simmons, Survey Abstract No. 737, Bell County, Texas, addressed as 4940 State Highway 317.

(K) 2019-9583-R: Consider adopting a resolution ratifying the payment of the annual invoice from Brazos River Authority in the amount of \$130,356.87 which covers the availability of 9,453 acre-feet of water to the City for FY 2019.

(L) 2019-9584-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.

Motion by Mayor Pro Tem Judy Morales approve the Consent Agenda as presented, seconded by Councilmember Susan Long.

Motion passed unanimously.

V. REGULAR AGENDA

ORDINANCES

- 5. 2019-4957: FIRST READING – PUBLIC HEARING – FY-19-4-ZC: Consider adopting an ordinance authorizing the rezoning of 86.91 +/- acres, situated in the Redding Roberts Survey, Abstract 692, and located at the intersection of FM 93 and Southwood Drive from Agricultural district to Planned Development Agricultural, with a required site/development plan.**

Tammy Lyerly, City Planner presented this case to the Council. The applicant is J.C. Wall III, WGG Land, LLC. The request is for a rezoning of 86.91 +/- acres, located at the intersection of FM 93 and Southwood Drive from Agricultural district to Planned Development Agricultural, with a required site/development plan. The Valley Ranch Subdivision is located to the West of the subject property; and Legacy Ranch Subdivision is to the Northeast of the subject property.

The applicant requests a rezoning of this property to allow for a 78-foot single-family residential development and individual on-site septic system on 86.91 acres. Currently, by right, this property allows for HUD code manufactured homes, with screening on one-acre lots.

The subject property fronts FM 93, which is a major arterial; and the adjacent properties are single family urban estate sized lots, which are greater than half acre lots.

The Future Land Use Maps identifies the land with two designations, (1) the northern portion is characterized as Suburban Residential, and (2) Agricultural Rural for the southern portion of the subject property. The Suburban Residential district is characterized by mid-sized single family lots, allowing for greater separation between dwellings and more emphasis on green space. The Agricultural Rural is characterized by rural properties, of newly annexed tracts.

The Thoroughfare Map identifies FM 93 as a major arterial, which is characterized as a high traffic streets, that is only appropriate for subdivision entrances. Residential frontage is not allowed along a major arterial.

Ms. Lyerly continued noting that water and sewer is partially in compliance, as water is available along South FM 93 right-of-way; but there is no sewer available for the site. Sewer in the adjacent Valley Ranch Subdivision is unavailable due to no easement from the property owner; and the cost of a required lift station is high. The next nearest sewer line in Legacy Ranch, is across the street to the North and will require an extension. At this time the applicant is requesting septic systems for the proposed development.

Several photos of the surrounding properties were provided. Across the street to the North of the subject property is undeveloped. To the South at the end of Southwood Drive is a cul-de-sac which has access to the ONCOR substation. Property to the east our outside of the city limits. The developer proposes to build a fence with stone columns along the FM 93 frontage on the property line to the south of the tree line, which is in the TXDOT right-of-way.

Ms. Lyerly reviewed the development regulations and standards for agricultural districts in comparison with the proposed planned development-agricultural district. The proposal is for minimum lot sizes of 0.75-acres, with some larger lots ranging from 1-acres to 2.89-acres.

	<u>AG</u>	<u>PD-AG Proposal</u>
Minimum Lot Size	1 Acre	0.75 Acre
Minimum Lot Width	100 Feet	94.9 Feet
Minimum Lot Depth	150 Feet	194 Feet
Front Setback	50 Feet	25 Feet
Side Setback	15 Feet	15 Feet
Side Setback (corner)	15 Feet	15 Feet
Rear Setback	10 Feet	10 Feet
Max Building Height	3 Stories	-

During the Planning and Zoning Commission there was opposition to a 25-foot trail easement along the property's east boundary along Friar's Creek, and due to that overwhelming opposition, Staff is not supporting that trail easement as proposed by the applicant. The applicant has willing removed that as part of the proposed Planned Development Site Plan. At this same meeting of the Commission, ONCOR noted that they were working with the applicant to have the access more in line with the entrance of there substation at the southern border.

The applicant has modified that access in the plan, and it is now a straight street.

In prior proposed Site Plans for this development, the applicant was keeping Southwood Drive in its present location. In working with the residence of Valley Ranch, to the west, it is being proposed to remove Southwood Drive and use that room to make the lots that are adjacent to Valley Ranch larger. A new road would be built to replace Southwood Drive. The Site Plans shows two entrances into the subdivision.

Total number of proposed lots is 78; with the larger lots will be placed along the creek area. The applicant was proposing 7.5-feet for the building line; but Staff's recommendation is to increase that to 15-feet which is what is currently required in the agricultural zoning district. The applicant commits to having only single family residential homes in this development; one 2" caliper at breast height canopy tree in the front yard of every lot, and shall conform to the approved City of Temple Tree List; the fence along FM 93 shall be wood fence with masonry columns; and no on street parking.

Ms. Lyerly continued stating 20 notices were mailed out; and two were returned in disagreement from residents within the Valley Ranch Subdivision; and one verbal disagreement was offered at the Planning and Zoning Commission meeting. As a courtesy, five notices were mailed to ETJ property owners within 200-feet.

The Planning and Zoning Commission voted 4/1 at their February 4, 2019 meeting, to approve the rezoning and site/development plan which included the trail easement. This trail easement has since been removed at the request of Staff.

Staff recommends approval of the zoning from Agricultural to Planned Development Agricultural and the Site/Development Plan with no trail easement and the following conditions:

1. Development will be subject to the Planned Development Site Plan;
2. Development will also be subject to all Unified Development Code (UDC) platting requirements during the platting process;
3. Single Family Residential 'Site Built' Development Only;
4. Minimum lot size is 0.75 acre;
5. Minimum front yard setback is 25 feet;
6. Side building line is 15 feet (applicant proposed 7.5 feet);
7. Rear building line is 10 feet;
8. One 2-inch caliper (Diameter at Breast Height) canopy tree to be planted in the front yard of every lot. Species shall conform to the approved City of Temple Tree list, per the Unified

Development Code (UDC);

9. A fence along FM 93 shall be a wood fence with masonry columns; and

10. No on-street parking is allowed due to the proposed 22-foot wide streets.

Mayor Davis declared the public hearing open with regards to agenda item 5, and asked if anyone wished to address this item.

Ms. Laurissa Dodson, 6917 Sun Valley Drive addressed the Council with her concerns related to the development. She noted the reduction in number of lots to 78 is agreeable. Ms. Dodson is opposed to her fence being used as the back fence for the homes adjacent to her property. She requested that a tree buffer be required to remain between the two subdivision. Ms. Dodson also noted that ONCOR will need access to the telephone poles on the west side of Valley Ranch, and these poles are currently within the fence line. The other request was that they leave a tree line between the Boutwell residents of 7-acres, as a barrier between them and the building.

Ms. Dodson noted her opposition to mobile homes being allowed; as well as three-story homes, and that that is evasive to her privacy. She asked that homes on the backside only be one-story homes.

Mayor Davis clarified that as part of the site plan, mobile homes would not be allowed. This developer has agreed that only site-built homes would be built.

Ms. Lyerly noted that as the property is currently zoned, Agricultural, that three-story homes could be built.

Debbie Shine, 3018 Forrester Road, expressed her concerns for flooding and drainage, and traffic. She noted that she has the most acreage that abuts this proposed development. There is not a huge concern for mobile homes being moved in. Those that live in the ETJ were unable to register opposition due to a change in procedure, but wanted to make sure the Council knew of the surrounding neighborhood concerns. It is understood that the engineer's plans in theory only allow the same amount of water, at the same rate, to enter into Friar's Creek. In reality, with every development being built, the flooding, erosion, and destruction increases.

Traffic at 31st/FM 93 is deadly. Mr. Bill DiGaetano outlines this concern in the e-mail sent earlier today to each of the Councilmembers. By adding two more entrances along FM 93

for this proposed development will only cause more the situation to become more dangerous.

We request that from this point, that the P&Z Commission begin evaluating projects, not only on the individual project and merit, but also on the bigger picture, and look at the developments being added to any particular waterway. Friar's Creek currently has a lot coming on-line with all the new development in this area. Those of us downstream are suffering from that.

Ms. Shine requested a 'no' vote, but asked that if approved, that the Council conduct a study with implementation processes for drainage, and how to improve this problem. She also asked that a traffic study be done in conjunction with TXDOT to address the growing traffic on FM 93.

Ms. Myers noted there is a drainage study underway, but need enough rainfall to calibrate the modules. We are studying three basins at this time. The study is comprehensive. We have a capital program that the council has authorized a rate structure that could support some level of investment. Without the benefit of the study and the scope of the projects are the needed, we may need additional conversation once the results are in.

Richard Wilson, City Engineer agreed with Ms. Myers. A significant amount of rain will be needed to move this study forward.

Mayor Davis asked for clarification on Ms. Dodson's concern for the tree line. Is that in this request?

Ms. Lyerly replied no.

Ms. Myers noted, no preservation of a tree line is a current condition of this request. However, it could be a condition if Council desired.

J.C. Wall, 8702 Adams Lane explained that a 20-foot easement was added to the rear, near Valley Ranch Subdivision. Not sure how we preserve that tree line if on someone's private property once they purchase the property.

Brian Chandler, Planning Director noted it could be a 20-foot landscape buffer preserving trees that are on the City's approved list at 16-inches or greater in diameter at breast height. This site has several substantial trees and that could be a potential condition.

Mr. Wall, as a developer we won't remove trees, but cannot

regulate if a homeowner removes it from their own property.

Ms. Dodson, reiterated that she wanted the tree buffer to divide the property and not be owned by anyone. Other subdivision are done like this.

Councilmember Long reminded Ms. Dodson that Southwood was being moved to allow for more room. If the buffer is allowed on the 'no mans' land and a tree falls onto your fence who's responsibility is that.

Ms. Dodson replied it would be her responsibility as a homeowner to repair her fence and clean up the debris.

Ms. Lyerly noted that when there is an approved planned development/site plan that is approved by council and it is time for building permits, the person that reviews and issues the permits, uses the approved site plan.

Councilmember Long asked Mr. Wall if he planned for multi-story homes to be on the back side that abuts Valley Ranch?

Mr. Wall said he'd allow Council to determine that.

Ms. Myers noted that she would caution Council from leaving a strip of 'no-mans' land for the tree buffer. This has potential for over growth in the area, and possible nuisance in terms of rodents. This is a unique situation, as the City would have not ownership or responsibility for the property.

There being none, Mayor Davis declared the public hearing closed.

Councilmember Walker noted that we are actively pursuing and committed to a traffic study for that intersection. This is a frightening and unsafe road. Mr. Wall has been willing to work with Staff, and this is the least dense population.

Councilmember Long thanked both the developer and City Staff for working so diligently on this proposal. This proposed development is better than what we saw a year ago.

Mayor Pro Tem Morales recognized the concerns for the neighbors in the area of this proposal, and appreciate their comments. We are growing as a community and we need to be willing to grow with it and see that the infrastructure is adequate for each development.

Mayor Davis agreed. This is the democratic process and we

have rules and parameters to work within. He thanked all that were involved with this proposal.

Motion by Councilmember Jessica Walker adopt ordinance as presented on first reading, with the original conditions recommended by Staff, and adding two additional conditions to (1) require only single-story homes on the west side of the property that abuts Valley Ranch subdivision; and (2) to require the developer to keep a line buffer along the west side of the property consisting of 20 feet in width and trees identified in the City approved tree list, which are a minimum size of 16 inches DBH (Diameter-At-Breast-Height), seconded by Councilmember Susan Long.

Motion passed unanimously.

Timothy A. Davis, Mayor

ATTEST:

Lacy Borgeson, TRMC
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, P.E., City Engineer
James Billeck, P.E., Sr. Project Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Kimley-Horn and Associates, Inc., of Austin, in the amount of \$331,210 for professional services required to design and bid South Pea Ridge Road from Westwood Hills Boulevard to the proposed realignment of Poison Oak Road, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2019 Combination Tax & Revenue Bonds.

STAFF RECOMMENDATION: Adopt resolution as presented in Item Summary.

ITEM SUMMARY: This project consists of roadway improvements to South Pea Ridge Road from Westwood Hills Boulevard to the proposed realignment of Poison Oak Road. Improvements include expanded pavement sections, pedestrian facilities, and drainage conveyance. See attached engineer's proposal and project map for more details and project limits.

Consultant services recommended under this professional services agreement include:

Project Management	\$ 20,500
Surveying and ROW	\$ 57,500
Environmental	\$ 11,000
Route and Design Studies	\$ 36,000
Geotechnical	\$ 7,750
Roadway Design	\$ 110,340
Drainage Design	\$ 69,480
Traffic Engineering	\$ 10,440
Bidding Services	\$ 8,200
Total	<u>\$ 331,210</u>

Time required for design is 300 calendar days after the notice to proceed and rights-of-entry have been obtained. The engineer's preliminary opinion of probable cost for construction is \$3,700,000.

FISCAL IMPACT: This professional services agreement is being funded with the issuance of the 2019 Combination Tax & Revenue Bonds. We are declaring an official intent to reimburse for this purchase. A budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds.

Once the budget adjustment is approved, funding will be available in account 365-3400-531-6860, project 101874, for the professional services agreement with Kimley-Horn and Associates, Inc in the amount of \$331,210 for professional services required to design and bid South Pea Ridge Road as shown below:

Project Budget	\$	1,375,000
Encumbered/Committed to Date		-
Professional Service Agreement - Kimley-Horn		(331,210)
Remaining Project Funds Available	\$	<u>1,043,790</u>

ATTACHMENTS:

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



Sharon Carlos, P.E.
3210E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple
South Pea Ridge Road
Design Services

Dear Ms. Carlos:

At the request of the City of Temple Kimley-Horn is submitting this proposal for the above referenced project. This project will develop final plans, specifications and estimates (PS&E) and bidding phase services for the South Pea Ridge Road Project. The beginning of the proposed improvements will connect to the proposed realignment of Poison Oak Road and extend to Westwood Hills Boulevard. The project will also connect to the realignment of South Pea Ridge Road as shown in the Reserve at Pea Ridge development plans. The final PS&E will include final plans, Opinion of Probable Construction Cost (OPCC), geotechnical investigations, environmental investigations and metes and bounds for acquisition of rights-of-way. Based on the current bidding landscape for projects of this nature, we believe the order of magnitude of preliminary opinion of probable construction cost is \$3,700,000. We have included an exhibit with this proposal for reference purposes.

The work to be performed by Kimley-Horn under this contract consists of providing engineering services for design of the project as described above to include design and preparation of plans and OPCCs. The project includes the design of approximately 1.0 mile of South Pea Ridge Road reconstruction and widening, culvert design, pedestrian improvements, intersection improvements, storm drain design, driveway modifications, striping and signage. The timeframe for design of the project is ten (10) months from the notice to proceed and receipt of all necessary rights-of-entry. Metes and bounds for rights-of-way and easements will be delivered to the designated City of Temple Project Manager. Acquisition processes shall be the responsibility of the City.

Kimley-Horn will perform all work and prepare all deliverables in accordance with the latest version of AASHTO and City of Temple specifications, standards and manuals.

Kimley-Horn will perform quality control and quality assurance (QA/QC) on all deliverables associated with the project. All traffic control will be in accordance with the Texas Manual on Uniform Traffic Control Devices (TMUTCD).

Kimley-Horn's Services consist of the services specifically described in Sections 1.1 through 9.4 including the specific engineering services to be performed through the following consulting disciplines as subcontractors to Kimley-Horn:

- (1) CP&Y – Survey, ROW
- (2) Intertek-PSI – Geotechnical

TASK 1 – PROJECT MANAGEMENT

Kimley-Horn will:

1.1 Meet with the project team at a kickoff meeting to set the production schedule and parameters for all subsequent work, to verify the components within which all project participants must perform, and to identify all parties and significant deadlines involved in the comprehensive schedule strategy. Based on this information, Kimley-Horn will prepare a detailed schedule of its work for the project addressing each component of the work to be done, indicating the points of involvement of all project participants. Kimley-Horn will maintain the schedule throughout project development.

1.2 Perform general administrative duties associated with the project, to include monitoring/reporting, scheduling, general correspondence, office administration, subconsultant coordination and invoicing.

1.3 Maintain an “issues list” identifying the date the Project related issues become known, the person(s) responsible for solution(s), date solution(s) will be provided, and final resolution of the issue.

1.4 Participate in meetings with the City to update the City on the progress of work for up to:

- a) 1 initial kickoff meeting;
- b) 5 progress meetings;

1.5 Attend up to three (3) design coordination meetings with the City, and attend Design Review meetings for the 30%, 60%, and 95% PS&E design submittals. Prepare meeting minutes and distribute to project attendees.

1.6 Prepare comment responses as applicable for comments received during design review submittals.

1.7 Perform Quality Control of deliverables prior to submission to the City.

1.8 Prepare and submit monthly progress reports and invoices to the City for review and approval.

TASK 2 – SURVEY AND RIGHT-OF-WAY DATA

CP&Y will:

2.1 Utilize the current ownership to conduct the right-of-way survey and will recover existing right-of-way corners. CP&Y will analyze the available recorded documents and will provide an existing right-of-way line in the AutoCAD file.

2.2 Provide the professional and technical staff necessary to perform a detailed topographic survey of the area 40 foot on either side of the edge of asphalt of South Pea Ridge Road, in Temple, Texas, from 500 feet south of Poison Oak Road to 500 feet west of Westwood Hills Blvd. The 40 foot on either side of the asphalt will be limited to the rear property fence lines in the area of the residential subdivisions. This will also include the 100 feet down the side streets of South Pea Ridge Road. The topographic survey will be based on an on-the-ground survey and will include elevations adequate across the site to develop one-foot contours. The survey will show above-ground and visible utilities, above-ground existing improvements. The survey will also include hardwood trees 6” or greater.

2.4 Coordinate with Texas811 and Utility Locators to request underground utilities and will field locate the paint marks and pin flags of the utility companies for segments adjacent to public rights-of-way.

2.5 Obtain right-of-entries for all the tracts that are within the project limits

2.6 Prepare metes and bounds description and sketch for up to twenty (20) parcels for right-of-way acquisition.

Exhibit cost with monuments - \$1,300 Each – 1 total

Exhibit cost without monuments - \$900 Each – 19 total

TASK 3 – PHASE 1 ENVIRONMENTAL SITE ASSESSMENT

Kimley-Horn will:

3.1 Prepared an environmental database search encompassing the minimum search distances listed in ASTM E1527-13, 8.2.1. This report will be reviewed for known and suspect contaminated sites. Kimley-Horn will review readily available databases on institutional and engineering (IC/EC) controls and Activity Use Limitations (AULs) as well as available historical aerial photographs of the site and surrounding vicinity. Kimley-Horn will obtain and review readily available historical city directories, fire insurance maps, and historical topographic maps.

3.2 Conduct a site reconnaissance consistent with ASTM E 1527-13, 9. This reconnaissance will be non-invasive and will not consist of any sample collection or

analyzing. Should, an additional site reconnaissance be required due to access limitations, the additional site reconnaissance shall be considered additional services.

3.3 Consistent with ASTM E 1527-13, 10.5.2.3 and 10.5.4, Kimley-Horn will make a reasonable attempt to conduct the interviews with current and past owners, operators, and occupants of the property. In the case of abandoned properties as defined in ASTM E 1527-13, 3.2.1, where there is evidence of uncontrolled access or unauthorized uses, Kimley-Horn will attempt to interview current neighboring or nearby property owners (ASTM E 1527-13, 10.5.5).

3.4 Upon completion of the Tasks 3.1 through 3.3, Kimley-Horn will prepare a summary report of the results of the Phase I ESA. The report will be formatted consistent with Appendix X4 of ASTM E 1527-13.

3.5 Perform an Aquatic Resources Delineation in general accordance with the USACE 1987 Wetlands Delineation Manual and appropriate USACE Regional Supplement as detailed below.

3.6 Locate readily available resource documents which may include aerial photographs, historic topographic maps, soil surveys, U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI) maps, Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), soil survey maps, and other related data for a desktop review of site conditions. Potential wetlands and waterbodies will be identified to guide the site visit.

3.7 Perform a site visit to evaluate the existence and approximate locations of aquatic resources on the site generally following the USACE 1987 Wetlands Delineation Manual and the applicable USACE Regional Supplement. If applicable, the site visit will include completion of USACE wetland determination data forms. Following the site visit, Kimley-Horn will prepare exhibits showing the boundaries (polygons) and acreage and/or linear footage (if applicable) of aquatic resources identified onsite during the site visit. Flagging of aquatic resources in the field will not be performed as part of this scope.

3.8 Prepare a report for the project documenting the results of the Aquatic Resources Delineation performed onsite. The report will address the applicable regulatory framework, describe the assessment methodology, limitations and findings, and provide site-specific conclusions and recommendations pertaining to compliance with Section 404 of the Clean Water Act. This will include an evaluation as to if potential impacts to possible jurisdictional areas would require a Nationwide Permit (NWP) or an Individual Permit (IP). If formal USACE notification and authorization does not appear to be required upon review of final plans and specifications, but a NWP still appears applicable, Kimley-Horn will also document this information specific to the project and how to use the perceived applicable NWP. If applicable, this section of the report will include regulatory language for the applicable NWP with discussion of selected noteworthy General Conditions. If it appears that proposed construction activities will not result in

impacts to potentially jurisdictional features, recommendations will be provided to not consult with the USACE (unless consultation is warranted by the Client).

It is important for the City to understand that the EPA and the USACE occasionally issue guidance concerning what they intend to assert jurisdiction over. Changes that impact our strategy or scope will cause additional work and will be addressed as an additional service. Observations will be made under the applicable regulatory guidance at the time of the observations.

Official authority to make a determination defining applicable jurisdictional limits rests with the Environmental Protection Agency (EPA); however, authority has been delegated to the USACE. Jurisdictional Determinations (JD) are made by the USACE, upon specific written request, on a case-by-case basis and may make use of certain information at its disposal (such as other permits in the local area) that may not be readily available to the public. The Aquatic Resources Delineation should not be considered authoritative, and it may not wholly eliminate uncertainty regarding the USACE's jurisdictional limits.

3.9 Review readily available resources including, but not limited to, federally and state listed threatened and endangered species on a county-wide basis, current and historical topographic maps, aerial photographs, Texas Parks and Wildlife Department's (TPWD) ecoregion maps and Natural Diversity Database (NDD), and available existing information regarding topography and geology of the site in an attempt to identify potentially suitable threatened and endangered species habitat.

3.10 Perform as site visit to evaluate the presence of federally and/or state-listed threatened and endangered species and the presence of suitable habitat for federally-listed threatened and/or endangered species. It is assumed that this site visit will be performed in conjunction with the Aquatic Resources Delineation (Task 1, above). If this task is authorized at a separate time requiring a second mobilization for the site visit, additional fees will apply. Kimley-Horn will prepare a report documenting the threatened and endangered species assessment. The report will address the applicable framework, describe the assessment methodology, limitations and findings, and provide site-specific conclusions and recommendations.

3.11 Prepare appropriate project location and description information and will upload a request to the Texas Historical Commission (THC) to review the scope of the proposed project to determine if a cultural resources survey will be required. It is our understanding that the THC may take up to 30 days to review the request and respond. This scope does not include any desktop review for cultural resources or a cultural resources survey. If required, Kimley-Horn will retain a subconsultant to perform additional work if requested by the THC.

TASK 4 – ROUTE AND DESIGN STUDIES

Kimley-Horn will:

- 4.1 Obtain and review any existing data from the City and other entities that may have record documents and can release the information.
- 4.2 Perform a site visit to evaluate site and traffic characteristics, topography, utilities, and potential environmental issues.
- 4.3 Design preliminary horizontal and vertical roadway geometrics utilizing Microstation and Geopak roadway design software. All designs shall be in accordance with AASHTO and City of Temple design guidelines and criteria.
 - a) Kimley-Horn will provide preliminary Plan-Profile Sheets for South Pea Ridge Road at a scale of 1"=40' horizontal and 1"=10' vertical for review and approval from the City prior to moving onto 30% plans.
- 4.4 Coordinate with utility companies to determine if relocations and adjustments are required to accommodate the proposed project development.
 - a) Field surveys shall locate horizontally: crossings of all utilities identified by markings obtained from performing a one call utility locate service.
 - b) After design surveys have located marked utilities from the one call service, verification of utilities will be performed as available from meeting with the utility companies (Atmos, AT&T, Oncor, etc.). This scope of services includes (1) kickoff meeting and (1) one coordination meeting with the utility owners.
 - c) Initial notifications of the project details and expected time lines for project development shall be conveyed to all utility owners existing within the project limits.
 - d) Upon determination of required relocation and/or adjustments, coordination with impacted utility owners shall be initiated. Kimley-Horn will not be responsible for design or plans production of any utility relocations necessary to accommodate the proposed improvements unless authorized by the City for additional services.

TASK 5 – GEOTECHNICAL INVESTIGATIONS

Intertek-PSI will:

5.1 Explore subsurface conditions by soil borings following the provided Intertek-PSI drilling program. The table below summarizes the exploratory boring program.

TABLE 1: SUMMARY OF BORINGS

Design Element	Number of Borings	Boring Depth(s) (feet)	Drilling Footage (feet)
Roadway	10	15	150
TOTAL	10	---	150

- a) borings locations will be identified in the field using available natural landmarks or GPS coordinates. Surveying of the boring locations to obtain surface coordinates and elevations is beyond the scope of work and should be surveyed by others prior to construction. References to elevations of various subsurface strata will be based on depths below existing grade at the time of drilling.
- b) During the field activities, the subsurface conditions will be observed, logged, and visually classified. Field notes will be maintained to summarize soil types and descriptions, water levels, changes in subsurface conditions, and drilling conditions.
- c) Final depths of the borings may be extended or reduced depending on the subsurface materials identified during field activities.
- d) Intertek-PSI will contact Texas One Call/Dig Tess, etc. or other public utility clearance companies prior to the start of drilling activities. It is our experience that these companies do not mark the locations of privately owned utilities. This proposal is based on private utility lines and other subsurface appurtenances are located in the field by others prior to field activities.
- e) Intertek-PSI will exercise reasonable caution to avoid damages to underground utilities by contacting local utility companies prior to the field activities. However, private utility locations are often unknown by public utility companies and by the utility owners. Therefore, Intertek-PSI will not be responsible for damage to the site or any buried utilities that are not made known to us.
- f) Some damage to the ground surface may result from the drilling operations near the work areas and along ingress/egress pathways. The field crew will attempt to limit such damage, but no restoration other than backfilling the borings is included in this proposal. Excess auger cuttings and drilling spoils would be spread out on site.

5.2 Obtain representative soil samples during the field exploration program and transport to the Intertek-PSI laboratory for testing. The nature and extent of this laboratory testing program will be dependent upon the subsurface conditions identified during the field exploration program. The laboratory testing program on selected samples may include

moisture content tests, Atterberg limits tests, unconfined compressive strength tests, swell tests and other tests as required to identify the engineering characteristics of the subsurface materials. Portions of any samples that are not altered or consumed by laboratory testing will be retained for 30 days after the issuance of the geotechnical report and will then be discarded.

TABLE 2: ANTICIPATED FIELD EXPLORATION DESCRIPTION

Drilling Equipment	Truck Mounted Drilling Equipment
Drilling Method	Continuous Flight Auguring, Hollow-Stem Augers, Wet Rotary, Air Rotary
Drilling Procedure	Applicable ASTM and Intertek- PSI Safety Manual
Field Testing	Hand Penetrometer Split Spoon Testing (ASTM D1586)
Sampling Procedure	ASTM D1587/1586
Sampling Frequency	Continuously to a Depth of 10 Feet
Frequency of Groundwater Level Measurements	During and After Drilling
Boring Backfill Procedures	Soil Cuttings, Bentonite Pellets
Sample Preservation and Transportation Procedure	General Accordance with ASTM D4220

5.3 Obtain results of the field exploration and laboratory testing and use in the engineering analysis and in the formulation of the recommendations. The results of the subsurface exploration, including the recommendations and the data on which they are based, will be presented in a written geotechnical report. The geotechnical report may include the following items:

- a) General site development and subgrade preparation,
- b) Estimated potential soil movements associated with shrinking and swelling soils and methods to reduce these movements to acceptable levels;
- c) Recommendations for site excavation, fill compaction, use of on-site and imported fill material under pavements;
- d) Recommendations for the design of flexible asphaltic and rigid concrete roadways per City of Temple pavement requirements.

A pdf version of the geotechnical report will be prepared and submitted by email to the Client and design team. If requested by the Client, additional hard copies can be provided. The geotechnical report will be reviewed, signed, and sealed by a registered Professional Engineer.

TASK 6 – ROADWAY DESIGN

Kimley-Horn will:

- 6.1 Prepare existing and proposed typical section sheets.
- 6.2 Prepare a Title Sheet, Index of Sheets, and a Project Layout which references survey control benchmarks.
- 6.3 Develop Removal Plans identifying and quantifying removals.
- 6.4 Prepare final Plan-Profile Sheets for South Pea Ridge Road at a scale of 1"=40' horizontal and 1"=10' vertical.
- 6.5 Prepare intersection grading and details sheet detailing intersection modifications at Westwood Hills Boulevard and Poison Oak Road associated with the reconstruction of South Pea Ridge Road.
- 6.6 Develop driveway/intersection modification details for approximately 16 locations.
- 6.7 Prepare proposed grading cross sections at a spacing no less than 50 feet and at driveways, cross drainage structures, utility crossings, and intersections.
- 6.8 Prepare Temporary Traffic Control Plans
 - a) Develop a Sequence of Work and General Traffic Control Notes for construction
 - b) Prepare traffic control plans for a multiple-phase traffic control sequence identifying lane geometry channelizing devices, construction zones, and buffers.
 - c) Design traffic control to maintain one lanes in each direction where possible incorporating the use of temporary pavement where applicable.
 - d) Prepare traffic control typical sections for each construction phase.
- 6.9 Calculate quantities and prepare Item Summaries Sheets tabulating project quantities.
- 6.10 Incorporate City standard details as applicable.
- 6.11 Prepare General Notes and a Construction Timeline Estimate.
- 6.12 Prepare an opinion of probable construction costs (OPCC) at each milestone deliverable.
- 6.13 Prepare project specifications.

- 6.14 Kimley-Horn will prepare the following deliverables during Final Design:
- a) Five (5) bond copies and one (1) electronic copy of 30% plans and OPCC in 11x17 format
 - b) Five (5) bond copies and one (1) electronic copy of 60% plans and OPCC in 11x17 format
 - c) Five (5) bond copies and one (1) electronic copy of 95% plans in 11x17 format, preliminary general notes, construction timeline, specifications, and OPCC
 - d) Five (5) bond copies and one (1) electronic copy of Final plans in 11x17 format, general notes, construction timeline, specifications, and OPCC

TASK 7 – DRAINAGE DESIGN

- 7.1 Prepare final culvert hydrology & hydraulics
- a) Delineate offsite watershed contributing flow to the road alignment.
 - b) Calculate offsite peak flow in the 25-year (4% annual chance event) and 100-year (1% annual chance event) events.
 - c) Determine outfall locations for internal drainage system.
 - d) Design outfall channels to convey offsite and internal drainage to identified outfall locations. This scope of services assumes that existing outfall channels will be utilized. Design of a new outfall channel will be considered additional services.
 - e) Deliverables: Offsite drainage area map, hydrologic/hydraulic computations, culvert layout sheet (plan/profile), construction notes, quantities, and special specifications
- 7.2 Storm Drain Design
- a) Produce interior drainage area maps at 1"=40' scale
 - b) Calculate run-off to each inlet and produce inlet hydraulic information using "GEOPAK Drainage" software and City of Temple Drainage Criteria and Design Manual.
 - c) Produce storm drain calculations per the City of Temple Drainage Criteria and Design Manual using GEOPAK Drainage software.
 - d) Provide runoff, inlet and storm drain calculation sheets.
 - e) Produce plan and profile sheets at 1"=40' scale for the storm sewer system and include limits of trench protection and hydraulic grade line.
 - f) Produce lateral profile sheets for the storm sewer system at 1"=40' scale.
 - g) Provide non-structural drainage detail sheet.
- 7.3 Storm Water Pollution Prevention Plan (SW3P)
- a) Produce Erosion Control Sheets double banked at 1"=40' scale showing controls per Traffic Control Phase

TASK 8 – TRAFFIC ENGINEERING

- 8.1 Prepare Signing and Pavement Marking sheets at a scale of 1"=40'. Design signing and pavement markings in accordance with the *Texas Manual for Uniform Traffic Control Devices*.
- 8.2 Develop details for non-standard traffic signs.

TASK 9 – BIDDING

Kimley-Horn will:

- 9.1 Assist the City in advertising for bids on the Project including the preparation and issuance of addenda (if any) following the City's prior approval. Kimley-Horn will respond to bidder clarification questions during the bidding process. Kimley-Horn will attend a pre-bid conference.
- 9.2 Assist the City in tabulating bids and preparing bid tabulation forms, including a comparison to estimated costs. Kimley-Horn will NOT attend a bid opening.
- 9.3 Assist the City in reviewing all bids, the Statement of Bidder's Qualifications, financial statements of bidders, lists of bidders' proposed subcontractors, and all other documents required to be submitted with the bids for responsiveness and for bid amount. Kimley-Horn will verify through reasonable investigation the financial and performance history documentation submitted by the low bidder and second low bidder, and their references. The City will provide copies of all of the bid documents to Kimley-Horn within one day from the date of receipt of bids and Kimley-Horn will prepare a report of its review and evaluation of within ten calendar days of receipt of the bid documents of the contract for construction, or other action as may be appropriate. The City will make the final decision on the award of the construction contract and the acceptance or rejection of bids. Kimley-Horn will provide technical (but not legal) advice in bid protest situations.
- 9.4 Have no authority to issue a Notice to Proceed to any Contractor.

LUMP SUM FEE SCHEDULE

TASK 1 – PROJECT MANAGEMENT	\$20,500
TASK 2 – SURVEY AND RIGHT-OF-WAY DATA	\$57,500
TASK 3 – PHASE 1 ENVIRONMENTAL SITE ASSESSMENT	\$11,000
TASK 4 – ROUTE AND DESIGN STUDIES	\$36,000
TASK 5 – GEOTECHNICAL INVESTIGATIONS	\$7,750
TASK 6 – ROADWAY DESIGN	\$110,340
TASK 7 – DRAINAGE DESIGN	\$69,480
TASK 8 – TRAFFIC ENGINEERING	\$10,440
TASK 9 – BIDDING	\$8,200
TOTAL LUMP SUM FEE	\$331,210

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Phase II ESA
- Preparation of a Soil Management Plan
- Preparation of a Health and Safety Plan
- Geophysical investigations to identify subsurface anomalies
- Additional site visits beyond what is presented herein
- USACE consultation, coordination, and permitting
- Mitigation assistance/study
- Threatened and Endangered Species presence/absence surveys
- Cultural Resources Desktop Review
- Cultural Resources Survey
- Traffic Studies
- Signal Warrant
- Water Utility Design
- Sanitary Sewer Utility Design
- Landscape Design
- Illumination Design
- Metes and Bounds description and sketch for easements

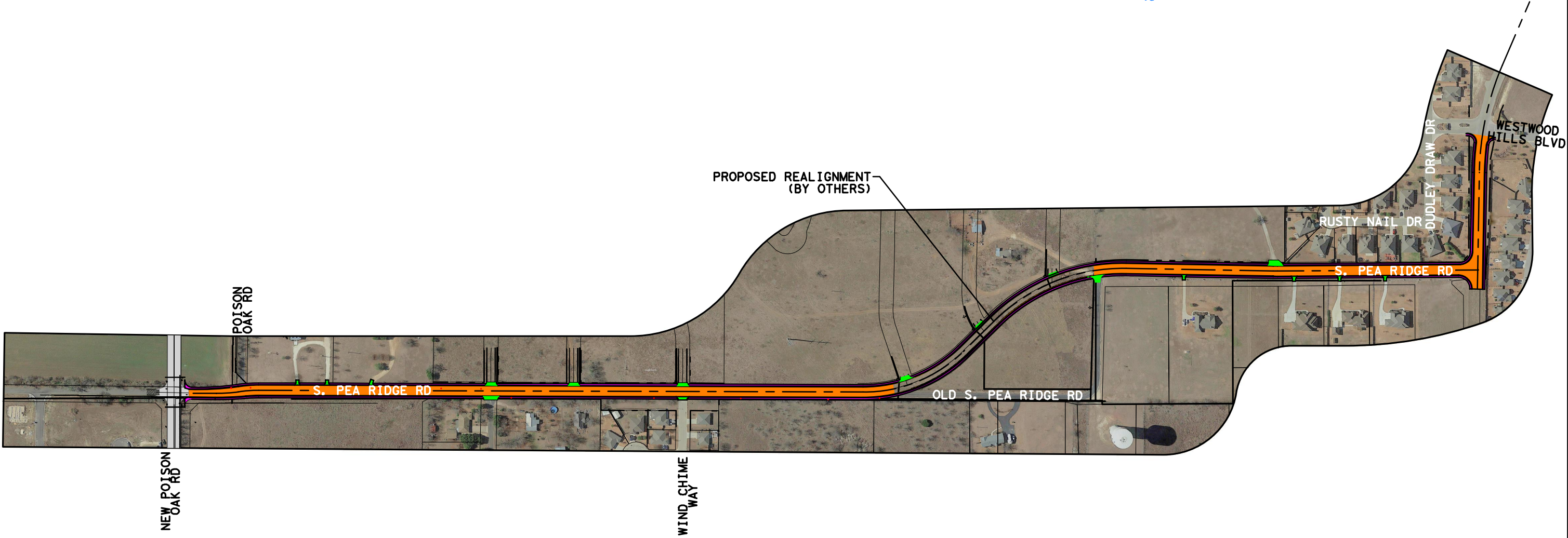
Kimley-Horn Standard Rate Schedule for Additional Services (Hourly Rate)

Senior Professional I	\$240 - \$265
Senior Professional II	\$180 - \$250
Professional	\$160 - \$210
Senior Technical Support	\$115 - \$190
Technical Support	\$70 - \$100
Analyst	\$105 - \$175
Support Staff	\$75 - \$115

CP&Y Standard Rate Schedule for Additional Services (Hourly Rate)

Survey Crew	\$135
Survey Crew w/GPS	\$165
Sr. Survey Tech	\$100
RPLS/PM	\$140
Administrative	\$75

CP&Y Construction Easement description	\$750 Each
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LEGEND

- PROPOSED HMAC

- PROPOSED SIDEWALK

- PROPOSED DRIVEWAY

- EXIST/INTERIM REALIGNMENT

- PROPOSED PAVEMENT REMOVAL

RESOLUTION NO. 2019-9585-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. OF AUSTIN, TEXAS IN THE AMOUNT OF \$331,210, FOR PROFESSIONAL SERVICES REQUIRED TO DESIGN AND BID SOUTH PEA RIDGE ROAD FROM WESTWOOD HILLS BOULEVARD TO THE PROPOSED REALIGNMENT OF POISON OAK ROAD; AS WELL AS, DECLARE AN OFFICIAL INTENT TO REIMBURSE THE EXPENDITURES WITH THE ISSUANCE OF THE 2019 COMBINATION TAX AND REVENUE BONDS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this project consists of roadway improvements to South Pea Ridge Road from Westwood Hills Boulevard to the proposed realignment of Poison Oak Road - improvements include expanded pavement sections, pedestrian facilities, and drainage conveyance;

Whereas, Staff recommends Council authorize a professional services agreement with Kimley-Horn and Associates, Inc. in the amount of \$331,210, for professional services required to design and bid South Pea Ridge Road from Westwood Hills Boulevard to the proposed realignment of Poison Oak Road;

Whereas, the City finds, considers and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues a Combination of Tax and Revenue Bonds to finance the Project;

Whereas, the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution;

Whereas, upon issuance of the Combination of Tax and Revenue Bonds, the City desires to reimburse these prior expenditures with proceeds of the Notes;

Whereas, Section 1.150-2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Tax and Revenue Bonds proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid;

Whereas, this professional services agreement is being funded with the issuance of 2019 Combination Tax and Revenue Bonds, and the City is declaring an official intent to reimburse for this purchase - a budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds;

Whereas, once the budget adjustment is approved, funding will be available in Account No. 365-3400-531-6860, Project No. 101874; 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute a professional services agreement with Kimley-Horn and Associates, Inc. of Austin, Texas in the amount of \$331,210, for professional services required to design and bid South Pea Ridge Road from Westwood Hills Boulevard to the proposed realignment of Poison Oak Road.

Part 3: This Resolution is a declaration of official intent by the City under Section 1.150-2 of the Treasury Regulations that it reasonably expects to reimburse the expenditures described in Part 1 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after the date of (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

Part 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(C)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, P.E., CFM, Interim Public Works Director
James Billeck, P.E., Sr. Project Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with MRB Group, of Temple, to perform the South 41st to 57th Street Utility Assessment in the amount of \$263,800.

STAFF RECOMMENDATION: Adopt resolution as presented in item summary.

ITEM SUMMARY: Public Works has identified that the aging wastewater and water mains bounded by South 41st Street, South 57th Street, Avenue R, and Avenue Z are failing and need to be replaced. See project map for reference. The project will evaluate approximately 29,900 linear feet of wastewater main ranging from six-inch to 12-inch diameter, 124 manholes, and 38,200 linear feet of water main ranging from two-inch to 18-inch diameter.

Assessment activities include cleaning and video inspection of the sewer mains and manholes in accordance with the National Association of Sewer Service Companies (NASSCO) Pipeline Assessment and Certification Program (PACP). Recommendations for phasing/prioritization, rehabilitation methods and an OPC will be developed as a result of the assessment. Per attached engineer's proposal, the proposed services are divided up as follows:

Preliminary Assessment - General Services	\$ 10,500
Preliminary Assessment - Wastewater Rehabilitation	\$ 228,000
Preliminary Assessment - Water Rehabilitation	<u>\$ 25,300</u>
TOTAL	<u>\$ 263,800</u>

The time required for the assessment is 270 calendar days from the Notice to Proceed.

FISCAL IMPACT: Funding for the professional services agreement with MRB Group to perform the South 41st to 57th Street Utility Assessment in the amount of \$263,800 is available in account 561-5200-535-6994, project 101949, as follows:

Project Budget	\$	500,000
Encumbered/Committed to Date		-
Professional Services Agreement - MRB Group		(263,800)
Remaining Project Funds Available	\$	<u>236,200</u>

ATTACHMENTS:

Engineer's Proposal
Project Map
Resolution

March 6, 2019

Sharon Carlos, P.E., Project Manager
City of Temple – Engineering
3210 E. Avenue H
Building A, Suite 107
Temple, Texas 76501

**RE: PROPOSAL FOR PROFESSIONAL SERVICES
WATER AND WASTEWATER INFRASTRUCTURE REHABILITATION
CITY OF TEMPLE**

Dear Sharon:

MRB Group, PC (MRB) appreciates the opportunity to offer this proposal for professional engineering services for the rehabilitation of water and wastewater system infrastructure within the City of Temple. The project area is southwest of the City center generally between South 41st Street and 57th Street, and Avenue R and Avenue Z.

I. Project Overview

The Project Area is primarily residential with many water and wastewater lines over 80 years old. Scott Elementary School is just north of the Project Area and Jaycee Park and the Church of Christ border the Project Area on the southeast side. 57th Street on the west side of the Project Area serves some commercial establishments and connects with SW H K Dodgen Loop (Loop 363) just south of Avenue Z.

City Staff has indicated that they envision a phased project approach as follows:

- Phase I – Preliminary Assessment
- Phase II – Design
- Phase III – Bidding
- Phase IV – Construction

Our proposal contains our scope of work and fee for the Preliminary Assessment Phase work with scope and fee for subsequent project phases provided following completion of the Preliminary Assessment Phase.

The Preliminary Assessment phase is needed to define the specific improvements required in sufficient detail so that major design and project approach issues and questions are resolved prior to beginning the design phase (preparation of plans and specifications). Our approach in conducting the work required under this Preliminary Assessment Phase is provided below.

Wastewater System Rehabilitation

The wastewater system within the Project Area includes approximately 29,900 linear feet (LF) of sanitary sewer line consisting of primarily 6-inch diameter pipe, with also 8-inch and 12-inch diameter pipe within the area. There are approximately 58 sanitary sewer manholes identified within this area as well, based on the GIS data provided. However, there are up to 66 additional locations where manholes would be anticipated, but are not shown on existing mapping. Many of the wastewater lines are clay pipe and with mostly brick sanitary sewer manholes. The sanitary sewer lines are generally located in service drives (alleyways) behind residences and within easements in backyards rather than within City streets. The City has expressed a desire to rehabilitate all sanitary sewer lines and manholes within the Project Area.

In many cases, rehabilitation of existing wastewater collection system lines can be effectively accomplished without new line construction using in-place methods such as spot repair, pipe bursting and cured-in-place pipe (CIPP) relining. These methods minimize above ground disruptions and are considerably less expensive and less disruptive than new construction. CIPP methods result in a line capacity essentially the same as existing, and pipe bursting is generally limited to moderate increases in line size. Rehabilitation of brick or concrete manholes is generally accomplished using a combination of sand blasting, pressure washing, grouting and epoxy coating. Other methods can include grouting in place, fiberglass or polymer concrete liners within the existing manhole.

MRB has considerable experience with sewer line spot repairs and replacements as well as pipe bursting and CIPP sewer line rehabilitation methods and multiple techniques for manhole rehabilitation. In order to fully evaluate the best methods of rehabilitation, MRB recommends careful video inspection of both sewer lines and manholes to confirm pipe sizes, locate service connections, to generally establish existing conditions to determine appropriate repair methods as well as to provide information to bidders once the final design is complete. We propose to subcontract the video inspection work to qualified subcontractors who regularly conduct this work, and will provide deliverables (video files, and inspection reports) in electronic format suitable for loading into a GIS database.

We propose that our deliverables to the City include:

- a summary of our analysis and recommended methods for rehabilitation method for sewer lines and manholes,
- prioritize the line segments and manholes to be rehabilitated, spot repaired or replaced based on observed condition,
- opinion of probable construction costs for the proposed work, and
- a Preliminary Assessment Phase Report summarizing the above deliverables.

We will also provide an electronic deliverable of the video inspection work and field log. We will need to coordinate with the City as to the preferred formatting of this deliverable. We have attached our specification video inspection work and a sewer system map we developed for this project for your reference.

Sanitary sewer lines serving a portion of the service area are located within easements on private property within the backyards of residences. We will assist the City in notifying residents prior to entry on private property.

Water System Rehabilitation

The water system within the Project Area includes approximately 38,200 LF (per City records) of water lines ranging in size from 2-inch to 18-inch

diameter with approximately 10,800 LF of pipe less than 6-inch diameter. Most of the waterlines south of Avenue T are located within City streets; however, north of Avenue T, most lines are located within alleyways or within a mid-block easement. The City has expressed a desire to replace water lines less than 6-inch diameter, to provide proper line looping and interconnection to eliminate dead end mains, to eliminate the lines within a mid-block easement, and to replace lost/inoperable valves.

A key issue in defining the methodology for the rehabilitation work will be to determine how to reconnect existing customer services and meters, especially when replacing lines within alleyways with lines in the street. We propose that during the Preliminary Phase, we identify specific properties affected and use best available information to estimate the location of existing meters. For project construction cost estimating purposes, we will estimate the length of a new service line from the proposed new meter to a connection point on existing service line.

We propose that our deliverables to the City include the following:

- our preliminary drawings showing preliminary alignment of water lines to be constructed, and points of connection to existing lines and existing customer meters,
- opinion of probable construction costs, and
- Preliminary Assessment Phase Report summarizing the above deliverables.

Based on the general approach described above, our scope of work and compensation for conducting the Preliminary Assessment Phase is provided below.

II. Scope of Services and Compensation

We have provided a scope of work and compensation for conducting the portions of the Preliminary Assessment Phase common to both the wastewater and water system (General Services), and separate tasks for project elements specific to the Wastewater System Rehabilitation and Water System Rehabilitation.

A. Preliminary Assessment Phase, General Services

1. Kickoff Meeting – MRB will attend a project Kickoff with City Staff to establish project goals, discuss relevant design parameters, project approach and requirements, and discuss schedules, milestones, and types of deliverables. MRB will prepare meeting notes and provide them to the City following the meeting.
2. Existing Records – MRB will work with the City and other agencies to obtain existing project relevant information including as-built drawings, GIS mapping, aerial photography, property ownership information, and utility records
3. Assist the City in notifying property owners of upcoming video inspection work. Access may be required to permit video inspection where manholes are located within easements on private property.
4. Project Review Meetings – MRB will coordinate and attend project review meetings during the project. We have assumed that two (2) meetings will be conducted to review our recommendations and analyses regarding new water lines and sewer rehabilitation, and to review our draft Preliminary Assessment Phase Report.
5. Reporting – We have assumed that the results of our analyses, recommendations, preliminary layouts and design, and opinion of probable construction costs will be summarized in Preliminary Assessment Phase Report. We have assumed that a single report will be prepared for both water and wastewater system improvements.

Subtotal of A, Items 1-5 \$10,500.00

B. Preliminary Assessment Phase, Wastewater System Rehabilitation

1. Video Inspection – MRB will procure sanitary sewer and manhole video inspection services based on proposals from qualified subconsultants. The inspection services shall include approximately 29,900 LF of sanitary sewer line within the Project

Area consisting of approximately 24,100 LF of 6-inch, 2,400 LF of 8-inch, approximately 3,400 LF of 12-inch diameter pipe, and 910 LF of unknown size pipe. Inspection services shall also include cleaning and video inspection of approximately 124 sanitary sewer manholes. Our subcontractor will be required to clean the sewer lines to the degree necessary to obtain clear video that shows the condition of pipe and location of laterals. MRB has developed specifications for sewer cleaning and video inspection work and has included those specifications as an attachment for the City review. MRB will work with the City to provide an electronic deliverable of this work in a format acceptable to the City.

2. Rehabilitation Methods – MRB will identify and compare methods available for rehabilitation of the sanitary sewer lines and manholes. Methods to be considered for line rehabilitation include spot repairs, pipe bursting and CIPP liners. MRB will compare these technologies for applicability to this project using estimates from local contractors and from past projects. We will also provide a comparison based on other non-cost factors including construction impacts and disruptions, long-term performance and risk. Output from this work will be a recommendation for which of these two methods to use for the design phase or, if comparable in cost and impact, to specify one of the methods as an alternative method under our bidding documents.
3. Engineer's Opinion of Probable Construction Costs – MRB will prepare an opinion of probable construction costs for the recommended improvements.

Subtotal of B, Items 1-3..... \$228,000.00

C. Preliminary Assessment Phase, Water System Rehabilitation

1. Water Service Reconnections – Based on best available information, MRB will identify water meter locations where new waterlines are to be constructed and show these meters on a map of proposed improvements. These preliminary design maps will also

- provide property lines from existing mapping, likely locations for the service line connecting to the residence and a proposed location for a new meter and service.
2. Preliminary Assessment Mapping – MRB will utilize available information to prepare preliminary maps for the water system lines and inoperable valves (as indicated by the City) to be replaced. This mapping will include existing and proposed service connections and proposed replacement waterline alignments.
 3. Engineer's Opinion of Probable Construction Costs - MRB will prepare an opinion of probable construction costs for the recommended improvements.

Subtotal of C, Items 1-3..... \$25,300.00

Total Compensation \$263,800.00

The cost figures shown above represent our lump sum amount. Any additional work beyond this fee and outside the scope of this proposal would be reviewed with the Client. MRB Group shall submit monthly statements for services rendered during each invoicing period based on the efforts performed during that period. MRB Group Standard Rates are subject to annual adjustment.

III. Additional Services

The following items, not included in the above services can be provided on a personnel time-charge basis, but would only be performed upon receipt of your authorization.

- A. Our scope of work includes Phase I, Preliminary Assessment. Subsequent work phases to include Design, Bidding, Construction may be added at a later time.
- B. MRB has obtained preliminary pricing for sewer cleaning and video inspection of the existing sanitary sewer system based on the attached specifications, as described in Section II, and has included a fee for that work in this proposal. Any significant deviations from

this work scope of work as described in the specification can be provided as an additional service.

- C. MRB has not included surveying, subsurface utility evaluation (SUE), geotechnical and environmental permitting and clearances in our proposal.
- D. We have assumed that the City will direct MRB on replacement pipe sizes for water and wastewater lines. Our scope of work does not include any level of effort to determine appropriate pipe sizes.
- E. MRB will not be able to confirm exact locations for proposed service line extensions and connection points to existing lines. We will assume a service line alignment, connection point and length based on best available information.
- F. Coordination with land owners, preparation of right of entry requests or other documents required for design and construction can be provided as an additional service.
- G. Our proposal does not include video inspection of wastewater lateral lines but can include that work as an additional service if desired by the City. We estimate that our cost to add this work is \$600 per lateral.

IV. Commencement of Work

MRB Group is committed to providing the City of Temple prompt and responsive services. We will commence work upon receipt of the signed contract for this project. We anticipate completion of the video inspection within four (4) months of notice to proceed, and the overall project within nine (9) months of the notice to proceed.

V. Standard Terms and Conditions

MRB Group understands that the City of Temple will furnish its Standard Contract for review and execution, with this proposal as an attachment to that contract serving to define the scope of work and fee for this current project.

Thank you for your consideration of our firm. We look forward to working with you on this project.

Sincerely,



James J. Oberst, P.E., LEED AP
Executive Vice President / C.O.O.



Tanya Mikeska-Reed, A.I.A.
Project Manager

Attachments:

- 1) Sanitary Sewer Video Inspection Specification
- 2) Sanitary Sewer Base Map
- 3) Water System Base Map

SANITARY SEWER VIDEO INSPECTION SPECIFICATION

SECTION 02950 SANITARY SEWER VIDEO INSPECTION

PART 1 - GENERAL

1.1 SCOPE OF WORK

- A. The work covered under this section includes all labor, equipment, materials, and supervision to perform work necessary to clean all sewer lines described in the scope of work, and to complete television and/or 3-dimensional (3D) inspection of all manholes and sewer lines.
- B. Contractor shall offer a menu of imaging and inspection services that include:
 - 1. 3D Manhole Imaging using Panaramo technology, or Engineer-approved equal (described below).
 - 2. CCTV Pipe Imaging
 - 3. 3D Pipe Imaging using Panaramo technology
 - 4. Lateral inspection and imaging
- C. The Services shall be performed in accordance with the performance standards set forth below, and in accordance with all applicable rules and regulations of TCEQ, including 30 TAC § 213.5(c)(E).

1.2 SHOP DRAWINGS AND STANDARDS

- A. The following shall be submitted to Engineer prior to beginning work.
 - 1. Sample Pipeline Inspection Log / Report Sheet
 - 2. Standardized Coding Used for Completing Log / Report Sheets. Codes must conform to National Association of Sewer Service Companies (NASSCO) Pipeline Assessment and Certification Program (PACP). The Contractor shall add Owner specific defect codes to the database as required to insure uniform defect identification and naming.
- B. The following shall be submitted to the Engineer at least once every two weeks as work is completed:
 - 1. Pipeline Inspection Log / Report Sheets / Image Files
 - 2. Manhole Inspection Logs (if performed) / Image Files

1.3 FILMING SPECIFICATIONS

- A. National Association of Sewer Service Companies (NASSCO)
- B. Pipeline Assessment & Certification Program (PACP)
- C. See Also **PART 3 - EXECUTION**
 - 1. The Contractor shall participate in a conference call with the Owner and Owner's Engineer prior to the start of any field work to discuss contract and work requirements.
 - 2. Inspections shall be completed per the NASSCO Performance Specification Guideline Part 2.7.B
https://www.nassco.org/sites/default/files/cctv_15dec2014.pdf (or most recent)
 - 3. During CCTV Inspection, manhole ID numbers must be entered to match the manhole ID number nomenclature assigned by the sewer system owner/operator. A map with manhole ID numbers will be provided by the Engineer.
 - 4. Still picture snapshots shall be recorded of all lateral locations, and also for any pipe defects or obstructions noted during inspection. Jpeg file format shall be used for picture storage. The length from the start manhole shall also be entered on the snapshot and in the database for all laterals or any pipe defects or obstructions.
 - 5. Deliverables shall be a single export containing a merged composite PACP Version 6.x (or most recent) database file export in Microsoft Access database format. The following tables shall be included in the PACP export database per the PACP standard: Conditions, Inspections, Media Conditions, and Media Inspections.

6. Video clips shall be delivered in a standard video format such as MP4. Video clips should be limited to one manhole to the next.
7. All jpeg still images and video clips shall have file names that match the corresponding records in the Media Conditions and Media Inspections tables in the provided PACP export database.
8. Provide digital PDF format inspection sheets for each segment televised. The PDF filename for each report shall be recorded in a separate file with the file name corresponding to the pipe segment inspected.
9. Separate from the PACP export, an Excel spreadsheet summary must be provided detailing the following for all work performed:
 - a. Date/time
 - b. Street name
 - c. Start manhole id
 - d. End manhole id
 - e. Upstream Manhole id
 - f. Direction of televising (upstream/downstream)
 - g. Length televised
 - h. Pipe diameter
 - i. Pipe material
 - j. Precleaning? (yes or no)
 - k. Defects noted? (yes or no)

1.4 SUBMITTALS

- A. Contractor shall submit plan for cleaning and televising sewers, a Traffic Safety Plan, and a sample of the project deliverables listed above from a similar project to verify file formatting to the Engineer prior to commencing work.

1.5 SAFETY

- A. Contractor shall be solely responsible for safety during the performance of all Services. Contractor shall not enter into any sewer segment where hazardous conditions may exist until such time as the source of those conditions is identified and eliminated by Contractor and/or Owner. Contractor shall perform all work in accordance with the latest OSHA confined space entry regulations. Contractor shall coordinate his work with local fire, police and emergency rescue units.
- B. Contractor shall be responsible for any damage to public or private property resulting from its activities and shall repair or otherwise make whole such damage at no cost to Owner.
- C. Contractor shall provide equipment and manpower for any Traffic Safety required. Contractor shall submit Traffic Safety Plan to coordinate with Engineer.

PART 2 - PRODUCTS

2.1 SEWER CLEANING EQUIPMENT

- A. Hydraulically Propelled Equipment: The equipment used shall be of a movable dam type and be constructed in such a way that a portion of the dam may be collapsed at any time during the cleaning operation to protect against flooding of the sewer. The movable dam shall be equal in diameter to the pipe being cleaned and shall provide a flexible scraper around the outer periphery to insure removal of grease. If sewer cleaning balls or other equipment which cannot be collapsed is used, special precautions to prevent flooding of the sewer and public or private property shall be taken.
- B. High-Velocity Jet (Hydrocleaning) Equipment: All high-velocity sewer cleaning equipment shall be constructed for ease and safety of operation. The equipment shall have a selection of two or

more high-velocity nozzles. The nozzles shall be capable of producing a scouring action from 15 to 45 degrees in all size lines designated to be cleaned. Equipment shall also include a high-velocity gun for washing and scouring manhole walls and floor. The gun shall be capable of producing flows from a fine spray to a solid stream. The equipment shall carry its own water tank, auxiliary engines, pumps, and hydraulically driven hose reel.

- C. Mechanically Powered Equipment: Bucket machines shall be in pairs with sufficient power to perform the work in an efficient manner. Machines shall be belt operated or have an overload device. Machines with direct drive that could cause damage to the pipe will not be allowed. A power rodding machine shall be either a sectional or continuous rod type capable of holding a minimum of 750 feet of rod. The rod shall be specifically heat-treated steel. To insure safe operation, the machine shall be fully enclosed and have an automatic safety clutch or relief valve.

2.2 TELEVISION INSPECTION EQUIPMENT

- A. The television camera used for the inspection shall be one specifically designed and constructed for such inspection. The camera shall have panning capabilities to observe pipe lateral openings. Lighting for the camera shall be suitable to allow a clear picture of the entire periphery of the pipe. The camera shall be waterproof. The camera, television monitor, and other components of the video system shall be capable of producing picture quality to the satisfaction of the Owner's Representative; and if unsatisfactory, the run shall be re-televised by contractor at no additional cost to the Engineer.
- B. Television inspection equipment shall have an accurate footage counter that displays on a remote monitor the travel distance of the camera along the sewer centerline from the starting manhole. The camera shall be of the remotely operated pan and tilt type when inspecting manholes and sewer lines six (6) inches and greater in diameter. The rotating camera and light head configuration shall provide 240 degrees of pan and tilt angle measuring centerline to centerline and 70 degree lens viewing angle.
- C. Image resolution shall be sufficient for Engineer to conduct visual inspection. Images inadequate for Engineer visual inspection requirements will be re-acquired by Contractor at no additional cost to Engineer. Geometrical distortion of the image shall not exceed one percent.
- D. The color camera shall be equipped with the necessary circuitry to allow for the remote adjustment of the optical focus and iris from the power control unit at the viewing station.
- E. Lighting system shall be adequate for quality color picture at least 5 feet in front of the camera's lens.
- F. The camera shall be equipped to capture still images of pipeline defects.

2.3 3D MANHOLE AND SEWER LINE INSPECTION

- A. Manhole inspection shall employ technology such as CleverScan, IBAK Panoramio SI, or equal for a full 3D imaging and recording of each manhole. Subcontractor shall submit details of imaging technology with proposal for Engineer approval.
- B. The Subcontractor shall provide the Engineer with the software required to view the digital film file, including full control of the virtual pan and tilt. The digital files must include the following:
 - 1. An unfolded view of the manhole with resolution quality sufficient for the Engineer to perform a visual inspection.
 - 2. The capability to produce three-dimensional representation of the manhole structure.
 - 3. A distortion-free virtual pan and tilt allowing the review of the manhole structure from any angle at any depth. The virtual pan and tilt must consist of view from the bottom and top camera, any virtual pan and tilt that artificially creates this view from a single camera will be deemed unacceptable due to distorted images on the direct side view.
 - 4. Provide detailed location and flowline elevations of each manhole.

- C. If selected, Contractor shall use the above described Panaromo technology to evaluate the sewer lines.

PART 3 - EXECUTION

3.1 SEWER CLEANING

- A. The contractor shall provide all labor and equipment necessary for the proper jet cleaning, rodding, bucketing, brushing, and flushing of the sewers.
- B. Cleaning Precautions: During sewer cleaning operations, satisfactory precautions shall be taken in the use of cleaning equipment. When hydraulically propelled cleaning tools (which depend upon water pressure to provide their cleaning force) or tools which retard the flow in the sewer line are used, precautions shall be taken to insure that the water pressure created does not damage or cause flooding of public or private property being served by the sewer. When possible, the flow of sewage in the sewer shall be utilized to provide the necessary pressure for hydraulic cleaning devices. When additional water from fire hydrants is necessary to avoid delay in normal work procedures, the water shall be conserved and not used unnecessarily. No fire hydrant shall be obstructed in case of a fire in the area served by the hydrant.
- C. Sewer Cleaning: The designated sewer manhole sections shall be cleaned using hydraulically propelled, high-velocity jet, or mechanically powered equipment. Selection of the equipment used shall be based on the conditions of lines at the time the work commences. The equipment and methods selected shall be satisfactory to the Owner's Representative. The equipment shall be capable of removing dirt, grease rocks, sand, and other materials and obstructions from the sewer lines and manholes. If cleaning of an entire section cannot be successfully performed from one manhole, the equipment shall be set up on the other manhole to complete the cleaning.
- D. Material Removal: Sludge, dirt, sand, rocks, grease, and other solid or semisolid material resulting from the cleaning operation shall be removed at the downstream manhole of the section being cleaned. Passing material from manhole section to manhole section, which could cause line stoppages, accumulations of sand in wet wells, or damage pumping equipment, shall not be permitted.
- E. Disposal of Materials: The Owner shall provide a dump site for all debris removed from the sewers during the cleaning operation. Unless stated otherwise, it is assumed this site will be at or near the sewage treatment facility to which the debris would have arrived in absence of the cleaning operation. Any hazardous waste material encountered during this project will be considered as a changed condition.
- F. Final Acceptance: Acceptance of sewer main cleaning shall be made upon the successful completion of the television inspection and shall be to the satisfaction of the Owner's representative. If TV inspection shows the cleaning to be unsatisfactory, the Contractor shall be required to reclean and re-inspect the sewer line until the cleaning is shown to be satisfactory. Sewer pipe rehabilitation work shall not commence until TV inspection shows the cleaning to be satisfactory.

3.2 TELEVISION AND 3D INSPECTION

- A. After cleaning, each manhole, as well as the manhole to manhole pipe sections shall be visually inspected by means of closed-circuit television. The inspection will be done one manhole section at a time and the flow in the section being inspected will be suitably controlled.
 - 1. The camera shall be moved through the line in either direction at a moderate rate, stopping when necessary to permit proper documentation of the sewer's condition. In no case will the television camera be pulled at a speed greater than 30 feet per minute. Manual winches, power winches, TV cable, and powered rewinds or other devices that do not obstruct the camera view or interfere with proper documentation of the sewer conditions shall be used to move the camera through the sewer line. If, during the

inspection operation, the television camera will not pass through the entire manhole section, the Contractor shall set up his equipment so that the inspection can be performed from the opposite manhole. If, again, the camera fails to pass through the entire manhole section, the inspection shall be considered complete and no additional inspection will be required.

2. When manually operated winches are used to pull the television camera through the line, telephones or other suitable means of communication shall be set up between the two manholes of the section being inspected to insure good communications between members of the crew.

B. Documentation of the television / imaging results shall be as follows:

1. Television inspection Logs: Printed location records shall be kept by the contractor and will clearly show the location in relation to an adjacent manhole of each infiltration point observed during inspection. In addition, other points of significance such as locations of building sewers, unusual conditions, roots, storm sewer connections, broken pipe, presence of scale and corrosion, and other discernible features will be recorded and a copy of such records will be supplied to the Owner.
2. Videotape Recordings and or digital image files: The purpose of tape recording shall be to supply a visual and audio record of problem areas of the sewer lines, prior to rehabilitation work. Videotape recording playback shall be at the same speed that it was recorded. Contractor shall title the tape with segment ID and numbers. All tapes shall be accompanied by TV inspection logs. The Contractor shall have all videotapes and necessary playback equipment readily accessible for review by the Owner during the project. Upon completion of the project the tapes shall become the property of the Owner.
3. Contractor shall internally inspect, via closed circuit television inspection, the sewer segments as required. Generally, inspection shall be completed one sewer line section at a time. Access for televising purposes shall only be via existing manholes and cleanouts.
4. Inspection of pipelines shall be performed by experienced personnel trained in locating breaks, obstacles, and service connections by closed-circuit television inspection techniques. The interior of the pipeline shall be carefully inspected to determine the location and extent of all pipeline defects. The location of any conditions which may result in a limitation of rehabilitation techniques that could be used and/or prevent proper installation of designated rehabilitation materials in the pipelines shall be noted so that these conditions can be considered and, if necessary, corrected prior to actual rehabilitation.
5. Should access to particular sewer section be difficult and adjacent sections require television inspection, Contractor may complete inspection in multiple sewer line sections. When multiple sewer line sections are inspected using one setup, Contractor shall zero the camera's footage metering device at each subsequent sewer manhole to establish uniform starting location of Station 0+00 for each line section televised.
6. The Contractor shall move the camera downstream at a uniform rate not greater than 30 feet per minute. The Contractor shall stop and thoroughly inspect each of the following:
 - a. Collapsed pipe, obstructions;
 - b. Structural cracking, with and without deflection;
 - c. Missing portion of wall;
 - d. Sag, excessively deflected joint;
 - e. Cracked and open joints;
 - f. Root intrusion;
 - g. Protruding joint sealing material;
 - h. Corrosion conditions including exposed aggregate, exposed reinforcement, and disintegrated wall which exposes the soil surrounding the pipe;
 - i. Protruding lateral joint; and
 - j. Inflow point.
7. At all defects and service connections, the camera shall be stopped and the pan and tilt features shall be used to obtain a clear picture. Where possible, the camera shall be

panned to view up each lateral or point of connection. Locations and details of all defects, laterals and connection points shall be noted in the inspection logs / reports and NASSCO defect logging software.

C. Pipeline Inspection Records and Logs / Reports

1. Contractor shall record these inspections in a video file in a standard format such as MP4 and on a suitable log / report. Lighting and camera quality shall provide a clear, in-focus picture of the entire inside periphery of the sewers and laterals for all conditions except submergence. The video file shall include a visual and audio narrative noting:
 - a. Project name
 - b. Date, time of day, and depth of flow;
 - c. Sewer segment number. Segment numbers shall be designated by Engineer;
 - d. Upstream manhole number;
 - e. Downstream manhole number;
 - f. Diameter of sewer line;
 - g. Sewer materials of construction;
 - h. Closest street addresses at points of entry and exit and street name or interceptor on which sewer is located;
 - i. Beginning and ending tape counter numbers for each run (manhole to next manhole) of sewer inspected;
 - j. Direction of movement of camera, heading, and direction of flow;
 - k. Locations of service connections into sewer by clock position and with counter distance in feet from beginning manhole's centerline; and
 - l. Location (start and end counter distances in feet travelled along the sewer centerline from the beginning manhole) and description of obstructions, structural defects, missing pieces of pipe, longitudinal and/or circumferential cracking, joint deterioration including open and/or offset joints, ovality, leakage or evidence thereof, corrosion, erosion, break-in connections, protruding connections, mineral deposits, roots, previous repairs, grease/fats/oil deposits on pipe walls, sags, and other abnormalities with respect to the sewer's condition with counter distance in feet from the beginning manhole's centerline.
 - m. Still photographs or screen captures shall be taken at all defects.
2. Contractor shall immediately bring to the attention of the Engineer any manholes or cleanouts identified or located by CCTV that are not shown on the collection system maps. The Engineer will flag/mark previously unidentified manholes for later surveying. Contractor shall provide GPS coordinates for newly located manholes accurate within three (3) feet of manhole center.
3. Contractor's log / report shall contain the same information as visual and audio recording. Contractor may use any log / report sheet approved by Engineer.
4. The video file shall visually display at a minimum the date, pipe segment number (manhole number) and travel distance along the sewer centerline from the upstream manhole.
5. The entire length of any one sewer segment shall be on one video file. No segment shall be split between two video files. Electronic deliverables shall be provided to the Engineer as described in Section D. Video files of all sections will be provided to Engineer along with the respective television inspection field logs / reports.
6. The importance of accurate distance measurements is emphasized. Measurement for location of defects shall be above ground by means of a meter device. Marking on the cable, or the like, which would require interpolation will not be allowed. Accuracy of the distance meter shall be checked by use of a walking meter, roll-a-tape, or other suitable device. If the counter distance and the taping distance differ by more than 2 feet per 100 feet, the run shall be re-televised by Contractor at no additional cost to Owner.
7. If the video recording fails for any reason, the run shall be re-televised by Contractor at no additional cost to Owner.

8. The Contractor shall use CCTV defect logging software that is PACP- certified, which assures that the software can be used to export a database of all inspection and defect details that conform to the NASSCO PACP database standard. The following tables shall be included in the report file: Conditions, Inspections, media conditions and media inspections
- D. Obstructions and Reverse Set-ups
1. If during television operation, television camera will not pass safely through the entire sewer line section being investigated, Contractor shall, at no additional cost to District, set up equipment so that inspection can be performed from opposite (downstream) manhole. Where an obstruction is encountered and a reverse set up is required, the distance shall be entered into the log / report and verbally noted on the video from which manhole the measurements are being made. If under the reverse set-up the camera again fails to pass through the entire sewer line section, inspection shall be considered complete.
 2. All obstructions in the sewer segment that prohibit passage of the television camera shall be immediately reported to the Engineer by Contractor referencing location and nature of the obstruction. No rehabilitation work shall proceed until Contractor receives direction from Engineer regarding removal of the obstruction.
 3. Should Contractor's televising equipment become lodged in any sewer line, it shall be removed by Contractor at its expense. This shall include, if necessary, excavation and repair of the sewer, underground utility repairs, backfilling and surface restoration. Contractor shall re-televiser any line segment in which his equipment became lodged after said equipment has been removed to demonstrate to the Engineer that no damage exists as a result of his televising operations.
- E. Deliverables
1. The Contractor shall provide two complete sets of all video recordings, manhole inspection forms, pipeline inspection logs / reports, and an electronic file containing pipeline defects logged in an export format conforming to the NASSCO PACP standards to Engineer.
 2. All video and electronic files shall be maintained and delivered in a portable digital media device (external hard drive or USB drive) that will become property of the Owner. Two devices with all files on each shall be provided. The device shall be labeled with the following information at a minimum:
 - a. Contractor Name and Contact Information
 - b. Project name
 - c. Segments included (Manhole from and to numbers)
 - d. Date of inspection
 - e. Date submitted
 3. The following information at a minimum shall be provided for each video file in a separate electronic file (Excel spreadsheet) listing the following:
 - a. Media Location/electronic path/filename
 - b. Name of Street
 - c. From Manhole Number and counter number
 - d. To Manhole Number and counter number
 - e. Pipe length and diameter
 - f. Project name
 - g. Date Inspected
 - h. Date Submitted
 4. For each video file, the Contractor shall prepare an inspection report which shall be a complete written log / report of pipe conditions and connections, indexed to the footage counter. Contractor may use any inspection log / report form approved by Engineer. Electronic PDF (.pdf) files of each inspection log and digital still photographs (.jpg) files shall accompany the video inspections for each pipeline segment inspected and defect

noted. Filenames for inspection logs shall be the from-and-to manhole ID numbers separated by a dash. File names for digital still photographs shall be the from-and-to manhole ID numbers separated by a dash, followed by the date and time the photograph was taken.

5. Inspection reports shall be compiled/arranged in numerical sequence by the upstream manhole ID of the sewer line cleaned and inspected. Manholes and sewer lines not cleaned and/or not televised shall also be identified with rationale as to why work was not accomplished.

END OF SECTION

INSURANCE REQUIREMENTS

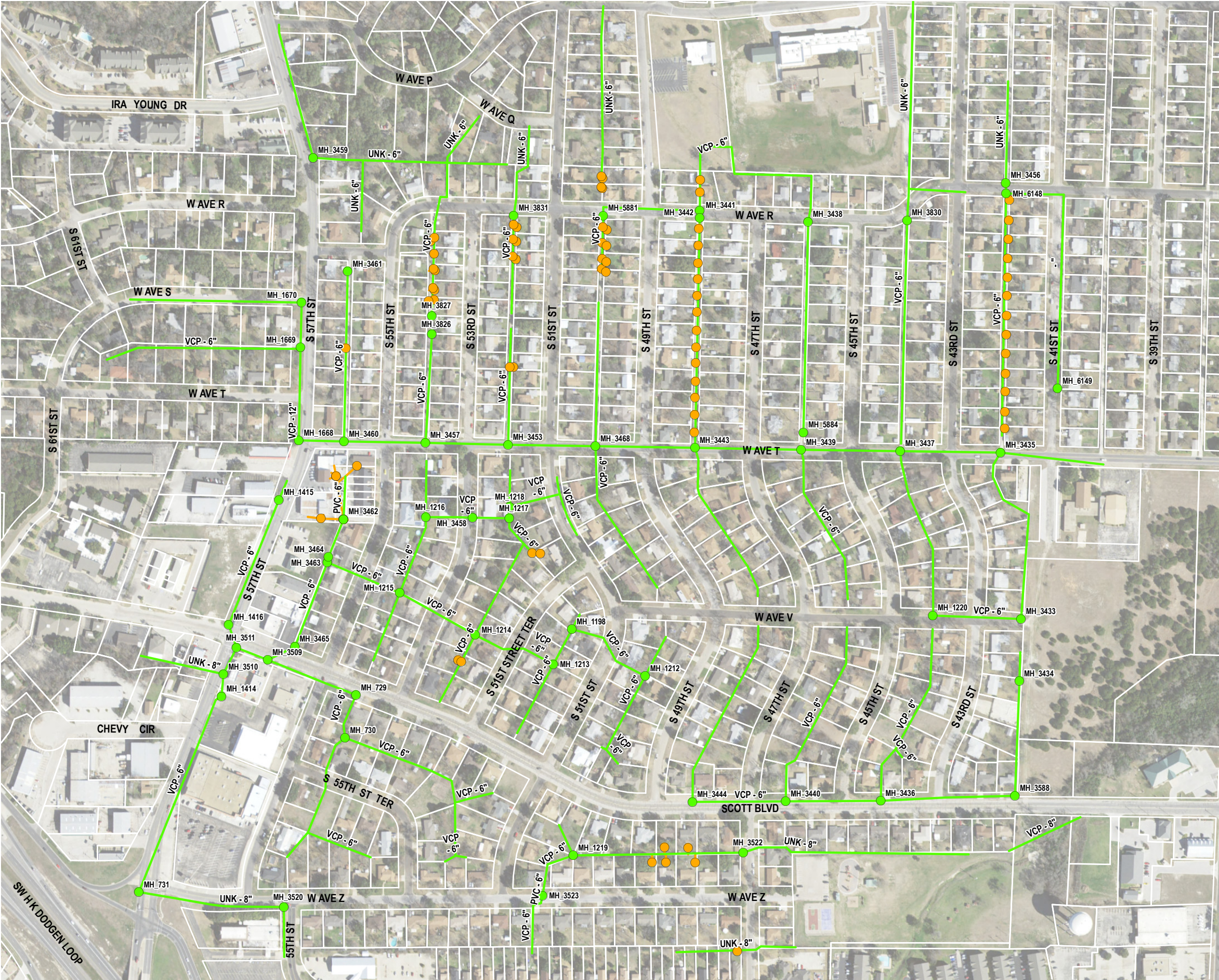
1. Workers' Compensation, and related coverages:
 - a. State: Statutory
 - b. Applicable Federal (e.g., Longshoreman's): Statutory
 - c. Employer's Liability: \$ 500,000
2. Contractor's General Liability:
 - a. General Aggregate \$ 2,000,000
 - b. Products - Completed Operations Aggregate \$ 1,000,000
 - c. Personal and Advertising Injury \$ 1,000,000
 - d. Each Occurrence (Bodily Injury and Property Damage) \$ 1,000,000
 - e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.
 - f. Excess or Umbrella Liability
 - 1) General Aggregate \$ 5,000,000
 - 2) Each Occurrence \$ 5,000,000
3. Automobile Liability:
 - a. Bodily Injury:

Each person	\$ 1,000,000
Each Accident	\$ 1,000,000
 - b. Property Damage:

Each Accident	\$1,000,000
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 - c. Combined Single Limit of \$ 1,000,000
4. The Contractual Liability:
 - a. Bodily Injury:

Each Accident	\$ 2,000,000
Annual Aggregate	\$ 2,000,000
 - b. Property Damage:

Each Accident	\$2,000,000
Annual Aggregate	\$ 2,000,000
5. The following persons or entities shall be specifically named as additional named insured by ENDORSEMENT on each policy; CONTRACTOR shall provide a copy of the endorsement request with verification that such request was submitted to the insurance company issuing each policy:
 - a. City of Temple
 - b. MRB Group Engineering, Architecture, and Surveying, P.C.



- Legend**
- Sanitary Sewer Manhole
 - Sanitary Sewer Tap
 - Sanitary Sewer Gravity Main
 - Sanitary Sewer Lateral Line



Drawn By:	TJV
Scale:	1" = 360'
Date:	DEC 2018

MRB | group
Architecture & Engineering Services, PC
5250 South 31st Street | Temple, Texas 76702 | 254-771-2054 FAX: 254-442-0481
TBE Firm No. F-10615
www.mrbgroup.com

SHEET NO.
1 of 1
PROJECT NO.
P630006

BASE MAPPING
CITY OF TEMPLE, BELL COUNTY, TEXAS
SANITARY SEWER

RESOLUTION NO. 2019-9586-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH MRB GROUP OF TEMPLE, TEXAS IN THE AMOUNT OF \$263,800, TO PERFORM THE SOUTH 41ST TO 57TH STREET UTILITY ASSESSMENT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Public Works Staff has identified that the aging wastewater and water mains bounded by South 41st Street, South 57th Street, Avenue R, and Avenue Z are failing and need to be replaced - the project will evaluate approximately 29,900 linear feet of wastewater main ranging from 6-inch to 12-inch diameter, 124 manholes, and 38,200 linear feet of water main ranging from 2-inch to 18-inch diameter;

Whereas, assessment activities include cleaning and video inspection of the sewer mains and manholes in accordance with the National Association of Sewer Service Companies (NASSCO) Pipeline Assessment and Certification Program (PACP);

Whereas, Staff recommends Council authorize a professional services agreement with MRB Group of Temple, Texas in the amount of \$263,800 to perform the South 41st to 57th Street Utility Assessment;

Whereas, funding for this professional services agreement is available in Account No. 561-5200-535-6994, Project No. 101949; 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute a professional services agreement with MRB Group of Temple, Texas in the amount of \$263,800, to perform the South 41st to 57th Street Utility Assessment.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(D)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, P.E., CFM, City Engineer
James Billeck, P.E., Sr. Project Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, for final design of the Outer Loop Phase 4 Drainage Channel in the amount of \$85,042.50.

STAFF RECOMMENDATION: Adopt resolution as presented in item summary.

ITEM SUMMARY: The Outer Loop south of FM 2305 is a critical north-south arterial that will connect the Adams Avenue growth corridor to IH 35. Phase 3A at Adams Avenue has recently been constructed and phase (3B) to extend the Outer Loop just south of Jupiter Drive is currently under construction. Phase 4 design is in process and will consist of 6,500 linear feet of arterial roadway from Jupiter Road to just north of Riverside Trail.

This project will provide an adequate channel for stormwater drainage from Outer Loop Phase 4 and adjacent offsite areas. The proposed design is for 6,200 linear feet of grass-lined channel, discharging drainage to Pepper Creek (see project map).

The following tasks and costs are recommended for authorization:

Drainage Design	\$ 35,000.00
Field Surveying	\$ 16,500.00
Easement Metes & Bounds	\$ 9,742.50
Environmental	\$ 19,800.00
Project Management	\$ <u>4,000.00</u>

TOTAL **\$ 85,042.50**

Design will be completed within five months from the notice to proceed and receipt of all necessary rights-of-entry. The opinion of probable cost for construction of this project is \$850,000.

FISCAL IMPACT: Funding for the professional services agreement with Kasberg, Patrick & Associates, LP (KPA), for final design of the Outer Loop Phase 4 Drainage Channel in the amount of \$85,042.50 is available in account 353-2900-534-6813, project 102016, as follows:

Project Budget	\$	85,043
Encumbered/Committed to Date		-
Professional Services Agreement - KPA		(85,043)
Remaining Project Funds Available	\$	-

ATTACHMENTS:

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



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
Texas Firm F-510

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

RICK N. KASBERG, P.E.
R. DAVID PATRICK, P.E., CFM
THOMAS D. VALLE, P.E.
GINGER R. TOLBERT, P.E.
ALVIN R. "TRAE" SUTTON, III, P.E., CFM
JOHN A. SIMCIK, P.E., CFM

Georgetown
1008 South Main Street
Georgetown, Texas 78626
(512) 819-9478

January 30, 2019

Mr. Ed Kolacki
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple
Outer Loop Phase IV Drainage Channel
Final Design Services

Dear Mr. Kolacki:

At the request of the City of Temple, we are submitting this proposal for the above referenced project. This project will develop 100% final design services for the Outer Loop Phase IV Drainage Channel Project. This project will improve drainage from Outer Loop IV and offsite areas to Pepper Creek. The final design plans for the project will be in conjunction with previous projects for the Outer Loop. The final product will be a full design of the project including final plans, specifications and Opinion of Probable Cost (OPC) ready for construction. The preliminary opinion of probable construction cost is \$850,000. We have included an exhibit with this proposal for reference purposes.

The work to be performed by KPA under this contract consists of providing engineering services for design of the project as described above to include 100% design and preparation of plans, specifications and OPCs for the Outer Loop IV Drainage Channel. The overall project consists of final design of approximately 6,200 linear feet of grass lined open channel with associated driveway culverts as necessary. Rights-of-entry will be provided by the City. The timeframe for design of the project is five months from the notice to proceed and receipt of all necessary rights-of-entry. Metes and bounds for rights-of-way and easements will be delivered to the designated City of Temple Project Manager. Acquisition processes shall be the responsibility of the City. Right-of-entry services are not included in this proposal.

KPA will perform all work and prepare all deliverables in accordance with the latest version of City of Temple design standards and manuals including the Drainage Criteria and Design Manual and city staff comments or direction.

KPA will perform quality control and quality assurance (QA/QC) on all deliverables associated with the project.

The following services will be performed:

I. PROJECT MANAGEMENT

- A. Meetings
 - 1. Prepare, attend and document Progress Meetings at the City Office.
 - 2. Prepare, attend and document Utility Coordination Meetings.
- B. General Contract Administration
 - 1. Develop monthly invoices and progress reports.
 - 2. Sub-consultant coordination.
 - 3. Design coordination with the City.

II. FIELD SURVEYING

- A. General
 - 1. Verify and compare any previously located utility data with current ground conditions. Contact the One-Call System in advance of performing field surveys so that data collection includes ties to location of marked utilities. Reasonable attempts to coordinate with utility owners shall be made to achieve efficiency in data collection.
- B. Topographic Surveys for Engineering Design and Hydraulic Analysis
 - 1. Reasonable attempts shall be made to recover any existing horizontal control points from previous work performed in the vicinity this project. Additional control shall be established to adequately position horizontal control points as needed for project design activities and plan notations thereof. Data for the horizontal control shall be based on Texas State Plane, Central Zone, NAD 83 (93).
 - 2. Reasonable attempts at recovering and verifying existing vertical control in the project vicinity shall be made. Additional benchmarks shall be established via differential level loops from recovered known project controls. A vertical benchmark system shall be perpetuated at approximate 1,000 foot intervals for future reference on the plans.
 - 3. Survey files with previously obtained project data in the vicinity shall be compared to and merged with survey files generated through this proposal. In areas of uncertainty, changes in previous existing conditions, and/or limited topographic information, additional data shall be collected.
 - 4. Data collection shall consist of spot elevations for improvements, edge of roadway, driveways, visible or marked utilities, drainage features, centerline of channel study area, grade breaks, top of banks, toe of slopes, etc., that define the actual contour of the section and the overbank area. Individual channel cross sections shall be taken at approximate 100 foot intervals or as required to properly define the surface of the project and generate accurate Digital Terrain Models (DTMs).
 - 5. The survey shall include topographic features within approximately 140 feet width or approximately 70 feet left and right of the proposed channel centerline defining the study area for potential construction.

6. A stream alignment and profile extending the entire limits of the channel cross sections described above shall be developed from the channel cross section information.
 7. Profiles of intersecting driveways within the project limits shall be included.
 8. Field surveys shall provide the locations of visible surface features.
- C. Metes and Bounds
1. Metes and Bounds will be prepared by a Registered Professional Land Surveyor describing land area required for drainage easements. Up to six individual metes and bounds surveys are included with this scope.

III. DRAINAGE DESIGN

- A. 30% Complete Plan Set
1. Incorporate all design surveys into computer aided drafting and develop topographies and surfaces. This data shall be utilized to develop drainage areas, hydrology and hydraulics. This shall include topographic working drawings to prepare the preliminary drainage design.
 2. Develop storm water hydrology for the ultimate drainage channel section throughout the limits of the project. The hydrology shall be modeled utilizing HEC-HMS with City of Temple drainage criteria. The model shall incorporate the 4% and 1% annual chance storm (25-year, and 100-year) events. Modeling shall develop storm water flows to all cross culverts and channel conveyances. Based on the data developed, drainage infrastructure shall be designed in a preliminary format for the project area. The level of detail shall be sufficient to establish cost estimates.
 3. Geometric Design - Develop the horizontal and vertical alignments, typical sections and resultant design cross sections to ensure compliance with current design criteria. Delineate and discuss potential deficiencies with City Staff. Review constructability of preliminary design including connections and access.
 4. Typical Sections - Develop existing and proposed drainage channel typical sections for the project.
 5. Alignment Data Sheets - Prepare horizontal and vertical alignment data sheets.
 6. Plan & Profile Drawings - Prepare preliminary plan & profile sheets for the project.
 7. Determine potential utility conflicts based on preliminary design for the project area.
 8. Develop preliminary drainage easement requirements for the project area.
 9. Coordinate the preliminary design with the City of Temple. Comments and direction shall be incorporated into final designs.
- B. 100% Complete Plan Set
1. Develop final designs for all cross drainage structures within the project limits. All cross drainage structures shall be illustrated in plan profile sheets as well as detail sheets in the 100% plans. Grading to existing ground elevations shall be detailed as well as elevations for flow lines and headwalls. Designs for conveyance to reduce erosion shall be completed and detailed in the plans.

2. Design storm water conveyance to existing streams and channel ways. Design shall include conveyance for positive drainage and shall check current water surface elevations to proposed water surface elevations after project completion.
3. Determine potential utility conflicts based on final design for the project area. Existing utility locations shall be illustrated in the drainage plan profile sheets.
4. Develop final drainage easement requirements for the project area. Layouts for drainage easements shall be prepared for review with the City. Details will be provided for the production of metes and bounds for acquisition.
5. Prepare Hydraulic Data Sheets as appropriate reflecting the results of the hydraulic analyses and designs for proposed cross road culverts and storm sewer systems.
6. Develop summary of final quantities for all drainage infrastructure and prepare OPCs based on current bid data.
7. Coordinate with the City of Temple to review the final drainage design, phasing for the project, utility conflicts and relocations. All comments and direction shall be incorporated into final designs. One exception that has already been discussed with city staff is waiving an access easement as the channel will serve as access for debris removal.
8. Storm Water Pollution Prevention Plans (SW3P) - Develop SW3P to minimize potential impact to receiving waterways. The SW3P shall include quantities, type and locations of erosion control devices and any required permanent erosion control measures in accordance with the City of Temple Policy.

IV. ENVIRONMENTAL

A. Phase I Environmental Site Assessment

1. Prepare Phase I Site Assessment for the length of the project in accordance with the procedures included in ASTM E 1527-05.
2. A full report of all findings will be completed with a recommendation. If additional investigations are required which are not a part of this proposal, a contract amendment will be required.
3. No Traffic Control is anticipated be required for these activities and therefore will not be supplied with this contract.
4. At this time there are not any expected submittal or review fees by state or federal agencies and therefore no fees of this kind are included in the proposal.

B. Archaeological Clearances

1. Complete field investigations in accordance with regulatory requirements to clear the length of the project not currently cleared for archaeological review with the State of Texas.
2. A full report of all findings will be completed with a recommendation. If additional investigations are required which are not a part of this proposal, a contract amendment will be required. The finding will be submitted to the Texas Historical Commission for review and clearance of the project.
3. No Traffic Control is anticipated to be required for these activities and therefore will not be supplied with this contract

4. At this time there are not any expected submittal or review fees by state or federal agencies and therefore no fees of this kind are included in the proposal.
- C. Waters of the United States (WOTUS) Determination/Delineation
1. Review historic and topographic maps, soils surveys, plant species data, U.S. Fish and Wildlife Service, National Wetland Inventory maps, Federal Emergency Management Agency maps to preliminarily identify suspect aquatic resources on the site.
 2. Perform site investigation for aquatic species potentially regulated by WOTUS requirements.
 3. A report of all findings and pertinent data discovery.

The following scope of work for Outer Loop Phase IV Drainage Channel can be completed for the lump sum price of \$85,042.50. Below is a breakdown of project costs. We appreciate the opportunity to submit this proposal and look forward to the benefit it will bring the City of Temple.

PROJECT MANAGEMENT		\$ 4,000.00
FIELD SURVEYING		\$ 16,500.00
DRAINAGE EASEMENT (6 EACH)		\$ 9,742.50
DRAINAGE DESIGN		\$ 35,000.00
ENVIRONMENTAL		\$ 19,800.00
	TOTAL	\$ 85,042.50

This proposal does not include any construction phase services.

Sincerely,



Michael C. Newman, P.E., CFM

xc: File

ATTACHMENT “C”

Charges for Additional Services

**City of Temple
Outer Loop Phase IV**

<u>POSITION</u>	<u>MULTIPLIER</u>	<u>SALARY COST/RATES</u>
Principal	2.4	\$ 75.00 – 95.00/hour
Project Manager	2.4	60.00 – 75.00/hour
Project Engineer	2.4	50.00 – 60.00/hour
Engineer-in-Training	2.4	40.00 – 50.00/hour
Engineering Technician	2.4	35.00 – 50.00/hour
CAD Technician	2.4	30.00 – 50.00/hour
Clerical	2.4	15.00 – 30.00/hour
Expenses	1.1	actual cost
Computer	1.0	15.00/hour
Survey Crew	1.1	125.00 – 160.00/hour
Registered Public Surveyor	1.0	130.00/hour
On-Site Representative	2.1	30.00 – 40.00/hour



PRELIMINARY CHANNEL ALIGNMENT

OUTER LOOP

POISON
OAK ROAD

RIVERSIDE TRAIL

PEPPER CREEK



EXHIBIT A



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76601
Firm Registration No. F-410

RESOLUTION NO. 2019-9587-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK AND ASSOCIATES, LP OF TEMPLE, TEXAS IN THE AMOUNT OF \$85,042.50, FOR FINAL DESIGN OF THE OUTER LOOP PHASE 4 DRAINAGE CHANNEL; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Outer Loop south of Farm-to-Market 2305 is a critical north-south arterial that will connect the Adams Avenue growth corridor to Interstate Highway 35;

Whereas, Phase 3A at Adams Avenue has recently been constructed, and Phase 3B to extend the Outer Loop just south of Jupiter Drive is currently under construction;

Whereas, Phase 4 design is in progress and will consist of approximately 6,500 linear feet of arterial roadway from Jupiter Road to just north of Riverside Trail;

Whereas, this project will provide an adequate channel for stormwater drainage from Outer Loop Phase 4 and adjacent offsite areas - the proposed design is for approximately 6,200 linear feet of grass-lined channel, discharging drainage to Pepper Creek;

Whereas, Staff recommends Council authorize a professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$85,042.50, for final design of the Outer Loop Phase 4 Drainage Channel;

Whereas, funding for this professional service agreement is available in Account No. 353-2900-534-6813, Project No. 102016; 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute a professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas, in the amount of \$85,042.50, for final design of the Outer Loop Phase 4 Drainage Channel.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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Item #7(E)
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DEPT. /DIVISION SUBMISSION & REVIEW:

Kevin Beavers, Director of Parks & Recreation
Belinda Mattke, Director of Purchasing & Facility Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a services agreement for West Temple Parks maintenance, turf management, and athletic field management with Sports Field Holdings, dba Sports Field Solutions, of Dallas in the estimated annual amount of \$440,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Authorization of this services agreement with Sports Field Solutions (SFS) will provide for maintenance, turf management, and athletic field management at Crossroads Park (opening the fall of 2019), West Temple Park (121 Montpark Road), Von Rosenberg Park (7918 Tarver Drive), Freedom Park (8456 Tarver Drive), Freedom Village Park (7007 Freedom Drive), and Oaks at Westwood (8423 Skyview).

On February 28, 2019, two proposals were received in response to a Request for Proposals (RFP) to provide parks maintenance, turf management, and athletic field management for six West Temple Parks. Below is a summary of the proposed fees received:

	<u>SFS</u>	<u>Heart of Texas Landscape & Irrigation</u>
Proposed Annual Price	\$419,427	\$1,239,450
Labor Rates – Weekend Tournaments	\$ 25	\$ 60
Labor Rates – Emergencies	\$ 30	\$ 100
Irrigation Material (Cost plus %)	10%	50%

A Staff committee comprised of representation from Parks, Recreation, City Attorney's Office, Finance, and Purchasing reviewed and evaluated the two proposals. The evaluation criteria as defined within the RFP is as follows: proposed pricing, 40%; demonstrated understanding of scope of work and proposed plan for implementing, 25%; experience and reputation, 20%; and skilled staffing available to deliver services, 15%. Based on the defined evaluation criteria, Staff is unanimously recommending the award of the services agreement to SFS. In addition to SFS providing the lowest proposed fees, Staff has been impressed with the quality of services currently being provided by SFS as the contracted installer of the sports fields and landscaping at Crossroads Park.

An outline of the provided services by Park is as follows:

	Common Ground <u>Maintenance</u>	<u>Turf Management</u>	<u>Athletic Field Mgmt</u>
Crossroads Park	X	X	X
West Temple Park	X	X	
Von Rosenberg Park	X		
Freedom Park	X	X	
Freedom Village Park	X		
Oaks at Westwood	X		

Common ground maintenance consists of mowing, trimming, weed control, irrigation system monitoring and maintenance, debris disposal, along with custodial services at Crossroads Park. Turf management for athletic field playing surfaces includes fertilization, core aeration (two times per years), turf grass weed control, verticut and slicing (one time per year if needed), disease control, over-seeding, sod replacement (as needed), and insect control (Crossroads Park only). Athletic field management at Crossroads Park includes dragging of the baseball and softball fields, infield lip work, field surface repair, athletic field markings, portable outfield fence adjustments, laser-grading (once every two years), and tournament field preparation and maintenance.

The proposed agreement will commence May 1, 2019, and continue through September 30, 2023, with the option for two three-year renewal terms. The annual rate will stay at \$419,427 through FY 2021 with subsequent annual rate increases for future years at the lesser of 2% or the increase in the CPI for the DFW area.

FISCAL IMPACT: Funding for the services agreement with Sports Field Solutions for May 1, 2019 through September 30, 2019 at an estimated amount of \$183,333 is available in account 110-3500-552-2623. Funding for forthcoming years will be included in future year budget requests with the services agreement including a non-appropriation clause which will terminate the agreement should adequate funding not be appropriated by Council.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9588-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A SERVICES AGREEMENT WITH SPORTS FIELD HOLDINGS, DBA SPORTS FIELD SOLUTIONS, OF DALLAS, TEXAS IN THE AMOUNT OF \$440,000, FOR MAINTENANCE, TURF MANAGEMENT, AND ATHLETIC FIELD MANAGEMENT OF SIX WEST TEMPLE PARKS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this services agreement with Sports Field Solutions (SFS) will provide for maintenance, turf management, and athletic field management at Crossroads Park, West Temple Park (121 Montpark Road), Von Rosenberg Park (7918 Tarver Drive), Freedom Park (8456 Tarver Drive), Freedom Village Park (7007 Freedom Drive), and Oaks at Westwood (8423 Skyview);

Whereas, on February 28, 2019, two proposals were received to provide parks maintenance, turf management, and athletic field management for six West Temple parks;

Whereas, a Staff committee reviewed and evaluated the two proposals and unanimously recommend Council authorize a services agreement with Sports Field Solutions, of Dallas, Texas in the amount of \$440,000 - in addition to SFS providing the lowest proposed fees, Staff has been impressed with the quality of services currently being provided by SFS as the contracted installer of the sports fields and landscaping at Crossroads Park;

Whereas, common ground maintenance consists of mowing, trimming, weed control, irrigation system monitoring and maintenance, debris disposal, along with custodial services at Crossroads Park - turf management for athletic field playing surfaces includes fertilization, core aeration, turf grass weed control, verticut & slicing, disease control, over-seeding, sod replacement, and insect control (Crossroads Park only)

Whereas, athletic field management at Crossroads Park includes dragging of the baseball & softball fields, infield lip work, field surface repair, athletic field markings, portable outfield fence adjustments, laser-grading, and tournament field preparation & maintenance;

Whereas, the proposed agreement will commence May 1, 2019, and continue through September 30, 2023, with the option for two 3-year renewal terms - the annual rate will be \$419,427 through fiscal year 2021, with subsequent annual rate increases for future years at the lesser of 2% or the increase in the CPI for the DFW area;

Whereas, funding for this services agreement is available in Account No. 110-3500-552-2623; 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute a services agreement with Sports Field Holdings, dba Sports Field Solutions, of Dallas, Texas in the amount of \$440,000, for the maintenance, turf management, and athletic field management of six West Temple Parks.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution authorizing an interlocal agreement with Bell County for the use of the election equipment necessary for the May 4, 2019 General Election.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This agreement will allow for the City to procure all necessary voting machines and equipment, transport machines and equipment to and from the polling places, and prepare the voting machines and equipment for use at the polling places. Bell County will also prepare the ballots necessary for the May 2019 General Election.

Equipment includes:

1. ES&S ExpressVote BMD Terminal (\$210 each)
2. ES&S Model DS200 Digital Image Scanner (\$230 each)
3. Delivery Fee (\$70.00)

At this time, the City anticipates needing four ExpressVotes BMD Terminals, and two DS200 Digital Scanners for the General Election in May 2019.

Bell County will also perform any necessary maintenance or repair on the furnished machines and equipment.

We recommend approval of this interlocal agreement with Bell County for a period of one year.

FISCAL IMPACT: Funds are appropriated in account 110-1400-511-2517 in the amount of \$7,800 to fund the interlocal agreement with Bell County for the use of the election equipment.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9589-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT WITH BELL COUNTY FOR THE USE OF ELECTION EQUIPMENT NECESSARY FOR THE MAY 4, 2019 GENERAL ELECTION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 4, 2019, the City of Temple will conduct a Special Election and Bell County has authorized the use of its election equipment;

Whereas, this interlocal agreement will allow the City to utilize all necessary voting machines and equipment, transport machines and equipment to and from polling places, prepare the voting machines and equipment for use at the polling places, and prepare the ballots necessary for the General Election;

Whereas, Bell County will be responsible for any necessary maintenance or repair to the machines and equipment;

Whereas, Staff has utilized the services of Bell County and its election equipment in the past and therefore recommends Council approve a one-year interlocal agreement for these services;

Whereas, funding is available for this interlocal agreement in Account No. 110-1400-511-2517; 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to enter into an interlocal agreement with Bell County for the use of election equipment necessary for the May 4, 2019 General Election.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



CITY COUNCIL AGENDA ITEM MEMORANDUM

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DEPT. / DIVISION SUBMISSION & REVIEW:

Erin Smith, Assistant City Manager

ITEM DESCRIPTION: Consider adopting a resolution ratifying a meet and confer agreement with the Temple Police Association.

STAFF RECOMMENDATION: Adopt resolution as presented.

ITEM SUMMARY: Overview of Meet & Confer. The “meet & confer” process is governed by Chapter 142 of the Local Government Code. Chapter 142 allows a “police officers association” to file a petition with the City requesting that the City recognize the association as the sole and exclusive bargaining agent for all officers and adopt the meet & confer process. The meet and confer process allows the City to meet & confer with police officers association over wages, salaries, rates of pay, hours of work, or other terms and conditions of employment. The meet and confer deliberations must occur in meetings open to the public. The City and a police officers association are not required to reach agreement on any particular topic. An agreement on any issue must be in writing and ratified by the Council and a majority of the police officers. A written meet & confer agreement preempts all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules and allows variation of civil service rules regarding hiring requirements, pay, benefits, promotion standards, and the disciplinary process.

Members of the City Administration negotiating team include:

Erin Smith, Assistant City Manager, Lead Negotiator
Nan Rodriguez, Deputy City Attorney
Jeff Clark, Deputy Police Chief
Traci Barnard, Director of Finance
Tara Raymore, Director of Human Resources

Members of the Temple Police Association negotiating team include:

Chris Jones, Training Coordinator-CLEAT, Lead Negotiator
Larry Wilkey, Sergeant, TPA President
Marlon Reed, Corporal
Corey Powell, Detective
Casey Sheppard, Detective

Overview of the Draft Agreement. In compliance with the terms of the FY 2019 meet and confer agreement, City Administration and TPA began meeting in December, 2018 to adopt the ground rules and discuss any issues with the current agreement.

The FY 2019 agreement includes articles covering the same 11 issues as in the FY 2018 agreement:

1. Association Business
2. Additional Deputy Chief Position
3. Military Leave Time Account
4. Compensation
5. Overtime
6. Higher Classification Pay / Rank Structure
7. Education Incentives for Promotion
8. Lateral Entry Program
9. Individual Vehicle Assignment Program (IVAP)
10. Disciplinary Actions and Appeals
11. Grievance Procedure

The FY 2019 agreement included a change to Article 4 - Compensation and also a change to Article 13 - Duration of the Agreement which changed the termination date of the agreement from September 30, 2018 to March 31, 2019.

In the current agreement, both Parties agreed to diligently work together to develop the criteria for a professionally prepared compensation study to be conducted in fiscal year 2018 that will include a full study of the City of Temple's Civil Service Pay Plan structure including, but not limited to, an evaluation of the step system and compression between steps.

City of Temple staff are diligently working to complete the civil service compensation study in-house. Once the study is complete, members of City administration and the TPA negotiating teams will meet to discuss the compensation study findings and a draft agreement will be created for TPA and City Council consideration. This termination date of September 30, 2019, will allow for the civil service pay plan structure to follow the fiscal year 2020 budget cycle starting October 1, 2019.

Members of City administration and the Temple Police Association (TPA) negotiating teams met and decided to move forward, with taking a vote to extend the current agreement six months to September 30, 2019. There are no other changes proposed to the current agreement, except the change in the termination date of the agreement from March 31, 2019 to September 30, 2019. A ratification election was held from March 4th to March 8th. The results of the meet and confer agreement extension election are as follows:

- 120 – For
- 8 – Against
- 9 – Did not vote (results in an against vote)

The election for proposed draft agreement to extend the termination date passed and the next step in the process is City Council consideration.

Overview of the Articles.

Article 1: Association Business

Proposed by TPA

Overview:

This Article is intended to establish provisions that enable the Association to adequately represent Association members, and administer the terms of the Agreement.

Key Provisions:

- Recognizes TPA as the sole and exclusive bargaining agent for all covered police officers;
- Allows TPA access to the Departmental new hire orientation to explain and answer questions about the Association, the Agreement, and the meet & confer process;
- Establishes a three member team designed to be advisory to the Police Chief;
 - One member is to be appointed by the Police Chief and two members by the Association President
- Commits the City to continue its Association dues deduction program;
- Allows the Association reasonable access to the premises of the Department for the purpose of administering this Agreement;
- Permits the Association to install one bulletin board (at their expense) at each police facility to facilitate communication by the Association to its members;
- Allows the Association to utilize the City's email system to communicate with police officers regarding issues related to provisions of the Agreement and upcoming meet and confer sessions;
- Establishes an Association Business Leave Time Pool to be used for the purpose of conducting Association business. This provision allows officers the option of donating two hours of accrued vacation leave to the Pool each calendar year;
- Commits the City to pay up to a maximum of five members of the Association's meet and confer team their regular pay for attendance at meet and confer sessions between the City and the Association; Police Administration may adjust Association member's schedules to accommodate meeting attendance.

Article 2: Additional Deputy Chief Position

Proposed by City Administration

Overview:

This Article authorizes the creation of an additional appointed Deputy Police Chief position to enable the future alignment of the Departmental command structure into 3 bureaus: Patrol, Investigations, and Administration.

Key Provisions:

- Allows the creation of a single additional Deputy Chief position in addition to the two Deputy Chief positions authorized by Section 143.014(c) of the Local Gov't Code;

- Establishes minimum standards that the person appointed to the additional Deputy Chief position must meet and extends these standards to the subsequent appointment of any person to a Deputy Chief position;
- Establishes a procedure for posting a vacancy in a Deputy Chief position a minimum of 10 calendar days in order to allow eligible candidates to express interest in the position by submitting documentation of their qualification to the Chief;
- The final appointment remains solely the Police Chief's discretion.

Article 3: Military Leave Time Account

Proposed by TPA

Overview:

This Article is intended to clarify the provisions for administration of the City's Military Leave Time Account.

Key Provisions:

- Reiterates the requirements of Chapter 143.074 of the Local Gov't Code relating to Military Leave Time Accounts;
- Clarifies that a police officer wishing to donate accrued time to the Military Leave Time Account must do so on a form provided by the City;
- Requires the City to provide a report to the Association each December that includes the current balance of the military leave time account and the amount of leave used by each police officer from the account during the previous year.

Article 4: Compensation

Proposed by TPA

Overview:

This Article is intended to communicate the City's commitment to a maintaining a fair and competitive pay and compensation package, with due regard for fiscal restraints and sustainability.

Key Provisions:

- Establishes an agreement that City Administration and TPA will work together to develop criteria for a professionally prepared compensation study.
- The City agrees to prepare and release a request for proposals (RFP) for a civil service compensation study.
- The City agrees to include two representatives from Temple Police Association on the proposal evaluation committee.
- The City will work diligently to award a contract for the compensation study by October 31, 2018. The award of the contract is subject to successful negotiations with a qualified firm and approval by City Council, if required based on contract price.

Article 5: Overtime

Proposed by TPA

Overview:

This Article is intended to establish a uniform Departmental policy governing overtime compensation.

Key Provisions:

- Establishes an agreement that the overtime exemption provided for by the FLSA known as the 7(k) exemption is adopted by the City;
- Establishes the maximum work period to be used as 14 days and the maximum number of hours worked without overtime pay within the work period at 80 hours;
- Commits the City to provide guaranteed overtime for overtime assignments subject to contractual agreements with third parties;
- Requires overtime assignments that will be compensated at guaranteed time and half to be identified and posted as such in advance;
- States that overtime assignments for City sponsored events (such as the Christmas Parade) will not be guaranteed overtime assignments;
- Clarifies that if an officer takes leave during a work period and later is required to work an overtime assignment which is not guaranteed overtime during that same work period, s/he may choose to apply the overtime assignment to their regular hours in lieu of using leave time;
- Provides a minimum of two hours of overtime compensation for call-outs and court appearances prior to, or after an officer's regularly scheduled shift;
- Requires overtime assignments that will be compensated in the form of compensatory leave to be identified and posted as such in advance;
- Allows officers to choose paid overtime or compensatory time for overtime assignments in which the form of compensation has not been identified in advance;
- Maintains the Police Chief's authority to implement flex time in managing the Department's budget;
- Commits supervisors to work with officer to schedule flex time off, subject to the needs of the Department.

Article 6: Higher Classification / Rank Structure

Proposed by TPA

Overview:

This Article is intended to establish a uniform Departmental policy governing the temporary designation of an officer to perform the duties of a higher rank.

Key Provisions:

- Requires a Corporal to be temporarily designated as "Acting Sergeant/Field Supervisor" when no Sergeant or Lieutenant is available to act as a field supervisor for a shift due to absence, illness, or injury;

- Allows a Lieutenant to designate a Corporal to be temporarily designated as “Acting Sergeant/Field Supervisor” when the Lieutenant determines an additional field supervisor is necessary to meet staffing needs;
- Requires the designation to be noted in writing on the Duty Roster;
- Establishes that a person serving in this temporary designation shall have full authority and responsibility for performing all of the duties of the Sergeant rank for the duration of the designation;
- Requires that the officer designated as Acting Sergeant shall be paid the base salary of the Sergeant rank, plus the officer’s own longevity and seniority pay, educational incentive pay, and certification pay during the period of the designation;
- Establishes that the designation will be made on a rotating basis to all Corporals within the Unit, but the Police Chief retains discretion to deviate from the order of the list;
- Allows a Lieutenant to designate a Corporal to act as Mentoring Sergeant under the supervision of a Sergeant or Lieutenant, for training and mentoring purposes and not to meet a Departmental staffing need;
- Requires the designation to be noted in writing on the Duty Roster;
- Establishes that a person serving in this temporary designation will have immediate authority of a Sergeant for the duration of the designation, however ultimate authority and responsibility for the shift remains with the available Sergeant or Lieutenant;
- Establishes that a Mentoring Sergeant will not receive higher classification pay during the designation period;
- Establishes that the designation will be made on a rotating basis to all Corporals within the Unit, but the Police Chief retains discretion to deviate from the order of the list;
- Allows a Sergeant to be temporarily designated to perform the administrative duties of a Lieutenant/Watch Commander when a Lieutenant will be absent or unavailable for at least 28 consecutive days;
- Requires the designation to be noted in writing on the Duty Roster;
- Establishes that a person serving in this temporary designation shall have full authority and responsibility for performing all of the duties of the Lieutenant rank for the duration of the designation;
- Requires that the designated Watch Commander shall be paid the base salary of the Lieutenant rank, plus the officer’s own longevity and seniority pay, educational incentive pay, and certification pay during the period of the designation;
- Establishes that the designation will be made on a rotating basis to all Sergeants within the Unit, but the Police Chief retains discretion to deviate from the order of the list;
- Retains authority for the Police Chief to designate a Watch Commander for a period of less than 28 days, based on Departmental needs;
- Establishes authority for the Police Chief to temporarily assign an officer to perform the duties of a position in the next higher rank when a position has been funded, but not yet created by the governing body or when there is a vacancy in an existing position for which no promotional list exists;
- Establishes that a person serving in this temporary assignment shall have full authority and responsibility for performing all of the duties of the higher rank for the duration of the assignment;
- Requires that an officer temporarily assigned to a position in the next higher rank shall be paid the base salary of the higher rank, plus the officer’s own longevity and seniority pay, educational incentive pay, and certification pay during the period of the assignment.

Article 7: Educational Incentives for Promotion

Proposed by City Administration

Overview:

This Article establishes incentives to encourage and recognize continuing education as a way to improve professionalism for both officers and the Department.

Key Provisions:

- Establishes additional points for promotional candidates for continuing education as follows:
 - 0.50 points for an Advanced Peace Officer Certificate;
 - 1.0 points for having completed 60 college hours credit
 - 1.5 points for a Master Peace Officer Certificate;
 - 2.0 points for having received an Associates Degree;
 - 3.0 points for having received a Bachelor's Degree or higher

Article 8: Lateral Entry Program

Proposed by City Administration

Overview:

This Article establishes an expedited process for hiring qualified applicants with previous law enforcement experience.

Key Provisions:

- Establishes the following eligibility requirements to be eligible for hire under this program:
 - have a current TCOLE license;
 - be currently employed with a law enforcement agency;
 - have an honorable standing within their current department;
 - not be under any type of investigation with their current department;
 - have three or more years of work experience with a comparable law enforcement agency;
 - take and pass the locally given Civil Service exam; and
 - complete and pass a background investigation and the City of Temple hiring process.
- Requires that an eligibility list for lateral applicants be maintained and that the score from the locally given Civil Service exam be used to rank applicants on that list;
- Allows the Police Chief the authority to give preference in selection to any person on the lateral eligibility list based on the applicant's years of experience and type of experience;
- Allows the Police Chief to fill a vacant within the Department by selecting an applicant from the lateral eligibility list, or by following the process defined in section 143.026 of the Texas Local Government Code;
- Establishes that actual work experience in another law enforcement agency will not be considered for promotional eligibility purposes or seniority purposes;
- Establishes that applicants hired under this program, once they have successfully completed the Probationary classification, will be placed in the pay grade on the compensation plan commensurate with their full-time prior service as a police officer, as follows:

- Applicants with prior municipal service in a City with a population of 30,000 or greater will receive one credit year for each full year of police service, not to exceed ten 10 credit years;
- Applicants with prior municipal service in a City with a population of less than 30,000 will receive one credit year for each two full years of police service, not to exceed five credit years;
- Applicants with prior service in a Sherriff Department in a County with a population of 175,000 or greater will receive one credit year for each full year of police service, not to exceed ten 10 credit years;
- Applicants with other prior service will receive one credit year for each two full years of police service, not to exceed five credit years.
- The credited time is for starting salary only and does not count as time served with the Temple Police Department for any other purposes including benefits, step pay, etc.

Article 9: Individual Vehicle Assignment Program (IVAP)

Proposed by TPA

Overview:

This Article establishes a policy for administering the City's Individual Vehicle Assignment Program (IVAP) and establishes the eligibility criteria for take-home patrol vehicles.

Key Provisions:

- Establishes requirements to be eligible to participate in the IVAP program;
- Allows an officer participating in IVAP to take a vehicle home, provided that the officer's residence is no more than seven miles outside the Temple city limits;
- Establishes a fee of \$23 per pay period for officers participating in the take-home vehicle program who reside outside the city limits;
- Provides the following exceptions to the distance and fee requirements:
 - Any officer who resides ½ a mile or less outside the City and is currently allowed to take a vehicle home is exempt from the payment of the fees unless the officer moves more than ½ a miles outside the city limits after the effective date of this Agreement
 - Any officer who is assigned a take home vehicle because of their duty assignment (e.g. K-9 Officers) and who resides outside the city at the time this Agreement is adopted is exempt from the distance limitations and the payment of the fees
 - CID Supervisors and CID Detectives are exempt from the distance limitations and the payment of the fees when they are on-call unless they are eligible and elect to fully participate in the take-home vehicle program

Article 10: Disciplinary Actions & Appeals

Proposed by City Administration

Overview:

This Article establishes a policy for disciplinary actions and appeals within the Department.

Key Provisions:

- For suspensions of 36 hours or less, allows an officer to forfeit vacation, compensatory, or holiday time equal to the length of the suspension, to serve the suspension with no loss of paid salary and no break in service. Suspensions served in this manner may not be appealed;
- Limits the appeal for suspensions of 36 hours or less to the Civil Service Commission;
- Establishes that suspensions of 36 hours or less that were imposed on or after the effective date of this Agreement will no longer be considered for purposes of transfer or promotion after 24 months have passed;
- For suspensions of 37-120 hours, establishes that the Police Chief may allow an officer to forfeit vacation, compensatory, or holiday time equal to the length of the suspension, to serve the suspension with no loss of paid salary and no break in service. Suspensions served in this manner may not be appealed;
- Allows the Police Chief and an officer to agree to a suspension of 121-720 hours, and establishes that the Police Chief may allow an officer to forfeit vacation, compensatory, or holiday time equal to the length of the suspension. Suspensions served in this manner may not be appealed;
- Allows the Police Chief to require an officer be evaluated by a qualified professional designated by the Police Chief. If that professional recommends a program of counseling and/or rehabilitation for the officer, the Police Chief may:
 - in lieu of or in combination with a suspension or demotion, require that the officer successfully complete the recommended program (an officer retains right to appeal)
 - offer an “alternative disciplinary agreement” to the officer under which the officer would accept demotion or suspension of up to 720 hours and agree to successfully complete the recommended program of counseling and/or rehabilitation
 - offer the officer, as an alternative to indefinite suspension, the opportunity to enter into a “Last Chance Agreement” which would include, in addition to any provisions agreed upon by the Police Chief and officer, a probationary period not to exceed 1 year, during which if the officer commits the same or a similar act of misconduct, the officer will be indefinitely suspended without right of appeal;
- Allows an officer to request an opportunity to be evaluated by a qualified physician, psychiatrist or psychologist in order to seek counseling and/or rehabilitation. The officer’s request will toll the 180 day deadline for imposing discipline. The Department Head may consider any counseling and/or rehabilitation voluntarily undertaken by an officer under this section before imposing any discipline;
- Codifies the Loudermill Hearings process followed by the Department in protection of the due process rights of an officer facing any level of formal discipline;
- Establishes procedures for appeal hearings before Hearing Examiners to facilitate the efficient and effective conclusion of such appeals including an agreement that a hearing examiner will be selected within 10 days of the receipt of a list of Hearing Examiners and that the Hearing

- Examiner selected shall render a decision within 30 business days of the conclusion of the hearing;
- Allows a Hearing Examiner the authority to impose a disciplinary suspension of any length of time, including suspensions in excess of 15 days, and time already served between the imposition of discipline and the appeal decision
 - (overrides the judicial limitation imposed on the authority of the Commission or Hearing Examiner by the City of Waco v. Kelley case).

Article 11: Grievance Procedure

Proposed by TPA

Overview:

This Article establishes a dispute resolution procedure to provide a just and equitable method for resolving disagreements between the Parties regarding the application or interpretation of the provisions of this Agreement.

Key Provisions:

- Requires that a dispute be presented in writing to the Police Chief or his designee;
- Requires an officer to initiate a request for dispute resolution with the Association Executive Board and disallows an officer from filing a dispute directly with the City;
- Establishes a 15 day timeline for an officer to file a claim or dispute from the date they knew or should have reasonably known the facts giving rise to the dispute;
- Establishes a five step process for disputes by the Association Executive Board or police officer:
 - Step 1: Association Executive Board
 - Step 2: Police Chief
 - Step 3: City Manager
 - Step 4: Mediation
 - Step 5: Arbitration
- Establishes a process for the City to enforce Association compliance with this Agreement through notification and subsequent options including termination of agreement.

Ratification & Term of the Agreement. A meet and confer agreement is enforceable and binding if the governing body of the municipality ratifies the agreement by a majority vote and the recognized police officers association ratifies the agreement by conducting a secret ballot election at which the majority of the police officers who would be covered by the agreement favored ratifying the agreement. The Temple Police Association conducted a secret ballot election. During that election, 84 police officers voted “yes” to the ratification of the meet and confer agreement and 14 police officers voted “no”.

If this resolution is adopted by the City Council, the agreement will become effective immediately and continue in effect until September 30, 2019.

FISCAL IMPACT: Below is a table outlining the fiscal impact of the meet and confer agreement for each of the eleven issue points. This agreement becomes effective immediately and continues in effect until September 30, 2019.

Issue	Fiscal Impact	Funded In FY 2019
Article 1: Association Business	Not Applicable	N/A
Article 2: Additional Deputy Chief Position	Base salary plus benefits: \$136,425.	Yes
Article 3: Military Leave Time Account	Not Applicable	N/A
Article 4: Compensation	Compensation study funded in FY 2019.	Yes
	Compensation study results would be implemented in FY 2020.	No
Article 5: Overtime	3 rd Party reimbursed overtime and benefits is estimated for FY 19 at \$420,000.	Yes
Article 6: Higher Classification / Rank Structure	Step up pay: \$9,784.	Yes
Article 7: Educational Incentives for Promotion	Not Applicable	N/A
Article 8: Lateral Entry Program	Not Applicable	N/A
Article 9: Individual Vehicle Assignment Program (IVAP)	The estimated net cost based on officers who are currently employed by the City is \$28,831.	Yes
Article 10: Disciplinary Actions & Appeals	Not Applicable	N/A
Article 11: Grievance Procedure	Not Applicable	N/A

ATTACHMENTS:

[Draft Agreement Resolution](#)

MEET & CONFER AGREEMENT
BETWEEN
THE CITY OF TEMPLE, TEXAS
AND
TEMPLE POLICE ASSOCIATION

CITY OF TEMPLE FISCAL YEAR
2018

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DEFINITIONS

1. "Agreement" refers to this Meet and Confer Agreement, negotiated between the City of Temple and the Temple Police Association.
2. "Association" means the Temple Police Association.
3. "City" means the City of Temple.
4. "College hours" "Degree" or "College Degree" means credit hours or degree from a college or university recognized by the Southern Association of Colleges and Schools or a similar regional association recognized and approved by the United States Department of Education.
5. "Commission" means the Firefighters' and Police Officers' Civil Service Commission of the City of Temple.
6. "Day(s)" means calendar days, unless otherwise specified.
7. "Department" means the Police Department of the City of Temple.
8. "Department Head" means the administrative head of the Police Department or the Chief of Police, including any interim or acting Chief of Police.
9. "Director" means the Director of the City of Temple Firefighters' and Police Officers' Civil Service Commission.
10. "Dues" means the cost of membership in the Association.
11. "FY" means financial year.
12. "Guaranteed Overtime" refers to assignments compensated at a rate of time and a half, without regard to the number of hours worked in a pay period.
13. "IVAP" means the Individual Vehicle Assignment Program.
14. "Local rules" refers to the Rules and Regulations of the City of Temple Firefighters' and Police Officers' Civil Service Commission.
15. "Party" or "Parties" means the City of Temple and the Temple Police Association.
16. "Police Officer" or "Officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure, or other law, and who is employed by the City of Temple Police Department.
17. "TCOLE" means the Texas Commission on Law Enforcement, or its successor organization.
18. "TLGC" means the Texas Local Government Code.

ARTICLE 1

Association Business

Section 1. Intent. In adopting this Article, the Parties acknowledge and agree to the following provisions for the purpose of enabling the Association to adequately represent Association members, and administer the terms of the Agreement.

Section 2. Recognition. The City recognizes the Temple Police Association (TPA) as the sole and exclusive bargaining agent for all covered police officers, pursuant to section 142.053 et. seq. Texas Local Government Code, excluding the Department Head, employees of the Temple Police Department who are exempt under section 142.058(b) Texas Local Government Code, and employees occupying appointed positions pursuant to section 143.014 Texas Local Government Code. The Agreement is intended to include all permanent paid employees of the Temple Police Department who have been hired in substantial compliance with the provisions of Chapter 143 of the Texas Local Government Code, but does not include civilian employees, other employees, or those excluded above. The Agreement is not intended to, and does not, deny local control by the City, or restrict or diminish the management rights of the City, except as expressly provided by the Agreement under section 142.059 of the Texas Local Government Code.

Section 3. Association Access to New Hires. The Association shall have the right to meet with new officers during the Academy and/or Departmental in-house employee orientation sessions to ensure they have received a copy of the Agreement, and to be able to explain and answer questions about the Association, the Agreement, and the meet and confer process.

Section 4. Labor Relations

1. To improve communications between the Department Head and the Association, and to facilitate resolution of issues related to implementing the provisions of this Agreement, the Department Head shall establish an Advisory Team comprised of three (3) members, including one (1) member of the Department designated by the Department Head, and two (2) members of the Department designated by the Association. The Association and the Department Head may designate a substitute representative to the Team in the event that the designated Team member is unable to attend a meeting. The Department Head or his designee will meet with this Team at least once every three (3) months. The purpose of the Team is advisory to the Department Head, and to provide police managers input on City and Departmental policy, procedures, and employee issues.
2. The Association President or the Department Head may request additional meetings when issues arise that warrant concern or discussion. The Department Head retains discretion regarding the scheduling of additional meetings.

3. Members of the Advisory Team will not be required to use leave in order to attend Team meetings. Members of the Advisory Team will not receive overtime compensation for attendance at Team meetings.

Section 5. Association Rights and Indemnification

- (a) Dues Deduction. Upon receipt of a signed authorization from an officer on a form supplied by the City, the dues and assessments to the Association and affiliated state organizations that existed on the date of this Agreement shall be deducted from each member officer's pay. Officers who are not members are not obligated to pay Association dues. Officers who are currently having dues deducted as of the execution date of this Agreement are not required to submit a new dues deduction form.

The dues deduction shall be remitted promptly to the Treasurer of the Association. The City agrees to provide a list of those members for whom deductions are made each month. The Association may change the amount of the deduction for those employees who have authorized payroll deductions by providing the City with a letter, at least thirty (30) days in advance of the change, from the Association President advising the City that the amount of the dues deduction has changed pursuant to the requirements of the Association's Constitution and Bylaws. The Association will promptly refund to the City any amount paid to the Association in error on account of this dues deduction provision.

- (b) Indemnification. As a condition of being granted and continuing payroll deduction of dues, the Association shall indemnify the City and any departments of the City, and hold it harmless against any and all claims, demands, suits, or other form of liability that may arise out of, or by reason of, any actions taken by the City or any department of the City for any purpose of complying with the provisions of this Agreement.
- (c) Association Access to Premises. Subject to reasonable advance notice from the Association and approval from the Department Head or his designee, the Association may be permitted reasonable access to the premises of the Department and the Police Academy for the purpose of administering this Agreement, including but not limited to Departmental in-house employee orientation. Such visits shall be limited to the purpose for which approval was granted and shall be conducted in a manner that does not interfere with the functions of the Department or Academy.

The Association's access to the Department facilities and equipment to communicate with its membership shall include the use of one (1) bulletin board installed at the main police station and one (1) board at each police facility. The Department Head must approve in advance the size of, and materials used for, said bulletin boards. All costs incurred in the purchase, installation, and maintenance of said bulletin boards shall be at the Association's expense. All posted materials must be directly related to Association business. The following guidelines shall apply to materials properly posted on the bulletin boards:

1. recreation and social affairs of the Association;
2. Association meetings;
3. Association elections;
4. reports of Association Committees;
5. rulings or policies of the state or national Association, without added commentary, and
6. legislative enactments and judicial decisions affecting public employee labor relations, without added commentary.
7. At no time shall the bulletin boards contain any political endorsement, whether at the local, state, or federal level.
8. The Department Head or his designee retains the right to remove material which is not directly related to Association, or is offensive or inappropriate.

(d) Communications. Subject to the Temple Police Department General Orders, the City's administrative regulations, and the applicable provisions of this Agreement, the Association may utilize electronic communications ("E-mail") to communicate with Temple police officers regarding issues related to provisions of the Agreement and upcoming meet and confer sessions in accordance with the following restrictions and limitations:

1. Association email communications shall relate solely to the following subjects:
 - i. issues related to the Agreement;
 - ii. issues related to upcoming meet and confer sessions;
 - iii. issues related to the grievance policy, and
 - iv. Association meetings for the purpose of discussing issues related to the Agreement, upcoming meet and confer negotiations, and/or the grievance policy.
2. Email communications shall not contain any political commentary, any solicitation for membership in, or financial contributions to, any special interest organization or political action organization, or derogatory or offensive propaganda or commentary which reflects negatively upon the City, its officials, its employees, City employee associations or groups, or upon citizens of the City. On a case-by-case basis, the Department Head or his designee may consider requests from individual officers for approval to distribute email communications regarding solicitations for officers (or their families) needing financial or other forms of assistance.
3. In the event of a violation, the Department Head shall notify the Association of the violation. Subsequent violations of these guidelines will subject the Association to the loss of the privilege of using the City's electronic communications system. Such loss will not be subject to review by any administrative or judicial body, or the grievance process.

Section 6. Association Business Leave Time Pool

- (a) Time Off for Association Business. An Association Business Leave Pool shall be created for the purpose of conducting Association business, defined herein as time spent adjusting grievances, attending the annual conference of state affiliated organizations, the Association's Executive Board meetings, and regular Association business meetings.

While Temple Police officers are on Association Business Leave, they shall not wear Temple Police Department uniforms or insignia of any kind.

- (b) Establishment of Association Leave Time Pool. The Association Business Leave (ABL) Pool shall be funded during the first pay date of each calendar year by reduction of accrued vacation leave in the amount of two (2) hours for each member of the Temple Police Association who provides notice in writing to the City at least thirty (30) calendar days prior to the beginning of that calendar year of his/her wish to donate said hours to the ABL Pool. Once a contribution has been made to the ABL Pool, there shall be no transfer of leave back into any individual officer's leave account, and there will be no cash payout for any remaining time in the Pool. Unused ABL Pool hours will remain in the Pool to be utilized the following year. ABL Pool hours shall never have any cash or surrender value. The City will track contributions to and deductions from the ABL Pool.
- (c) Use of Association Leave Time Pool. The Association President shall request any use of Association business leave in writing, and submit the request in advance for approval by the Department Head. The Department Head may waive the requirement that the request and approval be in writing. Requests for ABL time shall be made as far in advance as is practicable, but no less than forty-eight (48) hours prior to the date for which leave is requested. There shall be no entitlement for overtime pay for any hours worked on Association business, as such time is not for the benefit of the City, but for the sole benefit of the Association. Unless approved by the Department Head, not more than two (2) members may be on ABL at the same time, and such leave may be cancelled by the Department Head in the event of any emergency or shortage of manpower, as determined by the Department Head. Cancellation of ABL time by the Department Head under these circumstances shall not be subject to review by any administrative or judicial body, or the grievance process.
- (d) Indemnification. The Association shall indemnify the City, its officials and employees, and hold them harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, any actions taken by the City for any purpose of complying with the provisions of this section.

Section 7. Negotiating Time for Negotiating Team Members. The City agrees to pay up to a maximum of five members of the Association's meet and confer team their regular pay for attendance at meet and confer meetings between the City and the Association. If subcommittees are jointly assigned to work on specific matters, Association members of the subcommittee shall receive their regular pay during joint subcommittee meetings. Association team member time

spent preparing for meetings, or attending internal Association meetings, will not be paid by the City. Police administration may adjust Association representatives' schedules in order to minimize overtime expense.

ARTICLE 2

Creation of Additional Deputy Chief Position

Section 1. Intent. In adopting this Article, the Parties agree to the creation of a single additional Deputy Chief position in addition to the two (2) Deputy Chief positions authorized by Section 143.014(c) Texas Local Government Code. The Parties believe this additional position is necessary to align the Departmental command structure with the organization of the Department into three (3) bureaus (Patrol, Investigations, and Administration) and to efficiently address the continued growth of the Department and the community.

Section 2. Minimum Standards. In addition to the minimum standards required by Sections 143.013(b) and 143.014(d) Texas Local Government Code, the person appointed to the additional Deputy Chief position must have:

1. obtained a minimum educational level of a Bachelor's degree within two (2) calendar years from the date of appointment to the position;
2. successfully completed a major law enforcement management school, e.g., the FBI National Academy, Southern Police Institute, or be able to complete this requirement within the first eighteen (18) months of promotion to the position;
3. served in the rank of Sergeant or above, and have demonstrated effective supervision, leadership and management of the personnel under their control;
4. obtained the level of Master Peace Officer Certification by the Texas Commission on Law Enforcement (TCOLE) or its successor.

The Parties agree that these minimum standards shall apply to the subsequent appointment of any person to a Deputy Chief position.

Section 3. Procedure. Upon a vacancy in any Deputy Chief position, the position will be posted for a period of ten (10) calendar days during which eligible candidates may submit documentation of their qualifications, e.g., resumes, transcripts, certifications, for review by the Department Head. The Parties agree that the final appointment will be made solely at the Department Head's discretion and that this procedure is not intended to, and does not, provide a basis for appeal of the appointment.

Section 4. Adoption and Publication of Rules. The Commission shall adopt Local Rules in accordance with this article upon approval by the City Council.

ARTICLE 3

Military Leave Time Account

Section 1. City to Maintain Account.

- (a) The City of Temple shall maintain a military leave time account for the Police Department. The account shall benefit a police officer who:
 - (1) is a member of the Texas National Guard or the armed forces reserves of the United States;
 - (2) was called to active federal military duty while serving as a police officer for the City; and
 - (3) has served on active duty for a period of 3 continuous months or longer.
- (b) A police officer may donate any amount of accumulated vacation, holiday, sick, or compensatory leave time to the military leave time account to help provide salary continuation for police officers who qualify as eligible beneficiaries of the account under this Article.
- (c) A police officer who wishes to donate time to an account under this section must authorize the donation in writing on a form provided by the Police Department and approved by the City.
- (d) The City shall equally distribute the leave time donated to the military leave time account among all police officers who are eligible beneficiaries of that account. The City shall credit and debit the applicable military leave time account on an hourly basis, regardless of the cash value of the time donated or used.
- (e) A police officer who wishes to use military leave from the military leave time account shall submit the request in writing.
- (f) In December of each year, the City shall provide a report to the Association that includes the current balance of the military leave time account and the amount of leave used by each police officer from the account during the previous year.

Section 2. Adoption and Publication of Rules. The Commission shall adopt Local Rules in accordance with this article upon approval by the City Council.

ARTICLE 4

Compensation

Section 1. Intent. The Parties agree that in order to attract and retain qualified police officers, it is necessary to maintain a fair and competitive pay and compensation package, with due regard for fiscal restraints and sustainability. When considering total compensation, the Parties agree that base pay, longevity pay, education incentive pay, TCOLE certificate pay, shift differential pay, and other forms of compensation need to be evaluated with other cities comparable to the City of Temple.

While the City of Temple desires to provide competitive salaries for all of our employees, attaining market competitiveness can be costly and may not be affordable in a single year.

Additionally, for all civil service positions other than Police Officer and Firefighter, obtaining an accurate comparison on position minimums, and thus averages, is difficult. This is because that while most of our peer cities structure their pay plan minimum based on tenure within the position, the City of Temple's pay plan minimum is based on tenure within the department.

Section 2. Implementation of 2017 Compensation Study.

The 2017 Civil Service Compensation Study will be implemented as follows:

2.00% base pay salary increase for all Civil Service employees effective September 22, 2017, as well as an additional 3.00% base pay increase for police officers and corporals effective July 13, 2018;

Increase in educational incentive pay, effective September 22, 2017 as follows:

Degree	Current	Revised
Associate's Degree	\$720 per year	\$1,200 per year
Bachelor's Degree	\$1,440 per year	\$1,800 per year
Master's Degree	\$1,800 per year	\$2,400 per year

Addition of language incentive pay of \$720 per year, effective not later than November 3, 2017, with eligibility requirements to be recommended by the Department Head and adopted by the Civil Service Commission as part of Local Rules.

Section 3. 2018 Compensation Study.

The Parties agree to diligently work together to develop the criteria for a professionally prepared compensation study to be conducted in fiscal year 2018 that will include a full study of the City of Temple's Civil Service Pay Plan structure including, but not limited to, an evaluation of the step system and compression between steps. The Parties agree to meet not later than June 1, 2018 to discuss criteria and a schedule for the completion of the study.

ARTICLE 5

Overtime Compensation

Section 1. Intent. In adopting this Article, the Parties agree to the creation of a uniform Departmental policy governing overtime compensation, consistent with Section 142.0015 Texas Local Government Code, the Fair Labor Standards Act (FLSA), and City policy.

Section 2. General Guidelines.

- a. The allocation of budgeted overtime funds is solely within the discretion of the Department Head.
- b. Nothing in this Agreement is intended to, and this Agreement does not, limit the Department Head's discretion to assign employees as necessary to achieve Departmental objectives.

Section 3. Overtime Exception. The Parties understand and agree that the overtime exemption provided for by the FLSA known as the 7(k) exemption is hereby adopted by the City and shall be used to determine an applicable work period for purposes of overtime under the FLSA for certain work groups. The City reserves the right to make an initial determination regarding whether an overtime exemption applies, based on its own evaluation, or based on a request for an evaluation from the Department of Labor (DOL).

Section 4. Amendment of Work Period. The City reserves any and all rights to alter or amend the work period, if to do so serves the legitimate governmental and management interests of the City. The Parties agree that the maximum work period that will be utilized by the City is a fourteen (14) day period. The maximum number of hours that will be worked without overtime pay within a 14-day work period will be eighty (80).

Section 5. Scheduled Overtime Assignments.

- a. All scheduled overtime assignments subject to contractual agreements with third parties will be compensated at a guaranteed rate of time and a half, without regard to the number of hours worked by an officer during that pay period.
- b. Other overtime assignments for which compensation will be at a guaranteed rate of time and a half, without regard to the number of hours worked by an officer during that pay period, shall be identified and posted as such in advance.
- c. All scheduled overtime assignments for City events will be paid at time and half, unless an officer has worked less than 80 hours during the relevant pay period. In the event that an officer scheduled to work a City event has not worked 80 hours due to taking sick or vacation leave during that pay period, the officer will be compensated at his regular hourly rate for the City event. The officer shall have the option to elect whether to apply straight "additional regular" time in lieu of the leave taken, or to receive additional compensation for working the City event, but in no case shall the officer be compensated at the rate of time and a half.

- d. Supervisors shall not require officers who are scheduled to work a City event to take flex days prior to the City event in order to avoid paying the officers overtime for working the City assignment.

Section 6. Unscheduled Overtime.

- a. Call-Outs – Non-exempt officers who are off-duty and receive notification to return to duty status shall be entitled to a minimum of 2 hours of overtime compensation, regardless of actual time worked. Time worked, in this circumstance, shall begin when the notification is received and continue until the officer is cleared from the call.
- b. If an officer is required to work unscheduled overtime, the officer shall have the opportunity to elect whether (s)he will be compensated with compensatory time, or paid overtime for that assignment, subject to leave balance restrictions. If the supervisor does not flex the officer's time, the overtime slip submitted by the officer will be processed as submitted. No supervisor shall amend a payment form submitted by an officer for such an assignment without the officer's prior consent.
- c. If the supervisor does flex the officer's time, the supervisor will work with the officer to schedule the flex time off, subject to the needs of the Department.

Section 7. Court Appearances. An officer who makes a required court-related appearance prior to, or after his/her regularly scheduled shift, is guaranteed a minimum of 2 hours of overtime compensation, regardless of the actual time spent in court. Time worked, in this circumstance, includes scheduled report time until released by the court.

Section 8. Compensatory Time. The Parties agree to the following:

- a. Overtime assignments for which compensation will be in the form of compensatory time off in lieu of paid overtime shall be identified and posted as such in advance.
- b. Unless an overtime assignment has been posted as a compensatory time assignment, compensation for that assignment shall be paid overtime.
- c. If an officer is required to work an overtime assignment for which the form of compensation has not been identified prior to the start of the overtime assignment, the officer shall have the opportunity to elect whether (s)he will be compensated with compensatory time or paid overtime for that assignment, subject to leave balance restrictions. If the supervisor does not flex the officer's time, the overtime slip submitted by the officer will be processed as submitted. No supervisor shall amend a payment form submitted by an officer for such an assignment without the officer's prior consent.
- d. If the supervisor does flex the officer's time, the supervisor will work with the officer to schedule the flex time off, subject to the needs of the Department.

- e. This section is not intended to limit the Department Head's ability to assign officers to work overtime assignments paid with compensatory time off as necessary to meet Departmental objectives.
- f. This section is not intended to limit the Department Head's authority to implement flex time in managing the Department's budget.
- g. Subject to staffing needs, supervisors and officers will schedule compensatory time off at a mutually agreeable time.

Section 9. Administrative Challenge. Nothing in this Agreement shall prevent or preclude an individual officer or class of officers from exercising their administrative rights to challenge the application of an exemption using applicable DOL procedures and protocols. Further, nothing in the Agreement shall prevent or preclude the City from defending its application of an exemption.

Section 10. Statutory Override. This Article supersedes Section 142.0015(j) Texas Local Government Code and any and all other contrary state provisions to allow the adoption of the FLSA 7(k) overtime exemption, and provide for an alternate work period.

Section 11. Adoption and Publication of Rules. The Commission shall adopt Local Rules in accordance with this article upon approval by the City Council.

ARTICLE 6

Temporary Duties in Higher Classification/Rank Structure

Section 1. Intent and Scope. The Parties acknowledge that an officer's experience, training and performance contribute significantly to his/her efficiency and ability, and the Department's ability to meet public safety needs. The Parties agree that temporarily designating an officer to perform the duties of a higher rank may be necessary to meet Departmental staffing needs, and can also provide the officer a unique and valuable training opportunity as part of career development.

Section 2. Corporal Rank

- (a) Acting Sergeant – When no Sergeant or Lieutenant is available to act as a field supervisor for a shift due to absence, illness or injury, a Corporal shall be designated as “Acting Sergeant/Field Supervisor” for that shift. When no Sergeant is available to act as a field supervisor for a shift due to absence, illness or injury, and the Lieutenant determines an additional field supervisor is necessary to meet staffing needs, the Lieutenant may designate a Corporal as an “Acting Sergeant/Field Supervisor” for that shift.
 - 1. The designation shall be made by a Lieutenant, Deputy Chief, or the Department Head, and be noted in writing on the Duty Roster.
 - 2. A person serving in this designation shall have full authority and responsibility for performing all of the duties of the Sergeant rank for the duration of the designation.
 - 3. The officer designated as Acting Sergeant shall be paid the base salary of the Sergeant rank, plus the officer's own longevity and seniority pay, educational incentive pay, and certification pay during the period of the designation.
 - 4. The designation shall be made on a rotating basis to all Corporals, from a list which will be distributed to the Unit.
 - 5. The Department Head, or his designee, retains discretion to deviate from the order of names on the list when designating an Acting Sergeant. This decision is not subject to appeal and shall not be the basis for a grievance.
 - 6. If no list is available, the designation will be made on the basis of seniority.
- (b) Mentoring Sergeant – A Lieutenant may designate a Corporal to act as Mentoring Sergeant under the supervision of a Sergeant or Lieutenant.
 - 1. The designation is specifically intended for training and mentoring purposes, as part of a comprehensive career development plan. The Mentoring Sergeant designation is not to be made for the purpose of meeting Departmental staffing needs.
 - 2. The designated officer will have the immediate authority of a Sergeant for the duration of the designation, however ultimate authority and responsibility for the shift remains with the available Sergeant or Lieutenant.
 - 3. The designation shall be made by a Lieutenant, Deputy Chief, or the Department Head, and be noted in writing on the Duty Roster.
 - 4. The Mentoring Sergeant shall not receive higher classification pay during the designation period.
 - 5. The designation shall be made on a rotating basis to all Corporals, from a list which will be distributed to the Unit.

6. The Department Head, or his designee, retains discretion to deviate from the order of names on the list when designating a Mentoring Sergeant. This decision is not subject to appeal and shall not be the basis for a grievance.
7. If no list is available, the designation will be made on the basis of seniority.

Section 3. Sergeant Rank

Watch Commander – When a Lieutenant will be absent or unavailable for a period of at least twenty-eight (28) consecutive days, the Department Head, or his designee, may designate a Sergeant to perform the administrative duties of a Lieutenant/Watch Commander.

- a. The designation shall be made by a Deputy Chief, or the Department Head, and be noted in writing on the Duty Roster.
- b. A person serving in this designation shall have full authority and responsibility for performing all of the duties of the Lieutenant rank for the duration of the designation.
- c. The designated Watch Commander shall be paid the base salary of the Lieutenant rank, plus the officer's own longevity and seniority pay, educational incentive pay, and certification pay during the period of the designation.
- d. The designation shall be made on a rotating basis from a list of Sergeants. If no list is available, the designation shall be made on the basis of seniority. The Department Head retains discretion to deviate from the order of names on the list when designating a Watch Commander. This decision is not subject to appeal and shall not be the basis for a grievance.
- e. The Department Head retains authority to designate a Watch Commander, pursuant to this section, for a period of less than twenty-eight (28) days, based on Departmental needs.

Section 4. Temporary Performance of Duties in a Higher Rank

In order to meet immediate Departmental staffing needs, the Department Head shall have the authority to temporarily assign an officer to perform the duties of a position in the next higher rank under the following circumstances:

- a. when that position has been funded, but not yet created or authorized by the City's governing body, or
- b. when there is a vacancy in an existing position for which no promotional list exists. An officer temporarily assigned under this subsection has no property right or interest, in law or equity, to continued employment in the temporarily assigned position, and will be demoted to the position (s)he occupied prior to the temporary assignment immediately upon determination of the officer occupying the first position on the eligibility list. This subsection does not preclude back-pay due to the person who is ultimately promoted to fill the position from the promotional list once established.

Assignments made pursuant to this provision are temporary in nature, and specifically intended to address immediate, pressing Departmental staffing needs. Assignments made pursuant to this provision are expressly limited to such period of time as is necessary for the City to formally create the position by ordinance, or complete the process of creating a promotional list for the position.

A person temporarily serving in a higher rank shall have full authority and responsibility for performing all of the duties of the assigned rank for the duration of the assignment.

Under no circumstances is this provision intended to, and it does not, circumvent the express intent of Chapter 143 of the Texas Local Government Code, which specifies that promotions are to be made solely through the promotional testing process.

An officer temporarily assigned to a position in the next higher rank under this provision shall be paid the base salary of the rank to which (s)he has been temporarily assigned, and the officer's own longevity or seniority pay, educational incentive pay, and certification pay for the period of the temporary assignment.

Under no circumstances is this provision intended to, and it does not, authorize the Department Head to, directly or indirectly, create a position that has not been funded by the City's governing body.

Section 5. Preemption. It is the specific intent of the Parties to the Agreement that any express written provision that specifically provides for a procedure, standard, or practice other than what is provided for in Subchapter D, Chapter 143 of the Texas Local Government Code is intended to override the applicable statutory provision as allowed by Subchapter C, Chapter 142 of the Texas Local Government Code.

Section 6. Adoption and Publication of Rules. The Commission shall adopt Local Rules in accordance with this article upon approval by the City Council.

ARTICLE 7

Promotional Incentives for Education

Section 1. Intent. The Parties agree that it is the goal of the Department to maintain high professional standards. Continuing education is encouraged and recognized as a way to improve professionalism for both officers and the Department.

Section 2. Additional Points on Promotional Exams.

(a) In addition to the points a promotional candidate is entitled to receive under Chapter 143.033, Local Government Code, for seniority, promotional candidates are also entitled to receive points for continuing education as follows:

- **Level 1** - 0.50 points for having received an Advanced Certificate issued by the Texas Commission on Law Enforcement (TCOLE);
- **Level 2** - 1.0 points for having completed 60 college hours credit with a passing grade from an accredited institution of higher education, college or university;
- **Level 3** - 1.5 points for having received a Master Peace Officer Certificate issued by the Texas Commission of Law Enforcement (TCOLE);
- **Level 4** - 2.0 points for having received an Associates Degree from an accredited institution of higher education, college, or university;
- **Level 5** - 3.0 points for having received a Bachelor's Degree or higher from an accredited institution of higher education, college, or university.

(b) A promotional candidate is entitled to receive the points for only the highest level attained listed above.

(c) Points awarded to a promotional candidate under this Article shall be added to the final score received after the testing process has been completed.

Section 3. Adoption and Publication of Rules. The Commission shall adopt Local Rules in accordance with this article upon approval by the City Council.

ARTICLE 8

Lateral Entry Program

Section 1. Intent and Scope. The Parties acknowledge that the ability to attract and hire qualified candidates is beneficial to the Association, the Department, and the City. The Parties agree that an expedited process for hiring qualified applicants with previous law enforcement experience will support and enhance this goal.

Section 2. Eligibility Requirements. To be eligible for hiring under this Article, an applicant must:

1. have a current TCOLE license;
2. be currently employed with a law enforcement agency;
3. have an honorable standing within their current department;
4. not be under any type of investigation with their current department;
5. have three (3) or more years of work experience with a municipal, county, or state law enforcement agency in a community comparable in size and population to the City of Temple;
6. take and pass the locally given Civil Service exam; and
7. complete and pass a background investigation, and the City of Temple hiring process.

In addition to the above, the probationary officer, once hired, must:

1. successfully complete a modified Field Training Program of not less than eight (8) weeks, and
2. successfully complete a twelve (12) month probationary period.

The candidate will not have to attend the full training academy.

The Department Head's final determination regarding whether an applicant meets the Lateral Entry Program criteria shall be final. The decision is not subject to appeal to the Commission, and shall not be the basis of a grievance under this Agreement.

Section 3. Guidelines

1. Hiring: An eligibility list for lateral applicants shall be maintained in addition to an entry-level eligibility list. The score to be placed on the lateral eligibility list for each lateral applicant shall be the applicant's score from the locally given Civil Service exam. That score will be used to rank applicants on the lateral eligibility list, however, the Department Head may give preference in selection to any person on the lateral eligibility list based on the applicant's years of experience and type of experience. The lateral eligibility list shall expire at the discretion of the Department Head. To fill a vacant position within the Department, the Department Head may select an applicant from the lateral eligibility list, or follow the process defined in section 143.026 of the Texas Local Government Code.
2. Promotional Eligibility: The Lateral Entry Program is for pay purposes only, and actual work experience in another law enforcement agency will not be considered for promotional eligibility purposes.
3. Salary: Applicants hired under this lateral entry program will be placed in the current pay grade on the Temple Police Department compensation plan commensurate with their full-

time prior service as a police officer. Applicants with prior municipal police service in a city with a population of 30,000 or more will receive one credit year for each full year of police service, not to exceed ten (10) credit years. Applicants with prior municipal police service in a city with a population of less than 30,000 will receive one credit year for each two (2) full years of prior police service, not to exceed five (5) credit years. Applicants with prior field deputy service with a county sheriff's office with a population of 175,000 or more will receive one credit year for each full year of field deputy service, not to exceed ten (10) credit years. Applicants with prior field service experience with any TCOLE certified organization other than a municipal police organization or a county sheriff's office will receive one credit year for each two (2) full years of prior field service, not to exceed five (5) credit years. The "credited time" will NOT count as time served in the Temple Police Department for any purpose(s) except determining the starting pay grade. For example, it will not count towards any benefits, assignment, promotions, longevity or retirement. Applicants who receive prior service credit will remain in the assigned starting pay grade until they have the required years of actual service with the Temple Police Department to advance to the next pay grade. Prior service will be calculated on full years of service with an entity. Partial years of service with different entities will not be added together to make a full year. The City will use the latest official census figures from the U.S. Census Bureau at the time the applicant is hired to determine city and county populations.

4. Seniority: Seniority will be based on the applicant's date of hire within the Department. No credit for prior service outside the Department will be granted for seniority purposes.

Section 4. Preemption. It is the specific intent of the Parties to the Agreement that any express written provision that specifically provides for a procedure, standard, or practice other than what is provided for in Subchapter D, Chapter 143 of the Texas Local Government Code is intended to override the applicable statutory provision as allowed by Subchapter C, Chapter 142 of the Texas Local Government Code.

Section 5. Adoption and Publication of Rules. The Commission shall adopt Local Rules in accordance with this article upon approval by the City Council.

ARTICLE 9

Individual Vehicle Assignment Program (IVAP)

Section 1. Intent. In adopting this Article, the Parties agree to implement an Individual Vehicle Assignment Program for the purpose of providing take-home patrol vehicles to eligible officers. The Parties recognize the benefits of reduced vehicle maintenance expense, reduced response times, crime deterrence and enhanced police presence in neighborhoods where the vehicles are located.

Section 2. Eligibility.

- (a) For an officer to be eligible for the IVAP program, the officer must:
 - 1. be employed as a Temple Police Officer;
 - 2. have successfully completed all phases of the Field Training Program, and
 - 3. have been assigned a designated vehicle.
- (b) Except as provided by Section 5, an officer participating in the IVAP program is eligible to take a vehicle home, providing the officer's residence is no more than seven (7) miles outside the Temple city limits.

Section 3. Applicable Guidelines.

- (a) Vehicles will be assigned, when available, to new officers on the basis of their civil service ranking.
- (b) In addition to the eligibility standards established in Section 2, officers assigned a vehicle shall abide by Temple Police Department General Orders, Chapter 803, "Police Vehicles," as amended.

Section 4. Fee. Except as provided by Section 5, officers who are assigned a vehicle in the IVAP program and elect to take that vehicle home shall be assessed a fee for the use of the vehicle as follows:

- 1. Officers residing within the city limits – no charge
- 2. Officers residing outside the city limits but no more than seven (7) miles outside the city limits - \$23/pay period

Section 5. Exceptions.

- (a) Any officer who resides .5 miles or less outside the City and is assigned a vehicle that the officer elects to take home at the time this Agreement is adopted is exempt from the payment of the fees described in Section 4, unless the officer moves more than .5 miles outside the city limits after the effective date of this Agreement.
- (b) Any officer who is assigned a take home vehicle because of their assignment and who resides outside the city at the time this Agreement is adopted is exempt from the distance limitations and the payment of the fees described in this Article. Officers who are assigned a take home vehicle because of their assignment after the effective date of this Agreement may be assessed the fees described in Section 4 as a condition for accepting the position. The city may impose residential distance restrictions on officers as a

condition of eligibility for assignment to future positions in which an assigned vehicle and the ability to respond in a timely manner is a requirement for the position.

(c) One (1) Criminal Investigation Division Supervisor and three (3) Criminal Investigation Division Detectives assigned by the Department Head are exempt from the distance limitations and the payment of fees described in this Article as follows:

1. If an officer in one of the above listed positions lives more than seven (7) miles from the city limits, the officer may utilize an assigned vehicle and take that vehicle home when the officer is on-call, and the officer is exempt from the payment of the fees described in Section 4 for the use of the vehicle while on-call.
2. Any officer who is assigned to one of the above listed positions and lives outside the city limits, but within seven (7) miles from the city limits and does not elect to take the vehicle home and pay the fees described in Section 4, may utilize a take-home vehicle when the officer is on-call, and the officer is exempt from the payment of the fees described in Section 4.

Section 6. Adoption and Publication of Rules. The Department shall adopt rules in accordance with this article upon approval by the City Council.

ARTICLE 10

Disciplinary Actions and Appeals

Section 1. Intent. In adopting this Article, the Parties understand and agree that most officers will make some errors during their career involving rule violations, including those who are good, professional police officers. The Parties agree that some disciplinary suspensions are for the purpose of reinforcing the need for compliance with Departmental standards and not necessarily as punishment.

Section 2. Suspensions of Thirty-Six (36) Hours or Less.

- (a) The Parties agree that when an officer is suspended for 36 hours or less, the officer may choose one of two methods of dealing with the suspensions as set out below:
1. Suspensions that may not be appealed. The officer may forfeit vacation, compensatory, or holiday time equal to the length of the suspension, to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement, or promotion. The forfeited vacation, compensatory, or holiday time will not constitute hours worked. In the event an officer has received a disciplinary suspension within the preceding 24-month period, the officer may only forfeit vacation, compensatory, or holiday time with the Department Head's permission. The officer must agree that there is no right to appeal the suspension before any administrative or judicial body if this method of suspension is chosen, and the officer must sign a waiver of appeal. Forfeiture of vacation, compensatory, or holiday time will not preclude an officer from being paid overtime at the rate of time and a half for those overtime assignments that have been identified as "guaranteed overtime" assignments.
 2. Suspensions that may be appealed. The officer may appeal the suspension solely to the Civil Service Commission. If the officer chooses to appeal the suspension, the hearing will be conducted as set forth in Section 143.053 Texas Local Government Code.
- (b) Consideration of Suspensions of 36 Hours or Less. The Parties agree that disciplinary suspensions of 36 hours or less that were imposed on or after the effective date of this Agreement will no longer be considered for purposes of transfer or promotion after 24 months have passed from the date the suspension ended, without regard to whether the suspension was appealed. After the 24 months have passed, the Department Head shall notify the Civil Service Commission in writing. A copy of the notification document shall be included in the Internal Affairs Division (IAD) investigative file or the file maintained by the Director, whichever is appropriate, and the Department shall enter a notation reflecting this.
- (c) The Parties agree that the Department and the Civil Service Commission will not alter, destroy, conceal, or remove any documents related to the temporary suspension, including but not limited to the notice of temporary suspension that was filed with the Commission as required by Section 143.052(c) Texas Local Government Code, or the IAD investigative file itself. The original suspension paperwork shall still be subject to open records requests and as evidence to negate any civil liability claim.

Section 3. Suspensions of Thirty-Seven (37) to One Hundred and Twenty (120) Hours. The Parties agree that, when an officer is suspended for 37 to 120 hours, the officer may choose one of two methods for dealing with the suspension, as set out below:

1. Suspensions that may not be appealed. The Department Head may allow the officer to forfeit vacation, compensatory, or holiday time equal to the length of the suspension, to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement, or promotion. The forfeited vacation, compensatory, or holiday time will not constitute hours worked. Forfeiture of vacation, compensatory, or holiday time will not preclude an officer from being paid overtime at the rate of time and a half for those overtime assignments that have been identified as “guaranteed overtime” assignments. Approval of the use of vacation, compensatory, or holiday time will be noted in the suspension paperwork. The officer must agree that there is no right to appeal the suspension before any administrative or judicial body if this method of suspension is chosen, and the officer must sign a waiver of appeal.
2. Suspensions that may be appealed. The officer may appeal the suspension to the Civil Service Commission, or a Hearing Examiner as provided in Section 143.057 Texas Local Government Code.

Section 4. Suspensions of One Hundred and Twenty-One (121) to Seven Hundred and Twenty (720) Hours. The Parties agree that, when an officer is suspended for 121 to 720 hours, one of the two following methods for dealing with the suspension will be used:

1. Mutually Agreed. Either the Department Head or the officer facing discipline may offer to impose or accept a suspension without pay for a period from one hundred and twenty-one (121) to seven hundred and twenty (720) hours. If the officer accepts the mutually agreed suspension, there shall be no right to appeal the suspension to any administrative or judicial body, and the officer must sign a waiver of appeal. It is also understood and agreed that, if the Department Head permits the forfeit of vacation, compensatory, or holiday time for suspension, said vacation, compensatory, or holiday time shall be considered as equal discipline to unpaid hours of suspension. In no case will sick leave be substituted for unpaid hours of suspension. The forfeited vacation, compensatory, or holiday time will not constitute hours worked. Forfeiture of vacation, compensatory, or holiday time will not preclude an officer from being paid overtime at the rate of time and a half for those overtime assignments that have been identified as “guaranteed overtime” assignments.
2. Not Agreed. If the Department Head imposes a suspension under this section, the officer may appeal to the Civil Service Commission or to a Hearing Examiner as provided in Section 143.057 Texas Local Government Code.

Section 5. Alternative Discipline by the Department Head.

- (a) In considering appropriate disciplinary action involving suspension of at least 37 hours, the Department Head may require that an officer be evaluated by a qualified professional designated by the Department Head. If that professional recommends a program of counseling and/or rehabilitation for the officer, the Department Head may, as an alternative to demotion,

or temporary or indefinite suspension, or in combination with demotion or temporary suspension, require that the officer successfully complete the recommended program. The program of counseling and/or rehabilitation will be completed on the officer's off-duty time, unless the Department Head approves the use of accrued vacation leave or sick leave. The officer shall be responsible for paying all costs of the program of counseling and/or rehabilitation which are not covered by the officer's health insurance plan.

- (b) If the officer's misconduct involves alcohol or substance abuse related behavior, the Department Head may require that the officer submit to mandatory alcohol or drug testing for a specified period of time. If the officer fails or refuses to enter into the program, or, after entering the program of counseling and/or rehabilitation, the officer fails or refuses to complete the program, or fails to submit to mandatory alcohol or drug testing, the officer may be indefinitely suspended for failing or refusing to complete the program, or for failing or refusing to submit to mandatory alcohol or drug testing.
- (c) The officer has the right to appeal to the Civil Service Commission or to a third party Hearing Examiner any discipline imposed under this section by filing an appeal notice in accordance with the provisions of Chapter 143.
- (d) On appeal, the Commission or Hearing Examiner shall have the same duties and powers set forth in Chapter 143, but shall not have the power to substitute a program of counseling and/or rehabilitation different from the program imposed by the Department Head, or to substitute any period of suspension for the required program of counseling and/or rehabilitation.

Section 6. Alternative Discipline by Agreement

- (a) In considering appropriate disciplinary action, the Department Head may require that an officer be evaluated by a qualified professional designated by the Department Head. If that professional recommends a program of counseling and/or rehabilitation for the officer, the Department Head may offer the officer the opportunity to enter into an alternative disciplinary agreement under which the officer would accept demotion or a temporary suspension of up to seven hundred and twenty (720) hours and agree to successfully complete the program of counseling and/or rehabilitation recommended by the qualified professional designated by the Department Head.
- (b) The program of counseling and/or rehabilitation will be completed on the officer's off-duty time, unless the Department Head approves the use of accrued vacation leave or sick leave. The officer shall be responsible for paying all costs of the program of counseling and/or rehabilitation which are not covered by the officer's health insurance plan.
- (c) If the officer's misconduct involves alcohol or substance abuse related behavior, the Department Head may require that the officer submit to mandatory alcohol or drug testing for a specified period of time. If the officer accepts the opportunity for agreed alternative discipline, the officer may not appeal any terms of the Agreement or the disciplinary action. If the officer fails to complete the program of counseling and/or rehabilitation without good cause, the officer may be indefinitely suspended without right of appeal regarding the Agreement or the disciplinary action before any administrative or judicial body.

- (d) In considering whether the officer had good cause for failing to complete the program, the Department Head will consider whether the officer was prevented from completing the program by circumstances not reasonably within his/her control, e.g. serious illness or death in the family, unavailability of the professional.

Section 7. Last Chance Agreement

- (a) In considering appropriate disciplinary action, the Department Head may require that an officer be evaluated by a qualified professional designated by the Department Head. If that professional recommends a program of counseling and/or rehabilitation for the officer, the Department Head may offer the officer, as an alternative to indefinite suspension, the opportunity to enter into a Last Chance Agreement.
- (b) The Agreement may include the following provisions in addition to any other provisions agreed upon by the Department Head and the officer.
1. The officer shall successfully complete the program of counseling and/or rehabilitation recommended by the qualified professional designated by the Department Head.
 2. The program of counseling and/or rehabilitation will be completed on the officer's off-duty time, unless the Department Head approves the use of accrued vacation leave or sick leave. The officer shall be responsible for paying all costs of the program of counseling and/or rehabilitation which are not covered by the officer's health insurance plan.
 3. The officer shall agree to a probationary period not to exceed one (1) year, with the additional requirement that if, during the probationary period, the officer commits the same or a similar act of misconduct, the officer will be indefinitely suspended without right of appeal regarding the Agreement or the disciplinary action before any administrative or judicial body.
- (c) If the officer's misconduct involves alcohol or substance abuse related behavior, the Department Head may require that the officer submit to mandatory alcohol or drug testing for a specified period of time. If the officer accepts the opportunity for a Last Chance Agreement, the officer may not appeal any terms of the Agreement. Successful completion of a counseling and/or rehabilitation program will be specifically defined in the Agreement.
- (d) If the officer fails to successfully complete the agreed upon program, without good cause, the officer may be indefinitely suspended without right of appeal regarding the Agreement or the disciplinary action before any administrative or judicial body.
- (e) In considering whether the officer had good cause for failing to complete the program, the Department Head will consider whether the officer was prevented from completing the program by circumstances not reasonably within his/her control, e.g. serious illness or death in the family, unavailability of the professional.

Section 8. Officer's Request for Professional Evaluation

- (a) Prior to completion of an Internal Affairs investigation or the imposition of any discipline, the officer may independently request an opportunity to be evaluated by a qualified physician, psychiatrist or psychologist in order to seek counseling and/or rehabilitation.
- (b) The officer's request will toll the 180 day deadline for imposing discipline under Section 143.052(h) Texas Local Government Code for the duration of time required for the officer to be evaluated and complete any program of counseling and/or rehabilitation.
- (c) The officer shall be responsible for paying all costs of the program of the evaluation and counseling and/or rehabilitation which are not covered by the officer's health insurance plan. The evaluation and the program of counseling and/or rehabilitation will be completed on the officer's accrued vacation and/or sick and/or compensatory leave time.
- (d) If the officer has insufficient accrued vacation and/or sick and/or compensatory leave time to successfully complete the evaluation and any program of counseling and/or rehabilitation, the officer shall complete the evaluation and/or the program while on unpaid leave.
- (e) The Department Head may consider any counseling and/or rehabilitation voluntarily undertaken by an officer under this section before imposing any discipline.

Section 9. Due Process – Loudermill Hearings

- (a) The Parties acknowledge the importance of protecting the due process rights of an officer facing any level of formal discipline. The essential components of due process include the officer's right to have adequate notice of the allegations against him/her, the factual basis for the allegations, and an opportunity to be heard by the Department Head prior to the imposition of discipline. This process is also important to the Department Head in determining the nature of the alleged violations, the unique circumstances of the individual officer, the appropriate level of discipline, and the fairness and consistency of disciplinary actions throughout the Department.
- (b) Following completion of an Internal Affairs investigation, the Department Head shall conduct the following meetings:
 - 1. Initial Meeting – Delivery of Notice of Proposed Discipline: After review of the Internal Affairs investigation and related documents, the Department Head shall draft a Notice of Proposed Discipline. This document shall contain the text of any Civil Service rules, Departmental General Orders, City personnel policies, City ordinances, City Charter provisions, state or federal laws the officer is alleged to have violated, along with a detailed description of how the officer's conduct violated said policies, rules or laws. Any documents or recordings that form the basis for the allegations shall be attached to the Notice as exhibits. The Notice will also state the level of discipline the Department Head is proposing to impose. The Notice of Proposed Discipline is not a public document, is not subject to an open records request and is confidential by law pursuant to section 143.089(g) of the Texas Local Government Code. At the initial hearing, the Notice will be delivered to the officer. The officer's counsel may attend this meeting. The Internal

Affairs investigator, the officer's supervisor and the Department's legal advisor will also be present. The meeting will be recorded by the Department Head. The officer or his counsel may also record the meeting. If the officer appears without assistance of counsel, the Department Head will read the full text of the Notice aloud at the meeting. If the officer appears with counsel, the Notice will not be read aloud, but will be delivered to the officer's counsel. After the Notice has been read, or delivered to the officer's counsel, the officer will sign acknowledging receipt of the Notice of Proposed Discipline and have an opportunity to ask any questions. The Department Head will then schedule a date and time for the second meeting. The date of the second meeting will be on the 5th business day following the first meeting. If any necessary party is not available to meet on the 5th business day, the meeting will be scheduled for the next business day when all necessary parties are available, provided that the second meeting must be held no later than the 8th business day after the first meeting.

2. Second Meeting – The Officer's Response: After a period of time during which the officer may review the allegations against him/her and the evidence in support of the allegations, the officer will have an opportunity to present his/her side of the case to the Department Head. The officer may present mitigating evidence, in any form, that he/she believes to be relevant and/or helpful to Department Head in coming to a fair and consistent disciplinary decision. The evidence presented by the officer, to the extent it has not already been publicly released or is considered 'super-public' pursuant to Chapter 552 of the Texas Government Code, is not public information, not subject to an open records request and is confidential by law pursuant to section 143.089 of the Texas Local Government Code. The officer's counsel may be present at this meeting. The Internal Affairs investigator, the officer's supervisor and the Department's legal advisor will also be present. The meeting will be recorded by the Department Head. The officer or his counsel may also record the meeting. After the officer has completed his/her presentation, the Department Head will schedule a date and time for the final meeting. The date of the final meeting will be on the 5th business day following the second meeting. If any necessary party is not available to meet on the 5th business day, the meeting will be scheduled for the next business day when all necessary parties are available, provided that the final meeting must be held no later than the 8th business day after the second meeting.
3. Final Meeting – Disciplinary Decision: After review of the evidence presented by the officer, the Department Head shall carefully consider the allegations and the officer's evidence. The purpose of the final meeting is to deliver the Department Head's decision regarding the appropriate level of discipline to be imposed. If formal discipline in the form of a demotion, suspension or an indefinite suspension is to be imposed, the Department Head shall draft a Notice and Order of Demotion, Suspension or Indefinite Suspension, as appropriate, for delivery to the officer at this meeting. This document, including any supporting exhibits, is a public document and is subject to an open records request. Any remedial measure other than a demotion, suspension, or indefinite suspension imposed by the Department Head is confidential by law, pursuant to section 143.089 of the Texas Local Government Code. The officer's counsel may attend this meeting. The Internal Affairs investigator, the officer's supervisor and the Department's legal advisor will also be present. The meeting will be recorded by the Department Head. The officer or his counsel may also record the meeting. If the officer appears without

assistance of counsel, and formal discipline is to be imposed, the Department Head will read the full text of the final Notice aloud at the meeting. If the officer appears with counsel, the Notice will not be read aloud, but will be delivered to the officer's counsel. After the Notice has been read, or delivered to the officer's counsel, the officer will sign acknowledging receipt of the Notice and Order. The officer will leave with a signed copy of the Notice and Order.

Section 10. Texas Local Government Code, Section 143.057– Hearing Examiner Retained for Suspensions in Excess of Thirty-Six (36) Hours.

- (a) The City recognizes that during the term of this Agreement, officers have the right to an appeal of an indefinite suspension before a Hearing Examiner as provided in section 143.057 of the Texas Local Government Code. During the term of this Agreement, the Parties specifically agree to retain this right of appeal, as modified herein, notwithstanding any change to section 143.057 which may occur as a result of court or legislative action.
- (b) It is the express intention of this provision that an officer may not appeal to a Hearing Examiner pursuant to section 143.057, Texas Local Government Code unless the suspension exceeds thirty-six (36) hours, or is an indefinite suspension, or a demotion.

Section 11. Procedures for Hearings Before Commission and Hearing Examiners

- (a) It is expressly agreed that Commission hearings and hearings before Hearing Examiners under section 143.057 are informal administrative hearings and are not subject to discovery or evidentiary processes. Specifically, it is understood that neither the Texas Rules of Evidence (TRE) nor the Texas Rules of Court (TRC) apply to such hearings.
- (b) The burden of proof shall be by a preponderance of the evidence.
- (c) If the Department calls a witness to testify during a hearing and that witness has given a statement to Internal Affairs regarding the pending case, then the Department will supply a copy of that statement to the officer's counsel at the time the witness is called to testify.

Section 12. Appeal Procedures Before Hearing Examiners

- (a) The Parties recognize and agree that protracted, unnecessary delay of disciplinary appeals to third-party Hearing Examiners dilutes the primary instructive function of the underlying discipline.
- (b) The Parties agree that the following procedures are intended to promote the efficient and effective conclusion of such appeals.
 - 1. The Parties agree to select a third-party Hearing Examiner:
 - a. by agreement, no later than ten (10) business days from the date the officer's notice of appeal is filed with the Director of the Civil Service Commission, or

- b. from a list of seven (7) Hearing Examiners provided by the American Arbitration Association. The Director will request the list within ten (10) business days of receipt of the officer's notice of appeal. The Director will send the list by email to the officer's counsel and counsel for the City within ten (10) business days of receipt. The selection process will be completed no later than ten (10) business days from the date the list is received by counsel, using a process of alternately striking names from the list, with the officer's counsel making the initial strike.
2. Failure by the officer or the officer's counsel to initiate selection of the Hearing Examiner by making the initial strike within ten (10) business days of receipt of the list from the Director shall be deemed a withdrawal of the officer's appeal.
3. The Department shall furnish the charge letter to the Hearing Examiner by delivering a copy far enough in advance so that the Hearing Examiner receives the copy at least five (5) business days prior to the start of the hearing.
4. The officer may furnish a position statement to the Hearing Examiner by delivering copies to the Hearing Examiner and the Department far enough in advance so that the Hearing Examiner and the Department receive the copies at least five (5) business days prior to the start of the hearing.
5. At the close of the presentation of evidence to the Hearing Examiner, the Hearing Examiner shall render a decision within thirty (30) business days.
6. Post-hearing briefs shall only be allowed by mutual agreement of the Parties, and shall be sent simultaneously to both the Hearing Examiner and the opposing side using the same mutually agreed method.
7. Expenses - It is agreed that the City and the officer disciplined under this Article shall equally share the expenses associated with a third-party Hearing Examiner. The cost of an expert witness or any other witness not employed by the City is to be paid by the Party that subpoenas that witness. In the event a Party desires a court reporter, that Party shall bear 100% of that cost. In the event the officer is not a member of the Association, and therefore financially responsible for his/her share of any fees, the officer shall deposit with the Director of the Civil Service Commission his/her share of the fees three (3) days prior to the Hearing Examiner's deadline to cancel. Failure to deposit the funds shall result in the appeal being dropped.

In the event the fees for a hearing exceed the deposited amount, the non-Association member shall pay the remaining amount due within thirty (30) days of receipt of the bill, or authorize the City to deduct the amount due from his/her next four (4) paychecks.

Section 13. Jurisdiction of Hearing Authority to Modify Discipline

- (a) In addition to the authority provided by section 143.053 Texas Local Government Code, the Parties agree that the Civil Service Commission, or a Hearing Examiner appointed pursuant to section 143.057 Texas Local Government Code and the provisions of this

Agreement, shall have the authority to impose a disciplinary suspension of any length of time, including suspensions in excess of fifteen (15) days, and time already served between the imposition of discipline and the appeal decision.

- (b) It is the specific intent of the Parties to override the judicial limitation imposed on the authority of the Commission or Hearing Examiner by the case styled *City of Waco v. Kelley*, 309 S.W.3d 536 (Tex.2010), which restricts the jurisdiction of the hearing authority to imposing only indefinite suspensions, temporary suspensions of fifteen (15) calendar days or less, or restoring the officer's former position.
- (c) It is not the intent of the Parties to modify any right or privilege of further appeal or appellate review that is otherwise authorized by law to review the decision of the Commission or Hearing Examiner.

Section 14. Preemption. The provisions of this Article preempt all contrary local ordinances, administrative directives, legislation or rules adopted by the State or by a political subdivision, including a Civil Service Commission. It is the specific intent of the Parties to the Agreement that any express written provision that specifically provides for a procedure, standard, or practice other than what is provided for in Subchapter D, Chapter 143 of the Texas Local Government Code is intended to override the applicable statutory provision as allowed by Subchapter C, Chapter 142 of the Texas Local Government Code.

Section 15. Adoption and Publication of Rules. The Commission shall adopt Local Rules in accordance with this article upon approval by the City Council.

ARTICLE 11

Grievance Procedure

Section 1. Intent and Scope of Procedure. The Parties acknowledge that from time to time, disagreements between the Parties may arise as to the application or interpretation of this Agreement. The Parties therefore agree that the purpose of this dispute resolution procedure is to provide a just and equitable method for resolving disagreements between the Parties regarding the application or interpretation of the provisions of this Agreement. Only matters involving the interpretation, application, or alleged violations of a specified provision of this Meet and Confer Agreement shall be subject to this dispute resolution procedure. Any matter for which the right of appeal or review is afforded by Chapter 143 of the Texas Local Government Code are excluded from the scope of this Article.

Section 2. Application of Procedure

- (a) If the Association has a dispute with the City regarding this Agreement, the Association Executive Board, or the Association President's designee, should reduce the dispute to writing and deliver it to the City's designated representative, who shall be its Department Head or his designee.
- (b) A police officer may not file a request for contract dispute resolution directly with the City. All resolution requests must be approved and come from the Association Executive Board.
- (c) Each dispute shall be submitted in writing, and must include, at a minimum, the following information:
 - 1. a brief statement of the dispute, and the facts or events on which it is based;
 - 2. the section(s) of the Agreement alleged to have been violated;
 - 3. the remedy or adjustment sought, and
 - 4. the bargaining unit member's signature or, if filed by the Association Executive Board, the signature of the Association President or his designee.
- (d) Any claim or dispute by a police officer or group of police officers under this Agreement which includes a claim for pay or benefits for any past pay periods, must be filed by the employee with the Association Executive Board within fifteen (15) business days of the date when the officer(s) knew or reasonably should have known of the claim. Disputes by the Association Executive Board or police officer shall proceed as follows:

Step 1. An aggrieved police officer must initiate a dispute with the Association Executive Board within fifteen (15) business days of the date upon which the police officer knew of or reasonably should have known of the facts giving rise to the dispute. A copy of the notice or receipt of the dispute shall be forwarded to the Department Head by the Association Executive Board within three (3) business days of the receipt of the dispute. The Association Executive Board shall within their sole discretion determine if a dispute exists within fifteen (15) business days of receipt of the dispute.

If the Association determines that no dispute exists, the grievance will be deemed denied, and the Association shall notify the Department Head in writing that no further proceedings will be necessary. If the Association Executive Board determines that the dispute is valid, the Association

will notify the Department Head of such, and forward a copy of the grievance to the Department Head within fifteen (15) business days after their determination.

Step 2. Any grievance found to be valid by the Association Executive Board shall be submitted to the Department Head within fifteen (15) business days of the Step 1 decision. After receipt of the dispute, the Department Head shall, within fifteen (15) business days, submit his/her response in writing to the Association Executive Board. If there is no timely reply from the Department Head, the grievance is deemed denied and will proceed to Step 3.

Step 3. If the dispute is not resolved in Step 2, the Association Executive Board shall advance the dispute in writing to the City Manager or his/her designee within fifteen (15) days from receipt of the Step 2 decision by the Department Head. The City Manager or designated representative shall review the matter and render a decision in writing to the Association Executive Board and the Department Head within fifteen (15) business days of the receipt of the dispute in Step 3. The City Manager or designee may, at his/her discretion, conduct a conference to further explore the merits of the dispute and to explore resolution options.

Step 4. If the dispute is not resolved in Step 3, either Party shall have the right to seek mediation of the dispute by requesting the same in writing within fifteen (15) business days from the City Manager's response. The mediation will proceed before either a mediator with the Federal Mediation and Conciliation Service, or before a mutually agreed mediator. The mediation shall be held in available City of Temple facilities.

Step 5. If the dispute is not resolved at Step 4, the Association Executive Board shall have fifteen (15) business days from the date mediation concludes to determine whether it will pursue the dispute under this Article through arbitration. Under this step, the Association Executive Board must deliver a letter indicating its election to proceed to arbitration to the Department Head and the City Manager within three (3) business days of that election.

Section 3. Arbitration Option.

- (a) The Parties have agreed that all disputes under this Agreement, which concern the application and interpretation of this Agreement, shall be submitted to final and binding arbitration, and the Parties exclude from this Agreement disputes involving statutory application and interpretation for rights and claims not arising under sections 142 or 143 of the Texas Local Government Code.
- (b) The terms of the Agreement, and any factual issues which are determinative in applying the Agreement, shall be the sole province of the designated arbitrator, and his or her decision shall be final. However, the City will only agree to arbitration on the condition that legal issues which are determinative in any contract dispute are subject to judicial review. This represents an agreement by the Parties to submit disputes to arbitration within its scope, and otherwise preserves the existing jurisdiction of Texas Courts over any contract rights and claims not exclusively committed to arbitration.
- (c) The Parties have agreed that questions of law, which involve either the interpretation and application of state statutes or the application of legal principles from Texas appellate court opinions (or the failure to properly apply such legal principles or opinions) to controversies

under this article shall be submitted initially to arbitration, but that either Party shall have a limited right of appeal from an arbitration award in the Courts, solely for the purpose of reviewing disputed issues of law. No such appeal from arbitration shall include review of any factual determinations by the arbitrator, including credibility of witnesses or weight of the evidence. If an appeal from arbitration based on erroneous application of the law is not successful, the appealing Party shall bear all costs of such appeal.

- (d) If a dispute is submitted to arbitration, within seven (7) business days, the Department Head and/or the City and the Association may mutually agree on the selection of an arbitrator or, if unable to agree, within thirty (30) days shall select an arbitrator by alternately striking names from the Parties' pre-determined panel of six (6) qualified neutral arbitrators. The process will be as follows: the Association shall strike the first name under this article with the first dispute brought under this Article. Thereafter, the first strike shall alternate between the Parties. Should any panel member subsequently refuse or be unable to continue to serve on the panel, the Parties may mutually agree to his replacement. The remaining members of the panel will continue to serve for the duration of the Agreement. The arbitration should be held at the earliest available date, but may be continued for good cause shown, or upon mutual agreement.
- (e) Upon written request delivered at least fourteen (14) calendar days prior to the date of the hearing, a Party to the proceeding shall provide, no later than seven (7) days prior to the hearing, to the opposing Party the names and addresses of witnesses expected to be called at the hearing. In the absence of good or excusable cause, the arbitrator may exclude the testimony of a witness upon the failure of a party to disclose such a witness. The Parties, in writing, may request discovery from each other concerning the grievance. Should the opposing Party not agree to provide the requested information within seven (7) calendar days of the request, the request shall be deemed denied. The requesting Party may then apply to the arbitrator, who shall order such discovery consistent with, but not bound by, the rules of discovery in Texas civil cases. In considering the application, the arbitrator shall consider the burden and expense of producing the information, the need of the requesting Party, the amount of time available prior to the hearing, and such other matters as he may deem material. In no event shall discovery be requested within thirty-five (35) calendar days prior to the hearing, unless agreed to by the Parties.
- (f) The hearing shall be held in available facilities of the City of Temple and shall be conducted informally, without strict evidentiary or procedural rules. The conduct of the hearing shall be governed by the standard rules of the American Arbitration Association. The arbitrator shall consider and decide only the issue(s) in the dispute statement, or submitted in writing by agreement of the Parties. The hearing shall be concluded as expeditiously as possible and the arbitrator's written decision shall be based on a preponderance of the evidence within thirty (30) days after close of the hearing, or after receipt of post-hearing briefs, if applicable.

Section 4. Decision Final and Binding.

- (a) If arbitration is selected, the Parties specifically agree that the arbitrator's authority shall be strictly limited to interpreting and applying the explicit provisions of this Agreement. The arbitrator shall not have authority to modify the Agreement or create additional provisions not included in the Agreement.

- (b) The Parties agree that neither the City nor the Association shall have *ex parte* communications with the arbitrator concerning any matter involved in the dispute submitted to the arbitrator. Each Party shall be responsible for its own expenses in preparing for and representing itself at arbitration, but the fees and expenses of the arbitrator shall be borne equally by the Parties.
- (c) The written decision of the arbitrator shall be final and binding on both Parties and may not be appealed by either Party, except for any decision procured by fraud or collusion, or which exceeds the arbitrator's jurisdiction, or which is based on legal conclusions or interpretations which are clearly contrary to existing law.

Section 5. Mutual Extension. All deadlines within this article may be extended by mutual agreement of the Parties.

Section 6. Grievances of Non-Association Members. Grievances of Non-Association members must follow the same procedure outlined by this article. A Non-Association member is entitled to be represented by counsel at the hearing at his or her own expense. However, should the grievance of a Non-Association member require that Association resources be used, the Non-Association member will be required to pay all expenses incurred while pursuing final disposition of their grievance. These shall include costs for payment of Arbitrator fees, counsel fees, and any other fees directly related to the grievance. All disciplinary appeals shall follow the procedures as outlined in chapter 143 of the Local Government Code, or those procedures set out elsewhere in this Agreement.

Section 7. Association Compliance with Agreement. If the Association fails to comply with and adhere to its respective obligations under this Agreement, the City shall notify, in writing, the Association of the alleged failure. No breach of the Agreement may be found to have occurred if the alleged failure by the Association is remedied within thirty (30) business days of the receipt of such notice. If the Association does not remedy the alleged failure within thirty (30) days of the receipt of such notice, the City may (i) terminate this Agreement by the delivery of written notice to the Association; (ii) enforce specific performance of the Agreement; and/or (iii) pursue any remedies available to it at law or in equity.

ARTICLE 12

SAVINGS CLAUSE

Should any provision of this Agreement be found to be inoperative, void or invalid by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, it being the intention of the Parties that no portion of this Agreement or provision herein shall become inoperative or fail by reason of the invalidity of any other portion or provision.

ARTICLE 13
DURATION OF AGREEMENT

This Agreement shall become effective after ratification by the affected employees pursuant to a vote conducted by the Temple Police Association, and upon approval by the City Council after compliance with any procedural or publication requirements imposed by law. It shall continue in effect until September 30, 2018; provided however, the Agreement may be extended by mutual consent of the Parties.

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED TO HAVE THIS AGREEMENT TO BE SIGNED BY THEIR DULY AUTHORIZED REPRESENTATIVES ON THIS ____ DAY OF _____ 2017.

THE CITY OF TEMPLE, TEXAS

TEMPLE POLICE ASSOCIATION

Brynn Myers, Interim City Manager

Larry Wilkey, 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 _____, 2017,
by Brynn Myers, Interim City Manager, on behalf 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 _____, 2017,
by _____, on behalf of **Temple Police Association.**

Notary Public, State of Texas

RESOLUTION NO. 2019-9590-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING A MEET AND CONFER AGREEMENT WITH THE TEMPLE POLICE ASSOCIATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the “meet & confer” process is governed by Chapter 142 of the Local Government Code - Chapter 142 allows a “police officers association” to file a petition with the City requesting that the City recognize the association as the sole and exclusive bargaining agent for all officers and adopt the meet & confer process;

Whereas, the meet and confer process allows the City to meet & confer with a police officers association over wages, salaries, rates of pay, hours of work, or other terms and conditions of employment and must occur in a meeting open to the public;

Whereas, the City and a police officers association are not required to reach agreement on any particular topic, and an agreement on any issue must be in writing and ratified by the Council and a majority of the police officers;

Whereas, a written meet & confer agreement preempts all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules and allows variation of civil service rules regarding hiring requirements, pay, benefits, promotion standards, and the disciplinary process;

Whereas, in compliance with the terms of the fiscal year 2019 Meet and Confer Agreement, City Administration and Temple Police Association (“TPA”) began meeting in December, 2018 to adopt the ground rules and discuss any issues with the current agreement;

Whereas, the fiscal year 2019 agreement includes articles covering the same 11 issues as in the fiscal year 2018 agreement:

- Association Business
- Additional Deputy Chief Position
- Military Leave Time Account
- Compensation
- Overtime
- Higher Classification Pay / Rank Structure
- Education Incentives for Promotion
- Lateral Entry Program
- Individual Vehicle Assignment Program (IVAP)
- Disciplinary Actions and Appeals
- Grievance Procedure

Whereas, the fiscal year 2019 agreement included a change to Article 4 - Compensation, and also a change to Article 13 - Duration of the Agreement which changed the termination date of the agreement from September 30, 2018 to March 31, 2019;

Whereas, in the current agreement, both Parties agreed to diligently work together to develop the criteria for a professionally prepared compensation study to be conducted in fiscal year 2019 that will include a full study of the City of Temple's Civil Service Pay Plan structure including, but not limited to, an evaluation of the step system and compression between steps;

Whereas, City Staff is diligently working to complete the civil service compensation study in-house and once the study is complete, members of City administration and the TPA negotiating teams will meet to discuss the compensation study findings and a draft agreement will be created for TPA and City Council consideration – the new proposed termination date of September 30, 2019 will allow for the civil service pay plan structure to follow the fiscal year 2020 budget cycle starting October 1, 2019;

Whereas, members of City administration and the Temple Police Association (TPA) negotiating teams met and decided to move forward, with taking a vote to extend the current agreement six months to September 30, 2019;

Whereas, a ratification election was held from March 4, 2019 to March 8, 2019 and the results of the meet and confer agreement extension election are as follows:

120 – For

8 – Against

9 – Did not vote (results in an against vote)

Whereas, the election to extend the termination date passed and the next step in the process is City Council consideration;

Whereas, a Meet and Confer Agreement is enforceable and binding if the governing body of the municipality ratifies the agreement by a majority vote and the recognized police officers association ratifies the agreement by conducting a secret ballot election at which the majority of the police officers who would be covered by the agreement favored ratifying the agreement;

Whereas, this Meet and Confer agreement will become effective immediately and continue in effect until September 30, 2019;

Whereas, fiscal impact associated with the Meet and Confer Agreement for each of the eleven issue points is outlined in the below table and becomes effective immediately and continues in effect until September 30, 2019:

Issue	Fiscal Impact	Funded In FY 2019
Article 1: Association Business	Not Applicable	N/A
Article 2: Additional Deputy Chief Position	Base salary plus benefits: \$136,425	Yes
Article 3: Military Leave Time Account	Not Applicable	N/A
Article 4: Compensation	Compensation study funded in fiscal year 2019. Compensation study results would be implemented in fiscal year 2020.	Yes No
Article 5: Overtime	3 rd Party reimbursed overtime and benefits is estimated for fiscal year 19 at \$420,000.	Yes
Article 6: Higher Classification / Rank Structure	Step up pay: \$9,784.	Yes
Article 7: Educational Incentives for Promotion	Not Applicable	N/A
Article 8: Lateral Entry Program	Not Applicable	N/A
Article 9: Individual Vehicle Assignment Program (IVAP)	The estimated net cost based on officers who are currently employed by the City is \$28,831	Yes
Article 10: Disciplinary Actions & Appeals	Not Applicable	N/A
Article 11: Grievance Procedure	Not Applicable	N/A

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 ratifies a Meet and Confer Agreement with the Temple Police Association, as outlined in Exhibit 'A,' attached hereto and incorporated herein for all purposes.

Part 3: 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 on the **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(H)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing an Airport Hangar Lease Agreement with Kachemak Bay Flying Service, Inc. for the lease of Hangar No. 26 at the Draughton-Miller Central Texas Regional Airport.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY Kachemak Bay Flying Services, Inc. (KBFS) is interested in leasing Hangar No. 26 at the Airport. KBFS plans to utilize the hangar for military training and aircraft maintenance activities. KBFS currently leases two other hangars and has been a long-term tenant at the Airport.

Hangar No. 26 consists of 45,000 square feet of hangar space and 4,350 square feet of office space. KBFS will also have non-exclusive access to and use of the aircraft wash bays, secured gated entrance with guard shack, 260 auto parking spaces, aircraft parking apron, and additional paved ramp space.

The proposed lease term is initially six months with the possibility of renewal for a multi-year term. The proposed rental rate is \$5.00/sf annually which equals a monthly rent of \$20,562.50. The lease will begin on April 1, 2019. KBFS has asked for a reduced rental rate of \$10,281.25 for the first month and Staff is supportive of the request. KBFS will be responsible for all utilities necessary to operate the hangar.

Staff recommends approval of the lease with KBFS.

FISCAL IMPACT: Lease revenue for the rental of the 45,000 square feet of hangar space and 4,350 square feet of office space to Kachemak Bay Flying Service in the amount of \$113,093.75 for the initial six month lease term will be deposited into account 110-0000-446-3029.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9591-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AIRPORT HANGAR LEASE AGREEMENT WITH KACHEMAK BAY FLYING SERVICE, INC., FOR LEASE OF HANGAR NO. 26 AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Kachemak Bay Flying Services, Inc. (KBFS) plans to utilize Hangar No. 26 for military training and aircraft maintenance activities - they currently lease two other hangars and have been long-term tenants at the Airport;

Whereas, Hangar No. 26 consists of 45,000 square feet of hangar space and 4,350 square feet of office space - KBFS will have non-exclusive access to and use of the aircraft wash bays, secured gated entrance with guard shack, 260 auto parking spaces, aircraft parking apron, and additional paved ramp space;

Whereas, the proposed lease term is initially six months with the possibility of renewal for a multi-year term - the rental rate is \$5.00/sf annually, which equals a monthly rental rate of \$20,562.50 which will begin April 1, 2019;

Whereas, KBFS has asked for a reduced rental rate of \$10,281.25 for the first month and Staff is supportive of the request - KBFS will be responsible for all utilities necessary to operate Hangar No. 26;

Whereas, Staff recommends Council authorize a six-month lease agreement with Kachemak Bay Flying Service for lease of Hangar No. 26 at the Draughon-Miller Central Texas Regional Airport;

Whereas, annual lease revenue for the rental of Hangar No. 26 will be deposited into Account No. 110-0000-446-3029;

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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute a six-month lease agreement with Kachemak Bay Flying Service, Inc. for lease of Hangar No. 26 at the Draughon-Miller Central Texas Regional Airport.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(I)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Erin Smith, Assistant City Manager

Don Bond, P.E., CFM, City Engineer/Interim Public Works Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Lone Star Grading & Materials, LLC of Salado, to construct roadway and sidewalk improvements on 7th Street from Avenue H south to the dead-end, in the amount of \$344,616.16.

STAFF RECOMMENDATION: Adopt resolutions as presented in the item description.

ITEM SUMMARY: The City amended the CDBG action plan to reallocate funding for roadway and sidewalk improvements on 7th Street from Avenue H south to the dead-end at St. Mary's School. Kasberg, Patrick & Associates, LP, was selected to provide design and construction-phase services.

Five bids were received on March 8th. The invitation to bid was structured with an alternate as outlined in the attached Bid Tabulation.

Staff and KPA reviewed the bid results, and as stated in KPA's attached letter, recommend award of the Base Bid plus Add Alternate to the lowest bidder, Lone Star Grading & Materials, LLC in the amount of \$344,616.16.

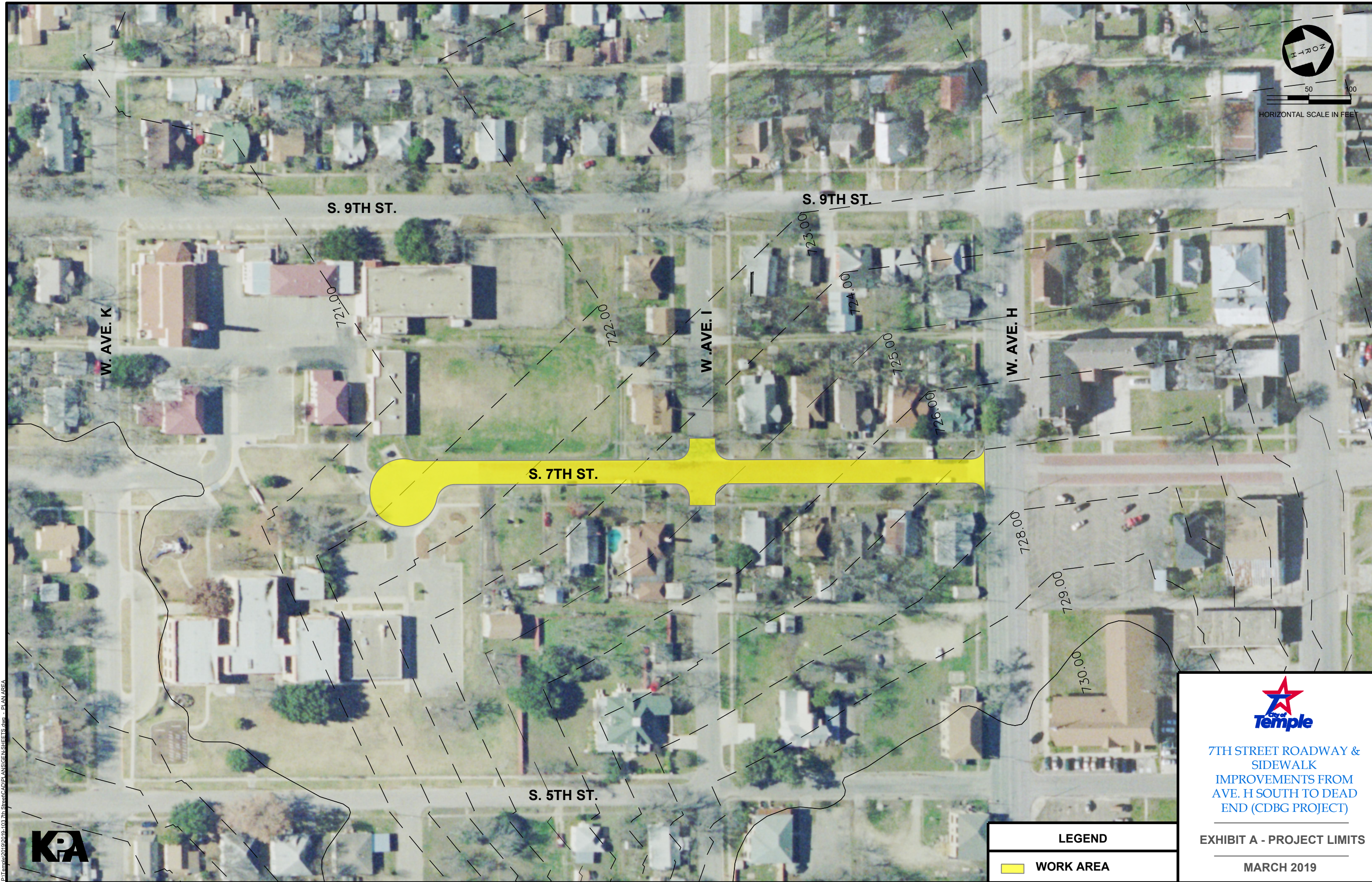
The time required for construction is 75 calendar days. Associated construction material testing fees provided by Langerman Foster Engineering Company for this project are estimated to be \$10,794.

FISCAL IMPACT: Funding for the contract with Lone Star Grading & Materials, LLC to construct roadway and sidewalk improvements on 7th Street from Avenue H south to the dead-end in the amount of \$344,616.16 is currently available in account 260-6100-571-6317, project 102008, as follows:

Project Budget	\$	663,984
Encumbered/Committed to Date		(85,710)
Construction Award - Lone Star Grading & Materials, LLC		(344,616)
Remaining Project Funds Available	\$	<u>233,658</u>

ATTACHMENTS:

[Map](#)
[Engineer's Letter of Recommendation](#)
[Bid Tabulation](#)
[Resolution](#)



P:\Temp\00190105-103_7th Street\CD\PLAN\GEN SHEETS.dwg - PLAN AREA



7TH STREET ROADWAY &
SIDEWALK
IMPROVEMENTS FROM
AVE. H SOUTH TO DEAD
END (CDBG PROJECT)

LEGEND	
	WORK AREA

EXHIBIT A - PROJECT LIMITS

MARCH 2019



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
Texas Firm F-510

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

RICK N. KASBERG, P.E.
R. DAVID PATRICK, P.E., CFM
THOMAS D. VALLE, P.E.
GINGER R. TOLBERT, P.E.
ALVIN R. "TRAE" SUTTON, III, P.E., CFM
JOHN A. SIMCIK, P.E., CFM

Georgetown
1008 South Main Street
Georgetown, Texas 78626
(512) 819-9478

March 14, 2019

Mr. Don Bond, PE, CFM
City Engineer
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple
7th Street Roadway & Sidewalk Improvements
From Avenue H South to Dead End (CDBG Project)

Dear Mr. Bond:

On March 8, 2019, the City of Temple received bids from five (5) contractors for the above referenced project. A detailed bid tabulation and project exhibit is attached to this letter for your use.

This project will result in improvements being made to approximately 750-feet of 7th Street between Avenue H and the dead end. The roadway improvements consist of removing the existing brick pavers, concrete base and concrete curbs and constructing new curb and gutter along with a new road section with a 2" thick asphalt surface. The pedestrian improvements include removal of the existing 4-foot wide sidewalks at the property line and replacing them with new 4-foot wide sidewalks generally located 3-feet behind the new curb. Driveway and sidewalk connections will also be reconstructed within the right-of-way. Below is a summary and low bid price for each bid alternative for this project:

- **Base Bid (\$330,237.67)** – The base bid for this project consists of all roadway and pedestrian improvements listed above with a road section consisting of geogrid and 4" of crushed limestone base material beneath the curb, 4" of crushed limestone base material between the curbs, and 2" of asphalt paving at the surface for the project limits described above;
- **Add Alternate 1 (\$14,378.49)** – Add Alternate 1 consists of substituting a 10-inch crushed limestone base material section beneath the curb in lieu of the 4" crushed limestone base material section with geogrid beneath the curb;

Note: The alternative pavement section in the Add Alternate 1 is considered to be equivalent to the pavement section in the Base Bid based upon recommendations from the Geotechnical Engineer.

Mr. Don Bond, PE, CFM
March 14, 2019
Page 2

The Final Opinion of Probable Costs for this project was \$365,000.00. The attached Bid Tabulation shows Lone Star Grading & Materials, LLC of Salado, Texas as the low bidder regardless of which bid alternate is awarded. Lone Star Grading & Materials, LLC has successfully completed projects for the City of Temple. It is our understanding that City Staff prefers the pavement section included in Add Alternate 1 for ease and speed of future maintenance. Inasmuch as the additional cost of Add Alternate 1 is still within the City's budget for the project and less than our Final Opinion of Probable Costs and based on City Staff preference, we recommend that a contract be awarded to Lone Star Grading & Materials, LLC for the 7th Street Roadway & Sidewalk Improvements From Avenue H South to Dead End (CDBG Project) for the Base Bid plus Add Alternate 1 in the amount of **\$344,616.16**.

Sincerely,



John A. Simcik, P.E., CFM

JAS/

xc: Erin Smith, AICP, Assistant City Manager, City of Temple
Belinda Mattke, CPA, Director of Purchasing, City of Temple (Original)
Jason Miller, Lone Star Grading & Material, LLC
2019-103-40

BID TABULATION
CITY OF TEMPLE
7th STREET ROADWAY & SIDEWALK IMPROVEMENTS FROM AVENUE H SOUTH TO DEADEND (CDBG PROJECT)
March 8, 2019; 10:30 AM

Base Bid				BIDDER INFORMATION									
				Lone Star Grading & Materials, LLC		R.T. Schneider Constr. Co., LTD		TTG Utilities, LP		FCO Construction Services, LLC		Holy Contractors, LLC	
				P.O. Box 1162 Salado, Texas 76571		P.O. Box 876 Belton, Texas 76513		P.O. Box 299 Gatesville, Texas 76528		1405 E. Rancier Avenue, Suite 100 Killeen, Texas 76541		712 E. Panther Way Hewitt, Texas 76643	
Bid No.	Estimated Quantity	Unit	Bid Data Description	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount
1	100%	LS	Mobilization, Bonds and Insurance, not-to-exceed 5% of the Base Bid Amount	15,505.07	\$ 15,505.07	14,500.00	\$ 14,500.00	20,000.00	\$ 20,000.00	26,070.50	\$ 26,070.50	\$ 23,869.01	\$ 23,869.01
2	7.2	STA	Provide Labor, Equipment, Tools & Supervision to Complete Preparation of Right-of-Way	3,216.69	23,160.17	1,825.00	13,140.00	1,180.00	8,496.00	569.60	4,101.12	2,197.50	15,822.00
3	100%	LS	Prepare Stormwater Pollution Prevention Plan, Including Submission to and Receiving Permits from Texas Commission on Environmental Quality (TCEQ)	825.00	825.00	5,035.00	5,035.00	5,900.00	5,900.00	563.39	563.39	1,465.00	1,465.00
4	100%	LS	Implement and Administer Barricade, Signing and Traffic Safety Plan (Vehicular and Pedestrian)	7,688.05	7,688.05	5,400.00	5,400.00	24,500.00	24,500.00	5,579.25	5,579.25	5,567.00	5,567.00
5	100%	LS	Provide Project Record Drawings	275.00	275.00	250.00	250.00	960.00	960.00	2,875.00	2,875.00	732.50	732.50
6	100%	LS	Provide DVD of right-of-way pre-construction and post construction site conditions for the total project	275.00	275.00	250.00	250.00	600.00	600.00	2,875.00	2,875.00	732.50	732.50
7	1	EA	Adjust Existing Water Valve to Grade	550.00	550.00	750.00	750.00	495.00	495.00	200.78	200.78	732.50	732.50
8	1	EA	Adjust Existing Water Meter to Grade	550.00	550.00	750.00	750.00	810.00	810.00	300.29	300.29	293.00	293.00
9	340	LF	Remove and Dispose of Existing Chain Link Fence, Including Gates and Hardware, Per Sheet G-07	2.31	785.40	6.00	2,040.00	12.50	4,250.00	3.22	* 1,094.80	7.33	* 2,492.20
10	1	EA	Remove and Dispose of Existing Chain Link Fence Backstop, Per Sheet G-07	392.17	392.17	250.00	250.00	2,100.00	2,100.00	101.67	101.67	732.50	732.50
11	171	SY	Remove and Dispose of Gravel Driveways (6" Depth)	8.48	1,450.08	16.00	2,736.00	12.50	2,137.50	13.33	2,279.43	35.98	* 6,152.58
12	70	SY	Remove and Dispose of Concrete Driveways (6" Depth)	14.39	1,007.30	23.60	1,652.00	36.50	2,555.00	20.69	1,448.30	32.96	* 2,307.20
13	119	SY	Remove and Dispose of Existing Concrete Paving	9.52	1,132.88	23.60	2,808.40	29.00	3,451.00	20.53	2,443.07	32.96	* 3,922.24
14	516	SY	Remove and Dispose of Existing Concrete Sidewalk and Curb Ramps	11.37	5,866.92	10.00	5,160.00	16.50	8,514.00	17.14	8,844.24	26.37	13,606.92
15	1,278	LF	Remove and Dispose of Existing Concrete Curb	3.38	4,319.64	7.85	10,032.30	11.65	14,888.70	3.42	4,370.76	8.79	11,233.62
16	8	SY	Remove and Dispose of Paver Sidewalk	41.55	332.40	50.00	400.00	13.30	106.40	21.18	169.44	36.63	* 293.04
17	2	EA	Remove and Dispose of Brick Planter	223.80	447.60	200.00	400.00	213.00	426.00	184.85	369.70	732.50	1,465.00
18	20	LF	Remove and Salvage Brick Edging	42.70	854.00	20.00	400.00	11.00	220.00	5.08	101.60	14.65	293.00
19	130	LF	Remove and Salvage Stone Edging	9.84	1,279.20	7.50	975.00	13.00	1,690.00	4.56	592.80	17.58	* 2,285.40
20	1	LS	Remove and Salvage Cactus Landscaping	792.72	792.72	250.00	250.00	1,200.00	1,200.00	123.23	123.23	1,465.00	1,465.00
21	2	EA	Remove and Replace Brick Mailboxes and Planters	2,103.61	4,207.22	1,750.00	3,500.00	2,250.00	4,500.00	184.85	369.70	1,172.00	2,344.00
22	1,881	SY	Remove and Dispose of Existing Brick Pavers (3" Avg. Thickness)	2.44	4,589.64	2.90	5,454.90	11.00	20,691.00	13.28	24,979.68	26.37	49,601.97
23	1,881	SY	Remove and Dispose of Existing Concrete Paver Base (4.5"-5" Thickness)	5.30	9,969.30	6.75	12,696.75	11.50	21,631.50	15.99	30,077.19	26.37	49,601.97
24	682	SY	Mill & Dispose of 2" Existing Asphalt	4.92	3,355.44	9.50	6,479.00	7.00	4,774.00	6.87	4,685.34	7.33	* 4,999.06
25	84	SY	Remove Existing Asphalt and Base Material (7.5" Depth)	10.35	869.40	6.00	504.00	5.00	420.00	12.47	1,047.48	8.72	* 732.48
26	190	CY	Unclassified Roadway Excavation	14.78	2,808.20	25.80	4,902.00	36.00	6,840.00	25.26	4,799.40	12.45	* 2,365.50
27	2,453	SY	Subgrade Preparation	2.36	5,789.08	1.25	3,066.25	3.70	9,076.10	11.53	28,283.09	1.47	* 3,605.91
28	2,453	SY	Furnish and Install Tensar TX 130S Geogrid	2.26	5,543.78	2.60	6,377.80	2.95	7,236.35	6.05	14,840.65	4.29	* 10,523.37
29	2,453	SY	Furnish, Place and Compact 4" Crushed Limestone Base Material (Below New Curb Level), TxDOT Item 247, Class A, Grade 1-2	7.79	19,108.87	6.50	15,944.50	9.15	22,444.95	4.51	11,063.03	7.50	* 18,397.50
30	2,153	SY	Furnish, Place and Compact 4" Crushed Limestone Base Material (Between New Curbs), TxDOT Item 247, Class A, Grade 1-2	7.45	16,039.85	6.50	13,994.50	10.00	21,530.00	4.50	9,688.50	7.57	* 16,298.21
31	1,216	LF	Furnish & Install Standard Concrete Curb and Gutter	21.00	25,536.00	17.30	21,036.80	19.50	23,712.00	14.18	17,242.88	35.16	42,754.56
32	4	EA	Furnish & Install 25' Concrete Radius Returns	1,116.87	4,467.48	900.00	3,600.00	1,750.00	7,000.00	246.87	987.48	879.00	3,516.00
33	54	LF	Furnish & Install 6' Wide Concrete Valley Gutter	49.65	2,681.10	61.70	3,331.80	78.00	4,212.00	68.57	3,702.78	70.32	3,797.28
34	2,836	SY	Furnish & Install 2" Type D HMAC	11.06	31,366.16	11.10	31,479.60	13.85	39,278.60	18.37	52,097.32	19.21	* 54,479.56
35	100	LF	Sawcut Existing Driveway	8.46	846.00	4.00	400.00	4.00	400.00	12.54	1,254.00	3.66	* 366.00
36	100	LF	Sawcut Existing Asphalt Roadway	6.17	617.00	4.00	400.00	3.00	300.00	11.20	1,120.00	3.66	* 366.00
37	112	CY	Unclassified Sidewalk Excavation and Disposal	38.80	4,345.60	50.00	5,600.00	32.00	3,584.00	25.48	2,853.76	12.45	* 1,394.40
38	677	SY	Construct 4" Thick Reinforced Sidewalk Section, Including 2" Sand Bedding	54.33	36,781.41	52.40	35,474.80	56.50	38,250.50	42.08	28,488.16	55.22	* 37,383.94
39	13	EA	Construct Type 1 Curb Ramp Including Detectable Warning Pavers	1,359.48	17,673.24	1,925.00	25,025.00	1,200.00	15,600.00	236.96	3,080.48	2,197.50	28,567.50
40	2	EA	Construct Type 2 Curb Ramp Including Detectable Warning Pavers	1,888.88	3,777.76	1,925.00	3,850.00	1,210.00	2,420.00	294.86	589.72	2,197.50	4,395.00
41	80	CY	Unclassified Subgrade Excavation for Driveways (6" Thick)	24.61	1,968.80	87.00	6,960.00	32.00	2,560.00	32.87	2,629.60	5.13	* 410.40
42	80	CY	Stabilize and Compact Existing Subgrade Beneath Concrete Driveways (6" Thick)	77.53	6,202.40	31.00	2,480.00	3.70	296.00	35.52	2,841.60	57.47	* 4,597.60
43	450	SY	Furnish & Install Reinforced Concrete Driveway Section (6" Thick, 3,000 PSI Concrete)	63.53	28,588.50	60.00	27,000.00	79.50	35,775.00	68.02	30,609.00	65.93	* 29,668.50
44	42	LF	Furnish & Install 24" White Thermoplastic Stop Bar	30.80	1,293.60	31.00	1,302.00	38.50	1,617.00	9.40	394.80	45.12	* 1,895.04
45	136	LF	Furnish & Install 24" White Crosswalk, Measured As Width of Roadway	52.80	7,180.80	53.00	7,208.00	66.15	8,996.40	9.40	1,278.40	77.35	* 10,519.60
46	1	EA	Remove and Reset Existing "Dead End" Sign	435.90	435.90	250.00	250.00	405.00	405.00	154.68	154.68	732.50	732.50
47	340	LF	Furnish and Install 5' Tall Chain Link Fence	11.77	4,001.80	18.15	6,171.00	24.00	8,160.00	19.30	6,562.00	24.44	* 8,309.60
48	2	EA	Furnish and Install Single 5'x4' Chain Link Fence Gates	767.12	1,534.24	500.00	1,000.00	465.00	930.00	249.29	498.58	366.25	732.50
49	1	EA	Furnish and Install Double 5'x5' Chain Link Fence Gates	1,720.12	1,720.12	645.00	645.00	930.00	930.00	233.20	233.20	879.00	879.00
50	5	EA	Furnish and Install 5' Tall Chain Link Fence Corner	260.54	1,302.70	175.00	875.00	440.00	2,200.00	194.99	974.95	146.50	732.50
51	2	EA	Connect to Existing Chain Link Fence	220.00	440.00	435.00	870.00	260.00	520.00	156.06	312.12	146.50	293.00
52	1,100	SY	Furnish & Install Bermuda or St. Augustine Sod to Match Existing, Including Fertilizing & Watering to Promote and Establish Growth	6.40	7,040.00	11.75	12,925.00	8.30	9,130.00	6.59	7,249.00	10.26	* 11,286.00
53	100%	LS	Haul Off and Disposal of Brick Edging (From Item 18)	222.56	222.56	100.00	100.00	125.00	125.00	299.23	299.23	219.75	219.75
54	100%	LS	Haul Off and Disposal of Stone Edging (From Item 19)	222.56	222.56	200.00	200.00	150.00	150.00	1,829.88	1,829.88	219.75	219.75
55	100%	LS	Haul Off and Disposal of Cactus Landscaping (From Item 20)	222.56	222.56	150.00	150.00	150.00	150.00	724.96	724.96	219.75	219.75
TOTAL BASE BID AMOUNT - (Items 1 - 55)					\$ 330,237.67		\$ 338,432.40		\$ 429,145.00		\$ 362,347.01		\$ 501,667.91

* - Extended Amount provided does not equal product of Estimated Quantity and Unit Price.

BID TABULATION
CITY OF TEMPLE
7th STREET ROADWAY & SIDEWALK IMPROVEMENTS FROM AVENUE H SOUTH TO DEADEND (CDBG PROJECT)
March 8, 2019; 10:30 AM

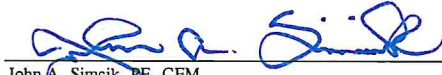
				BIDDER INFORMATION									
				Lone Star Grading & Materials, LLC P.O. Box 1162 Salado, Texas 76571		R.T. Schneider Constr. Co., LTD P.O. Box 876 Belton, Texas 76513		TTG Utilities, LP P.O. Box 299 Gatesville, Texas 76528		FCO Construction Services, LLC 1405 E. Rancier Avenue, Suite 100 Killeen, Texas 76541		Holy Contractors, LLC 712 E. Panther Way Hewitt, Texas 76643	
Add Alternate 1				Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount
Bid No.	Estimated Quantity	Unit	Bid Data Description										
A-1	450	CY	Unclassified Roadway Excavation	13.80	\$ 6,210.00	21.50	\$ 9,675.00	26.00	\$ 11,700.00	25.37	\$ 11,416.50	\$ 12.20 *	5,490.00
A-2	-2453	SY	Item 28 - Furnish and Install Tensar TX 130S Geogrid	2.26	(5,543.78)	2.60	(6,377.80)	2.95	(7,236.35)	6.05	(14,840.65)	4.29 *	(10,523.37)
A-3	-2453	SY	Item 29 - Furnish, Place and Compact 4" Crushed Limestone Base Material (Below New Curb Level), TxDOT Item 247, Class A, Grade 1-2	7.79	(19,108.87)	6.50	(15,944.50)	9.15	(22,444.95)	4.51	(11,063.03)	7.50 *	(18,397.50)
A-4	2453	SY	Furnish, Place and Compact 10" Crushed Limestone Base Material (Below New Curb Level), TxDOT Item 247, Class A, Grade 1-2	13.38	32,821.14	12.25	30,049.25	19.40	47,588.20	9.69	23,769.57	18.94 *	46,459.82
TOTAL ADD ALTERNATE 1 BID AMOUNT - (Items A-1 - A-4)					\$ 14,378.49		\$ 17,401.95		\$ 29,606.90		\$ 9,282.39		\$ 23,028.95

* - Extended Amount provided does not equal product of Estimated Quantity and Unit Price.

Did Bidder Acknowledge Addendum No. 1 & 2?	YES	YES	YES	YES	YES
Did Bidder provide Bid Security?	YES	YES	YES	YES	YES
Did Bidder provide required documents?	YES	YES	YES	NO	NO

TOTAL BASE BID AMOUNT	\$	330,237.67	\$	338,432.40	\$	429,145.00	\$	362,347.01	\$	501,667.91
TOTAL BASE BID AMOUNT + ADD ALTERNATE 1	\$	344,616.16	\$	355,834.35	\$	458,751.90	\$	371,629.40	\$	524,696.86

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

 3/11/19
John A. Simcik, PE, CFM
Kasberg, Patrick & Associates, LP

Date



RESOLUTION NO. 2019-9592-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH LONE STAR GRADING & MATERIALS, LLC OF SALADO, TEXAS IN THE AMOUNT OF \$344,616.16, TO CONSTRUCT ROADWAY AND SIDEWALK IMPROVEMENTS ON 7TH STREET FROM AVENUE H SOUTH TO THE DEAD-END; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City amended the Community Development Block Grant (CDBG) Annual Action Plan to reallocate funding for roadway and sidewalk improvements on 7th Street from Avenue H south to the dead-end at St. Mary's School - Kasberg, Patrick & Associates, LP, was selected to provide design and construction-phase services;

Whereas, five bids were received on March 8, 2019 - Staff and Kasberg, Patrick & Associates, LP reviewed the bid results, and recommend Council authorize a construction contract with Lone Star Grading & Materials, LLC of Salado, Texas in the base bid plus add alternate amount of \$344,616.16, to construct roadway and sidewalk improvements on 7th Street from avenue H south to the dead-end;

Whereas, funding for the construction contract is available in Account No. 260-6100-571-6317, Project No. 102008; 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute a construction contract with Lone Star Grading & Materials, LLC, of Salado, Texas in the base bid plus add alternate amount of \$344,616.16, to construct roadway and sidewalk improvements on 7th Street from avenue H south to the dead-end.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(J)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Floyd Mitchell, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract between the City of Temple and the Department of the Army, Corps of Engineers to reimburse the city for salary and benefit expenses and vehicle cost related to police patrols at Temple Lake Park from May 4, 2019, through September 2, 2019.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple and the US Army Corps of Engineers have identified a need for increased law enforcement services for Temple Lake Park on Lake Belton during the late spring and summer months. This contract will provide for the city to be reimbursed for up to 504 hours of additional police patrols within the park and vehicle cost. We have provided this service for the last six years that resulted in positive outcomes for both the City of Temple and the Corps of Engineers.

TERM OF AGREEMENT: This contract shall commence on May 4, 2019, and end on September 2, 2019.

FISCAL IMPACT: Per the contract, the Department of the Army, Corps of Engineers will reimburse approximately \$30,457 in police officer salaries and benefits, and \$10,080 in vehicle costs based on 504 hours of additional police patrols at Temple Lake Park.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9593-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH THE DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS, TO REIMBURSE THE CITY FOR SALARY, BENEFIT EXPENSES, AND VEHICLE COSTS RELATED TO POLICE PATROLS AT TEMPLE LAKE PARK FROM MAY 4, 2019 THROUGH SEPTEMBER 2, 2019; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple and the Department of the Army, Corps of Engineers have identified the need for increased law enforcement services at Temple Lake Park on Lake Belton during the late spring and summer months;

Whereas, Temple Police have provided this service for the past 6 years and it has resulted in positive outcomes for both the City of Temple and the Corps of Engineers – the new contract will begin on May 4, 2019 and end on September 2, 2019;

Whereas, the Army Corps of Engineers will reimburse the City for up to 504 hours of additional police patrols within Temple Lake Park as well as vehicle costs;

Whereas, Staff recommends Council authorize a contract with the Department of the Army, Corps of Engineers, to reimburse the City for salary and benefit expenses, and vehicle costs related to patrols at Temple Lake Park from May 4, 2019 through September 2, 2019;

Whereas, per the contract with the Department of the Army, the Corps of Engineers will reimburse approximately \$30,456.72 in police officer salaries and benefits, and \$10,080 in vehicle costs based on 504 hours of additional police patrols at Temple Lake Park; 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to enter into a contract with the Department of the Army, Corps of Engineers for reimbursement to the City for salary, benefit expenses and vehicle costs related to police patrols at Temple Lake Park from May 4, 2019 through September 2, 2019.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/2019
Item #7(K)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Floyd Mitchell, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing the submission of an application and acceptance of funding for a Victims of Crime Assistance Grant through the Criminal Justice Division of the Governor's Office.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Central Texas Council of Governments' (CTCOG) Criminal Justice Advisory Committee (CJAC) will review the grant application and make their recommendations to the CJD. The Crisis Assistance Program would provide services to victims and survivors of crime through intervention, counseling, advocacy, education and information and referral 24/7 to meet the needs of victim and survivors as well as law enforcement by freeing them up to attend to other calls.

The grant-funded projects must begin on or after October 1, 2019, and will be funded for two years, through September 30, 2021. If funding is available, we can reapply every two years. We would ask for services of a Licensed Professional Counselor (\$49,920), General Supplies (\$1,850), Emergency placement or shelter, clothing and transportation (\$5,000), and Travel and Training (\$3,000).

FISCAL IMPACT: If awarded the grant, the City would receive \$59,770 of grant funding. There is a match required that can be fulfilled through in-kind contributions and donations. The City's required match of \$14,942.50 would be met through the use of in-kind volunteer hours.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9594-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR A VICTIMS OF CRIME ASSISTANCE GRANT THROUGH THE CRIMINAL JUSTICE DIVISION OF THE GOVERNOR'S OFFICE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Central Texas Council of Governments' Criminal Justice Advisory Committee will review all grant applications and make their recommendations to the Criminal Justice Division;

Whereas, the Crisis Assistance Program provides services to victims and survivors of crime through intervention, counseling, advocacy, education and information and referral 24/7 to meet the needs of victim and survivors as well as law enforcement by freeing them to attend to other calls;

Whereas, the grant-funded projects must begin on or after October 1, 2019 and will be funded for two years through September 30, 2021 – if funding is available, the City can reapply every two years;

Whereas, if awarded, the City will receive \$59,770 of grant funding – the City's required match can be fulfilled through in-kind contributions and donations;

Whereas, the City's required match of \$14,942.50 will be met through the use of in-kind volunteer hours; 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute any documents which may be necessary to apply for the Victims of Crime Assistance Grant and accept these grant funds.

Part 3: The City Council assures that, in the event of loss or misuse of grant funds, the governing body of the City of Temple, Texas will return all funds received to the Criminal Justice Division.

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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(L)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kevin Beavers, CPRP, Director of Parks & Recreation
Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a one-year renewal to the lease between the City of Temple, City of Belton and the Secretary of the Army for the Miller Springs Nature Center.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY In May 2018, the City of Temple, the City of Belton, and the Secretary of the Army entered into a lease for the operation and maintenance of the Miller Springs Nature Center ("Nature Center"). The Nature Center is an approximately 258-acre scenic natural area located along the Leon River and 110-foot high bluffs, immediately east of Lake Belton Dam and along the boundaries of Temple and Belton. The land is owned by the Army Corp of Engineers. The Cities took over the operation and maintenance of the Nature Center in 2018 after the previous entity operating the Center was unable to continue.

The lease was for an initial term of one year, but included four, one-year renewal options. As part of the agreement, the City of Temple is responsible for general repair and maintenance of the Nature Center, the City of Belton organizes volunteer efforts and events, and the Secretary of the Army shreds the spill way area and maintains the gate hours of operation. City Staff is interested in renewing the lease for an additional year. The City of Belton and the Corps are also supportive of the renewal.

FISCAL IMPACT: Funding for repair and maintenance of the Miller Springs Nature Center in the amount of \$20,000 is appropriated in account 110-3500-552-2122.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9595-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE LEASE AGREEMENT BETWEEN THE CITY OF TEMPLE, CITY OF BELTON, AND THE SECRETARY OF THE ARMY FOR THE MILLER SPRINGS NATURE CENTER; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in May 2018, the City of Temple, the City of Belton, and the Secretary of the Army entered into a lease agreement for the operation and maintenance of the Miller Springs Nature Center (“Nature Center”) which is an approximately 258-acre scenic natural area located between the Leon River and 110-foot high bluffs, immediately east of the Lake Belton Dam and located along the boundaries of the City of Temple and City of Belton - the land is owned by the Army Corp of Engineers (“Corp”);

Whereas, the Cities took over the operation and maintenance of the Nature Center in 2018 after the previous entity operating the center was unable to continue;

Whereas, as part of the lease agreement, the City of Temple is responsible for general repair and maintenance of the Nature Center, the City of Belton organizes volunteer efforts and events, and the Secretary of the Army shreds the spill way area and maintains the gate hours of operation;

Whereas, the lease agreement was for an initial term of one year, but included four, one-year renewal options - Staff is interested in renewing the lease agreement for an additional year - the City of Belton and the Corps are also supportive of the renewal;

Whereas, Staff recommends Council authorize a one-year renewal to the lease agreement between the City of Temple, City of Belton, and the Secretary of the Army for the Miller Springs Nature Center – this will be the first one-year renewal authorized under the agreement, with three renewals remaining;

Whereas, funding for repair and maintenance of the Miller Springs Nature Center is appropriated in Account No. 110-3500-552-2122; 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to enter into a one-year renewal to the lease agreement between the City of Temple, City of Belton, and the Secretary of the Army for the Miller Springs Nature Center.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(M)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution granting an easement to Oncor Electric Delivery Company, LLC for electric utilities necessary for the construction of Crossroads Park.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple is currently in the construction phase of Crossroads Park. The park includes amenities such as soccer, baseball, and softball fields, disc golf, tennis courts, and concession and restroom facilities. Almost all the amenities require electricity to operate. Oncor Electric Delivery Company, LLC (Oncor) is the local electric delivery provider. In order to deliver the needed electricity to Crossroads Park, Oncor is seeking an easement from the City to install, construct, operate, maintain, replace, repair, upgrade, and remove electrical facilities (the Facilities). Improvement and maintenance of the Facilities will be at the sole expense of Oncor.

At this time, Staff is asking for authorization to grant an easement to Oncor Electric Delivery Company, LLC for electric utilities necessary for the construction of Crossroads Park.

FISCAL IMPACT: There is no request for reimbursement related to this easement since the sole purpose of the extension by Oncor is to provide needed service for Crossroads Park.

ATTACHMENTS:

[Proposed Easement Agreement](#)
[Easement Survey](#)
[Resolution](#)

PT #: 2019-0244
District: KRT / Temple
WR #: 3422729
ER #: _____

EASEMENT AND RIGHT OF WAY

STATE OF TEXAS

§

§

COUNTY OF BELL

§

KNOW ALL MEN BY THESE PRESENTS:

That **City of Temple, a Texas home rule city**, hereinafter called "Grantor", whether one or more, for and in consideration of Ten Dollars (\$10.00) and other valuable consideration to Grantor in hand paid by **Oncor Electric Delivery Company LLC, a Delaware limited liability company**, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202-1234, hereinafter referred to as "Grantee", has granted, sold and conveyed and by these presents does grant, sell and convey unto said Grantee, its successors and assigns, an easement and right-of-way for overhead and/or underground electric supply and communications facilities, consisting of a variable number of wires and cables, supporting structures, surface mounted equipment, conduits and all necessary or desirable appurtenances over, under, through, across and upon Grantor's land described as follows:

SEE EXHIBIT "A" (ATTACHED)

Grantor recognizes that the general course of said lines, or the metes and bounds as described above, is based on preliminary surveys only, and Grantor hereby agrees that the easement and right-of-way and its general dimensions hereby granted shall apply to the actual location of said lines when constructed.

Together with the right of ingress and egress along and upon said easement and right-of-way and over and across Grantor's adjoining properties for the purpose of and with the right to construct, maintain, operate, repair, remove, replace, reconstruct, abandon in place, and to change the size and capacity of said facilities; the right to relocate said facilities in the same relative direction of said facilities; the right to relocate said facilities in the same relative position to any adjacent road if and as such is widened in the future; the right to lease wire space for the purpose of permitting others to string or lay wire or cable along said facilities; the right to prevent excavation within the easement area; the right to prevent construction of, within the easement area, any and all buildings, structures or other obstructions which, in the sole judgment of Grantee, may endanger or interfere with the efficiency, safety, and/or convenient operation of said facilities and their appurtenances and the right to trim or remove trees or shrubbery within, but not limited to, said easement area, including by use of herbicides or other similar chemicals approved by the U.S. Environmental Protection Agency, to the extent in the sole judgment of Grantee, as may be necessary to prevent possible interference with the operation of said facilities or to remove possible hazard thereto. Grantor shall not make changes in grade, elevation or contour of the land or impound water within the easement area as described above without prior written consent of Grantee.

Grantor reserves the right to use the land within the above described easement area for purposes not inconsistent with Grantee's use of such property, provided such use shall not, in the sole judgment of Grantee, interfere with the exercise by Grantee of the rights hereby granted.

TO HAVE AND TO HOLD the above described easement and right-of-way unto the said Grantee, its successors and assigns, until all of said electric lines and facilities shall be abandoned, and in that event said easement and right-of-way shall cease and all rights herein granted shall terminate and revert to Grantor or Grantor's heirs, successors or assigns, and legal representatives, to warrant and forever defend the above described easement and right-of-way unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this ____ day of _____, A.D. 2019.

Grantor:

City of Temple, a Texas home rule city

By: _____
Timothy A. Davis, Mayor

Grantee:

Oncor Electric Delivery, LLC

By: _____

Printed Name: _____

Title: _____

Attest:

Lacy Borgeson, City Secretary

APPROVED AS TO FORM:

City Attorney's Office

STATE OF TEXAS

§
§
§

COUNTY OF BELL

BEFORE ME, the undersigned authority, on this day personally appeared **Timothy A. Davis**, as **Mayor** of the **City of Temple, a Texas home rule city**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A. D. 2019.

Notary Public in and for the State of Texas

CITY OF TEMPLE - ONCOR ELECTRIC DELIVERY COMPANY, LLC EASEMENT

Survey showing 0.126 ACRE, situated in the
Nancy Chance Survey, Abstract No. 5, Bell County, Texas.

This sketch to accompany a metes and bounds
description of the hereon shown 0.126 Acre tract.



5/8" Iron Rod
W/ACS Cap
Found

A= 202.03'
R= 980.00'
D= 11°48'43"
B= N 78°35'37" W
C= 201.68'

● Denotes 5/8" Iron Rod with "ACS"
cap Set, unless otherwise noted

LINE	BEARING	DISTANCE
L1	N 48°41'30" W	15.00'
L2	S 72°41'16" E	16.00'

PRAIRIE VIEW ROAD
(130' ROW) (Asphalt Surface)

PROPOSED CITY
OF TEMPLE PARK

CITY OF TEMPLE, TEXAS
Called 31.977 Acres
(Doc. # 2015-00006439)

N 72°41'16" W 1003.53'

3300'± To Hillland Road
(Research Parkway)

Calculated
Point

CITY OF TEMPLE, TEXAS
Called 31.977 Acres
(Doc. # 2015-00006439)

This project is referenced to the City of Temple Coordinate System, NAD 83,
Central Zone. All distances are horizontal surface distances unless noted and
all bearings are grid bearings. All coordinates are referenced to City
Monument No. 195. The theta angle at City Monument No. 195 is 01° 29' 35".
The combined correction factor (CCF) is 0.999851. Grid distance = Surface
distance X CCF. Geodetic north = Grid north + theta angle. Reference tie
from City monument No. 195 to the most easterly, northeast corner of this
31.977 acre tract is S 59°23'11" E 8776.45 feet. Published City coordinates for
project reference point 195 are N. = 10,392,013.38 E. = 3,203,350.90.

Revised 03-03-2019: Oncor Electric Delivery, LLC Easement

Survey
completed: 12-05-2018
Scale: 1" = 100'
Job No.: 171070.3
Dwg No.: 171070 Esmt
Drawn by: MDH
Surveyor: CCL # 4636
Copyright 2018 All County Surveying, Inc.

Plot Date: 12-07-2018



[Handwritten signature]

4330 South 5th Street
Temple, Texas 76702
254-718-2272 Killeen 254-634-4636
Fax 254-714-1608



FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

December 7, 2018

Surveyor's Field Notes for:

0.126 ACRE, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, being a portion of a called 31.977 acre tract of land conveyed to the City of Temple, Texas in Document No. 2015-00006439, Official Public Records of Real Property, Bel County, Texas, and being more particularly described as follows:

COMMENCING at a ½" iron rod found at the most easterly, northeast corner of said 31.977 acre tract;

THENCE S. 16° 58' 06" W., 70.65 feet, with the east line of said 31.977 acre tract, to a calculated point on the south right of way of Prairie View Road (no deed found) and *N. 72° 41' 16" W., 1003.53 feet*, over and across said 31.977 acre tract, with the south right of way of Prairie Vie Road, to a 5/8" iron rod with "ACS" cap set, for the northeast corner and **Point of Beginning** of this Oncor Electric Delivery Company, LLC Easement;

THENCE in a southerly direction, over and across said 31.977 acre tract, the following two (2) courses and distances:

- 1) **S. 37° 40' 50" W., 127.39 feet**, to a 5/8" iron rod with "ACS" cap set, for a corner of this Oncor Electric Delivery Company, LLC Easement;
- 2) **S. 41° 18' 30" W., 243.21 feet**, to a 5/8" iron rod with "ACS" cap set, for the southeast corner of this Oncor Electric Delivery Company, LLC Easement;

THENCE in a westerly direction, continuing over and across said 31.977 acre tract, **N. 48° 41' 30" W., 15.00 feet**, to a 5/8" iron rod with "ACS" cap set, for the southwest corner of this Oncor Electric Delivery Company, LLC Easement;

THENCE in a northerly direction, continuing over and across said 31.977 acre tract, the following two (2) courses and distances:

- 1) **N. 41° 18' 30" E., 242.74 feet**, to a 5/8" iron rod with "ACS" cap set, for a corner of this Oncor Electric Delivery Company, LLC Easement;
- 2) **N. 37° 40' 50" E., 121.35 feet**, to a 5/8" iron rod with "ACS" cap set on the south right of way of Prairie View Road, for the northwest corner of this tract of this Oncor Electric Delivery Company, LLC Easement, from which a 5/8" iron rod found on the south right of way of Prairie View bears *N. 72° 41' 16" W., 312.52 feet* and with a curve to the left, *202.03 feet*, having a *radius of 980.00 feet*, a *delta angle of 11° 48' 43"* and a *chord which bears N. 78° 35' 37" W., 201.68 feet*;

CITY OF TEMPLE
ONCOR ELECTRIC DELIVERY COMPANY, LLC EASEMENT

2

THENCE in an easterly direction, with the south right of way of Prairie View Road, **S. 72° 41' 16" E., 16.00 feet**, to the **POINT OF BEGINNING** and containing 0.126 Acre of Land.

This project is referenced to the City of Temple Coordinate System, NAD 83, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 195. The theta angle at City Monument No. 195 is 01° 29' 35". The combined correction factor (CCF) is 0.999851. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City monument No. 195 to the most northeast corner of this 0.126 acre tract is S 57°11'30" E 7822.25 feet. Published City coordinates for project reference point 195 are N. = 10,392,013.38 E. = 3,203,350.90.

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

This metes and bounds description to accompany a Surveyors Sketch of the herein described 0.126 Acre tract.

Surveyed December 5, 2018

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

Server/projects/pro170000/171000/171070/171070 Esmt.doc



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

RESOLUTION NO. 2019-9596-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING AN EASEMENT TO ONCOR ELECTRIC DELIVERY COMPANY, LLC FOR ELECTRIC UTILITIES NECESSARY FOR THE CONSTRUCTION OF CROSSROADS PARK; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is currently in the construction phase of Crossroads Park which includes amenities such as soccer, baseball, and softball fields, disc golf, tennis courts, and concession and restroom facilities;

Whereas, almost all of the amenities require electricity to operate and Oncor Electric Delivery Company, LLC (Oncor) is the local electric delivery provider;

Whereas, to deliver the needed electricity to Crossroads Park, Oncor is seeking an easement from the City to install, construct, operate, maintain, replace, repair, upgrade, and remove electrical facilities (the Facilities) - improvements and maintenance of the Facilities will be at the sole expense of Oncor;

Whereas, Staff recommends Council grant an easement to Oncor Electric Delivery Company, LLC for electric utilities necessary for the construction of Crossroads Park;

Whereas, there is no request for reimbursement related to this easement since the sole purpose of the extension by Oncor is to provide the needed service for Crossroads Park; 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 grants an easement to Oncor Electric Delivery Company, LLC for electric utilities necessary for the construction of Crossroads Park.

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

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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(N)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, PE, Interim Public Works Director
Carrie Weir, Interim Utility Director

ITEM DESCRIPTION: Consider adopting a resolution ratifying an emergency construction contract for the repair of a 30-inch transmission main repair with McLean Construction, Inc. of Killeen in the amount of \$49,119.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: City staff recently identified a leak in a 30-inch line on an export waterline adjacent to the Water Treatment Plant. Investigation by Public Works Department Staff and Kasberg, Patrick & Associates, LP (KPA) revealed that the leak was minor now; however, there is a risk that the leak could worsen causing a major issue to the City's ability to distribute water throughout the City. Based on the critical nature of this water supply main, and the need to have this repair completed prior to the peak water demand season, Staff proceeded with the procurement of this needed repair as an emergency.

KPA prepared specifications for the project and four vendors who often perform utility projects for the City were invited to a pre-bid meeting and submit a bid for this project. As indicated in the attached KPA Letter of Recommendation and bid tabulation, two contractors submitted a bid for the emergency project in the amounts of \$49,119 and \$59,955.72.

Due to the time sensitivity of this project, Staff proceeded with a contract with the low bidder, McLean Construction, Inc., prior to receiving Council's approval. This process was used per the bidding exemption under the Local Government Code §252.022(a)(1-3), "unforeseen damage to property and repairs that are needed quickly to preserve the property of the City and to protect the public health and safety of the City's residents". Staff is requesting Council's authorization to ratify this contract.

Per the contract, the work will be completed by April 26, 2019.

FISCAL IMPACT: Funding for the emergency construction contract with McLean Construction, Inc. in the amount of \$49,119 is available in account 520-5900-535-6357, project 102015, as follows:

Project Budget	\$	49,119
Encumbered/Committed to Date		-
McLean Construction, Inc. - Emergency Construction Contract		(49,119)
Remaining Project Funds Available	\$	-

ATTACHMENTS:

[Engineer's Letter of Recommendation](#)
[Bid Tabulation](#)
[Resolution](#)



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
Texas Firm F-510

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

RICK N. KASBERG, P.E.
R. DAVID PATRICK, P.E., CFM
THOMAS D. VALLE, P.E.
GINGER R. TOLBERT, P.E.
ALVIN R. "TRAE" SUTTON, III, P.E., CFM
JOHN A. SIMCIK, P.E., CFM

Georgetown
1008 South Main Street
Georgetown, Texas 78626
(512) 819-9478

March 11, 2019

Mr. Edward Kolacki
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple, Texas
Emergency Repair of 30" Transmission Main

Dear Mr. Kolacki:

On March 11, 2019, the City of Temple received quotes from two contractors for the Emergency Repair of the 30" Transmission Main at the Water Treatment Plant. Quotations were requested from four contractors and all attended the non-mandatory pre-bid conference.

The attached Bid Tabulation shows McLean Construction, Inc. of Killeen, Texas as the low bidder in the amount of \$49,119.00. Bell Contractors, Inc. of Belton, Texas submitted a bid in the amount of \$59,995.72.

Our Final Opinion of Probable Construction Cost for the project was \$40,000 to \$60,000. McLean Construction, Inc. has constructed numerous projects for the City and is qualified to complete this emergency repair. We recommend that a contract be awarded to McLean Construction, Inc. in the amount of \$49,119.00.

Sincerely,

A handwritten signature in blue ink that reads 'Ginger R. Tolbert'.

Ginger R. Tolbert, P.E.
Principal

BID TABULATION
CITY OF TEMPLE
EMERGENCY REPAIR OF 30" TRANSMISSION MAIN AT WATER TREATMENT PLANT

March 11, 2019; 11:00 AM

BIDDER INFORMATION									
McLean Construction Inc 4101 Trimmier Rd Killeen TX 76542					Bell Contractors Inc 3082 W Hwy 190 Belton TX 76513				
Bid No.	Estimated Quantity	Unit	Bid Data Description	Unit Price	Extended Amount	Unit Price	Extended Amount		
BASE BID									
1	100%	LS	Mobilization, Bonds and Insurance, not-to-exceed 5% of the Bid Amount	\$ 2,443.00	\$ 2,443.00	\$ 2,945.32	\$ 2,945.32		
2	100%	LS	Submit Trench Safety Plan prepared and signed by P.E., in Conformance with State Law and OSHA	2,050.00	2,050.00	2,811.23	2,811.23		
3	600	SF	Implement and Follow Trench Safety Plan	7.00	4,200.00	15.98	9,588.00		
4	1	EA	Furnish & Install 30" Diameter, FLG X PE, Ductile Iron Pipe Spool, Including Thrust Restraint	3,957.00	3,957.00	6,234.15	6,234.15		
5	1	EA	Furnish & Install 30" Diameter, PE X PE, Ductile Iron Pipe Spool, Including Thrust Restraint	3,957.00	3,957.00	6,179.05	6,179.05		
6	1	EA	Furnish & Install 24" Diameter, FLG X FLG, Ductile Iron Pipe, Including Thrust Restraint	3,010.00	3,010.00	4,953.86	4,953.86		
7	3	EA	Furnish and Install 30" Megalug	2,281.00	6,843.00	2,590.99	7,772.97		
8	1	EA	Furnish and Install 30" X 24", FLG X FLG Reducer	4,247.00	4,247.00	5,482.23	5,482.23		
9	1	EA	Furnish and Install 30" MJ X MJ Long Sleeve	2,393.00	2,393.00	4,169.98	4,169.98		
10	100%	LS	Remove & Replace Meter Vault Wall/Top	8,982.00	8,982.00	5,634.45	5,634.45		
11	100%	LS	Connect to Existing Meter Vault Piping and to Existing Tee	7,037.00	7,037.00	4,184.48	4,184.48		
BASE BID AMOUNT - (Items 1 - 11)				\$	49,119.00	\$	59,955.72		

Did Bidder Acknowledge Addendum No. 1	YES	YES
Did Bidder provide required documents?	YES	YES

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



Ginger R. Tolbert
Ginger R. Tolbert, PE
Kasberg, Patrick & Associates, LP

3/11/19
Date

RESOLUTION NO. 2019-9597-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT WITH MCLEAN CONSTRUCTION OF KILLEEN, TEXAS IN THE AMOUNT OF \$49,119, FOR THE REPAIR OF A 30-INCH TRANSMISSION MAIN; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, City staff recently identified a leak in a 30-inch line on an export waterline adjacent to the Water Treatment Plant - investigation by Public Works Staff and Kasberg, Patrick & Associates, LP (KPA) revealed that the leak was minor, however, there is a risk that the leak could worsen causing a major issue to the City's ability to distribute water throughout the City;

Whereas, based on the critical nature of this water supply transmission main, and the need to have this repair completed prior to the peak water demand season, Staff proceeded with the procurement of this needed repair as an emergency;

Whereas, KPA prepared specifications for the project and four vendors who often perform utility projects for the City were invited to a pre-bid meeting and to submit a bid for this project - two contractors submitted a bid for the emergency project in the amounts of \$49,119 and \$59,955.72;

Whereas, due to the time sensitivity of this project, Staff proceeded with a contract with the low bidder, McLean Construction, Inc., prior to receiving Council's approval - this process was used per the bidding exemption under the Local Government Code §252.022(a)(1-3), "unforeseen damage to property and repairs that are needed quickly to preserve the property of the City and to protect the public health and safety of the City's residents;"

Whereas, Staff recommends Council ratify an emergency construction contract with McLean Construction of Killeen, Texas in the amount of \$49,119, for the repair of a 30-inch transmission main;

Whereas, funding for this emergency construction contract is available in Account No. 520-5900-535-6357, Project No. 102015;

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 ratifies an emergency construction contract with McLean Construction of Killeen, Texas in the amount of \$49,119, for the repair of a 30-inch transmission main.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, PE, Interim Public Works Director
Carrie Weir, Interim Utility Director

ITEM DESCRIPTION: Consider adopting a resolution ratifying a change order to an emergency construction contract for the repair of a 20-inch water transmission main at 909 West Park with All-Tex Utilities, LLC of Hillsboro, in the amount of \$63,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On February 7th Council ratified a contract with All-Tex Utilities, LLC (All-Tex) for an emergency repair to a 20-inch water transmission main at 909 West Park in the amount of \$109,834.90. Due to the lead-time for All-Tex to procure the necessary parts for the emergency project, All-Tex commenced performance of the work the week of February 25th.

Upon commencement of the work, it was quickly determined a fire suppression line to ER Carpenter was connected to the water main, and there was no way to properly make the emergency repair without turning off ER Carpenter's fire suppression water supply. The connection of the fire suppression line was not accurately documented on the City's utility maps. In order to make the repair to the 20-inch water main without turning off the water on the fire line, and to accommodate future work on water lines at the Park tank site, a valve needed to be added.

Due to the time sensitivity of this project, Staff proceeded with the execution of this change order for the installation of a specially manufactured stop and valve as an emergency since the initial 20-inch water transmission main repair could not be completed without this initial work. This process was used per the bidding exemption under the Local Government Code §252.022(a)(1-3), "unforeseen damage to property and repairs that are needed quickly to preserve the property of the City and to protect the public health and safety of the City's residents". Staff is requesting Council's authorization to ratify the execution of this change order.

FISCAL IMPACT: Funding for the change order with All-Tex Utilities, LLC in the amount of \$63,000 is available in account 520-5900-535-6357, project 102009, as follows:

Project Budget	\$	172,835
Encumbered/Committed to Date		(109,835)
Emergency Change Order – All-Tex Utilities		(63,000)
Remaining Project Funds Available	\$	-

ATTACHMENTS:
[Resolution](#)

RESOLUTION NO. 2019-9598-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING A CHANGE ORDER TO AN EMERGENCY CONSTRUCTION CONTRACT WITH ALL-TEX UTILITIES, LLC OF HILLSBORO, TEXAS IN THE AMOUNT OF \$63,000, FOR THE REPAIR OF A 20-INCH WATER TRANSMISSION MAIN AT 909 WEST PARK; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on February 7, 2019, Council ratified a contract with All-Tex Utilities, LLC (All-Tex) for an emergency repair to a 20-inch water transmission main at 909 West Park in the amount of \$109,834.90 - due to the lead-time for All-Tex to procure the necessary parts for the emergency project, All-Tex commenced performance of the work the week of February 25, 2019;

Whereas, upon commencement of the work, it was quickly determined a fire suppression line to ER Carpenter was connected to the water main, and there was no way to properly make the emergency repair without turning off ER Carpenter's fire suppression water supply - the connection of the fire suppression line was not accurately documented on the City's utility maps;

Whereas, in order to make the repair to the 20-inch water main without turning off the water on the fire line, and to accommodate future work on water lines at the West Park tank site, a valve needed to be added;

Whereas, due to the time sensitivity of this project, Staff proceeded with the execution of this change order for the installation of a specially manufactured stop and valve as an emergency since the 20-inch water transmission main repair could not be completed without this initial work;

Whereas, this process was used per the bidding exemption under the Local Government Code §252.022(a)(1-3), "unforeseen damage to property and repairs that are needed quickly to preserve the property of the City and to protect the public health and safety of the City's residents;"

Whereas, Staff recommends Council ratify a change order to an emergency construction contract with All-Tex Utilities, LLC of Hillsboro, Texas in the amount of \$63,000, for the repair of a 20-inch water transmission main at 909 West Park;

Whereas, funding for this change order is available in Account No. 520-5900-535-6357, Project No. 102009;

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 ratifies a change order to an emergency construction contract with All-Tex Utilities, LLC of Hillsboro, Texas in the amount of \$63,000, for the repair of a 20-inch water transmission main at 909 West Park, and authorizes the City Manager or her designee, after approval as to form by the City Attorney, to execute any documents associated with this change order.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution ratifying the purchase of property situated 515 South 18th Street in an amount not to exceed \$10,500.

STAFF RECOMMENDATION: Adopt resolution presented in item description.

ITEM SUMMARY: The property is located in a strategic area of revitalization, in particular the Ferguson Park area. Staff became aware the property was listed on the March 5, 2019 delinquent tax sale and was able to acquire the property for \$10,500. The Bell County Tax Appraisal District's appraised value is 21,240. After the City receives the Sheriff's Deed, Staff will evaluate the condition of the structure, along with the needs of the neighborhood, to determine the best use of the property, such as green space or re-build with a strategic partner.

The Bell CAD ID number for the property is 67159.

FISCAL IMPACT: Funding for the purchase of property situated 515 South 18th Street in an amount not to exceed \$10,500 is appropriated in account 365-3400-531-6884, project 101234.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9599-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
RATIFYING THE PURCHASE OF PROPERTY SITUATED AT 515 SOUTH
18TH STREET, TEMPLE, TEXAS, IN AN AMOUNT NOT TO EXCEED \$10,500;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, 515 South 18th Street (Bell CAD No. 67159) is located in a strategic area of revitalization, in particular the Ferguson Park area;

Whereas, Staff became aware the property was listed on the March 5, 2019 delinquent tax sale and was able to acquire the property for \$10,500 – the Bell County Tax Appraisal District’s appraised value is \$21,240;

Whereas, after the City receives the Sheriff’s Deed, Staff will evaluate the condition of the structure, along with the needs of the neighborhood, to determine the best use of the property, such as green space or re-build with a strategic partner;

Whereas, Staff recommends Council ratify the purchase of 515 South 18th Street, Temple, Texas from the March 5, 2019 Bell County Tax Appraisal District delinquent tax sale in an amount not to exceed \$10,500;

Whereas, funding for this property purchase is appropriated in Account No. 365-3400-531-6884, Project No. 101234; 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 ratifies the purchase of 515 South 18th Street, Temple, Texas from the March 5, 2019 Bell County Tax Appraisal District delinquent tax sale in an amount not to exceed \$10,500.

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

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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution ratifying the conveyance of 16.659 acres of property from the Temple Economic Development Corporation to the City of Temple for use as public right-of-way.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY The Temple Economic Development Corporation ("TEDC") owns approximately 305 acres of property located at the southeast corner of Wendland Road and Moores Mill Road. Portions of this property will be conveyed to Niagara Water Bottling and East Penn Manufacturing for construction of their new facilities. Through the subdivision and platting process, it was discovered that additional property needed to be conveyed to the City for use as public right-of-way along Wendland Road and Moores Mill Road to ensure that the two companies had proper access to their new sites. On March 4, 2019, a Special Warranty Deed was executed by TEDC, as the Grantor, and the City as the Grantee, conveying to the City approximately 16.659 acres of property to be used for vehicular and pedestrian traffic.

Staff is requesting that Council ratify the conveyance of this property and the designation of such property as public right-of-way.

FISCAL IMPACT: At the present time, the property is exempt from property taxes, and it will remain so under the ownership of the City.

ATTACHMENTS:

[Special Warranty Deed](#)
[Resolution](#)

Special Warranty Deed

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.

Date: March 4, 2019

Grantor: TEMPLE ECONOMIC DEVELOPMENT
CORPORATION, a Texas nonprofit corporation

Grantor's Mailing Address: 201 Santa Fe Way, Suite 103
Temple, TX 76501 (Bell County)

Grantee: City of Temple, Texas

Grantee's Mailing Address: 2 N Main Street
Temple, TX 76501 (Bell County)

Consideration: Cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

Property (including any improvements):

BEING all that real property described in Exhibits "A", "B", "C" and "D" attached hereto and incorporated herein, for all purposes.

Reservations from and Exceptions to Conveyance and Warranty:

This conveyance is made and accepted subject to all restrictions, covenants, mineral or royalty conveyances or reservations, and easements, if any, relating to the Property, but only to the extent that they are still in force and effect and are visible, apparent, or shown of record in the hereinabove mentioned County and State, and to all zoning laws, regulations, and ordinances of municipal or other governmental authorities, if any, relating to the Property

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, does hereby grant, sell, and convey to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same

or any part thereof, by, through, or under Grantor, but no further, and except as to the reservations from and exceptions to warranty.

Public Right of Way: Grantee joins in the execution of this Deed to confirm its acceptance of the Property pursuant to the terms of this Deed, and to declare that the Property conveyed hereby is, by the execution and recording of this Deed, dedicated forever to the general public as right-of-way for vehicular and pedestrian traffic.

When the context requires, singular nouns and pronouns include the plural.

[Signatures on Following Pages]

EXECUTED to be effective on the date above first written.

**TEMPLE ECONOMIC DEVELOPMENT
CORPORATION**, a Texas nonprofit corporation

By:


ADRIAN CANNADY, President

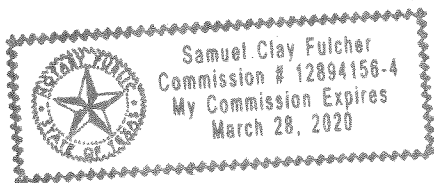
THE STATE OF TEXAS §


§

COUNTY OF BELL §

§

This instrument was acknowledged before me on the 4th day of March, 2019, by ADRIAN CANNADY, President of TEMPLE ECONOMIC DEVELOPMENT CORPORATION, a Texas nonprofit corporation, on behalf of said corporation.




Notary Public in and for the State of Texas

EXECUTED to be effective on the date above first written.

CITY OF TEMPLE, TEXAS




By:


Timothy A. Davis, Mayor

THE STATE OF TEXAS
COUNTY OF BELL

§
§

This instrument was acknowledged before me on the 4 day of March, 2019, by Timothy A. Davis, Mayor of the City of Temple, Texas, a Texas home-rule municipality, on behalf of said municipality.


Notary Public, State of Texas

APPROVED AS TO FORM:



City Attorney's Office



Return recorded documents to:

City Attorney's Office
2 N Main St., STE 308
Temple, TX 76501

EXHIBIT "A"

1.105 ACRE, situated in the M. A. Young Survey, Abstract 937 and the J. W. Moore Survey, Abstract 582, Bell County, being a portion of a called 53.18 Acre tract conveyed to the Temple Economic Development Corporation in Volume 6155, Page 854, Official Public Records of Real Property, Bell County, Texas, and being more particularly described as follows:

BEGINNING at a $\frac{1}{4}$ " iron pipe found at the southwest corner of said 53.18 Acre tract, being the northwest corner of a tract conveyed to the City of Temple in Volume 4572, Page 488, Official Public Records of Real Property, Bell County, Texas, being on the existing east line of a public roadway known as Wendland Road, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said Wendland Road, **N 15° 02' 03" E – 797.75'**, to a $\frac{1}{4}$ " iron pipe found at the southwest corner of a called 10.05 Acre tract conveyed to the City of Temple in Volume 8575, Page 14, Official Public Records of Real Property, Bell County, Texas, same being the northwest corner of said 53.18 Acre tract, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said 10.05 Acre tract, **S 72° 43' 54" E – 67.14'**, to a calculated point for the northeast corner of the herein described tract;

THENCE, in a southerly direction, severing said 53.18 Acre tract, **S 16° 00' 08" W – 797.37'**, to a $\frac{5}{8}$ " iron rod set on the north line of said City of Temple tract (Vol. 4572, Pg. 488), for the southeast corner of the herein described tract;

THENCE, in a westerly direction, with the north line of said City of Temple tract (Vol. 4572, Pg. 488), **N 72° 41' 25" W – 53.66'**, to the **POINT OF BEGINNING** and containing 1.105 Acre of Land.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 69. The theta angle at City Monument No. 69 is 01°32'13". The combined correction factor (CCF) is 0.999847. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City Monument No. 69 to the southwest corner of said 1.105 acre tract is N 32°38'31" W, 4824.03 feet. Published City coordinates for City Monument No. 69 are N.= 10,391,122.28 E.= 3,229,942.69

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

EXHIBIT "B"

Page 1 of 2

12.38 ACRES, situated in the M. A. Young Survey, Abstract 937, the Elizabeth Berry Survey, Abstract 57, and the Wm. Gilmore Survey, Abstract 339, Bell County, Texas, being a portion of a called 10.05 Acre tract conveyed to the City of Temple in Volume 6575, Page 14, Official Public Records of Real Property, Bell County, Texas, a portion of a called 10.08 Acre tract conveyed to the City of Temple in Volume 6576, Page 653, Official Public Records of Real Property, Bell County, Texas, a portion of a called 87.396 Acre tract conveyed to the City of Temple in Volume 3346, Page 338, Official Public Records of Real Property, Bell County, Texas, and a portion of a called 97.73 Acre tract conveyed to the City of Temple in Document No. 23241, Official Public Records of Real Property, Bell County, Texas, and being more particularly described as follows:

BEGINNING at a $\frac{3}{4}$ " iron pipe found at the southwest corner of said 10.05 Acre tract, being the northwest corner of a called 53.18 Acre tract conveyed to the Temple Economic Development Corporation in Volume 6155, Page 854, Official Public Records of Real Property, Bell County, Texas, and being on the existing east line of a public roadway known as Wendland Road, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said Wendland Road, the west line of said 10.05 Acre tract, and the west line of said 10.08 Acre tract, **N 15° 02' 03" E - 429.95'**, to a $\frac{3}{4}$ " iron pipe found at the southwest corner of said 87.396 Acre tract;

THENCE, continuing in said northerly direction, with the east line of said Wendland Road and the west line of said 87.396 Acre tract, **N 14° 43' 03" E - 1755.97'**, to a $\frac{3}{4}$ " iron pipe found, for the westernmost northwest corner of the herein described tract;

THENCE, in a northeasterly direction, with a cutback at the intersection of said Wendland Road and Moore's Mill Road, **N 63° 58' 29" E - 49.95'**, to a $\frac{3}{4}$ " iron pipe found on the south line of said Moore's Mill Road;

THENCE, in an easterly direction, with the south line of said Moore's Mill Road, same being the north line of said 87.396 Acre tract, **S 72° 57' 58" E - 2107.18'**, to a $\frac{3}{4}$ " iron pipe found at the northeast corner of said 87.396 Acre tract, same being the northwest corner of said 97.73 Acre tract;

THENCE, continuing in said easterly direction, with the south line of said Moore's Mill Road, same being the north line of said 97.73 Acre tract, **S 73° 00' 50" E - 856.69'**, to a $\frac{5}{8}$ " iron rod found at the northwest corner of a called 5.00 Acre tract conveyed to Lucy Kay Hendricks in Volume 3156, Page 698, Official Public Records of Real Property, Bell County, Texas, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said 5.00 Acre tract, **S 17° 00' 15" W - 132.19'**, to a $\frac{5}{8}$ " iron rod set, for the easternmost southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said 97.73 Acre tract, with a curve to the left, having a radius of 2425.00', a delta angle of 02° 00' 32", and a long chord which bears **N 72° 04' 08" W - 85.03'**; an arc length of 85.03', to a $\frac{5}{8}$ " iron rod set;

THENCE, continuing in said westerly direction, **N 73° 04' 24" W - 2770.86'**, to a $\frac{5}{8}$ " iron rod set;

EXHIBIT "B"

Page 2 of 2

THENCE, in a southwesterly direction, S 60° 47' 59" W – 103.96', to a 5/8" iron rod set;

THENCE, in a southerly direction, S 14° 40' 22" W – 1909.25', to a 5/8" iron rod set;

THENCE, continuing in said southerly direction, S 16° 00' 08" W – 100.58', to a calculated point on the south line of said 10.05 Acre tract, same being the north line of said 53.18 Acre tract, for the southernmost southeast corner of the herein described tract;

THENCE, in a westerly direction, with the north line of said 53.18 Acre tract, N 72° 43' 54" W – 67.14', to the POINT OF BEGINNING and containing 12.38 Acres of Land.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 69. The theta angle at City Monument No. 69 is 01°32'13". The combined correction factor (CCF) is 0.999847. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City Monument No. 69 to the southwest corner of said 12.38 acre tract is N 26°07'21" W, 5194.76 feet. Published City coordinates for City Monument No. 69 are N.= 10,391,122.28 E.= 3,229,942.69

EXHIBIT "C"

1.725 ACRES, situated in the Elizabeth Berry Survey, Abstract 57, Bell County, Texas, being a portion of a called 6.000 Acre tract conveyed to the City of Temple in Document No. 29380, Official Public Records of Real Property, Bell County, Texas and a portion of a called 97.73 Acre tract conveyed to the City of Temple in Document No. 23241, Official Public Records of Real Property, Bell County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod found at the northernmost northeast corner of said 6.000 Acre tract, being the northwest corner of a called 1.000 Acre tract conveyed as Tract Three to Robert E. Hendricks and wife, Mary R. Hendricks in Volume 4898, Page 772, Official Public Records of Real Property, Bell County, Texas, and being on the south line of a public roadway known as Moore's Mill Road, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said 1.000 Acre tract, S 16° 37' 55" W - 131.92', to a 5/8" iron rod set for the southeast corner of the herein described tract;

THENCE, in a westerly direction, N 72° 50' 07" W - 328.10', to a 5/8" iron rod set at the beginning of a curve to the right;

THENCE, continuing in said westerly direction, crossing the west line of said 6.000 Acre tract, same being the boundary line of said 97.73 Acre tract, with said curve to the right; having a radius of 2564.06', a delta angle of 05° 35' 30", and a long chord which bears N 70° 03' 39" W - 250.13'; an arc length of 250.23', to a 5/8" iron rod set on the east line of a called 5.00 Acre tract conveyed to Lucy Kay Hendricks in Volume 3158, Page 698, Official Public Records of Real Property, Bell County, Texas, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said 5.00 Acre tract, N 17° 38' 26" E - 151.61', to a 5/8" iron rod found on the curved south line of said Moore's Mill Road, for the northwest corner of the herein described tract;

THENCE, in a southeasterly direction, with the south line of said Moore's Mill Road, with a curve to the left; having a radius of 262.26', a delta angle of 31° 03' 03", and a long chord which bears S 57° 58' 48" E - 140.40'; an arc length of 142.13', to a 1/2" iron rod found;

THENCE, in an easterly direction, continuing with the south line of said Moore's Mill Road, S 73° 21' 00" E - 73.26', to a 1/2" iron rod found, being the northeast corner of said 97.73 Acre tract and the northwest corner of said 6.000 Acre tract;

THENCE, continuing in said easterly direction, with the south line of said roadway, and the north line of said 6.000 Acre tract, S 73° 23' 21" E - 366.51', to the POINT OF BEGINNING and containing 1.725 Acre of Land.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 69. The theta angle at City Monument No. 69 is 01° 32' 13". The combined correction factor (CCF) is 0.999847. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City Monument No. 69 to the northeast corner of said 1.725 acre tract is N 21° 29' 34" W, 5952.27 feet. Published City coordinates for City Monument No. 69 are N= 10,391,122.28 E= 3,229,942.69

EXHIBIT "D"

1.449 ACRE, situated in the Elizabeth Berry Survey, Abstract 57, Bell County, Texas, being a portion of a called 141.734 Acre tract conveyed as Tract I to the City of Temple in Volume 6244, Page 154, Official Public Records of Real Property, Bell County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod found at the northeast corner of said 141.734 Acre tract, being on the south line of a public roadway known as Moore's Mill Road and on the west line of the Burlington Northern Santa Fe Railroad, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said railroad, **S 19° 21' 41" E - 164.59'**, to a 5/8" iron rod set for the southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said 141.734 Acre tract, **N 72° 50' 07" W - 522.85'**, to a 5/8" iron rod set on the east line of a called 1.000 Acre tract conveyed as Tract Three to Robert E. Hendricks and wife, Mary R. Hendricks in Volume 4898, Page 772, Official Public Records of Real Property, Bell County, Texas, which bears **N 16° 38' 46" E - 74.85'** from a 1/2" iron rod found at the southeast corner of said 1.000 Acre tract, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said 1.000 Acre tract, **N 16° 38' 46" E - 133.94'**, to a 1/2" iron rod found on the south line of said Moore's Mill Road, which bears **S 73° 23' 21" E - 208.61'** from a 5/8" iron rod found at the northwest corner of said 1.000 Acre tract, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said Moore's Mill Road, **S 72° 36' 38" E - 426.10'**, to the **POINT OF BEGINNING** and containing 1.449 Acre of Land.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 69. The theta angle at City Monument No. 69 is 01°32'13". The combined correction factor (CCF) is 0.999847. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City Monument No. 69 to the northeast corner of said 1.449 acre tract is **N 27°30'48" W, 6033.79 feet**. Published City coordinates for City Monument No. 69 are **N.= 10,391,122.28 E.= 3,229,942.69**

**** Electronically Filed Document ****

**Bell County, Tx
Shelley Coston
County Clerk**

Document Number: 2019-8693

Recorded As : ERX-RECORDINGS

Recorded On: March 05, 2019

Recorded At: 01:15:20 pm

Number of Pages: 10

Book-VI/Pg: Bk-OR VI-10758 Pg-513

Recording Fee: \$43.00

Parties:

Direct- TEMPLE ECONOMIC DEVELOPMENT CORPORATION

Indirect- CITY OF TEMPLE

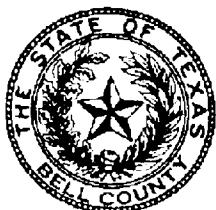
Receipt Number: 362594

Processed By: Danielle Garza

(Parties listed above are for Clerks reference only)

***** **THIS PAGE IS PART OF THE INSTRUMENT** *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.



I hereby certify that this instrument was filed on the date and time stamped hereon and was duly recorded in the Real Property Records in Bell County, Texas

**Shelley Coston
Bell County Clerk**

A handwritten signature in cursive script that reads "Shelley Coston".

RESOLUTION NO. 2019-9600-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING THE CONVEYANCE OF APPROXIMATELY 16.659 ACRES OF PROPERTY FROM THE TEMPLE ECONOMIC DEVELOPMENT CORPORATION TO THE CITY OF TEMPLE FOR USE AS PUBLIC RIGHT-OF-WAY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Economic Development Corporation (“TEDC”) owns approximately 305 acres of property located at the southeast corner of Wendland Road and Moores Mill Road - portions of this property will be conveyed to Niagara Water Bottling and East Penn Manufacturing for construction of their new facilities;

Whereas, through the subdivision and platting process, it was discovered that additional property needed to be conveyed to the City for use as public right-of-way along Wendland Road and Moores Mill Road to ensure that the two companies had proper access to their new sites;

Whereas, on March 4, 2019, a Special Warranty Deed was executed by TEDC, as the Grantor, and the City as the Grantee, conveying to the City approximately 16.659 acres of property to be used for vehicular and pedestrian traffic;

Whereas, Staff recommends Council ratify the conveyance of approximately 16.659 acres of property from the Temple Economic Development Corporation to the City of Temple for use as public right-of-way;

Whereas, at the present time, the property is exempt from property taxes, and it will remain so under the ownership of the City; and

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

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

Part 1: 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 ratifies the conveyance of approximately 16.659 acres of property from the Temple Economic Development Corporation to the City of Temple for use as public right-of-way.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(R)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of right-of-way and a temporary construction easement necessary for the Poison Oak Road Expansion Project and authorizing closing costs associated with the purchase in an estimated amount of \$46,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City is in the design phase for roadway improvements to Poison Oak Road from State Highway 317 to Old Waco Road. Improvements include expanding the current two-lane pavement section to a new four lane roadway, extending to connect to Old Waco Road, pedestrian facilities, drainage conveyance, utilities, street lighting, and landscaping.

The design requires the acquisition of right-of-way from thirty-two properties. Twenty-nine of the thirty-two properties are owned by twenty-five private citizens or entities. One right-of-way has been donated by Belton Independent School District. The City and the State of Texas (TxDOT) own the two remaining properties.

Appraisals have been conducted on all the properties and offers have been made to those property owners based on the appraisals. For those properties that require relocation, Stateside Right of Way Services, Inc. (Stateside) has prepared and presented the necessary relocation studies. The City has acquired seven rights-of-way and is coordinating closing on five rights-of-way. Council authorized eminent domain for one property at its January 17, 2019 meeting.

With the assistance of Stateside, the City has reached an agreement with a property owner. At this time, Staff is asking for authorization to purchase right-of-way and a temporary construction easement necessary for the Poison Oak Road Expansion Project and authorizing closing costs and associated with the purchase in an estimated amount of \$46,000.

The address and Bell County Appraisal District ID Number of the property is 5009 Hwy 317, #97438.

FISCAL IMPACT: Funding for the purchase of right-of-way and a temporary construction easement necessary for the Poison Oak Road Expansion Project and authorizing closing costs associated with the purchase in an estimated amount of \$46,000 is available in account 365-3400-531-6886, project 101715.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9601-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF RIGHT OF WAY AND TEMPORARY CONSTRUCTION EASEMENT NECESSARY FOR THE POISON OAK ROAD EXPANSION PROJECT; AUTHORIZING CLOSING COSTS ASSOCIATED WITH THE PURCHASE IN AN ESTIMATED AMOUNT OF \$46,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is in the design phase for roadway improvements to Poison Oak Road from State Highway 317 to Old Waco Road - improvements include expanding the current two-lane pavement section to a new four-lane roadway, extending to connect to Old Waco Road, pedestrian facilities, drainage conveyance, utilities, street lighting, and landscaping;

Whereas, the design requires the acquisition of rights of way from thirty-two properties and twenty-nine of the thirty-two properties are owned by twenty-five private citizens or entities – one right of way has been donated by Belton Independent School District and the other two remaining properties are owned by the City and the State of Texas (TxDOT);

Whereas, appraisals have been conducted on all of the properties and offers have been made to those property owners based on the appraisals - for those properties that require relocation, Stateside Right of Way Services, Inc. (Stateside) is preparing the necessary relocation studies;

Whereas, the City has acquired seven rights of way and is coordinating closings on five rights of way - at its January 17, 2019, Council authorized the use of eminent domain for one property;

Whereas, with the assistance of Stateside, the City has reached an agreement with a property owner and Staff recommends Council authorize the purchase of one right of way and a temporary construction easement necessary for the Poison Oak Road expansion project, and authorize closing costs in an estimated amount of \$46,000 for the property addressed as 5009 State Highway 317, Temple, Texas (Bell CAD ID No. 97438);

Whereas, funding for the purchase of right of way and a temporary construction easement is available in Account No. 365-3400-531-6886, Project No. 101715; 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 authorizes the purchase of right of way and a temporary construction easement necessary for the Poison Oak Road Expansion Project, authorizes closing costs associated with the purchase in an estimated amount of \$46,000, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute any documents that may be necessary for the purchase of this property.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(S)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of two rights-of-way necessary for the expansion of Old Waco Road, Outer Loop Phase 6, and authorizing closing costs associated with the purchase in an estimated amount of \$305,000 and relocation benefits associated with this project in estimated amount of \$150,000.

STAFF RECOMMENDATION: Adopt resolution presented in item description.

ITEM SUMMARY: The expansion of Old Waco Road, the Outer Loop, is an important north-south arterial that will connect the Adams Avenue growth corridor to IH 35. This phase is currently under design with construction planned for FY2022. At this time, it is anticipated right-of-way will be needed from 17 properties owned by 13 private citizens. The City purchased one property necessary in an arms-length transaction in December 2018 when the property was listed for sale.

The City has contracted with Stateside Right of Way Services, Inc. (Stateside) to assist with acquisition and relocation services for this project. Because two owners of five of the needed rights-of-way are also impacted by the Charter Oak Water Line Project, Staff decided it was in both the owners and City's interest to acquire the needed interests at the same time. With the assistance of Stateside, appraisals and relocation studies were conducted for the impacted properties.

Offers were made to the two owners based on the appraisals and relocation studies presented to the owners and tenants. After negotiations, and with the assistance of Stateside, the City has reached an agreement with one of the property owners. Negotiations continue with the remaining property owner. The tenants on both properties have begun the relocation process.

At this time, Staff is asking for authorization to purchase two rights-of-way necessary for the expansion of Old Waco Road, Outer Loop Phase 6, and authorizing closing costs associated with the purchase in an estimated amount of \$305,000 and relocation benefits associated with this project in estimated amount of \$150,000.

The rights-of-way to be acquired are addressed as 4322 and 4306 Charter Oak Drive and have the following Bell CAD Id numbers: 84 and 85.

FISCAL IMPACT: Funding for the purchase of two rights-of-way necessary for the expansion of Old Waco Road, Outer Loop Phase 6, and authorizing closing costs associated with the purchase in an estimated amount of \$305,000 and relocation benefits associated with this project in estimated amount of \$150,000 for a total of \$455,000 is available in the Reinvestment Zone No. 1 Financing Plan, Line 320, account 795-9600-531-6557, project 101585

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9602-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF TWO RIGHTS OF WAY NECESSARY FOR THE EXPANSION OF OLD WACO ROAD, OUTER LOOP PHASE 6; AUTHORIZING CLOSING COSTS AND RELOCATION BENEFITS ASSOCIATED WITH THE PURCHASES IN A TOTAL ESTIMATED AMOUNT OF \$455,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the expansion of Old Waco Road, the Outer Loop, is an important north-south arterial that will connect the Adams Avenue growth corridor to IH 35 - this phase is currently under design with construction planned for fiscal year 2022;

Whereas, it is anticipated that right of way will be needed from seventeen properties owned by thirteen private citizens - the City purchased one property necessary in an arms-length transaction in December 2018 when the property was listed for sale;

Whereas, the City has contracted with Stateside Right of Way Services, Inc. (Stateside) to assist with acquisition and relocation services for this project - because two owners of five of the needed rights of way are also impacted by the Charter Oak Water Line Project, Staff decided that it was in both the owners' and City's interest to acquire the needed rights of way at the same time;

Whereas, with the assistance of Stateside, appraisals and relocation studies were conducted for the impacted properties and offers were made to the two owners based on the appraisals and relocation studies presented to the owners and tenants - after negotiations, and with the assistance of Stateside, the City has reached an agreement with one of the property owners;

Whereas, negotiations continue with the remaining property owner - the tenants on both properties have begun the relocation process;

Whereas, at this time, Staff recommends Council authorize the purchase of two rights of way necessary for the expansion of Old Waco Road, Outer Loop Phase 6, authorize closing costs associated with the purchase in an estimated amount of \$305,000, and authorize relocation benefits associated with this project in estimated amount of \$150,000;

Whereas, the property addresses are:

- 4322 Charter Oak Drive, Temple, Texas, Bell CAD ID No. 84
- 4306 Charter Oak Drive, Temple, Texas, Bell CAD ID No. 85;

Whereas, funding for the purchase of two rights of way is available in the Reinvestment Zone No. 1 Financing Plan, Line 320, Account No. 795-9600-531-6557, Project No. 101585; 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 authorizes the purchase of two rights of way necessary for the expansion of Old Waco Road, Outer Loop Phase 6, authorizes closing costs and relocation benefits associated with the purchases in a total estimated amount of \$455,000, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute any documents that may be necessary for the purchase of these properties.

Part 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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Page 1 of 4

DEPT./DIVISION SUBMISSION & REVIEW:

Tammy Lyerly, Senior Planner

ITEM DESCRIPTION: SECOND READING – FINAL HEARING – FY-19-4-ZC: Consider adopting an ordinance authorizing the rezoning of 86.91 +/- acres, situated in the Redding Roberts Survey, Abstract 692, and located at the intersection of FM 93 and Southwood Drive from Agricultural district to Planned Development Agricultural, with a required site/development plan.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its February 4, 2019, meeting the Planning and Zoning Commission voted 4/1(Commissioner Jeanes) to recommend approval of the requested rezoning from Agricultural (AG) district to Planned Development Agricultural (PD-AG) district and its site/development plan, per Staff's recommendation.

STAFF RECOMMENDATION: Staff recommends approval of the requested rezoning from Agricultural (AG) District to Planned Development Agricultural (PD-AG) District for the following reasons:

1. Compliance with the Future Land Use Plan;
2. Compliance with surrounding zoning and land uses; and
3. Compliance with the Thoroughfare Plan

And with the following conditions:

1. Development will be subject to the Planned Development Site Plan;
2. Development will also be subject to all Unified Development Code (UDC) platting requirements during the platting process;
3. Single Family Residential House Development Only
4. Minimum lot size is 0.75 acre;
5. Minimum front yard setback is 25 feet;
6. Side street building line is 15 feet;
7. Side building line is 7.5 feet;
8. Rear building line is 10 feet;
9. Sewer will be provided by on-site sewage facilities;
10. One 2-inch caliper (Diameter at Breast Height) canopy tree to be planted in the front yard of every lot. Species shall conform to the approved City of Temple Tree list, per the Unified Development Code (UDC);
11. A fence along FM 93 shall be a wood fence with masonry columns; and
12. No on-street parking is allowed due to the proposed 22-foot wide streets

ITEM SUMMARY: The applicant requests a rezoning from Agricultural District (AG) to Planned Development Agricultural District (PD-AG) to allow a 78-lot single family residential development consisting of lot sizes with a minimum lot area of 0.75 acres. Larger residential lots range from one acre to 2.89 acres along the property's south and east boundaries. In addition to detached single-family homes, the current AG zoning would allow manufactured housing with screening per Sec. 5.3.2 of the UDC on minimum lot sizes of one acre.

Development will be according to the proposed accompanying site/development plan. The development site plan reflects the creation of new local streets, as well as detention tracts for drainage.

The property to the west in Valley Ranch along Sun Valley Drive is subdivided into half-acre lots, and zoned PD Urban Estates. And to the east on Boutwell Drive, in the ETJ, homes are located on larger lots. A creek and a vegetation buffer separates the subject property from the homes along Boutwell Drive. An existing home to the south along Forrester Road, and south of the electrical sub-station is also on a large property.

Several property owners spoke out against the applicant's requested rezoning during the public hearing at the Planning and Zoning Commission on February 4, 2019. Due to overwhelming opposition to the 25-foot trail easement along the property's east boundary along Friar's Creek and the small likelihood that the City would ever build a trail at that location, staff has withdrawn the trail easement on the site/development plan from the recommended conditions for the proposed Planned Development. And the applicant has submitted the attached revised site/development plan without the trail easement, but with a second entrance along West FM 93.

Planned Development: UDC Section 3.4.1 defines a Planned Development as:

"A flexible overlay zoning district designed to respond to unique development proposals, special design considerations and land use transitions by allowing evaluation of land use relationships to surrounding areas through development plan approval."

As a Planned Development, a site/development plan is subject to review and approval as part of the rezoning. As opposed to a standard rezoning, conditions of approval can be included into the rezoning Ordinance. **The applicant has provided a site/development plan with this rezoning request.**

Per UDC Section 3.4.2C, the City Council may include additional conditions of approval into the rezoning ordinance.

In approving a Planned Development, the City Council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, access and circulations, signs, parking, building design, location and height, light and air, orientation, building coverage, outdoor lighting, landscaping, homeowners or property owners associations, open space, topography and screening.

The proposed Planned Development's "base" AG zoning district permits single-family detached residences and related accessory uses and accommodates large lot single-family residential developments.

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

Future Land Use and Character Plan (FLUP) (CP Map 3.1)

The **north portion** of the subject property along FM 93 is within the **Suburban Residential character district** of the *Choices '08* City of Temple Comprehensive Plan. The Suburban Residential land use classification is characterized by mid-size single family lots, allowing for greater separation between dwellings and more emphasis on green space versus streets and driveways than more dense subdivisions of urban character. **The applicant's requested Planned Development Agricultural District (PD-AG) complies with the Suburban Residential character district.**

The **south portion** of the subject property is within the **Agricultural / Rural character district** of the *Choices '08* City of Temple Comprehensive Plan. **The applicant's requested Planned Development Agricultural District (PD-AG) is compatible with the existing residential developments adjacent to the subject property.** The **Agricultural / Rural character district designation** applies to all areas outside the city limits.

Thoroughfare Plan (CP Map 5.2) and Temple Trails Master Plan Map and Sidewalk Ordinance

The subject property fronts FM 93, a major arterial. Southwood Drive bisects the subject property at FM 93 and runs south to a cul-de-sac for the existing electrical substation at the south property line.

FM 93 is only appropriate as a subdivision entrance. **Future homes will be prohibited from backing into FM 93 or accessing it directly. The proposed local streets within the subject property, shown on the attached Planned Development Site Plan, are ideal for residential dwellings.** The proposed Planned Development Site Plan reflects two new ingress/egress points into the development along FM 93 from new proposed roads. The applicant proposes removing the existing Southwood Drive to allow the creation of larger residential lots along the property's western border along the Valley Ranch development.

The Temple Trails Master Plan recommends a trail along the subject property's eastern boundary along the creek. City staff will evaluate other options to provide trail connectivity in this area in the future.

Availability of Public Facilities (CP Goal 4.1)

Existing water lines are located along the property's frontage along the south right-of-way of FM and within the Valley Ranch subdivision to the west. Existing sewer facilities are located to the west, within the adjacent Valley Ranch subdivision.

Proposed water and on-site sewerage facilities, as well as proposed drainage will be addressed during the platting process.

PUBLIC NOTICE: Twenty notices of the Planning and Zoning Commission public hearing were sent out to all City of Temple property owners within 200-feet of the subject property as required by State law and City Ordinance. As of Monday, February 25, 2019, no notices were returned in favor of the proposed rezoning and two notices were received in opposition to the proposed rezoning.

Five courtesy notices of the Planning and Zoning Commission public hearing were sent to property owners in the extra-territorial jurisdiction within 200-feet of the subject property.

The newspaper printed notice of the public hearing on January 24, 2019, in accordance with state law and local ordinance.




FISCAL IMPACT: Not Applicable

ATTACHMENTS:




[Site and Surrounding Property Photos](#)
[Maps](#)
[Development Regulation Tables](#)
[Notification Response Letters](#)
[P&Z Commission Minutes Excerpts](#)
[Site/Development Plan](#)
[Ordinance](#)

SURROUNDING PROPERTY AND USES:

The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	AG	Undeveloped Property	
East	No Zoning (ETJ)	Agricultural / Rural Residential/ Estate Homes	
			 <p>Creek – Boutwell Road View</p>

Direction	Zoning	Current Land Use	Photo
East			 <p>Boutwell Road</p>
West	PD-UE	Single Family Residential	 <p>FM 93</p>
			

Direction	Zoning	Current Land Use	Photo
South	No Zoning (ETJ)	Agricultural/ Rural Residential	 <p>Southwood Drive Cul-De-Sac</p>
			
North	AG & PD-GR	Agricultural and Undeveloped Land (future apartments)	 <p>FM 93</p>



AG To PD-AG

AERIAL MAP

Zoning Case :
FY-19-4-ZC

Address :
3093 W FM 93

Transportation

Streets

- MAJOR ARTERIAL
- LOCAL STREET
- PRIVATE

Temple Municipal Boundary

Parcel Features

- Parcels
- ETJ Parcels
- Production,SDE,Easement

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 as on the ground survey and represent only the approximate relative location of property boundaries and other features.

tylerly
Date: 1/11/2019



AG TO PD-AG

200'
NOTIFICATION MAP

Zoning Case :
FY-19-4-ZC

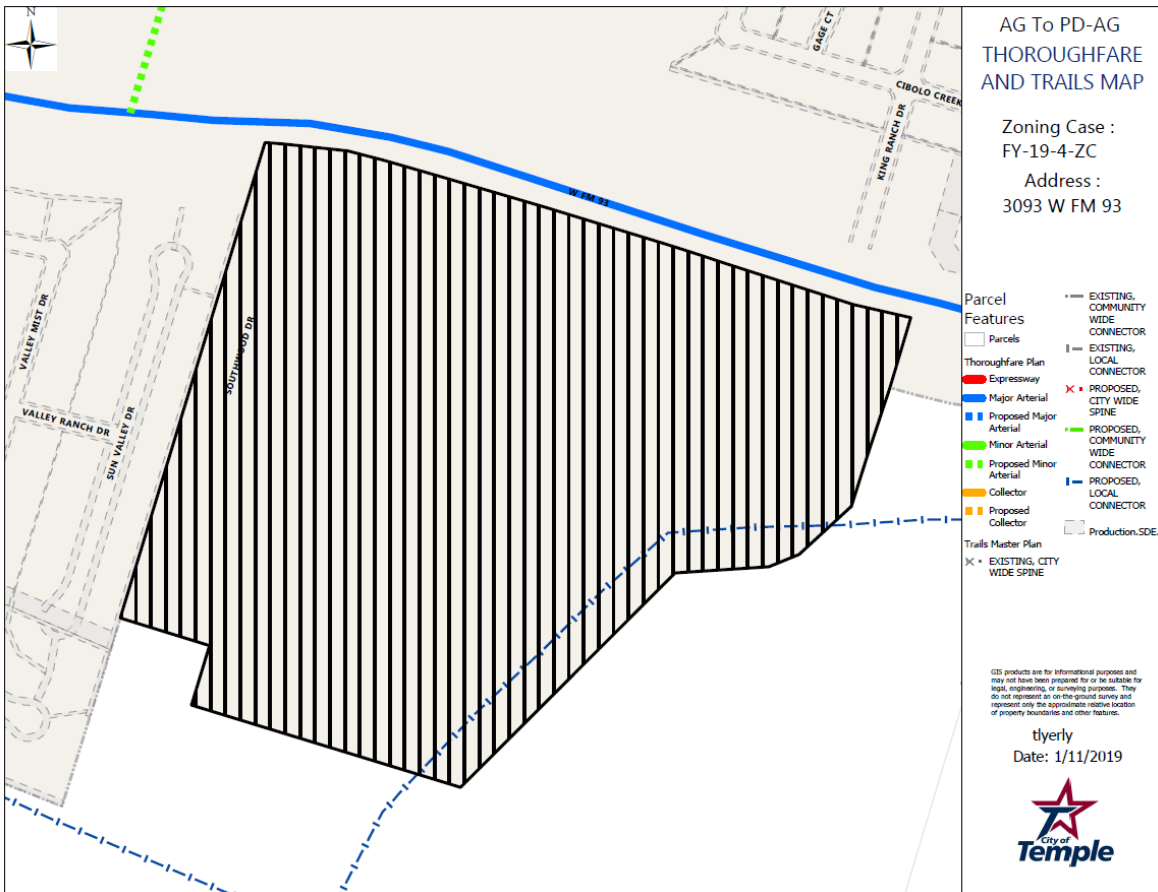
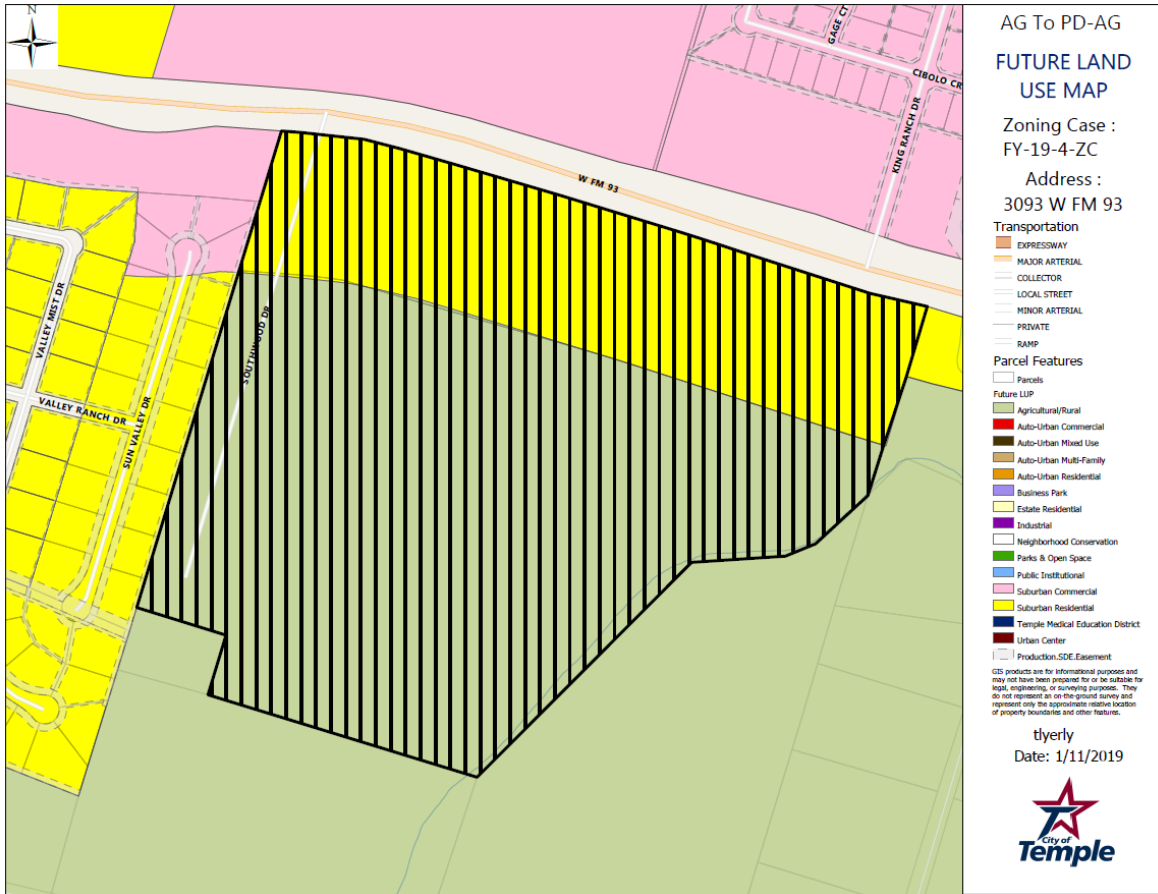
Address :
3093 W FM 93

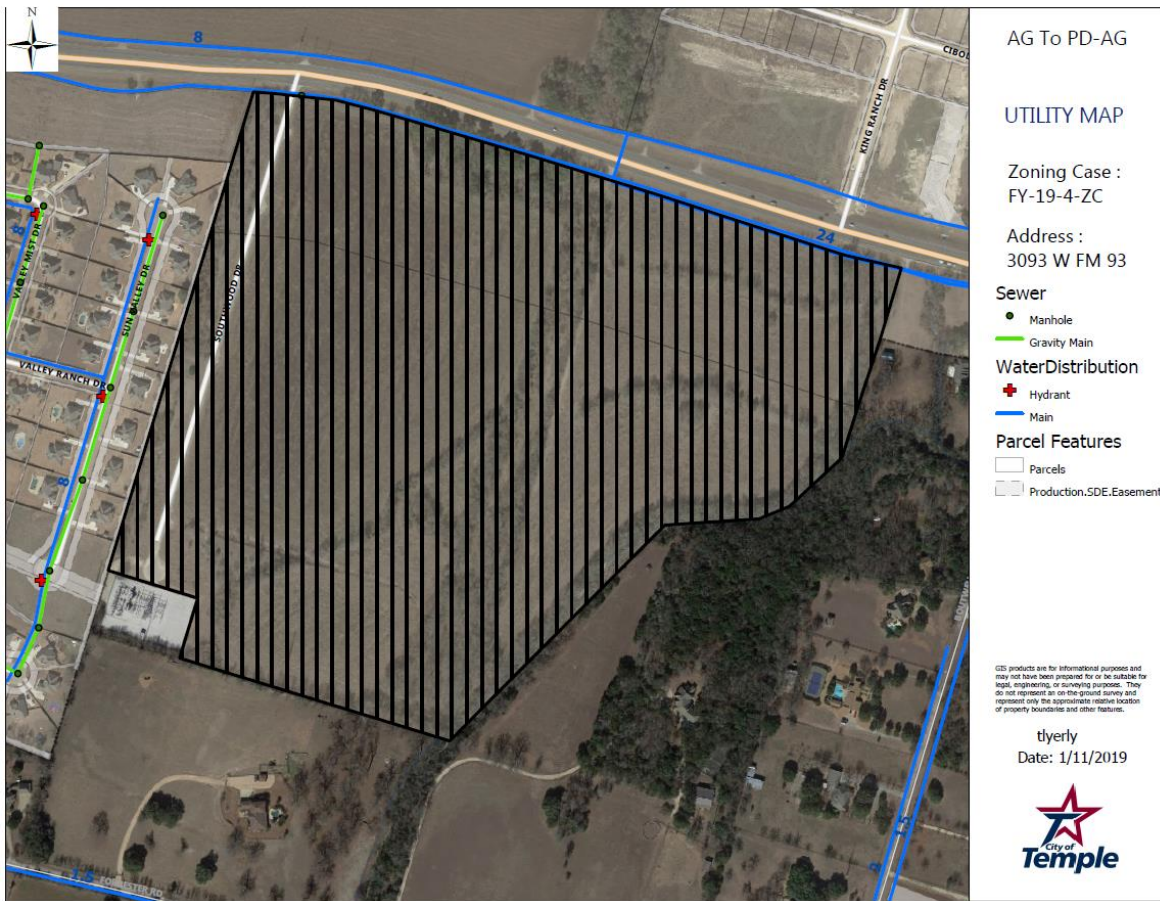
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| <ul style="list-style-type: none"> AG GR NS UE SP-1 SP-2 SP-3 SP-4 SP-5 SP-6 SP-7 SP-8 SP-9 SP-10 SP-11 SP-12 SP-13 SP-14 SP-15 SP-16 SP-17 SP-18 SP-19 SP-20 SP-21 SP-22 SP-23 SP-24 SP-25 SP-26 SP-27 SP-28 SP-29 SP-30 SP-31 SP-32 SP-33 SP-34 SP-35 SP-36 SP-37 SP-38 SP-39 SP-40 SP-41 SP-42 SP-43 SP-44 SP-45 SP-46 SP-47 SP-48 SP-49 SP-50 SP-51 SP-52 SP-53 SP-54 SP-55 SP-56 SP-57 SP-58 SP-59 SP-60 SP-61 SP-62 SP-63 SP-64 SP-65 SP-66 SP-67 SP-68 SP-69 SP-70 SP-71 SP-72 SP-73 SP-74 SP-75 SP-76 SP-77 SP-78 SP-79 SP-80 SP-81 SP-82 SP-83 SP-84 SP-85 SP-86 SP-87 SP-88 SP-89 SP-90 SP-91 SP-92 SP-93 SP-94 SP-95 SP-96 SP-97 SP-98 SP-99 SP-100 | <ul style="list-style-type: none"> AG GR NS UE SP-1 SP-2 SP-3 SP-4 SP-5 SP-6 SP-7 SP-8 SP-9 SP-10 SP-11 SP-12 SP-13 SP-14 SP-15 SP-16 SP-17 SP-18 SP-19 SP-20 SP-21 SP-22 SP-23 SP-24 SP-25 SP-26 SP-27 SP-28 SP-29 SP-30 SP-31 SP-32 SP-33 SP-34 SP-35 SP-36 SP-37 SP-38 SP-39 SP-40 SP-41 SP-42 SP-43 SP-44 SP-45 SP-46 SP-47 SP-48 SP-49 SP-50 SP-51 SP-52 SP-53 SP-54 SP-55 SP-56 SP-57 SP-58 SP-59 SP-60 SP-61 SP-62 SP-63 SP-64 SP-65 SP-66 SP-67 SP-68 SP-69 SP-70 SP-71 SP-72 SP-73 SP-74 SP-75 SP-76 SP-77 SP-78 SP-79 SP-80 SP-81 SP-82 SP-83 SP-84 SP-85 SP-86 SP-87 SP-88 SP-89 SP-90 SP-91 SP-92 SP-93 SP-94 SP-95 SP-96 SP-97 SP-98 SP-99 SP-100 |
|--|--|

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 as on the ground survey and represent only the approximate relative location of property boundaries and other features.

tylerly
Date: 1/11/2019







DEVELOPMENT REGULATIONS: Standards for the AG district are:

	AG
Minimum Lot Size	1 Acre
Minimum Lot Width	100 Feet
Minimum Lot Depth	150 Feet
Front Setback	50 Feet
Side Setback	15 Feet
Side Setback (corner)	15 Feet
Rear Setback	10 Feet
Max Building Height	3 Stories

Although the property is anticipated for development of detached single family residential dwellings, there are a number of other uses allowed in the AG district which, include but are not limited to:

Permitted & Conditional Use Table – Agricultural (AG)	
Agricultural Uses	* Farm, Ranch or Orchard
Residential Uses	* Single Family Residence (Detached Only) * Industrialized Housing * HUD-Code Manufactured Home
Retail & Service Uses	* None
Commercial Uses	* None
Industrial Uses	* Temporary Asphalt & Concrete Batching Plat (CUP)
Recreational Uses	* Park or Playground
Educational & Institutional Uses	* Cemetery, Crematorium or Mausoleum (CUP) * Place of Worship * Child Care: Group Day Care (CUP) * Social Service Center (CUP)
Restaurant Uses	* None
Overnight Accommodations	* None
Transportation Uses	* Railroad Track Right-of-Way

Prohibited uses include most commercial uses and industrial uses.

Surrounding Property & Uses			
<u>Direction</u>	<u>Future Land Use Map</u>	<u>Zoning</u>	<u>Current Land Use</u>
Site	Suburban Residential And Agricultural/Rural Residential	AG	Undeveloped Land
North	Suburban Commercial	PD-GR	Planned Development for Convenience Store, Single Family Residential, and Apartments
South	Agricultural/Rural Residential (ETJ)	No Zoning (ETJ)	Agricultural / Rural Residential / Estate Homes
East	Agricultural/Rural Residential (ETJ)	No Zoning (ETJ)	Agricultural / Rural Residential / Estate Homes
West	Suburban Residential	PD-UE	Single-Family Residential

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

:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use Map	Partial
CP	Map 5.2 - Thoroughfare Plan	YES
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	YES
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	YES

CP = Comprehensive Plan STP = Sidewalk and Trails Plan



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

397478
HAMM, JAMES R ETUX KELLEY L
6907 SUN VALLEY DR
TEMPLE, TX 76502

RECEIVED
JAN 28 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-4-ZC

Case Manager: Tammy Lyerly

Location: At the intersection of FM 93 and Southwood Drive, Temple, Texas

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 ☐ agree

☒ disagree with this request

Comments:

While this housing plan is much better than the plans in the past, this will still lead to major congestion on 93. I greatly disagree about removing the tree line west of Southwood Drive. The trees should be left alone for both additions if the new addition is approved.

Signature

Kelley L Hamm

Print Name

Kelley L. Hamm

kelleyhamm@gmail.com

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, tyerly@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **February 4, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 20

Date Mailed: January 23, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

RECEIVED
FEB 04 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

397480
PAVLISKA, STEVEN E ETUX AVERY D
6931 SUN VALLEY DR
TEMPLE, TX 76502

Zoning Application Number: FY-19-4-ZC

Case Manager: Tammy Lyerly

Location: At the intersection of FM 93 and Southwood Drive, Temple, Texas

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 ☐ agree

☒ disagree with this request

Comments:

Flooding and drainage issues

apl

Signature

Avery Pavliska

Print Name

apavliska@hotmail.com

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, tlyerly@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **February 4, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 20

Date Mailed: January 23, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, FEBRUARY 4, 2019**

ACTION ITEMS

Item 2: FY-19-4-ZC – Hold a public hearing to consider and recommend action on a rezoning with a site/development plan from Agricultural (AG) district to Planned Development Agricultural (PD-AG) district, on 86.91 +/- acres, situated in the Redding Roberts Survey, Abstract 692, Bell County, Texas, located at the intersection of FM 93 and Southwood Drive.

Ms. Tammy Lyerly, Senior Planner, stated this rezoning is scheduled to go forward to City Council for first reading on March 7, 2019 and second reading on March 21, 2019.

Subject property aerial map shown.

Applicant requests rezoning to allow for a 78-lot single-family residential development with septic system. Developer proposes to build a fence with stone columns along the FM 93 frontage on the property line to the south of the tree line which is in the Texas Department of Transportation (TXDOT) right of way (ROW).

Zoning map is shown and is found in compliance.

The Future Land Use Map is shown and is found in compliance. The Suburban Residential zoning district is characterized by mid-size single family lots, allowing for greater separation between dwellings and more emphasis on green space. The Agricultural Rural zoning district is characterized by rural properties, zoning of newly annexed tracts.

The Thoroughfare Map and Trails Plan is shown and is found in compliance.

The existing water and sewer map is shown and found in partial compliance. Water exists along South FM 93 ROW and applicant proposes a septic system as no sewer exists on site.

On-site and surrounding property photos are shown.

Development regulations and standards for the Agricultural (AG) District are shown. Applicant proposes minimum lot size of 0.75 acres with larger residential lots ranging from one acre to 2.89 acres along the east and south boundaries.

Agricultural permitted and conditional use table is shown.

Planned Development (PD) site plan is shown.

A larger version of the PD site plan is shown exhibiting the alternate entrance and a 25-foot trail easement. Ms. Lyerly stated that applicant proposes the rural local street size with the condition that no parking in the streets is allowed with posted signage.

Compliance Summary chart is shown, and all criteria are found to be in compliance with the exception of public facilities available in partial compliance.

Twenty notices were mailed in accordance withal state and local regulations with zero notices returned in agreement and two notices returned in disagreement. Five courtesy notices were mailed to the extra-territorial jurisdiction (ETJ) properties within 200 feet.

Staff recommends approval of a rezoning from AG to PD-AG and the site/development plan with the following conditions:

1. Development will be subject to the PD site plan;
2. Development will also be subject to all Unified Development Code (UDC) platting requirements during the platting process;
3. Single Family Residential House Development only
4. Minimum lot size is 0.75 acre;
5. Minimum front yard setback is 25-feet;
6. Side street building line is 15-feet;
7. Side building line is 7.5-feet;
8. Rear building line is 10 feet;
9. Sewer will be provided by on-site sewage facilities;
10. One two-inch caliper (diameter at breast height) canopy tree to be planted in the front yard of every lot. Species shall conform to the approved City of Temple Tree list, per the UDC;
11. A fence along FM 93 shall be a wood fence with masonry columns;
12. No on-street parking is allowed due to the proposed 22-foot wide streets; and
13. A 25-foot wide trail easement along the creek is on the site-development plan for compliance with the Temple Trails Master Plan.

Chair Langley opened the public hearing.

Ms. Laurissa Dodson, 6917 Sun Valley Drive, Temple, Texas, requested to add her response as in disagreement to this rezoning. Ms. Dodson questioned the removal of the tree row that provides a barrier to Valley Ranch and also the tree barrier on Boutwell Street. Ms. Dodson requested the tree lines remain due to the power poles in the neighborhood's back yards to allow access for the power trucks to work on these power lines.

Ms. Dodson stated there is a "big, old hole" at the main entrance of the Valley Ranch water system because they have problems with the water flow and added that during heavy downpours of rain, the creek floods and destroys residents' yards. Ms. Dodson feels this is due

to the excess housing developments being built with the water runoff not being properly distributed.

Ms. Dodson commented this proposed development will disturb Mother Nature and the natural wildlife that lives there.

Ms. Dodson stated that Temple School District is landlocked from building any new schools, so additional children from this proposed subdivision would be required to go to Belton, Rogers, Academy, or Holland schools.

Ms. Dodson stated Temple is not building any new businesses and is not bringing in any new jobs, so she cannot see building 200 houses when there are no jobs for people to pay for these houses.

Ms. Lyerly clarified that this development only proposes 78 lots.

Mr. Bill DiGaetano, 2715 Forrester, Temple, Texas, stated he appreciated Mr. Wall's changes from the 200-plus lots to what is proposed today; however, he still feels there are critical issues regardless of the number of lots.

Mr. DiGaetano is concerned about the traffic congestion, drainage issues, and the environmental impact on this beautiful creek. The intersection of 31st Street and Highway 93 remains a critical safety issue that is dangerous and includes gravel trucks coming through their neighborhood from Interstate Highway 35.

As Mr. DiGaetano previously reported in April 11, 2017, after one day of rain (2.9 inches) the creek came out of the banks from 12 to 20 feet high which would flood these proposed septic systems. In his opinion it is a location that should remain something else.

Mr. Scott Thomas, 3352 Forrester, Temple, Texas asked for clarification regarding setbacks and easements and appreciated the lesser density for this proposed subdivision.

Mr. Thomas discussed the Oncor easement and flood plain on the map.

The no parking on the street would be difficult to enforce.

Mr. Thomas echoed the same concerns regarding safety, drainage, and runoff and would also like to see the trees preserved for a visual sound and light buffer.

Ms. Lyerly stated in response that the rural street size width is 22-feet and a local street in the City of Temple is 31-feet. Mr. Thomas asked if the Valley Ranch subdivision has 31-foot width streets. Ms. Lyerly stated she would have to check but believes it is rural street size.

Mr. Thomas stated that he feels there should be continuity between subdivisions, so there is not a market reduction or market change.

Mr. Brian Chandler, Director of Planning, stated the rural local street classification is normally addressed during the platting process. This street design is also a lay-down curb, not a raised curb, and the rural local street classification is consistent with other local areas allowed in recent years.

Oncor representative, Mr. Casey Simpson, 308 South 7th Street, Temple, Texas, stated that Oncor has no objections with the zoning change, but has some issues with the PD site plan as submitted. Oncor is currently working with the developer and his civil engineer on these issues.

Mr. Chandler clarified that the site plan is part of the zoning request because it is a PD; however, conditions can be added. Examples of conditions that could be added are working with Oncor to ensure it meets specific needs or specific dimensions for the access that recommend the site plan is adjusted accordingly.

Ms. Dodson pointed out areas on the site plan she would like to see left undeveloped and suggested building in the center area only to meet Oncor needs and also provide a buffer. Ms. Dodson asked Mr. Wall if there would be a Home Owners Association for this subdivision.

Mr. Lee Hubbard, 6920 Boutwell Drive, Temple, Texas, stated the 25-foot wide walkway is ridiculous and asked Planning and Zoning not to approve this request. Mr. Hubbard is concerned about drug paraphernalia that has already been found in this area and this will result in a "Drug Addict Super Bowl" in the timber. Mr. Hubbard requested the walkway be stricken from the proposed development, and if not removed, he is totally against this proposed subdivision.

Mr. Hubbard is also concerned about the septic system and feels 78-lots will eat up 35.8 acres of land for sewer under the 78 houses. He feels this will be a problem and would prefer using the sewer system from Taylor's Valley.

Ms. Lyerly clarified the 25-foot width is for a trail easement, not a 25-foot wide sidewalk.

Mr. Hubbard stated that a 25-foot walkway could be put in anywhere in that easement.

Mr. Chandler explained this trail easement was a staff recommendation and the developer does not plan to build a trail. It was included to meet the City's Trail Master Plan and is consistent to the trail masterplan in other developments. There are no funds allotted to build a trail at this time and, if built in the future, it would be a City-funded trail that would include public input. At this time, it is only a public trail easement that the City has requested. The Planning and Zoning Commission could recommend that the 25-foot trail easement condition be removed.

Mr. Chandler added that a public easement could be used by anyone, but it would not be labeled and unless following the plat the public would be unaware of it. He also stated this condition is for the P&Z Commission and City Council to consider. The staff has a responsibility to implement the City's Trail Master Plan.

Mr. Hubbard stated he hoped the P&Z Commission and City Council would throw this easement out due to the drug issues in our country at this time. Ms. Debbie Shine, 3018 Forrester Road, is concerned about the flooding and erosion already being experiencing in the area. Ms. Shine looks to the P&Z Commission for the City's future and as more developments are built, residents will experience more flooding. She stated the creek has at times become a rushing river and has washed out the bridge and water line. The bridge was recently repaired as it pulled away from the road.

The residents are currently losing acreage and heritage trees every time it rains. Ms. Shine asked the Commissioner to please consider how this is affecting the residents downstream.

The traffic issue is a problem and difficult to prevent head-on-collisions.

Ms. Shine also expressed her opposition to the trail easement due to safety reasons and asked the P&Z to please consider the “bigger picture” for those in South Temple.

Ms. Shine thanked Mr. Wall for adjusting the density.

There being no further speakers, the public hearing was closed.

Commissioner Fettig asked Mr. Simpson, Oncor representative, to return to the podium and asked for clarification regarding solutions for the Oncor issues.

Mr. Simpson stated Oncor officials have met with the developer and his civil engineer and worked out agreements that Oncor can move forward with. These agreements involve access to the station and preferred a straighter route into the substation property.

Commissioner Fettig asked Mr. Simpson if there were issues with pole accessibility to that area.

Mr. Simpson stated that they have methods other than the use of large trucks to repair those lines and poles.

Chair Langley reopened the public hearing.

Ms. Dodson commented Oncor will damage her yard and fence to order to repair the poles.

Ms. Dodson would like the tree line access to remain, to have the easement access condition removed, and the number of houses to be reduced further.

Ms. Lyerly confirmed the Valley Ranch plat was approved with a utility easement in her backyard for access. Ms. Dodson responded that she was aware of that, but does not want Mr. Wall to build houses up to her fence. There being no further speakers, the public hearing was closed.

Commissioner Castillo made a motion to approve Item 2, **FY-19-4-ZC**, per Staff recommendation.

Chair Langley requested an alternative motion since the motion of the floor did not receive a second.

Ms. Kayla Landeros, City Attorney, stated the motion can be amended. If a motion is made to amend the motion, then a vote on the amendment to adopt it is made and then start over.

Commissioner Fettig asked if there is no second to the motion on the floor, what is the alternative?

Ms. Landeros stated then the motion fails. If there is not another motion made, there is no recommendation from the P&Z Commission to send to City Council.

Ms. Landeros explained that the trail easement is Staff's due diligence to try to implement the Trails Master Plan to make sure there is connectivity. However, the Commission may remove that condition if desired.

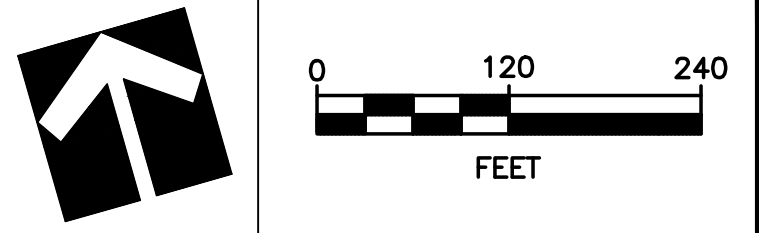
Ms. Landeros stated the AG zoning district allows minimum one-acre lots and allows single-family housing; but also allows HUD code manufactured housing. The property owner/developer could plat this property tomorrow with the AG zoning in place and build single-family housing as well as manufactured housing with septic. If the property owner/developer does not request exceptions, that plat may never be seen by City Council.

Ms. Landeros understands there are concerns with this proposal, but with the current zoning it can be platted with several lots and several homes with septic. This proposal reduces the number of lots than previously seen and provides favorable conditions, such as fencing. The overall point is there could be less desirable developments on this property than what is being proposed today. This proposal is compatible with Valley Ranch with larger lots than the subdivision proposed across the street. The developer and staff have worked together to get the lot sizes as large as possible. There is a motion on the floor, but someone can move to amend the motion to change any of the conditions.

Commissioner Alaniz seconded the motion on the floor.

Motion passed: (4:1)

Vice-Chair Ward, Commissioners Armstrong, Wright, and Marshall absent.



ORDINANCE NO. 2019-4957
(FY-19-4-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM AGRICULTURAL ZONING DISTRICT TO PLANNED DEVELOPMENT AGRICULTURAL ZONING DISTRICT ON APPROXIMATELY 86.91 ACRES SITUATED IN THE REDDING ROBERTS SURVEY, ABSTRACT NO. 692, BELL COUNTY, TEXAS, LOCATED SOUTHEAST OF FM 93 AND SOUTHWOOD DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant requests rezoning from Agricultural zoning district to Planned Development-Agricultural zoning district to allow a 78-lot, single family residential development consisting of lot sizes with minimum lot area of 0.75 acres, and larger residential lots ranging from one acre to 2.89 acres along the property's south and east boundaries;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, recommends approval of the rezoning from Agricultural zoning district to Planned Development-Agricultural zoning district, on approximately 86.91 acres, situated in the Redding Roberts Survey, Abstract 692, Bell County, Texas, with the following conditions:

1. Development will be subject to the Planned Development Site Plan;
2. Development will also be subject to all Unified Development Code (UDC) platting requirements during the platting process;
3. Single Family Residential House Development only;
4. Minimum lot size is 0.75 acre;
5. Minimum front yard setback is 25 feet;
6. Side street building line is 15 feet;
7. Side building line is 7.5 feet;
8. Rear building line is 10 feet;
9. Sewer will be provided by on-site sewage facilities;
10. One 2-inch caliper (diameter at breast height) canopy tree to be planted in the front yard of every lot and the species shall conform to the approved City of Temple Tree list, per the UDC;
11. A fence along FM 93 shall be a wood fence with masonry columns;
12. No on-street parking is allowed due to the proposed 22-foot wide streets; and

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

BE IT ORDAINED 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 Ordinance as if copied in their entirety.

Part 2: The City Council approves a rezoning from Agricultural zoning district to Planned Development-Agricultural zoning district, on approximately 86.91 acres, situated in the Redding Roberts Survey, Abstract 692, Bell County, Texas, located southeast of FM 93 and Southwood Drive, Temple, Texas, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes, and subject to the following conditions:

1. Development will be subject to the Planned Development Site Plan;
2. Development will also be subject to all Unified Development Code (UDC) platting requirements during the platting process;
3. Single Family Residential House Development only;
4. Minimum lot size is 0.75 acre;
5. Minimum front yard setback is 25 feet;
6. Side street building line is 15 feet;
7. Side building line is 7.5 feet;
8. Rear building line is 10 feet;
9. Sewer will be provided by on-site sewage facilities;
10. One 2-inch caliper (diameter at breast height) canopy tree to be planted in the front yard of every lot and the species shall conform to the approved City of Temple Tree list, per the UDC;
11. A fence along FM 93 shall be a wood fence with masonry columns; and
12. No on-street parking is allowed due to the proposed 22-foot wide streets.

Part 3: The City Council approves the Site Development Plan attached hereto as Exhibit 'B,' and made a part hereof for all purposes.

Part 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

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 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 on First Reading and Public Hearing on the 7th day of March, 2019.

PASSED AND APPROVED on Second Reading on the **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(U)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution appointing election judge(s) and setting their compensation for the City's General election to be held on Saturday, May 4, 2019.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This proposed resolution recommends the appointment of election judge(s) and sets their compensation for the City's Special election to be held on Saturday, May 4, 2019.

On February 2, 2019, the City Council ordered an Election for May 4, 2019, for both the District 1 Councilmember and the District 4 Councilmember positions.

Attached is a resolution for election judges being recommended for appointment at the Election Day polling place and for the Early Voting Ballot Board. The compensation for election judge and clerks is recommended to be set at \$10.00 per hour in accordance with provisions in §32.091 of the Election Code. The election judge or clerk who delivers the precinct election records, keys to ballot boxes or other election equipment, and unused election supplies after an election is entitled to compensation for that service in an amount not to exceed \$25.

The Election Judge(s) and members of the Early Voting Ballot Board are entitled to the same compensation as presiding election judges, in accordance with provisions in §87.005 of the Election Code, however, the minimum compensation to each member of the Early Voting Ballot Board is recommended to be \$50.

FISCAL IMPACT: Funding in the amount of \$7,800 is appropriated in account 110-1400-511-2517, as part of the City Secretary's budget for the 2019 General Election.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9603-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPOINTING ELECTION JUDGES AND SETTING THEIR COMPENSATION FOR THE CITY OF TEMPLE'S GENERAL ELECTION TO BE HELD ON SATURDAY, MAY 4, 2019; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on February 2, 2019, the City Council ordered an election for May 4, 2019, for the election of District 1 and District 4 Councilmember positions;

Whereas, compensation for election judges and clerks is recommended to be set at \$10 per hour in accordance with the provisions of §32.091 of the Election Code;

Whereas, funding for the May 4, 2019 General Election is appropriated in Account No. 110-1400-511-2517, as part of the City Secretary's budget for the 2019 General 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: 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 following persons are hereby appointed Presiding Judges and alternate Presiding Judges, respectively, for the May 4, 2019, election:

<i>Election Day Polling Location</i>	Fred Poteet Building 120 West Central Avenue
---	---

Presiding Judge	Shelly DeLoera.
Alternate Presiding Judge	Genevieve Stolleis

<i>Early Voting Location</i>	Municipal Building, 2 North Main Street (between Central and Adams)
-------------------------------------	---

Presiding Judge Early Voting Ballot Board:	Laura Cloud
Alternate Presiding Judge Early Voting Ballot Board:	Patricia Sims

Part 3: In the case of death, inability or refusal of any person appointed as a presiding judge to act, the Mayor shall have the authority and he is hereby directed to appoint some suitable person or persons to act instead. The presiding judges for each city council election district are authorized to appoint not less than two or more than three election clerks to assist the judge in the conduct of the election at the polling place served by the judge. 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 4: As compensation for services rendered at the precinct polling place, election judges and clerks shall receive \$10.00 per hour in accordance with provisions in §32.091 of the Election Code. The election judge or clerk who delivers the precinct election records, keys to ballot boxes or other election equipment, and unused election supplies after an election is entitled to compensation for that service in an amount not to exceed \$25.

Part 5: The election judge and members of the early voting ballot board are entitled to the same compensation as presiding election judges, in accordance with provisions in §87.005 of the Election Code, however, the minimum compensation to each member of the early voting ballot board shall be \$50.

Part 6: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #7(V)
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 2018-2019.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2018-2019 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$85,394.

ATTACHMENTS:

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

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2019 BUDGET
March 21, 2019

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-4000-555-2122		Supplies / Other	\$ 1,000	
110-4000-555-2225		Capital < \$5,000 / Books & Periodicals	\$ 404	
110-0000-461-0840		Other / Library Donations		\$ 1,000
110-0000-461-0841		Other / Donations/ Gifts		\$ 404
To appropriate a donation received from The Friends of Temple Public Library in the amount of \$1,000. The budget adjustment will also appropriate various donations received from patrons for the purchase of new books.				
110-2210-522-2513		Other Services / Special Services	\$ 6,856	
110-0000-442-1629		Fire Department Revenue / Fire Donations/Gifts		\$ 6,856
To appropriate donations received on behalf of the Rescue Elves Program, Warm Coat Program, Explorer Club and the Honor Guard.				
520-5000-535-1150		Salaries / Separation Pay/Vac-Sk-Com	\$ 47,134	
520-5000-535-6532		Capital / Contingency		\$ 47,134
To reallocate funding for separation pay for employee who termed on 01/25/19.				
520-5000-535-2616		Contracted Services / Professional	\$ 30,000	
520-5000-535-6532		Capital / Contingency		\$ 30,000
To reallocate funding for executive search services to be performed by Strategic Government Resources, Inc. for the vacant Director of Public Works position and the vacant Director of Utility Services position.				
TOTAL AMENDMENTS			\$ 85,394	\$ 85,394
GENERAL FUND				
Beginning Contingency Balance			\$ 100,000	
Added to Contingency Sweep Account			-	
Carry forward from Prior Year			-	
Taken From Contingency			-	
Net Balance of Contingency Account			\$ 100,000	
Beginning Judgments & Damages Contingency			\$ 279,725	
Added to Contingency Judgments & Damages from Council Contingency			-	
Taken From Judgments & Damages			(6,801)	
Net Balance of Judgments & Damages Contingency Account			\$ 272,924	
Beginning Compensation Contingency			\$ 285,000	
Added to Compensation Contingency			-	
Taken From Compensation Contingency			(285,000)	
Net Balance of Compensation Contingency Account			\$ -	
Net Balance Council Contingency			\$ 372,924	
Beginning Balance Budget Sweep Contingency			\$ -	
Added to Budget Sweep Contingency			-	
Taken From Budget Sweep			-	
Net Balance of Budget Sweep Contingency Account			\$ -	
WATER & WASTEWATER FUND				
Beginning Contingency Balance			\$ 219,446	
Added to Contingency Sweep Account			-	
Taken From Contingency			(14,109)	
Net Balance of Contingency Account			\$ 205,337	
Beginning Compensation Contingency			\$ 54,000	
Added to Compensation Contingency			-	
Taken From Compensation Contingency			(54,000)	
Net Balance of Compensation Contingency Account			\$ -	
Net Balance Water & Wastewater Fund Contingency			\$ 205,337	

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2019 BUDGET
March 21, 2019

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	-
		Added to Contingency Sweep Account		-
		Carry forward from Prior Year		-
		Taken From Contingency		-
		Net Balance of Contingency Account	\$	-
		Beginning Compensation Contingency	\$	16,500
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(13,279)
		Net Balance of Compensation Contingency Account	\$	3,221
		Net Balance Hotel/Motel Tax Fund Contingency	\$	3,221
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	336,406
		Added to Contingency Sweep Account		-
		Carry forward from Prior Year		-
		Taken From Contingency		-
		Net Balance of Contingency Account	\$	336,406
		Beginning Compensation Contingency	\$	10,500
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(9,520)
		Net Balance of Compensation Contingency Account	\$	980
		Net Balance Drainage Fund Contingency	\$	337,386
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	-
		Carry forward from Prior Year		34,641
		Added to Contingency Sweep Account		9,024
		Taken From Contingency		(43,665)
		Net Balance Fed/State Grant Fund Contingency	\$	-

RESOLUTION NO. 2019-9604-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2018-2019 CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on the 24th day of August, 2018, the City Council approved a budget for the 2018-2019 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2018-2019 City Budget.

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 hereby amends the 2018-2019 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 3: 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 **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Amanda Rice, Deputy City Attorney

ITEM DESCRIPTION: SECOND & FINAL READING – PUBLIC HEARING – Consider adopting the following ordinances amending:

- (A) The Code of Ordinances, Chapter 4, “Alcoholic Beverages,” to include a general update of the Chapter, additional clarification of terms used in Chapter, a better alignment of City’s regulations with state law, and an addition of an enforcement provision.
- (B) Temple Unified Development Code Section 5.3.15, “Alcoholic Beverage Sales for On-Premise Consumption,” by clarifying Subsection 5.3.15(A)(2) with additional language and removing the reference to City Code, Chapter 4, “Alcoholic Beverages,” Subsection 5.3.15(B)(2) to better conform with state law.

STAFF RECOMMENDATION: Adopt ordinances on first reading as presented in item descriptions and conduct a public hearing. Second reading will be scheduled for the March 7, 2019.

ITEM SUMMARY: In a continuing effort to review and update the City’s Code of Ordinances, Staff is proposing amendments to Chapter 4, “Alcoholic Beverages.” The amendments include general clean-up of the language and changes to formatting. For example, Staff suggests changing the formatting of section titles to conform with that of other City Code chapters and capitalizing “City Manager” and “City Council.”

Other proposed amendments to Chapter 4 include:

- The addition of a definitions section at the top of the Chapter to clarify terms used throughout the Chapter and to consolidate definitions.
- Clarification of the term “extended hours.” Chapter 4 currently provides that the City is an “extended hours areas” as defined by V.T.C.A., Alcoholic Beverage Code § 105.06 but does not provide additional details. The proposed amendments articulate specifically the “extended hours” the City has adopted, i.e. holders of specified Texas Alcoholic Beverage Commission (TABC) licenses or permits may offer for sale mixed drinks or beer between midnight and 2 a.m. on any day.

- Incorporating a “grandfathering” provision required by V.T.C.A., Alcoholic Beverage Code § 109.33(d) for a business that held a TABC permit or license on September 1, 1983 for the alternative method in which to measure distance between a business and a public or private school.
- Renaming the fees charged by the City to “municipal fees” and “City license” to City “certificate of registration” to avoid confusion with references to licenses and permits issued by the TABC and adding a subsection that requires a person to register with the City by paying municipal fees and providing a copy their TABC license or permit, which codifies current City practice. In addition, Staff proposes adding a subsection that would make it an offense if a person sells an alcoholic beverage without receiving a City certificate of registration.
- Adding an enforcement section that makes it a Class C misdemeanor for a person to violate any provision of this Chapter. Each offense would be punishable by a fine not to exceed \$500.

In addition to the amendments to Chapter 4, Staff proposes making two changes to the Temple Unified Development Code (UDC), Section 5.3.15, “Alcoholic Beverage Sales for On-Premise Consumption:”

- UDC Subsection 5.3.15(A)(2) requires the holder of a City conditional use permit (CUP) to obtain an applicable license or permit from TABC within six months of receiving their CUP. Staff recommends adding a sentence to Subsection 5.3.15(A)(2) that clarifies that the issuance of a CUP to a permittee does not grant authority for the sale of alcoholic beverages prior to the issuance of a license or permit from TABC.
- UDC Subsection 5.3.15(B)(2) references Chapter 4 in relation to how distance must be measured between businesses that sell alcoholic beverages and the protected uses in Chapter 4 (churches, public hospitals, and schools). Staff recommends removing this reference to Chapter 4 in this Subsection to conform with the measuring requirements of V.T.C.A., Alcoholic Beverage Code § 109.33.

The UDC amendments will be reviewed by the Planning & Zoning Commission at its February 19, 2019 meeting.

Staff recommends approval of the proposed amendments to Chapter 4 and the UDC.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Current Chapter 4 and Sec. 5.3.15, Unified Development Code](#)

[Clean copy and redline copy of amendments to Chapter 4](#)

[Clean copy and redline copy of amendments to Unified Development Code](#)

[Ordinance](#)

Chapter 4

ALCOHOLIC BEVERAGES

ARTICLE I. EXTENDED HOURS

Sec. 4-1. Extended hours.

The City of Temple is an “extended hours area” as that term is defined in the Texas Alcoholic Beverage Code. (Ref. V.T.C.A., Alcoholic Beverage Code § 105.06)

ARTICLE II. ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL

Sec. 4-2. Sales Prohibited

(a) The City of Temple prohibits the sale of alcoholic beverages by a dealer whose place of business is within:

(1) 300 feet of a church, public or private school, or public hospital; or

(2) 1,000 feet of a private school if the City Council receives a request from the governing body of the private school in accordance with Texas Alcoholic Beverage Code Section 109.33.

(b) Subsection (a)(1) does not apply to the holder of:

(1) a license or permit issued by the Texas Alcoholic Beverage Commission who also holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission covering a premise that is located within 300 feet of a private school; or

(2) a license or permit issued by the Texas Alcoholic Beverage Commission covering a premises where minors are prohibited from entering under Texas Alcoholic Beverage Code Section 109.53 and that is located within 300 feet of a private school.

(c) Subsection (a)(2) does not apply to the holder of:

(1) a retail on-premises consumption permit or license issued by the Texas Alcoholic Beverage Commission if less than 50% of the gross receipts for the premises is from the sale or service of alcoholic beverages;

(2) a retail off-premises consumption permit or license issued by the Texas

Alcoholic Beverage Commission if less than 50% of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages;

(3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in Texas Alcoholic Beverage Code Chapter 102;

(4) a license or permit issued under Texas Alcoholic Beverage Code Chapters 27 (Temporary and Special Wine and Beer Retailer's Permit), 31 (Caterer's Permit), or 72 (Temporary Licenses) who is operating on the premises of a private school; or

(5) a license or permit covering a premise where minors are prohibited from entering under Texas Alcoholic Beverage Code Section 109.53 and that is located within 1,000 feet of a private school.

(d) For purposes of this Chapter, "private school" means a private school, including a parochial school, that:

(1) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and

(2) has more than 100 students enrolled and attending courses at a single location.

Sec. 4-3. Measurement of Distances for Church and Public Hospital.

The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

Sec. 4-4. Measurement for Public and Private School.

The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:

(a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or

(b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

Sections 4-5 through 4-10 reserved.

ARTICLE III. LICENSE AND PERMIT FEES

Sec. 4-11. Alcoholic beverage license and permit fees.

A license fee and permit fee is levied in the amount of one-half of the state license and permit fees for each permit issued for premises located within the City, except for permits that are exempted from municipal fees. The city license and permit fees shall be paid to the City at the same time that the state license and permit fees are paid to the state. (Ref. V.T.C.A. Alcoholic Beverage Code § 11.38, § 61.36.

Sec. 4-12. Display.

It is an offense for any person licensed under this article to fail to display ~~such~~ the City license and keep the same displayed in a conspicuous place in the place of business licensed.

Sections 4-13 through 4-20 reserved.

ARTICLE IV. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

Sec. 4-21. Sale of alcoholic beverages on city property prohibited except where specially permitted.

(a) **City Property.** It shall be unlawful for any person to sell alcoholic beverages in any public park of the city, or on or in other publicly owned property, save and except that the city and concessionaires or caterers having a contract with the city to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within the Sammons Park Restaurant, Clubhouse, and deck exclusively. The city manager or his designee may authorize a special event permit for the sale of alcoholic beverages on city property other than a city park.

(b) **Criteria for Permits.** The City Council shall from time to time by resolution establish criteria for special event permit applications and approvals under this section.

(Ordinance No. 2009-4323, 11-05-09)

1. Commission means the City of Temple.
2. Executive Director and Chief Clerk means the Director of Public Works.
3. Permit, when referring to City's administration of Registration requirements, means Conditional Use Permit.

5.3.14 Recycling Collection Location or Operation

A recycling operation inside a building, recycling operation outside a building and recycling collection location may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The buying and receiving area must be set back a minimum of 50 feet from the public street right-of-way.
- B. A minimum separation of 75 feet is required between any processing operation and the property line of any adjacent property zoned for residential purposes.
- C. The internal circulation area within a tract used for a recycling collection location must consist of a non-permeable surface of either asphalt or concrete.

5.3.15 Alcoholic Beverage Sales for On-Premise Consumption

An establishment with alcoholic beverage sales for on-premise consumption may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The following standards apply to all establishments with on-premise consumption of alcoholic beverages.
 1. The permittee must design and operate the establishment in such a manner that the use of the premises does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
 2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the Conditional Use Permit, such limitation in time being subject to City review and possible extension.

3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its Conditional Use Permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.
6. The establishment must provide adequate parking spaces in accordance with the standards in Sec. 7.5.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a Conditional Use Permit in accordance with Sec. 3.5 if it affirmatively determines that the issuance of the permit is:
 - a. Incompatible with the surrounding uses of property; or
 - b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants.
9. A Conditional Use Permit runs with the property and a change in the owner or lessee of a permitted establishment does not affect the Conditional Use Permit.

10. All Conditional Use Permits must be further conditioned that the permit may be canceled, suspended or revoked in accordance with the revocation clause set forth in paragraph 8 above.
 11. The use must comply with City of Temple Code of Ordinances, Chapter 4, "Alcoholic Beverages."
- B.** In addition to the standards in subsection A above, the following standards apply to all establishments where the gross revenue from the sale of alcoholic beverages for on-premise consumption is 75% or more of the total gross revenue of the establishment.
1. The establishment must not be within 300 feet of a public park or any residentially zoned or developed lot.
 2. The distance between the establishment where alcoholic beverages are sold and a protected use listed in (B)(1) or Code of Ordinances, Chapter 4, must be measured in a straight, direct line from the property line of the establishment to the nearest property line of a property where a protected use is located.
 3. An establishment in a multi-storied building on other than the ground floor must be treated as though it were on the ground floor for purpose of the measurement between property lines.

[Ord. 2017-4830 Chapter 4 & Ord. 2017-4829]

5.3.16 Outdoor Shooting Range

An outdoor shooting range may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A.** Only handguns (pistols and revolvers) are permitted to be used at the outdoor shooting range. No shotguns, rifles or automatic weapons are permitted at the range.
- B.** No armor piercing or incendiary ammunition is allowed.
- C.** Ammunition larger than 0.460 caliber is not allowed.
- D.** No minimum lot area is required. The range, range site and uninhabited downrange safety area must be under uniform control and ownership, so as to maintain its permanency.

Chapter 4

ALCOHOLIC BEVERAGES

State law reference -- Alcoholic Beverage Code § 1.01 et seq.

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

“City” means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

“City Council” means the City’s elected governing body.

“City Manager” means the City’s city manager or their designee.

“License or permit” means a license or permit granted by the Texas Alcoholic Beverage Commission.

“Licensee or permittee” means a person holding a license or permit granted by the Texas Alcoholic Beverage Commission.

“Private school” means a private school, including a parochial school, that:

- (a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
- (b) has more than 100 students enrolled and attending courses at a single location.

ARTICLE II. EXTENDED HOURS

Sec. 4-2. Extended hours.

- (a) Pursuant to Sections 105.03(d) and 105.05(d) of the V.C.T.A., Alcoholic Beverage Code, as amended, the City adopts extended hours sales of alcoholic beverages in any part of the City as follows:

- (1) A holder of a mixed beverage late hours permit may sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.
- (2) A holder of a retail dealer's on-premise late hours license may sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

State law reference -- V.T.C.A., Alcoholic Beverage Code § § 105.03, 105.05, and 105.06.

ARTICLE III. ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL

Sec. 4-3. Sales near school, church, or hospital.

- (a) The sale of alcoholic beverages is prohibited at a place of business that is located within:
 - (1) 300 feet of a church, public or private school, or public hospital;
 - (2) 1,000 feet of a private school if City Council receives a request from the governing body of the private school.
- (b) Subsection (a)(1) does not apply to the holder of:
 - (1) a license or permit who also holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission covering a premise that is located within 300 feet of a private school; or
 - (2) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 300 feet of a private school.
- (c) Subsection (a)(2) does not apply to the holder of:
 - (1) a retail on-premises consumption permit or license if less than 50% of the gross receipts for the premises is from the sale or service of alcoholic beverages;
 - (2) a retail off-premises consumption permit or license if less than 50% of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages;

- (3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in V.T.C.A., Alcoholic Beverage Code Chapter 102, as amended;
- (4) a license or permit issued under V.T.C.A., Alcoholic Beverage Code Chapters 27 (Temporary and Special Wine and Beer Retailer's Permit), 31 (Caterer's Permit), or 72 (Temporary Licenses), all as amended, who is operating on the premises of a private school; or
- (5) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 1,000 feet of a private school.

(Prior Code, § 4-2; Ord. No. 2017-4830)

State law reference -- V.T.C.A., Alcoholic Beverage Code § 109.33.

Sec. 4-4. Measurement of distances for church and public hospital.

The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-3; Ord. No. 2009-4323)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b).

Sec. 4-5. Measurement for public and private school.

The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school will be:

- (a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- (b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
- (c) As to any business who held a license or permit on September 1, 1983, the measurement of the

distance between the place of business of the dealer and a public or private school will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-4; Ord. No. 2017-4830)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b), (d).

Sections 4-6--4-10. Reserved.

ARTICLE IV. MUNICIPAL FEES AND REGISTRATION

State law reference -- Authority to require licenses and permits and fees, V.T.C.A., Alcoholic Beverage Code § § 11.38; 61.36.

Sec. 4-11. Municipal fees and City registration.

- (a) A municipal fee is levied in the amount of one-half the state fee for each license or permit issued for premises located within the City, except as otherwise provided by state law. The municipal fees must be paid to the City when the license or permit fees are paid to the state.
- (b) The City will issue a certificate of registration under this Section to a licensee or permittee authorizing the sale of alcoholic beverages under this Chapter and a license or permit, if the licensee or permittee:
 - (1) pays the fees established by Subsection (a); and
 - (2) provides the City with a copy of the license or permit.
- (c) A person who sells an alcoholic beverage at a business location before the person receives a certificate of registration from the City as provided by this Section commits a Class C misdemeanor.
- (d) The City's certificate of registration must be displayed in a conspicuous place at all times on the licensed or permitted premises. It is unlawful for a person in charge of such premises to fail to display this certificate of registration.

(Prior Code, § 4-11; Ord. No. 2009-4323)

State law reference -- Authority for license and permit fees, V.T.C.A. Alcoholic Beverage Code § 11.38; § 61.36.

Sections 4-12--4-20. Reserved.

ARTICLE V. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

Sec. 4-21. Sale of alcoholic beverages on City property prohibited except where specially permitted.

- (a) City Property. It is unlawful for any person to sell alcoholic beverages in any public park of the City, or on or in other publicly owned property, save and except that the City and concessionaires or caterers having a contract with the City to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed or permitted by the state, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within the Sammons Park Restaurant, Clubhouse, and deck exclusively. The City Manager may authorize a special event permit for the sale of alcoholic beverages on City property other than a City park.
- (b) Criteria for Permits. The City Council may from time to time by resolution establish criteria for special event permit applications and approvals under this Section.

(Prior Code, § 4-21; Ordinance No. 2009-4323)

ARTICLE VI. ENFORCEMENT

Sec. 4-22. Criminal offense.

- (a) A person violating a provision of this Chapter commits a Class C misdemeanor for each separate violation for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (b) A culpable mental state is hereby not required to prove an offense under this Chapter.

Chapter 4

ALCOHOLIC BEVERAGES

State law reference -- Alcoholic Beverage Code § 1.01 et seq.

ARTICLE I. IN GENERAL EXTENDED HOURS

Sec. 4-1. Definitions.

Extended hours.

~~The City of Temple is an “extended hours area” as that term is defined in the Texas Alcoholic Beverage Code. (Ref. V.T.C.A., Alcoholic Beverage Code § 105.06)~~

“City” means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

“City Council” means the City’s elected governing body.

“City Manager” means the City’s city manager or their designee.

“License or permit” means a license or permit granted by the Texas Alcoholic Beverage Commission.

“Licensee or permittee” means a person holding a license or permit granted by the Texas Alcoholic Beverage Commission.

“Private school” means a private school, including a parochial school, that:

–

(a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and

–

(b) has more than 100 students enrolled and attending courses at a single location.

–

ARTICLE II. ~~ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL~~ EXTENDED HOURS

–

Sec. 4-2. Extended hours.~~Sales Prohibited~~

(a) Pursuant to Sections 105.03(d) and 105.05(d) of the V.C.T.A., Alcoholic Beverage Code, as amended, the City adopts extended hours sales of alcoholic beverages in any part of the City as follows:

(1) A holder of a mixed beverage late hours permit may sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.

(2) A holder of a retail dealer's on-premise late hours license may sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

State law reference -- V.T.C.A., Alcoholic Beverage Code § § 105.03, 105.05, and 105.06.

ARTICLE III. ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL

Sec. 4-3. Sales near school, church, or hospital.

~~(a) The City of Temple~~The sale of alcoholic beverages is prohibited~~the sale of alcoholic beverages at a by a dealer whose place of business is within~~that is located within:

(1) 300 feet of a church, public or private school, or public hospital; ~~or~~

~~(2) 1,000 feet of a private school if the City Council receives a request from the governing body of the private school in accordance with Texas Alcoholic Beverage Code Section 109.33.~~

(b) Subsection (a)(1) does not apply to the holder of:

(1) a license or permit ~~issued by the Texas Alcoholic Beverage Commission~~ who also holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission covering a premise that is located within 300 feet of a private school; or

(2) a license or permit ~~issued by the Texas Alcoholic Beverage Commission~~ covering a premises where minors are prohibited from entering under V.T.C.A., Texas Alcoholic Beverage Code §Section 109.53, as amended, (i.e. a package store) ~~and~~ that is located within 300 feet of a private school.

(c) Subsection (a)(2) does not apply to the holder of:

- (1) a retail on-premises consumption permit or license ~~issued by the Texas Alcoholic Beverage Commission~~ if less than 50% of the gross receipts for the premises is from the sale or service of alcoholic beverages;
- (2) a retail off-premises consumption permit or license ~~issued by the Texas Alcoholic Beverage Commission~~ if less than 50% of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages;—
- (3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in V.T.C.A., Texas Alcoholic Beverage Code Chapter 102, as amended;
- (4) a license or permit issued under V.T.C.A., Texas Alcoholic Beverage Code Chapters 27 (Temporary and Special Wine and Beer Retailer's Permit), 31 (Caterer's Permit), or 72 (Temporary Licenses), all as amended, who is operating on the premises of a private school; or
- (5) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Texas Alcoholic Beverage Code §Section 109.53, as amended, (i.e. a package store) —and that is located within 1,000 feet of a private school.

(Prior Code, § 4-2; Ord. No. 2017-4830)

State law reference -- V.T.C.A., Alcoholic Beverage Code § 109.33.

~~(d) For purposes of this Chapter, "private school" means a private school, including a parochial school, that:—~~

~~—~~

~~—(1) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and—~~

~~—~~

~~—(2) has more than 100 students enrolled and attending courses at a single location.—~~

~~—~~

Sec. 4-~~43~~. Measurement of ~~d~~Distances for ~~c~~Church and ~~p~~Public ~~h~~Hospital.

The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital ~~will~~shall be along the property lines of the street fronts and from front door to front door, and in ~~a~~ direct line across intersections.

(Prior Code, § 4-3; Ord. No. 2009-4323)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b).

–

Sec. 4-~~54~~. Measurement for ~~p~~Public and ~~p~~Private ~~s~~School.

The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school ~~shall~~will be:

- (a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- (b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(c) As to any business who held a license or permit on September 1, 1983, the measurement of the distance between the place of business of the dealer and a public or private school will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-4; Ord. No. 2017-4830)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b), (d).

Sections ~~4-6--4-10.~~ ~~4-5 through 4-10~~ ~~Reserved.~~reserved.

ARTICLE ~~IV~~H. ~~LICENSE AND PERMIT~~MUNICIPAL FEES ~~AND REGISTRATION~~

State law reference -- Authority to require licenses and permits and fees, V.T.C.A., Alcoholic Beverage Code § 11.38; 61.36.

Sec. 4-11. – Municipal fees and City registration~~Alcoholic beverage license and permit fees.~~

(a) A municipal license fee and permit fee is levied in the amount of one-half of the state fee for each license and or permit fees for each permit issued for premises located within the City, except as otherwise provided by state law. for permits that are exempted from municipal fees. The municipal city license and permit fees shall must be paid to the City when the at the same time that the state license and or permit fees are paid to the state.

(b) The City will issue a certificate of registration under this Section to a licensee or permittee authorizing the sale of alcoholic beverages under this Chapter and a license or permit, if the licensee or permittee:

(1) pays the fees established by Subsection (a); and

(2) provides the City with a copy of the license or permit.

(c) A person who sells an alcoholic beverage at a business location before the person receives a certificate of registration from the City as provided by this Section commits a Class C misdemeanor.

(d) The City's certificate of registration must be displayed in a conspicuous place at all times on the licensed or permitted premises. It is unlawful for a person in charge of such premises to fail to display this certificate of registration.

(Prior Code, § 4-11; Ord. No. 2009-4323)

State law reference -- Authority for license and permit fees, V.T.C.A. Alcoholic Beverage Code § 11.38; § 61.36.

(Ref. V.T.C.A. Alcoholic Beverage Code § 11.38, § 61.36. —

Sections 4-12--4-20. Reserved.

Sec. 4-12. Display. —

—

~~It is an offense for any person licensed under this article to fail to display such the City license and keep the same displayed in a conspicuous place in the place of business licensed.~~

—

~~Sections 4-13 through 4-20 reserved. —~~

ARTICLE IV. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

Sec. 4-21. Sale of alcoholic beverages on Ceity property prohibited except where specially permitted.

- (a) City Property. It ~~shall be~~ unlawful for any person to sell alcoholic beverages in any public park of the Ceity, or on or in other publicly owned property, save and except that the Ceity and concessionaires or caterers having a contract with the Ceity to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed or permitted by the state, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within the Sammons Park Restaurant, Clubhouse, and deck exclusively. The Ceity Mmanager ~~or his designee~~ may authorize a special event permit for the sale of alcoholic beverages on Ceity property other than a Ceity park.
- (b) Criteria for Permits. The City Council ~~shall~~ may from time to time by resolution establish criteria for special event permit applications and approvals under this Ssection.

(Prior Code, § 4-21; Ordinance No. 2009-4323)

~~(Ordinance No. 2009-4323, 11-05-09)~~

ARTICLE VI. ENFORCEMENT

Sec. 4-22. Criminal offense.

- (a) A person violating a provision of this Chapter commits a Class C misdemeanor for each separate violation for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (b) A culpable mental state is hereby not required to prove an offense under this Chapter.

1. Commission means the City of Temple.
2. Executive Director and Chief Clerk means the Director of Public Works.
3. Permit, when referring to City's administration of Registration requirements, means Conditional Use Permit.

5.3.14 Recycling Collection Location or Operation

A recycling operation inside a building, recycling operation outside a building and recycling collection location may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The buying and receiving area must be set back a minimum of 50 feet from the public street right-of-way.
- B. A minimum separation of 75 feet is required between any processing operation and the property line of any adjacent property zoned for residential purposes.
- C. The internal circulation area within a tract used for a recycling collection location must consist of a non-permeable surface of either asphalt or concrete.

5.3.15 Alcoholic Beverage Sales for On-Premise Consumption

An establishment with alcoholic beverage sales for on-premise consumption may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The following standards apply to all establishments with on-premise consumption of alcoholic beverages.
 1. The permittee must design and operate the establishment in such a manner that the use of the premises does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
 2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the Conditional Use Permit, such limitation in time being subject to City review and possible extension. Nothing in this Section herein permits the sale of

alcoholic beverages prior to the issuance of an applicable permit or license issued by the Texas Alcoholic Beverage Commission.

3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its Conditional Use Permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.
6. The establishment must provide adequate parking spaces in accordance with the standards in Sec. 7.5.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a Conditional Use Permit in accordance with Sec. 3.5 if it affirmatively determines that the issuance of the permit is:
 - a. Incompatible with the surrounding uses of property; or
 - b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants.

9. A Conditional Use Permit runs with the property and a change in the owner or lessee of a permitted establishment does not affect the Conditional Use Permit.
 10. All Conditional Use Permits must be further conditioned that the permit may be canceled, suspended or revoked in accordance with the revocation clause set forth in paragraph 8 above.
 11. The use must comply with City of Temple Code of Ordinances, Chapter 4, "Alcoholic Beverages."
- B.** In addition to the standards in subsection A above, the following standards apply to all establishments where the gross revenue from the sale of alcoholic beverages for on-premise consumption is 75% or more of the total gross revenue of the establishment.
1. The establishment must not be within 300 feet of a public park or any residentially zoned or developed lot.
 2. The distance between the establishment where alcoholic beverages are sold and a protected use listed in (B)(1) must be measured in a straight, direct line from the property line of the establishment to the nearest property line of a property where a protected use is located.
 3. An establishment in a multi-storied building on other than the ground floor must be treated as though it were on the ground floor for purpose of the measurement between property lines.

[Ord. 2017-4830 Chapter 4 & Ord. 2017-4829]

5.3.16 Outdoor Shooting Range

An outdoor shooting range may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A.** Only handguns (pistols and revolvers) are permitted to be used at the outdoor shooting range. No shotguns, rifles or automatic weapons are permitted at the range.
- B.** No armor piercing or incendiary ammunition is allowed.
- C.** Ammunition larger than 0.460 caliber is not allowed.

1. Commission means the City of Temple.
2. Executive Director and Chief Clerk means the Director of Public Works.
3. Permit, when referring to City's administration of Registration requirements, means Conditional Use Permit.

5.3.14 Recycling Collection Location or Operation

A recycling operation inside a building, recycling operation outside a building and recycling collection location may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The buying and receiving area must be set back a minimum of 50 feet from the public street right-of-way.
- B. A minimum separation of 75 feet is required between any processing operation and the property line of any adjacent property zoned for residential purposes.
- C. The internal circulation area within a tract used for a recycling collection location must consist of a non-permeable surface of either asphalt or concrete.

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An establishment with alcoholic beverage sales for on-premise consumption may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The following standards apply to all establishments with on-premise consumption of alcoholic beverages.
 1. The permittee must design and operate the establishment in such a manner that the use of the premises does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
 2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the Conditional Use Permit, such limitation in time being subject to City review and possible extension. Nothing in this Section herein permits the sale of

alcoholic beverages prior to the issuance of an applicable permit or license issued by the Texas Alcoholic Beverage Commission.

3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its Conditional Use Permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.
6. The establishment must provide adequate parking spaces in accordance with the standards in Sec. 7.5.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a Conditional Use Permit in accordance with Sec. 3.5 if it affirmatively determines that the issuance of the permit is:
 - a. Incompatible with the surrounding uses of property; or
 - b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants.

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 10. All Conditional Use Permits must be further conditioned that the permit may be canceled, suspended or revoked in accordance with the revocation clause set forth in paragraph 8 above.
 11. The use must comply with City of Temple Code of Ordinances, Chapter 4, "Alcoholic Beverages."
- B.** In addition to the standards in subsection A above, the following standards apply to all establishments where the gross revenue from the sale of alcoholic beverages for on-premise consumption is 75% or more of the total gross revenue of the establishment.
1. The establishment must not be within 300 feet of a public park or any residentially zoned or developed lot.
 2. The distance between the establishment where alcoholic beverages are sold and a protected use listed in (B)(1) ~~or Code of Ordinances, Chapter 4,~~ must be measured in a straight, direct line from the property line of the establishment to the nearest property line of a property where a protected use is located.
 3. An establishment in a multi-storied building on other than the ground floor must be treated as though it were on the ground floor for purpose of the measurement between property lines.

[Ord. 2017-4830 Chapter 4 & Ord. 2017-4829]

5.3.16 Outdoor Shooting Range

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- B.** No armor piercing or incendiary ammunition is allowed.
- C.** Ammunition larger than 0.460 caliber is not allowed.

ORDINANCE NO. 2019-4955

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, (1) AMENDING THE CODE OF ORDINANCES CHAPTER 4, "ALCOHOLIC BEVERAGES" TO INCLUDE A GENERAL UPDATE OF THE CHAPTER, ADDITIONAL CLARIFICATION OF TERMS USED IN THE CHAPTER, BETTER ALIGNMENT OF THE CITY'S REGULATIONS WITH STATE LAW, AND AN ADDITION OF AN ENFORCEMENT PROVISION; AND (2) AMENDING TEMPLE UNIFIED DEVELOPMENT CODE SECTION 5.3.15, "ALCOHOLIC BEVERAGE SALES FOR ON-PREMISE CONSUMPTION," BY CLARIFYING SUBSECTION 5.3.15(A)(2) WITH ADDITIONAL LANGUAGE AND REMOVING THE REFERENCE TO CITY CODE, CHAPTER 4, "ALCOHOLIC BEVERAGES" SUBSECTION 5.3.15(B)(2) TO BETTER CONFORM WITH STATE LAW; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in a continuing effort to review and update the City's Code of Ordinances, Staff recommends amendments to Chapter 4, "Alcoholic Beverages" that include general language clean-up and changes to formatting;

Whereas, other proposed amendments to Chapter 4 include:

- The addition of a definitions section at the top of the Chapter to clarify terms used throughout the Chapter and to consolidate definitions;
- Clarification of the term "extended hours" as Chapter 4 currently provides that the City is an "extended hours area" as defined by V.T.C.A., Alcoholic Beverage Code § 105.06, but does not provide additional details - the proposed amendments articulate specifically the "extended hours" the City has adopted, i.e. holders of specified Texas Alcoholic Beverage Commission (TABC) licenses or permits may offer for sale mixed drinks or beer between midnight and 2 a.m. on any day;
- Incorporating a "grandfathering" provision required by V.T.C.A., Alcoholic Beverage Code § 109.33(d) for a business that held a TABC permit or license on September 1, 1983 for the alternative method in which to measure distance between a business and a public or private school;
- Renaming the fees charged by the City from "municipal fees" and "City license" to City "certificate of registration" to avoid confusion with references to licenses and permits issued by the TABC and adding a subsection that requires a person to register with the City by paying municipal fees and providing a copy of their TABC license or permit, which codifies current City practice - in addition, Staff proposes adding a subsection that would make it an offense if a person sells an alcoholic beverage without receiving a City certificate of registration;
- Adding an enforcement section that makes it a Class C misdemeanor for a person to violate any provision of this Chapter making each offense punishable by a fine not to exceed \$500.00;

Whereas, in addition to the amendments to Chapter 4, Staff proposes making two changes to the Temple Unified Development Code (UDC), Section 5.3.15, “Alcoholic Beverage Sales for On-Premise Consumption:”

- UDC Subsection 5.3.15(A)(2) requires the holder of a City conditional use permit (CUP) to obtain an applicable license or permit from TABC within six months of receiving their CUP - Staff recommends adding a sentence to Subsection 5.3.15(A)(2) that clarifies that the issuance of a CUP to a permittee does not grant authority for the sale of alcoholic beverages prior to the issuance of a license or permit from TABC;

- UDC Subsection 5.3.15(B)(2) references Chapter 4 in relation to how distance must be measured between businesses that sell alcoholic beverages and the protected uses in Chapter 4 (churches, public hospitals, and schools) - Staff recommends removing this reference to Chapter 4 in this Subsection to conform with the measuring requirements of V.T.C.A., Alcoholic Beverage Code § 109.33;

Whereas, Staff recommends Council amend the Code of Ordinances Chapter 4, “Alcoholic Beverages” and Temple Unified Development Code (UDC), Section 5.3.15, “Alcoholic Beverage Sales for On-Premise Consumption;” and

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

NOW, THEREFORE, BE IT ORDAINED 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 Ordinance as if copied in their entirety.

Part 2: The City Council amends the Code of Ordinances Chapter 4 “Alcoholic Beverages” as set forth in Exhibit A, attached hereto and incorporated herein for all purposes, and Temple Unified Development Code (UDC), Section 5.3.15, “Alcoholic Beverage Sales for On-Premise Consumption” as set forth in Exhibit B, attached hereto and incorporated herein for all purposes.

Part 3: All Ordinances or parts of Ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 5: This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: It is hereby officially found and determined that the meeting at which this Ordinance 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 on First Reading and Public Hearing on the **21st** day of **February**, 2019.

PASSED AND APPROVED on Second Reading on the **7th** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



CITY COUNCIL ITEM MEMORANDUM

03/21/19
Item #9
Regular Agenda
Page 1 of 4

DEPT. / DIVISION SUBMISSION & REVIEW:

Jason Deckman, Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-6-ZC: Consider adopting an ordinance authorizing a rezoning with a site/development plan, from Commercial district to Planned Development Multi-Family Two district, with conditions and requiring a site development plan, on 9.055 +/- acres, and 0.433 +/- acres, out of and a part of Block One, Temple Commercial Park, Section 1, Bell County, Texas, as 2602 South 39th Street, Temple.

STAFF RECOMMENDATION: Based on the following, staff recommends approval with conditions for a rezoning from the current C zoning district to the PD-MF-2 zoning district for the following reasons:

1. The proposed Site/Development Plan reflects compliance with the provisions of the Planned Development Criteria as required by Unified Development Code (UDC) Section 3.4.5;
2. The request complies with the Thoroughfare Plan and Trails Master Plan; and
3. Public facilities are available to serve the subject property.

PD Conditions:

1. Granting an exception to the required parking ratios for multi-family residential to match the number of spaces shown on the attached site development plan. (363 spaces)
2. Requiring a four foot sidewalk to be constructed by the applicant in the public right-of-way along South 39th Street from the apartment entrance to the existing sidewalk along Everton Drive.
3. Compliance with the attached site development plan.

PLANNING & ZONING COMMISSION RECOMMENDATION: At their February 19, 2019 meeting, the Planning & Zoning Commission voted 9 to 0 to recommend approval of the rezoning to PD MF-2 with development/site plan per staff's recommendation.

ITEM SUMMARY: The existing apartment complex at The Glen is being sold. The use table in Article 5.1 of the UDC does not permit multi-family residential uses in a Commercial (C) district. The buyer asked about rebuilding in the event the complex was destroyed, which would not be allowed under the current zoning. For that reason, the applicant has requested to be rezoned in order to bring the property into compliance with the UDC. During follow-up discussions, the rezoning request was modified to a Planned Development Multi-Family Two (PD-MF-2) district, with conditions, in order to address current issues and future connectivity.

As currently built, the property does not meet required parking ratios per UDC Article 7.5.B, see table below:

Specific Use	Minimum Required Parking Spaces
Multiple-family dwelling (Apartment)	(a) 1.75 per dwelling unit with 1 bedroom (b) 2 per dwelling unit with 2 or more bedrooms (c) 1 per dwelling unit designed exclusively for elderly or low-income persons (d) 2 per dwelling unit if less than 3 units (e) 0.75 per dwelling if units designed exclusively for handicapped residents

Staff proposes to grant an exception to the UDC that will reduce the requirement to the exact number of spaces shown on the attached site development plan (363 spaces).

In order to provide better pedestrian connectivity, the city will require a four foot sidewalk to be constructed within the public right-of-way along South 39th Street from the entrance to the apartment complex to the existing sidewalk on Everton Drive. The applicant has agreed to construct the sidewalk.

PLANNED DEVELOPMENT: UDC Section 3.4.1 defines a PD as:

“A flexible overlay zoning district designed to respond to unique development proposals, special design considerations and land use transitions by allowing evaluation of land use relationships to surrounding areas through development plan approval.”

Per UDC Section, 3.4.3.A, a PD is subject to review and approval by City Council.

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

Future Land Use Map (CP Map 3.1)

The subject property is within the Auto-Urban Multi-Family Future Land Use Map (FLUM) designation. The designation allows for a stand-alone district to accommodate multi-family development, subject to minimum site area and open space ratio requirements, and subject to increased bufferyards and building design standards. The existing apartment complex meets the requirements for building coverage and setbacks. However, it does not meet the required parking ratios, which are addressed in the Planned Development Conditions. The property is therefore in *partial compliance* with the Future Land Use Map.

Thoroughfare Plan (CP Map 5.2)

The subject property takes access from South 39th Street, a local street. The property is not located on or a collector or arterial street, and does not connect to any trails shown on the Trails Master Plan. The subject property is therefore in **compliance** with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

Sewer is available via eight-inch and six-inch sewer lines running through the property. Water is available from an 18 inch line located along the eastern property line and generally following South 39th Street.

SURROUNDING PROPERTIES AND USES: The following table provides the direction from the property, Future Land Use Plan (FLUP) designation, existing zoning and current land uses:

Direction	FLUP	Zoning	Current Land Use
Subject Property	Auto-Urban Multi-Family	C	Multi-Family
North	Parks and Open Space	2F	Jaycee Park
South	Auto-Urban Commercial	C	Undeveloped
East	Auto-Urban Commercial	C	Commercial
West	Auto-Urban Commercial	C, O-1	Ronald McDonald House

Document	Policy, Goal, Objective or Map	Compliant?
CP	Map 3.1 - Future Land Use and Character (FLUP)	Partial
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	Yes

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

DEVELOPMENT REVIEW COMMITTEE: As required by UDC Section 3.4.2 B, the Development/Site Plan for the proposed PD was reviewed by the Development Review Committee (DRC) on January 24, 2019. Staff discussed the parking and proposed sidewalk with the applicant.

PUBLIC NOTICE: Twenty-five notices were sent to property owners within 200-feet of the subject property containing notice of the public hearing as required by State law and City Ordinance. As of Thursday February 14, 2019 at 12:00 PM, six notices in agreement and one notice in disagreement from adjacent property owners have been received. Staff met with the property owner who disagreed; his concerns have been resolved and his disagreement has been rescinded.

The newspaper printed notice of the public hearing on February 7, 2019, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Development Site Plan

Aerial Map

Utility Map

Zoning Map

Site Photos

Future Land Use and Character Map

Thoroughfare & Trails Map

Notification Map

Returned Property Notices

Ordinance

FLOOD ZONE INTERPRETATION: IT IS THE RESPONSIBILITY OF ANY INTERESTED PERSONS TO VERIFY THE ACCURACY OF FEMA FLOOD ZONE DESIGNATION OF THIS PROPERTY WITH FEMA AND STATE AND LOCAL OFFICIALS, AND TO DETERMINE THE EFFECT THAT SUCH DESIGNATION MAY HAVE REGARDING THE INTENDED USE OF THE PROPERTY. The property owner has advised the surveyor that it is to be included in a FEMA Flood Insurance Rate Map (FIRM), identified as Community No. 4802, Panel No. 0350, which is dated 05/26/2006. By scaling from that FIRM, it appears that all or a portion of the property may be in Flood Zone(s) _____. Because this is a boundary survey, the surveyor does not take any action to determine the Flood Zone status of the surveyed property other than to interpret the information set out on FEMA FIRM, as described above. This surveyor does not certify the accuracy of this interpretation of the FLOOD ZONES, which may not agree with the interpretation of FEMA or state or local officials, and which may not agree with the tract's actual conditions. More information concerning FEMA's Special Flood Hazard Areas and Zones may be found at <http://www.fema.gov/floodmaps>.

SURVEY CERTIFICATE

TO LURIN MULTIFAMILY ACQUISITION GROUP, LLC, A DELAWARE LIMITED LIABILITY COMPANY, & FIRST AMERICAN TITLE INSURANCE COMPANY

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6a, 6b, 7a, 7b, 7c, 8, 9, 10a, 11, 13, 16, 19, 20 (\$1,000,000) OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON JANUARY 7, 2019.

DATE OF PLAT OR MAP: JANUARY 9, 2019

NOTE:
Bearings shown hereon are based on actual GPS Observations, Texas State Plane Coordinates, Central Zone, Grid.

PRELIMINARY,
this document shall not be
recorded for any purpose.

MARK J. EWALD
Registered Professional Land Surveyor
Texas Registration No. 5095

NOTE: NO RESTRICTIVE COVENANTS OF RECORD WERE FOUND.

PROPERTY IS ZONED COMMERCIAL.

NOTES:

1. DETERMINATION OF THE RELATIONSHIP AND LOCATION OF CERTAIN DIVISION OR PARTY WALLS DESIGNATED BY THE CLIENT WITH RESPECT TO ADJOINING PROPERTIES (CLIENT TO OBTAIN NECESSARY PERMISSIONS). (PLOTTED ON SURVEY)

2. NO EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS WERE PRESENT.

3. THERE ARE NO CURRENT PROPOSED CHANGES IN STREET RIGHT OF WAY AND NO OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS WAS PRESENT.

4. NO OBSERVED EVIDENCE OF SITE BEING USED AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.

5. UTILITIES SHOWN HEREON WERE VISIBLE ON GROUND AT THE TIME OF SURVEY. NO MARKINGS OF UNDERGROUND UTILITIES WERE PRESENT AT THE TIME OF SURVEY. WHERE ADDITIONAL OR MORE DETAILED INFORMATION IS REQUIRED, THE CLIENT IS ADVISED THAT EXCAVATION AND/OR A PRIVATE UTILITY LOCATE REQUEST MAY BE NECESSARY.

6. THE SURVEYOR WAS NOT PROVIDED A ZONING REPORT AT THE TIME OF ISSUANCE OF SURVEY. (SUBJECT TO CHANGE UPON RECEIPT OF REPORT)

SCHEDULE B ITEMS:

10a. EASEMENT MENTIONS OF UNDERMINED WIDTH ALONG THE EAST PORTION OF PLAT OF RECORD IN CABINET 1, SLIDE 25-C IS REFLECTED IN VOLUME 915, PAGE 395 SHOWN HEREON, ALONG WITH THE 20' SANITARY SEWER EASEMENT.

10i. EASEMENT TO LONE STAR GAS COMPANY, DATED APRIL 10, 1942, FILED JUNE 23, 1942, EXECUTED BY J. F. PARKER, RECORDED IN VOLUME 496, PAGE 472, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10j. EASEMENT TO LONE STAR GAS COMPANY, DATED AUGUST 22, 1952, FILED DECEMBER 5, 1952, EXECUTED BY JOE EVERTON AND GRACE EVERTON, RECORDED IN VOLUME 683, PAGE 203, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10k. EASEMENT TO CITY OF TEMPLE, DATED DECEMBER 3, 1963, FILED DECEMBER 4, 1963, EXECUTED BY JOE EVERTON, RECORDED IN VOLUME 894, PAGE 113, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10l. EASEMENT TO CITY OF TEMPLE, DATED OCTOBER 23, 1964, FILED OCTOBER 23, 1964, EXECUTED BY JOE EVERTON, RECORDED IN VOLUME 915, PAGE 395, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10m. EASEMENT TO TEXAS POWER & LIGHT COMPANY, FILED DECEMBER 23, 1963, EXECUTED BY JOE EVERTON, RECORDED IN VOLUME 881, PAGE 543, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10n. EASEMENT TO TEXAS POWER & LIGHT COMPANY, DATED JULY 10, 1963, FILED JULY 10, 1963, EXECUTED BY JOE EVERTON AND GRACE EVERTON, RECORDED IN VOLUME 910, PAGE 311, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10o. EASEMENT TO TEXAS POWER & LIGHT COMPANY, DATED FEBRUARY 18, 1969, FILED APRIL 16, 1969, EXECUTED BY JOE EVERTON AND GRACE EVERTON, RECORDED IN VOLUME 1046, PAGE 289, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10p. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10q. MEMO OF AGREEMENT BETWEEN TIME WARNER CABLE ENTERTAINMENT-ADVANCE-NEWHOUSE PARTNERSHIP, D/B/A TIME WARNER CABLE AND THE TEMPLE GLEN APARTMENTS, LTD., BY INSTRUMENT RECORDED UNDER INSTRUMENT 2009-00042640, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BELL COUNTY, TEXAS. (PROPERTY IS SUBJECT TO EASEMENT AND LEASE AGREEMENT)

10r. EASEMENT AND MEMORANDUM OF AGREEMENT GRANTED TO TIME WARNER ENTERTAINMENT-ADVANCE-NEWHOUSE PARTNERSHIP, D/B/A TIME WARNER CABLE BY INSTRUMENT RECORDED UNDER INSTRUMENT 2009-00042640, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BELL COUNTY, TEXAS. (PROPERTY IS SUBJECT TO EASEMENT AND LEASE AGREEMENT)

10s. MEMORANDUM OF LEASE DATED 12-22-10, RECORDED UNDER INSTRUMENT #2011-0001958, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BELL COUNTY, TEXAS, EXECUTED BY AND BETWEEN BLO 61, L.L. LESSOR, AND COMMACH CORPORATION, LESSEE. (PROPERTY IS SUBJECT TO LEASE AGREEMENT)

10t. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10u. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10v. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10w. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10x. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10y. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10z. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10aa. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10ab. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

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10af. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)

10ag. EASEMENT TO CITY OF TEMPLE, DATED MAY 1, 2001, FILED MAY 2, 2001, EXECUTED BY THE TEMPLE GLEN APARTMENTS, LTD., RECORDED IN VOLUME 4399, PAGE 545, DEED RECORDS, BELL COUNTY, TEXAS. (PLOTTED ON SURVEY)



LOT 1, BLOCK 1
RONALD McDONALD SUBDIVISION
CABINET B, SLIDE 17-B

RONALD McDONALD HOUSE
OF CHARITIES OF TEMPLE, TEXAS
1.172 ACRES
VOL. 3704, PG. 102

RONALD McDONALD HOUSE
OF CHARITIES OF TEMPLE, TEXAS
0.075 ACRES
VOL. 4353, PG. 68

NIEN-JEN LEE
0.654 ACRES
VOL. 8470, PG. 450

LOT 2, BLOCK 1
COOPERIAL SUBDIVISION
LOOP 363 SECTION 1
CAB. A, SLIDE 14-D

PROPERTY ACQUISITION CORPORATION,
A TEXAS CORPORATION
VOL. 3744, PG. 321

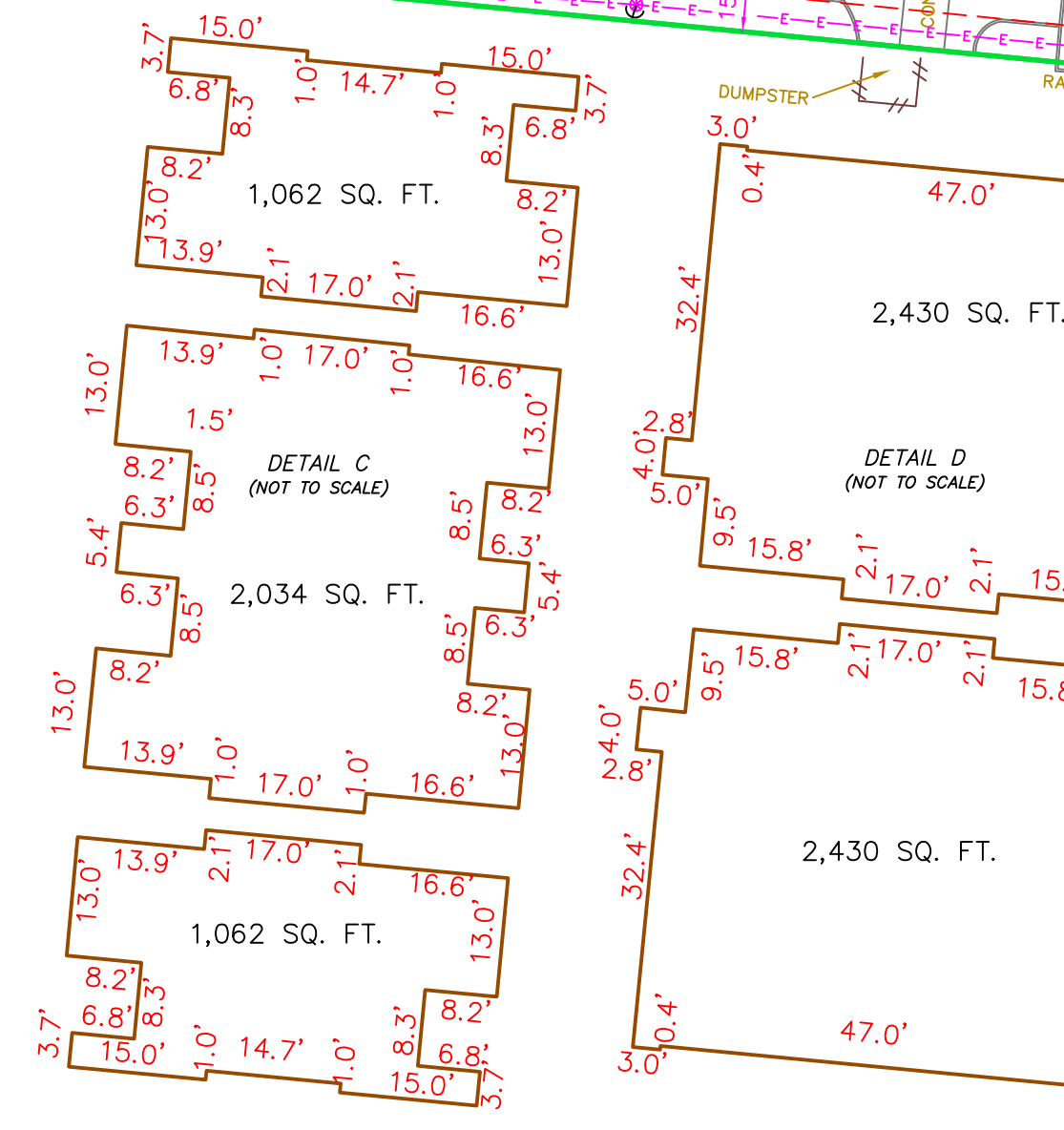
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	370.00	176.22	174.56	N 45°16'04" W	27°17'20"
C2	430.00	174.15	172.96	S 51°39'57" E	23°12'18"
L1	S 05°10'47" W	163.00	163.14	(30.00')	
L2	S 05°36'47" W	163.00	163.14	(30.00')	

ALTA/ACSM LAND TITLE SURVEY FOR THE GLENN APARTMENTS

2602 S. 39TH ST.
TEMPLE, TEXAS 76504

Tract 1: Being 9.062 acres of land, more or less, out of Block 1, Temple Commercial Park, Section One, according to plat recorded in Cabinet A, Slide 25-C; Plat Records of Bell County, Texas, and being that same tract of land described in Special Warranty Deed recorded in Volume 9524, Page 112, Deed Records of Bell County, Texas, said 9.062 acres being more particularly described by metes and bounds attached hereto.

Tract 2: Being 0.433 acres of land, more or less, out of Block 1, Temple Commercial Park, Section One, according to plat recorded in Cabinet A, Slide 25-C; Plat Records of Bell County, Texas, and being that same tract of land described in Special Warranty Deed recorded in Volume 9524, Page 112, Deed Records of Bell County, Texas, said 0.433 acres being more particularly described by metes and bounds attached hereto.



TYPE	NUMBER OF SPACES
HANDICAPPED	8
REGULAR	351

LEGEND

- = FIN 1" PIPE
- = FIN 12" IRON ROD
- () = RECORD INFORMATION
- = POWER POLE
- = GUY WIRE
- = UTILITIES BOX
- = WROUGHT IRON FENCE
- = CLEANOUT
- = HANDICAP STATIONING
- = WATER VALVE
- = WATER METER
- = FIRE HYDRANT
- = TELEPHONE PEDESTAL
- = CABLE TELEVISION
- = LIGHT POST
- = ELECTRIC METER
- = OVERHEAD ELECTRIC
- = SEWER MANHOLE
- = GUARDRAIL
- COV. = COVERED
- CONC. = CONCRETE
- B.S. = BUILDING SETBACK
- E.M. = ELECTRIC METER
- C.C. = COV. CONC.

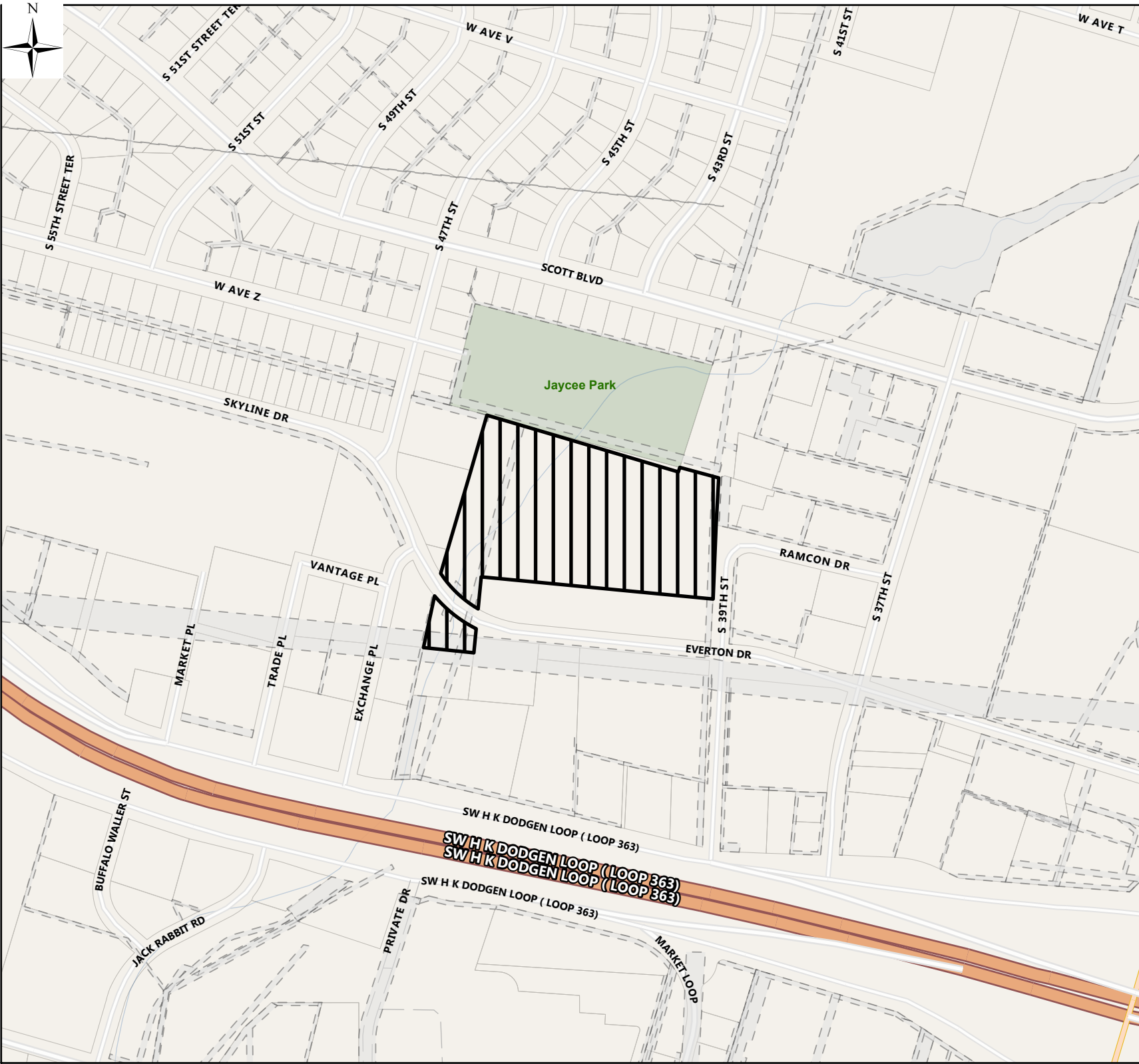
GF # 1002-268111-RTT DRAWN BY: RBA
JOB NO. 86999
DATE 01/07/2019

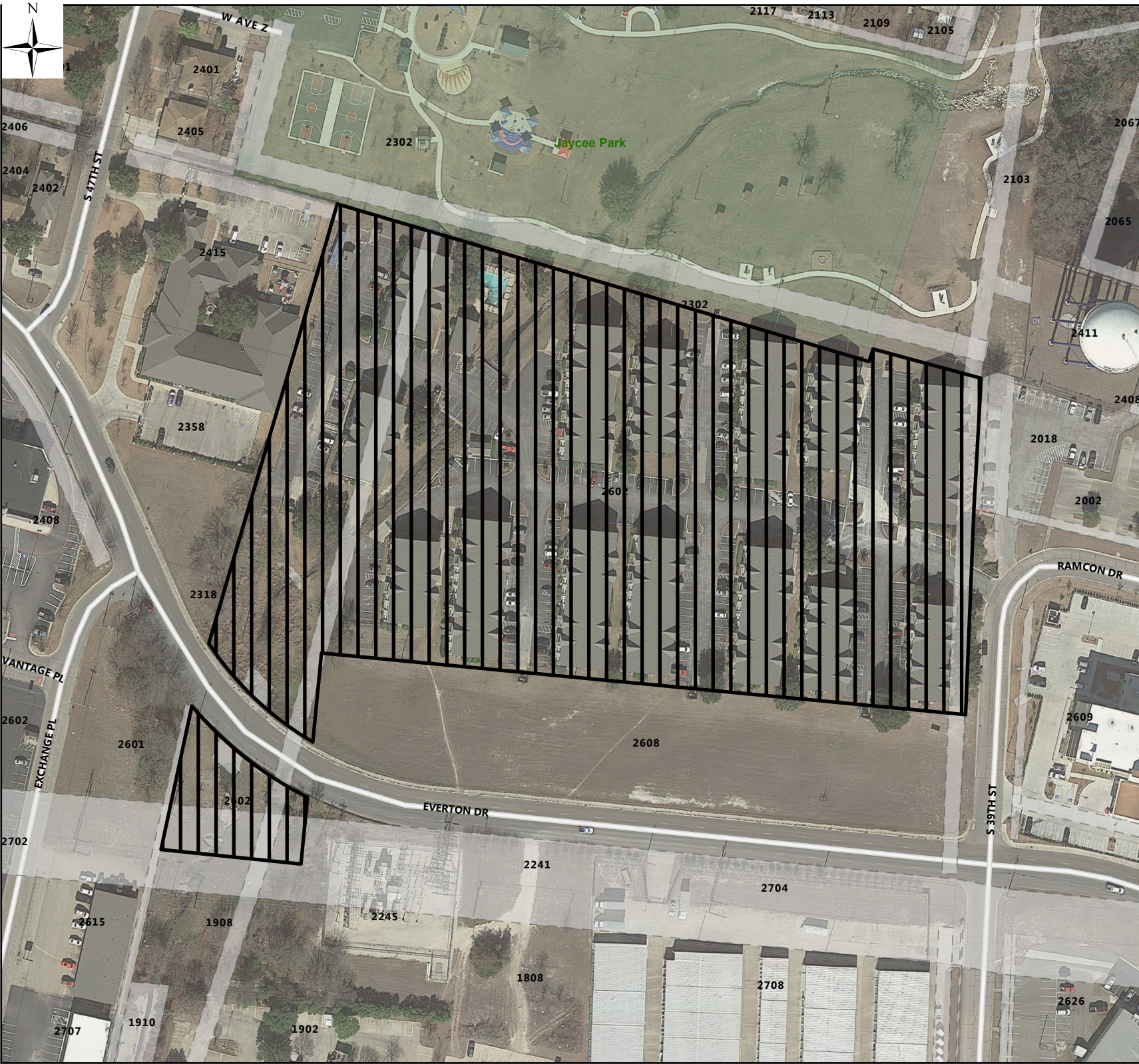
FIRM REGISTRATION NO.
1011700
Westar
Alamo
LAND SURVEYORS, LLC.
P.O. BOX 1036 HELOTES, TEXAS 78023-1036
PHONE (210) 372-9500 FAX (210) 372-9999











C to PD-MF-2

AERIAL MAP

Zoning Case :
FY-19-6-ZC

Address :
2602 S. 39th St.

Transportation

Streets

- LOCAL STREET
- Temple Municipal Boundary

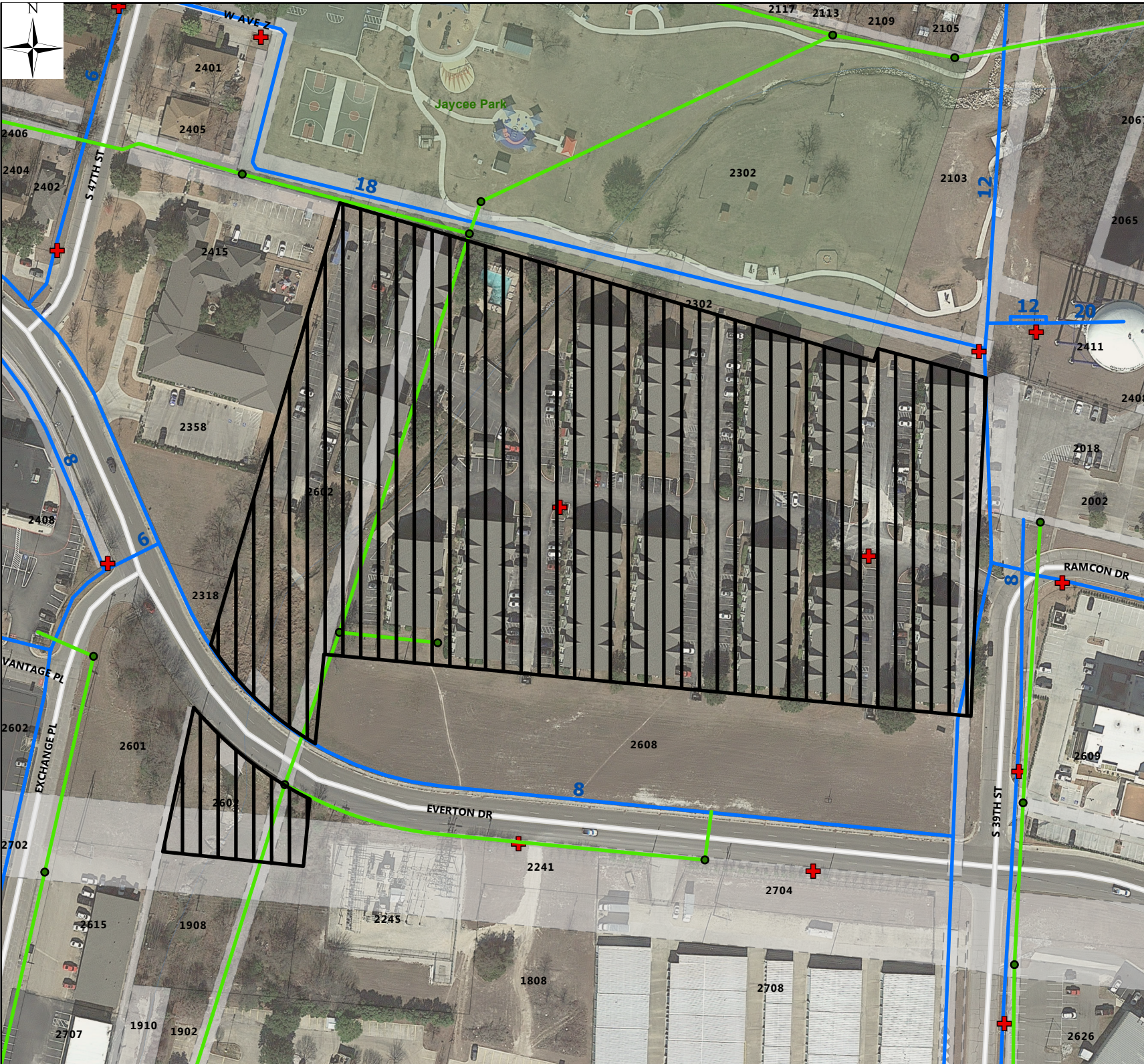
Parcel Features

- Parcels
- Easement

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.

jdeckman
Date: 1/25/2019





C to PD-MF-2

UTILITY MAP

Zoning Case :
FY-19-6-ZC

Address :
2602 S. 39th St.

Sewer

- Manhole
- Gravity Main

WaterDistribution

- ✚ Hydrant
- Main

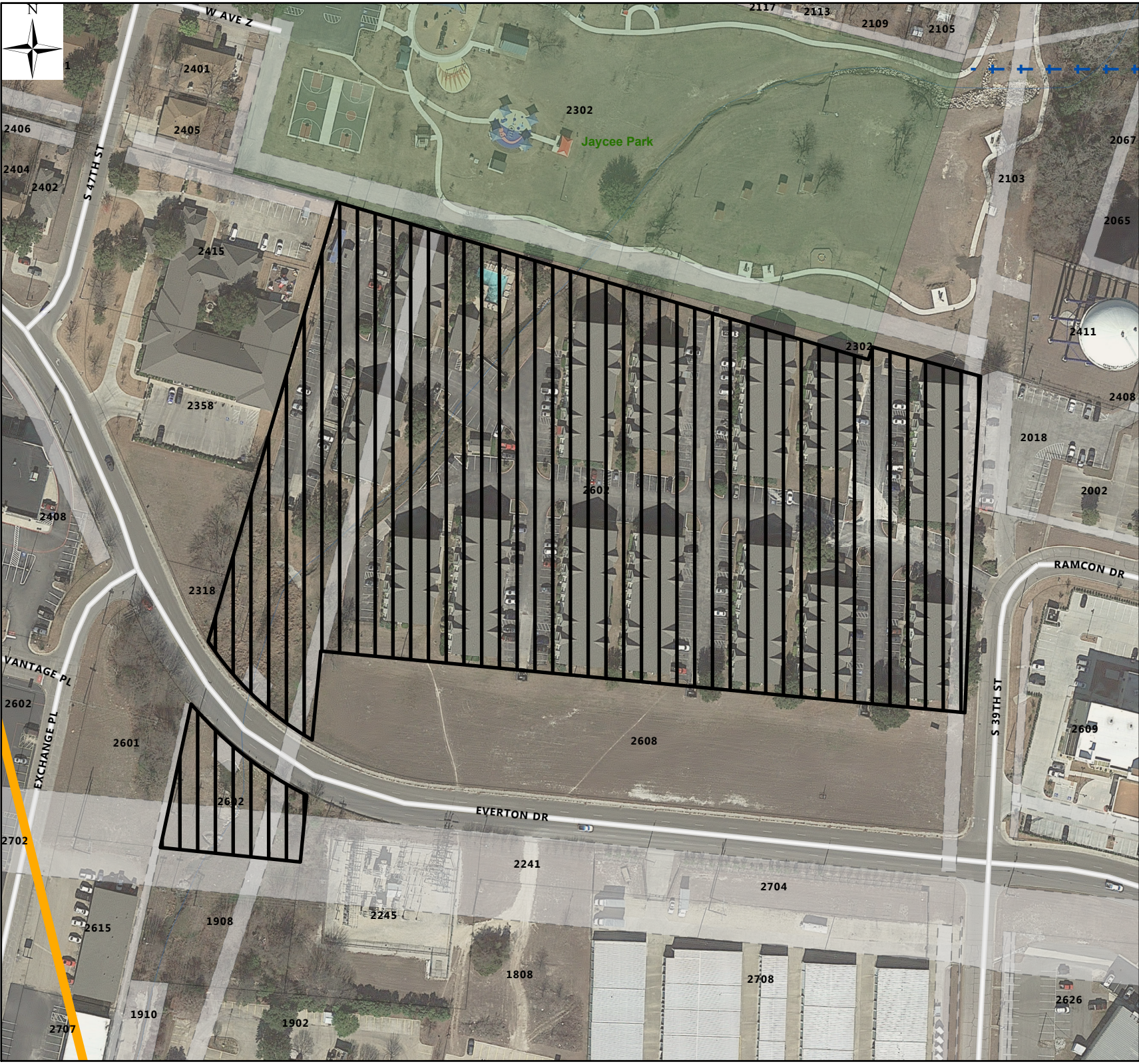
Parcel Features

- Parcels
- Easement

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.

jdeckman
Date: 1/25/2019





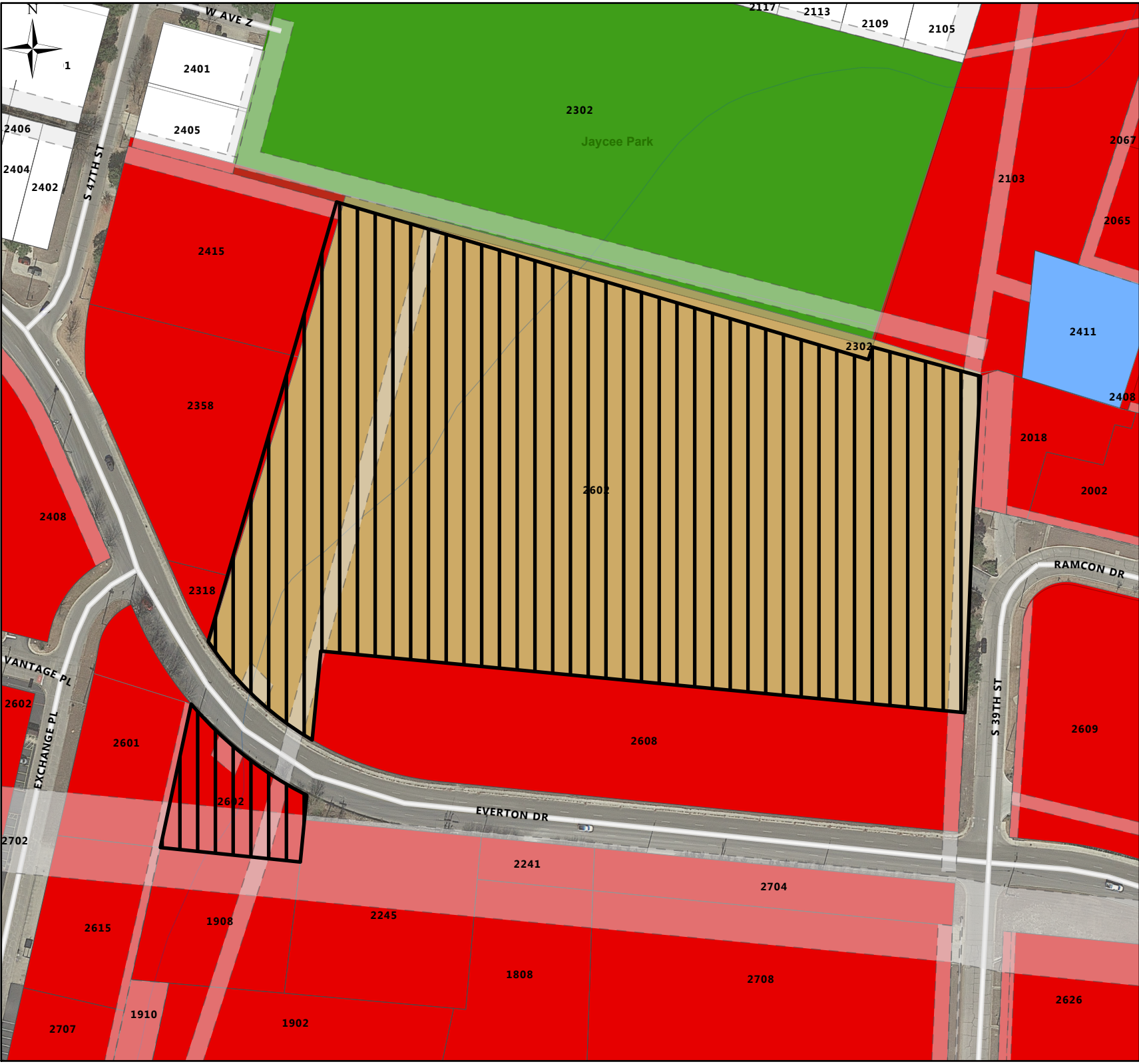
C to PD-MF-2
**THOROUGHFARE
AND TRAILS MAP**
Zoning Case :
FY-19-6-ZC
Address :
2602 S. 39th St.

- Parcel Features**
- Parcels
- Thoroughfare Plan**
- Expressway
 - Major Arterial
 - Proposed Major Arterial
 - Minor Arterial
 - Proposed Minor Arterial
 - Collector
 - Proposed Collector
- Trails Master Plan**
- EXISTING, CITY WIDE SPINE
- Legend**
- EXISTING, COMMUNITY WIDE CONNECTOR
 - EXISTING, LOCAL CONNECTOR
 - PROPOSED, CITY WIDE SPINE
 - PROPOSED, COMMUNITY WIDE CONNECTOR
 - PROPOSED, LOCAL CONNECTOR
 - Easement

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.

jdeckman
Date: 1/25/2019





C to PD-MF-2
FUTURE LAND
USE MAP

Zoning Case :
FY-19-6-ZC

Address :
2602 S. 39th St.

Transportation

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP

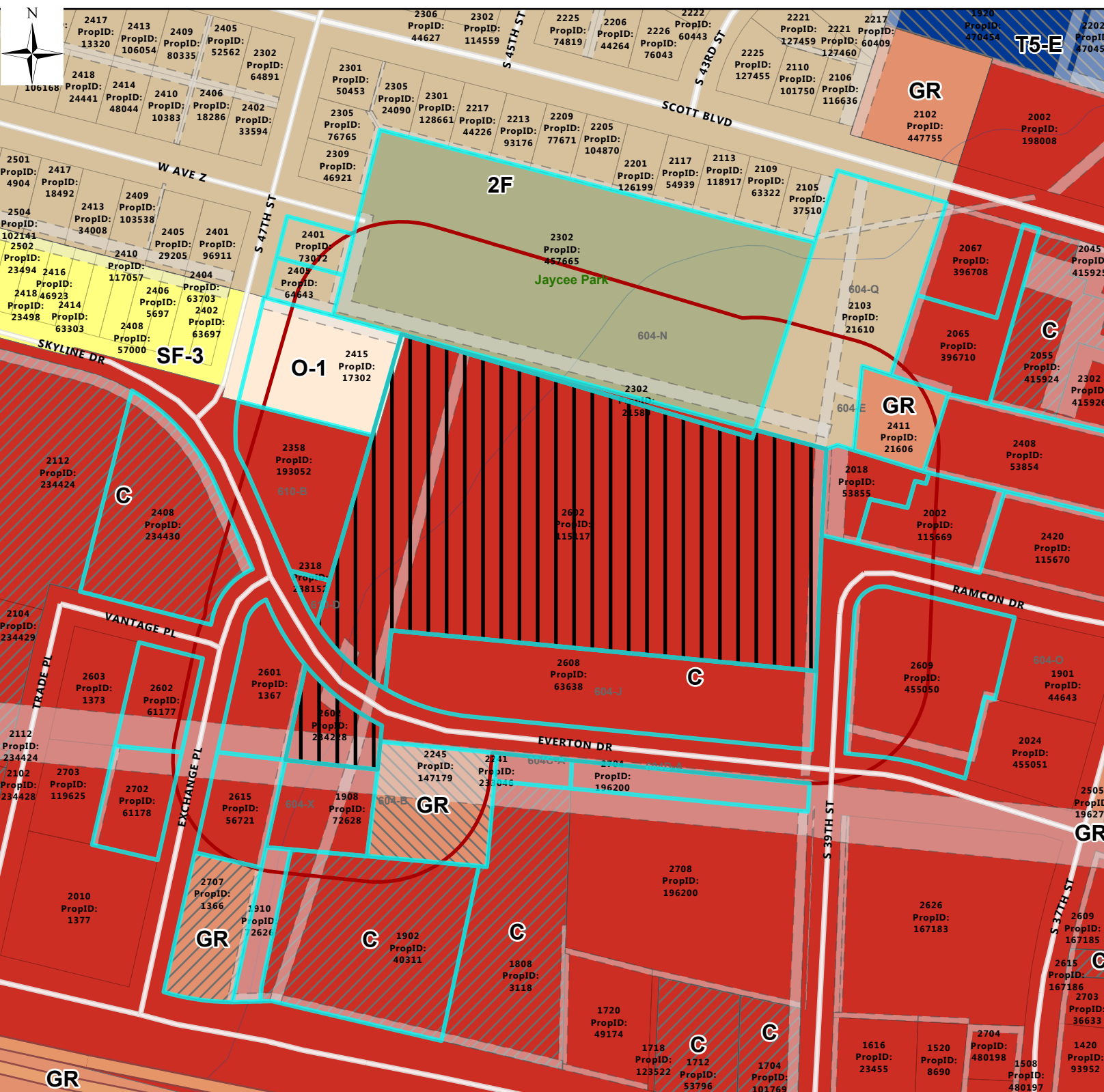
Parcel Features

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

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.

jdeckman
Date: 1/25/2019





C to PD-MF-2
200'
NOTIFICATION MAP

Zoning Case :
FY-19-6-ZC

Address :
2602 S. 39th St.

CurrentZoning	O-1	AG - CUP
HI - CUP	O-1 - CUP	MH
UE	O-1 - PD	MH - CUP
UE - PD	O-2	MH - PD
SF-1	O-2 - CUP	MU
SF-1 - CUP	O-2 - PD	MU - CUP
SF-1 - PD	NS	SD-C
SF-2	NS - CUP	SD-C - CUP
SF-2 - PD	NS - PD	SD-H
SF-3	GR	SD-H - CUP
SF-3 - PD	GR - CUP	SD-T
SF-3 - CUP, PD	GR - PD	SD-V
SFA	GR - CUP, PD	T4
SFA-2	CA	T4 - PD
SFA-2 - PD	CA - CUP	T4 - CUP
SFA-3	CA - PD	T5-C
SFA-3 - PD	C	T5-C - CUP
2F	C - CUP	T5-C - PD
2F - CUP	C - PD	T5-E
2F - PD	C - CUP, PD	T5-E - CUP
MF-1	LI	T5-E - PD
MF-1 - CUP	LI - CUP	NO BASE
MF-1 - PD	LI - PD	CUP
MF-2	LI - CUP, PD	PD
MF-2 - CUP	HI	Easement
MF-2 - PD	HI - PD	
MF-3 - PD	AG	

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.

jdeckman
Date: 1/25/2019





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

63638
LEBAY, JOE E JR
10422 COLERIDGE ST
DALLAS, TX 75218-2232

RECEIVED
FEB 19 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-6-ZC

Case Manager: Jason Deckman

Location: 2602 South 39th Street, Temple, Texas

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 () agree

(X) disagree with this request

Comments:

See attachment

Joe E. LaBay, Jr.
Signature

Joe E. LaBay, Jr.
Print Name

*214-384-5642 (C)

Joe.LaBay@SBCglobal.net

214-327-3623

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 25

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

234430
G3C TEMPLE LLC
2121 N AKARD STE 250
DALLAS, TX 75201

Zoning Application Number: FY-19-6-ZC

Case Manager: Jason Deckman

Location: 2602 South 39th Street, Temple, Texas

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 ☒ agree

() disagree with this request

Comments:

Signature

Print Name

Michael Starcher, President

Provide email and/or phone number if you want Staff to contact you (Optional)

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 25

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

115669
CENTRAL COUNTIES CENTER FOR
MENTAL HEALTH & MENTAL RETARDATION SERVICES
304 S 22ND ST
TEMPLE, TX 76501

RECEIVED
FEB 15 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-6-ZC

Case Manager: Jason Deckman

Location: 2602 South 39th Street, Temple, Texas

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 ☒ agree

() disagree with this request

Comments:

[Signature]
Signature

RAY HELMCHAMP
Print Name
CEO-CCS

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 25

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

238152
RONALD MCDONALD HOUSE
CHARITIES OF TEMPLE
2415 S 47TH ST
TEMPLE, TX 76504-7003



Zoning Application Number: FY-19-6-ZC

Case Manager: Jason Deckman

Location: 2602 South 39th Street, Temple, Texas

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 ☒ agree

() disagree with this request

Comments:

Susan Bolton
Signature

Susan Bolton
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 25

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

17302
CARING HOUSE, THE
2415 S 47TH ST
TEMPLE, TX 76504-7003

RECEIVED
FEB 11 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-6-ZC

Case Manager: Jason Deckman

Location: 2602 South 39th Street, Temple, Texas

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 ☒ agree

() disagree with this request

Comments:

Susan Bolton
Signature

Susan Bolton
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 25

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

ORDINANCE NO. 2019-4958
(FY-19-6-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM COMMERCIAL ZONING DISTRICT TO PLANNED DEVELOPMENT MULTI-FAMILY TWO ZONING DISTRICT WITH CONDITIONS AND REQUIRING A SITE DEVELOPMENT PLAN, ON APPROXIMATELY 9.055 ACRES, AND APPROXIMATELY 0.433 ACRES, OUT OF AND A PART OF BLOCK ONE, TEMPLE COMMERCIAL PARK, SECTION 1, BELL COUNTY, TEXAS, ADDRESSED AS 2602 SOUTH 39TH STREET, TEMPLE, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the existing apartment complex at The Glen is being sold and the use table in Article 5.1 of the UDC does not permit multi-family residential uses in a Commercial zoning district;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, recommends approval of the rezoning from Commercial zoning district to Planned Development Multi-Family Two zoning district, on approximately 9.055 acres and approximately 0.433 acres, out of and a part of Block One, Temple Commercial Park, Section 1, Bell County, Texas, addressed as 2602 South 39th Street, Temple, Texas, as outlined in the site development plan attached hereto as Exhibit 'A,' and made a part hereof for all purposes, and subject to the following conditions:

1. Granting an exception to the required parking ratios for multi-family residential to match the number of spaces shown on the attached site development plan (363 spaces);
2. Requiring a 4-foot sidewalk to be constructed by the applicant in the public right-of-way along South 39th Street, from the apartment entrance to the existing sidewalk along Everton Drive;
3. Compliance with the attached site development plan;

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

BE IT ORDAINED 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 Ordinance as if copied in their entirety.

Part 2: The City Council approves a rezoning from Commercial zoning district to Planned Development Multi-Family Two zoning district, on approximately 9.055 acres and approximately 0.433 acres, out of and a part of Block One, Temple Commercial Park, Section 1, Bell County, Texas, addressed as 2602 South 39th Street, Temple, Texas, as outlined in the site development plan attached hereto as Exhibit 'A,' and made a part hereof for all

purposes, and subject to the following conditions:

1. Granting an exception to the required parking ratios for multi-family residential to match the number of spaces shown on the attached site development plan (363 spaces);
2. Requiring a 4-foot sidewalk to be constructed by the applicant in the public right-of-way along South 39th Street from the apartment entrance to the existing sidewalk along Everton Drive;
3. Compliance with the attached site development plan.

Part 3: The City Council approves the Site Development Plan attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

Part 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

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 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 on First Reading and Public Hearing on the **21st** day of **March**, 2019.

PASSED AND APPROVED on Second Reading on the **4th** day of **April**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



CITY COUNCIL ITEM MEMORANDUM

03/21/19
Item #10
Regular Agenda
Page 1 of 4

DEPT. / DIVISION SUBMISSION & REVIEW:

Lynn Barrett, Assistant Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-7-ZC: Consider adopting an ordinance authorizing a rezoning request from Agricultural zoning district to Planned Development-General Retail zoning district, on 54.592 +/- acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8901 West Adams Avenue.

STAFF RECOMMENDATION: Based on the following, staff recommends approval with conditions for a rezoning from the current AG zoning district to Planned Development—General Retail (PD-GR) zoning district for the following reasons:

1. This large property is at a highly visible intersection of two major arterials.
2. The request is in compliance with UDC Section 3.4.5A-J Planned Development Criteria;
3. The request is consistent with Future Land Use Map designation of Suburban Commercial at the corner of SH 317 and West Adams Avenue, with Suburban Residential on eastern portion;
4. Public facilities are present or nearby to serve the property; and
5. The request, conditioned as a Planned Development, would help ensure compatibility with surrounding uses and the anticipated and potential growth of retail and multi-family uses along these two important corridors and assure connectivity to neighboring residential development.

As a Planned Development with General Retail base zoning, (PD-GR), staff recommends the following:

PD Conditions: (Applicant in agreement)

1. PD-GR on entire property, allowing GR uses by right with the following exceptions;
 - a. Any GR development having a building in excess of 50,000 square feet (typical “big-box”) will require an additional site development plan PD rezoning case and,
 - b. Council site plan approval showing landscaping and parking lot design, as well as building elevations prior to construction
2. Multi-family development will be allowed on up to 15 acres, with the requirement of an additional development site plan approval by City Council showing landscaping and parking lot design, as well as building elevations prior to construction
3. Free standing signage bases to primarily consist of masonry and/or decorative metal elements
4. An improved trail along the drainage area bisecting the property and landscaped greenspace is required at development of adjacent areas to implement the Trails Master Plan
5. Screening and buffering a minimum of 20 feet in width required along neighboring properties with residential uses
6. Minimum four foot sidewalk along South Cedar Road at development

PLANNING & ZONING COMMISSION RECOMMENDATION: At their February 19, 2019, meeting, the Planning & Zoning Commission voted 9 to 0 to recommend approval of the rezoning to PD-GR per staff's recommendation.

ITEM SUMMARY: The applicant, WBW, is proposing to rezone the subject tract to allow for future retail and originally asked for multi-family uses and the possibility of several Commercial type uses at the property. Subsequently, after the DRC process, the applicant requested the zoning change to straight General Retail zoning for the entire site. Staff has continued with its recommendation for a Planned Development General Retail on the property to include additional site review for any big box type of development (above 50,000 square feet), interior trail along the drainage area, sidewalk on South Cedar Road (which would not be required otherwise), sign masonry and buffering requirements and has also retained the applicant's original request for multi-family on a portion of the property, with site development plan approval prior to development. Staff analysis is that the location, phasing and size of this proposed mixed-use project warrants the extra conditions. Site plan review by the Planning and Zoning Commission and approval by City Council would be required prior to development of a big box or multi-family use. Across West Adams, for example, Wapiti Business Park was rezoned and developed through a PD-GR in 2016, also cited as being such a visible property on this important corridor.

Planned Development

UDC Section 3.4.1 defines a PD as: "A flexible overlay zoning district designed to respond to unique development proposals, special design considerations and land use transitions by allowing evaluation of land use relationships to surrounding areas through development plan approval."

Per UDC Section, 3.4.3.A, a PD is subject to review and approval by City Council and requires a binding site plan. In this case, the proposal would include a future site plan review and amendment prior to development of the property for big box retail or multi family.

SURROUNDING PROPERTIES AND USES: The following table provides the direction from the property, Future Land Use Plan (FLUP) designation, existing zoning and current land uses:

Direction	FLUP	Zoning	Current Land Use
Subject Property	Suburban Commercial/ Suburban Residential	AG	Vacant
North	Suburban Commercial	PD-GR	Commercial development
South	Suburban Residential	SF-2	Residential Subdivision
East	Auto Urban Residential	SF-2	Residential Subdivision
West	Suburban Commercial	AG	Quarry

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

Future Land Use Map (CP Map 3.1)

In the FLUM, the subject property is designated as Suburban Commercial and to the east Suburban Residential. The proposal is partially in compliance with the FLUM as the PD-GR zoning is compatible with the Suburban Commercial designation and serves to support the Suburban Residential designation.

Thoroughfare and Trails Plan (CP Map 5.2)

The subject property takes access along two sides designated as Major Arterials in the Thoroughfare Plan, and along South Cedar Road, which is designated as a local street. Staff has proposed a condition to require a sidewalk with development of the property to assist pedestrian access from surrounding subdivisions. A proposed local connector trail is shown traversing the property along the Floodplain area. The developer agreed to a staff condition to install a trail at that location upon development.

Availability of Public Facilities (CP Goal 4.1)

Water and sewer are available to service the subject property.

Document	Policy, Goal, Objective or Map	Compliant?
CP	Map 3.1 - Future Land Use and Character (FLUP)	Partial/Yes
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	Yes

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

PUBLIC NOTICE: Sixty-six notices were mailed to property owners within a 200 foot buffer area of the property. The notices included information on the public hearing as required by State Law and City Ordinance. As of noon on Thursday, March 14th, 2019, one notice was received in disagreement; and six notices in agreement (three from owner) were received, with two notices returned undeliverable. The newspaper printed notice of the public hearing on February 7, 2019 in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Location and Other Maps
Site Photos
Tables
Returned Property Notices
P & Z Meeting Excerpts
Site Development Plan
Ordinance



AG TO PD-GR


AERIAL MAP

Zoning Case :
FY-19-7-ZC

Address :
8901 W ADAMS AVE

Transportation

Streets

 MAJOR ARTERIAL

 LOCAL STREET

 Temple Municipal Boundary

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.

Irbarrett
Date: 2/2/2019





AG TO PD-GR

200'

NOTIFICATION MAP

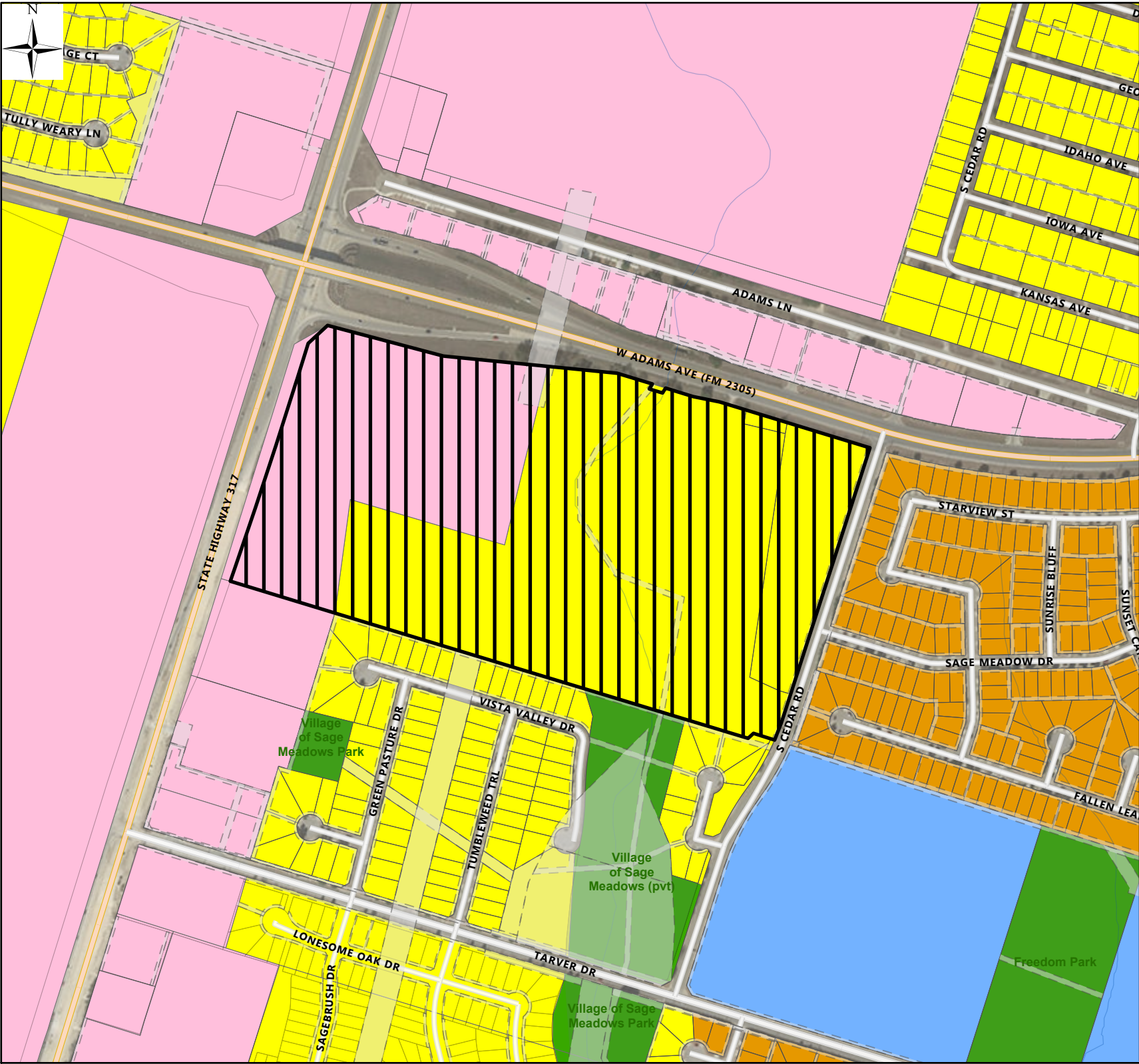
Zoning Case :
FY-19-7-ZC
Address :
8901 W Adams

Current Zoning	MF-3 - PD	HI - PD
HI - CUP	O-1	AG
UE	O-1 - CUP	AG - CUP
UE - PD	O-1 - PD	MH
SF-1	O-2	MH - CUP
SF-1 - CUP	O-2 - CUP	MH - PD
SF-1 - PD	O-2 - PD	MU
SF-2	NS	MU - CUP
SF-2 - PD	NS - CUP	SD-C
SF-3	NS - PD	SD-C - CUP
SF-3 - PD	GR	SD-H
SF-3 - CUP, PD	GR - CUP	SD-H - CUP
SFA	GR - PD	SD-T
SFA-2	GR - CUP, PD	SD-V
SFA-2 - PD	CA	T4
SFA-3	CA - CUP	T4 - PD
SFA-3 - PD	CA - PD	T4 - CUP
2F	C	T5-C
2F - CUP	C - CUP	T5-C - CUP
2F - PD	C - PD	T5-C - PD
MF-1	C - CUP, PD	T5-E
MF-1 - CUP	LI	T5-E - CUP
MF-1 - PD	LI - CUP	T5-E - PD
MF-2	LI - PD	NO BASE
MF-2 - CUP	LI - CUP, PD	CUP
MF-2 - PD	HI	PD

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Irbarrett
Date: 2/2/2019





AG TO PD-GR FUTURE LAND USE MAP

Zoning Case :
FY-19-7-ZC

8901W ADAMS AVE

Transportation

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP

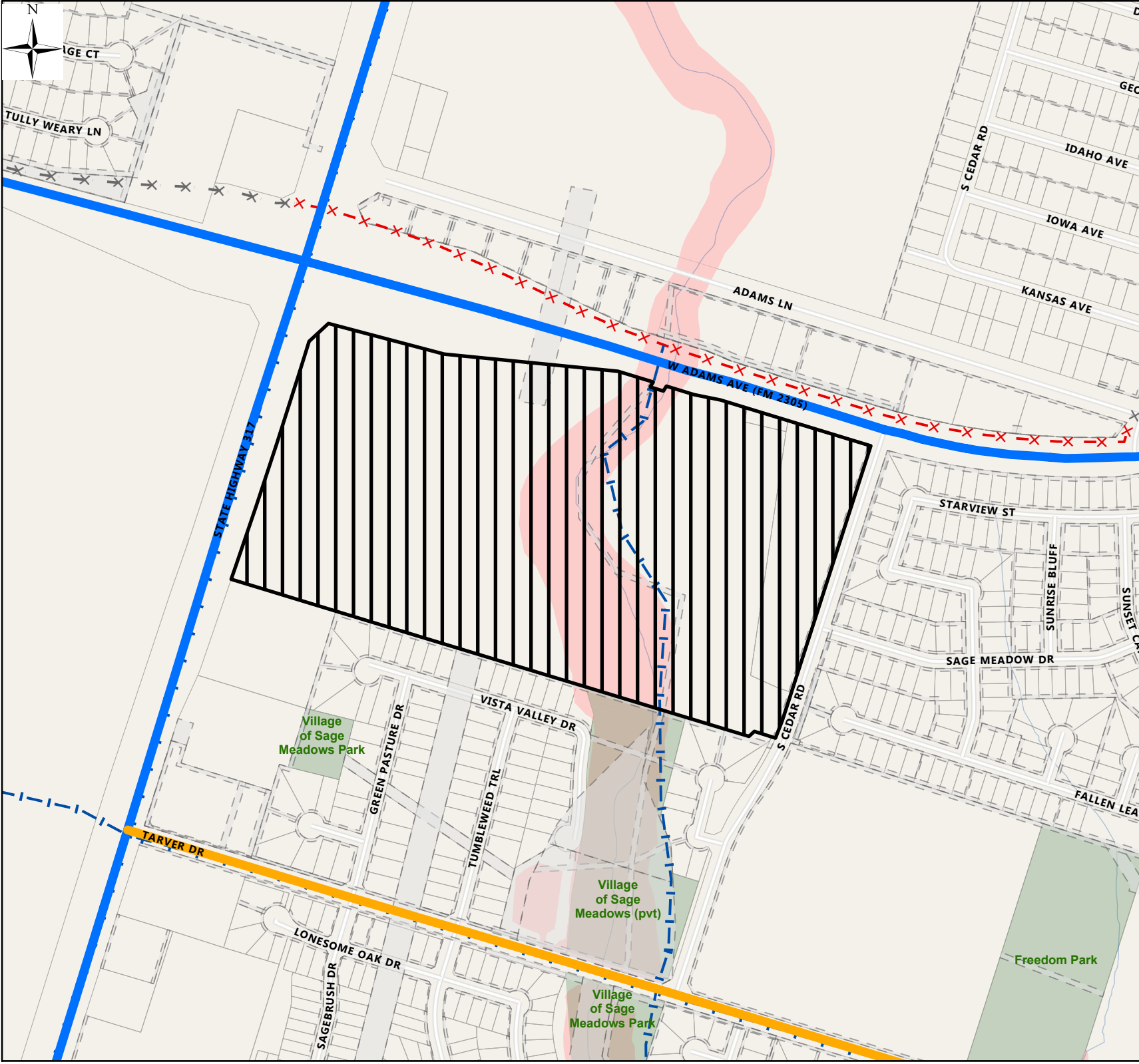
Parcel Features

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

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Irbarrett
Date: 2/2/2019





AG TO PD-GR THOROUGHFARE AND TRAILS MAP

Zoning Case :
FY-19-7-ZC

8901 W ADAMS AVE

- Parcel Features**
- Parcels
- Thoroughfare Plan**
- Expressway
 - Major Arterial
 - Proposed Major Arterial
 - Minor Arterial
 - Proposed Minor Arterial
 - Collector
 - Proposed Collector
- Trails Master Plan**
- EXISTING, CITY WIDE SPINE
- Parcel Features**
- EXISTING, COMMUNITY WIDE CONNECTOR
 - EXISTING, LOCAL CONNECTOR
 - PROPOSED, CITY WIDE SPINE
 - PROPOSED, COMMUNITY WIDE CONNECTOR
 - PROPOSED, LOCAL CONNECTOR
 - Production.SDE.

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Irbarrett
Date: 2/2/2019





AG TO PF-GR

UTILITY MAP

Zoning Case :
FY-19-7-ZC

Address :
8901 W ADAMS AVE

Sewer

- Manhole
- Gravity Main

WaterDistribution

- ✚ Hydrant
- Main

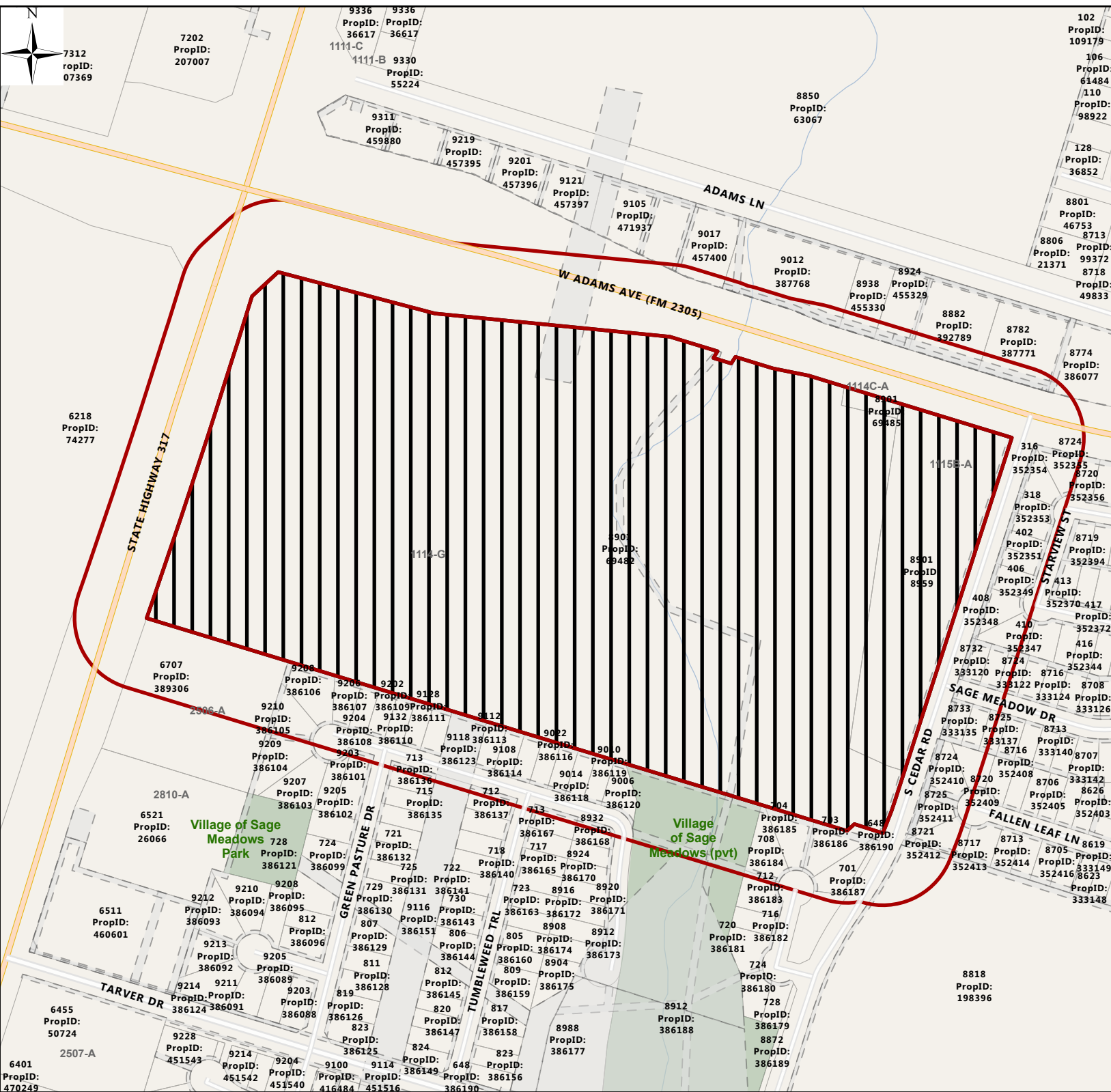
Parcel Features

- Parcels
- Production.SDE.Easement

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Irbarrett
Date: 2/2/2019





SITE PHOTOS



Frontage Along 317





Frontage along West Adams





Development Standards

	<u>Current (AG)</u> <u>Residential</u>	<u>Proposed</u> <u>(PD-GR)</u> <u>Non-Res</u>
Minimum Lot Size	1 Acre	N/A
Minimum Lot Width	100 Feet	N/A
Minimum Lot Depth	150 Feet	N/A
Front Setback	50 Feet	15 Feet
Side Setback	15 Feet	10 Feet
Side Setback (corner)	15 Feet	10 Feet
Rear Setback	10 Feet	❖ 10 Feet
Max Building Height	3 Stories	3 Stories

❖ **10' rear setback (Non-residential use abuts a residential zoning district or use)- UDC Section 4.4.4.F3**

General provisions for buffering and screening for non-residential uses adjacent to residential uses are found in UDC Section 7.7, highlighted provisions include:

* landscaping or solid fencing from 6 to 8 feet in height (UDC Section 7.7.4),

*

NOTE: A 20-FOOT PERIMETER LANDSCAPE STRIP IS PROPOSED

Permitted & Conditional Uses Table

Comparison between AG & NS

Use Type	Agricultural (AG)	General Retail (GR)
Agricultural Uses	Farm, Ranch or Orchard	Same as AG
Residential Uses	Single Family Residence (Detached & Attached) Industrialized Housing Family / Group Home (CUP)	Single Family Detached & Attached Only Industrialized Housing Townhouse Family /Group Home (CUP)
Retail & Service Uses	None	Most Retail & Service Uses Restaurants; Beer & Wine Sales, off-premise consumption (CUP)
Commercial Uses	None	Contractor Storage, Print Shop, Plumbing and Upholstery shop
Office Uses	None	Office Uses
Industrial Uses	Temporary Asphalt & Concrete Batching Plat (CUP)	Same as AG Laboratory, medical, dental, scientific or research (CUP)
Recreational Uses	Park or Playground	Indoor and Outdoor Amusements
Educational & Institutional Uses	Cemetery (CUP) Place of Worship Social Svc. Shelter (CUP) Halfway House (CUP)	Church, hospital, museum, school
Vehicle Service Uses	None	Fuel Sales, Auto leasing, carwash, auto sales, motorcycle/scooter sales and service
Restaurant Uses	None	Restaurant and with drive through
Overnight Accommodations	RV Park (CUP)	Hotel and RV Park (CUP)



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

386106
LIZAMA, TONI R ETVIR JACKARY PAUL
9208 VISTA VALLEY
TEMPLE, TX 76502

RECEIVED
FEB 22 2019

CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-7-ZC

Case Manager: Lynn Barrett

Location: 8901 West Adams Avenue, Temple, Tx

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 () agree

☒ disagree with this request

Comments:

I am concerned about my property value going down and the over crowding of the area / Neighborhood

Signature

Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, lrbartlett@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 66

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

386119
LARKIN, MITZIE A & RANDALL P
9010 VISTA VALLEY DR
TEMPLE, TX 76502-3158

RECEIVED
FEB 19 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-7-ZC

Case Manager: Lynn Barrett

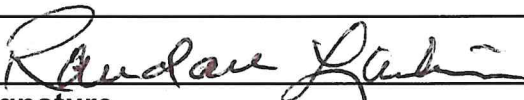
Location: 8901 West Adams Avenue, Temple, Tx

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I ☒ agree

() disagree with this request

Comments:


Signature

RANDALL LARKIN
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, lbarrett@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 66

Date Mailed: February 6, 2019

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

455329
SWEET, DAVID
1605 FOREST TRL
TEMPLE, TX 76502

RECEIVED

FEB 15 2019

CITY OF TEMPLE
PLANNING DEPARTMENT

Zoning Application Number: FY-19-7-ZC

Case Manager: Lynn Barrett

Location: 8901 West Adams Avenue, Temple, Tx

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I ☒ agree

() disagree with this request

Comments:

[Signature]
Signature

David G. Sweet
Print Name

Provide email and/or phone number if you want Staff to contact you (Optional)

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, lbarrett@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 66

Date Mailed: February 6, 2019

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

455330
SWEET, DAVID
16775 DEER RIDGE RD
MOODY, TX 76557

RECEIVED

FEB 15 2019

CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-7-ZC

Case Manager: Lynn Barrett

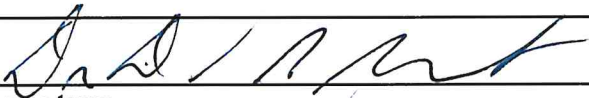
Location: 8901 West Adams Avenue, Temple, Tx

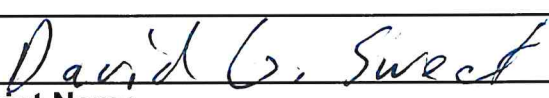
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I ☒ agree

() disagree with this request

Comments:


Signature


Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

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City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 66

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

8959
KINNISON, PAUL JR ETAL
418 W FRENCH PL
SAN ANTONIO, TX 78712



Zoning Application Number: FY-19-7-ZC

Case Manager: Lynn Barrett

Location: 8901 West Adams Avenue, Temple, Tx

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I ☒ agree

() disagree with this request

Comments:

Paul Kinnison Jr. EXE
Signature

PAUL KINNISON, JR., EXE
Print Name

PAULKINNISON@GMAIL.COM 1-210-852-1831 (Optional)
Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, lbarrett@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 66

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

69485
KINNISON, PAUL JR ETAL
418 W FRENCH PL
SAN ANTONIO, TX 78712

Zoning Application Number: FY-19-7-ZC

Case Manager: Lynn Barrett

Location: 8901 West Adams Avenue, Temple, Tx

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I ☒ agree

() disagree with this request

Comments:

Paul Kinnison, Jr. EXE
Signature

PAUL KINNISON, JR. EXE
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, lrbartlett@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 66

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

69482
KINNISON, PAUL JR ETAL
418 W FRENCH PL
SAN ANTONIO, TX 78712

RECEIVED
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-7-ZC

Case Manager: Lynn Barrett

Location: 8901 West Adams Avenue, Temple, Tx

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 ☒ agree

() disagree with this request

Comments:

Paul Kinnison, Jr. EXE
Signature

PAUL KINNISON, JR., EXE
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

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City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 66

Date Mailed: February 6, 2019

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EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
TUESDAY, FEBRUARY 19, 2019

ACTION ITEMS

Item 3: FY-19-7-ZC - Hold a public hearing to discuss and recommend action for a rezoning request from Agricultural (AG) zoning district to Planned Development-General Retail (PD-GR) zoning district, on 54.592 +/- acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8901 W. Adams Avenue.

Ms. Lynn Barrett, Assistant Director of Planning, stated this rezoning is scheduled to go forward to City Council for first reading on March 21, 2019 and second reading on April 4, 2019.

Aerial map of subject property is shown, and an enlarged location map is also shown.

The subject property is bordered on two sides by Sage Meadows Subdivision, and developer proposed retail uses. Developer is requesting an option to add multi-family to no more than 15 acres in the site.

Ms. Barrett stated that applicant, Josh Welch for WBW, and owner, Paul Kinnison, proposes a mix of various retail uses including a strip center and out parcels on the property. Planned Development conditions would apply due to the size and visibility of property and include additional site development plan review for big box retail or multi-family uses prior to development, for landscaping and buffering/sidewalk provisions, and sign design elements.

Originally, developer was interested in a Commercial (C) rezoning, but after working with staff the PD-GR zoning was decided to be best suited for their needs.

On-site and surrounding property photos are shown.

Current zoning map is shown.

The Future Land Use map is shown identifying the Suburban-Commercial zoning areas as well as Suburban-Residential areas found to be in partial compliance. Regarding surrounding areas: Suburban-Commercial, Suburban-Residential, and Auto-Urban Residential zoning areas were found to be in partial compliance.

The utility map is shown and found to be in compliance. Water and sewer are available to serve the subject property. Due to drainage area, part of the property cannot be developed.

Thoroughfare and Trails map is shown and found to be in compliance. The two major arterials are State Highway 317 and West Adams. An existing sidewalk is already in place along State Highway 317 and a sidewalk will be required per ordinance along Adams at development with a four-foot sidewalk recommended as a PD condition on South Cedar Road at development. There is also a PD condition to build a trail along the drainage area.

Ms. Barrett reviewed the definition of a PD and the PD conditions are:

1. PD-GR on the entire property, allowing GR uses by right with the following exceptions;

- a. Any GR development having a building in excess of 50,000 square feet will require an additional site development plan PD rezoning case and;
 - b. Site plan approval prior to construction for structure elevations, landscaping, and parking lot design.
2. Multi-family development will be allowed on up to 15 acres, with the requirement of an additional development site plan approval as a PD amendment prior to construction for structure elevations, landscaping, and parking lot design;
3. Free standing signage bases to contain masonry and/or decorative metal element;
4. An improved trail along the drainage area bisecting the property and landscaped greenspace is required at development of adjacent areas to implement the Trails Master Plan;
5. Screening and buffer a minimum of 20-feet in width required along neighboring properties with residential uses; and
6. Minimum four-foot sidewalk along South Cedar Road at development.

Sixty-six notices were mailed in accordance with all state and local regulations with six notices returned in agreement, 3 from the property owner and 3 from other owners, and zero notices returned in disagreement.

Staff recommends approval of the rezoning request to PD-GR with the previously mentioned conditions and with Site Development Plans to follow as specified prior to development.

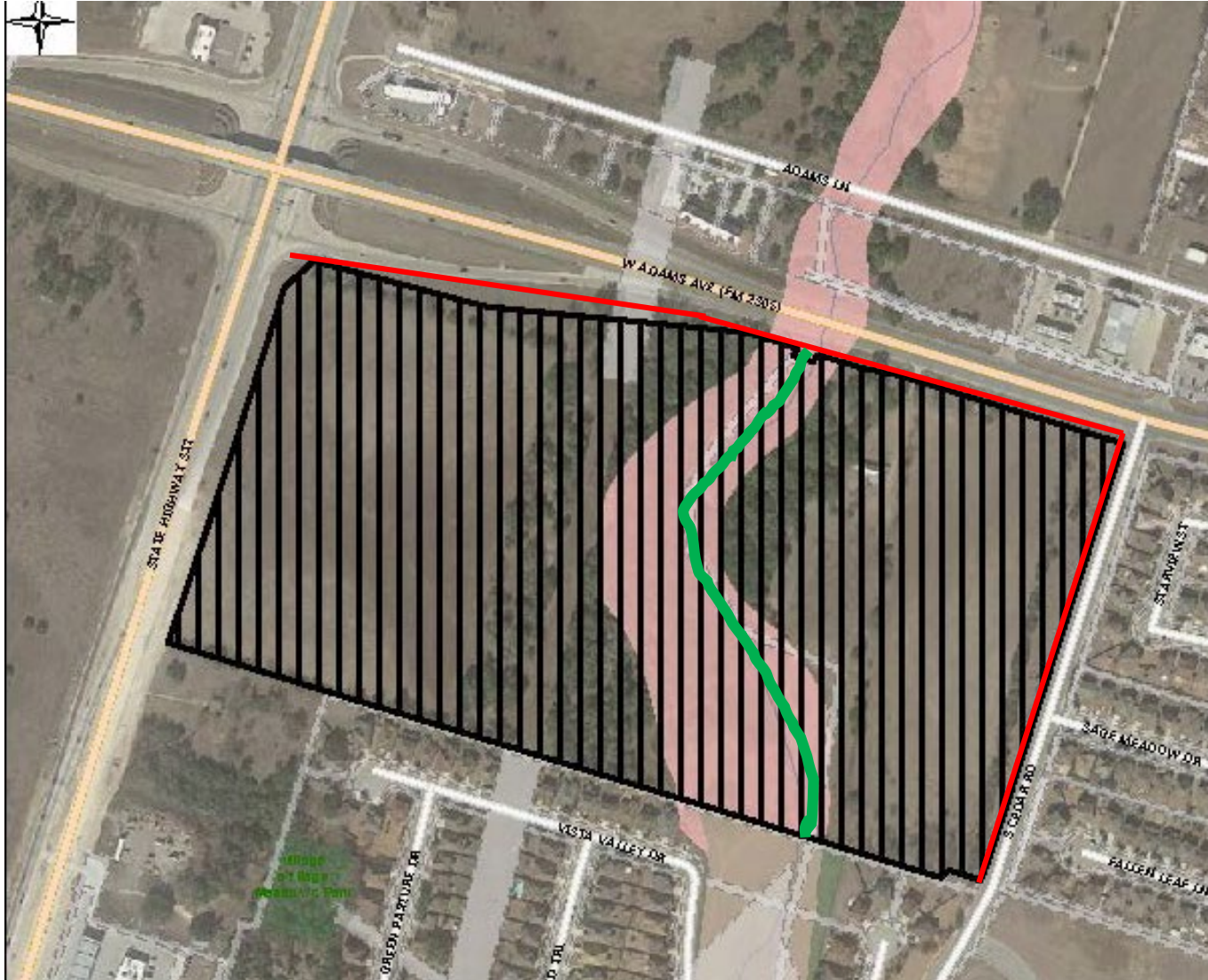
Chair Langley opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Armstrong made a motion to approve Item 3, **FY-19-7-ZC**, per staff recommendation, and Vice-Chair Ward made a second

Motion passed: (9:0)

Site Plan 8901 W Adams Ave



-  Required sidewalk
-  Required trail

Conditions

1. PD-GR on entire property, allowing GR uses by right with the following exceptions;
 - a. Any GR development having a building in excess of 50,000 square feet (typical "big-box") will require an additional site development plan PD rezoning case and,
 - b. Council site plan approval showing landscaping and parking lot design, as well as building elevations prior to construction
2. Multi-family development will be allowed on up to 15 acres, with the requirement of an additional development site plan approval by City Council showing landscaping and parking lot design, as well as building elevations prior to construction
3. Free standing signage bases to primarily consist of masonry and/or decorative metal elements
4. An improved trail along the drainage area bisecting the property and landscaped greenspace is required at development of adjacent areas to implement the Trails Master Plan
5. Screening and buffering a minimum of 20 feet in width required along neighboring properties with residential uses
6. Minimum 4' sidewalk along S Cedar Road at development
7. Six foot sidewalk required along West Adams Ave.

ORDINANCE NO. 2019-4959
(FY-19-7-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM AGRICULTURAL ZONING DISTRICT TO PLANNED DEVELOPMENT-GENERAL RETAIL ZONING DISTRICT, ON APPROXIMATELY 54.592 ACRES, SITUATED IN THE BALDWIN ROBERTSON SURVEY, ABSTRACT NO. 17, BELL COUNTY, TEXAS, ADDRESSED AS 8901 WEST ADAMS AVENUE, TEMPLE, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant, WBW, desires to rezone approximately 54.592 acres from Agricultural zoning district to General Retail zoning district to allow for future retail;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration to the conditions, recommends approval of the rezoning from Agricultural zoning district to Planned Development-General Retail zoning district, on approximately 54.592 acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8901 West Adams Avenue, as outlined in the map and field notes attached hereto as Exhibit 'A,' and made a part hereof for all purposes, and subject to the following conditions:

- Planned Development-General Retail zoning on entire property, allowing General Retail uses by right with the following exceptions;
 - Any General Retail development having a building in excess of 50,000 square feet (typical “big-box”) will require an additional site development plan Planned Development rezoning case; and
 - Council site plan approval showing landscaping and parking lot design, as well as building elevations prior to construction;
- Multi-family development will be allowed on up to 15 acres, with the requirement of an additional development site plan approval by City Council showing landscaping and parking lot design, as well as building elevations prior to construction;
- Free standing signage bases to primarily consist of masonry and/or decorative metal elements;
- An improved trail along the drainage area bisecting the property and landscaped greenspace is required at development of adjacent areas to implement the Trails Master Plan;
- Screening and buffering a minimum of 20 feet in width required along neighboring properties with residential uses;
- Minimum 4-foot sidewalk along South Cedar Road at development; and

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

BE IT ORDAINED 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 Ordinance as if copied in their entirety.

Part 2: The City Council approves of the rezoning from Agricultural zoning district to Planned Development-General Retail zoning district, on approximately 54.592 acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8901 West Adams Avenue, as outlined in the map and field notes attached hereto as Exhibit 'A,' and made a part hereof for all purposes, and subject to the following conditions:

- Planned Development-General Retail zoning uses by right with the following exceptions;
 - Any General Retail development having a building in excess of 50,000 square feet (typical "big-box") will require an additional site development plan Planned Development rezoning case; and
 - Council site plan approval showing landscaping and parking lot design, as well as building elevations prior to construction;
- Multi-family development will be allowed on up to 15 acres, with the requirement of an additional development site plan approval by City Council showing landscaping and parking lot design, as well as building elevations prior to construction;
- Free standing signage bases to primarily consist of masonry and/or decorative metal elements
- An improved trail along the drainage area bisecting the property and landscaped greenspace is required at development of adjacent areas to implement the Trails Master Plan;
- Screening and buffering a minimum of 20 feet in width required along neighboring properties with residential uses;
- Minimum 4' sidewalk along South Cedar Road at development; and

Part 3: The City Council approves the Site Development Plan attached hereto as Exhibit 'B,' and made a part hereof for all purposes.

Part 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

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 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 on First Reading and Public Hearing on the **21st** day of **March**, 2019.

PASSED AND APPROVED on Second Reading on the **4th** day of **April**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #11
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION REVIEW:

Mark Baker, Principal Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-8-ZC: Consider adopting an ordinance authorizing rezoning from Light Industrial zoning district to Single-Family One zoning district, on 0.189 +/- acres, being Lot 7, Block 5, Rylander Addition, addressed as 14 North 12th Street.

STAFF RECOMMENDATION: Staff recommends approval for a rezoning from LI to SF-1 district for the following reasons:

1. The proposed SF-1 zoning coupled with issued building permits will bring the subject property into conformance with zoning;
2. The proposed SF-1 zoning is compatible with surrounding and existing residential uses in the same street block;
3. The proposal is in compliance with the Thoroughfare Plan; and
4. Public facilities are available to serve the subject property.

PLANNING & ZONING COMMISSION RECOMMENDATION: At their February 19, 2019 meeting, The Planning & Zoning Commission voted 9 to 0 to recommend approval per staff's recommendation.

ITEM SUMMARY: The applicant and property owner, Lonnie Gruner, requests rezoning of 0.189 +/- acres (8,232 +/- square feet) from Light Industrial (LI) zoning district to Single-Family 1 (SF-1) zoning district in order to bring a non-conforming use and two structures into conformance and allow expansion of living space, which is currently not allowed in the LI district. The property is currently platted and occupied by an existing non-conforming single-family residence, which is over 100 years old. The applicant desires to convert an accessory structure into living space as well as a remodeling of attic space into living space for the existing residence. While single-family residential uses are prohibited in the LI zoning district, rezoning to SF-1 would allow conversion for additional living space, subject to City Council approval of the rezoning. A second residential unit is still prohibited with SF-1 zoning.

Per UDC Section 9.2, non-conforming uses and structures cannot be increased, enlarged or expanded. Further, per UDC Section 9.2.5, if destroyed by fire, a non-conforming structure cannot be rebuilt.

The requested zoning to SF-1 coupled with the following building permits meeting all dimensional standards and with the front building used as a residence only, will bring the property into conformance:

- **Single Family Residence (Front)** – Permit number FY-19-40-BDRR – Interior remodel (only) to bring residence up to code and allow conversion of attic space to living space. (Issued January 23, 2019)
- **Accessory Building (Rear)** – Permit number FY-19-2-ACRL – Exterior & interior remodel to bring structure up to code with no provisions as a residence (Issued January 16, 2019)

ZONING: As the property is currently zoned LI, single-family residences are not permitted as well as expansion of existing single-family residences, as discussed earlier in this report. The character of the west side of this block of North 12th Street is primarily single-family in nature. The new Comprehensive Plan & East Temple revitalization efforts will want to take a closer look at preservation of this neighborhood.

COMPREHENSIVE PLAN (CP) COMPLIANCE: Compliance to goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan are summarized by the attached Comprehensive Plan Compliance table but further described below:

Future Land Use Map (CP Map 3.1)

The subject property is within the Auto-Urban Commercial Future Land Use Map (FLUM) designation. The Auto-Urban Commercial designation is appropriate for a majority of the areas identified for commercial use. The designation also lends itself to the more intense general retail uses. Single family uses alone are not consistent with the designation.

However, the subject property is adjacent to the Auto-Urban Residential designation which does support residential uses. Additionally, there is an existing lot in the same block that is zoned 2F, which is occupied by a residential use and there are existing residential uses within the same street block. Therefore, the proposed SF-1 zoning district is in **PARTIAL** compliance with the FLUM.

Thoroughfare Plan (CP Map 5.2)

Twelfth (12th) Street is a local street requiring a minimum 50-foot right-of-way (ROW). The existing ROW is approximately 60 feet and therefore, there are no impacts to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

Waste water is available from a 12-inch sewer line in the alley as well as from a six-inch sewer line on the opposite side of North 12th Street. Water is available from a two-inch water line in the alley as well as from a six-inch waterline on the opposite side of North 12th Street.

Temple Trails Master Plan Map and Sidewalks Ordinance

There are no trails, as identified by the Temple Trails Master Plan, impacted by this rezoning request. Since North 12th Street is a local street, no sidewalks are required.

DEVELOPMENT REGULATIONS: The attached tables compare and contrast, the current development standards for LI with the proposed SF-1 standards as provided for in UDC Sections 4.2, 4.5 and 4.5.1

PUBLIC NOTICE: Sixteen notices, were sent to property owners within 200-feet of the subject property containing notice of the public hearing as required by State law and City Ordinance. As of Tuesday March 12, 2019 at 9:00 AM, four notices, two of which are from the same owner relating to six properties, represent a total of eight properties have been received in agreement.

The newspaper printed notice of the public hearing on February 7, 2019, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Boundary Map \(Exhibit A\)](#)

[Photos](#)

[Tables](#)

[Maps](#)

[Returned Property Notices](#)

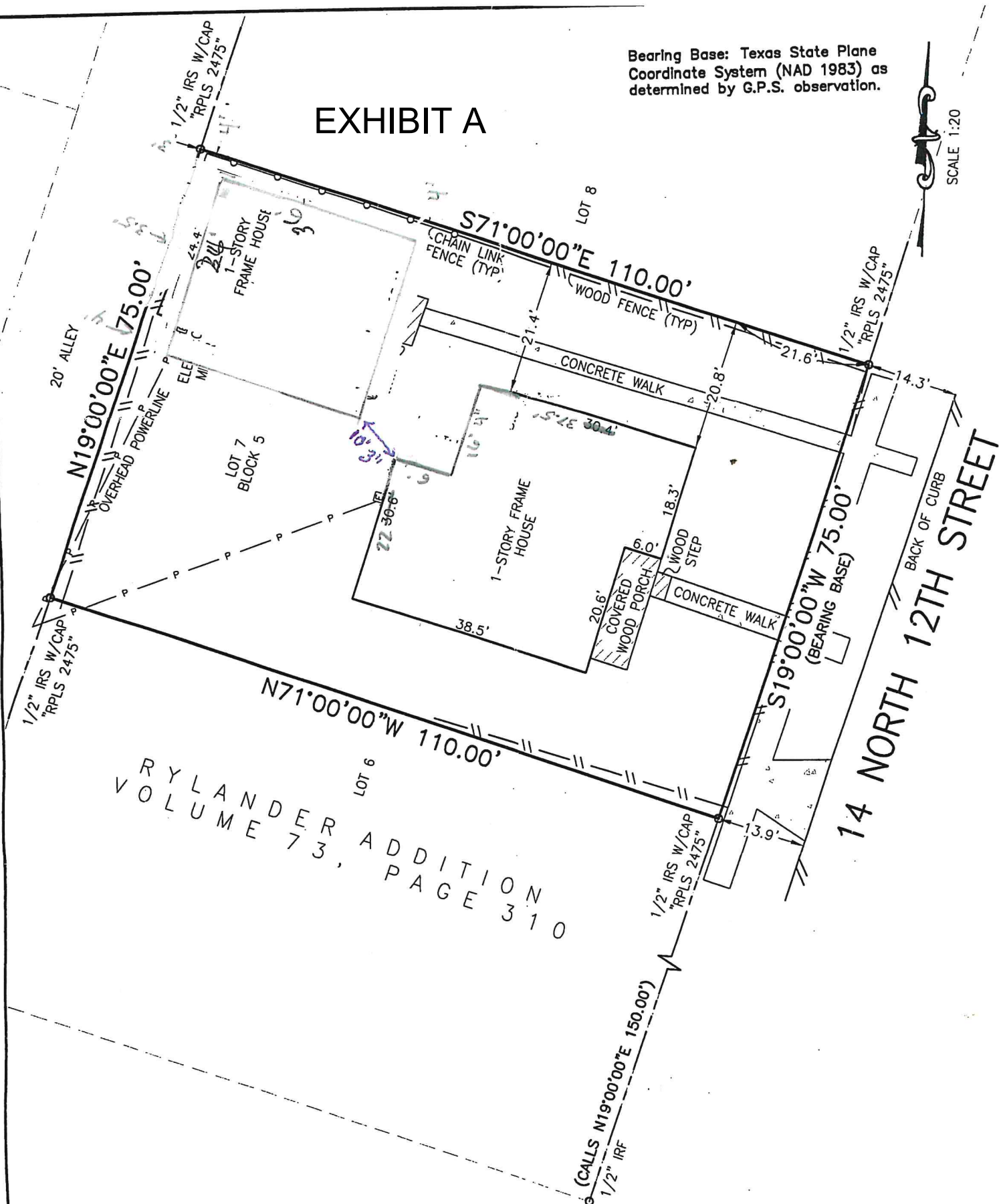
[Planning Excerpts \(February 19, 2019\)](#)

[Ordinance](#)

Bearing Base: Texas State Plane
Coordinate System (NAD 1983) as
determined by G.P.S. observation.

EXHIBIT A

SCALE 1:20



Being Lot 7 in Block 5 of Rylander Addition to the City of Temple, Bell County, Texas, according to the Plat of record in Volume 73, page 310, Deed Records of Bell County, Texas.



STATE OF TEXAS } KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis,
COUNTY OF BELL } a Registered Professional Land Surveyor in the State of Texas,
do hereby certify that this survey was this day made
on the ground of the property described herein and
is correct and that there are no discrepancies, conflicts, shortages in the
area, easements, and right-of-ways except as shown hereon, that this tract
of land has access to and from a public road, and I have marked all corners
with monuments.

This Property is not within the Special Flood Hazard Area as per the Federal
Emergency Management Agency Federal Insurance Administration Map No.
48027C0355E, dated September 26, 2008.

IN WITNESS THEREOF, my hand and seal, this the 19th day of June 2018.

Michael E. Alvis

Michael E. Alvis, R.P.L.S., No. 5402



301 N. 3rd St.
TEMPLE, TEXAS 76501

ENGINEERING • PLANNING • SURVEYING
TBPE No. F-1658 • TBPLS No. 10056000

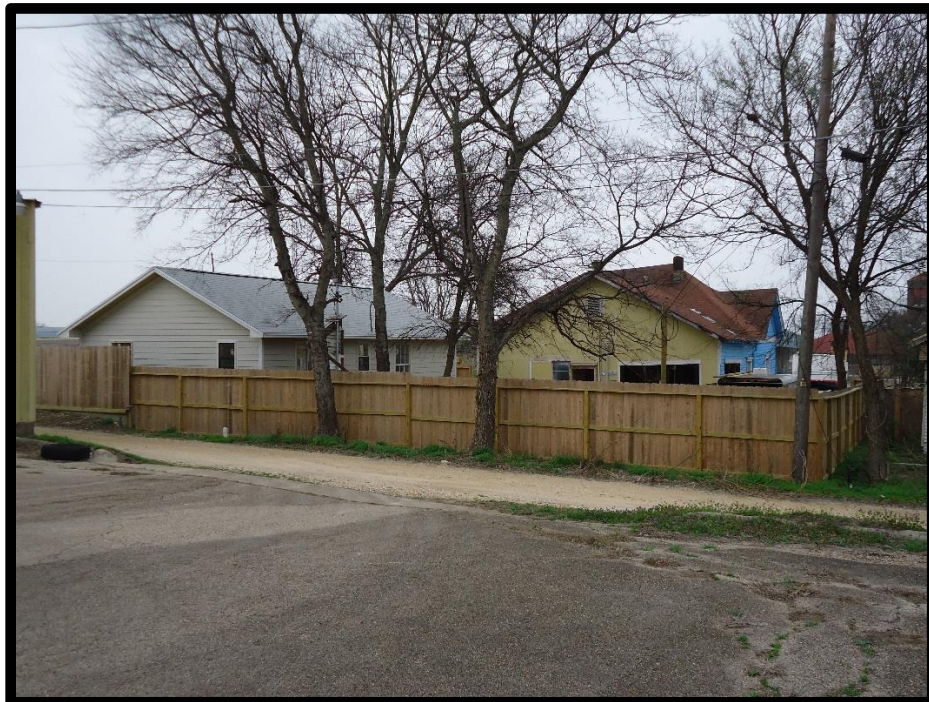
254.773.2400
www.turley-inc.com

18-1099
SKETCH
MGM

Site & Surrounding Property Photos



Site (Front): Existing Single-Family Residential Uses (LI)



Site (Rear): Existing Single-Family Residential Uses (LI)



South: Existing Single-Family Residential Uses (LI)



West (Looking toward Subject Property): Existing Commercial Uses (C)



East – Existing Commerical & Industrial Uses (LI)



North: Below Grade Photo showing East Adams Ave (SH 53) ROW (LI)



Aerial – 3D Google Earth Street Image of Immediate Neighborhood (2F & LI)

Tables

Permitted & Conditional Uses Table
Comparison between LI & SF-1

Use Type	Light Industrial (LI)	Single Family-1 (SF-1)
Agricultural Uses	Farm, Ranch or Orchard Animal Shelter	Farm, Ranch or Orchard
Residential Uses	Boarding or Rooming House No – SF Residence (Detached & Attached) Family or Group Home (CUP) Home for the Aged	Single Family (Detached Only) Industrialized Housing
Retail & Service Uses	Most Retail & Service Uses	None
Office Uses	Office Uses	None
Commercial Uses	All Commercial Uses	None
Industrial Uses	Most Industrial Uses Temporary Asphalt & Concrete Batching Plat (CUP)	Temporary Asphalt & Concrete Batching Plat (CUP)
Recreational Uses	Alcoholic Beverage Sales, beer & wine only < 75% All Alcoholic sales - >50% - < 75% or more (CUP)	None
Educational & Institutional Uses	Cemetery (CUP) Place of Worship Social Svc. Shelter (CUP) Child Care Day Care – No Family	Same as LI Child Care: Family Home Only (Up to 6 Children, including host family children)
Vehicle Service Uses	Most vehicle & Service Uses	None
Restaurant Uses	Restaurant - Drive-In	None
Overnight Accommodations	Hotel / Motel RV Park (CUP)	None
Transportation Uses	All Transportation Uses	None

Surrounding Property Uses

	<u>Surrounding Property & Uses</u>		
<u>Direction</u>	<u>FLUP</u>	<u>Zoning</u>	<u>Current Land Use</u>
Site	Auto-Urban Commercial	LI	SF Residential Uses
North	Parks & Open Space / Auto-Urban Commercial	LI	Undeveloped & E. Adams Ave (SH 53 ROW)
South	Auto-Urban Residential	LI & 2F	Residential Uses
East	Auto-Urban Commercial	LI	Industrial Uses
West	Auto-Urban Commercial	C & GR	Retail & Commercial Uses

Comprehensive Plan Compliance

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use Map	PARTIAL
CP	Map 5.2 - Thoroughfare Plan	YES
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	YES
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	YES
CP = Comprehensive Plan STP = Sidewalk and Trails Plan		

Dimensional Standards

	<u>Current (LI) Non-Residential</u>	<u>Proposed (SF-1) Residential</u>
Minimum Lot Size	N/A	7,500 Square Feet
Minimum Lot Width	N/A	60 Feet
Minimum Lot Depth	N/A	100 Feet
Front Setback	* UDC Sec. 4.4.4F.1d	25 Feet
Side Setback	0 Feet	10% Lot Width 6 Ft Min
Side Setback (corner)	10 Feet	15 Feet
Rear Setback	0 Feet	10 Feet
Max Building Height	ALH	2 Stories

ALH – Any Legal Height not prohibited by other laws

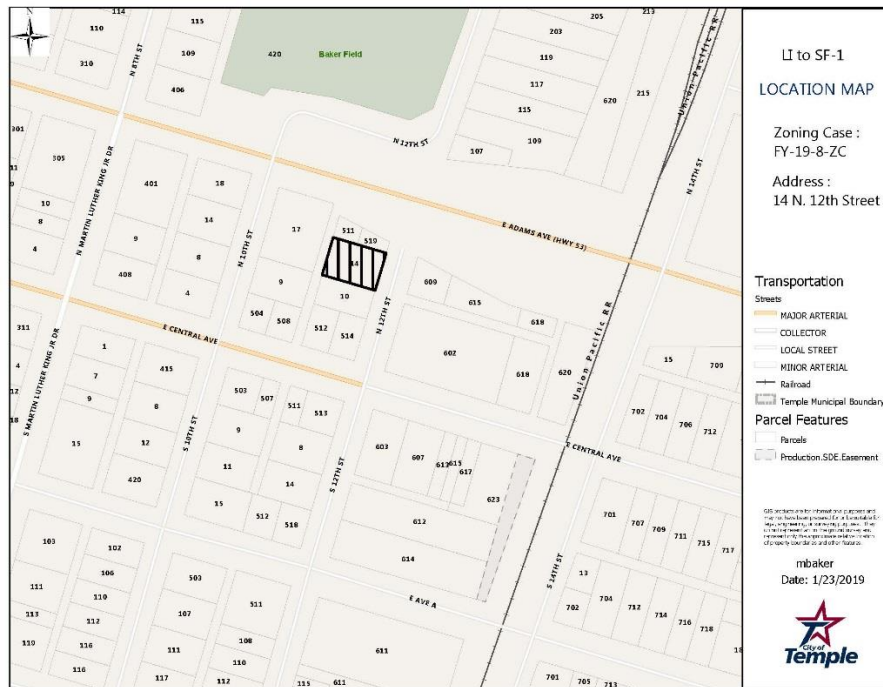
* UDC Sec. 4.4.4F.1d: In the C, CA, LI & HI districts, a structure may not be erected nearer than 30 feet to the centerline of any street on which such structure fronts

Traffic Count Information

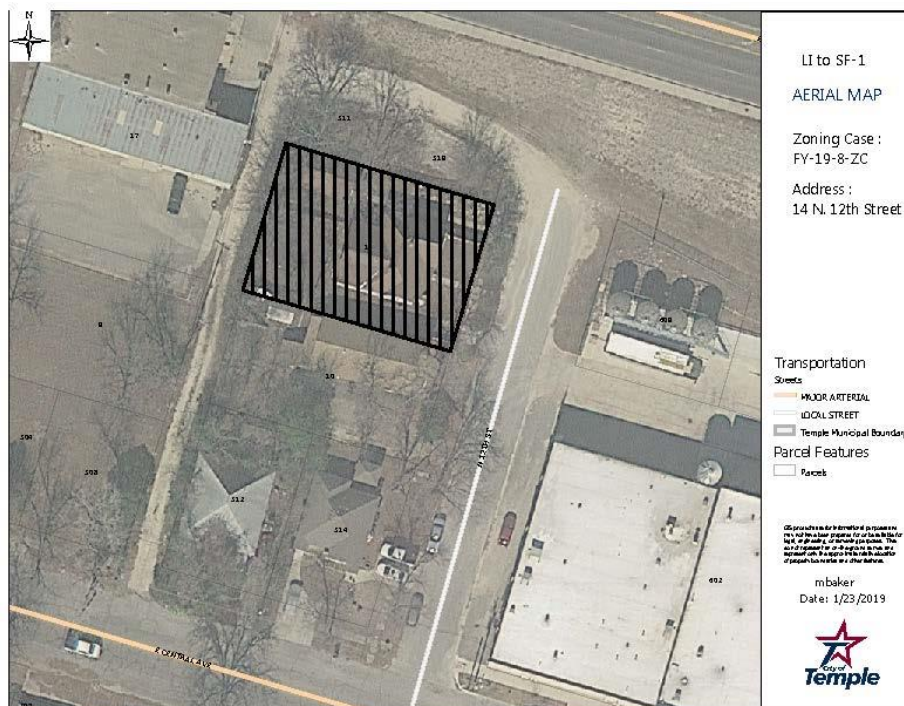
Select - NS Permitted & Conditional Uses

Peak Hour Trip Rates Table (9th Ed. ITE Manual)	
Use	Peak Hour Trip Rate
Single Family (Detached) Residence	1.00 (per Dwelling Unit)
Townhouse	0.52 (per Dwelling Unit)
Assisted Living Facility	0.22 (per Bed)
General Office Building	1.49 (per 1,000 S.F.)
Hair Salon	1.93 (per 1,000 S.F.)
Gasoline Service Station / with Convenience Store & Fuel Pumps	13.51 (per Fueling Station)
Arts & Crafts Store	6.21 (per 1,000 S.F.)
Fast Food Restaurant (No Drive-Thru)	26.15 (per 1,000 S.F.)
Restaurant (Sit Down)	11.15 (per 1,000 S.F.)
Bank	12.13 (per 1,000 S.F.)
Variety Store	6.82 (per 1,000 S.F.)
Free Standing Discount Store	4.98 (per 1,000 S.F.)

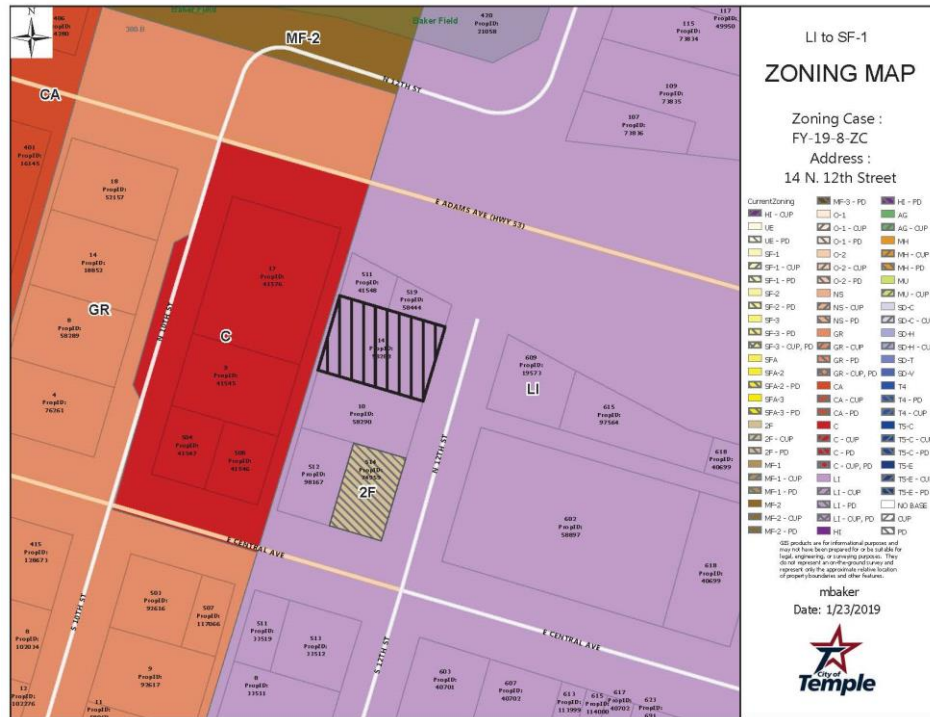
Maps



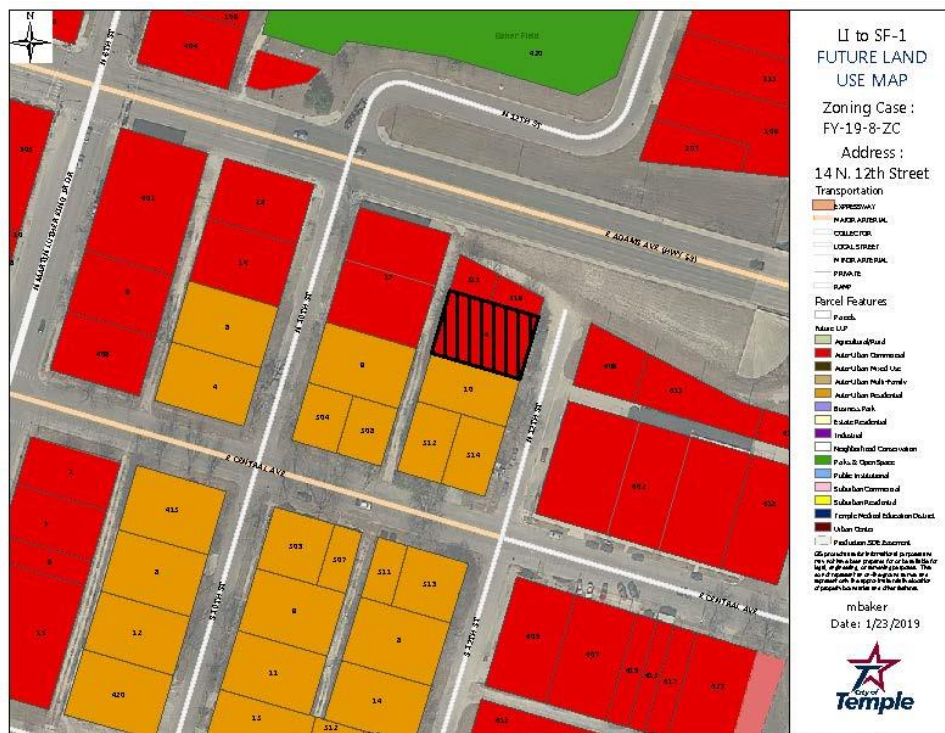
Location Map



Aerial Map



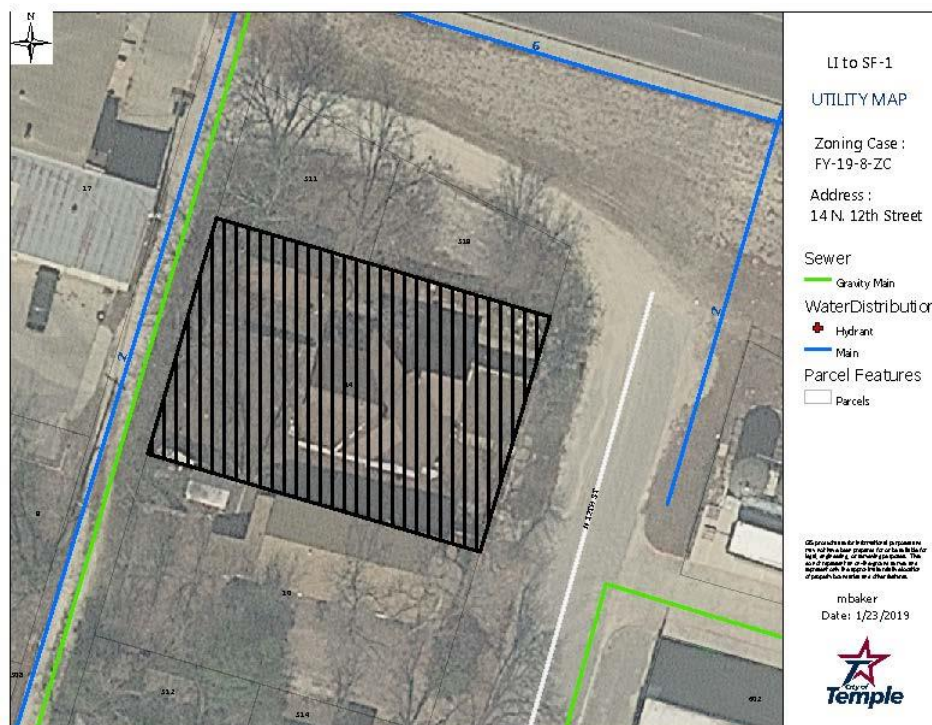
Zoning Map



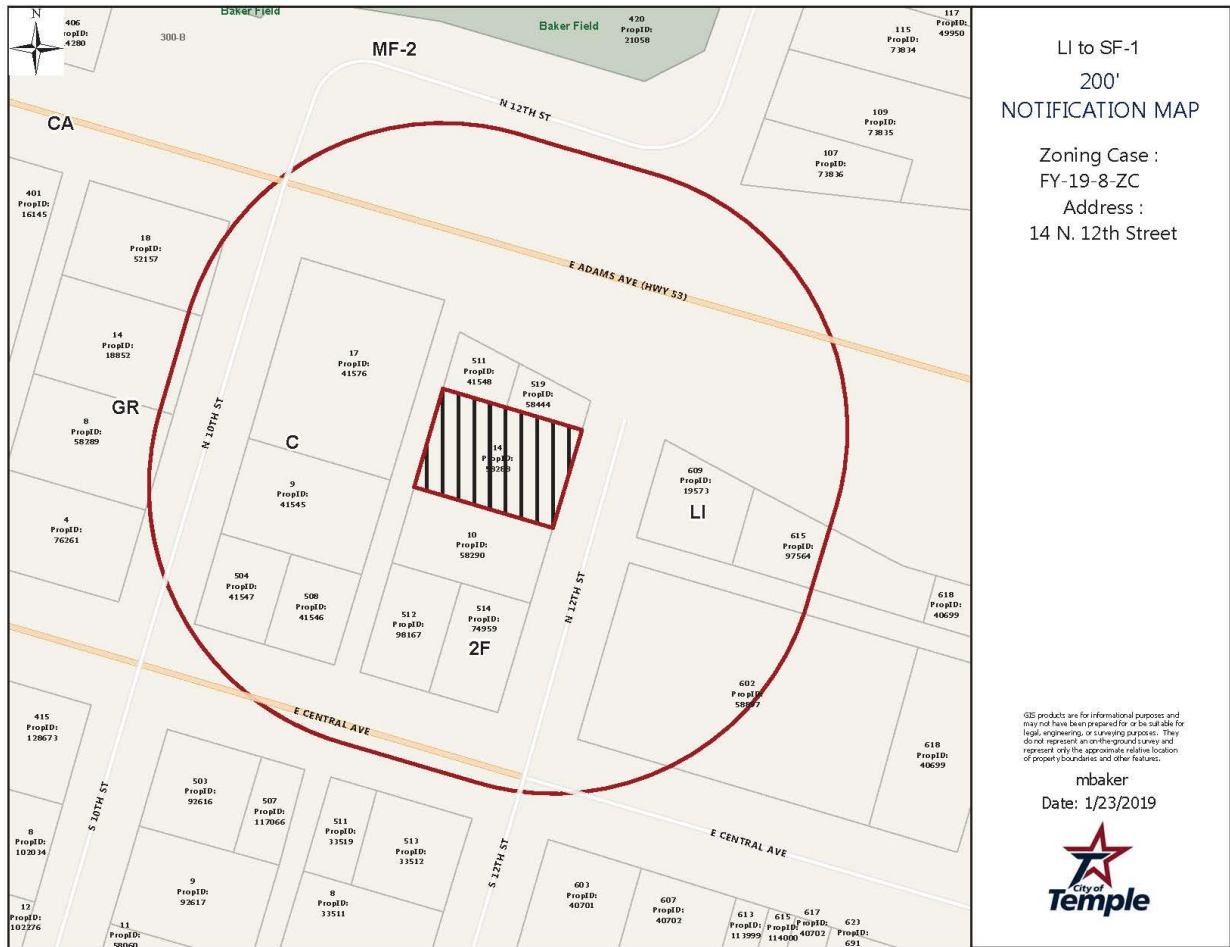
Future Land Use Map



Thoroughfare & Trails Map



Utility Map



Notification Map



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

41576
GOLDMAN, MARK L ETUX SHARON
3306 MEADOW CREEK LN
TEMPLE, TX 76504-2160

RECEIVED
FEB 11 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-8-ZC

Case Manager: Mark Baker

Location: 14 North 12th Street

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

I ☒ agree

() disagree with this request

Comments:

Mark Goldman
Signature

MARK GOLDMAN
Print Name

Provide email and/or phone number if you want Staff to contact you (Optional)

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, mbaker@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501



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

41545
GOLDMAN, MARK
17 N 10TH ST
TEMPLE, TX 76501-4331



Zoning Application Number: FY-19-8-ZC

Case Manager: Mark Baker

Location: 14 North 12th Street

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

I ☒ agree

() disagree with this request

Comments:

Mark Goldman
Signature

MARK GOLDMAN
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, mbaker@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 16

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**Properties Owned within
200 Feet of Requested Rezoning**

Zoning Application Number: FY-19-8-ZC

Case Manager: Mark Baker

GOLDMAN, MARK			
#	Property ID #	Address	City
1	41545	9 N 10 TH STREET	Temple, TX
2	41547	504 E CENTRAL AVE	Temple, TX
3	41546	508 E CENTRAL AVE	Temple, TX
4	58444	519 E ADAMS AVE	Temple, TX
5	41548	511 E ADAMS AVE	Temple, TX



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

74959
PEP RESIDENTIAL INVESTMENTS LTD
3144 S 31ST ST
TEMPLE, TX 76502-1803

Zoning Application Number: FY-19-8-ZC

Case Manager: Mark Baker

Location: 14 North 12th Street

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

I ☒ agree

() disagree with this request

Comments:

W. C. Patterson
Signature

W C Patterson
Print Name

Provide email and/or phone number if you want Staff to contact you (Optional)

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, mbaker@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **February 19, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

RECEIVED
FEB 26 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Number of Notices Mailed: 16

Date Mailed: February 6, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
TUESDAY, FEBRUARY 19, 2019**

ACTION ITEMS

Item 4: FY-19-8-ZC - Hold a public hearing to consider and recommend action on a rezoning from Light Industrial (LI) zoning district to Single-Family One (SF-1) zoning district, on 0.189 +/- acres, being Lot 7, Block 5, Rylander Addition, addressed as 14 North 12th Street.

Mr. Mark Baker, Principal Planner, stated this rezoning is scheduled to go forward to City Council for first reading on March 21, 2019 and second reading on April 4, 2019.

This rezoning is to allow property owner, Mr. Lonnie Gruner, to bring an accessory building up to code standards and convert attic space into living area for the existing residence in the front of the lot.

Residential uses are not permitted in Light Industrial (LI)

- Nonconforming uses/structures cannot be increased, expanded or enlarged (UDC Sec. 9.2)
- Nonconforming structures cannot be rebuilt if destroyed by fire (UDC Sec. 9.2.5)

Currently, building permits have been issued for:

- Accessory Building (rear) exterior and interior remodel to bring structure up to code with no provisions as a residence
- Single Family Residence (front) interior remodel work only which includes conversion of attic space to living space (*Subject to rezoning approval*)

Aerial site image and map with location is shown.

Zoning map is shown and found to be in compliance. Existing single-family residential uses are non-conforming. This rezoning along with issued permits would bring the property into compliance.

The Future Land Use Map is shown and found to be in partial compliance due to adjacent Auto-Urban Residential zoning, which does not support single-family residential uses.

The existing water and sewer map is shown and found to be in compliance. Water is available through a two-inch line in the alley and sewer is available through a 12-inch line also in the alley.

The Thoroughfare Plan and Trails map is shown and found to be in compliance with no impacts.

Aerial photo image of subject property is shown.

On-site and surrounding property photo images are shown.

Comparison of LI and SF-1 use tables are shown.

Sixteen notices were mailed in accordance with all state and local regulations with three notices returned in agreement and zero notices returned in disagreement.

Compliance Summary chart is shown with all areas found in compliance except Future Land Use Map found to be in partial compliance.

Staff recommends approval of the request for a rezoning from LI district to SF-1 district.

Chair Langley opened the public hearing.

Mr. Lonnie Gruner, applicant, 3910 Shallow Ford Road, Temple, Texas, stated he was available to answer any questions the Commission might have.

There being no further speakers, the public hearing was closed.

Commissioner Fetting made a motion to approve Item 4, **FY-19-8-ZC**, per staff recommendation, and Vice-Chair Ward made a second

Motion passed: (9:0)

ORDINANCE NO. 2019-4960
(FY-19-8-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM LIGHT INDUSTRIAL ZONING DISTRICT TO SINGLE FAMILY ONE ZONING DISTRICT ON APPROXIMATELY 0.189 ACRES, BEING LOT 7, BLOCK 5, RYLANDER ADDITION, ADDRESSED AS 14 NORTH 12TH STREET, TEMPLE, TEXAS; 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: 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 Ordinance as if copied in their entirety.

Part 2: The City Council approves a rezoning from Light Industrial zoning district to Single Family One zoning district on approximately 0.189 acres, being lot 7, block 5, Rylander Addition, addressed as 14 North 12th Street, as illustrated by the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

Part 3: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 5: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: It is hereby officially found and determined that the meeting at which this Ordinance 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 on First Reading and Public Hearing on the **21st** day of **March**, 2019.

PASSED AND APPROVED on Second Reading on the **4th** day of **April**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #12
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance granting to Oncor Electric Delivery Company LLC an electric power franchise to use the present and future streets, alleys, highways, public utility easements, public ways, and public property of the City of Temple.

STAFF RECOMMENDATION: Adopt ordinance on first reading as presented in item description and conduct a public hearing. Second reading will be scheduled for the April 4, 2019 City Council meeting.

ITEM SUMMARY: Oncor Electric Delivery Company LLC (“Oncor”) has a current franchise with the City of Temple for the delivery of electric power. The franchise expires on June 30, 2019 and Oncor has reached out to the City for renewal. The proposed ordinance would adopt a new franchise agreement with Oncor under the same terms that currently exist. The proposed franchise would expire on March 31, 2035. If neither party gives notice of cancellation earlier than 60 days before the expiration date, the franchise will automatically renew for an additional five-year period until March 31, 2040.

Under the terms of the franchise agreement, Oncor will have the right to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, public utility easements, public ways and other public property (“Public Rights-of-Way”) of the City. Oncor may install electric power lines, with all necessary appurtenances, for the purpose of delivering electricity to the City and the citizens of Temple. The City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines or other improvements in the Public Rights-of-Way.

Franchise fees will be paid to the City in accordance with current practice and State law.

FISCAL IMPACT: The City receives a franchise fee from Oncor. The amount of the franchise fee is calculated by a franchise fee factor of 0.002652 multiplied by each kilowatt hour of electricity delivered within the City on a quarterly basis. The quarterly payments are made as follows:

Basis Period	Privilege Period (Following Year)	Payment Due Date
January 1 - March 31	January 1 - March 31	May 1
April 1 - June 30	April 1 - June 30	August 1
July 1 - September 30	July 1 - September 30	November 1
October 1 - December 31	October 1 - December 31	February 1

In addition, the City receives 4% of gross revenues received by Oncor from services identified as discretionary service charges. This is paid annually to the City by April 30 of each year. The amount received in FY 2018 for this component of the franchise fee was \$12,595.

The total collected in FY 2018 was \$3,249,425 for electric franchise fee revenue. The FY 2019 electric franchise fee revenue for all franchisees is budgeted at \$3,445,000 and will be recognized in account 110-0000-413-0132.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. 2019-4961

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF TEMPLE, TEXAS; PROVIDING FOR COMPENSATION THEREFOR; PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE; PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE; PROVIDING FOR THE REPEAL OF ALL EXISTING FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC; 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: That there is hereby granted to Oncor Electric Delivery Company LLC, its successors and assigns (herein called "Company"), the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, public utility easements, public ways and other public property (Public Rights-of-Way) of the City of Temple, Texas (herein called "City") electric power lines, with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, telephone and communication lines, and other structures for Company's own use), (herein called "Facilities") for the purpose of delivering electricity to the City, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof, for the term set out in Section 7.

Part 2: Poles, towers and other structures shall be so erected as not to unreasonably interfere with traffic over streets, alleys and highways.

Part 3: The City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines, cables, and conduits, or other improvements and to do and permit to be done any underground or overhead work that may be necessary or proper in, across, along, over, or under Public Rights-of-Way occupied by Company. The City also reserves the right to change in any manner any curb, sidewalk, highway, alley, public way, street, utility lines, storm sewers, drainage basins, drainage ditches, and the like. City shall provide Company with at least thirty (30) days' notice when requesting Company to relocate facilities and shall specify a new location for such facilities along the Public Rights-of-Way. Company shall, except in cases of emergency conditions or work incidental in nature, obtain a permit, if required by City ordinance, prior to performing work in the Public Rights-of-Way, except in no instance shall Company be required to pay fees or bonds related to its use of the Public Rights-of-Way, despite the City's enactment of any ordinance providing the contrary. Company shall construct its facilities in

conformance with the applicable provisions of the National Electrical Safety Code. City-requested relocations of Company facilities in the Public Rights-of-Way shall be at the Company's expense; provided however, if the City is the end use Retail Customer (customer who purchases electric power or energy and ultimately consumes it) requesting the removal or relocation of Company Facilities for its own benefit, or the project requiring the relocation is solely aesthetic/beautification in nature, it will be at the total expense of the City. Provided further, if the relocation request includes, or is for, the Company to relocate above-ground facilities to an underground location, City shall be fully responsible for the additional cost of placing the facilities underground.

If any other corporation or person (other than City) requests Company to relocate Company facilities located in City Rights-of-Ways, the Company shall not be bound to make such changes until such other corporation or person shall have undertaken, with good and sufficient bond, to reimburse the Company for any costs, loss, or expense which will be caused by, or arises out of such change, alteration, or relocation of Company's Facilities. City may not request the Company to pay for any relocation which has already been requested, and paid for, by any entity other than City.

If City abandons any Public Rights-of-Way in which Company has facilities, such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights-of-Way and on the obligation of the party to whom the Public Rights-of-Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal or relocation of its facilities following abandonment of the Public Rights-of-Way. If the party to whom the Public Rights-of-Way is abandoned requests the Company to remove or relocate its facilities and Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Rights-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

Part 4: A. In consideration of the granting of this Franchise, Company shall, at its sole cost and expense, indemnify and hold the City, and its past and present officers, agents and employees harmless against any and all liability arising from suits, actions or claims regarding injury or death to any person or persons, or damages to any property arising out of or occasioned by the intentional and/or negligent acts or omissions of Company or any of its officers, agents, or employees in connection with Company's construction, maintenance and operation of Company's system in the City Public Rights-of-Way, including any court costs, reasonable expenses and reasonable defenses thereof.

B. This indemnity shall only apply to the extent that the loss, damage or injury is attributable to the negligence or wrongful act or omission of the Company or its officers, agents or employees, and does not apply to the extent such loss, damage or injury is attributable to the negligence or wrongful act or omission of the City or the City's officers, agents, or employees or any other person or entity. This provision is not intended to create a cause of action or liability for the benefit of third parties but is solely for the benefit of Company and the City.

C. In the event of joint and concurrent negligence or fault of both Company and the City, responsibility and indemnity, if any, shall be apportioned comparatively between the City and Company in accordance with the laws of the state of Texas without, however, waiving any governmental immunity available to the City under Texas law and without waiving any of the defenses of the parties under Texas law. Further, in the event of joint and concurrent negligence or fault of both Company and the City, responsibility for all costs of defense shall be apportioned between the City and Company based upon the comparative fault of each.

D. In fulfilling its obligation to defend and indemnify City, Company shall have the right to select defense counsel, subject to City's approval, which will not be unreasonably withheld. Company shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this franchise. If Company fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Company shall be liable for all reasonable defense costs incurred by City, except as otherwise provided in section 4.B and 4.C.

Part 5: This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the City from granting other like or similar rights, privileges and franchises to any other person, firm, or corporation. Any Franchise granted by the City to any other person, firm, or corporation shall not unreasonably interfere with this Franchise.

Part 6: In consideration of the grant of said right, privilege and franchise by the City and as full payment for the right, privilege and franchise of using and occupying the said Public Rights-of-Way, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license, permit and inspection fees or charges, street taxes, bonds, street or alley rentals, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which the City may impose or hereafter be authorized or empowered to levy and collect, excepting only the usual general or special ad valorem taxes which the City is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements, Company shall pay to the City the following:

- A. Final quarterly payment will be made on or before May 1, 2019 for the basis period of January 1, 2019 through March 31, 2019 and the privilege period of January 1, 2020 through March 31, 2020 in accordance with the provisions in the previous franchise.
- B. As authorized by Section 33.008(b) of PURA, the original franchise fee factor calculated for the City in 2002 was 0.002526 (the "Base Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries for determining franchise payments going forward.

Due to a 2006 agreement between Company and City the franchise fee factor was increased to a franchise fee factor of 0.002652 (the "Current Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries on a quarterly basis.

However, consistent with the 2006 agreement, should the Public Utility Commission of Texas at any time disallow Company's recovery through rates of the higher franchise payments made under the Current Factor as compared to the Base Factor, then the franchise fee factor shall immediately revert to the Base Factor of 0.002526 and all future payments, irrespective of the time period that is covered by the payment, will be made using the Base Factor.

Company shall make quarterly payments as follows:

<u>Payment Due Date</u>	<u>Basis Period</u>	<u>Privilege Period (Following Year)</u>
August 1	Apr. 1 - Jun. 30	Apr. 1 - Jun. 30
November 1	Jul.1 - Sept. 30	Jul.1 - Sept. 30
February 1	Oct. 1 - Dec. 31	Oct. 1 - Dec. 31
May 1	Jan. 1 - Mar. 31	Jan. 1 - Mar. 31

1. The first quarterly payment hereunder shall be due and payable on or before August 1, 2019 and will cover the basis period of April 1, 2019 through June 30, 2019 and the privilege period of April 1, 2020 through June 30, 2020. If this franchise is not effective prior to the first quarterly payment date, Company will pay any payments due within 30 days of the effective date of this agreement. The final payment under this franchise is due on or before May 1, 2034 and covers the basis period of January 1, 2034 through March 31, 2034 and the privilege period of January 1, 2035 through March 31, 2035; and
 2. After the final payment date of May 1, 2034, Company may continue to make additional quarterly payments in accordance with the above schedule. City acknowledges that such continued payments will correspond to privilege periods that extend beyond the term of this Franchise and that such continued payments will be recognized in any subsequent franchise as full payment for the relevant quarterly periods.
- C. A sum equal to four percent (4%) of gross revenues received by Company from services identified as DD1 through DD24 in Section 6.1.2 "Discretionary Service Charges," in Oncor's Tariff for Retail Delivery Service (Tariff), effective 1/1/2002, that are for the account and benefit of an end-use retail electric consumer. Company will, upon request by City, provide a cross reference to Discretionary Service Charge numbering changes that are contained in Company's current approved Tariff.
1. The franchise fee amounts based on "Discretionary Service Charges" shall be calculated on an annual calendar year basis, i.e. from January 1 through December 31 of each calendar year.
 2. The franchise fee amounts that are due based on "Discretionary Service Charges" shall be paid at least once annually on or before April 30 each year based on the total "Discretionary Service Charges", as set out in Section 6C, received during the

preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2019 and will be based on the calendar year January 1 through December 31, 2018. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2036 and will be based on the calendar months of January 1, 2035 through March 31, 2035.

3. Company may file a tariff or tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.
4. City agrees (i) to the extent the City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for 100% recovery of the franchise fee on Discretionary Service Charges; (ii) in the event the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the franchise fees on such Discretionary Service Charges is an issue, the City will take an affirmative position supporting the 100% recovery of such franchise fees by Company and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Company.
5. City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Company.
6. In the event of a regulatory disallowance of the recovery of the franchise fees on the Discretionary Service Charges, Company will not be required to continue payment of such franchise fees.

Part 7: The City receives a franchise fee from Oncor and the amount of the franchise fee is calculated by a franchise fee factor of 0.002652 multiplied by each kilowatt hour of electricity delivered within the City on a quarterly basis. The quarterly payments are made as follows:

<u>Basis Period</u>	<u>Privilege Period (Following Year)</u>	<u>Payment Due Date</u>
January 1 – March 31	January 1 – March 31	May 1
April 1 – June 30	April 1 – June 30	August 1
July 1 – September 30	July 1 – September 30	November 1
October 1 – December 31	October 1 – December 31	February 1

In addition, the City receives 4% of gross revenues received by Oncor from services identified as discretionary service charges. This is paid annually to the City by April 30 of each year. The amount received in FY 2018 for this component of the franchise fee was \$12,595.

The total collected in fiscal year 2018 was \$3,249,425 for electric franchise fee revenue. The fiscal year 2019 electric franchise fee revenue for all franchisees is budgeted at \$3,445,000 and will be recognized in Account No. 110-0000-413-0132.

Part 8: This Ordinance shall become effective upon Company's written acceptance hereof, said written acceptance to be filed by Company with the City within sixty (60) days after final passage and approval hereof by City. The right, privilege and franchise granted hereby shall expire on March 31, 2035; provided that, unless written notice of cancelation is given by either party hereto to the other not less than sixty (60) days before the expiration of this franchise agreement, it shall be automatically renewed for an additional period of (five) 5 years from such expiration date.

Part 9: This Ordinance shall supersede any and all other franchises granted by the City to Company, its predecessors and assigns.

Part 10: The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable. If any portion of this Ordinance is declared illegal or unconstitutional by the valid final non-appealable judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect the legality and enforceability of any of the remaining portions of this Ordinance.

Part 11: In order to accept this franchise, Company must file with the City Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by City.

Part 12: It is hereby officially found and determined that the meeting at which this Ordinance 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 on First Reading and Public Hearing on the **21st** day of **March**, 2019.

PASSED AND APPROVED on Second Reading on the **4th** day of **April**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney

Commented [KL1]: Need to add a signature line for Oncor. The ambulance franchise ordinance have signature lines at the end you can copy. Thanks!

Agreement of Franchisee

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS:

The franchisee, Oncor Electric Delivery Company, LLC, acting by and through its duly authorized and empowered officer, hereby accepts the terms and conditions of Ordinance No. 2019-4961 granting a non-exclusive franchise to operate and maintain a non-emergency ambulance transfer service upon the public streets and highways of the City of Temple.

SIGNED this ____ day of _____, 2019

Oncor Electric Delivery Company, LLC

By:



CITY COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #13
Regular Agenda
Page 1 of 4

DEPT. / DIVISION SUBMISSION & REVIEW:

Brynn Myers, City Manager

ITEM DESCRIPTION: Consider adopting a resolution to take action on the Temple Professional Firefighters Association's "Petition Requesting Recognition of Bargaining Agent" as required by Texas Local Government Code Chapter 142.

STAFF RECOMMENDATION: Staff recommends adopting the resolution to grant recognition to Temple Professional Firefighters Association as requested in the Petition and determine by a majority vote that the City may meet and confer under Chapter 142.

ITEM SUMMARY: The "meet and confer" process is governed by Chapter 142 of the Local Government Code. Chapter 142 allows a "firefighters association" to file a petition with the City requesting that the City recognize the association as the sole and exclusive bargaining agent for all firefighters and adopt the meet and confer process. A "firefighter association" is defined as "an employee organization in which firefighters employed by a municipality participate that exists for the purpose, in whole or in part, of dealing with the municipality or public employer concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting firefighters."

Once a petition is filed, the City Council must determine whether it will recognize the association as the sole and exclusive bargaining agent and adopt the meet & confer process. The Petition must be signed by a majority of the firefighters, excluding the Fire Chief and Assistant Chief. The City currently employs 119 firefighters (excluding the Chief and Assistant Chief). On February 27, 2019, the City Secretary's Office received a petition requesting recognition of the Temple Professional Firefighters Association (TPFA), Local 846 of the International Association of Fire Fighters as the sole and exclusive bargaining agent for all of the firefighters employed by the City of Temple signed by a total of 105 firefighters.

According to Sec. 142.103, Petition for Recognition: Election or Action by Governing Body, of Texas Local Government Code, (a) Not later than the 30th day after the date the governing body of a municipality receives from a firefighters association a petition signed by the majority of all firefighters, excluding the head of the fire department for the municipality and excluding the employees exempt under Section 142.108(b), that requests recognition of the association as the sole and exclusive bargaining agent for all the firefighters employed by the municipality, excluding the head of the fire department for the municipality and excluding the exempt employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and determine by majority vote regarding whether a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.105;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.105 regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under Section 142.104 to determine whether the association represents a majority of the affected firefighters.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the affected firefighters of the municipality, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.105; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.105 regarding whether a public employer may meet and confer under this subchapter.

If the meet and confer process is adopted by the City Council or adopted through an election:

- The City may meet and confer with TPFA over wages, salaries, rates of pay, hours of work, or other terms and conditions of employment;
- The City Manager must select one or more persons to represent the City as its sole and exclusive bargaining agent(s);
- The deliberations must occur in a meeting open to the public;
- The City and TPFA would not be required to reach agreement on any particular topic, or any agreement at all;
- An agreement on any issue must be in writing and ratified by the Council and a majority of the firefighters;
- A written meet & confer agreement preempts all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules; and
- While a meet & confer agreement is in effect, the City may not accept a petition requesting an election to adopt collective bargaining under Chapter 174 of the Local Gov't Code.

Within 30 days of the petition being filed, the Council must take one of the following actions:

- **Option 1:** Grant recognition to TPFA as requested in the Petition and determine by a majority vote that the City may meet and confer under Chapter 142;
- **Option 2:** Defer granting recognition of TPFA and order an election by the voters in the City to determine whether the City may meet and confer under Chapter 142; or

- **Option 3:** Order a certification election to determine whether TFPA represents a majority of the affected firefighters.

Option 1: Granting Recognition

The Council may choose to grant recognition of TFPA as the sole and exclusive bargaining agent and determine that the City may meet and confer. If the Council chooses to grant recognition, the Council may withdraw recognition at a later date by providing TFPA not less than 90 days' written notice that the

City Council is withdrawing recognition and any agreement between the City and TPFA will not be renewed.

Option 2: Order an Election

The City Council may order an election to allow the voters to decide whether the City may meet and confer. The election must be held as part of the next regularly scheduled general election for municipal officers which would be May, 2020. The ballot language would read as follows:

"Authorizing the City of Temple to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal firefighters as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

If the Council chooses this option, it may, no earlier than the 2nd anniversary of the date of the election, order another election to determine whether the City may continue to meet and confer.

Option 3: Order a Certification Election

The Council may order a certification election to determine whether TPFA represents a majority of the affected firefighters. This option is typically used in cases in which there is a question as to whether the association bringing forth the petition indeed represents a majority of the firefighters. If Council orders a certification election, Staff would work with TPFA to determine how the election would be conducted.

If after a certification election is conducted, a majority of the officers elect to have TPFA serve as their representative, the Council retains the option to grant recognition (option #1) or order an election (option #2). Option #3 is a method to ensure that TPFA does in fact have the support of a majority of the affected firefighters.

FISCAL IMPACT: Below is a table outlining the fiscal impact of the meet and confer options:

Option	Fiscal Impact
Option 1: Granting Recognition	Not Applicable
Option 2: Order an Election	Funding for the 2020 General Election would be available in the future FY 2020 operating budget in account 110-1400-511-2517 if needed.
Option 3: Order a Certification Election	The fiscal impact will revert back to either Option 1 or Option 2 (with funding available in FY 2019), depending on the outcome of the certification election.

ATTACHMENTS:


[Petition](#)


[Resolution](#)


RECEIVED**Petition Requesting Recognition****FEB 27 2019****CITY OF TEMPLE, TX
CITY SECRETARY**

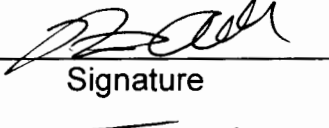
Pursuant to TEXAS LOCAL GOVERNMENT CODE §142.103, the undersigned non-exempt fire fighters employed by the City of Temple Fire and Rescue do hereby designate the Temple Professional Firefighters Association, Local 846 of the International Association of Fire Fighters as the sole and exclusive bargaining agent for all the firefighters employed by the City of Temple, excluding the head of the fire department and exempt employees of Temple Fire and Rescue, and request recognition as provided by the statute.

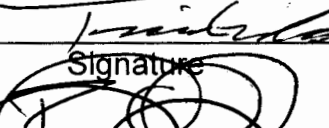
Landy Setzer 5702  12-13-18
Printed Name and Employee Number Signature Date

Kendall Troyer 7392  12-13-18
Printed Name and Employee Number Signature Date

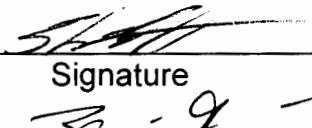
Carlos Luman 6539  12-14-18
Printed Name and Employee Number Signature Date

Justin Rust 7082  12/14/18
Printed Name and Employee Number Signature Date

Nathan Allred 6535  12/14/18
Printed Name and Employee Number Signature Date

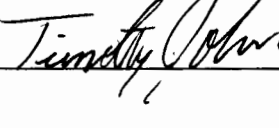
Travis Gibson 7592  12/14/18
Printed Name and Employee Number Signature Date

Rick Velasquez 6602  14 Dec 18
Printed Name and Employee Number Signature Date

Stephen Scott 7779  12/14/18
Printed Name and Employee Number Signature Date

Bodie Greiner 6147  12/14/18
Printed Name and Employee Number Signature Date

JASON HALTOM 6206  12/14/18
Printed Name and Employee Number Signature Date

Timothy O'Johnson 3725  12/14/18
Printed Name and Employee Number Signature Date

RECEIVED

FEB 27 2019

Printed Name and Employee Number

Signature CITY OF TEMPLE, TX Date

Cody Griffith 6737

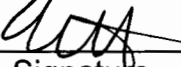
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Wes Armstrong 5781



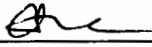
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Cidin Keenan 6738



12/14/18

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Signature

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Bill Dean 3421



12-14-18

Printed Name and Employee Number

Signature

Date

Mikel Adams 4112



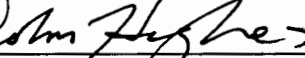
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John Hughes 7191



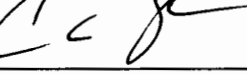
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Chris Sybert 5155



12-14-18

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Date

John Hillman 51794



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Randy Barron 5864



12/14/18

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Date

Jason Reilly 7348



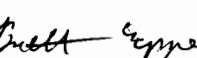
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Brett Epperson 6735



12/14/18

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NICHOLAS QUASCHNIK 7361



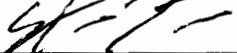
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Stephen Tirasek 7863



12-14-18

Printed Name and Employee Number

Signature

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Benjamin Williams 6956



12-14-18

Printed Name and Employee Number

Signature

Date

Jesse Huber 7175



12/14/18

Printed Name and Employee Number

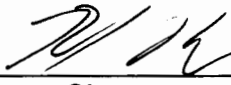
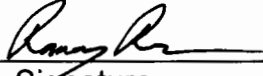
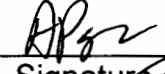




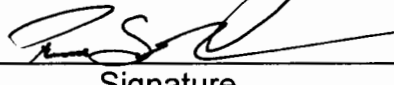

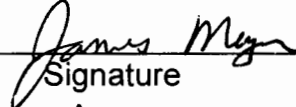

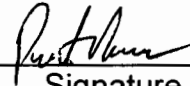

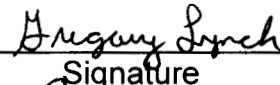
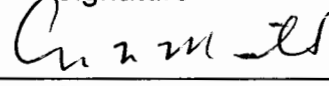
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Date

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FEB 27 2019

CITY OF TEMPLE, TX
CITY SECRETARY

Richard Munsey 6098		12/14/18
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Randy Rodak 2619		12-14-18
Printed Name and Employee Number	Signature	Date
Adam Payne 6384		12-16-18
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Chris Orr 4977		12-16-18
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Keaton Przybylski 7817		12-16-18
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Matt Kessler 7944		12-17-18
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MARK CHAPMAN 3114		12-17-2018
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Ronnie Satter 5660		12-17-18
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Alex Norris 6769		12-19-18
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James Meyer 7079		12/19/18
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Chris Buttry 4978		12-19-18
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Preston Kasner 7442		12-19-18
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John Small 886		12-19-18
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GREGORY LYNCH 2381		12/19/18
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Craig Meatta		12-19-18
Printed Name and Employee Number	Signature	Date

RECEIVED

FEB 27 2019

Printed Name and Employee Number

Signature

CITY OF TEMPE, AZ
CITY SECRETARYDANIEL MEYER 6143Daniel Meyer12/19/18

Printed Name and Employee Number

Signature

Date

Victor Hulsey 6599Victor Hulsey12/19/18

Printed Name and Employee Number

Signature

Date

Dominic Garcia 7388Dominic Garcia12/15/18

Printed Name and Employee Number

Signature

Date

Connor Rossow 7733Connor Rossow12/19/18

Printed Name and Employee Number

Signature

Date

Nathan Franklin 4932Nathan Franklin12-19-18

Printed Name and Employee Number

Signature

Date

Travis Brown 7860Travis Brown12-19-18

Printed Name and Employee Number

Signature

Date

Luke Drago 5391Luke Drago12-19-18

Printed Name and Employee Number

Signature

Date

STUART LAFARGE 7347Stuart Lafarge12-19-18

Printed Name and Employee Number

Signature

Date

~~Wesley Johnson 4512~~~~Wesley Johnson~~~~12-19-18~~

Printed Name and Employee Number

Signature

Date

Brandon Fulcher 6739Brandon Fulcher12-19-18

Printed Name and Employee Number

Signature

Date

Nolan Kunkel 7145Nolan Kunkel12/19/18

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Signature

Date

KERRY JACKSON 5973Kerry Jackson12/19/18

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Signature

Date

Justin Vecil 5565Justin Vecil12-19-18

Printed Name and Employee Number

Signature

Date

Samuel Hendricks 2178Samuel Hendricks12 DEC 18

Printed Name and Employee Number

Signature

Date

Jeremy Hamilton 7593Jeremy Hamilton20 DEC 18

Printed Name and Employee Number

Signature

Date

RECEIVED

FEB 27 2019

Printed Name and Employee Number

Signature

CITY OF TEMPE
CITY SECRETARYTaylor Clark 7935Taylor Clark12-20-18

Printed Name and Employee Number

Signature

Date

Hayden Garrett 7864Hayden Garrett12-20-18

Printed Name and Employee Number

Signature

Date

Thomas Pechal 0855Thomas Pechal12/20/2018

Printed Name and Employee Number

Signature

Date

Garrett Taylor 3777Garrett Taylor12/21/2018

Printed Name and Employee Number

Signature

Date

Brian Sutherland 6957Brian Sutherland12/21/2018

Printed Name and Employee Number

Signature

Date

Simeon Crow 7386Simeon Crow12/21/2018

Printed Name and Employee Number

Signature

Date

Dennis Minnick 5706Dennis Minnick12/21/18

Printed Name and Employee Number

Signature

Date

Justin Jackson 5392Justin Jackson12/21/18

Printed Name and Employee Number

Signature

Date

Michael Horowitz 4628Michael Horowitz12/22/18

Printed Name and Employee Number

Signature

Date

Kyle Spirey 7081Kyle Spirey12/22/18

Printed Name and Employee Number

Signature

Date

Rusty Bryant 6208Rusty Bryant12/23/18

Printed Name and Employee Number

Signature

Date

Jonathan Christman 3538Jonathan Christman12-23-18

Printed Name and Employee Number

Signature

Date

Matthew Perrine 3064Matthew Perrine12-24-18

Printed Name and Employee Number

Signature

Date

JONATHAN BAIR 7390Jonathan Bair12-24-18

Printed Name and Employee Number

Signature

Date

DWAYNE S. HOLSCHER 2406Dwayne S. Holscher12-26-18

Printed Name and Employee Number

Signature

Date


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FEB 27 2019

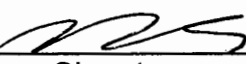
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Signature CITY SECRETARY Date

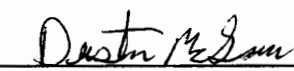
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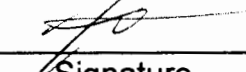
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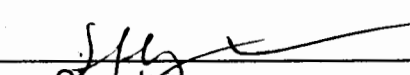
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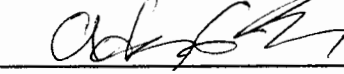
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Signature Date
12/24/18

Jeffery Venable 7940
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Signature Date
12/24/18

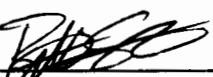
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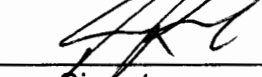
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Signature Date
12-24-18


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12/24/18


Justin Randle 7943
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Signature Date
12/24/18

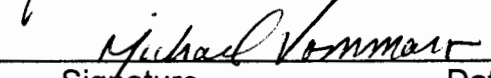
Josh Corn 5701
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Signature Date
12-24-18

MICHAEL RHEA 3289
Printed Name and Employee Number


Signature Date
12/24/18


Michael Vommaro 5851
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12/24/18


Ryan Mollenhauer
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Signature Date
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Joseph Lovicott 6600
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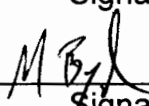
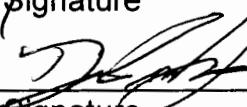
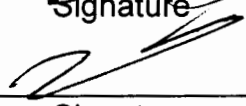
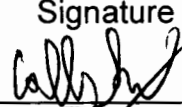

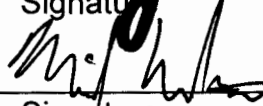
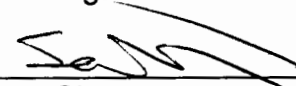
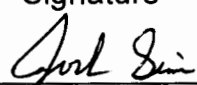


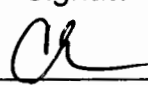
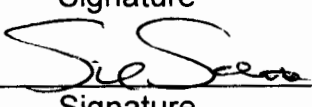




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12-24-18

Shane Pompyal 5703
Printed Name and Employee Number


Signature Date
12/24/18

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Matt Byrd 7281		12-22-18
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Mark Engelke 5865		12-23-18
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Colby Sexton 7750		12-23-18
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Sam Spry 7749		12-27-18
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Michael Whitlock 6572		1/2/19
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SCOTT GENTRY 6736		1-2-19
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JOSH SIMON 7131		1-5-2019
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Charles Branham 5977		1-11-19
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BRAD WENTZ 6313		1-14-19
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Cole Eason 5541		1-14-19
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SANTOS SOTO III 5704		1-14-19
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Jeffery T. Weger 5726		1-15-19
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Justin Wall		1-15-19
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BENJAMIN SANDERS 6145		1-15-19
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FEB 27 2019

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Signature CITY OF TEMPLE, TX
CITY SECRETARY

Derek Roper 7391
Printed Name and Employee Number

Signature

Date 1/20/19

Don Stewart 3539
Printed Name and Employee Number

Signature

Date 1/31/2019

Beau Alford 5978
Printed Name and Employee Number

Signature

Date 2/13/19

Eric Wurts 6486
Printed Name and Employee Number

Signature

Date 2/13/19

Printed Name and Employee Number

Signature

Date

Dillon Ischy 7553
Printed Name and Employee Number

Signature

Date 2/19/19

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Printed Name and Employee Number

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Date



Signature Date 2/20/19

RESOLUTION NO. 2019-9605-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, TO TAKE ACTION ON THE TEMPLE PROFESSIONAL FIREFIGHTERS ASSOCIATION'S "PETITION REQUESTING RECOGNITION OF BARGAINING AGENT" AS REQUIRED BY TEXAS LOCAL GOVERNMENT CODE CHAPTER 142; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on February 27, 2019, the City Secretary received a "Petition Requesting Recognition of Bargaining Agent Pursuant to Local Government Code Chapter 142" ("Petition") from the Temple Professional Firefighters Association ("TPFA"), Local 846 of the International Association of Fire Fighters;

Whereas, the Petition is signed by 105 Temple firefighters and requests that the City of Temple recognize TPFA as the sole and exclusive bargaining agent for all firefighters employed by the City;

Whereas, Chapter 142 of the Local Government Code allows a "Firefighters Association" to file a petition with the City requesting that the City recognize the Association as the sole and exclusive bargaining agent for firefighters for meet and confer negotiations with the City - the petition must be signed by a majority of all firefighters in the City, excluding the Fire Chief and Assistant Fire Chief;

Whereas, TPFA is asking that it be recognized as the Firefighters Association that will serve as the exclusive bargaining agent for all firefighters - if TPFA is recognized as the bargaining agent for all firefighters, the City must select one or more persons to represent the City as its sole and exclusive bargaining agent to meet and confer with TPFA on issues related to the wages, hours of employment, and other terms and conditions of employment of City firefighters;

Whereas, recognition of TPFA as the bargaining agent does not require the City to meet and confer on any issue or reach a meet and confer agreement;

Whereas, the City currently employs 119 firefighters (excluding the Fire Chief and Assistant Fire Chief) - the Petition is signed by a majority of those firefighters;

Whereas, under Section 142.053 of the Local Government Code, the City Council must, not later than the 30th day after the date it receives the Petition:

- (1) grant recognition of TPFA as requested in the Petition and determine by majority vote, that the City may meet and confer under Chapter 142;
- (2) defer granting recognition of TPFA and order an election by the voters in the City to determine whether the City may meet and confer under Chapter 142; or
- (3) order a certification election to determine whether TPFA represents a majority of the affected firefighters; and

Whereas, below is a table outlining the fiscal impact of the meet and confer options:

Option	Fiscal Impact
Option 1: Granting Recognition	Not Applicable
Option 2: Order an Election	Funding for the 2020 General Election would be available in the future fiscal year 2020 Operating Budget in Account No. 110-1400-511-2517, if needed.
Option 3: Order a Certification Election	The fiscal impact will revert back to either Option 1 or Option 2 (with funding available in fiscal year 2020), depending on the outcome of the certification election.

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 hereby acknowledges the Temple Professional Firefighters Association's "Petition Requesting Recognition of Bargaining Agent" as required by Texas Local Government Code Chapter 142

Part 3: 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 **21st** day of **March**, 2018.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

03/21/19
Item #14
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution pursuant to Chapter 2206, Government Code § 2206.053 finding that two properties situated in the Nancy Chance Survey, Abstract #5, Bell County, Texas, are necessary for the Outer Loop Phase 6 project and authorizing the use of eminent domain to condemn the properties.

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 presented in item description.

ITEM SUMMARY: The expansion of Old Waco Road, the Outer Loop, is an important north-south arterial that will connect the Adams Avenue growth corridor to IH 35. This phase is currently under design with construction planned for FY2022. At this time, it is anticipated right-of-way will be needed from 17 properties owned by 13 private citizens or entities, under Chapter 251, Local Government Code § 251.001. The City has acquired or is coordinating closing for three rights-of-way. Because two owners of five of the needed rights-of-way are also impacted by the Charter Oak Water Line Project, Staff decided it was in both the owners and City's interest to acquire the needed interests at the same time. The City has contracted with Stateside Right of Way Services, Inc. (Stateside) to assist with acquisition and relocation services for this project. Appraisals were conducted and offers made based on the appraisals. After negotiations, the City was able to reach an agreement with one property owner. However, after the City and the other property owner have been unable to reach an agreement.

The properties needed are legally described as:

- being 3.825-acres, situated in the Nancy Chance Survey, Abstract #5, Bell County, Texas, embracing a portion of a called 7.28-acre tract conveyed to Barbara J. Cooper in Document No. 2007-00029394, Official Public Records of Real Property, Bell County, Texas. The property is located along Charter Oak Drive, Temple, Texas (Bell CAD ID #396728).
- being 4.141-acres, situated in the Nancy Chance Survey, Abstract #5, Bell County, Texas, embracing a portion of a called 4.705-acre tract conveyed to Barbara J. Cooper in Volume 5574, Page 453, Official Public Records of Real Property, Bell County, Texas. The property is located at 4302 Charter Oak Drive, Temple, Texas (Bell CAD IDs #127051 and 127050).

The initial offer was sent to the owner of record on August 30, 2018. via Stateside. This acquisition does require the property owner to relocate. A relocation study was conducted, and results presented to the property owner as well.

A final offer will be sent and if rejected after 14 days and if authorize, a condemnation proceeding can be filed.

Staff is asking pursuant to Chapter 2206, Government Code § 2206.053, for the City Council to authorize the use of the power of eminent domain to acquire the properties described above.

FISCAL IMPACT: Funding for the properties necessary for the Outer Loop Phase 6 project is available in in the Reinvestment Zone No. 1 Financing Plan, Line 320, account 795-9600-531-6557, project 101585.

ATTACHMENTS:

[Surveys](#)

[Resolution](#)

REMAINDER OF
CALLED 7 1/16 ACRES
HAROLD E. WHITTINGTON and
wife, NILWON N. WHITTINGTON
Vol. 1004, Pg. 734

POINT OF
BEGINNING
3/8" Iron
Rod Found

BARBARA J. COOPER - TRACT 5

Survey showing 3.825 ACRES, situated in the NANCY
CHANCE SURVEY, ABSTRACT 5, Bell County, Texas.

This sketch to accompany a metes and bounds description
of the hereon shown 3.825 Acre tract.

REMAINDER OF
CALLED 19.428 ACRES
CHRISTIAN
FARMS-TREEHOUSE, INC.
Vol. 3129, Pg. 393

(Rec. S 29°17'50" E 320.04')
S 29°19'49" E 319.96'
(Rec. S 53°03'25" E 160.11')
S 53°03'31" E 160.19'

5/8" Iron Rod
w/cap stamped
"RCS" Found

(Rec. N 76°30'50" E)
N 76°29'00" E 86.58'
5/8" Iron
Rod Found

S 70°38'52" E
118.16'

S 43°56'04" W 285.91'
(Rec. S 43°57'40" W)

CALLED 4.705 ACRES
BARBARA J. COOPER
Vol. 5574, Pg. 453

3.825 ACRES
OF LAND

CALLED 7.28 ACRES
BARBARA J. COOPER
Doc. No. 2007-00029394

CALLED 21.72 ACRES
LOUANN E. HARRIS
Vol. 2009, Pg. 467

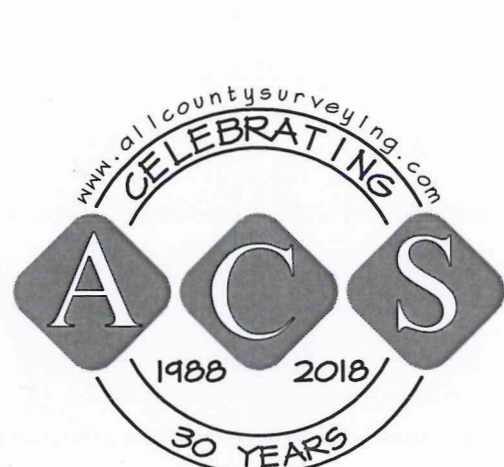
(Rec. N 14°30'29" E)
N 14°30'29" E 428.75'

N 38°37'12" W
77.55'

N 49°02'11" W 332.34'

(Rec. S 43°57'40" W)
S 43°56'04" W
129.86'

CALLED 12.348 ACRES
STEVEN J. WARD
Doc. No. 2014-00047809



Tx. Firm No. 10023600
4330 South 5th Street
Temple, Texas 76502
254-778-2272 Killeen 254-634-4636
Fax 254-774-1608



This project is referenced to the City of Temple Coordinate System, NAD 1983, Texas Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 122. The theta angle at City Monument No. 122 is 01° 30' 14". The combined correction factor (CCF) is 0.999857. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City monument No. 122 to the northwest corner of this 3.825 acre tract is S 86°56'38" W 4576.75 feet. Published City coordinates for project reference point 122 are N. = 10,367,918.25 E. = 3,210,425.21.

Survey
completed: 10-13-2017
Scale: 1" = 60'
Job No.: 170823
Dwg No.: 170823-TR 5
Drawn by: SLW
Surveyor: CCL #4636

Copyright 2018 All County Surveying, Inc.

Plot Date: 06-06-2018

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

June 6, 2018

Surveyor's Field Notes for:

3.825 ACRES, situated in the **NANCY CHANCE SURVEY, ABSTRACT 5**, Bell County, Texas, embracing a portion of a called 7.28 Acre tract conveyed to Barbara J. Cooper in Document No. 2007-00029394, Official Public Records of Real Property, Bell County, Texas, and being more particularly described as follows:

BEGINNING at a 3/8" iron rod found at the northwest corner of said 7.28 Acre tract, being the northeast corner of a called 21.72 Acre tract conveyed to Louanne E. Harris in Volume 2009, Page 467, Deed Records of Bell County, Texas, same being the southeast corner of the remainder of a called 7 7/16 Acre tract conveyed to Harold E. Whittington and wife, Nilwon N. Whittington in Volume 1004, Page 734, Deed Records of Bell County, Texas, also being the southwest corner of the remainder of a called 19.428 Acre tract conveyed to Christian Farms-Treehouse, Inc. in Volume 3129, Page 393, Official Public Records of Real Property, Bell County, Texas, for the northwest corner of the herein described tract;

THENCE, in a southeasterly direction, with the south line of said Christian Farms-Treehouse, Inc. tract, **S 29° 19' 49" E – 319.96'** (Rec. S 29° 17' 50" E – 320.04'), a 5/8" iron rod with cap stamped "RCS" found, **S 53° 03' 31" E – 160.19'** (Rec. S 53° 03' 25" E – 160.11'), a 5/8" iron rod found, and **N 76° 29' 00" E – 86.58'** (Rec. N 76° 30' 50" E), to a 5/8" iron rod with cap stamped "ACS" set on the north line of said 7.28 Acre tract;

THENCE, in an easterly direction, severing said 7.28 Acre tract, **S 70° 38' 52" E – 118.16'**, to a 5/8" iron rod with cap stamped "ACS" set on the west line of a called 4.705 Acre tract conveyed to Barbara J. Cooper in Volume 5574, Page 453, Official Public Records of Real Property, Bell County, Texas, for the northeast corner of the herein described tract;

THENCE, in a southwesterly direction, with the west line of said 4.705 Acre tract, **S 43° 56' 04" W – 285.91'** (Rec. S 43° 57' 40" W), to a 5/8" iron rod with cap stamped "ACS" set at the southwest corner of said 4.705 Acre tract, same being the northwest corner of a called 12.348 Acre tract conveyed to Steven J. Ward in Document No. 2014-00047809, Official Public Records of Real Property, Bell County, Texas;

THENCE, continuing in said southwesterly direction, with the northwest line of said 12.348 Acre tract, **S 43° 56' 04" W – 129.86'** (Rec. S 43° 57' 40" W), to a 5/8" iron rod with cap stamped "ACS" set, for the southeast corner of the herein described tract;

Surveyor's Field Notes for **3.825 ACRES** (continued):

THENCE, in a northwest direction, severing said 7.28 Acre tract, **N 49° 02' 11" W – 332.34'**, a 5/8" iron rod with cap stamped "ACS" set, and **N 38° 37' 12" W – 77.55'**, to a 5/8" iron rod with cap stamped "ACS" set on the east line of said 21.72 Acre tract, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said 21.72 Acre tract, **N 14° 30' 29" E – 428.75'** (Rec. N 14° 32' 05" E), to the **POINT OF BEGINNING** and containing 3.825 Acre of Land.

This project is referenced to the City of Temple Coordinate System, NAD 1983, Texas Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 122. The theta angle at City Monument No. 122 is 01° 30' 14". The combined correction factor (CCF) is 0.999857. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City monument No. 122 to the northwest corner of this 3.825 acre tract is S 86°56'38" W 4576.75 feet. Published City coordinates for project reference point 122 are N. = 10,367,918.25 E. = 3,210,425.21.

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

This metes and bounds description to accompany a Surveyor's Sketch of the herein described 3.825 Acre tract.

Surveyed October 13, 2017

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

server/projects/pro170000/170800/170823/170823-TR 5.doc

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



CALLLED 2.01 ACRES
DANIEL SMITH and wife,
PAULA SMITH
Doc. No. 2007-00036226

BARBARA J. COOPER - TRACTS 6 & 7
Survey showing 4.141 ACRES, situated in the NANCY
CHANCE SURVEY, ABSTRACT 5, Bell County, Texas.

This sketch to accompany a metes and bounds description
of the hereon shown 4.141 Acre tract.

CALLLED 7.28 ACRES
BARBARA J. COOPER
Doc. No. 2007-00029394

(Rec. N 46°30' E)
N 43°56'04" E 285.91'

S 70°38'52" E 126.00'

S 66°01'09" E 340.57'

3/4" Iron
Pipe Found

**4.141 ACRES
OF LAND**

CALLLED 4.705 ACRES
BARBARA J. COOPER
Vol. 5574, Pg. 453

(Rec. N 25°20'46" W 131.82)
N 27°48'47" W
130.36'

N 62°57'09" W 142.25'
(Rec. N 60°32'12" W 142.18')

N 33°31'29" W 217.03'
(Rec. N 31°14' W 217.00')

S 39°41'34" W 502.18'
(Rec. S 42°06'40" W 502.80')

CHARTER OAK DRIVE
(Asphalt Surface)
No record information was found for this roadway

This project is referenced to the City of Temple Coordinate System,
NAD 1983, Texas Central Zone. All distances are horizontal surface
distances unless noted and all bearings are grid bearings. All
coordinates are referenced to City Monument No. 122. The theta
angle at City Monument No. 122 is 01° 30' 14". The combined
correction factor (CCF) is 0.999857. Grid distance = Surface
distance X CCF. Geodetic north = Grid north + theta angle.
Reference tie from City monument No. 122 to the southeast corner
of this 4.141 acre tract is S 73°09'40" W 4158.80 feet. Published
City coordinates for project reference point 122 are N. =
10,367,918.25 E. = 3,210,425.21.



● - 5/8" Iron Rod w/cap
stamped "ACS" Set
(unless otherwise noted)



Tx. Firm No. 10023600
4330 South 5th Street
Temple, Texas 76502
254-778-2272 Killeen 254-634-4636
Fax 254-774-7608

CALLLED 12.348 ACRES
STEVEN J. WARD
Doc. No. 2014-00047809

Concrete
Monument
Found
POINT OF
BEGINNING



Survey
completed: 10-13-2017
Scale: 1" = 60'
Job No.: 170823
Dwg No.: 170823-TR 6 & 7
Drawn by: SLW
Surveyor: CCL #4636

Copyright 2018 All County Surveying, Inc.

Plot Date: 06-06-2018

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

June 6, 2018

Revised August 15, 2018

Surveyor's Field Notes for:

4.141 ACRE, situated in the **NANCY CHANCE SURVEY, ABSTRACT 5**, Bell County, Texas, embracing a portion of a called 4.705 Acre tract conveyed to Barbara J. Cooper in Volume 5574, Page 453, Official Public Records of Real Property, Bell County, Texas, and being more particularly described as follows:

BEGINNING at a concrete monument found at the southernmost corner of said 4.705 Acre tract, being the easternmost corner of a called 12.348 Acre tract conveyed to Steven J. Ward in Document No. 2014-00047809, Official Public Records of Real Property, Bell County, Texas, and being on the northwest line of Charter Ok Drive, for the southeast corner of the herein described tract;

THENCE, in a northwesterly direction, with the northeast line of said 12.348 Acre tract, **N 33° 37' 29" W – 217.03'** (Rec. N 31° 14' W – 217.00'), a 5/8" iron rod with cap stamped "ACS" set, **N 62° 57' 09" W – 142.25'** (Rec. N 60° 32' 12" W – 142.18'), a 5/8" iron rod with cap stamped "ACS" set, and **N 27° 48' 47" W – 130.36'** (Rec. N 25° 20' 46" W – 131.82'), to a 5/8" iron rod with cap stamped "ACS" set at the northernmost corner of said 12.348 Acre tract, same being the westernmost corner of said 4.705 Acre tract, and being on the southeast line of a called 7.28 Acre tract conveyed to Barbara J. Cooper in Document No. 2007-00039394, Official Public Records of Real Property, Bell County, Texas, for the southwest corner of the herein described tract;

THENCE, in a northeasterly direction, with the southeast line of said 7.28 Acre tract, **N 43° 56' 04" W – 285.91'** (Rec. S 43° 57' 40" W), to a 5/8" iron rod with cap stamped "ACS" set, for the northwest corner of the herein described tract

THENCE, in an easterly direction, severing said 4.705 Acre tract, **S 70° 38' 52" E – 126.00'**, a 5/8" iron rod with cap stamped "ACS" set, and **S 66° 01' 09" E – 340.57'**, to a 3/4" iron pipe found at the northeast corner of said 4.705 Acre tract, same being the southeast corner of a called 2.01 Acre tract conveyed to Daniel Smith and wife, Paula Smith in Document No. 2007-00036226, Official Public Records of Real Property, Bell County, Texas, and being on the west line of said Charter Oak Drive, for the northeast corner of the herein described tract;

THENCE, in a southwesterly direction, with the northwest line of said Charter Oak Drive, **S 39° 41' 34" W – 502.18'** (Rec. S 42° 06' 40" W – 502.80'), to the **POINT OF BEGINNING** and containing 4.141 Acre of Land.

This project is referenced to the City of Temple Coordinate System, NAD 1983, Texas Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 122. The theta angle at City Monument No. 122 is 01° 30' 14". The combined correction factor (CCF) is 0.999857. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference tie from City monument No. 122 to the southeast corner of this 4.141 acre tract is S 73°09'40" W 4158.80 feet. Published City coordinates for project reference point 122 are N. = 10,367,918.25 E. = 3,210,425.21.

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

This metes and bounds description to accompany a Surveyor's Sketch of the herein described 4.141 Acre tract.

Surveyed October 13, 2017

ALL COUNTY SURVEYING, INC.**1-800-749-PLAT****Tx. Firm Lic. No. 10023600**

server/projects/pro170000/170800/170823/170823-TR 6 & 7.doc



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

RESOLUTION NO. 2019-9606-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, FINDING THAT TWO PROPERTIES SITUATED IN THE NANCY CHANCE SURVEY, ABSTRACT NO. 5, BELL COUNTY, TEXAS, ARE NECESSARY FOR THE OUTER LOOP PHASE 6 PROJECT; AUTHORIZING THE USE OF EMINENT DOMAIN TO CONDEMN THE PROPERTIES PURSUANT TO GOVERNMENT CODE §2206.053; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the expansion of Old Waco Road, the Outer Loop, is an important north-south arterial that will connect the Adams Avenue growth corridor to Interstate Highway 35 - this phase is currently under design with construction planned for fiscal year 2022;

Whereas, at this time, it is anticipated that right of way will be needed from seventeen properties owned by thirteen private citizens or entities;

Whereas, the City has acquired or is coordinating closings for three rights of way, and because two owners of five of the needed rights of way are also impacted by the Charter Oak Water Line Project, Staff decided it was in both the owners' and the City's interest to acquire the needed interests at the same time;

Whereas, the City has contracted with Stateside Right of Way Services, Inc. (Stateside) to assist with acquisition and relocation services for this project - appraisals were conducted and offers made based on the appraisals;

Whereas, after negotiations, the City was able to reach an agreement with one property owner - however, the City and the other property owner have been unable to reach an agreement;

Whereas, the initial offer was sent to the owner of record on August 30, 2018 via Stateside - this acquisition does require the property owner to relocate, however, a relocation study was conducted, and results presented to the property owner as well;

Whereas, a final offer will be sent and if rejected after 14 days, a condemnation proceeding can be filed;

Whereas, the properties are addressed as:

- Charter Oak Drive, Temple, Texas (Bell CAD ID No. 396728);
- 4302 Charter Oak Drive, Temple, Texas (Bell CAD ID Nos. 127051 and 127050);

Whereas, Staff is requesting, pursuant to Government Code § 2206.053, that Council authorize the use of the power of eminent domain to acquire the properties legally described as being:

- 3.825-acres, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, embracing a portion of a called 7.28-acre tract conveyed to Barbara J. Cooper in Document No. 2007-00029394, Official Public Records of Real Property, Bell County, Texas - the property is located along Charter Oak Drive, Temple, Texas (Bell CAD ID No. 396728);
- 4.141-acres, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, embracing a portion of a called 4.705-acre tract conveyed to Barbara J. Cooper in Volume 5574, Page 453, Official Public Records of Real Property, Bell County, Texas - the property is located at 4302 Charter Oak Drive, Temple, Texas (Bell CAD ID Nos. 127051 and 127050);

Whereas, funding for the properties necessary for the Outer Loop Phase 6 project is available in the Reinvestment Zone No. 1 Financing Plan, Line 320, Account No. 795-9600-531-6557, Project No. 101585; 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 hereby finds and determines that the necessity exists for acquiring, by eminent domain:

- 3.825-acres, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, embracing a portion of a called 7.28-acre tract conveyed to Barbara J. Cooper in Document No. 2007-00029394, Official Public Records of Real Property, Bell County, Texas - the property is located along Charter Oak Drive, Temple, Texas (Bell CAD ID No. 396728)
- 4.141-acres, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, embracing a portion of a called 4.705-acre tract conveyed to Barbara J. Cooper in Volume 5574, Page 453, Official Public Records of Real Property, Bell County, Texas - the property is located at 4302 Charter Oak Drive, Temple, Texas (Bell CAD ID Nos. 127051 and 127050).

Part 3: The City Council hereby finds and determines that the expansion of Outer Loop Phase 6 is a public use under Chapter 251, Local Government Code § 251.001(a)(1).

Part 4: The City Council authorizes the use of the City's eminent domain authority under Article 3, Section 3.6, of the Charter of the City of Temple and the initiation of condemnation proceedings of said property interests.

Part 5: 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 and the Truth in Condemnation Act, Chapter 2206, Government Code § 2206.053.

PASSED AND APPROVED this the **21st** day of **March**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney