



**MEETING OF THE
TEMPLE CITY COUNCIL
MUNICIPAL BUILDING
2 NORTH MAIN STREET
3rd FLOOR – CONFERENCE ROOM
THURSDAY, MAY 2, 2019
4:00 P.M.
AGENDA**

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, May 2, 2019.
2. Receive a presentation on the Reinvestment Zone 2030 Master Plan.

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

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 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.

III. AWARDS AND SPECIAL RECOGNITIONS

3. Recognize National Police Week May 12-18
4. Recognize the City of Temple Preservation Month May 2019

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.

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

Minutes

- (A) [April 18, 2019 Special & Regular Called Meeting](#)

Contracts, Leases, & Bids

- (B) [2019-9633-R](#): Consider adopting a resolution authorizing a professional services agreement with Walker Partners, LLC, for professional services required for the preliminary design of Hartrick Bluff Road from Waters Dairy Road to FM 93, in the amount of \$287,800.

- (C) [2019-9634-R](#): Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick and Associates, LP, for the West Temple Distribution Project to assess water delivery in the amount of \$82,580.
- (D) [2019-9635-R](#): Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick and Associates, LP, to develop the final design for a parking garage facility located near the intersection of 4th Street and Central Avenue, for the lump sum price of \$568,450.
- (E) [2019-9636-R](#): Consider adopting a resolution authorizing an agreement with Kasberg, Patrick, & Associates, LP, of Temple for engineering services required for the Raw Water Intake Recoating Project at the City of Temple Water Treatment Plant in the amount of \$49,790.
- (F) [2019-9637-R](#): Consider adopting a resolution authorizing an agreement with Kasberg, Patrick, & Associates, LP, of Temple for engineering services required to expand the Membrane Treatment Facility in the amount of \$2,953,930.
- (G) [2019-9638-R](#): Consider adopting a resolution authorizing an interlocal agreement with the State of Texas, for the benefit of Texas Department of Transportation, to reconstruct and maintain a radio antenna tower.
- (H) [2019-9639-R](#): Consider adopting a resolution amending a Developer Participation Agreement with WBW Development Group, LLC—Series 027 to allow the developer to build a public use trail on City-owned property in lieu of paying park fees for The Reserve at Pea Ridge, Phases 1 and 2.
- (I) [2019-9640-R](#): Consider adopting a resolution finding that Oncor Electric Delivery Company LLC's Application for Approval to amend its distribution cost recovery factor pursuant to 16 Texas Administrative Code Section 25.243 to increase distribution rates within the City should be denied.
- (J) [2019-9641-R](#): Consider adopting a resolution authorizing an amendment to the professional services agreement with Kasberg, Patrick & Associates, LP, for construction phase services of the South 1st Street Project in the amount of \$103,700.
- (K) [2019-9642-R](#): Consider adopting a resolution authorizing an amendment to a professional services agreement with Kasberg, Patrick and Associates, LP to develop the final design for a new Aircraft Rescue and Firefighting Facility at the Airport Headquarters/Fixed Base Operator building located at the Draughon-Miller Regional Airport, in an amount not to exceed \$40,340.
- (L) [2019-9643-R](#): Consider adopting a resolution authorizing an amendment to a professional services agreement with MRB Group, of Temple, in the amount of \$48,420 for the improvements of North Pea Ridge Road.
- (M) [2019-9644-R](#): Consider adopting a resolution authorizing a deductive change order with R. T. Schneider Construction Company, Ltd., for services to construct Hogan Road from State Highway 317 to South Pea Ridge Road in the amount of \$78,381.80.
- (N) [2019-9645-R](#): Consider adopting a resolution ratifying the purchase of online legal research services from West Publishing Corporation in the estimated amount of \$36,000.

- (O) [2019-9646-R](#): Consider adopting a resolution authorizing an annual purchase agreement for sodium hypochlorite, hydrochloric acid, and cyanuric acid with Hasa, Inc. of Saugus, California in the estimated annual amount of \$40,787.
- (P) [2019-9647-R](#): Adopt a resolution authorizing the purchase of InfoWater Pro Suite software for water distribution modeling with Innovyze Inc. of Portland, Oregon in the amount of \$33,600.
- (Q) [2019-9648-R](#): Consider adopting a resolution authorizing the purchase of 10.086 acres of right-of-way needed for the future expansion of Blackland Road and authorizing the payment of closing costs associated with the purchase in the total estimated amount of \$155,000.

Misc.

- (R) [2019-9649-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.

V. REGULAR AGENDA

ORDINANCES

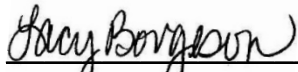
- 6. [2019-4963](#): FIRST READING – PUBLIC HEARING – FY-19-1-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 185.277 acres of land, which includes a 160.047-acre tract and a 12.541-acre tract, out of the Maximo Moreno Survey, Abstract No. 14, and 12.689 acres of right-of-way of Hartrick Bluff Road, Bell County, Texas.
- 7. [2019-4964](#): FIRST READING – PUBLIC HEARING – FY-19-2-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 119.827+/- acres of land, which includes a 118.560-acre tract out of the Maximo Moreno Survey, Abstract No. 14, and 1.267 acres of right-of-way of Haymarket Drive, Bell County, Texas.
- 8. [2019-4965](#): FIRST READING – PUBLIC HEARING – FY-19-11-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural zoning district to General Retail zoning district on 1.554 +/- acres, situated in the J.J. Simmons, Survey Abstract No. 737, Bell County, Texas, addressed as 5018 State Highway 317.
- 9. [2019-4966](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending City Code of Ordinances, Chapter 27, "Stormwater," to bring this chapter into compliance with the City's current Texas Commission on Environmental Quality (TCEQ) permits, simplify and clarify language and terms, and provide more effective enforcement tools.
- 10. [2019-4967](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance updating the City of Temple's Drought Contingency Plan.

RESOLUTIONS

11. **2019-9650-R:** PUBLIC HEARING – Consider adopting a resolution updating the City of Temple's Water Conservation Plan.
12. **2019-9651-R:** FY-19-19-PLT: Consider adopting a resolution authorizing approval of the final plat of The Reserve at Pea Ridge Phase II, a 16.92 +/- acre, 56-lot, three-block, five-tract, residential subdivision, with developer-requested exceptions, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, addressed as 2499 South Pea Ridge Road.
13. **2019-9652-R:** FY-19-3-ANX: Consider adopting a resolution granting a petition to institute voluntary annexation proceedings of 89.373 acres of land out of the Maximo Moreno Survey, Abstract 14, located on the east side of Old State Highway 95, directing Staff to develop a municipal services plan, and calling public hearings to consider the petition.
14. **2019-9653-R:** FY-19-4-ANX: Consider adopting a resolution granting a petition to institute voluntary annexation proceedings of 47.655 acres of land out of the Maximo Moreno Survey, Abstract 14, located on the east side of Old State Highway 95 and south of Barnhardt Road, directing Staff to develop a municipal services plan, and calling public hearings to consider the petition.

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 1:00 pm, on Friday, April 26, 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 _____ 2019.

Title _____



COUNCIL AGENDA ITEM MEMORANDUM

05/02/19
Item #5(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) April 18, 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:

[April 18, 2019 Special & Regular Meeting Minutes / Video](#)



COUNCIL AGENDA ITEM MEMORANDUM

05/02/19
Item #5(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, P.E., CFM, Interim Public Works Director, City Engineer
Richard Wilson, P.E., CFM, Deputy City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Walker Partners, LLC, for professional services required for the preliminary design of Hartrick Bluff Road from Waters Dairy Road to FM 93, in the amount of \$287,800.

STAFF RECOMMENDATION: Adopt resolution as presented in Item Summary.

ITEM SUMMARY: This project consists of roadway improvements to Hartrick Bluff Road from Waters Dairy Road to FM 93. 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:

Boundary/ROW Survey	\$ 17,000
Topographic Survey	\$ 56,800
Easement and ROW Exhibits	\$ 45,000
Monument Easement and ROW Exhibit	\$ 10,000
Preliminary Design	\$130,000
Right-of Entry Consent Attainment	\$ 17,000
Franchise Utility Coordination	<u>\$ 12,000</u>
Total	<u>\$287,800</u>

Time required for preliminary design is 224 calendar days after the notice to proceed. The engineer's preliminary opinion of probable cost for construction is \$6,064,600.

FISCAL IMPACT: Funding for the professional services agreement with Walker Partners, LLC, for professional services required for the preliminary design of Hartrick Bluff Road from Waters Dairy Road to FM 93 in the amount of \$287,800.00 is available in project 102025 as follows:

	<u>365-3400-531-6716</u>	<u>561-5200-535-6716</u>	<u>Total</u>
Project Budget	\$ 251,825	\$ 35,975	\$ 287,800
Encumbered/Committed to Date	-	-	-
Walker Partners, LLC Agreement	(251,825)	(35,975)	(287,800)
Remaining Project Funds	\$ -	\$ -	\$ -

Funding for construction is proposed in a future year of the Transportation Capital Improvement Plan and the Water & Sewer Capital Improvement Plan.

ATTACHMENTS:

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

PROPOSAL

To: City of Temple
Attn: Don Bond, P.E.
From: Otto Wiederhold, P.E.
Project Name: Hartrick Bluff Road Reconstruction
Project No.: 2-01618
Re: Proposal for Preliminary Civil Engineering and Surveying Services
Date: February 26, 2019
Xc: James Billeck, P.E.; Jacob Bell, P.E.

HARTRICK BLUFF ROAD RECONSTRUCTION

Walker Partners, LLC (Engineer/Surveyor) appreciates the opportunity to submit this Proposal to provide professional surveying and civil engineering services to the City of Temple (City/Owner) in connection with the Hartrick Bluff Road Reconstruction (Project) from FM 93 to Waters Dairy Road (Limits) in Temple, Texas (Location). Based upon our initial meetings, we understand that City intends to reconstruct and widen Hartrick Bluff Road from a two-lane rural road to a three-lane urban collector roadway with a concrete trail and a sidewalk. The Design Speed will be 40 mph from FM 93 to Friar's Creek and 35 mph from Friar's Creek to Waters Dairy.

This Proposal is for Surveying and Preliminary Design services, including the following tasks:

- Develop Preliminary:
 - Horizontal and Vertical Alignments
 - Typical Sections
 - Construction Sequence and Phasing Plan
 - Friar's Creek Bridge Design
 - Drainage Design
 - Public Utility (Water and Wastewater) Relocation Design
- Coordinate with Franchise Utilities and Establish Franchise Utility Corridor
- Establish Right-of-Way (ROW) Envelope and identify ROW and Easement Acquisition Needs
- Develop Preliminary Engineer's Opinion of Probable Cost (EOPC) and Estimated ROW/Easement Acquisition Budget

Boundary Survey may be performed at the City's option. If Boundary Survey is not performed, all property lines will be based of Bell County Appraisal District parcel lines.

The scope of services, schedule, and associated fees that Walker Partners proposes to provide for this Project are outlined below:

1.00 SCOPE OF SERVICES

1.01 SURVEYING SERVICES

A. Boundary Survey (Phase 11) \$17,000.00

1. Perform Deed Research of Subject Tracts for the purpose of reconciling tract lines.

2. Perform a Boundary Survey based upon North American Datum of 1983 (NAD83) State Plane Coordinates and in accordance with the General Rules of Procedures and Practices as set forth by the Texas Board of Professional Land Surveying and laws of the State of Texas, unless otherwise specified by Owner. This survey will be used to ensure that proposed design features are within public right-of-way and to establish proposed right-of-way and/or easement limits.

B. Topographic Survey (Phase 12) Phase \$56,800.00

1. Perform an on-the-ground field survey to obtain the topography (terrain data) and other visible and apparent surface features (manmade or natural) such as ditches, swales, channels, embankments, drainage structures, catch basins and inlets, manholes, above-grade utility appurtenances, pavements, significant trees (hardwoods greater than 8 inches in diameter), fences, building structures, water's edge, etc. For underground utilities, Walker Partners will coordinate with Texas 811. The approximate locations of underground utilities will be shown based upon utility locators' markings.
2. Establish vertical control at the site and place benchmarks based upon North American Vertical Datum of 1988 (NAVD88), unless otherwise specified by Owner.
3. Prepare a topographic map from the topographic survey depicting the physical features as described above and with elevation contours at a 1-foot interval. The 100-year floodplain as identified by FEMA and as depicted on the Flood Insurance Rate Map (FIRM) will be graphically located and drafted on the topographic map.

C. Easements and ROW Exhibits (Phase 16) Fee \$45,000 or \$2,250/each

1. Prepare metes and bounds descriptions along with accompanying drawings (exhibits) for the proposed easement and ROW parcels. The descriptions and drawings will be delivered to legal counsel for their use in preparing each document for record.

D. Monument Easements and Right-of-Way (Phase 17) \$10,000 or \$500/each

2. Establish permanent field monumentation for the proposed permanent Right-of-Way and/or easements.

1.02 ENGINEERING BASIC SERVICES

A. Preliminary Design (Phase 30) \$130,000.00

1. Attend preliminary conferences with the Owner and other interested parties regarding the Project.
2. Advise Owner of any need for Owner to provide data or services of other consultants which are not part of Engineer's Basic Services.
3. Establish the scope of any geotechnical investigations or any special surveys and tests which, in the opinion of the Engineer, may be required; assist the Owner in arranging for such work to be done, for the Owner's account.
4. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by Engineer.
5. Identify and evaluate alternate solutions available to Owner and, after consultation with Owner, recommend to Owner those solutions which in Engineer's judgment meet Owner's requirements for the Project.

6. Coordinate with TxDOT regarding FM 93/Hartrick Bluff Road intersection design.
7. Develop preliminary horizontal alignment, vertical alignment, typical sections, ROW envelope, drainage design, Friar's Creek bridge design, public utility design, franchise utility assignments, and construction phasing/sequence plan.
8. Develop list of ROW and easement acquisition needs with preliminary budgets (based on County Appraisal District information).
9. Prepare preliminary design documents on the Project in sufficient detail to indicate clearly the problems involved and the alternate solutions available to the Owner, including final design criteria, preliminary drawings, and setting forth clearly the Engineer's recommendations.
10. Prepare a preliminary Engineer's Opinion of Probable Cost (EOPC).
11. Attend meetings with the Owner, as necessary, throughout the Project.
12. Furnish the Owner the required number of copies of the preliminary plans, including preliminary plan sheets, roll plots, EOPC's, and ROW/Easement acquisition needs.

1.03 SPECIAL SERVICES

A. Right-of-Entry Consent Attainment (Phase 80) Right-of-Entry Consent Attainment \$17,000.00

1. Develop standard Right-of-Entry Consent Attainment form (or obtain existing City form) to be signed by affected property owners to obtain permission to perform survey and design activities on subject properties.
2. Develop "Master Spreadsheet" of all properties to track responses. Spreadsheet will be made available to Contractor during Construction Phase.
3. Mail "form" with City cover letter describing project to all properties.
4. Make two additional follow-up attempts on properties that are non-responsive. Any remaining non-responsive properties will be handed over to City staff for additional further action.
5. City staff will be apprised of situation and included regarding any disputes that arise with individual property owners.
6. Provide engineering drawings (highlighting the property in question) for property owners that request a sketch.
7. Walker Partners has identified a total of 68 parcels and landowners to be contacted for right-of-entry. We are proposing \$250/letter for a total of \$17,000.00.

B. Franchise Utility Coordination (Phase 81) Franchise Utility Coordination \$12,000.00

1. Identify and locate franchise utility infrastructure within Project limits.
2. Submit progress drawings to franchise utility companies. The franchise utility companies will use these drawings to determine their utility conflicts (if any) within the Project Limits and develop their preliminary designs.
3. Participate in meetings with franchise utility companies to provide project updates and project coordination.
4. Obtain and incorporate preliminary design information from franchise utility companies into the Project.
5. If franchise utility companies are not responsive or are behind schedule, the City shall assist or take over coordination efforts.

2.00 SCHEDULE FOR SERVICES

Walker Partners acknowledges the importance to the Owner of the project schedule and agrees to put forth its best professional efforts to perform its services under this proposal in a manner consistent with that schedule. The Owner understands, however, that Walker Partners' performance must be governed by sound professional practices. Walker Partners proposes to complete the above-outlined scope of services in general accordance with the following schedule, provided there are no unforeseen delays beyond the control of the Engineer.

- Right-of-Entry Consent Attainment: Estimated 4 to 6 weeks from Notice to Proceed
- Surveying: 6 to 8 weeks from completion of Right-of-Entry Consent Attainment
- Preliminary Design: 14 to 18 weeks from completion of Surveying
- Franchise Utility Coordination: Concurrent with Surveying and Preliminary Design

3.00 FEES

The proposed fee structure for this project consists of a combination of Lump Sum fees and Hourly (Actual Cost) fees. Invoices will be submitted on a monthly basis at a percentage of the work completed (for Lump Sum phases) and/or the actual work performed (for Hourly phases). Progress for the Hourly phases will be monitored and will not be overrun without prior authorization from the Owner. Please note that actual land costs are not included in this proposal.

The proposed fees for the project are shown below:

Phase Number	Phase Description	Lump Sum Fee
Surveying Services		
11	Boundary/ROW Survey	\$17,000.00
12	Topographic Survey	\$56,800.00
16	Easement and ROW Exhibits	\$45,000.00
17	Monument Easement and ROW Exhibit	\$10,000.00
Engineering Basic Services		
30	Preliminary Design	\$130,000.00
Special Services		
80	Right-of-Entry Consent Attainment	\$17,000.00
81	Franchise Utility Coordination	\$12,000.00
Estimated Project Total		\$287,800.00

4.00 EXCLUSIONS

The following items are excluded from this proposal. If there are questions about any other services not listed here, they shall be clarified prior to approval and acceptance of this proposal.

4.01 The proposed engineering services do not include the following:

- Geotechnical Investigation
- Design Beyond 30% Completion

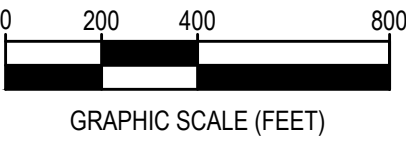
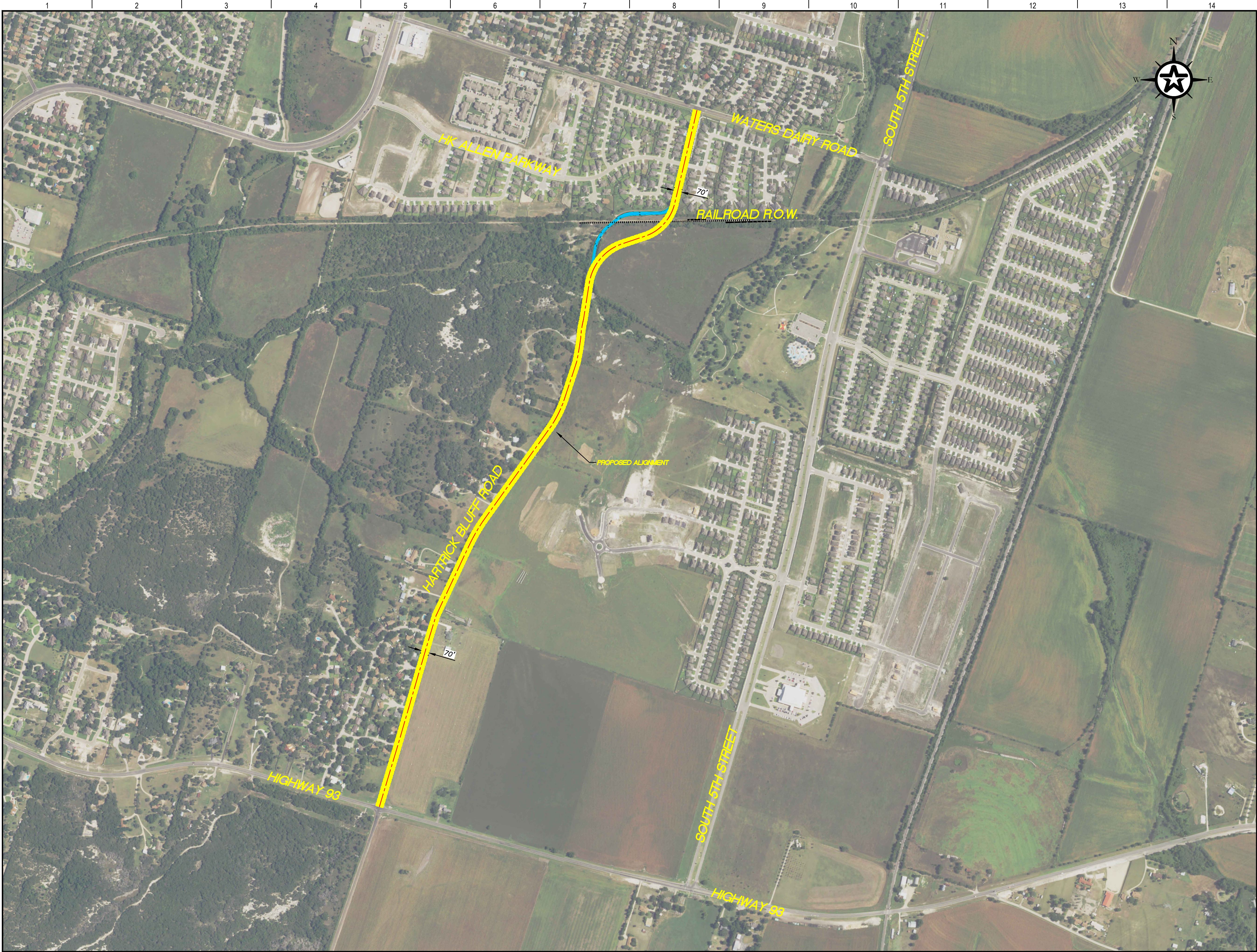
- Bidding and Construction Services
- Floodplain Study/FEMA Map Revisions
- Environmental Investigation
- Landscape Architecture
- Illumination, Signing, and Pavement Marking Design
- ROW/Easement Acquisition Services
- Abstracting fee title, easements, restrictions or other encumbrances
- Subsurface utility engineering survey
- Franchise Utility Design
- Public Meetings

4.02 Any major changes involved after Preliminary Design Documents have been completed and approved will be charged on a time basis or negotiated fee.

5.00 ACCEPTANCE OF PROPOSAL

If the Scope of Services, Schedule, and Fees outlined herein are acceptable to The City of Temple, Walker Partners will work with City Staff to prepare and execute and Agreement for Professional Services.

G:\PROJECTS\12-01618\2 ENGINEERING\2.0 CAD\HARTRICK BLUFF RD.LDWG, LAYOUT1, 4/19/2019 10:40:49 AM, jday



REV.	DESCRIPTION	DATE
<div><div><div><div><div><div></div><div>Walker Partners</div></div><div>engineers ★ surveyors</div><div><small>T.B.P.E. Registration No. 8053</small></div></div></div><div><div>CITY OF TEMPLE</div><div>HARTRICK BLUFF RECONSTRUCTION</div><div>HARTRICK BLUFF RD - LAYOUT1</div><div>PRELIMINARY FOR REVIEW ONLY</div></div><div><div><div><div><div><div><small>THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW UNDER THE AUTHORITY OF PROFESSIONAL ENGINEER OTTO E. WIEDERHOLD #53366</small></div><div><small>ON THE DATE SHOWN ON THE DATE STAMP, IT IS NOT TO BE USED FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES.</small></div></div></div><div><div>PM</div><div>DESIGNED</div><div>DRAFTED</div><div>CHECKED</div><div>PROJECT NO.</div></div><div><div>OEW</div><div>OEW</div><div>JAB</div><div>OEW</div><div>2-01618</div></div></div><div>DRAWING NO.<div>1</div></div></div></div></div></div>		

RESOLUTION NO. 2019-9633-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH WALKER PARTNERS, LLC OF KILLEEN, TEXAS IN THE AMOUNT OF \$287,800, FOR PROFESSIONAL SERVICES REQUIRED FOR THE PRELIMINARY DESIGN OF HARTRICK BLUFF ROAD FROM WATERS DAIRY ROAD TO FM 93; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this project consists of roadway improvements to Hartrick Bluff Road from Waters Dairy Road to FM 93 - improvements include expanded pavement sections, pedestrian facilities, and drainage conveyance;

Whereas, Staff recommends Council authorize a professional services agreement with Walker Partners, LLC of Killeen, Texas in the amount of \$287,800, for professional services required for the preliminary design of Hartrick Bluff Road from Waters Dairy Road to FM 93;

Whereas, funding for this professional service agreement is available in Account No. 365-3400-531-6716 and Account No. 561-5200-535-6716, Project No. 102025; 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 Walker Partners, LLC of Killeen, Texas, in the amount of \$287,800, for professional services required for the preliminary design of Hartrick Bluff Road from Waters Dairy Road to FM 93.

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 **2nd** day of **May**, 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

05/02/19
Item #5(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 Kasberg, Patrick and Associates, LP, for the West Temple Distribution Project to assess water delivery in the amount of \$82,580.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Public Works has identified waterline issues in west Temple near Morgan's Point Road (FM 2271) and West Adams (FM 2305). See attached map. This area contains over 37,000 linear feet of undersized lines varying from 1 ½-inch to 4-inch diameter that do not meet current minimum sizing standards and will need to be upsized. In addition to pipe sizing, this project will evaluate the age, pipe material, condition, and fire protection for regulatory compliance and planned usage. The assessment will develop a phasing plan to breakdown the area into smaller projects.

Approximately 3,000 linear feet of waterline along Bonnie Lane has been identified as Phase I of the project. Final design and bidding for this portion have been included in the scope. The professional engineering services are broken down as follows:

Assessment	
Preliminary Engineering/System Evaluation	\$ 39,130
Phase I – Bonnie Lane	
Topographic Survey	\$ 9,350
Final Design	\$ 27,100
Bidding	<u>\$ 7,000</u>
Total	<u>\$ 82,580</u>

As identified in the attached Engineer's Proposal, the assessment will take 90 calendar days to complete. Phase 1 design will take 150 days after the assessment and phasing prioritization has been determined. The opinion of probable construction cost for Phase I is \$420,000.

FISCAL IMPACT: Funding for the professional services agreement with Kasberg, Patrick and Associates, LP, to assess the West Temple Water Distribution in the amount of \$82,580 is available in account 561-5200-535-6996, project 101951, as follows:

Project Budget	\$	200,000
Encumbered/Committed to Date		-
KPA Professional Services Agreement		(82,580)
Remaining Project Funds Available	\$	<u>117,420</u>

Funding for construction is proposed in the FY 2020 Water & Sewer Capital Improvement Plan.

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

April 16, 2019

Mr. James Billeck, P.E.

3210 E. Avenue H

Building A

Temple, Texas 76501

Re: City of Temple, Texas
West Temple Water Distribution Assessment

Dear Mr. Billeck:

This letter outlines our proposal to the City of Temple for providing preliminary engineering services required for evaluation of existing water infrastructure in the Pepper Creek Tank Area as requested and shown on the attached Exhibit A. Specifically, this will include approximately 37,300 ft. of waterline within the distribution system that is 4-inch and smaller and does not meet the current minimum sizing standards for the City of Temple. Additionally, this proposal includes final design and bidding of approximately 3,000 ft. of waterline along Bonnie Lane west of FM 2271, which is the anticipated first phase of necessary improvements.

This evaluation will assess the water infrastructure related to its age, pipe material, condition, fire protection, adequate sizing for regulatory compliance and planned uses in more detail than the overall master planning aspects for existing distribution lines. The assessment will be accomplished utilizing available GIS and record drawing information and will include recommendations for replacement and opinions of probable costs. We will work with City Staff to develop a phasing plan for the recommended improvements that coincides with other projects within the area. These findings will be summarized graphically with an exhibit and opinions of probable cost.

The following is a summary of waterlines 4-inch and smaller within the Pepper Creek Tank Area as identified through the City's GIS: 4" – 7,900 ft; 3" – 9,900 ft; 2 ½" – 100 ft; 2" – 15,500 ft; 1 ½" – 3,900 ft.

The charges for our services will be a lump sum amount of \$82,580, as detailed below.

Preliminary Engineering/System Evaluation	\$	39,130.00
Topographic Survey (~ 3,000')		9,350.00
Final Design Plans		27,100.00
Bidding		7,000.00
Total	\$	82,580.00

Mr. James Billeck, P.E.
April 16, 2019
Page Two

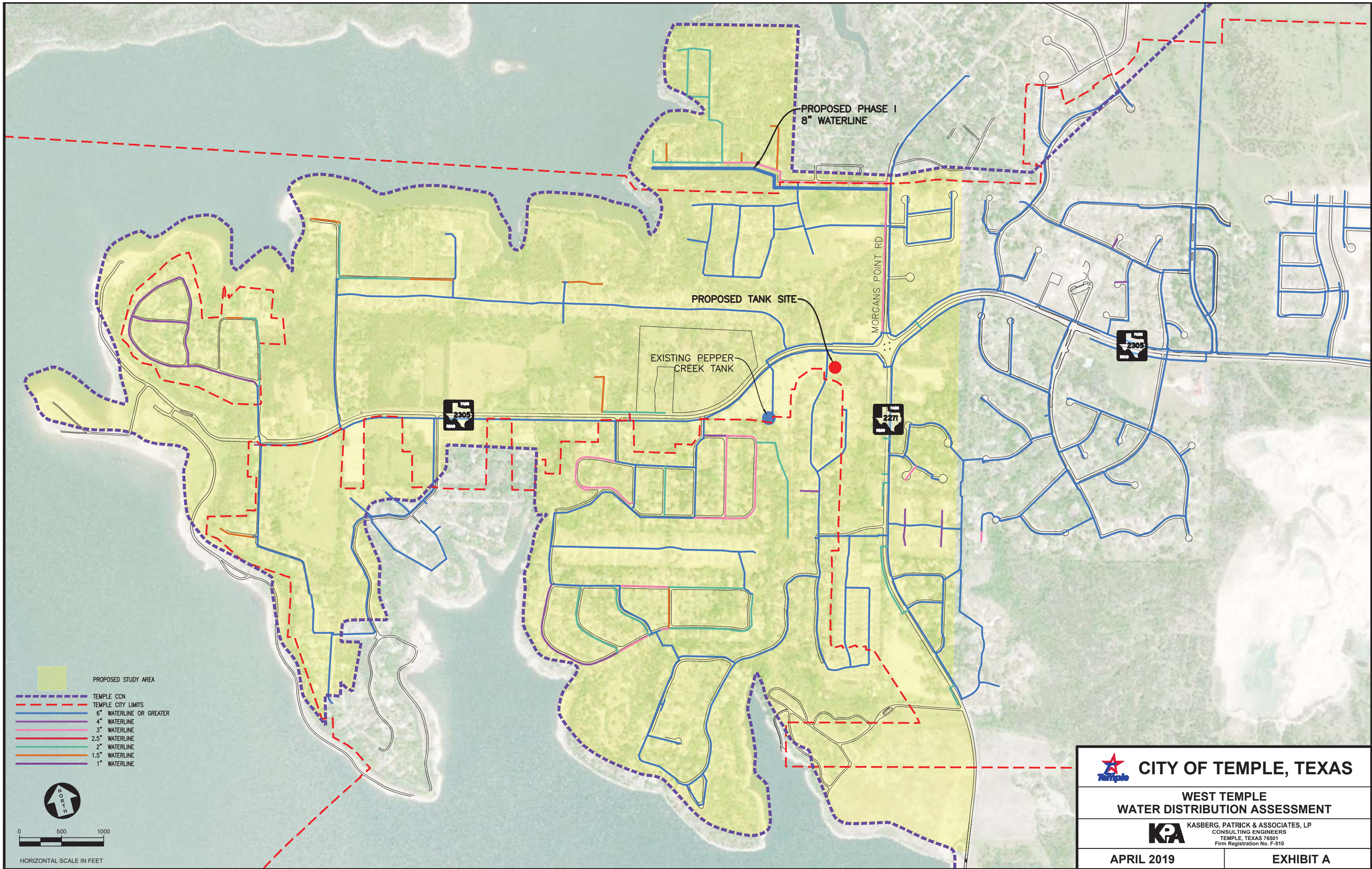
We will complete the preliminary engineering within 90 days and proceed with final design thereafter. The final design phase for the project will be completed within 150 days and is anticipated to be within the existing rights of way. We are available to address any questions or comments that you may have about this proposal.

Sincerely,

A handwritten signature in blue ink that reads "Ginger R. Tolbert". The signature is fluid and cursive, with the first name "Ginger" and last name "Tolbert" clearly legible.

Ginger R. Tolbert, P.E.
Principal

P:\Temple\2019\19-XXX PC Tank Area\CAD\Exhibits\Pepper Creek Tank Area.dwg - WTWDA



CITY OF TEMPLE, TEXAS

**WEST TEMPLE
WATER DISTRIBUTION ASSESSMENT**



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76501
Firm Registration No. F-510

APRIL 2019

EXHIBIT A

RESOLUTION NO. 2019-9634-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 \$82,580, FOR THE WEST TEMPLE DISTRIBUTION PROJECT TO ASSESS WATER DELIVERY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Public Works has identified waterline issues in west Temple near Morgan's Point Road (Farm to Market 2271) and West Adams (Farm to Market 2305) - this area contains over 37,000 linear feet of undersized lines varying from 1 ½-inch to 4-inch diameter that do not meet current minimum sizing standards and will need to be upsized;

Whereas, in addition to pipe sizing, this project will evaluate the age, pipe material, condition, and fire protection for regulatory compliance and planned usage - the assessment will develop a phasing plan to breakdown the area into smaller projects;

Whereas, approximately 3,000 linear feet of waterline along Bonnie Lane has been identified as Phase I of the project - final design and bidding for this portion have been included in the scope;

Whereas, Staff recommends Council authorize a professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$82,580, for the West Temple Distribution Project to assess water delivery;

Whereas, funding for this professional services agreement is available in Account No. 561-5200-535-6996, Project No. 101951; 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 \$82,580, for the West Temple Distribution Project to assess water delivery.

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 2nd day of **May**, 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

05/02/19
Item #5(D)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

David Olson, Assistant City Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick and Associates, LP, to develop the final design for a parking garage facility located near the intersection of 4th Street and Central Avenue, for the lump sum price of \$568,450.

STAFF RECOMMENDATION: City staff recommends approval of the professional services agreement as presented.

ITEM SUMMARY: Work to be performed under this contract consists of providing architectural, landscape architectural, civil engineering, structural engineering, MEP engineering, geotechnical engineering, and environmental services for final design of the parking garage facility project.

Consultant services recommended under this contract include the following tasks and costs:

Design Services	\$	4,200.00
Architectural Design	\$	228,800.00
Civil Engineering Design	\$	78,400.00
Landscape Architecture Design	\$	44,300.00
Structural Engineering Design	\$	140,800.00
Offsite Electrical Engineering Design	\$	14,900.00
Geotechnical Investigations	\$	8,550.00
Environmental Investigations	\$	4,900.00
Project Management	\$	43,600.00
TOTAL	\$	568,450.00

Timeframe for design is ten months from the Notice to Proceed.

On April 24, 2019, the Reinvestment Zone No. 1 Board approved to recommend that Council authorize this amendment to the professional services agreement.

FISCAL IMPACT: Funding is available in the Reinvestment Zone No. 1 Financing and Project Plan, line 413, account 795-9500-531-6891, project 101907, to design a parking garage facility located near the intersection of 4th Street and Central Avenue, in the amount of \$568,450. Funding from the 1st Street parking garage project will be used to fund the design of this parking garage. The funding that is being utilized was budgeted for the 1st Street parking garage electric utility relocation. These funds will be replenished in a future Reinvestment Zone No. 1 Financing and Project Plan amendment.

ATTACHMENTS:

[Proposal](#)
[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

April 17, 2019

Mr. David Olson, PE, CFM
Assistant City Manager
City of Temple
2 North Main Street
Temple, Texas 76501

Re: City of Temple
4th Street & Central Avenue Parking Garage

Mr. Olson:

At the request of the City of Temple Reinvestment Zone #1 (TRZ), we are submitting this proposal for the above referenced project. This project will develop Final Design for a new five (5) story parking garage facility located on the northeast corner of 4th Street and Central Avenue. The final product for this proposal will be a complete set of Final Design Plans, Specifications and Estimates for the project.

The professional services to be performed by KPA Design Team under this contract consists of architectural, landscape architectural, civil engineering, structural engineering, MEP engineering, geotechnical engineering, and environmental services for design of the Parking Garage Facility Project. The timeframe for design of the project is ten (10) months from the Notice to Proceed.

The KPA Design Team will perform all work and prepare all deliverables in accordance with the latest version of the City of Temple specifications, standards and manuals.

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

The following services will be performed:

1. FIELD SURVEYING (All County Surveying)

- a. Topographic Surveys for Architectural, Engineering and Landscape Design will be developed for design of the project.
- b. Data collection shall consist of surveying all elements of the project to complete the design requirements developed from the Conceptual Design.

2. ARCHITECTURAL SERVICES (Neal Architects)

- a. Full Development of architectural floor plans and FFE plans.
- b. Development of MEP backgrounds.
- c. Development of exterior elevations, ceiling plans, and roof plan.
- d. Outline Specifications.
- e. General Power, Lighting, Data/Communications, Plumbing, Elevator, and HVAC Systems Plans.
- f. Final Architectural, Mechanical, Electrical, and Plumbing documents suitable for permitting, agency review, and construction.
- g. Final Specifications.
- h. Envelope, Mechanical, and Lighting Commercial Com Checks (required for permitting).
- i. TDLR Registration and submission for review (TAS/ADA).

3. CIVIL ENGINEERING SERVICES (KPA)

- a. Develop storm water hydrology 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 10%, 4% and 1% annual chance storm (10-year, 25-year, and 100-year) events. Modeling shall develop storm water flows to all conveyances.
- b. Develop designs for all drainage conveyances within the project limits.
- c. Develop designs for the storm water system for the parking facility and access systems. Storm systems shall be analyzed and designed utilizing City of Temple criteria.
- d. Design storm water conveyance to existing storm systems. Design shall include conveyance for positive drainage.
- e. Determine potential utility conflicts for the project area.
- f. Design the access points to parking facility, including roadway and pedestrian. This shall include designing paving sections to support traffic loading and geometric design to meet TDLR requirements and develop drainage to convey to existing systems.
- g. Design water utilities to serve the new parking garage.
- h. Design wastewater utilities to serve the new parking garage.
- i. Design conduit and / or duct banks for communication service to the new parking garage.

4. LANDSCAPE ARCHITECTURAL SERVICES (KPA -Covey Landscape Architects)

- a. Based on the conceptual design develop preliminary design for landscaping for the project.
- b. Incorporate preliminary design amenities into the final design.
- c. Prepare plan sheets illustrating landscape design.
- d. Coordinate elements for the facility from the preliminary design into the final design.
- e. Prepare preliminary materials list. Coordinate with the Architect and Structural Engineer for the material list from the conceptual design.
- f. Develop preliminary opinions of probable cost for landscaping and irrigation for the Facility.

5. STRUCTURAL ENGINEERING SERVICES (Walker Consultants)

- a. Based on the layout from the conceptual design and meeting with prefabricated parking garage manufactures, develop preliminary structural design for the parking garage facility.
- b. Prepare final design for the foundation of the parking garage.
- c. Prepare final design for the structural slabs for the parking garage.
- d. Prepare final design for the structural connections for the prefabricated components of the parking garage.
- e. Develop all materials with connection details for the parking garage.
- f. Prepare final structural drawing for the parking garage.

6. OFFSITE ELECTRICAL ENGINEERING SERVICES (McCreary & Associates)

- a. Coordinate with Oncor for service drops and connections to serve the facility.
- b. Design electrical service to the facilities.
- c. Develop full offsite electrical design plan sheets to support the project.
- d. Prepare final offsite electrical design with specifications and details.
- e. Develop final Opinion of Probable Cost for the offsite electrical items.

7. GEOTECHNICAL SERVICES (Terracon)

- a. Collect geotechnical data for construction of the parking garage facility with bores.
- b. Process geotechnical lab data from soils collected through the bore operations.
- c. Design foundation section for the parking garage facility on the geotechnical data collected.

8. ENVIRONMENTAL SERVICES (Terracon)

- a. Perform ESA Phase I Services.

9. PROJECT MANAGEMENT (KPA)

- a. Attend all Project Meetings.
- b. Prepare, attend and document Progress Meetings at the City Office.
- c. Prepare, attend and document Utility Coordination Meetings.
- d. General Contract Administration.
- e. Develop monthly invoices and progress reports.
- f. Sub-consultant coordination.
- g. Design coordination with the City.

The following scope of work for the 4th Street & Central Avenue Parking Garage Final Design can be completed for the lump sum price of **\$568,450.00**. Below is a breakdown of project costs. We are pleased to submit this proposal and look forward to the benefit it will bring the City of Temple.

Design Surveys	\$	4,200.00
Architectural Design	\$	228,800.00
Civil Engineering Design	\$	78,400.00
Landscape Architecture Design	\$	44,300.00
Structural Engineering Design	\$	140,800.00
Offsite Electrical Engineering Design	\$	14,900.00
Geotechnical Investigations	\$	8,550.00
Environmental Investigations	\$	4,900.00
Project Management	\$	43,600.00
TOTAL	\$	568,450.00

Sincerely,



R. David Patrick, P.E., CFM

ATTACHMENT “C”

Charges for Additional Services

**City of Temple
4th Street & Central Avenue Parking Garage
Final Design**

<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/Landscape Architect	2.4	50.00 – 60.00/hour
Engineer-in-Training/Designer	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

RESOLUTION NO. 2019-9635-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 \$568,450, TO DEVELOP THE FINAL DESIGN FOR A NEW PARKING GARAGE FACILITY LOCATED NEAR THE INTERSECTION OF 4TH STREET AND CENTRAL AVENUE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, work to be performed under this contract consists of providing architectural, landscape architectural, civil engineering, structural engineering, MEP engineering, geotechnical engineering, and environmental services for final design of the Parking Garage Facility Project;

Whereas, on April 24, 2019, the Redevelopment Zone No. 1 Board approved recommending the professional services agreement for authorization by City Council;

Whereas, Staff recommends Council authorize a professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$568,450, to develop the final design for a new Parking Garage Facility located near the intersection of 4th Street and Central Avenue;

Whereas, funding is available in the Reinvestment Zone No. 1 Financing and Project Plan, Line 413, Account No. 795-9500-531-6891, Project No. 101907; 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 \$568,450, to develop the final design for a new Parking Garage Facility located near the intersection of 4th Street and Central Avenue.

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 2nd day of **May**, 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

05/02/19
Item #5(E)
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 an agreement with Kasberg, Patrick, & Associates, LP, of Temple for engineering services required for the Raw Water Intake Recoating Project at the City of Temple Water Treatment Plant in the amount of \$49,790.

STAFF RECOMMENDATION: Adopt resolution as presented in item discussion.

ITEM SUMMARY: The City of Temple owns a water treatment plant located on the north side of the Leon River just off Charter Oak Drive. The plant consists of a conventional water treatment train (CWTT) and a membrane water treatment train (MWTT), which ultimately combine through shared storage and pumping facilities and operate as one plant which delivers water to customers along the distribution system. The 29.4-MGD CWTT is an aging facility that has been renovated and expanded several times since its construction in 1957. In 2004, the 11.6-MGD MWTT was constructed in response to increasing water demands.

There are two raw water intake structures, one for the CWTT and the other for the MWTT, both needing rehabilitation of the aging concrete, metal, and pipe surfaces. In addition to the rehabilitation work, this project will include the design to coat the submerged exterior of the vertical turbine pumps with a foul release coating as identified in Technical Memorandum No. 1 (TM1), Raw Water Intake Mussel Control, that was published May 19, 2016. Since TM1 is almost three years old, we are including a review of the coating system's capital and life cycle cost and compare to possible new products currently on the market. To accomplish this rehabilitation, this engineering contract recommends the following services:

Preliminary Foul Release Coating Review	\$ 6,100
Final Design	
Rehabilitation Plans and Specifications	\$23,130
Foul Release Coating Plans and Specifications	\$13,790
Bidding Services	<u>\$ 6,770</u>
TOTAL	<u>\$49,790</u>

Please refer to the attached proposal and map for further details. The proposed concurrent timeline for the preliminary review and rehabilitation design is 60 days, with 45 days required for final design of the foul release coating once a selection has been made. The preliminary opinion of rehabilitation and foul-release coating cost for the two raw water intake structures, one for the CWTT and the other for the MWTT are \$240,000 and \$360,000, respectively.

FISCAL IMPACT: Funding for the agreement with Kasberg, Patrick, & Associates, LP, for engineering services required for the Raw Water Intake Recoating Project at the City of Temple Water Treatment Plant in the amount of \$49,790 is available in account 561-5100-535-6959, project 101615, as follows:

Project Budget	\$	650,000
Encumbered/Committed to Date		-
KPA Professional Services Agreement		(49,790)
Remaining Project Funds Available	\$	<u>600,210</u>

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

April 16, 2019

Mr. James Billeck, P.E.
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple, Texas
Temple WTP Raw Water Coating Project

Dear Mr. Billeck:

This letter proposal is in response to the City's request for additional professional services for coating the pumps, discharge piping and appurtenances at the existing Water Treatment Plant Raw Water Intake Structures (RWIS). The WTP has two (2) intake structures known as "Conventional" and "Membrane" RWIS. In addition to the standard blasting and coating of the above grade pumps, piping and appurtenances, this project includes review and design of coating the exterior of the vertical turbine pump bowls with a foul release coating as detailed in Technical Memorandum No. 1. Technical Memorandum No. 1, Raw Water Intake Mussel Control was published May 19, 2016 and documents the various alternatives for addressing zebra mussels at the intake structures. Exhibit A shows the location of the Raw Water Intake Structures and the general limits of coating improvements.

The specific professional service items included in this letter proposal include the following:

1. Preliminary Design Review -- Zebra Mussel Coating of Pump Bowls. The recommendations are approximately three (3) years old. As such, the recommendation and other coatings will be reviewed and updated to compare benefits, capital cost and life cycle costs.
 - a. Review coating options including foul release, chemical and other methods for controlling or lessening the impact of zebra mussels within the submerged portion of the raw water pumps.
 - i. Summarize the coating alternative including benefits/disadvantages, capital cost and life cycle costs.
2. Construction Plans, Details & Specifications
 - a. Prepare applicable construction plans, details and specifications for the following items:
 - i. Pipe and Pump Exterior Rehabilitation
Prepare plan sheets showing limits of piping, pumps and appurtenances to be blasted (or machine tool cleaned) and coated. This includes all exposed piping (at both intake structures), raw water pumps (5 Conventional, 3 Membrane), spray wash pumps and screens. An add alternate will be taken for coating the bowls (submerged portion) of the existing pumps with a "non-fouling" coating as recommended in TM No. 1 (or other method as determined in Item 1 of this scope), related to zebra mussel prevention.

1. Prepare technical specifications for surface preparation and coating of each specific component.
2. Prepare final quantity takeoffs and opinion of probable construction cost. The preliminary OPCs for the "Foul Release" Coating for the Conventional and Membrane Pumps was \$360,000 as detailed in TM 1. We have included Exhibit B detailing the OPC for the improvements included in this project showing a total budgetary OPC of \$600,000.
3. Prepare summary letter to TCEQ noting that all work under the proposed contract is normal/proactive maintenance of existing infrastructure.

3. Bid Phase Services

- a. Conduct Pre-Bid Conference
- b. Address Bidder questions through issuance of Addenda.
- c. Attend Bid Opening
- d. Review submitted Bids and prepare Bid Tabulation
- e. Check contractor references and issue Letter of Recommendation

In order for us to provide the services required for completion of this project, the following not-to-exceed lump sum amounts will be applicable:

I.	BASIC SERVICES	
A.	Preliminary Design	\$ 6,100
B.	Final Design / Coating Plans & Specifications	
	i. Raw Water Intake Piping	\$ 23,130
	ii. Foul Release Coating	<u>\$ 13,790</u>
	Total Final Design Services	\$ 43,020
C.	Bid Phase Services	<u>\$ 6,770</u>
	Total Basic Services	\$ 49,790

Exhibit C outlines rates which would be used to charge for special or additional services authorized beyond the scope as described in this proposal. Please note that Construction Phase Services are not included in this proposal. A separate proposal will be prepared as necessary and/or requested. The preliminary design can be completed within sixty (60) calendar days from the notice to proceed with preparation of plans and specifications for the Raw Water Intake Piping be completed concurrently. Preparation of plans and specifications for the Mussel Coating can be completed within forty-five (45) calendar days from the acceptance of the recommended alternative.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project.

Sincerely,



Thomas D. Valle, P.E.

TDV/



City of Temple, Texas
Raw Water Intake Coating
OPINION OF PROBABLE COST
August 2018
Exhibit B

Task 1 -- Raw Water Intake & Accessory/Appurtenance Coating

Item No.	Description	Estimated Quantity	Unit	Price	Extension Total
1-1	Mobilization, Bonds and Insurance	100%	LS	\$10,000.00	\$10,000.00
1-2	Pre-Construction Video	100%	LS	\$1,000.00	\$1,000.00
1-3	Blast & Coat Conventional Intake Piping	100%	LS	\$25,000.00	\$25,000.00
1-4	Blast & Coat Membrane Intake Piping	100%	LS	\$15,000.00	\$15,000.00
1-5	Blast/Machnie Tool Clean & Coat Conventional Pumps	5	EA	\$10,000.00	\$50,000.00
1-6	Blast/Machnie Tool Clean & Coat Membrane Pumps	3	EA	\$10,000.00	\$30,000.00
1-7	Blast/Machnie Tool Clean & Coat Ancillary Pumps/Screens	100%	LS	\$25,000.00	\$25,000.00
1-8	Containment	100%	LS	\$10,000.00	\$10,000.00
1-9	R&R Flange Bolts as necessary (price per bolt set)	20	EA	\$750.00	\$15,000.00
Subtotal Construction					\$181,000.00
Construction Contingency (25%)					\$45,250.00
Subtotal Construction					\$226,250.00

Task 2 -- Raw Water Pump Foul Release Coating

Item No.	Description	Estimated Quantity	Unit	Price	Extension Total
2-1	Mobilization, Bonds & Insurance	100%	LS	\$14,000.00	\$14,000.00
2-2	Remove, Blast, Coat & Reinstall Conventional Pumps	5	EA	\$34,250.00	\$171,250.00
2-3	Remove, Blast, Coat & Reinstall Membrane Pumps	3	EA	\$34,250.00	\$102,750.00
Subtotal Construction					\$288,000.00
Construction Contingency (25%)					\$72,000.00
Subtotal Construction					\$360,000.00

Total Opinion of Probable Construction Cost \$586,250.00

USE FOR BUDGET = **\$600,000.00**

EXHIBIT C

Charges for Additional Services

City of Temple Water Treatment Plant Raw Water Coating Project

<u>POSITION</u>	<u>MULTIPLIER</u>	<u>SALARY COST/RATES</u>
Principal	2.4	\$ 70.00 – 90.00/hour
Project Manager	2.4	55.00 – 70.00/hour
Project Engineer	2.4	45.00 – 55.00/hour
Engineer-in-Training	2.4	35.00 – 45.00/hour
Engineering Technician	2.4	25.00 – 45.00/hour
CAD Technician	2.4	20.00 – 40.00/hour
Clerical	2.4	15.00 – 30.00/hour
Expenses	1.1	actual cost
Computer	1.0	15.00/hour
Survey Crew	1.1	100.00 – 135.00/hour
Registered Public Surveyor	1.0	130.00/hour
On-Site Representative	2.1	30.00 – 40.00/hour



RESOLUTION NO. 2019-9636-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 \$49,790, FOR ENGINEERING SERVICES REQUIRED FOR THE RAW WATER INTAKE RECOATING PROJECT AT THE CITY OF TEMPLE WATER TREATMENT PLANT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple owns a water treatment plant located on the north side of the Leon River just off Charter Oak Drive which consists of a conventional water treatment train (CWTT) and a membrane water treatment train (MWTT), and which ultimately combine through shared storage and pumping facilities and operate as one plant which delivers water to customers along the distribution system;

Whereas, the 29.4-MGD CWTT is an aging facility that has been renovated and expanded several times since its construction in 1957 - in 2004, the 11.6-MGD MWTT was constructed in response to increasing water demands;

Whereas, there are two raw water intake structures, one for the CWTT and the other for the MWTT, both are in need of rehabilitation due to the aging concrete, metal, and pipe surfaces - in addition to the rehabilitation work, this project will include the design to coat the submerged exterior of the vertical turbine pumps with a foul release coating as identified in Technical Memorandum No. 1 (TM1), Raw Water Intake Mussel Control, that was published May 19, 2016;

Whereas, Staff recommends Council authorize a professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$49,790, for engineering services required for the Raw Water Intake Recoating Project at the City of Temple Water Treatment Plant;

Whereas, funding for this professional services agreement is available in Account No. 561-5100-535-6959, Project No. 101615; 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 \$49,790, for engineering services required for the Raw Water Intake Recoating Project at the City of Temple Water Treatment Plant.

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 2nd day of **May**, 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

05/02/19
Item #5(F)
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 an agreement with Kasberg, Patrick, & Associates, LP, of Temple for engineering services required to expand the Membrane Treatment Facility in the amount of \$2,953,930.

STAFF RECOMMENDATION: Adopt resolution as presented in item summary.

ITEM SUMMARY: The City of Temple owns and operates a water treatment plant (WTP) located on the north side of the Leon River just off Charter Oak Drive. The WTP consists of a Conventional WTP and a Membrane Facility, which share storage and pumping facilities and operate as one plant which delivers water to customers along the distribution system. The Conventional WTP is rated at 29.4 million gallons per day (MGD) and was constructed in 1957. In 2004, the 11.6 MGD rated Membrane Facility was constructed in response to increasing water demands.

In the summer of 2018, the City of Temple's total daily water demand exceeded 70% of the rated capacity, triggering Stage 1 of the City's adopted Drought Contingency Plan. As projected total daily water demands continue to increase, the City must increase the rated capacity to meet the increased demands. This project will design the expansion of the Membrane Facility by 11.6 MGD. Chemical feed and storage, clear well (storage) capacity, and high service pumping will complete the Membrane Facility as an independent WTP. Upon project completion, the City will operate two interconnected, stand-alone treatment plants capable of producing over 52 MGD.

Consultant services recommended under this professional services agreement include:

Preliminary Investigation

\$ 46,340

Electrical Coordination / Power Supply	\$ 14,750
Preliminary CT & Disinfection Study	\$ 14,920
Backwash Sedimentation Review	\$ 4,570
High Service / NW Transmission	<u>\$ 12,100</u>

Tasks and costs continued:

Project Management	\$ 68,325
Site Surveys	\$ 10,100
Geotechnical	\$ 11,000
 Final Design Plans & Specifications	 \$2,780,245
Civil / Mechanical	\$1,847,295
Electrical	\$ 673,110
Structural	<u>\$ 259,840</u>
 Bid Phase Services	 <u>\$ 37,920</u>
 Professional Fees TOTAL	 <u>\$2,953,930</u>

Please refer to the attached proposal and map for further details. For the expansion to be operational by June 2021, the design must be completed by October 2019 for regulatory review, and bidding must start by December 2019. The preliminary opinion of probable construction cost is \$34,500,000.

FISCAL IMPACT: A budget adjustment is attached for Council consideration to appropriate funding for the agreement with Kasberg, Patrick, & Associates, LP, for engineering services required to expand the Membrane Water Treatment Facility. Funding in the amount of \$2,953,930 will be available in account 561-5100-535-6921, project 102027, as follows:

Project Budget	\$ -
Budget Adjustment	3,000,000
Encumbered/Committed to Date	-
KPA Professional Services Agreement	<u>(2,953,930)</u>
Remaining Project Funds Available	<u>\$ 46,070</u>

Funding for the design was identified through a combination of adjustments to project prioritization, project readiness, and project savings from other projects underway or completed. Funding for construction is included as a capital component in the cost of service rate study that is currently underway.

ATTACHMENTS:

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

FY 2019

BUDGET ADJUSTMENT FORM

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

Adjustments should be rounded to the nearest \$1.

			+			-
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
561-5100-535-69-21	102027	Capital - Bonds / Membrane Facility	\$ 3,000,000			
561-5200-535-69-39	100608	Capital - Bonds / Charter Oaks Waterline			3,000,000	
TOTAL.....			\$ 3,000,000		\$ 3,000,000	

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

To appropriate funding for the professional services agreement with Kasberg, Patrick, & Associates, LP for engineering services required to expand the Membrane Water Treatment Facility, project 102027, in the amount of \$2,953,930.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

X Yes

☐ No

DATE OF COUNCIL MEETING

05/02/19

WITH AGENDA ITEM?

☒ Yes

☐ No

Department Head/Division Director

Date _____

☐ Approved☐ Disapproved

Finance

Date _____

☐ Approved☐ Disapproved

City Manager

Date _____

☐ Approved

	Disapproved
--	-------------



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

April 23, 2019

Mr. James Billeck, P.E.
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple, Texas
Temple Membrane Water Treatment Facility Expansion

Dear Mr. Billeck:

This letter proposal is in response to the City's request for professional services for the expansion of the Membrane Treatment Facility, including the necessary improvements to allow it to function as a stand-alone Water Treatment Plant. The City owns and operates the Temple Water Treatment Plant (WTP), which has a TCEQ rated capacity of 41.0 million gallons per day (MGD). The WTP consists of the "Conventional" WTP (29.4 MGD rated capacity) and the "Membrane" Facility (11.6 MGD rated capacity). This project will expand the capacity of the Membrane Facility by 11.6 MGD and include new facilities (chemical feed and storage, clearwell capacity and high service pumps) that are currently located at the Conventional WTP. Upon completion of this project, the City of Temple will have two (2) interconnected, stand-alone treatment plants capable of producing over 52 MGD.

The existing Membrane Treatment Facility consists of the following components:

1. Raw Water Intake Structure and Pump Station
 - a. Intake Structure has three (3) inlet bays with two (2) traveling bar screens.
 - b. Three (3) Raw Water Pumps (10 MGD, 5 MGD and 5 MGD nominal capacities).
 - c. 36" Raw Water Line from Pump Station to Existing Membrane Facility.
 - d. Sodium Hypochlorite Generator and Feed System
 - e. Emergency Electrical Power Generator (sized for existing Membrane Raw Water)
2. Membrane Treatment Facility
 - a. 11 Racks of 78 Membrane Modules (858 total modules)
 - b. Feed and Filtrate Piping
 - c. Four (4) Strainers
 - d. Two (2) Reverse Filtration Pumps
 - e. Two (2) Excess Recirculation Pumps
 - f. Two (2) Air Compressors
 - g. Chemical Clean In Place System (piping, pumps, tanks, etc.)
 - h. Electrical Room with capacity for at least a portion of Expansion Components
 - i. Junction Box M-1 (JB M-1, where chlorine is dosed. Chlorine is fed from existing Conventional WTP facility)
 - j. Emergency Electrical Power Generator (sized for existing facility)

3. Backwash Sedimentation System
 - a. Equalization Basin
 - b. Three (3) Submersible Transfer Pumps
 - c. PACl Storage and Feed System
 - d. Two (2) Plate Settler Systems
 - e. Recycle Flow Equalization Basin
 - f. Three (3) Vertical Turbine Recycle Pumps
 - g. Electrical Building
4. Sludge and CIP Waste Holding Basins

While the Membrane Treatment Facility has each of the dedicated components listed above, it currently shares either capacity or facilities at the Conventional WTP as follows:

1. Chemical Storage and Feed
 - a. Filtered water from the MWTF is currently piped back to the CWTP where it is mixed with its filtered water at JB 3. The chlorine currently dosed at JB M-1 is from the Conventional WTP chlorine storage and feed system.
 - b. Caustic and fluoride are both stored at the CWTP and dosed at JB 3.
2. Clearwell Capacity
3. High Service Pump Capacity

In order to achieve the dual outcomes of Membrane Expansion and creating a stand-alone WTP, the following major improvements and/or modifications will be required:

1. Raw Water Improvements
 - a. One (1) Traveling Bar Screen to be installed in existing Intake Structure
 - b. Two (2) Raw Water Pumps with VFDs
 - c. Addition of new Emergency Power Generator, sized for expanded Membrane Raw Water Pumping System. Utilize existing Generator to backfeed Conventional Raw Water Pumping System.
2. Membrane Treatment Plant
 - a. Expansion of existing Membrane Building to the east. The expanded building will be sized to house up to 17.5 MGD with 11.6 MGD of capacity installed under this proposed expansion. The existing office, restroom, electrical, compressor and mezzanine levels shall be shared between the existing and proposed facilities.
 - b. Membrane System including membrane racks and modules, strainers, reverse filtration pumps, compressors, CIP system and related electrical improvements.
 - c. Yard Piping
3. Chemical Storage and Feed
 - a. Bulk Storage Facilities (Building and Tanks) for Caustic, Fluoride and LAS (liquid ammonium sulfate)
 - b. Feed Pumps and associated analyzers for Caustic, Fluoride and LAS.
 - c. Chlorine Storage Building with feed equipment and emergency scrubber
4. Two (2) 1.5 MGD Clearwells with baffling

5. High Service Pump Station

- a. Structure sized for 30 MGD
- b. High Service Pumps with VFDs (capacity of at least 23 MGD). The HSPS investigation detailed below in Item 5 will include modeling and analysis of the existing transmission mains to determine the total theoretical capacity of the existing and proposed High Service Pump Stations with the existing transmission system in place (not including NW Transmission).
- c. Electrical Building
- d. Emergency Power Generator sized for HSPS and other improvements
- e. Interconnect piping to existing Transmission Lines (Old High Service and New High Service) as well as the discharge piping for the future West Temple Transmission Main.

In addition to the new facilities and/or improvements noted above, the following modifications will be required or will require preliminary investigations and review to determine if improvements are necessary and to define required capacities and/or sizing:

1. JB M-1 will be modified to allow the level of the Clearwells to be above natural ground. Additionally, valving or gates will be installed to allow the interconnect to the Conventional WTP. This will provide redundancy by allowing the flow from the Membrane WTP to utilize the existing Conventional WTP Clearwells and Pump Station.
2. Electrical Service/Emergency Generation. Project Design Team will coordinate with ONCOR to determine scope and cost of improvements required to provide the increased power at both the Raw Water Intake Structure and the Membrane WTP. Additionally, the capacities of the the existing generators will be confirmed and final recommendations on sizing of new generators will be calculated. At the completion of this expansion, each of the major components (Raw Water, Treatment Facility and High Service) at both the Conventional and Membrane WTPs will have emergency power generation capabilities.
3. CT Study (preliminary) and Disinfection Alternative Investigations. The existing Membrane Treatment is a direct filtration facility. This means there is no sedimentation or clarification in front of the membrane filtration process. This allows the potential for THM formation if free chlorine is utilized to achieve the necessary contact time to inactivate viruses. A preliminary CT Study will be performed based on the clearwell and high service pump station layout. The preliminary CT will be the basis for the possible use of other disinfection methods (UV, ozone, peroxide, etc.) to achieve the required virus removal. If chlorine is not the main disinfection source, then sodium hypochlorite generation will be reviewed in lieu of chlorine storage, feed and scrubber, in order to form chloramines prior to the clearwells, high service pump station and distribution system.
4. Backwash Sedimentation System will be reviewed for capacity. The existing plate settlers are sized for up to 2.8 MGD (1,844 gpm), which meets the projected backwash demand. However, there is no redundancy. It is likely that the transfer pumps will require upgrading and the recycle pump station will require upgrading or the addition of a separate recycle pump station for the proposed expanded Membrane Facility.
5. The Membrane High Service Pump Station will have system head curves prepared for three separate transmission systems a) Existing Old HS, b) Existing New HS and c) Future Northwest Temple (317) System. This project will preliminarily size the Northwest Temple Transmission Main and generally locate the 317 Ground Storage Tank to allow preparation of

its System Head Curve. The new MHSPS (Membrane High Service Pump Station) will have variable frequency drives (VFDs) to allow the pumps to provide water to any of the three (3) referenced transmission systems. Piping and valves will be incorporated to allow interconnection and feed to each system. Per Item 5.b, above, the analysis will also include modeling to determine the theoretical total pumping capacity through the existing transmission system. This scope item does not include preliminary design of the NW Temple Transmission Main or its alignment.

Exhibit A is included showing the major components of the Treatment Plant and noting the areas of improvement.

The specific professional service items included in this letter proposal include the following:

1. Preliminary Investigations -- the preliminary investigations will be performed concurrently with the design of the Membrane Facility Expansion and consist of:
 - a. Coordination of Electrical Service and Generator Improvements including Power Study
 - b. Preliminary CT Study and Disinfection Investigation
 - c. Backwash Sedimentation Review
 - d. High Service Pump Station / Northwest Temple Transmission System
2. Construction Plans, Details & Specifications
 - a. Prepare applicable construction plans, details and specifications including civil, electrical, mechanical and structural for the following items:
 - i. Raw Water Intake Improvements
 - ii. Membrane Expansion
 - iii. Modifications to Existing Membrane Facility including maximizing the modules per rack (add 4 modules per rack) and CIP Automation
 - iv. Chemical Storage and Feed Improvements
 - v. Clearwells
 - vi. High Service Pump Station
 - vii. Emergency Electrical Power Generators
 - b. Conduct Plan Review meetings at 30% (civil and mechanical), 60% (civil, mechanical and preliminary structural and electrical) and 90% (includes all components and technical specifications).
 - c. Prepare 30% Opinion of Probable Construction Cost
 - d. Prepare Final OPC
3. Bid Phase Services
 - a. Conduct Pre-Bid Conference at Membrane Facility
 - b. Address Bidder questions through issuance of Addenda.
 - c. Attend Bid Opening
 - d. Review submitted Bids and prepare Bid Tabulation
 - e. Check contractor references and issue Letter of Recommendation

In order for us to provide the services required for completion of this project, the following not-to-exceed lump sum amounts will be applicable:

I.	PROFESSIONAL SERVICES	
A.	Preliminary Investigation	
i.	Electrical Coordination / Power Study	\$ 14,750
ii.	Preliminary CT & Disinfection	\$ 14,920
iii.	Backwash Sedimentation Review	\$ 4,570
iv.	High Service / NW Temple Transmission	\$ 12,100
	Preliminary Investigation Subtotal:	\$ 46,340
B.	Project Management	\$ 68,325
C.	Site Surveys	\$ 10,100
D.	Geotechnical	\$ 11,000
E.	Final Design Plans & Specifications	
i.	Civil / Mechanical	\$ 1,847,295
ii.	Electrical	\$ 673,110
iii.	Structural	\$ 259,840
	Final Design Subtotal:	\$ 2,780,245
F.	Bid Phase Services	\$ 37,920
	Total Professional Services	\$ 2,953,930

Construction Phase Services are not included in this proposal. A separate proposal will be prepared as necessary and/or requested.

Exhibit B is included detailing the Preliminary Opinion of Probable Construction Cost (OPC) of \$34,500,000. The OPC includes 10% Contingency and an estimate of potential ONCOR capacity improvements (\$400,000). Please note that the OPC was prepared based on general sizing and historical construction costs. The OPC will be refined during the design phase once all project components have been determined and sized.

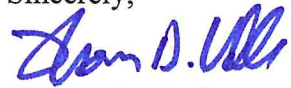
It is our understanding that the intent is for the construction related to this project to be completed and operational prior to June 2021. The construction of the overall project is estimated at 15 months, with the High Service Pump Station and Emergency Power Generators being the critical path due to extended lead times on pumps and electrical equipment. In order to meet the June 2021 deadline, a notice to proceed would be required on or before March 1, 2020. Assuming eight (8) weeks for bidding and award, three (3) weeks for execution of contract documents and sixty (60) days for TCEQ Review, the plans will should be submitted to TCEQ by the middle of October of this year (approximately 168 days from the date of the Council meeting on which this will contract will be considered). Plans and Specifications will be delivered to TCEQ for review in the middle of October of this year. The bidding process will begin in mid-December 2019 (assuming TCEQ can meet the 60 day review period) and bids will be opened in late January with Council Award in February 2020.

Mr. James Billeck
April 23, 2019
Page Six

It should be noted that this is an extremely aggressive and expedited schedule for the design and construction of the necessary improvements. While it is possible to complete the construction within the fifteen month period, some escalation in bid amount may be experienced due to the expedited timeline. The attached OPCs are based on a "normal" construction timeline as it is difficult to quantify the cost escalation. During the bidding phase, it may be necessary to create interim completion dates for the Membrane Expansion (building, racks, etc.) to be able to meet the June 2021 deadline and allow the remainder of the project (raw water generators, clearwells and high service pump station) to be completed during the Summer and early Fall. Historically, construction projects without major schedule restraints result in lower total construction costs. This will be further discussed during design phase, prior to bidding the Expansion.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project.

Sincerely,



Thomas D. Valle, P.E.

TDV,RNK/

EXHIBIT B

City of Temple, Texas

Membrane Water Treatment Facility Expansion

OPINION OF PROBABLE COST

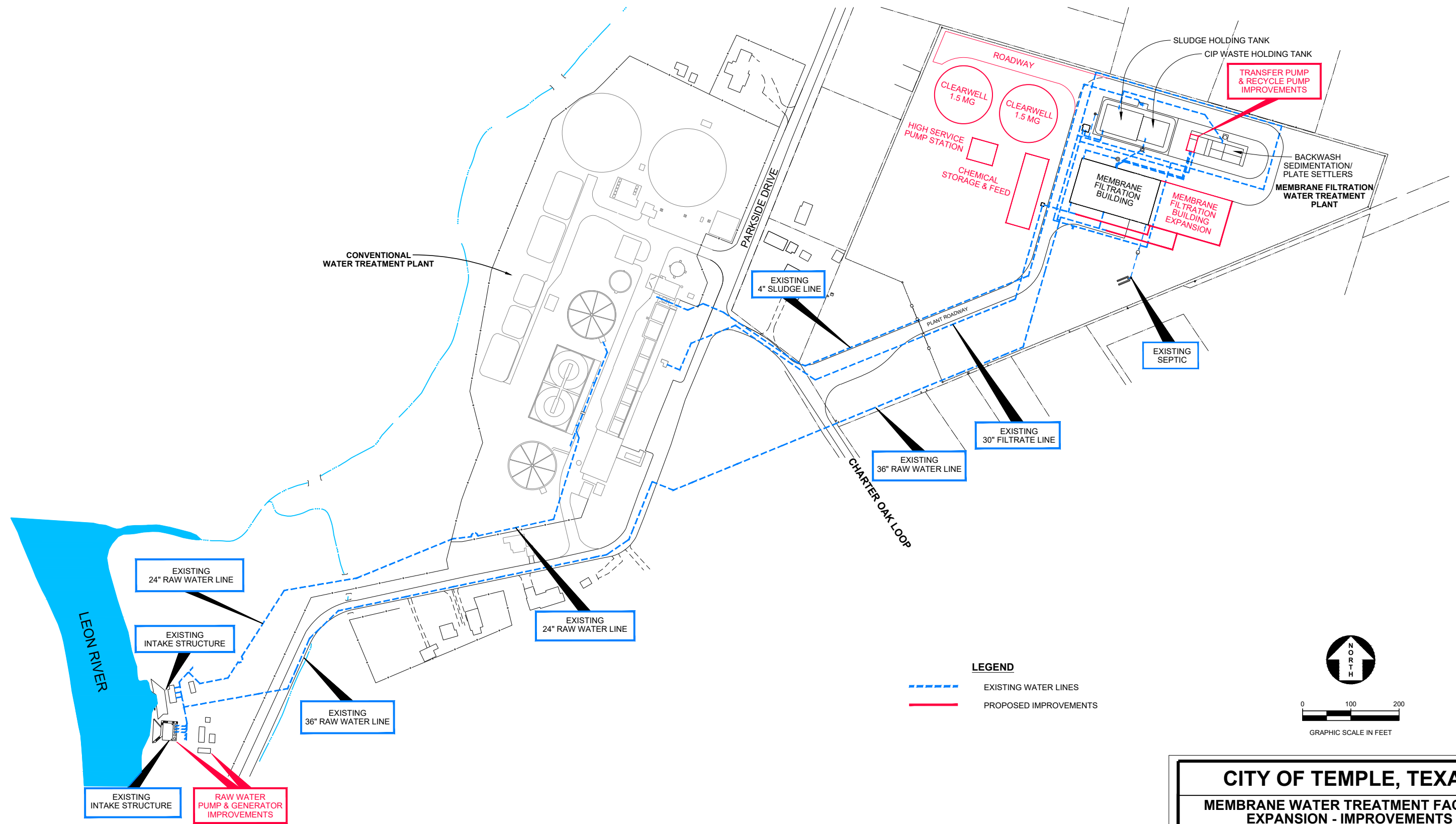
April 2019

Item No.	Description	Estimated Quantity	Unit	Price	Extension Total
1	Mobilization, Bonds and Insurance	100%	LS	\$1,700,000.00	\$1,700,000.00
2	Raw Water Pump/Piping Improvements	100%	LS	\$650,000.00	\$650,000.00
3	Raw Water Electrical Improvements	100%	LS	\$3,000,000.00	\$3,000,000.00
4	Membrane Plant Expansion (11.6 MGD)	100%	LS	\$10,000,000.00	\$10,000,000.00
5	Modifications to Existing Membrane Plant	100%	LS	\$500,000.00	\$500,000.00
6	Improvements to Existing Backwash Sedimentation	100%	LS	\$300,000.00	\$300,000.00
7	Chemical Storage and Feed Improvements	100%	LS	\$2,500,000.00	\$2,500,000.00
8	Membrane Plant Electrical Improvements	100%	LS	\$500,000.00	\$500,000.00
9	Clearwell Improvements	100%	LS	\$4,500,000.00	\$4,500,000.00
10	Membrane High Service Pump Station Improvements	100%	LS	\$2,000,000.00	\$2,000,000.00
11	MHSPS Discharge Piping / Interconnections	100%	LS	\$500,000.00	\$500,000.00
12	Membrane High Service Electrical Improvements	100%	LS	\$4,200,000.00	\$4,200,000.00
13	Yard Piping	100%	LS	\$500,000.00	\$500,000.00
14	Site Work	100%	LS	\$150,000.00	\$150,000.00

Subtotal Construction	\$31,000,000.00
Construction Contingency (10%)	\$3,100,000.00
Subtotal Construction	<u>\$34,100,000.00</u>

Oncor Capacity Improvements (estimated) \$400,000.00

TOTAL OPINION OF PROBABLE CONSTRUCTION COST \$34,500,000.00



RESOLUTION NO. 2019-9637-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 \$2,953,930, FOR ENGINEERING SERVICES REQUIRED TO EXPAND THE MEMBRANE WATER TREATMENT FACILITY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple owns and operates a water treatment plant (WTP) located on the north side of the Leon River just off Charter Oak Drive which consists of a Conventional WTP and a Membrane Facility, which share storage and pumping facilities and operate as one plant which delivers water to customers along the distribution system;

Whereas, the Conventional WTP is rated at 29.4 million gallons per day (MGD) and was constructed in 1957 - in 2004, the 11.6 MGD rated Membrane Facility was constructed in response to increasing water demands;

Whereas, in the summer of 2018, the City of Temple's total daily water demand exceeded 70% of the rated capacity, triggering Stage 1 of the City's adopted Drought Contingency Plan - as projected total daily water demands continue to increase, the City must increase the rated capacity to meet the increased demands;

Whereas, this project will design the expansion of the Membrane Facility by 11.6 MGD - chemical feed and storage, clear well (storage) capacity, and high service pumping will complete the Membrane Facility as an independent WTP;

Whereas, upon project completion, the City will operate two interconnected, stand-alone treatment plants capable of producing over 52 MGD;

Whereas, Staff recommends Council authorize a professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$2,953,930, for engineering services required to expand the Membrane Water Treatment Facility;

Whereas, funding is available, but a budget adjustment is being presented to Council for approval to appropriate funds in Account No. 561-5100-535-6921, Project No. 102027; 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 \$2,953,930, for engineering services required to expand the Membrane Water Treatment Facility.

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 2nd day of **May**, 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

05/02/19
Item #5(G)
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 authorizing an interlocal agreement with the State of Texas, for the benefit of Texas Department of Transportation, to reconstruct and maintain a radio antenna tower.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In 1964, the City of Temple granted an easement to the State of Texas, for the benefit of the Parks and Wildlife Department, to construct and maintain a 300-foot radio antenna tower with all necessary appurtenances on a portion of 343.86-acres of City owned property adjacent to Southeast H.K. Dodgen Loop, Landfill Road, and Tower Road. The property is currently addressed as 706 Landfill Road. The tower entrance is on Tower Road.

Staff was contacted by a Texas Department of Transportation (TxDOT) representative regarding the need to rebuild the tower to accommodate new communication technology and to transfer ownership and responsibility of the tower to TxDOT. The new tower will be a self-supported 350-foot tower and will be built approximately 50 feet to the north of the current tower. A new building that supports the tower will also be built.

TxDOT has requested to enter into an interlocal agreement with the City to construct the new tower. TxDOT will be responsible for construction and maintenance of the tower and its appurtenances. There is no financial responsibility by the City for the construction and maintenance of the tower.

FISCAL IMPACT: This agreement is neutral with regard to fiscal impact. No additional revenue is requested from the State of Texas for use of the property and the City will have no financial responsibility for the construction or maintenance of the new tower facility.

ATTACHMENTS:

[1964 Easement Agreement](#)
[Aerial of Current Tower-Zoom In](#)
[Aerial of Current Tower](#)
[Resolution](#)

Temple

THE STATE OF TEXAS)
COUNTY OF BELL)

KNOW ALL MEN BY THESE PRESENTS:

That the City of Temple, a municipal corporation, situated in Bell County, Texas, for and in consideration of the sum of One Dollar (\$1.00) cash paid by the State of Texas, receipt of which is hereby acknowledged, the further consideration of being allowed to install radio and micro-wave equipment on and use the radio antenna or tower hereinafter described, and the further consideration of the benefits to be derived by the City of Temple on account of the construction and maintenance by the State of Texas said radio antenna or tower in and through the premises hereinafter described, does hereby give and grant to the State of Texas, for the benefit of the Parks and Wildlife Department of Texas the right to construct, reconstruct and perpetually maintain a three hundred (300) foot radio antenna together with all necessary concrete slabs, guy wires, and housing for the protection of the equipment necessary for the operation of a radio station in, upon and across the following described lands situated in Bell County, Texas described as follows, to wit:

Part of 343.86 acres of land in the Maximo Moreno league grant, Bell County, Texas described in deed from Scott A. Doshier and wife, to the City of Temple, Texas recorded Volume 754, Page 395, Deed Records, Bell County, Texas

TO HAVE AND TO HOLD the same perpetually to the State of Texas for the benefit of the Parks and Wildlife Department of Texas, together with the right and privilege at any and all times to enter said premises, or any part thereof, for the purpose of constructing-reconstructing and maintaining said radio antenna, building, and equipment; all upon the following conditions, to wit:

1. That the State of Texas will at all times, after doing any

work in connection with the construction, reconstruction or repair of said radio antenna, building, or equipment, restore said premises to the condition in which same were found before such work was undertaken, and that in the use of said right and privileges herein granted the State of Texas will not create a nuisance or do any act that will be detrimental to said premises.

2. The State of Texas shall have the right, subject to compliance with all applicable State and Federal laws and regulations, to erect upon the above described tract of land a steel radio antenna which will be approximately three hundred feet (300') high, said antenna tower to be erected on a concrete pier approximately three feet (3') in diameter; said antenna shall have guy wires attached to the approximate center of the tower and shall extend not more than two hundred fifty feet (250') from the tower base. All of said guy wires to be anchored to concrete slabs which will be placed securely in the ground at the respective points required for the best engineering selection for the benefit and protection of the tower.

3. The State of Texas is authorized to construct upon said above described lands suitable housing for the protection of the equipment to be installed thereon necessary for the operation of the radio station, such house to be of a size no larger than eight feet by sixteen feet (8' x 16').

4. In the construction of the radio antenna and building upon the above described land, the State of Texas shall have the right to remove all necessary vegetation in order to enable it to construct its building and to construct the necessary concrete anchors and guy wires that will be required in the construction of the radio antenna.

5. The State of Texas agrees that all of its operations in connection with the construction and maintenance of the above described radio antenna and its equipment will be done at its expense and with no expense to the

-5-

City of Temple; provided, however, that upon the termination of this easement in accordance with the terms hereof, the State of Texas shall have the right to remove any and all equipment and buildings placed on said land, and such equipment and buildings shall be considered as the personal property of the State of Texas and shall not become the property of the City of Temple.

6. The State of Texas will permit the City of Temple to install and maintain radio and micro-wave equipment on the hereinabove described radio antenna to be constructed on the property hereinabove described at the City's expense and with no expense to the State of Texas, and permit a reasonable use of said radio antenna and equipment by the City of Temple.

7. This easement may be terminated by the City of Temple or the State of Texas, acting through the Parks and Wildlife Department of Texas, at any time upon the giving of ninety (90) days written notice by the party desiring to terminate this easement.

EXECUTED this 2 day of January, 1964.

CITY OF TEMPLE

By

H. K. Dodgen
H. K. Dodgen, City Manager

ATTEST:

Paula L. Thompson
City Clerk

STATE OF TEXAS)
)
COUNTY OF BELL)

BEFORE ME, the undersigned authority, on this day personally appeared H. K. Dodgen, City Manager of the City of Temple, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of the City of Temple for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL of office, on this the 2
day of January, 1964.

Mrs. Mary Beth Winslow
Notary Public in and for Bell County,
Texas

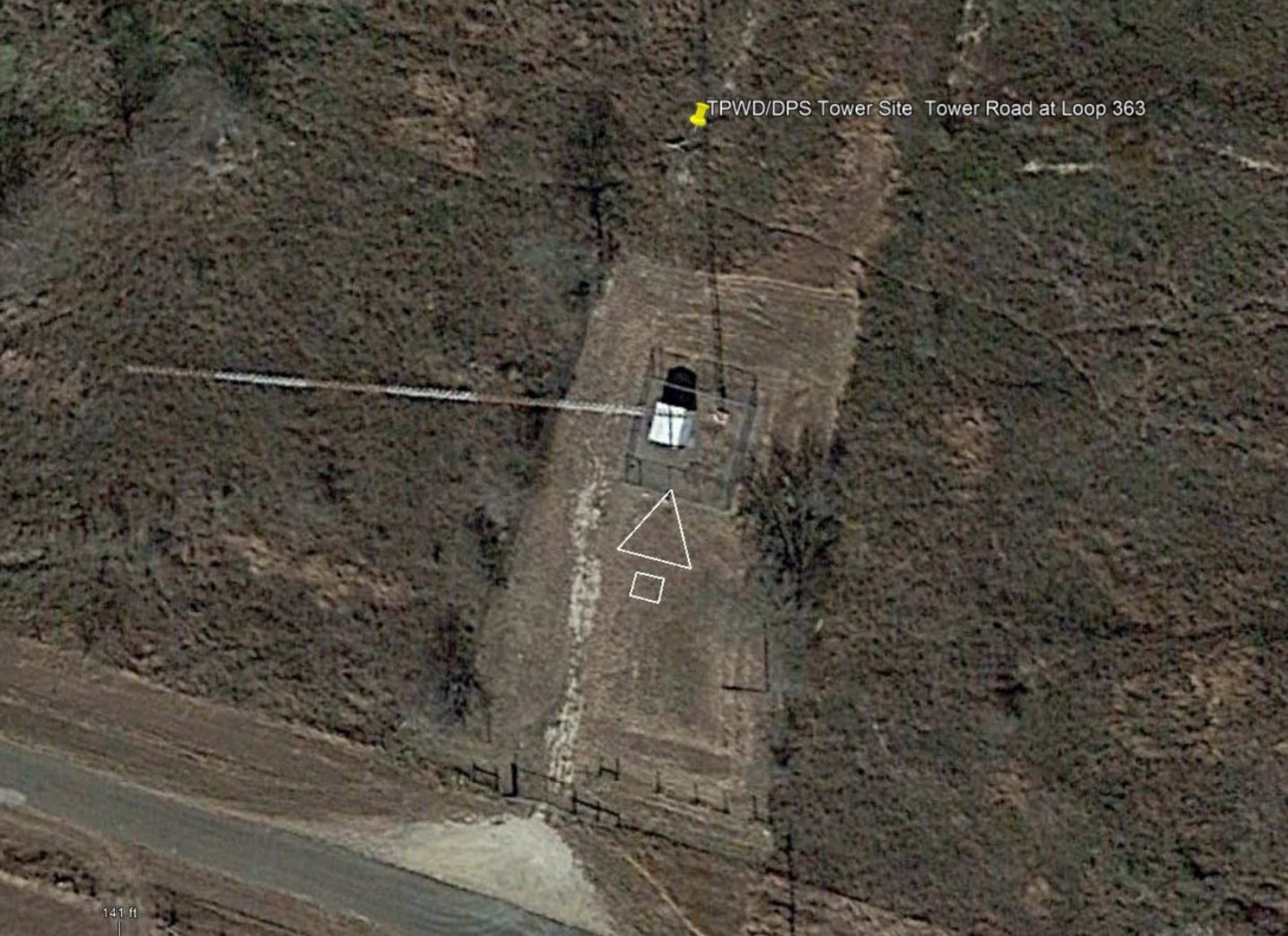
ACCEPTED:

PARKS AND WILDLIFE DEPARTMENT

By J. Weldon Watson

J. Weldon Watson, Executive Director
for and on behalf of the State of Texas

TPWD/DPS Tower Site Tower Road at Loop 363



141 ft

RESOLUTION NO. 2019-9638-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE STATE OF TEXAS, FOR THE BENEFIT OF THE TEXAS DEPARTMENT OF TRANSPORTATION, TO RECONSTRUCT AND MAINTAIN A RADIO ANTENNA TOWER; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in 1964, the City of Temple granted an easement to the State of Texas, for the benefit of the Parks and Wildlife Department, to construct and maintain a 300-foot radio antenna tower with all necessary appurtenances on a portion of 343.86-acres of City owned property adjacent to Southeast H.K. Dodgen Loop, Landfill Road, and Tower Road - the property is currently addressed as 706 Landfill Road and the tower entrance is located on Tower Road;

Whereas, Staff was contacted by a Texas Department of Transportation (TxDOT) representative regarding the need to rebuild the tower to accommodate new communication technology and to transfer responsibility to TxDOT - the new tower will be a self-supported 350-foot tower and will be built approximately 50 feet to the north of the current tower, along with a new building that supports the tower;

Whereas, TxDOT has requested to enter into an interlocal agreement with the City to construct the new tower - TxDOT will be responsible for all maintenance of the tower and its appurtenances;

Whereas, Staff recommends Council authorize an interlocal agreement with the State of Texas, for the benefit of the Texas Department of Transportation, to reconstruct and maintain a radio antenna tower;

Whereas, no additional revenue is requested from the State of Texas for use of the property and the City will have no financial responsibility for the construction or maintenance of the new tower facility; 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 an interlocal agreement with the State of Texas, for the benefit of the Texas Department of Transportation, to reconstruct and maintain a radio antenna tower.

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 2nd day of **May**, 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 #5(H)
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 amending a Developer Participation Agreement with WBW Development Group, LLC—Series 027 to allow the developer to build a public use trail on City-owned property in lieu of paying park fees for The Reserve at Pea Ridge, Phases 1 and 2.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On April 19, 2018, through Resolution No. 2018-9109-R, the City Council authorized a Developer Participation Agreement with WBW Land Investment, L.P. to construct a portion of South Pea Ridge Road. The Agreement also included the conveyance of approximately 11.8-acres of City-owned property to WBW Land Investment, L.P.

After the agreement was approved by Council, the developer requested that the name of the contracting entity be changed, and the agreement was executed using the requested name. At its December 20, 2018 meeting, Council amended the agreement to change the contracting entity to WBW Development Group, LLC—Series 027.

Through further negotiations with the developer, an agreement has been reached regarding the developer's requirement to pay park fees for Phases 1 and 2 of The Reserve at Pea Ridge. The estimated cost for both phases is \$68,175. In lieu of paying the fees, the developer has agreed to construct a public use trail in the adjacent City-owned property. The value of the trail must meet or exceed \$68,175.

For these reasons, Staff is asking Council to amend the Developer Participation Agreement to allow the developer to build a public use trail on City-owned property in lieu of paying park fees for The Reserve at Prairie Ridge, Phases 1 and 2.

FISCAL IMPACT: This amendment does not change the City's participation in the road and sidewalk improvements that were set forth in the original agreement in a not to exceed amount of \$150,000.

Approval of this additional trail construction, along with proof of payment related to the trail, will be required prior to payment being made on the original agreement so that the full cost of the trail can be recorded as an asset to the City.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9639-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ADOPTING A RESOLUTION AMENDING A DEVELOPER PARTICIPATION AGREEMENT WITH WBW DEVELOPMENT GROUP, LLC SERIES—027 TO ALLOW THE DEVELOPER TO BUILD A PUBLIC USE TRAIL ON CITY-OWNED PROPERTY IN LIEU OF PAYING PARK FEES FOR THE RESERVE AT PEA RIDGE, PHASES I AND II; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on April 19, 2018, through Resolution No. 2018-9109-R, Council authorized a Developer Participation Agreement with WBW Land Investment, L.P. to construct a portion of South Pea Ridge Road - the Agreement included the conveyance of approximately 11.8 acres of City-owned property to WBW Land Investment, L.P.;

Whereas, after the Agreement was approved by Council, the developer requested that the name of the contracting entity be changed to WBW Development Group, LLC – Series 027, and the contract was executed using the requested name;

Whereas, through further negotiations with the developer, an agreement has been reached regarding the developer's requirement to pay park fees for Phases I and II of The Reserve at Pea Ridge - the estimated cost for both phases is \$68,175;

Whereas, in lieu of paying the fees, the developer has agreed to construct a public use trail in the adjacent City-owned property, the value of which must meet or exceed \$68,175;

Whereas, for these reasons, Staff recommends Council amend the Developer Participation Agreement with WBW Development Group, LLC—Series 027 to allow the developer to build a public use trail on City-owned property in lieu of paying park fees for The Reserve at Prairie Ridge, Phases I and II;

Whereas, this amendment does not change the City's participation in the road and sidewalk improvements that were set forth in the original agreement in a not to exceed amount of \$150,000 - proof of payment related to the trail will be required prior to payment being made on the original agreement so that the full cost of the trail can be recorded as an asset to 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 authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute an amendment to the Developer Participation Agreement with WBW Development Group, LLC—Series 027 to allow the developer to build a public use trail on City-owned property in lieu of paying park fees for The Reserve at Prairie Ridge, Phases I and II.

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 2nd day of **May**, 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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Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution finding that Oncor Electric Delivery Company LLC's Application for Approval to amend its distribution cost recovery factor pursuant to 16 Texas Administrative Code Section 25.243 to increase distribution rates within the City should be denied.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple ("City") is an electric utility customer of Oncor Electric Delivery Company LLC ("Oncor") and a regulatory authority with an interest in the rates and charges of Oncor. The City is a member of the Steering Committee of Cities Served by Oncor ("OCSC"), a membership of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area.

On or about April 8, 2019, Oncor filed with the City an Application for Approval to Amend its Distribution Cost Recovery Factor ("DCRF"), seeking to increase electric distribution rates by approximately \$29,433,804. All electric utility customers residing in the City will be impacted by this ratemaking proceeding if it is granted.

OCSC's members and attorneys recommend that members deny the DCRF.

FISCAL IMPACT: Not applicable.

ATTACHMENTS

[Resolution](#)

RESOLUTION NO. 2019-9640-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR PURSUANT TO 16 TEX. ADMIN. CODE § 25.243 TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

Whereas, the City of Temple, Texas ("City") is an electric utility customer of Oncor Electric Delivery Company LLC ("Oncor" or "Company"), and a regulatory authority with an interest in the rates and charges of Oncor;

Whereas, the City is a member of the Steering Committee of Cities Served by Oncor ("OCSC" or "Cities"), a membership of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area;

Whereas, on or about April 8, 2019 Oncor filed with the City an Application for Approval to Amend its Distribution Cost Recovery Factor ("DCRF"), PUC Docket No. 49427, seeking to increase electric distribution rates by approximately \$29,433,804;

Whereas, all electric utility customers residing in the City will be impacted by this ratemaking proceeding if it is granted;

Whereas, Cities are coordinating its review of Oncor's DCRF filing with designated attorneys and consultants to resolve issues in the Company's application;

Whereas, Cities' members and attorneys recommend that members deny the DCRF; 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: That the City is authorized to participate with OCSC in PUC Docket No. 49427.

Part 3: That subject to the right to terminate employment at any time, the City of Temple, Texas hereby authorizes the hiring of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C. and consultants to negotiate with the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.

Part 4: That the rates proposed by Oncor to be recovered through its DCRF charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.

Part 5: That the Company shall continue to charge its existing rates to customers within the City.

Part 6: That the City's reasonable rate case expenses shall be reimbursed in full by Oncor within 30 days of presentation of an invoice to Oncor.

Part 7: That a copy of this Resolution shall be sent to Matthew C. Henry, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202 and to Thomas Brocato, Legal Counsel to OCSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

Part 8: 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 2nd day of **May**, 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

05/02/19
Item #5(J)
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 an amendment to the professional services agreement with Kasberg, Patrick & Associates, LP, for construction phase services of the South 1st Street Project in the amount of \$103,700.

STAFF RECOMMENDATION: Adopt resolution as presented in item summary.

ITEM SUMMARY: This project will follow the concepts of the Downtown Masterplan to reconstruct the street and streetscape, including applicable utilities, for the referenced section of South 1st Street from Avenue B to Central Avenue. On October 19, 2017, Council authorized a professional services agreement with KPA in the amount of \$295,260 for design of this project.

On June 7, 2018, Council approved a contract with Emerson Construction Company to construct the portion of South 1st Street from Avenue B to Avenue A in the amount of \$1,059,652.25 (Part C) as a part of the Santa Fe Plaza Phase 2 project. This amendment includes the construction phase services to oversee that portion of the project, as well as services to bid out and oversee construction on the next phase of the project from Avenue A to Central Avenue.

The consultant services recommended in this item comprise the following tasks and costs:

Avenue B to Avenue A Portion

Construction Administration	\$ 27,500
On-Site Representation	\$ 18,200
SUBTOTAL	<u>\$ 45,700</u>

Avenue A to Central Avenue Portion

Bidding Services	\$ 7,500
Construction Administration	\$ 30,000
On-Site Representation	\$ 20,500
SUBTOTAL	<u>\$ 58,000</u>

TOTAL	<u>\$ 103,700</u>
--------------	--------------------------

On April 24, 2019, the Reinvestment Zone No. 1 Board approved to recommend that Council authorize this amendment to the professional services agreement.

The engineer's opinion of probable construction cost for the portion from Avenue A to Central Avenue is \$1.38M. Please see the project map and engineer's proposal for more details.

FISCAL IMPACT: Funding for the amendment to the professional services agreement with Kasberg, Patrick & Associates, LP (KPA), for construction phase services of the South 1st Street (Avenue B to Central Avenue) Project in the amount of \$103,700 is available in Reinvestment Zone No. 1 Financing and Project Plans, lines 410, 411 and 412, as follows:

	Ave A to Central 101797		Ave A to Ave B 101847		
	795-9500-531-6561		795-9500-531-6561		
	795-9600-531-6561		795-9500-531-6551		Total
Project Budget	\$	1,528,000	\$	1,423,000	\$ 2,951,000
Encumbered/Committed to Date		(147,630)		(1,220,763)	(1,368,393)
KPA Contract Amendment #2		(58,000)		(45,700)	(103,700)
Remaining Project Funds	\$	1,322,370	\$	156,537	\$ 1,478,907

ATTACHMENTS:

[Engineer's Proposal](#)
[Contract Amendment](#)
[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 17, 2019

Mr. James Billeck, P.E.
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple
1st Street (Avenue B to Central Avenue)
Bidding and Construction Phase Services

Dear Mr. Billeck:

At the request of the City of Temple Reinvestment Zone #1 (TRZ), we are submitting this proposal for the above referenced project. This project will perform bidding and construction phase services for the 1st Street (Avenue B to Central Avenue) Project.

The work to be performed by KPA under this contract consists of providing engineering services for construction phase services for the project.

The following services will be performed:

BIDDING (1st Street from Avenue A to Central Avenue)

Provide an Opinion of Probable Cost to the City of Temple Project Manager.

After the project publicly advertises, solicit contractors to bid the project.

Chair the Pre-Bid Conference and develop notes for the project based on questions asked by potential bidders.

Develop the addenda for the project. The addenda will be sent to the City of Temple Project Manager for distribution to the City of Temple Purchasing Department.

Attend the bid opening for the project. Tabulate all bids received and certify the bids. After a low bidder is determined, research of the apparent low bidder will be conducted to make a recommendation of award.

Attend the City Council for award of the project

CONSTRUCTION ADMINISTRATION

Chair the Pre-Construction Conference.

Review and approve all submittals for the project.

Perform construction administration to include site visits, meeting with the contractor and answer questions and holding progress meetings as required.

Coordinate and conduct the final walk through for the project. After the final walk through is complete a punch list will be generated and monitored.

Submit a recommendation for acceptance of infrastructure to the City of Temple Project Manager.

Develop record drawings based on information supplied by the contractor.

ON-SITE REPRESENTATION

Perform daily on-site representation an average of 3 hours per day.

Prepare and submit weekly logs of construction activities.

The following scope of work for bidding and construction phase services for the 1st Street (Avenue B to Central Avenue) Project can be completed for the lump sum price of \$103,700. Attached is a breakdown of project costs. We are pleased to submit this proposal and look forward to the benefit it will bring the City of Temple.

Construction Administration (Ave B to Ave A)	\$	27,500.00			
Construction Administration (Ave A to Central Ave)	\$	30,000.00			
Bidding (Ave A to Ave Central)	\$	7,500.00			
On Site Representation (Ave B to Ave A)	\$	18,200.00			
On Site Representation (Ave A to Central Ave)	\$	20,500.00			
Total	\$	103,700.00			

Exhibit A outlines the rates which would be used to charge for special or additional services authorized beyond the scope.

We will invoice monthly for our services based on a percent completion basis. We appreciate the opportunity and look forward to working with you on this project.

Sincerely,



R. David Patrick, P.E., CFM

RDP/crc

xc: File

ATTACHMENT "A"

Charges for Additional Services

**City of Temple
1st Street (Avenue B to Central Avenue)
Bidding and Construction Phase Services**

<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

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: Temple Reinvestment Zone – 1st St (Ave B-Central Ave) Final/Ave A (S 3rd-S 2nd) Concept

OWNER: City of Temple

ENGINEER: Kasberg, Patrick & Associates, LP

AMENDMENT #: 2

Make the following additions, modifications or deletions to the work described in the Contract Documents:

Addition of bidding and construction phase services.

Construction Administration (Ave B to Ave A)	\$ 27,500.00
Construction Administration (Ave A to Central Ave)	\$ 30,000.00
Bidding (Ave A to Central Ave)	\$ 7,500.00
On Site Representation (Ave B to Ave A)	\$ 18,200.00
On Site Representation (Ave A to Central Ave)	\$ 20,500.00
Total	\$ 103,700.00

The Compensation agreed upon in this Contract Amendment is the full, complete and final payment for all costs the Architect or Engineer may incur as a result of or relating to this amendment whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Contract Amendment.

Original Contract Amount:	\$ 295,260.00
Previous Net Change in Contract Amount:	\$ 0.00
Amount This Amendment:	\$ 103,700.00
Revised Contract Amount:	\$ 398,960.00
Original Contract Completion Date:	July 20, 2018
Revised Contract Completion Date:	June 30, 2020

Recommended by:

Project Manager Date

Agreed to:

 3/24/15

Architect or Engineer Date

Approved by City of Temple:

City Manager Date

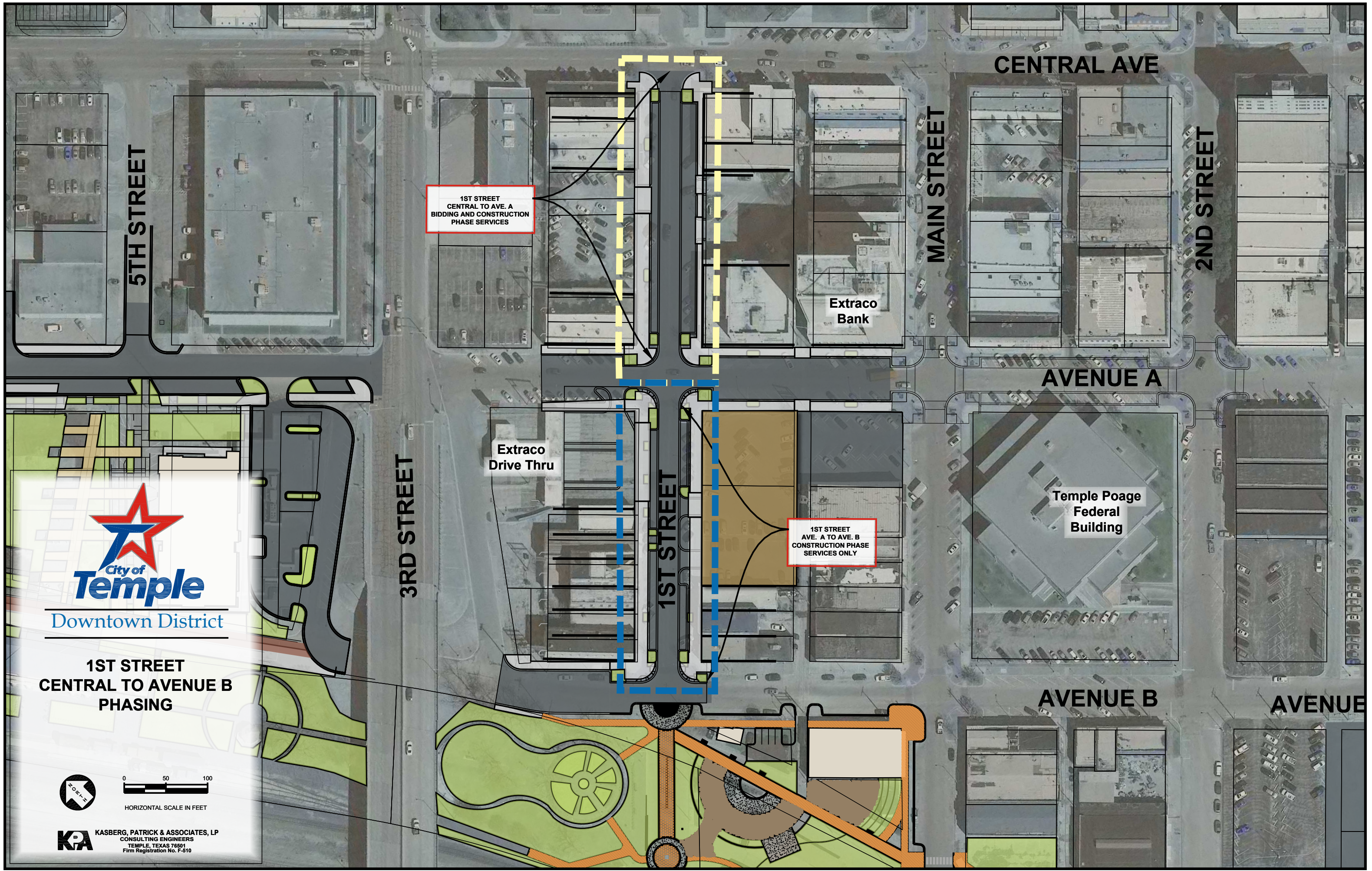
Approved as to form:

City Attorney's Office Date

Approved by Finance Department:

Date

P:\Temple Reinvestment\2017\17-107 2030 Master Plan\CAD\Exhibits\Santa fe to MLK 5-11-17.dwg - AVE A phase central



RESOLUTION NO. 2019-9641-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK AND ASSOCIATES, LP OF TEMPLE, TEXAS IN THE AMOUNT OF \$103,700, FOR CONSTRUCTION PHASE SERVICES FOR THE SOUTH 1ST STREET (AVENUE B TO CENTRAL AVENUE) PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this project follows the concepts of the Downtown Masterplan to reconstruct the street and streetscape, including applicable utilities, for the referenced section of South 1st Street from Avenue B to Central Avenue - on October 19, 2017, Council authorized a professional services agreement with Kasberg, Patrick and Associates, LP (KPA) in the amount of \$295,260 for design of this project;

Whereas, on June 7, 2018, Council approved a contract with Emerson Construction Company to construct the portion of South 1st Street from Avenue B to Avenue A as a part of the Santa Fe Plaza Phase II project;

Whereas, this amendment includes the construction phase services to oversee that portion of the project, as well as services to bid out and oversee construction on the next phase of the project from Avenue A to Central Avenue - on April 24, 2019, the Reinvestment Zone No. 1 Board approved recommending the professional services agreement for approval by City Council;

Whereas, Staff recommends Council authorize an amendment to the professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$103,700, for construction phase services for the South 1st Street (Avenue B to Central Avenue) project;

Whereas, funding for this amendment is available in the Reinvestment Zone No. 1 Financing and Project Plan, Lines 410,411 and 412 as follows:

Avenue A to Central Avenue – Account No. 795-9500-531-6561, Project No. 101797;
Avenue A to Central Avenue – Account No. 795-9600-531-6561, Project No. 101797;
Avenue A to Avenue B – Account No. 795-9500-531-6561, Project No. 101847;
Avenue A to Avenue B – Account No. 795-9500-531-6551, Project No. 101847; 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 an amendment to the professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas, in the amount of \$103,700, for construction phase services for the South 1st Street (Avenue B to Central Avenue) project.

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 2nd day of **May**, 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 #5(K)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Erin Smith, Assistant City Manager
Joseph Medici, A.A.E., Airport Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing an amendment to a professional services agreement with Kasberg, Patrick and Associates, LP to develop the final design for a new Aircraft Rescue and Firefighting Facility at the Airport Headquarters/Fixed Base Operator building located at the Draughon-Miller Regional Airport, in an amount not to exceed \$40,340.

STAFF RECOMMENDATION: Staff recommends approval of the contract amendment to the professional services agreement. Adopt resolution as presented in item description.

ITEM SUMMARY: On February 7, 2019, Council awarded a professional services agreement with Kasberg, Patrick and Associates, LP to provide architectural, landscape architectural, civil engineering, structural engineering, electrical engineering, geotechnical engineering, and environmental services for final design of the Airport Headquarters/FBO amenities and appurtenances, specifications, and estimates in the amount of \$402,000. This contract amendment will expand on those services to develop final design for a new Aircraft Rescue and Firefighting Facility (ARFF) at the Airport Headquarters/Fixed Based Operator (FBO) building.

Work to be performed under this contract amendment consists of providing architectural, landscape architectural, civil engineering, and geotechnical engineering services for final design of the Aircraft Rescue and Firefighting Facility (ARFF) amenities and appurtenances, specifications, and estimates.

Consultant services recommended under this contract amendment include the following tasks and costs:

Design Surveys	\$ 950.00
Architectural Design	\$ 33,000.00
Civil Engineering Design	\$ 1,800.00
Landscape Architecture Design	\$ 1,290.00
Geotechnical Investigations	\$ 1,800.00
Project Management	\$ 1,500.00

TOTAL \$ 40,340.00

Timeframe for design is seven months from the Notice to Proceed.

On April 24, 2019, the Reinvestment Zone No. 1 Board approved to recommend that Council authorize this amendment to the professional services agreement.

FISCAL IMPACT: Funding for the contract amendment with Kasberg, Patrick and Associates, LP, to develop the final design for a new Aircraft Rescue and Firefighting Facility (ARFF) at the Airport Headquarters/Fixed Base Operator (FBO) building located at the Draughton-Miller Regional Airport, in an amount not to exceed \$40,340 is shown below.

Description	Financing/ Project Plan Line #	Financing Plan Funding Available	Committed/ Encumbered	Contract Amendment	Variance
Airport Park:					
Airport FBO Building	512	\$ 440,000	\$ (402,000)	\$ (40,340)	\$ (2,340)
795-9600-531-6573, Project 101801					
Taxiway for Hangars	507	1,038,600	(1,150,116)	-	(111,516)
Clear Area Near Fire Station	514	172,500	-	-	172,500
Total	550 *	\$ 1,651,100	\$ (1,552,116)	\$ (40,340)	\$ 58,644

*Funding is available within the total "Airport Park" funding level (Line 550) in the current Reinvestment Zone No. 1 Financing Plan.

ATTACHMENTS:

[Proposal](#)
[Exhibit](#)
[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

April 3, 2019

Mr. Joseph Medici, A.A.E.
Airport Director
City of Temple
7720-F Airport Road
Temple, Texas 76501

Re: City of Temple
Draughon-Miller Regional Airport Headquarters / FBO – Contract Amendment for the
ARFF

Dear Mr. Medici:

At the request of the City of Temple Reinvestment Zone #1 (TRZ), we are submitting this contract amendment for the above referenced project. This project will develop Final Design for a new Aircraft Rescue and Firefighting Facility (ARFF) at the Airport Headquarters/Fixed Base Operator (FBO) building at the Draughon-Miller Regional Airport. The final product will be full Final Design Plans, Specifications and Estimates for the project.

The work to be performed by KPA under this contract consists of providing architectural, landscape architectural, civil engineering and geotechnical engineering services for design of the project described above to include final design for the ARFF amenities and appurtenances, specifications and estimates.

The timeframe for design of the project is seven (7) months from the Notice to Proceed.

KPA will perform all work and prepare all deliverables in accordance with the latest version of the FAA regulations and City of Temple specifications, standards and manuals.

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

The following services will be performed:

1. FIELD SURVEYING (All County Surveying)

- a. Topographic Surveys for Architectural, Engineering and Landscape Design will be developed for design of the project.
- b. Data collection shall consist of surveying all elements of the project to complete the design.

2. ARCHITECTURAL SERVICES (Neal Architects)

- a. Full Development of architectural floor plans and FFE plans.
- b. Development of MEP backgrounds.
- c. Development of Structural backgrounds.
- d. Development of exterior elevations, ceiling plans, and roof plan.
- e. Outline Specifications.
- f. General Power, Lighting, Data/Communications, Plumbing and HVAC Systems Plans.
- g. Final Architectural, Structural, Mechanical, Electrical, and Plumbing documents suitable for permitting, agency review, and construction.
- h. Final Specifications.
- i. Envelope, Mechanical, and Lighting Commercial Com Checks (required for permitting).
- j. TDLR Registration and submission for review (TAS/ADA).

3. CIVIL ENGINEERING SERVICES (KPA)

- a. Develop storm water hydrology throughout the limits of the project to develop storm water flows to all conveyances.
- b. Determine potential utility conflicts for the project area.
- c. Design revised access for the Airport roadway system to coincide with the ARFF design.
- d. Design water utilities to serve the new ARFF.
- e. Design wastewater utilities to serve the new ARFF.
- f. Design conduit and / or duct banks for communication service to the new ARFF.

4. LANDSCAPE ARCHITECTURAL SERVICES (KPA – Covey Landscape Architects)

- a. Design landscaping for the project.
- b. Prepare materials list. Coordinate with the Architect for the material list.
- c. Develop preliminary opinions of probable cost for landscaping and irrigation for the ARFF.

5. GEOTECHNICAL SERVICES (Terracon)

- a. Collect geotechnical data for construction of the ARFF facility with bores.
- b. Process geotechnical lab data from soils collected through the bore operations.
- c. Design foundation sections for the ARFF facility based on the geotechnical data collected.

6. PROJECT MANAGEMENT (KPA)

- a. Attend all Project Meetings.
- b. Prepare, attend and document Progress Meetings at the City Office.
- c. Prepare, attend and document Utility Coordination Meetings.
- d. General Contract Administration.
- e. Develop monthly invoices and progress reports.
- f. Sub-consultant coordination.
- g. Design coordination with the City.

The following scope of work for the Draughon-Miller Regional Airport ARFF Final Design can be completed for the lump sum price of \$40,340. Below is a breakdown of project costs. We are pleased to submit this proposal and look forward to the benefit it will bring the City of Temple.

Design Surveys	\$	950.00
Architectural Design	\$	33,000.00
Civil Engineering Design	\$	1,800.00
Landscape Architecture Design	\$	1,290.00
Geotechnical Investigations	\$	1,800.00
Project Management	\$	1,500.00
TOTAL	\$	40,340.00

Sincerely,



R. David Patrick, P.E., CFM

ATTACHMENT "C"

Charges for Additional Services

**City of Temple
Draughon-Miller Regional Airport ARFF Facility
Final Design**

<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/Landscape Architect	2.4	50.00 – 60.00/hour
Engineer-in-Training/Designer	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



RESOLUTION NO. 2019-9642-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK AND ASSOCIATES, LP OF TEMPLE, TEXAS IN THE AMOUNT OF \$40,340, FOR FINAL DESIGN OF A NEW AIRCRAFT RESCUE AND FIREFIGHTING FACILITY AT THE AIRPORT HEADQUARTERS/FIXED BASE OPERATOR BUILDING LOCATED AT THE DRAUGHON-MILLER REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on February 7, 2019, Council awarded a Professional Services Agreement to Kasberg, Patrick and Associates, LP (KPA) to provide architectural, landscape architectural, civil engineering, structural engineering, electrical engineering, geotechnical engineering, and environmental services for final design of the Airport Headquarters/Fixed Base Operator (FBO) building amenities and appurtenances, specifications, and estimates in the amount of \$402,000;

Whereas, work to be performed under this contract amendment will expand on those services for final design of a new Aircraft Rescue and Firefighting Facility (ARFF) at the Airport Headquarters/Fixed Based Operator building – work will consist of providing architectural, landscape architectural, civil engineering, and geotechnical engineering services for final design of the ARFF amenities and appurtenances, specifications, and estimates;

Whereas, on April 24, 2019, the Reinvestment Zone No. 1 Board approved to recommend that Council authorize this amendment to the professional services agreement with KPA;

Whereas, Staff recommends Council approve an amendment to the professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$40,340, for final design of a new ARFF at the Airport Headquarters/FBO building located at the Draughon-Miller Regional Airport;

Whereas, funding for this amendment is available in Account No. 795-9600-531-6573, Project No. 101801; 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 an amendment to the professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas, in the amount of \$40,340, for final design of a new Aircraft Rescue and Firefighting Facility at the Airport Headquarters/Fixed Base Operator building located at the Draughon-Miller 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 **2nd** day of **May**, 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

05/02/19
Item #5(L)
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 an amendment to a professional services agreement with MRB Group, of Temple, in the amount of \$48,420 for the improvements of North Pea Ridge Road.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This project consists of roadway improvements to North Pea Ridge Road from West Adams Avenue to Prairie View Road. Improvements include an expanded pavement section with continuous left-turn lane, pedestrian facilities, drainage conveyance, and water utilities. See attached map for more details and project limits.

On February 7, 2017, Council authorized a professional services agreement with MRB in the amount of \$503,100. Contract amendments 1-3 amounting to \$45,350 have been previously approved. The recommended services as outlined in the attached engineer's proposal includes additional design work to reduce the pavement section that will provide an overall project savings in right-of-way acquisitions and construction cost. These design changes will deduct the need for additional easements added in contract amendment #3, eliminate the right-of-way acquisition costs for 14 properties, and reduce construction costs by approximately \$92,000.

The associated costs for contract amendment #4 are outlined as follows; revising the contractual end date to September 1, 2019:

Easement Preparation	(\$24,000)
Additional roadway design	<u>\$72,420</u>
TOTAL	\$48,420

FISCAL IMPACT: Funding for contract amendment #4 with MRB Group in the amount of \$48,420 for professional services required for the improvements of North Pea Ridge Road is available in project 101713 as follows:

	<u>365-3400-531-6985</u>	<u>520-5900-535-6985</u>	<u>Total</u>
Project Budget	\$ 2,185,000	\$ 584,900	\$ 2,769,900
Encumbered/Committed to Date	(689,650)	(54,900)	(744,550)
MRB Group Contract Amendment #4	(48,420)	-	(48,420)
Remaining Project Funds	\$ 1,446,930	\$ 530,000	\$ 1,976,930

ATTACHMENTS:

[Engineer's Proposal](#)
[Contract Amendment](#)
[Map](#)
[Resolution](#)

March 21, 2019

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

**RE: PROPOSAL FOR PROFESSIONAL SERVICES
CONTRACT AMENDMENT - NORTH PEA RIDGE ROAD**

Dear Sharon:

Please find below an outline of the services required for the plan revisions on North Pea Ridge as discussed and requested:

I. Scope of Services and Compensation

It is the intent of this amendment proposal to provide design services to the City of Temple to revise the 90% complete North Pea Ridge plans to reflect the removal of the proposed shoulders and remove the ROW takes that were going to be required south of Alabama Street. After further review, the design team along with the City of Temple believe it is prudent and beneficial to remove this section of paving, to provide cost saving in the construction of North Pea Ridge and the acquisition of small strips of ROW in this area.

A. Plan Revisions:

Design is required in the following areas:

1. Street Layout
2. Signage and Striping Plan
3. Drainage Calculations
4. Stormwater Design
5. Driveway Designs
6. Street tie-in designs.
7. Surveying
8. Administrative Efforts
9. Dry utility relocation design

In order to complete these revisions, we propose the following contract amendment:

Original Contract Amount:	\$503,100.00
Previous approved Changes:	
CA #1:	\$ 21,350.00
CA #2:	\$ 0
CA #3:	<u>\$ 24,000.00</u>
Current Contract Amount:	\$548,450.00
Delete CA #3	\$ <24,000.00>
Proposed additional design changes	<u>\$ 72,420.00</u>
Revised Contract amount:	\$596,870.00

Note: The fees for the additional services for this Contract Amendment #4 total \$72,420.00. The scope of work and fee for previously approved CA #3 have been deleted. CA #3 included additional easement preparation work that due to CA #4 is no longer required. The net change in the contract amount, due to Contract Amendment #4 is an increase of \$48,420.00.

II. Commencement of Work

MRB Group is committed to providing the City of Temple prompt and responsive services and will commence work upon receipt of the signed contract amendment for this project. We have assumed that we will receive the signed CA #4 by May 2, 2019. Based on this assumed start date, we propose to amend our contract completion times as follows:

Original Contract Completion Date:	October 7, 2018
Previously Revised Contract Completion Date:	February 20, 2019
Proposed Contract Completion Date:	September 1, 2019

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

Sincerely,



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



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

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: North Pea Ridge Road Improvements
OWNER: City of Temple
ARCHITECT/ENGINEER: MRB Group
AMENDMENT #: 4

Make the following additions, modifications or deletions to the work described in the Contract Documents:

Deduct easement preparation:

Temporary Construction Easements (5) @ \$1,500/each	(\$ 7,500)
Slope Easements (3) @ \$1,500/each	(\$ 4,500)
Sight Distance Easements (8) @ \$1,500/each	(\$ 12,000)
	(\$ 24,000)

Additional design:

Road/drainage design	\$ 72,420
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TOTAL	\$ 48,420
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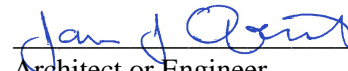
The Compensation agreed upon in this Contract Amendment is the full, complete and final payment for all costs the Architect or Engineer may incur as a result of or relating to this amendment whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Contract Amendment.

Original Contract Amount:	\$ <u>503,100</u>
Previous Net Change in Contract Amount:	\$ <u>45,350</u>
Amount This Amendment:	\$ <u>48,420</u>
Revised Contract Amount:	\$ <u>596,870</u>
Original Contract Completion Date:	<u>October 7, 2018</u>
Revised Contract Completion Date:	<u>September 1, 2019</u>

Recommended by:

Agreed to:

Project Manager Date

 4/11/19

Architect or Engineer Date

Approved by City of Temple:

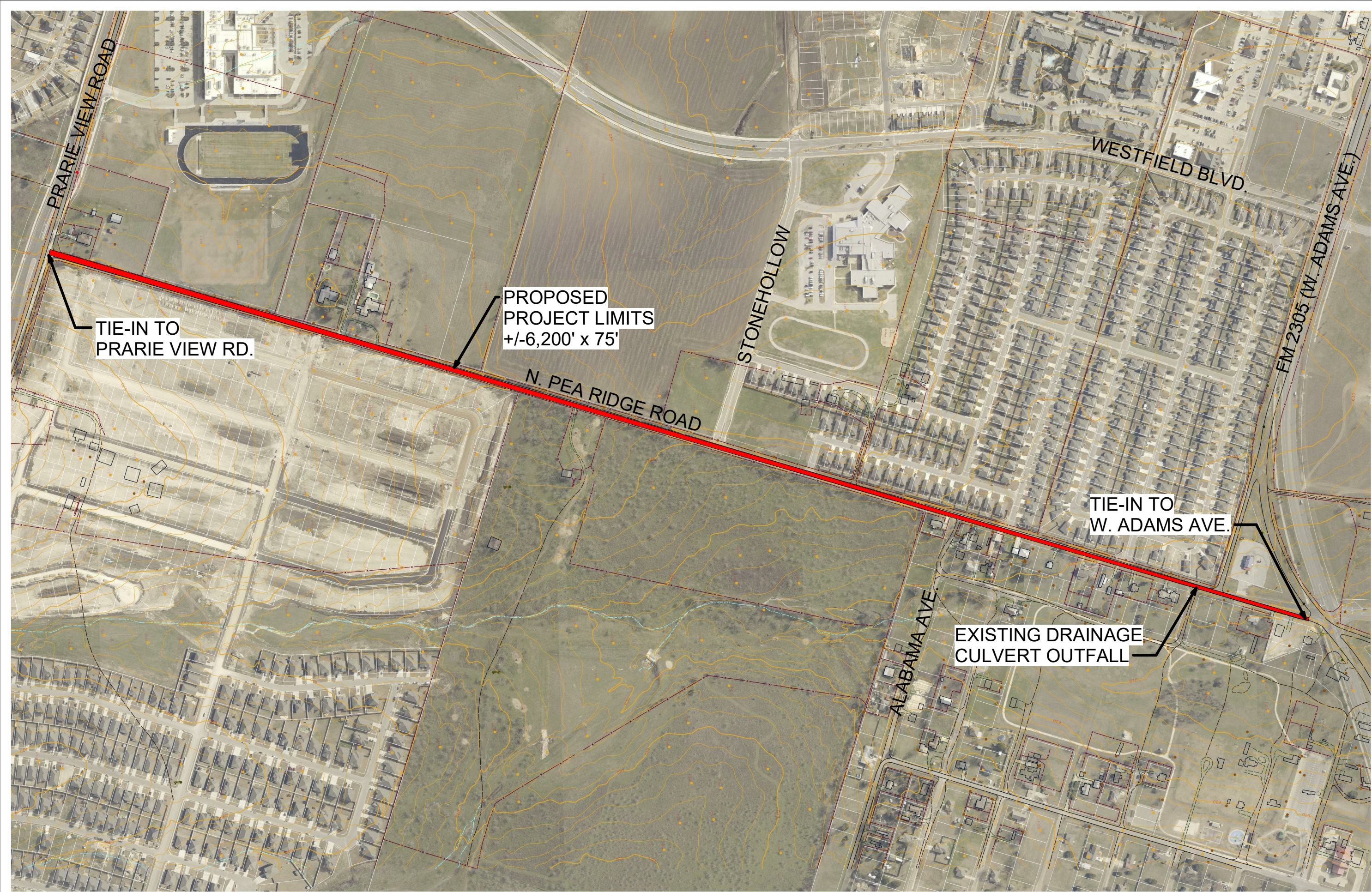
Approved as to form:

Brynn Myers, City Manager Date

City Attorney's Office Date

Approved by Finance Department:

Finance Date



0000.00000	NORTH PEA RIDGE ROAD			TJV			MRB ★ GRAY Engineers, LLC. 8834 N. Capital of Texas HWY, Suite 145 Austin, Texas 78759 TBPE Firm No. F-16745 www.MRBGray.com
SHEET NO.	CITY OF TEMPLE, TEXAS			Scale: 1" = 200' @ 22" x 34"			
1 of 1	FIELD MAP - OVERVIEW			Date: OCT 2017			

RESOLUTION NO. 2019-9643-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH MRB GROUP, PC OF TEMPLE, TEXAS IN THE AMOUNT OF \$48,420, FOR THE IMPROVEMENTS TO NORTH PEA RIDGE ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this project consists of roadway improvements to North Pea Ridge Road from West Adams Avenue to Prairie View Road which include an expanded pavement section with a continuous left-turn lane, pedestrian facilities, drainage conveyance, and water utilities;

Whereas, on February 7, 2017, Council authorized a professional services agreement with MRB Group, PC (MRB) in the amount of \$503,100 - Contract Amendments 1-3 amounting to \$45,350 have been previously approved;

Whereas, this amendment will include additional design work to reduce the pavement section that will provide an overall project savings in right of way acquisitions and construction costs - these design changes will deduct the need for additional easements added in Contract Amendment No. 3, eliminate the right of way acquisition costs for 14 properties, and reduce construction costs by approximately \$92,000;

Whereas, Staff recommends Council approve Contract Amendment No. 4 to the professional services agreement with MRB Group, PC of Temple, Texas in the amount of \$48,420, for the improvements to North Pea Ridge Road;

Whereas, funding for this Contract Amendment No. 4 is available in Account No. 365-3400-531-6985 and Account No. 520-5900-535-6985, Project No. 101713; 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 Contract Amendment No. 4 to the professional services agreement with MRB Group, PC of Temple, Texas in the amount of \$48,420, for the improvements to North Pea Ridge Road.

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 **2nd** day of **May**, 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

05/02/19
Item #5(M)
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 deductive change order with R. T. Schneider Construction Company, Ltd., for services to construct Hogan Road from State Highway 317 to South Pea Ridge Road in the amount of \$78,381.80.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple's Transportation Capital Improvement Program includes capacity and connectivity improvements to Hogan Road. These improvements include reconstruction and expansion of Hogan Road from State Highway 317 to South Pea Ridge Road to a three-lane collector roadway with a ten-foot sidewalk and improved waterlines. See attached map. Council authorized professional services with BSP Engineers, Inc. (BSP) to design, bid, and administer construction phase services for these improvements. In January 2019, Council authorized a construction contract with RTS for \$3,222,041.73.

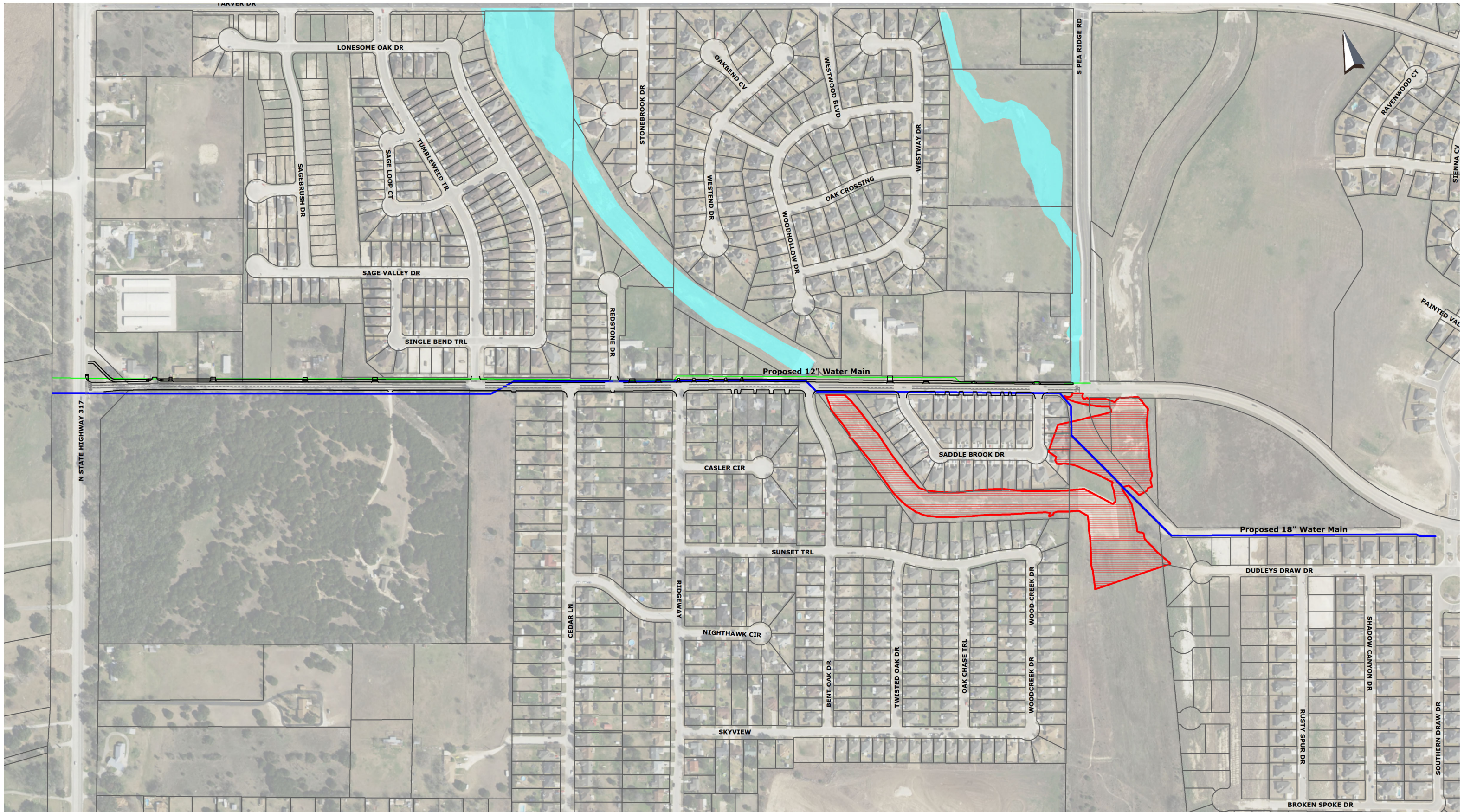
The attached change order #1 utilizes compacted subgrade with no cement added and additional crushed limestone base in lieu of cement stabilized subgrade. Also, several constructability issues were addressed as explained in the BSP's attached recommendation letter. Change order #1 decreases the original contract amount from \$3,222,041.73 to \$3,143,659.93, resulting in a net 2.4% decrease.

FISCAL IMPACT: Funding for deductive change order #1 with R. T. Schneider Construction Company, Ltd. for services to construct Hogan Road from State Highway 317 to South Pea Ridge Road in the amount of \$78,381.80 will be recognized in project 100952 as follows:

	365-3400-531-6857	561-5200-535-6983	Total
Project Budget	\$ 3,083,034	\$ 1,962,695	\$ 5,045,729
Encumbered/Committed to Date	(2,467,966)	(1,626,036)	(4,094,002)
RT Schneider Construction Co. CO #1	107,420	(29,038)	78,382
Remaining Project Funds	\$ 722,488	\$ 307,621	\$ 1,030,109

ATTACHMENTS:

Map
Recommendation Letter
Change Order
Resolution



Legend

- FEMA Zone AE
- FEMA Zone Floodway
- Proposed 12" Water Main
- Proposed 18" Water Main

Temple
15 West Central Avenue
Temple, Texas 76501
V: (254) 774.9611

www.bspengineers.com



April 17, 2019

City of Temple, Engineering
Attn.: Ms. Sharon Carlos
3210 East Ave. H, Bldg. A
Temple, Texas 76501

Re: Hogan Rd Widening Including 18" and 12" Water Mains

Dear Ms. Carlos,

This letter is in support of Change Order No. 1 and explains the requested amounts.

Item 44: This work was done to extend the bore pit at STA. 43+62.95 in order to save multiple trees at the Forrest residence.

Item CO 1-1: This work was done to eliminate the use of 12% and 6% Cement Stabilized base due to the amount of (Cement) dust and a greater inaccessibility for homeowners during the mixing/curing process. The City will see a cost savings using an increased Limestone Base thickness in lieu of Cement Stabilization.

Item CO 1-2: Due to the improper location of an existing Privacy Fence and several trees scheduled to be removed that were intertwined within the fence it was required to demolish and relocate fence to the ROW Property line.

Items CO 1-3 and 1-4: The 1.5" line was located at the same elevation as the subgrade cut for the roadway. These items were necessary to avoid interrupting water distribution to homeowners prior to abandoning the 1.5" line.

Item Alt. #2: Additional quantities were needed for this bid item to equal the quantity of CO 1-1 and ensure proper preparation of the Subgrade.

Item 8 and Alt. #1: These items will be removed and deducted from the contract total.

Please let me know if you have any further questions regarding these items.

Sincerely,

A handwritten signature in black ink that reads 'Anthony D. Beach'. The signature is written in a cursive, flowing style.

Anthony D. Beach, P.E.

CHANGE ORDER

PROJECT: Hogan Road Widening Including 18" and 12" Water Mains
OWNER: City of Temple
CONTRACTOR: RT Schneider Construction Co LTD
ENGINEER: BSP Engineers, Inc.
CHANGE ORDER #: One (1)

Make the following additions, modifications or deletions (circle those that apply) to the work described in the Contract Documents:

ADDITIONS:

Item	Description	Quantity	Unit	Unit Price	Total
44	22" Steel Casing via Roadway Bore	32	LF	\$ 323.85	\$ 10,363.20
CO 1-1	Furnish and Install 4" Crushed Limestone Base	20,000	SY	\$ 3.85	\$ 77,000.00
CO 1-2	Install 174LF of 6' Privacy Fence	1	LS	\$ 7,980.00	\$ 7,980.00
CO 1-3	Cut and Cap 1.5" Line for Abandonment	1	LS	\$ 3,850.00	\$ 3,850.00
CO-1-4	Relocate Existing Services from 1.5" to 6" Line	4	EA	\$ 3,706.25	\$ 14,825.00
Alt. #2	6" Compacted Subgrade No	13000	SY	\$ 1.10	\$ 14,300.00
Total Additions:					\$ 128,318.20

DEDUCTIONS:

Item	Description	Quantity	Unit	Unit Price	Total
8	12% Cement Stabilized Subgrade	-20,000	SY	\$ 8.55	\$ (171,000.00)
Alt. #1	6% Cement Stabilized Subgrade	-7,000	SY	\$ 5.10	\$ (35,700.00)
Total Deletions:					\$ (206,700.00)

Change Order Total: \$ (78,381.80)

The compensation agreed upon in this Change Order is full, complete and final payment for all costs the Contractor may incur as a result of or relating to this change whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Change Order.

Original Contract Amount:	\$ 3,222,041.73
Previous Change in Contract Amount:	\$ -
Change in Contract Amount:	\$ (78,381.80)
Revised Contract Amount:	\$ 3,143,659.93
Original Contract Time:	425 Days
Previous Change in Contract Time:	0 Days
Change in Contract Time:	0 Days
Revised Contract Time:	425 Days
Original Final Completion Date:	May 2, 2020
Revised Final Completion Date:	May 2, 2020

Recommended by:

Project Manager (City Staff) _____ Date _____

Agreed to:

Contractor _____ Date 4/16/19

Approved as to form:

City Attorney's Office _____ Date _____

Recommended by:

Anthony D. Buell _____ Date 4/17/19

Architect/Engineer

Date

Approved by City of Temple:

City Manager _____ Date _____

Approved by Finance Department:

Finance _____ Date _____

RESOLUTION NO. 2019-9644-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A DEDUCTIVE CHANGE ORDER TO THE CONSTRUCTION CONTRACT WITH R.T. SCHNEIDER CONSTRUCTION COMPANY, LLC OF BELTON, TEXAS IN THE AMOUNT OF \$78,381.80, FOR SERVICES REQUIRED TO CONSTRUCT HOGAN ROAD FROM STATE HIGHWAY 317 TO SOUTH PEA RIDGE ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple's Transportation Capital Improvement Program includes capacity and connectivity improvements to Hogan Road - these improvements include reconstruction and expansion of Hogan Road from State Highway 317 to South Pea Ridge Road, to a three-lane collector roadway with a 10-foot sidewalk and improved waterlines;

Whereas, Council authorized a professional services agreement with BSP Engineers, Inc. (BSP) to design, bid, and administer construction phase services for these improvements - in January 2019, Council authorized a construction contract with R.T. Schneider Construction Company, LLC (RTS) for \$3,222,041.73;

Whereas, this deductive change order utilizes compacted subgrade with no cement added and additional crushed limestone base in lieu of cement stabilized subgrade, and several constructability issues were addressed, decreasing the original contract amount from \$3,222,041.73 to \$3,143,659.93;

Whereas, Staff recommends Council authorize a deductive change order to the construction contract with R.T. Schneider Construction Company, LLC of Belton, Texas in the amount of \$78,381.80, for services required to construct Hogan Road from State Highway 317 to South Pea Ridge Road;

Whereas, funding for this deductive change order will be recognized in Account No. 365-3400-531-6857, and Account No. 561-5200-535-6983, Project No. 100952; 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 deductive change order to the construction contract with R.T. Schneider Construction Company, LLC of Belton, Texas in the amount of \$78,381.80, for services to construct Hogan Road from State Highway 317 to South Pea Ridge Road.

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 **2nd** day of **May**, 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

05/02/19
Item #5(N)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution ratifying the purchase of online legal research services from West Publishing Corporation in the estimated amount of \$36,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: West Publishing Corporation ("West") offers online legal research services for lawyers and legal professionals through its website, "Westlaw." The resources on Westlaw include more than 40,000 databases of case law, state and federal statutes, administrative codes, public records, law journals, law review, and legal forms.

For several years, the City Attorney's Office has used a different online research service, Lexis Nexis ("Lexis"). The City's agreement with Lexis was set to expire this year and Staff was interested in learning more about the products offered by West. After a demonstration, Staff concluded that Westlaw provides numerous helpful resources that are not offered by other companies, including resources specifically designed for government attorneys.

Staff recommends Council authorize the purchase of online legal research services from West. The estimated amount of the purchase is \$36,000 which covers the 36-month period from October 2019 thru September 2022. Additionally, access to these services will begin on the contract execution date of May 2019 with no fee for the remainder of FY 2019.

FISCAL IMPACT: The FY 2020 – FY 2022 Proposed Budgets will include funding for this agreement with West Publishing Corporation in the estimated amounts as shown below per year for a total 36-month contract value of \$36,000 as follows:

	FY 2020	FY 2021	FY 2022	Total
West Publishing Corporation	\$ 11,400	\$ 12,000	\$ 12,600	\$ 36,000

ATTACHMENTS

[Resolution](#)

RESOLUTION NO. 2019-9645-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING THE PURCHASE OF ONLINE LEGAL RESEARCH SOFTWARE THROUGH WEST PUBLISHING CORPORATION OF EAGAN, MINNESOTA IN THE AMOUNT OF \$36,000, FOR ONLINE LEGAL RESEARCH SERVICES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, West Publishing Corporation (“West”) offers online legal research services for lawyers and legal professionals through its website, “Westlaw” - the resources on Westlaw include more than 40,000 databases of case law, state and federal statutes, administrative codes, public records, law journals, law reviews, and legal forms;

Whereas, for several years, the City Attorney’s Office has used a different online research service, Lexis Nexis (“Lexis”) - the City’s agreement with Lexis was set to expire this year and Staff was interested in learning more about the products offered by West;

Whereas, after a demonstration, Staff concluded that Westlaw provides numerous helpful resources that are not offered by other companies, including resources specifically designed for government attorneys;

Whereas, Staff recommends Council ratify the purchase of online legal research software through West Publishing Corporation of Eagan, Minnesota in the amount of \$36,000, for online legal research services;

Whereas, funding for this purchase is appropriated in the fiscal year 2019 Operating Budget in the amount of \$1,900 in Account No. 110-1600-512-2225 for the 2 months of this contract (August and September) that will fall in fiscal year 2019 - the fiscal year 2020 – fiscal year 2022 proposed budgets will include funding for this purchase in the estimated amount of \$12,000 per year for a total 36 month contract; 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 online legal research software through West Publishing Corporation of Eagan, Minnesota in the amount of \$36,000, for online legal research services.

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 **2nd** day of **May**, 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:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing an annual purchase agreement for sodium hypochlorite, hydrochloric acid, and cyanuric acid with Hasa, Inc. of Saugus, California in the estimated annual amount of \$40,787.

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

ITEM SUMMARY: Authorization of this annual purchase agreement will provide as-needed chemicals primarily used at City pools and splash pads. In addition, the Water Treatment Plant also uses a small volume of sodium hypochlorite throughout the year.

Staff originally opened bids for these chemicals in August 2018 for FY 2019. On September 6, 2018, Council authorized the rejection of these bids, which allowed Staff to reevaluate the structuring and timing of the bid to more closely synchronize with the high usage months for the chemicals.

As shown on the attached bid tabulation, on April 23, 2019, the City received five bids for the purchase of sodium hypochlorite, hydrochloric acid, and cyanuric acid. Per City specifications, the bid specified that the award shall be to the lowest bidder for each chemical. Hasa, Inc. was the low bidder for all three chemicals, and accordingly, Staff recommends award of sodium hypochlorite at a price of \$1.32 per gallon, hydrochloric acid at a price of \$3.25 per gallon, and cyanuric acid powder at a price of \$0.99 per pound. The City has done business with Hasa in the past and finds them to be a responsible vendor.

The proposed purchase agreement will commence immediately and continue through February 28, 2020, with the option to extend the agreements for four additional one-year periods, if so agreed to between the City and Hasa, Inc.

FISCAL IMPACT: Funding for the purchase of the chemicals from Hasa, Inc. is included in the adopted FY 2019 Budget for the Water Treatment Plant and Recreation Department. The estimated annual expenditure of \$40,787 is based on historical expenditures.

ATTACHMENTS:

[Bid Tabulation](#)
[Resolution](#)

**Tabulation of Bids Received
on April 23, 2019 at 2:00 p.m.
Re-Bid of Pool Chemicals (Sodium Hypochlorite, Hydrochloric Acid and Cyanuric Acid)
Bid #32-03-19**

			Bidders					
			DCC, Inc Dallas, TX		Univar USA, Inc Kent, WA		Hasa, Inc Saugus, CA	
Description	Qty	UOM	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Sodium Hypochlorite (10.5%)	25,000	Gal.	\$1.74	\$43,500.00	No Bid	No Bid	\$1.32	\$33,000.00
Hydrochloric Acid (31.45%, Baume 20)	2,000	Gal.	\$3.75	\$7,500.00	No Bid	No Bid	\$3.25	\$6,500.00
Cyanuric Acid Powder (Stabilizer) (Must be powder, not granular)	1,300	Lbs.	\$1.35 (Cyanuric Acid in granular form)	\$1,755.00	No Bid	No Bid	\$0.99	\$1,287.00
Total Bid			\$52,755.00		No Bid		\$40,787.00	
Addendum (2)			Yes		No Bid		Yes	
Comply to 48 Hour Delivery?			Yes		No Bid		Yes	
Exceptions			Yes		No Bid		No	
Credit Check Authorization			Yes		No Bid		Yes	

			Bidders					
			Commercial Chemical Products, Inc dba Poolsure Houston, TX		Brenntag Southwest, Inc Lancaster, TX		PVS Minibulk, Inc Detroit, MI	
Description	Qty	UOM	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Sodium Hypochlorite (10.5%)	25,000	Gal.	\$1.34	\$33,500.00	\$1.43	\$35,750.00	\$1.745	\$43,625.00
Hydrochloric Acid (31.45%, Baume 20)	2,000	Gal.	\$3.25 (Substitute: Sulfuric Acid)	\$6,500.00	\$3.95	\$7,900.00	No Bid	No Bid
Cyanuric Acid Powder (Stabilizer) (Must be powder, not granular)	1,300	Lbs.	\$1.00	\$1,300.00	\$1.20	\$1,560.00	No Bid	No Bid
Total Bid			\$41,300.00		\$45,210.00		\$43,625.00	
Addendum (2)			Yes		Yes		Yes	
Comply to 48 Hour Delivery?			No		Yes		No	
Exceptions			Yes		No		Yes	
Credit Check Authorization			Yes		Yes		Yes	

Recommended for Council Award
Does not meet City Specifications

RESOLUTION NO. 2019-9646-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN ANNUAL PURCHASE AGREEMENT WITH HASA, INC. OF SAUGUS, CALIFORNIA, IN THE AMOUNT OF \$40,787, FOR SODIUM HYPOCHLORITE, HYDROCHLORIC ACID, AND CYANURIC ACID; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on April 23, 2019, the City received five bids for the purchase of sodium hypochlorite, hydrochloric acid, and cyanuric acid and per City specifications, the bid specified that the award shall be to the lowest bidder for each chemical;

Whereas, Hasa, Inc. of Saugus, California was the low bidder for all three chemicals offering sodium hypochlorite at a price of \$1.32 per gallon, hydrochloric acid at a price of \$3.25 per gallon, and cyanuric acid powder at a price of \$0.99 per pound;

Whereas, these chemicals are primarily used at City pools and splash pads and the Water Treatment Plant uses a small volume of sodium hypochlorite throughout the year;

Whereas, Staff recommends Council authorize an annual purchase agreement with Hasa, Inc. of Saugus, California, in the amount of \$40,787, for sodium hypochlorite, hydrochloric acid and cyanuric acid - the City has done business with Hasa, Inc. in the past and finds the company to be a responsible vendor;

Whereas, this agreement is for a one-year period commencing immediately and continuing through February 28, 2020, with the option for four additional one-year renewals if so agreed to between both parties;

Whereas, the Water Treatment Plant and the Parks and Recreation Departments included funding in their fiscal year 2019 budgets for these chemical purchases; 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 an annual purchase agreement with Hasa, Inc. of Saugus, California, in the amount of \$40,787, for sodium hypochlorite, hydrochloric acid and cyanuric acid.

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 **2nd** day of **May**, 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:

Alan DeLoera, Information Technology Director

ITEM DESCRIPTION: Adopt a resolution authorizing the purchase of InfoWater Pro Suite software for water distribution modeling with Innovyze Inc. of Portland, Oregon in the amount of \$33,600.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City currently has an updated water distribution model completed every ten years or more through an engineering firm. While this is a great and needed service from a professional engineering firm, the city continues to grow and change every year. The City funded a position within the Engineering department for the purpose of completing water distribution models on an ongoing basis in an effort to avoid water asset failures. This software will help to assess how customer service levels will be affected when distribution assets are constructed in the field. InfoWater Pro fill in the gaps between sensors and telemetry to aid proactive event management and system performance.

InfoWater Pro Suite is a water distribution model. InfoWater Pro Suite is integrated within ESRI's ArcGIS Professional 2D and 3D GIS Mapping software. The software comes equipped with everything hydraulic modelers, planners and project managers need to best plan, design, operate, secure and sustain their water distribution systems. InfoWater Pro Suite represents the next generation of "live" modeling to include SCADA, sensors and telemetry.

The model will be used to simulate a holistic, real-world condition of Temple's water distribution system. The model will give confidence to new development water supply networks by asking "what happens when" scenarios and then model appropriately for the risks. InfoWater Pro Suite applications range from fire flow, dynamic water quality simulations, valve criticality, energy cost analysis and pressure zone management. In addition, city staff will also analyze:

- Real-time water demand and diurnal pattern estimations
- Multi-species water quality modeling (Water age)
- Unidirectional flushing
- Pump and valve optimization
- Demand and fire flow management
- Leak detection and reduction

A Review team within the Public Works and GIS staff reviewed multiple vendors and the InfoWater Pro Suite software was determined to provide the best solution for the City and the integration with our ArcGIS system.

FISCAL IMPACT: Funding for the purchase of InfoWater Pro Suite software for water distribution modeling with Innovyze Inc. in the amount of \$33,600 is available in account 520-5200-535-6221, project 101938, as follows:

Project Budget	\$	33,600
Encumbered/Committed to Date		-
Info Water Pro Suite Software		(33,600)
Remaining Project Funds Available	\$	-

ATTACHMENTS:
[Resolution](#)

RESOLUTION NO. 2019-9647-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF INFOWATER PRO SUITE SOFTWARE THROUGH INNOVYZE, INC. OF PORTLAND, OREGON IN THE AMOUNT OF \$33,600, FOR WATER DISTRIBUTION MODELING; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City currently has an updated water distribution model completed every ten years or more through an engineering firm, however, the City continues to grow and change every year - the City has funded a position within the Engineering Department for completing water distribution models on an ongoing basis in an effort to avoid water asset failures;

Whereas, InfoWater Pro Suite software will help assess how customer service levels will be affected when distribution assets are constructed in the field - InfoWater Pro Suite will fill in the gaps between sensors and telemetry to aid proactive event management and system performance;

Whereas, InfoWater Pro Suite is a water distribution model integrated within ESRI's ArcGIS Professional 2D and 3D GIS Mapping software - the software comes equipped with everything hydraulic modelers, planners and project managers need to best plan, design, operate, secure and sustain their water distribution systems and representing the next generation of "live" modeling to include SCADA, sensors and telemetry;

Whereas, the model will be used to simulate a holistic, real-world condition of Temple's water distribution system giving confidence to new development water supply networks by asking "what happens when" scenarios and then model appropriately for the risks - InfoWater Pro Suite applications range from fire flow, dynamic water quality simulations, valve criticality, energy cost analysis and pressure zone management;

Whereas, in addition, City staff will also analyze:

- Real-time water demand and diurnal pattern estimations;
- Multi-species water quality modeling (Water age);
- Unidirectional flushing;
- Pump and valve optimization;
- Demand and fire flow management; and
- Leak detection and reduction;

Whereas, a review team within the Public Works and GIS staff reviewed multiple vendors and the InfoWater Pro Suite software was determined to provide the best solution for the City and the integration with our ArcGIS system;

Whereas, Staff recommends Council approve the purchase of InfoWater Pro Suite software from Innovyze, Inc. of Portland, Oregon, in the amount of \$33,600;

Whereas, funding is available for this purchase in Account No. 520-5200-535-6221, Project No. 101938; 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 InfoWater Pro Suite software from Innovyze, Inc. of Portland, Oregon in the amount of \$33,600 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 this purchase.

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 2nd day of **May**, 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:

Brynn Myers, City Manager
Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of 10.086 acres of right-of-way needed for the future expansion of Blackland Road and authorizing the payment of closing costs associated with the purchase in the total estimated amount of \$155,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Temple Independent School District ("TISD") has purchased a tract of land at the southeast corner of Old State Highway 95 (also known as Little River Road) and Barnhardt Road. TISD is interested in developing the property as a future school site and has requested that the City begin the design process for the future expansion of Blackland Road east. Blackland Road currently dead ends at Old State Highway 95. The proposed extension would run east and on the south side of TISD's tract. The expansion of Blackland Road will provide the needed connectivity to the future school site.

Staff has determined that approximately 10.086 acres is needed from the adjacent property owner, Short Term Lending GP, Inc. ("Short Term Lending"). Short Term Lending has agreed to sell the needed right-of-way to the City for \$150,846. Staff is requesting authorization to purchase the right-of-way for this amount and for some additional funding to cover closing costs. The total authorization requested is \$155,000.

FISCAL IMPACT: Funding for the purchase of 10.086 acres of right-of-way needed for the future expansion of Blackland Road and authorizing the payment of closing costs associated with the purchase in the total estimated amount of \$155,000 is available in account 365-3400-531-6998, project 102024.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9648-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF APPROXIMATELY 10.086 ACRES OF RIGHT-OF-WAY NEEDED FOR THE FUTURE EXPANSION OF BLACKLAND ROAD; AUTHORIZING THE PAYMENT OF CLOSING COSTS ASSOCIATED WITH THE PURCHASE IN THE TOTAL ESTIMATED AMOUNT OF \$155,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Temple Independent School District (“TISD”) has purchased a tract of land at the southeast corner of Old State Highway 95 (also known as Little River Road) and Barnhardt Road;

Whereas, TISD is interested in developing the property as a future school site and has requested that the City begin the design process for the future expansion of Blackland Road east;

Whereas, Blackland Road currently dead ends at Old State Highway 95 and the proposed extension would run east and on the south side of TISD’s tract - the expansion of Blackland Road will provide the needed connectivity to the future school site;

Whereas, Staff has determined that approximately 10.086 acres is needed from the adjacent property owner, Short Term Lending GP, Inc. (“Short Term Lending”) who has agreed to sell the needed right-of-way to the City for \$150,846;

Whereas, Staff recommends Council authorize the purchase of approximately 10.086 acres of right-of-way needed for the future expansion of Blackland Road and authorize the payment of closing costs associated with the purchase in the total estimated amount of \$155,000;

Whereas, funding for the purchase of right of way is available in Account No. 365-3400-531-6998, Project No. 102024; 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 approximately 10.086 acres of right-of-way needed for the future expansion of Blackland Road and authorizes the payment of closing costs associated with the purchase in the total estimated amount of \$155,000, 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 **2nd** day of **May**, 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 #5(R)
Consent Agenda
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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 \$183,826.

ATTACHMENTS:

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

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2019 BUDGET
May 2, 2019

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-3700-524-2112		Supplies / Food Items/Supplies	\$ 400	
110-0000-461-0830		Other / Other Revenues		\$ 400
To appropriate a donation received from Wal-Mart related to the neighborhood clean up event held on 04/13/19.				
292-2900-534-6510	101777	Capital - Special Projects / Drainage Modeling Assessment	\$ 71,240	
292-2900-534-6532		Capital - Special Projects / Contingency		\$ 71,240
To reallocate funding within Drainage Fund to allow for the utilization of drainage bond funds for drainage improvements.				
520-5000-535-1150		Salaries / Separation Pay/Vac/Sk/Com	\$ 24,016	
520-5300-535-1150		Salaries / Separation Pay/Vac/Sk/Com	\$ 1,133	
520-5000-535-6532		Capital - Contingency		\$ 25,149
To reallocate funding for separation pay for Director of Utilities (termed 03/19/19) and Meter Technician I (termed 03/14/19).				
110-2320-540-2516		Other Services / Judgments & Damages	\$ 85,676	
110-0000-461-0554		Insurance Claims / Insurance Claims		\$ 85,676
To appropriate insurance proceeds received from TML related to the damages sustained to Solid Waste's brush & bulk asset # 14614 on 01/14/19.				
110-2020-521-2514		Other Services / Travel & Training	\$ 1,361	
110-0000-442-0720		Police Revenue / Police Revenue		\$ 1,361
To appropriate reimbursement from Temple Independent School District related to travel & training for School Resource Officers.				
TOTAL AMENDMENTS			\$ 183,826	\$ 183,826
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			(19,201)	
Net Balance of Judgments & Damages Contingency Account			\$ 260,524	
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			\$ 360,524	
Beginning Balance Budget Sweep Contingency			\$ -	
Added to Budget Sweep Contingency			-	
Taken From Budget Sweep			-	
Net Balance of Budget Sweep Contingency Account			\$ -	

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2019 BUDGET
May 2, 2019

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		WATER & WASTEWATER FUND		
		Beginning Contingency Balance		\$ 219,446
		Added to Contingency Sweep Account		-
		Taken From Contingency		(116,392)
		Net Balance of Contingency Account		\$ 103,054
		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		\$ 103,054
		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		(71,240)
		Net Balance of Contingency Account		\$ 265,166
		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		\$ 266,146
		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. 2019-9649-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 2nd day of **May**, 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:

Lynn Barrett, Assistant Director of Planning

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-1-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 185.277 acres of land, which includes a 160.047-acre tract and a 12.541-acre tract, out of the Maximo Moreno Survey, Abstract No. 14, and 12.689 acres of right-of-way of Hartrick Bluff Road, Bell County, Texas.

STAFF RECOMMENDATION: Approve as presented and schedule Second Reading for Thursday, May 16, 2019 at 5:00 P.M. in the City Council Chambers.

ITEM SUMMARY: Short Term Lending G.P, Inc. filed a petition on February 7, 2019 seeking voluntary annexation of 185.277 acres of land, which includes a 160.047-acre tract, a 12.541-acre tract, and 12.689 acres of right-of-way of Hartrick Bluff Road and being more particularly described in Exhibit A and Exhibit B.

Voluntary annexation is governed by Chapter 43 of the Texas Local Government Code. Under Section 43.028(a) a property owner may petition the City for voluntary annexation if the property to be annexed is: (1) one-half mile or less in width; (2) contiguous to the annexing city; and (3) is vacant and without residents or on which fewer than three qualified voters reside. Subsection (g) of Section 43.028 states that property may be annexed even if the contiguity requirement is not met, as long as a public right-of-way of a road or highway designated by the municipality exists that (1) is located entirely in the extraterritorial jurisdiction of the municipality; and (2) when added to the area would cause the area to be contiguous to the municipality.

The 160.047-acre and 12.541-acre tracts proposed for annexation are not contiguous to the city limits. However, with the addition of 12.689 acres of right-of-way known as Hartrick Bluff Road, the requirements of Section 43.028(g) are satisfied.

Pursuant to Chapter 43 of the Local Government Code, the City has completed the following steps during the voluntary annexation process:

1. February 21, 2019 - City Council resolution adopted to direct staff to develop the Municipal Service Plan
2. April 4, 2019 – Municipal Service Plan Public Hearing #1
3. April 5, 2019 – Municipal Service Plan Public Hearing #2

The applicant has requested a rezoning of the subject property. The planned development rezoning case FY-19-9-ZC with staff recommendations for PD-GR and PD-SF-2 zoning designations and a site development plan is scheduled to follow the second reading of the annexation request on May 16th if the annexation is approved. The PD rezoning ordinance second reading is scheduled for June 6th, 2019 if both items are approved at the May 16th meeting.

FISCAL IMPACT: The Applicant has requested to enter into a developer participation agreement with the City for water and waste water extension to the property. Staff will present this request to Council if the property is annexed.

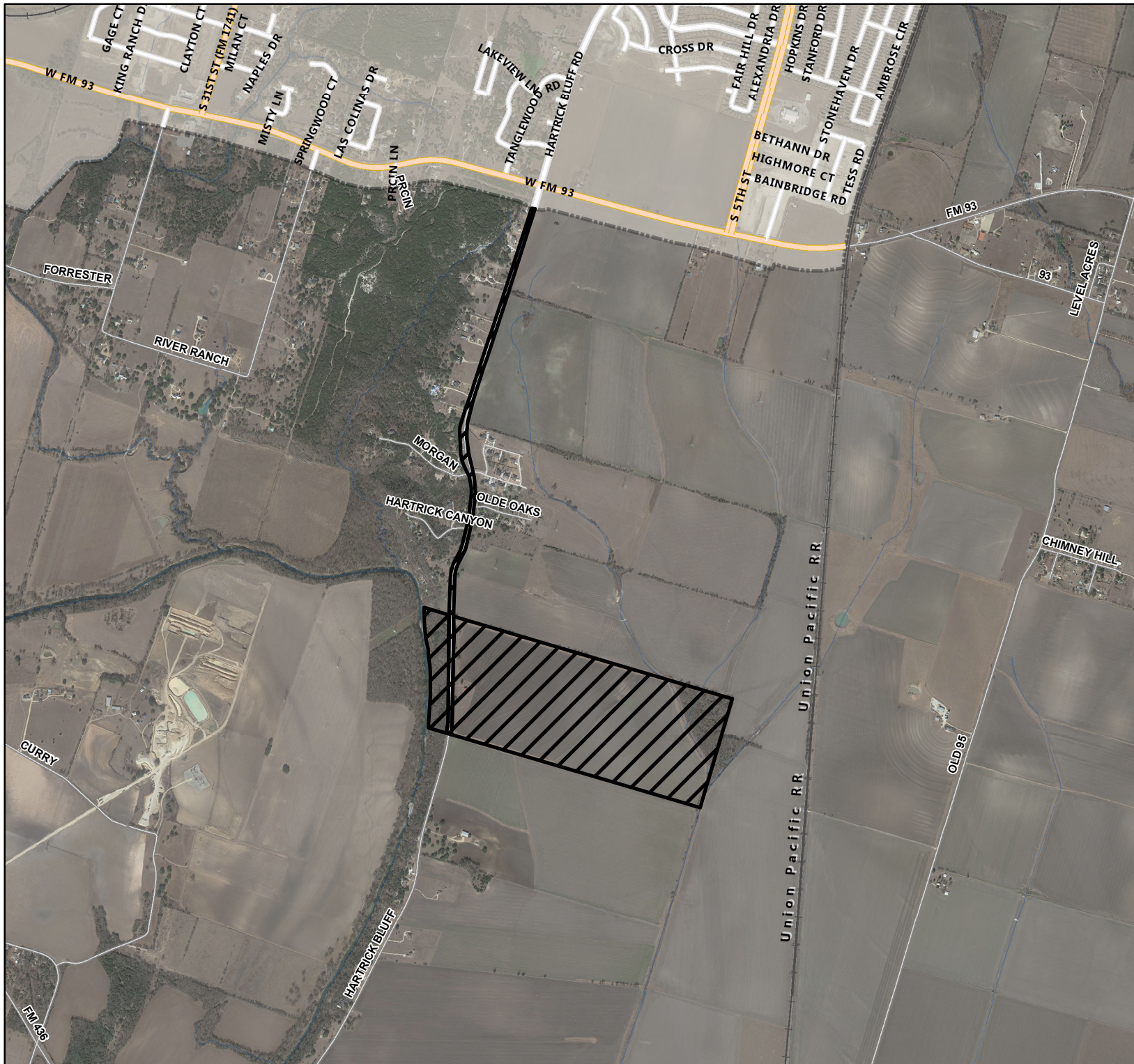
ATTACHMENTS:

[Vicinity Map](#)
[Municipal Service Plan](#)
[Field Notes of Proposed Annexation Area \(Exhibit A\)](#)
[Survey of Proposed Annexation Area \(Exhibit B\)](#)
[Voluntary Annexation Schedule](#)
[Ordinance](#)

Annexation AERIAL MAP

FY-19-1-ANX

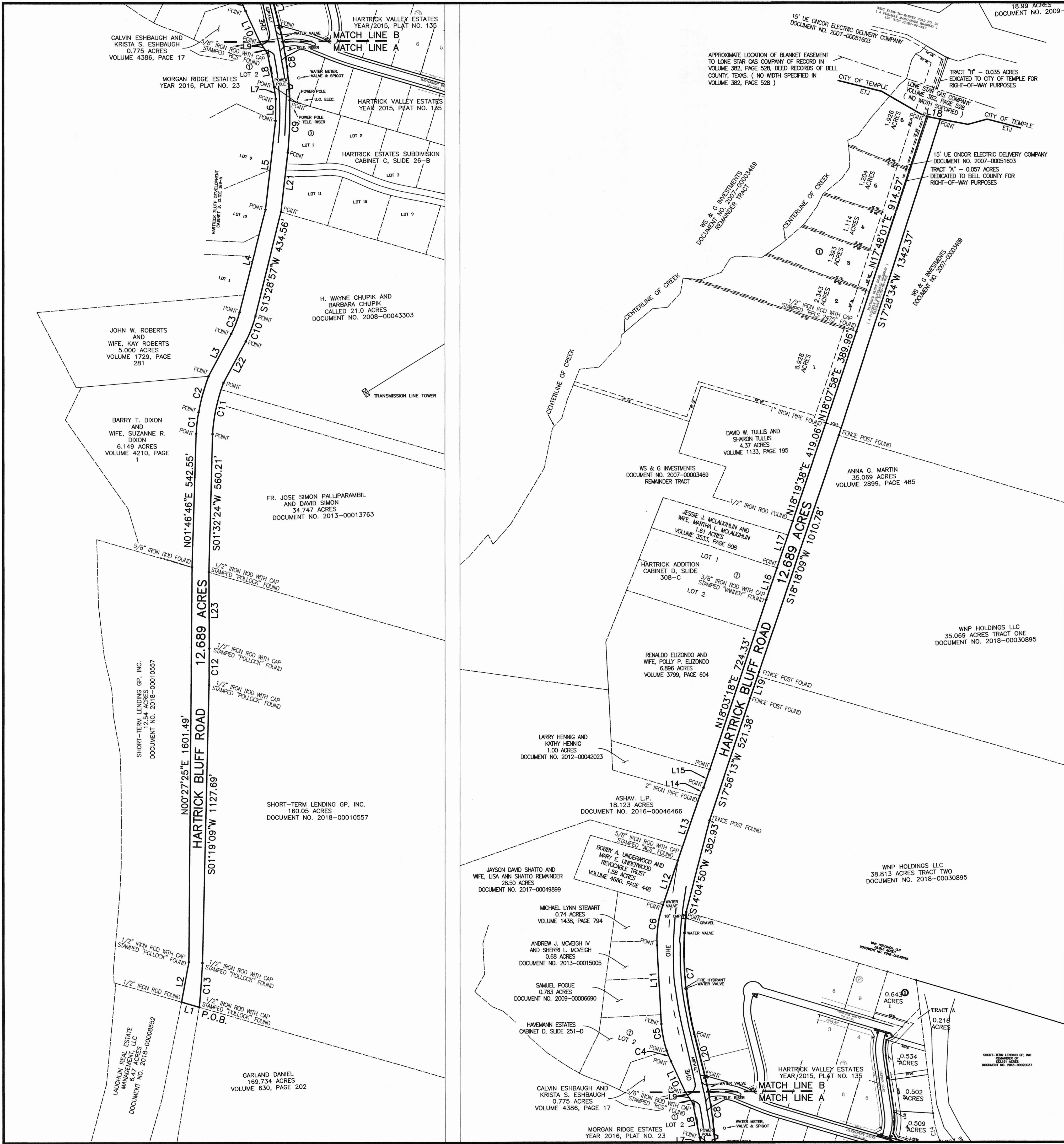
Hartrick Ranch Estates



- FY-19-1-ANX
- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP
- Railroad
- Temple Municipal Boundary
- Water Areas
- Water Lines
- Park Areas
- Bell County Streets
- Bell County Municipal Boundaries
- Temple Boundary
- Bell County 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.





This project is referenced in nad 1983, central texas state plane. All distances are horizontal surface distances unless noted and all bearings are grid bearings.

All coordinate values are referenced to city monument number 541
The theta angle at said city monument is 01° 30' 47"
The combined correction factor (ccf) is 0.999858
Published city coordinates are $X = 3,216,784.76$ $y = 10,341,981.47$
The tie from the above city monument to the POINT OF BEGINNING (POB) IS
N. 66° 23' 57" E., 4808.72 feet.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

Line Table		
Line #	Direction	Length
L1	N73°27'59"W	73.58'
L2	N10°25'14"E	163.87'
L3	N27°49'20"E	194.10'
L4	N13°54'54"E	428.87'
L5	N06°21'39"E	362.15'
L6	N00°26'15"E	89.11'
L7	N07°35'11"W	47.09'
L8	N10°52'08"W	140.07'
L9	N33°15'09"W	54.95'
L10	N24°24'49"W	137.80'
L11	N02°56'24"W	281.95'
L12	N18°10'57"E	189.01'
L13	N18°18'58"E	277.54'
L14	N24°46'46"E	34.39'
L15	N18°41'17"E	78.26'
L16	N18°16'44"E	136.23'
L17	N18°17'18"E	199.69'
L18	S78°26'17"E	55.01'
L19	S18°47'20"W	112.15'
L20	S13°52'17"E	173.78'
L21	S06°23'05"W	241.61'
L22	S27°49'20"W	189.83'
L23	S00°15'08"E	308.89'

Curve Table			
Curve #	Length	Radius	Chord
C1	85.85'	542.28'	N06°18'53"E 85.76'
C2	152.25'	793.94'	N14°58'23"E 152.02'
C3	93.60'	374.23'	N20°39'24"E 93.36'
C4	47.46'	445.05'	N22°06'14"W 47.44'
C5	147.62'	504.49'	N08°57'22"W 147.09'
C6	166.90'	428.00'	N08°08'55"E 165.85'
C7	499.37'	1402.39'	S03°40'13"E 496.74'
C8	305.20'	1462.39'	S07°41'26"E 304.65'
C9	213.17'	1396.80'	S01°56'19"W 212.96'
C10	109.61'	439.23'	S20°40'23"W 109.33'
C11	212.77'	726.21'	S11°45'45"W 212.01'
C12	148.83'	8533.06'	S00°20'47"W 148.83'
C13	179.20'	3378.16'	S04°12'08"W 179.18'

EXHIBIT B

BEING a 12.689 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a portion of the existing right-of-way of Hartrick Bluff Road (a publicly maintained roadway) as occupied and evidenced on the ground.

THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE INSURANCE POLICY AND NO FURTHER EASEMENT RESEARCH WAS PERFORMED BY THIS COMPANY.

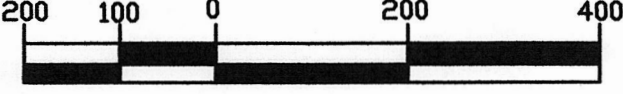
BEING a 118.560 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of the remainder of that certain 122.191 acre tract of land described in a Correction Affidavit dated April 23, 2018 from JDJS Investments, Inc. to Short-Term Lending Gp, Inc and being of record in Document No. 2018-00020037, Official Public Records of Bell County, Texas.



STATE OF TEXAS : KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis, 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.

COUNTY OF BELL : IN WITNESS WHEREOF, my hand and seal, this the 30th day of January 2019.

Michael E. Alvis
Michael E. Alvis, R.P.L.S., No. 5402



TURLEY ASSOCIATES, INC.
ENGINEERING • PLANNING • SURVEYING
254.773.2400
www.turley-inc.com

301 N. 3rd St.
TEMPLE, TEXAS 76701
TBP# No. F-1658 • TBP#s No. 10056000

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SURVEY OF:
12.689 ACRES
MAXIMO MORENO SURVEY
ABSTRACT No. 14
BELL COUNTY, TEXAS

PREPARED FOR:
KIELLA DEVELOPERS

REVISIONS		
DATE	DESCRIPTION	DFTR

DRAFTSMAN:
MGM
DATE:
1/30/2018
COMPUTER FILE NAME:
18-666, Hartrick Bluff ROW.dwg
REFERENCE DRAWING NUMBERS:
-

CITY OF TEMPLE
ANNEXATION SERVICE PLAN—VOLUNTARY ANNEXATION
Along Hartrick Bluff Road (FY-19-1-ANX)

For 185.277 acres of land, which includes a 160.047-acre tract and a 12.541-acre tract, out of the Maximo Moreno Survey, Abstract No. 14, and 12.689 acres of right-of-way of Hartrick Bluff Road, and being more particularly described as Exhibit A (Field Notes) and depicted as Exhibit B (Survey) of the Annexation Ordinance (2019-####).

SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

The City will provide protection to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City, with the same or similar topography, land use and population density.

2. FIRE PROTECTION AND AMBULANCE SERVICE

The City will provide fire protection to the newly-annexed area at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density. The City will provide First Responder services through its Fire Department and contract for emergency medical services (EMS) through American Medical Response dba Temple EMS.

3. SOLID WASTE COLLECTION

Upon payment of any required deposits and the agreement to pay lawful service fees and charges, solid waste collection will be provided to the newly-annexed area to the extent that the City has access to the area to be serviced. Private contractors currently providing sanitation collecting services in the area may continue to do so for up to two years.

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

Any and all water or wastewater facilities owned or maintained by the City at the time of the proposed annexation shall continue to be maintained by the City. Any and all water or wastewater facilities which may be acquired subsequent to the annexation of the proposed area shall be maintained by the City, to the extent of its ownership. Any and all water or wastewater facilities owned by other water or wastewater treatment providers shall continue to be allowed to provide those services to the newly-annexed tract.

5. MAINTENANCE OF ROADS AND STREETS

Any and all public roads, streets or alleyways which have been dedicated to the City, or which are owned by the City, shall be maintained to the same degree and extent that other roads, streets and alleyways are maintained in areas with similar topography, land use and population density. Any and all lighting of roads, streets and alleyways which may be positioned in a right-of-way, roadway or utility company easement shall be maintained by the applicable utility company servicing the City, pursuant to the rules, regulations and fees of such utility.

6. MAINTENANCE OF PUBLIC PARKS, PLAYGROUNDS AND SWIMMING POOLS

The City Council is not aware of the existence of any public parks, playgrounds or swimming pools now located in the area proposed for annexation. In the event any such parks, playgrounds or swimming pools do exist and are public facilities, the City, will maintain such areas to the same extent and degree that it maintains parks, playgrounds and swimming pools and other similar areas of the City now incorporated in the City.

7. MAINTENANCE OF MUNICIPALLY-OWNED FACILITY, BUILDING OR MUNICIPAL SERVICE

The City Council is not aware of the existence of any publicly-owned facility, building or other municipal service now located in the area proposed for annexation. In the event any such publicly-owned facility, building or municipal service does exist and are public facilities, the City will maintain such areas to the same extent and degree that it maintains publicly-owned facilities, buildings or municipal services of the City now incorporated in the City.

8. INSPECTIONS

The City will provide building inspection services upon approved building permits from the City to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

9. CODE ENFORCEMENT

The City will provide code enforcement services to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

10. MOWING

The City will provide right-of-way mowing services adjacent to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

The City Council finds and determines it to be unnecessary to acquire or construct any capital improvements for the purposes of providing police protection, fire protection, or emergency medical services. The City Council finds and determines that it has at the present time adequate facilities to provide the same type, kind and level of protection and service which is presently being administered to other areas already incorporated in the City with the same or similar topography, land use and population density.

2. ROADS AND STREETS

The City will undertake to provide the same degree of road and street lighting as is provided in areas of the same or similar topography, land use and population density within the present corporate limits

of the City. Maintenance of properly dedicated roads and streets will be consistent with the maintenance provided by the City to other roads and streets in areas of similar topography, land use and subdivision development of the annexed property. Developers will be required, pursuant to the ordinances of the City to provide internal and peripheral streets and to construct those streets in accordance with the specifications required by the City for the properly dedicated street. City participation in capital expenditures will be in accordance with City policies.

3. WATER AND WASTEWATER FACILITIES

The City of Temple has water facilities along Hartrick Bluff Road. The Applicant has requested to enter into a developer participation agreement with the City for water extension to the property. Staff will present this request to Council if the property is annexed.

Currently, there are no wastewater treatment providers within the boundaries of the voluntary annexation and property owners rely on on-site sewage facilities (septic systems). The Applicant has requested to enter into a developer participation agreement with the City for wastewater extension to the property. Staff will present this request to Council if the property is annexed.

4. CAPITAL IMPROVEMENTS

Notwithstanding any other provision of this service plan, a landowner within the newly annexed area will not be required to fund capital improvements as necessary for municipal services in a manner inconsistent with Chapter 395 of the Local Government Code, unless otherwise agreed to by the landowner.

SPECIFIC FINDINGS

The City Council finds and determines that this proposed Service Plan will not provide any fewer services, and it will not provide a lower level of service in the area proposed to be annexed than were in existence in the proposed area at the time immediately preceding the annexation process.

Because of the differing characteristics of topography, land utilization and population density, the service levels which may ultimately be provided in the newly annexed area may differ somewhat from services provided in other areas of the City. These differences are specifically dictated because of differing characteristics of the property and the City will undertake to perform consistent with this contract so as to provide the newly-annexed area with the same type, kind and quality of service presently enjoyed by the citizens of the City who reside in areas of the same or similar topography, land utilization and population density.

APPROVED ON THIS _____ DAY OF _____, 2019.

City of Temple, Texas

Mayor

ATTEST:

City Secretary

BEING a 12.541 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being all of the that certain called 12.54 acre tract of land described in a Warranty Deed dated March 15, 2018 from Mary Lavelle Hartrick Amato to Short-Term Lending Gp, Inc and being of record in Document No. 2018-00010557, Official Public Records of Bell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found being the southeast corner of the said 12.54 acre tract and being the northeast corner of that certain 6.47 acre tract of land described in a Special warranty Deed dated March 1, 2018 from Ed L. Laughlin and Sharon L. Laughlin to Laughlin Real Estate Management, LLC Series Residential, a Texas series limited liability company and being of record in Document No. 2018-00008552, Official Public Records of Bell County, Texas and being in the west right-of-way line of Hartrick Bluff Road for corner;

THENCE N. 73° 37' 34" W., 279.54 feet departing the said west right-of-way line and with the south boundary line of the said 12.54 acre tract (calls N. 73° 35' 35" W., 279.73 feet) and with the north boundary line of the said 6.47 acre tract to a point being on the east bank of the Leon River being the southwest corner of the said 12.54 acre tract and being the northwest corner of the said 6.47 acre tract for corner;

THENCE departing the said 6.47 acre tract and with the west boundary line of the said 12.54 acre tract and with the said east bank of the Leon River with all of its meanders the following eleven (11) calls:

- 1) N. 01° 17' 11" W., 61.64 feet to a point for corner;
- 2) N. 04° 43' 46" E., 285.92 feet to a point for corner;
- 3) N. 03° 15' 43" E., 122.24 feet to a point for corner;
- 4) N. 00° 04' 36" E., 180.84 feet to a point for corner;
- 5) N. 00° 26' 57" W., 184.39 feet to a point for corner;
- 6) N. 02° 02' 26" W., 98.60 feet to a point for corner;
- 7) N. 10° 08' 42" W., 143.88 feet to a point for corner;
- 8) N. 03° 49' 45" W., 112.17 feet to a point for corner;
- 9) N. 12° 15' 31" W., 145.51 feet to a point for corner;
- 10) N. 06° 16' 49" W., 203.17 feet to a point for corner;
- 11) N. 01° 24' 14" W., 266.10 feet to a point being the northwest corner of the said 12.54 acre tract for corner;

THENCE S. 73° 29' 00" E., 394.95 feet departing the said east bank and with the north boundary line of the said 12.54 acre tract (calls S. 73° 28' 46" E., 394.96 feet) and part way with the south boundary line of that certain 6.149 acre tract of land described in a Warranty Deed with Vendor's Lien dated June 5, 2000 from Daniel Joseph Ladd and wife, Cecilia Ann Ladd to Barry T. Dixon and

wife, Suzanne R. Dixon and being of record in Volume 4210, Page 1, Official Public Records of Bell County, Texas to a 5/8" iron rod found being the northeast corner of the said 12.54 acre tract and being the southeast corner of the said 6.149 acre tract and being in the aforementioned west right-of-way line of Hartrick Bluff Road for corner;

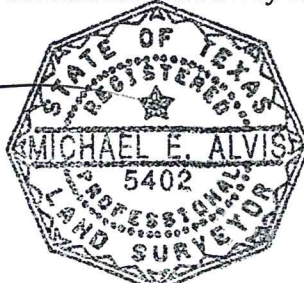
THENCE departing the said 6.149 acre tract and with the east boundary line of the said 12.54 acre tract and with the said west right-of-way line the following two (2) calls:

- 1) S. 00° 27' 25" W., 1601.49 feet (calls S. 00° 27' 39" W., 1601.68 feet) to a 1/2" iron rod with cap stamped "POLLOK" found for corner;
- 2) S. 10° 25' 14" W., 163.87 feet (calls S. 10° 21' 51" W., 164.04 feet) to the Point of BEGINNING and containing 12.541 acres of land.

I, Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.

Michael E. Alvis

Michael E. Alvis, R.P.L.S. #5402
January 23, 2019



THIS PROJECT IS REFERENCED IN NAD 1983, CENTRAL TEXAS STATE PLANE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 541
THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 30' 47"
THE COMBINED CORRECTION FACTOR (CCF) IS 0.999858
PUBLISHED CITY COORDINATES ARE X = 3,216,784.76 Y = 10,341,981.47
THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
N. 65° 49' 38" E., 4752.70 FEET.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

This project is referenced in nad 1983, central texas stae plane. All distances are horizontal surface distances unless noted and all bearings are grid bearings.

All coordinate values are referenced to city monument number 541
The theta angle at said city monument is 01° 30' 47"
The combined correction factor (ccf) is 0.999858
Published city coordinates are X = 3,216,784.76 Y = 10,341,981.47
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N. 65° 49' 38" E., 4752.70 feet.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

Line Table		
Line #	Direction	Length
L1	N73°37'34"W	279.54'
CALLS	N73°35'35"W	279.73'
L2	N01°17'11"W	61.64'
L3	N04°43'46"E	285.92'
L4	N03°15'43"E	122.24'
L5	N00°04'36"E	180.84'
L6	N00°26'57"W	184.39'
L7	N02°02'26"W	98.60'
L8	N10°08'42"W	143.88'
L9	N03°49'45"W	112.17'
L10	N12°15'31"W	145.51'
L11	N06°16'49"W	203.17'
L12	N01°24'14"W	266.10'
L13	S10°25'14"W	163.87'
CALLS	S10°21'51"W	164.04'

BEING a 12.541 acre tract of land more particularly described by separate field notes.

THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE INSURANCE POLICY AND NO FURTHER EASEMENT RESEARCH WAS PERFORMED BY THIS COMPANY.

BEING a 12.541 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being all of the that certain called 12.54 acre tract of land described in a Warranty Deed dated March 15, 2018 from Mary Lavelle Hartrick Amato to Short-Term Lending Gp, Inc and being of record in Document No. 2018-00010557, Official Public Records of Bell County, Texas.



STATE OF TEXAS & KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, COUNTY OF BELL & do hereby certify that this survey was this day made on the ground of the property described herein and is correct.

IN WITNESS THEREOF, my hand and seal, this the 30th day of January 2019.

Michael E. Alvis

Michael E. Alvis, R.P.L.S., No. 5402



BARRY T. DIXON AND WIFE, SUZANNE R. DIXON
6.149 ACRES
VOLUME 4210, PAGE 1

(CALLS S73°28'46"E 394.96')
S73°29'00"E 394.95'

LEON RIVER
12.541 ACRES
HARTTRICK BLUFF ROAD
S00°27'25"W 1601.49'
(CALLS S00°27'39"W 1601.68')

P.O.B.
L1
L2
L3
L4
L5
L6
L7
L8
L9
L10
L11
L12
L13
LAUGHLIN REAL ESTATE MANAGEMENT, LLC
6.47 ACRES
DOCUMENT NO. 2018-00008552

TURLEY ASSOCIATES, INC.
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TEMPLE, TEXAS 76501
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TBPB No. F-1658 • TBPB No. 10056000

12.541 ACRES
MAXIMO MORENO SURVEY
ABSTRACT No. 14
BELL COUNTY, TEXAS

DATE:	1/30/2019	SCALE:	1:200	DWN. BY:	MGM
REFERENCE:	-			F.B. & L.B.:	SKETCH
FILE NO:	18-666			SHEET:	3

BEING a 12.689 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a portion of the existing right-of-way of Hartrick Bluff Road (a publicly maintained roadway) as occupied and evidenced on the ground and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with cap stamped "POLLOK" found being the southwest corner of that certain called 160.050 acre tract of land described in a Warranty Deed dated March 15, 2018 from Mary Lavelle Hartrick Amato to Short-Term Lending Gp, Inc and being of record in Document No. 2018-00010557, Official Public Records of Bell County, Texas and being the northwest corner of that certain 169.734 acre tract of land standing in the name of Garland Daniel and being of record in Volume 630, Page 202, Deed Records of Bell County, Texas and being in the east right-of-way line of Hartrick Bluff Road for corner;

THENCE N. 73° 27' 59" W., 73.58 feet departing the said 160.050 acre tract and the said 169.734 acre tract and the said east right-of-way line and over and across the said right-of-way to a 1/2" iron rod found being in the west right-of-way line of said Hartrick Bluff Road and being the southeast corner of that certain called 12.54 acre tract of land described in a Warranty Deed dated March 15, 2018 from Mary Lavelle Hartrick Amato to Short-Term Lending Gp, Inc and being of record in Document No. 2018-00010557, Official Public Records of Bell County, Texas and being the northeast corner of that certain 6.47 acre tract of land described in a Special Warranty Deed dated March 1, 2018 from Ed L. Laughlin and Sharon L. Laughlin to Laughlin Real Estate Management, LLC Series Residential, a Texas series limited liability company and being of record in Document No. 2018-00008552, Official Public Records of Bell County, Texas for corner;

THENCE departing the said 6.47 acre tract and with the west right-of-way line of Hartrick Bluff Road as occupied and evidenced on the ground the following twenty-eight (28) calls:

- 1) N. 10° 25' 14" E., 163.87 feet with the east boundary line of the said 12.54 acre tract to a 1/2" iron rod with cap stamped "POLLOK" found for corner;
- 2) N. 00° 27' 25" E., 1601.49 feet to a 5/8" iron rod found being the northeast corner of the said 12.54 acre tract and being the southeast corner of that certain 6.149 acre tract of land described in a Warranty Deed with Vendor's Lien dated June 5, 2000 from Daniel Joseph Ladd and wife, Cecilia Ann Ladd to Barry T. Dixon and wife, Suzanne R. Dixon and being of record in Volume 4210, Page 1, Official Public Records of Bell County, Texas for corner;
- 3) N. 01° 46' 46" E., 542.55 feet departing the said 12.54 acre tract and with the east boundary line of the said 6.149 acre tract to a point being at the beginning of a curve to the right having a radius equals 542.28 feet, chord bearing equals N. 06° 18' 53" E., 85.76 feet for corner;
- 4) 85.85 feet along the arc of said curve to the right to a point being at the beginning of a curve to the right having a radius equals 793.94 feet, chord bearing equals N. 14° 58' 23" E., 152.02 feet for corner;
- 5) 152.25 feet along the arc of said curve to the right to a point being the northeast corner of the said 6.149 acre tract and being the southeast corner of that certain 5.000 acre tract of land described in a Warranty Deed dated May 18, 1981 from Henry Wayne Chupik and wife, Barbara Chupik to John W. Roberts and wife, Kay Roberts and being of record in Volume 1729, Page 281, Deed Records of Bell County, Texas for corner;
- 6) N. 27° 49' 20" E., 194.10 feet departing the said 6.149 acre tract and with the east boundary line of the said 5.000 acre tract to a point being at the beginning of a curve to the left having a radius equals 374.23 feet, chord bearing equals N. 20° 39' 24" E., 93.36 feet for corner;

- 7) 93.60 feet along the arc of said curve to the left continuing with the east boundary line of the said 5.000 acre tract to a point for corner;
- 8) N. 13° 54' 54" E., 428.87 feet continuing with the east boundary line of the said 5.000 acre tract and continuing with the east boundary line of that certain Hartick Bluff Development according to the map or plat of record in Cabinet B, Slide 169-A to a point being an angle point on the east boundary line of Lot 10, said Hartrick Bluff Development for corner;
- 9) N. 06° 21' 39" E., 362.15 feet continuing with the east boundary line of the said Hartrick Bluff Development to a point being the apparent northeast corner of the said Hartrick Bluff Development and being the southeast corner of that certain Lot 2, Block 1, Morgan Ridge Estates according to the map or plat of record in Year 2016, Plat No. 23, Plat Records of Bell County, Texas for corner;
- 10) N. 00° 26' 15" E., 89.11 feet departing the said Hartrick Bluff Development and with the east boundary line of the said Morgan Ridge Estates to a point for corner;
- 11) N. 07° 35' 11" W., 47.09 feet continuing with the east boundary line of the said Morgan Ridge Estates to a point for corner;
- 12) N. 10° 52' 08" W., 140.07 feet continuing with the east boundary line of the said Morgan Ridge Estates to a 5/8" iron rod with cap stamped "RCS" found being the northeast corner of the said Morgan Ridge Estates and being in the south right-of-way line of Morgan Drive (a privately maintained roadway) for corner;
- 13) N. 33° 15' 09" W., 54.95 feet departing the said Morgan Ridge Estates and the said south right-of-way line and over and across the right-of-way of Morgan Drive to a point being in the north right-of-way line of the said Morgan Drive and being the southeast corner of that certain 0.775 acre tract of land described in a Warranty Deed with Vendor's Lien dated April 30, 2001 from Vernon Brown and Rebecca Brown to Calvin Eshbaugh and Krista Eshbaugh and being of record in Volume 4386, Page 17, Official Public Records of Bell County, Texas for corner;
- 14) N. 24° 24' 49" W., 137.80 feet departing the said Morgan Drive and with the east boundary line of the said 0.775 acre tract to a point being at the beginning of a curve to the right having a radius equals 445.05, chord bearing equals N. 22° 06' 14" W., 47.44 feet for corner;
- 15) 47.46 feet along the arc of said curve to the right continuing with the east boundary line of the said 0.775 acre tract to a point being the northeast corner of the said 0.775 acre tract and being the southeast corner of that certain Lot 2, Block 1, Havemann Estates according to the map or plat of record in Cabinet D, Slide 251-D, Plat Records of Bell County, Texas and being at the beginning of a curve to the right having a radius equals 504.49 feet, chord bearing equals N. 08° 57' 22" W., 147.09 feet for corner;
- 16) 147.62 feet along the arc of said curve to the right departing the said 0.775 acre tract and with the east boundary line of the said Lot 2, Block 1, Havemann Estates to a point being the northeast corner of the said Lot 2, Block 1, Havemann Estates and being the southeast corner of that certain 0.783 acre tract of land described in a General Warranty Deed with Vendor's Lien dated February 19, 2009 from Joseph Holmstrom and Jennifer Holmstrom to Samuel Pogue and being of record in Document No. 2009-00006690, Official Public Records of Bell County, Texas for corner;

- 17) N. 02° 56' 24" W., 281.95 feet departing the said Lot 2, Block 1, Havemann Estates and with the east boundary line of the said 0.783 acre tract and continuing with the east boundary line of that certain 0.68 acre tract of land described in a Special Warranty Deed dated April 1, 2013 to Andrew J. McVeigh IV and Sherri L. McVeigh and being of record in Document No. 2013-00015005, Official Public Records of Bell County, Texas to a point being at the beginning of a curve to the right having a radius equals 428.00 feet, chord bearing equals N. 08° 08' 55" E., 165.85 feet for corner;
- 18) 166.90 feet along the arc of said curve to the right continuing with the east boundary line of the said 0.68 acre tract and continuing with the east boundary line of that certain 0.74 acre tract of land described in a Warranty Deed dated February 25, 1977 from J. D. Blevins and wife, Mary Blevins to Michael Lynn Stewart and being of record in Volume 1438, Page 794, Deed Records of Bell County, Texas to a point being the northeast corner of the said 0.74 acre tract and being the southeast corner of that certain 1.58 acre tract of land described in a Special Warranty Deed dated May 13, 2002 from Bobby A. Underwood and Mary E. Underwood to Bobby A. Underwood and Mary E. Underwood, as Trustees for the Bobby A. Underwood and Mary E. Underwood Revocable Living Trust and being of record in Volume 4680, Page 448, Official Public Records of Bell County, Texas for corner;
- 19) N. 18° 10' 57" E., 189.01 feet departing the said 0.74 acre tract and with the east boundary line of the said 1.58 acre tract to a 5/8 iron rod with cap stamped "ACS" found being the northeast corner of the said 1.58 acre tract and being a southeast corner of that certain remainder 28.50 acre tract of land described in a General Warranty Deed dated November 21, 2017 from LAM Estates, Ltd., a Texas Limited partnership to Jayson David Shatto and wife, Lisa Ann Shatto and being of record in Document No. 2017-00049899, Official Public Records of Bell County, Texas for corner;
- 20) N. 18° 18' 58" E., 277.54 feet departing the said 1.58 acre tract and with the east boundary line of the said remainder 28.50 acre tract and continuing with the east boundary line of that certain 18.123 acre tract of land described in a Special Warranty Deed dated November 10, 2016 from LAM Estates, LTD., a Texas limited partnership to ASHAV, LP, a Texas limited partnership and being of record in Document No. 2016-00046466, Official Public Records of Bell County, Texas to a 2" iron pipe found being the northeast corner of the said 18.123 acre tract and being the southeast corner of that certain 1.00 acre tract of land described in a General Warranty Deed dated October 5, 2012 from Ronald L. Carroll and Barbara C. Carroll to Larry Hennig and Kathy Hennig and being of record in Document No. 2012-00042023, Official Public Records of Bell County, Texas for corner;
- 21) N. 24° 46' 46" E., 34.39 feet departing the said 18.123 acre tract and with the east boundary line of the said 1.00 acre tract to a point for corner;
- 22) N. 18° 41' 17" E., 78.26 feet continuing with the east boundary line of the said 1.00 acre tract to a point being the northeast corner of the said 1.00 acre tract and being the southeast corner of that certain 6.896 acre tract of land described in a Warranty Deed with Vendor's Lien dated May 26, 1998 from Nelta Jo Vanderveer to Ronald R. Elizondo and wife, Polly P. Elizondo and being of record in Volume 3799, Page 604, Official Public Records of Bell County, Texas for corner;
- 23) N. 18° 03' 18" E., 724.33 feet departing the said 1.00 acre tract and with the east boundary line of the said 6.896 acre tract and continuing with the east boundary line of that certain Hartrick Addition according to the map or plat of record in Cabinet D, Slide 308-C, Plat Records of Bell County, Texas to a 3/8" iron rod with cap stamped "VANNOY" found being the northeast corner

of Lot 2, Block 1, said Hartrick Addition and being the southeast corner of Lot 1, said Block 1 for corner;

- 24) N. 18° 16' 44" E., 136.23 feet departing the said Lot 2, Block 1 and with the east boundary line of the said Lot 1, Block 1 to a point being the northeast corner of the said Lot 1, Block 1, Hartrick Addition and being the southeast corner of that certain 1.61 acre tract of land described in a General Warranty Deed with Vendor's Lien in Favor of a Third Party dated October 7, 1996 from Roy E. Vanderveer and Dorothy Vanderveer to Jessie J. McLaughlin and Martha L. McLaughlin, husband and wife and being of record in Volume 3533, Page 508, Official Public Records of Bell County, Texas for corner;
- 25) N. 18° 17' 18" E., 199.69 feet departing the said Hartrick Addition and with the east boundary line of the said 1.61 acre tract and continuing with the east boundary line of the remainder of those certain lands described in a Special Warranty Deed with Vendor's Lien dated December 29, 2006 from Melange Corporation, a Texas corporation to WS & G Investments, LP, a Texas limited Partnership and being of record in Document No. 2007-00003469, Official Public Records of Bell County, Texas to a 1/2" iron rod found being the northeast corner of the said remainder WS & G Investments, LP lands and being the southeast corner of that certain 4.37 acre tract of land described in a Deed to David W. Tullis and Sharon Tullis and being of record in Volume 1133, Page 195, Deed Records of Bell County, Texas for corner;
- 26) N. 18° 19' 38" E., 419.06 feet departing the said WS & G Investments lands and with the east boundary line of the said 4.37 acre tract to a 1" iron pipe found being the northeast corner of the said 4.37 acre tract and being the southeast corner of Lot 1, Block 1, Hidden Creek according to the map or plat of record in Year 2017, Plat No. 2, Plat Records of Bell County, Texas for corner;
- 27) N. 18° 07' 58" E., 389.96 feet departing the said 4.37 acre tract and with the east boundary line of the said Block 1, Hidden Creek to a 1/2" iron rod with cap stamped "RPLS 2475" found being the northeast corner of said Lot 1, Block 1, Hidden creek and being the southeast corner of Lot 2, said Block 1 for corner;
- 28) N. 17° 48' 01" E., 914.57 feet continuing with the east boundary line of Block 1, said Hidden Creek to a point being in the east boundary line of Lot 6, said Block 1 and being in the City of Temple City Limit line as shown on said Plat No. 2 for corner;

THENCE S. 78° 26' 17" E., 55.01 feet departing the said Lot 6, Block 1, Hidden Creek and the said west right-of-way line of Hartrick Bluff Road and over and across the said right-of-way of Hartrick Bluff Road and with the said City Limits line to a point being in the east right -of-way line of said Hartrick Bluff Road and being in the west boundary line of those certain WS & G Investments, LP, a Texas limited Partnership and being of record in Document No. 2007-00003469, Official Public Records of Bell County, Texas, LP lands described in the aforementioned Document No. 2007-00003469, Official Public Records of Bell County, Texas for corner;

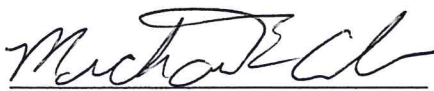
THENCE departing the said City of Temple City Limits line and with the east right-of-way line of Hartrick Bluff Road as occupied and evidenced on the ground the following nineteen (19) calls:

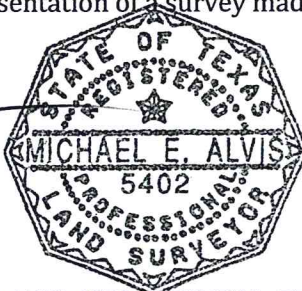
- 1) S. 17° 28' 34" W., 1342.37 feet to a fence corner post found being the southwest corner of the said WS & G Investments lands and being the northwest corner of that certain 35.069 acre tract of land described as TRACT ONE in a Special Warranty Deed dated May 10, 2018 from Anna Porter Martin to WNP Holdings LLC and being of record in Document No. 2018-00030895, Official Public Records of Bell County, Texas for corner;

- 2) S. $18^{\circ} 18' 09''$ W., 1010.78 feet departing the said WS & G Investments lands and with the west boundary line of the said 35.069 acre tract to a fence corner post found for corner;
- 3) S. $18^{\circ} 47' 20''$ W., 112.15 feet continuing with the said west boundary line and continuing with the west boundary line of that certain 38.813 acre tract of land described as TRACT TWO in said Document No. 2018-00030895, Official Public Records of Bell County, Texas to a fence post found for corner;
- 4) S. $17^{\circ} 56' 13''$ W., 521.38 feet continuing with the west boundary line of the said 38.813 acre tract to a fence post found for corner;
- 5) S. $14^{\circ} 04' 50''$ W., 382.93 feet continuing with the west boundary line of the said 38.813 acre tract to a point being the southwest corner of the said 38.813 acre tract and being the northwest corner of that certain tract of land described as Hartrick Valley Estates according to the map or plat of record in Year 2015, Plat No. 135, Plat Records of Bell County, Texas and being at the beginning of a curve to the left having a radius equals 1402.39 feet, chord bearing equals S. $03^{\circ} 40' 13''$ E., 496.74 feet for corner;
- 6) 499.37 feet along the arc of said curve to the left departing the said 38.813 acre tract and with the west boundary line of the said Hartrick Valley Estates to a point being in the west boundary line of Lot 2, Block 2, said Hartrick Valley Estates for corner;
- 7) S. $13^{\circ} 52' 17''$ E., 173.78 feet continuing with the west boundary line of the said Hartrick Valley Estates to a point being at the beginning of a curve to the right having a radius equals 1462.39 feet, chord bearing equals S. $07^{\circ} 41' 26''$ E., 304.65 feet for corner;
- 8) 305.20 feet along the arc of said curve to the right continuing with the west boundary line of the said Hartrick Valley Estates to a point being the southwest corner of the said Hartrick Valley Estates and being the northwest corner of that certain Lot 1, Block 3, Hartrick Estates Subdivision, Phase I according to the map or plat of record in Cabinet C, Slide 26-B, Plat Records of Bell County, Texas and being at the beginning of a curve to the right having a radius equals 1396.80 feet, chord bearing equals S. $01^{\circ} 56' 19''$ W., 212.96 feet for corner;
- 9) 213.17 feet along the arc of said curve to the right departing the said Hartrick Valley Estates and with the west boundary line of the said Lot 1, Block 3, Hartrick Estates Subdivision, Phase I to a point for corner;
- 10) S. $06^{\circ} 23' 05''$ W., 241.61 feet continuing with the west boundary line of the said Hartrick Estates Subdivision, Phase I to a point being the southwest corner of the said Hartrick Estates Subdivision, Phase I and being the northwest corner of that certain called 21.0 acre tract of land described in a General Warranty Deed dated October 21, 2008 from H. Wayne Chupik to H. Wayne Chupik and Barbara Chupik and being of record in Document No. 2008-00043303, Official Public Records of Bell County, Texas for corner;
- 11) S. $13^{\circ} 28' 57''$ W., 434.56 feet departing the said Hartrick Estates Subdivision, Phase I and with the west boundary line of the said called 21.0 acre tract to a point being at the beginning of a curve to the right having a radius equals 439.23 feet, chord bearing equals S. $20^{\circ} 40' 23''$ W., 109.33 feet for corner;
- 12) 109.61 feet along the arc of said curve to the right continuing with the west boundary line of the said called 21.0 acre tract to a point for corner;

- 13) S. 27° 49' 20" W., 189.83 feet continuing with the west boundary line of the said called 21.0 acre tract to a point being at the beginning of a curve to the left having a radius equals 726.21 feet, chord bearing equals S. 11° 45' 45" W., 212.01 feet for corner;
- 14) 212.77 feet along the arc of said curve to the left continuing with the west boundary line of the said called 21.0 acre tract and continuing with the west boundary line of that certain 3.26 acre tract of land described in a Deed dated October 17, 1983 from Henry Wayne Chupik and wife, Barbara Chupik to John M. Baker and wife, Bobbie L. Baker and being of record in Volume 1901, Page 821, Deed Records of Bell County, Texas and continuing with the west boundary line of that certain 34.747 acre tract of land described in a Warranty Deed dated March 28, 2013 from H. Wayne Chupik and Barbara Chupik to Fr. Jose Simon Palliparambil and David Simon and being of record in Document No. 2013-00013763, Official OPublic Records of Bell County, Texas to a point for corner;
- 15) S. 01° 32' 24" W., 560.21 feet continuing with the west boundary line of the said 34.747 acre tract to a 1/2" iron rod with cap stamped "POLLOK" found being the southwest corner of the said 34.747 acre tract and being the northwest corner of the aforementioned 160.05 acre tract for corner;
- 16) S. 00° 15' 08" E., 308.89 feet departing the said 34.747 acre tract and with the west boundary line of the said 160.05 acre tract to a 1/2" iron rod with cap stamped "POLLOK" found being at the beginning of a curve to the right having a radius equals 8533.06 feet, chord bearing equals S. 00° 20' 47" W., 148.83 feet for corner;
- 17) 148.83 feet along the arc of said curve to the right continuing with the west boundary line of the said 160.05 acre tract to a 1/2" iron rod with cap stamped "POLLOK" found for corner;
- 18) S. 01° 19' 09" W., 1127.69 feet continuing with the west boundary line of said 160.05 acre tract to a 1/2" iron rod with cap stamped "POLLOK" found being at the beginning of a curve to the right having a radius equals 3378.16 feet, chord bearing equals s. 04° 12' 08" W., 179.18 feet for corner;
- 19) 179.20 feet along the arc of said curve to the right continuing with the west boundary line of the said 160.05 acre tract to the Point of BEGINNING and containing 12.689 acres of land.

I, Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.


 Michael E. Alvis, R.P.L.S. #5402
 January 24, 2019



THIS PROJECT IS REFERENCED IN NAD 1983, CENTRAL TEXAS STATE PLANE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 541

THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 30' 47"

THE COMBINED CORRECTION FACTOR (CCF) IS 0.999858

PUBLISHED CITY COORDINATES ARE X = 3,216,784.76 Y = 10,341,981.47

THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
N. 66° 23' 57" E., 4808.72 FEET.

GRID DISTANCE = SURFACE DISTANCE X CCF

GEODETIC NORTH = GRID NORTH + THETA ANGLE

FY-19-1-ANX Timeline Short Term Lending—Hartrick Bluff Rd

DATE	ACTION	TIME LIMIT/NOTES
02-07-09	CITY RECEIVES PETITION of landowner to voluntarily annex area to City limits.	
02-21-19 Regular Meeting	COUNCIL ADOPTS RESOLUTION <ol style="list-style-type: none"> 1. Granting petition (14 days after petition filed) 2. Directing staff to develop service plans; and 3. Setting dates, times, places for public hearings 	
02-28-19	CITY SECRETARY MAILS NOTICE TO <ol style="list-style-type: none"> 1. Property owners 2. Public and private service entities 3. Railroads <i>35th day before 1st hearing</i>	
03-22-19	CITY SECRETARY SENDS NOTICE TO Public school districts located in annexation area <i>13th day before 1st public hearing</i>	
03-24-19	CITY SECRETARY PUBLISHES NOTICES FOR PUBLIC HEARINGS ON ANNEXATION Posts notice on City website Publishes notice in Telegram <i>11th day before 1st public hearing</i> <i>12th day before 2nd public hearing</i>	
04-03-19	RESIDENTS' LAST DATY TO FILE PROTEST <i>10th day after publication of hearing notice</i>	
04-04-19 Regular Meeting	COUNCIL HOLDS 1ST PUBLIC HEARING Staff presents service plan <i>28 days before 1st reading</i>	
04-05-19 Special meeting	COUNCIL HOLDS 2ND PUBLIC HEARING Staff presents service plan <i>27th before 1st reading</i>	
05-02-19 Regular meeting	COUNCIL CONSIDERS ANNEXATION ORDINANCE ON 1ST READING & HOLDS PUBLIC HEARING	
05-16-19 Regular meeting	COUNCIL CONSIDERS ANNEXATION ORDINANCE ON 2ND READING <i>14 days from 1st reading</i>	

ORDINANCE NO. 2019-4963
(FY-19-1-ANX)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE VOLUNTARY ANNEXATION OF APPROXIMATELY 185.277 ACRES OF LAND, WHICH INCLUDES AN APPROXIMATELY 160.047 ACRE TRACT AND AN APPROXIMATELY 12.541-ACRE TRACT, OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, AND APPROXIMATELY 12.689 ACRES OF RIGHT-OF-WAY OF HARTRICK BLUFF ROAD, IN BELL COUNTY, TEMPLE, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Short Term Lending G.P, Inc. filed a petition on February 7, 2019 seeking voluntary annexation of approximately 185.277 acres of land, which includes an approximately 160.047 acre tract, an approximately 12.541-acre tract, and an approximately 12.689 acres of right-of-way of Hartrick Bluff Road and being more particularly described in Exhibit ‘A’ and Exhibit ‘B,’ which are attached hereto and incorporated herein for all purposes;

Whereas, voluntary annexation is governed by Chapter 43 of the Texas Local Government Code and under Section 43.028(a) a property owner may petition the City for voluntary annexation if the property to be annexed is: (1) one-half mile or less in width; (2) contiguous to the annexing city; and (3) is vacant and without residents or on which fewer than three qualified voters reside - subsection (g) of Section 43.028 states that property may be annexed even if the contiguity requirement is not met, as long as a public right-of-way of a road or highway designated by the municipality exists that (1) is located entirely in the extraterritorial jurisdiction of the municipality; and (2) when added to the area would cause the area to be contiguous to the municipality;

Whereas, the approximately 160.047-acre and approximately 12.541-acre tracts proposed for annexation are not contiguous to the city limits, however, with the addition of approximately 12.689 acres of right-of-way known as Hartrick Bluff Road, the requirements of Section 43.028(g) are satisfied;

Whereas, pursuant to Chapter 43 of the Local Government Code, the City has completed the following steps during the voluntary annexation process:

1. February 21, 2019 - City Council resolution adopted to direct Staff to develop the Municipal Service Plan;
2. April 4, 2019 - Public Hearing No. 1; and
3. April 5, 2019 – Public Hearing No. 2;

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 the voluntary annexation of approximately 185.277 acres of land, which includes an approximately 160.047-acre tract and an approximately 12.541-acre tract, out of the Maximo Moreno Survey, Abstract No. 14, and approximately 12.689 acres of right-of-way of Hartrick Bluff Road, Bell County, Texas more particularly described in Exhibit A and Exhibit B.

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

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

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance 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 **2nd** day of **May**, 2019.

PASSED AND APPROVED on Second Reading on the **16th** day of **May**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Lacy Borgeson
City Secretary

Charla Thomas
Assistant City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/02/19
Item #7
Regular Agenda
Page 1 of 2

DEPT. / DIVISION SUBMISSION & REVIEW:

Lynn Barrett, Assistant Director of Planning

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-2-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 119.827+/- acres of land, which includes a 118.560-acre tract out of the Maximo Moreno Survey, Abstract No. 14, and 1.267 acres of right-of-way of Haymarket Drive, Bell County, Texas.

STAFF RECOMMENDATION: Approve as presented and schedule Second Reading for Thursday, May 16, 2019 at 5:00 P.M. in the City Council Chambers.

ITEM SUMMARY: Short Term Lending G.P., Inc. filed a petition on February 7, 2019, seeking voluntary annexation of 119.827 acres of land, which includes a 118.560-acre tract and 1.267 acres of right-of-way of Haymarket Drive and being more particularly described as Exhibit A and Exhibit B.

Voluntary annexation is governed by Chapter 43 of the Texas Local Government Code. Under Section 43.028(a) a property owner may petition the City for voluntary annexation if the property to be annexed is: (1) one-half mile or less in width; (2) contiguous to the annexing city; and (3) is vacant and without residents or on which fewer than three qualified voters reside. Subsection (g) of Section 43.028 states that property may be annexed even if the contiguity requirement is not met, as long as a public right-of-way of a road or highway designated by the municipality exists that (1) is located entirely in the extraterritorial jurisdiction of the municipality; and (2) when added to the area would cause the area to be contiguous to the municipality.

The 118.560-acre tract proposed for annexation is not contiguous to the city limits. However, with the addition of 1.267 acres of right-of-way known as Haymarket Drive, the requirements of Section 43.028(g) are satisfied.

Pursuant to Chapter 43 of the Local Government Code, the City has completed the following steps during the annexation process:

1. February 21, 2019 – City Council resolution adopted to direct staff to develop the Municipal Service Plan
2. April 4, 2019 – Municipal Service Plan Public Hearing #1
3. April 5, 2019 – Municipal Service Plan Public Hearing #2

The applicant has requested a rezoning of the subject property. The planned development rezoning case FY-19-13-ZC with staff recommendations for PD-SF-2 zoning designation and a site development plan is scheduled to follow the second reading of the annexation request on May 16th, if the annexation is approved. The PD rezoning ordinance second reading is scheduled for June 6th, 2019, if both items are approved at the May 16th meeting.

FISCAL IMPACT: The Applicant has requested to enter into a developer participation agreement with the City for water and waste water extension to the property. Staff will present this request to Council if the property is annexed.

ATTACHMENTS:

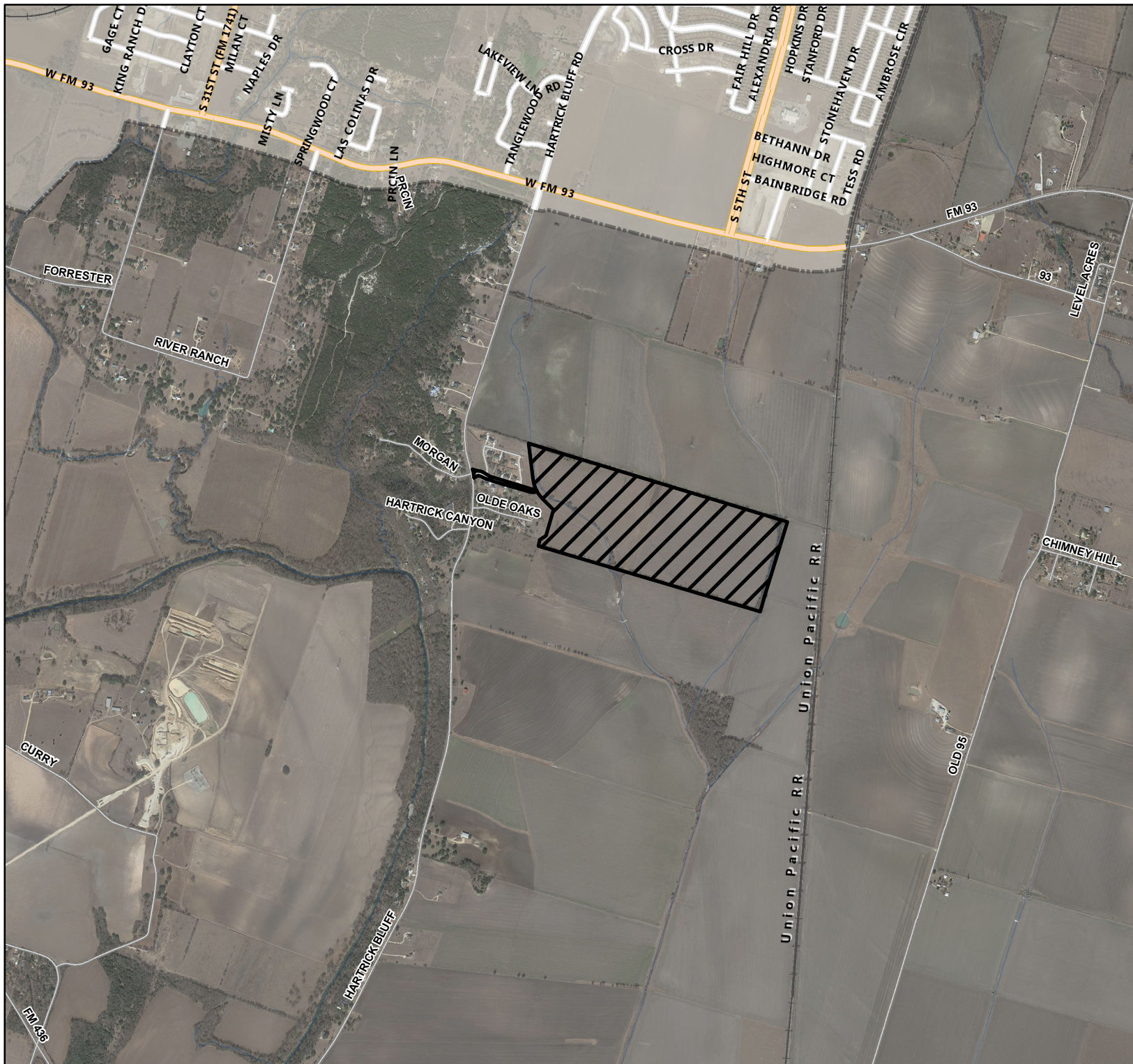
[Vicinity Map](#)
[Municipal Service Plan](#)
[Field Notes of Proposed Annexation Area \(Exhibit A\)](#)
[Survey of Proposed Annexation Area \(Exhibit B\)](#)
[Voluntary Annexation Schedule](#)
[Ordinance](#)

Annexation

AERIAL MAP

FY-19-2-ANX

Hartrick Ranch Estates



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.



This project is referenced in nad 1983, central texas state plane. All distances are horizontal surface distances unless noted and all bearings are grid bearings.

All coordinate values are referenced to city monument number 541

The theta angle at said city monument is $01^{\circ} 30' 47''$

The combined correction factor (ccf) is 0.999858

Published city coordinates are $X = 3,216,784.76$ $y = 10,341,981.47$

True tie from the above city monument to the POINT OF BEGINNING (POB) IS

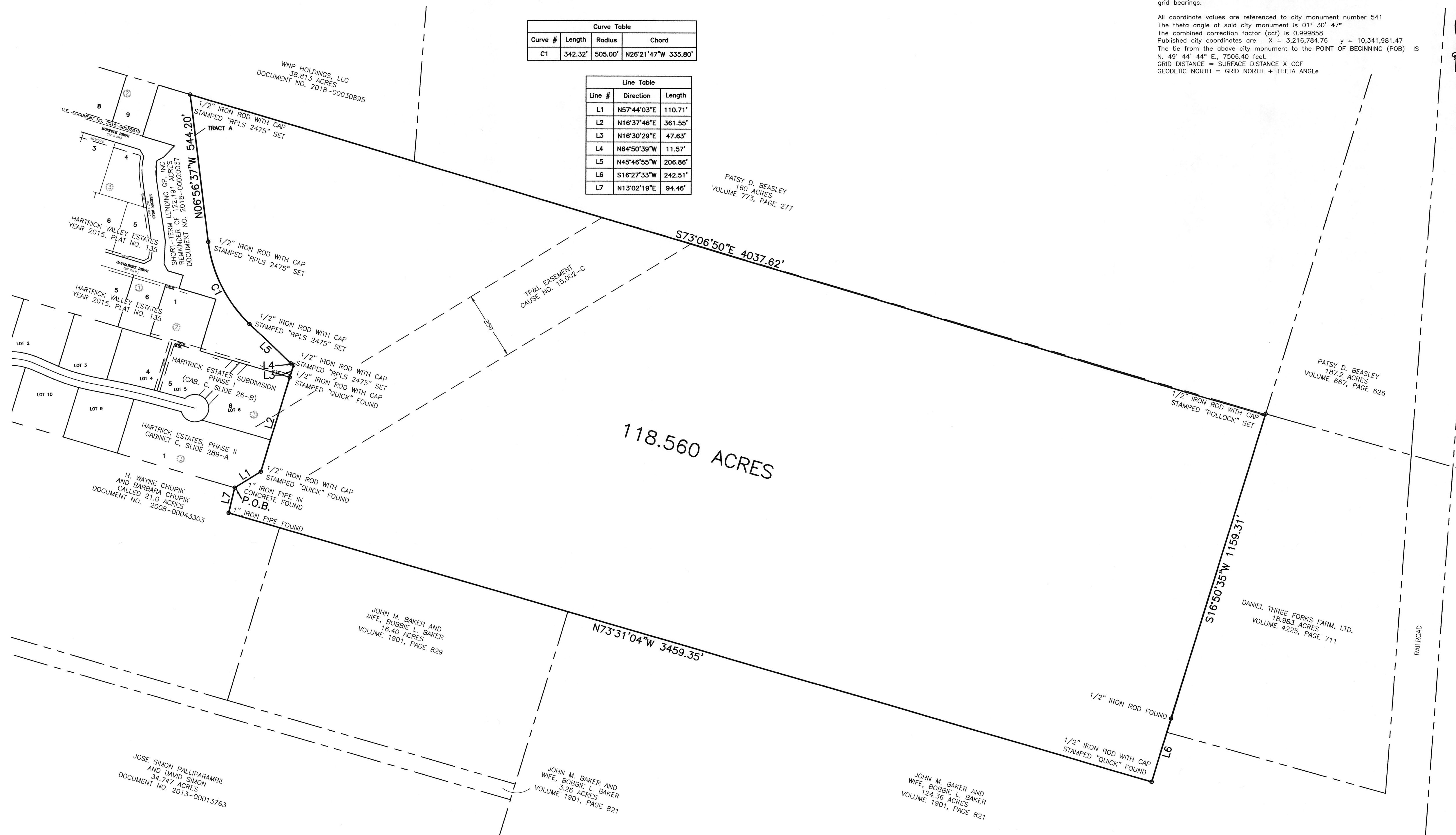
$N 49^{\circ} 44' 44'' E$ 7506.40 feet

GRID DISTANCE = SURFACE DISTANCE X CCF

GEODETIC NORTH = GRID NORTH + THETA ANGLE

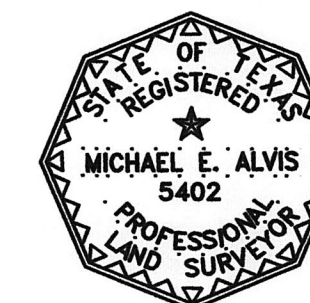
Line Table		
Line #	Direction	Length
L1	N57°44'03"E	110.71'
L2	N16°37'46"E	361.55'
L3	N16°30'29"E	47.63'
L4	N64°50'39"W	11.57'
L5	N45°46'55"W	206.86'
L6	S16°27'33"W	242.51'
L7	N13°02'19"E	94.46'

PATSY D. BEASLEY
160 ACRES
VOLUME 773, PAGE 277



THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE INSURANCE POLICY AND NO FURTHER EASEMENT RESEARCH WAS PERFORMED BY THIS COMPANY.

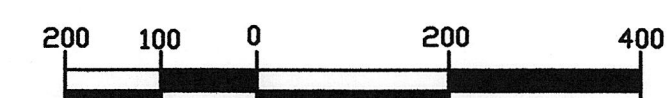
BEING a 118.560 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of the remainder of that certain 122.191 acre tract of land described in a Correction Affidavit dated April 23, 2018 from JDUS Investments, Inc. to Short-Term Lending Gp, Inc and being of record in Document No. 2018-00020037, Official Public 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.

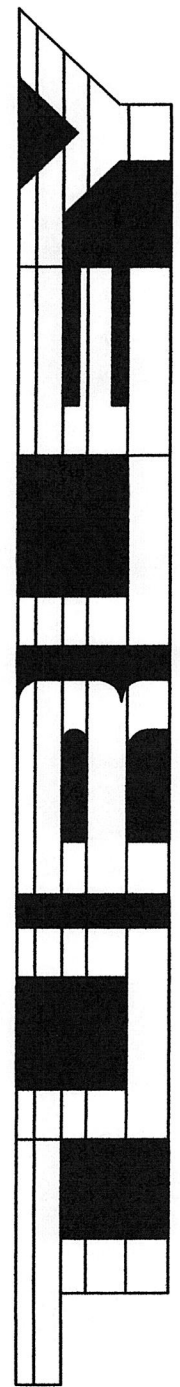
IN WITNESS THEREOF, my hand and seal, this the 30th day of January 2019.

Michael E. Alvis, R.P.L.S., No. 5402

[illegible]

DRAFTSMAN:	
MGM	
DATE:	
1/30/2019	
COMPUTER FILE NAME:	
18-666 Boundary.dwg	
REFERENCE DRAWING NUMBERS:	

18-666
DRAWING NUMBER:
18666-D



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SURVEY OF:
118.560 ACRES
MAXIMO MORENO SURVEY
ABSTRACT No. 14
BELL COUNTY, TEXAS

PREPARED FOR:
KIELLA DEVELOPERS

CITY OF TEMPLE
ANNEXATION SERVICE PLAN—VOLUNTARY ANNEXATION
Along Haymarket Drive (FY-19-2-ANX)

For 119.827 acres of land, which includes a 118.560-acre tract out of the Maximo Moreno Survey, Abstract No. 14, and 1.267 acres of right-of-way of Haymarket Drive, and being more particularly described as Exhibit A (Field Notes) and depicted as Exhibit B (Survey) of the Annexation Ordinance (2019-####).

SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

The City will provide protection to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City, with the same or similar topography, land use and population density.

2. FIRE PROTECTION AND AMBULANCE SERVICE

The City will provide fire protection to the newly-annexed area at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density. The City will provide First Responder services through its Fire Department and contract for emergency medical services (EMS) through American Medical Response dba Temple EMS.

3. SOLID WASTE COLLECTION

Upon payment of any required deposits and the agreement to pay lawful service fees and charges, solid waste collection will be provided to the newly-annexed area to the extent that the City has access to the area to be serviced. Private contractors currently providing sanitation collecting services in the area may continue to do so for up to two years.

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

Any and all water or wastewater facilities owned or maintained by the City at the time of the proposed annexation shall continue to be maintained by the City. Any and all water or wastewater facilities which may be acquired subsequent to the annexation of the proposed area shall be maintained by the City, to the extent of its ownership. Any and all water or wastewater facilities owned by other water or wastewater treatment providers shall continue to be allowed to provide those services to the newly-annexed tract.

5. MAINTENANCE OF ROADS AND STREETS

Any and all public roads, streets or alleyways which have been dedicated to the City, or which are owned by the City, shall be maintained to the same degree and extent that other roads, streets and alleyways are maintained in areas with similar topography, land use and population density. Any and all lighting of roads, streets and alleyways which may be positioned in a right-of-way, roadway or utility company easement shall be maintained by the applicable utility company servicing the City, pursuant to the rules, regulations and fees of such utility.

6. MAINTENANCE OF PUBLIC PARKS, PLAYGROUNDS AND SWIMMING POOLS

The City Council is not aware of the existence of any public parks, playgrounds or swimming pools now located in the area proposed for annexation. In the event any such parks, playgrounds or swimming pools do exist and are public facilities, the City, will maintain such areas to the same extent and degree that it maintains parks, playgrounds and swimming pools and other similar areas of the City now incorporated in the City.

7. MAINTENANCE OF MUNICIPALLY-OWNED FACILITY, BUILDING OR MUNICIPAL SERVICE

The City Council is not aware of the existence of any publicly-owned facility, building or other municipal service now located in the area proposed for annexation. In the event any such publicly-owned facility, building or municipal service does exist and are public facilities, the City will maintain such areas to the same extent and degree that it maintains publicly-owned facilities, buildings or municipal services of the City now incorporated in the City.

8. INSPECTIONS

The City will provide building inspection services upon approved building permits from the City to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

9. CODE ENFORCEMENT

The City will provide code enforcement services to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

10. MOWING

The City will provide right-of-way mowing services adjacent to the newly-annexed tract at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

The City Council finds and determines it to be unnecessary to acquire or construct any capital improvements for the purposes of providing police protection, fire protection, or emergency medical services. The City Council finds and determines that it has at the present time adequate facilities to provide the same type, kind and level of protection and service which is presently being administered to other areas already incorporated in the City with the same or similar topography, land use and population density.

2. ROADS AND STREETS

The City will undertake to provide the same degree of road and street lighting as is provided in areas of the same or similar topography, land use and population density within the present corporate limits

of the City. Maintenance of properly dedicated roads and streets will be consistent with the maintenance provided by the City to other roads and streets in areas of similar topography, land use and subdivision development of the annexed property. Developers will be required, pursuant to the ordinances of the City to provide internal and peripheral streets and to construct those streets in accordance with the specifications required by the City for the properly dedicated street. City participation in capital expenditures will be in accordance with City policies.

3. WATER AND WASTEWATER FACILITIES

The City of Temple has water facilities along Haymarket Drive. The Applicant has requested to enter into a developer participation agreement with the City for water extension to the property. Staff will present this request to Council if the property is annexed.

Currently, there are no wastewater treatment providers within the boundaries of the voluntary annexation and property owners rely on on-site sewage facilities (septic systems). The Applicant has requested to enter into a developer participation agreement with the City for wastewater extension to the property. Staff will present this request to Council if the property is annexed.

4. CAPITAL IMPROVEMENTS

Notwithstanding any other provision of this service plan, a landowner within the newly annexed area will not be required to fund capital improvements as necessary for municipal services in a manner inconsistent with Chapter 395 of the Local Government Code, unless otherwise agreed to by the landowner.

SPECIFIC FINDINGS

The City Council finds and determines that this proposed Service Plan will not provide any fewer services, and it will not provide a lower level of service in the area proposed to be annexed than were in existence in the proposed area at the time immediately preceding the annexation process.

Because of the differing characteristics of topography, land utilization and population density, the service levels which may ultimately be provided in the newly annexed area may differ somewhat from services provided in other areas of the City. These differences are specifically dictated because of differing characteristics of the property and the City will undertake to perform consistent with this contract so as to provide the newly-annexed area with the same type, kind and quality of service presently enjoyed by the citizens of the City who reside in areas of the same or similar topography, land utilization and population density.

APPROVED ON THIS _____ DAY OF _____, 2019.

City of Temple, Texas

Mayor

ATTEST:

City Secretary

BEING a 118.560 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of the remainder of that certain 122.191 acre tract of land described in a Correction Affidavit dated April 23, 2018 from JDJS Investments, Inc. to Short-Term Lending Gp, Inc and being of record in Document No. 2018-00020037, Official Public Records of Bell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1" iron pipe in concrete found being in the west boundary line of the said remainder 122.191 acre tract and being the most southerly southeast corner of Lot 1, Block 3, Hartrick Estates Subdivision, Phase II according to the map or plat of record in Cabinet C, Slide 289-A, Plat Records of Bell County, Texas and being the most northerly northeast corner of that certain called 21.0 acre tract of land described in a Warranty Deed dated October 21, 2008 from H. Wayne Chupik to H. Wayne Chupik and Barbara Chupik and being of record in Document No. 2008-00043303, Official Public Records of Bell County, Texas for corner;

THENCE N. 57° 44' 03" E., 110.71 feet departing the said 21.0 acre tract and with the east boundary line of the said Lot 1, Block 3 and with the said west boundary line to a 1/2" iron rod with cap stamped "QUICK" found being the most easterly southeast corner of the said Lot 1, Block 3 and being an angle point on the said west boundary line for corner;

THENCE N. 16° 37' 46" E., 361.55 feet with the east boundary line of the said Lot 1, Block 3 and continuing with the east boundary line of that certain Lot 6, Block 3, Hartrick Estates Subdivision, Phase I according to the map or plat of record in Cabinet C, Slide 26-B, Plat Records of Bell County, Texas and continuing with the said west boundary line to a 1/2" iron rod with cap stamped "QUICK" found being the northeast corner of the said Lot 6, Block 3, Hartrick estates Subdivision, Phase I and being an ell corner in the said west boundary line for corner;

THENCE departing the said Lot 6, Block 3, Hartrick Estates Subdivision, Phase I and the said west boundary line and over and across the said remainder 122.191 acre tract the following five (5) calls:

- 1) N. 16° 30' 29" E., 47.63 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;
- 2) N. 64° 50' 39" W., 11.57 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;
- 3) N. 45° 46' 55" W., 206.86 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set being at the beginning of a curve to the right having a radius equals 505.00 feet, chord bearing equals N. 26° 21' 47" W., 335.80 feet for corner;
- 4) 342.32 feet along the arc of said curve to the right to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;
- 5) N. 06° 56' 37" W., 544.20 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set being in the north boundary line of the said remainder 122.191 acre tract and being in the south boundary line of that certain 38.813 acre tract of land described in a Gift Deed dated May 10, 2018 from Anna G. Martin to WNP Holdings, LLC and being of record in Document No. 2018-00030895, Official Public Records of Bell County, Texas for corner;

THENCE S. 73° 06' 50" E., 4037.62 feet with the north boundary line of the said remainder 122.191 acre tract and with the south boundary line of the said 38.813 acre tract and continuing with the south boundary line of that certain 160 acre tract of land standing in the name of Patsy Beasley and being of record in Volume 773, Page 277, Deed Records of Bell County, Texas to a 1/2" iron rod with cap stamped "POLLOK" found being the northeast corner of the said remainder 122.191 acre tract and being the southeast corner of the said 160 acre tract and being the southwest corner of that certain 187.2 acre tract of land standing in the name of Patsy Beasley and being of record in Volume 667, Page 626, Deed

Records of Bell County, Texas and being the northwest corner of that certain 18.983 acre tract of land standing in the name of Daniel Three Forks Farm, Ltd. and being of record in Volume 4225, Page 711, Official Public Records of Bell County, Texas for corner;

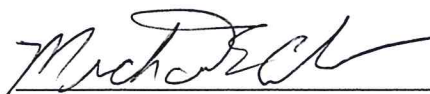
THENCE S. 16° 50' 35" W., 1159.31 feet departing the said 160 acre tract and the said 187.2 acre tract and with the east boundary line of the said remainder 122.191 acre tract and with the west boundary line of the said 18.983 acre tract to a 1/2" iron rod found being the southwest corner of the said 18.983 acre tract and being an ell corner of that certain 124.36 acre tract of land standing in the name of John M. Baker and being of record in Volume 1901, Page 821, Deed Records of Bell County, Texas for corner;

THENCE S. 16° 27' 33" W., 242.51 feet departing the said 18.983 acre tract and with the west boundary line of the said 124.36 acre tract and continuing with the said east boundary line and continuing with a west boundary line of that certain 124.36 acre tract of land standing in the name of John M. Baker and being of record in Volume 1901, Page 821, Deed Records of Bell County, Texas to a 1/2" iron rod with cap stamped "QUICK" found being the southeast corner of the said remainder 122.191 acre tract and being an ell corner of the said 124.36 acre tract for corner;

THENCE N. 73° 31' 04" W., 3459.35 feet with the south boundary line of the said remainder 122.191 acre tract and with the north boundary line of the said 124.36 acre tract and continuing with the north boundary line of that certain 16.40 acre tract of land standing in the name of John M. Baker and wife, Bobbie L. Baker and being of record in Volume 1901, Page 829, Deed Records of Bell County, Texas and continuing with the north boundary line of the aforementioned 21.0 acre tract to a 1" iron pipe found being the southwest corner of the said remainder 122.191 acre tract and being an ell corner of the said 21.0 acre tract for corner;

THENCE N. 13° 02' 19" E., 94.46 feet with the west boundary line of the said remainder 122.191 acre tract and with the east boundary line of the said 21.0 acre tract to the Point of BEGINNING and containing 118.560 acres of land.

I, Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.


Michael E. Alvis, R.P.L.S. #5402
January 23, 2019



THIS PROJECT IS REFERENCED IN NAD 1983, CENTRAL TEXAS STATE PLANE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 541
THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 30' 47"
THE COMBINED CORRECTION FACTOR (CCF) IS 0.999858
PUBLISHED CITY COORDINATES ARE X = 3,216,784.76 Y = 10,341,981.47
THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
N. 49° 44' 44" E., 7506.40 FEET.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

BEING a 1.267 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being all of the existing right-of-way of Haymarket Drive (a publicly maintained roadway) as described on the map or plat of Hartrick Valley Estates being of record in Year 2015, Plat No. 135, Plat Records of Bell County, Texas and being a part or portion of that certain remainder 122.191 acre tract of land described in a Warranty Deed to Short-Term Lending Gp, Inc. and being of record in Document No. 2018-00020037, Official Public Records of Bell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with cap stamped "ACS" found being the southwest corner of the right-of-way line of said Haymarket Drive and being in the east right-of-way line of Hartrick Bluff Road (a publicly maintained roadway) and being the northwest corner of Tract B as described in said Plat No. 135 and being at the beginning of a curve to the left having a radius equals 1462.39 feet, chord bearing equals N. 11° 08' 43" W., 128.81 feet for corner;

THENCE departing the said Tract B and with the west boundary line of the said Hartrick Valley Estates and with the said east right-of-way line the following two (2) calls:

- 1) 128.85 feet along the arc of said curve to the left to a 1/2" iron rod with cap stamped "ACS: found for corner;
- 2) N. 13° 52' 17" W., 1.91 feet to a 1/2" iron rod with cap stamped "ACS" found being the northwest corner of the right-of-way of said Haymarket Drive and being the southwest corner of Tract A as described in said Plat No. 135 for corner;

THENCE departing the said east right-of-way line and with the north right-of-way line of the said Haymarket Drive and continuing over and across the said remainder 122.191 acre tract the following nine (9) calls:

- 1) S. 73° 47' 02" E., 98.58 feet to a 1/2" iron rod with cap stamped "ACS" found being in the south boundary line of Lot 1, Block 2, said Hartrick Valley Estates and being at the beginning of a curve to the right having a radius equals 245.00 feet, chord bearing equals S. 74° 23' 21" E., 57.32 feet for corner;
- 2) 57.45 feet along the arc of said curve to the right continuing with the said south boundary line to a 1/2" iron rod with cap stamped "ACS" found for corner;
- 3) S. 67° 40' 16" E., 24.64 feet to a 1/2" iron rod with cap stamped "ACS" found being the most southerly southeast corner of the said Lot 1, Block 2 for corner;
- 4) S. 55° 28' 04" E., 91.96 feet to a 1/2" iron rod with cap stamped "ACS" found being the most southerly southwest corner of Lot 8, Block 3, said Hartrick Valley Estates and being at the beginning of a curve to the left having a radius equals 975.00 feet, chord bearing equals S. 71° 28' 03" E., 63.01 feet for corner;
- 5) 63.02 feet along the arc of said curve to the left to a 1/2" iron rod with cap stamped "ACS" found being in the south boundary line of the said Lot 8, Block 3 for corner;
- 6) S. 73° 19' 09" E., 569.38 feet to a point being at the beginning of a curve to the left having a radius equals 175.00 feet, chord bearing equals S. 88° 05' 59" E., 89.29 feet for corner;
- 7) 90.29 feet along the arc of said curve to the left to a point being at the beginning of a curve to the left having a radius equals 505.00 feet, chord bearing equals S. 25° 57' 15" E., 51.03 feet for corner;



- 8) 51.05 feet along the arc of said curve to the left to a point being at the beginning of a curve to the right having a radius equals 225.00 feet, chord bearing equals N. 89° 34' 12" W., 125.93 feet for corner;
- 9) 127.63 feet along the arc of said curve to the right to a point being in the north boundary line of Lot 7, Block 1, said Hartrick Valley Estates for corner;

THENCE with the south right-of-way line of said Haymarket Drive the following five (5) calls:

- 1) N. 73° 19' 09" W., 569.38 feet to a ½"] iron rod with cap stamped "ACS" found being in the north boundary line of Lot 2, Block 1, said Hartrick Valley Estates and being at the beginning of a curve to the right having a radius equals 1025.00 feet, chord bearing equals N. 70° 29' 43" W., 101.00 feet for corner;
- 2) 101.04 feet along the arc of said curve to the right to a 1/2" iron rod with cap stamped "ACS" found being in the north boundary line of said Lot 2, Block 1 for corner;
- 3) N. 67° 40' 16" W., 81.43 feet to a 1/2" iron rod with cap stamped "ACS" found being in the north boundary line of Lot 1, said Block 1 and being at the beginning of a curve to the left having a radius equals 175.00 feet, chord bearing equals N. 74° 23' 22" W., 40.94 feet for corner;
- 4) 41.04 feet along the arc of said curve to the left to a 1/2" iron rod with cap stamped "ACS" found being the most northerly northwest corner of the said Lot 1, Block 1 for corner;
- 5) S. 61° 39' 16" W., 66.44 feet to the Point of BEGINNING and containing 1.267 acres of land.

I, Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.



Michael E. Alvis
 Michael E. Alvis, R.P.L.S. #5402
 February 5, 2019

THIS PROJECT IS REFERENCED IN NAD 1983 CENTRAL TEXAS STAAE PLANE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 541
 THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 30' 47"
 THE COMBINED CORRECTION FACTOR (CCF) IS 0.999858
 PUBLISHED CITY COORDINATES ARE X = 3,216,784.76 Y = 10,341,981.47
 THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
 N. 39° 25' 28" E., 7479.79 FEET.
 GRID DISTANCE = SURFACE DISTANCE X CCF
 GEODETIC NORTH = GRID NORTH + THETA ANGLE



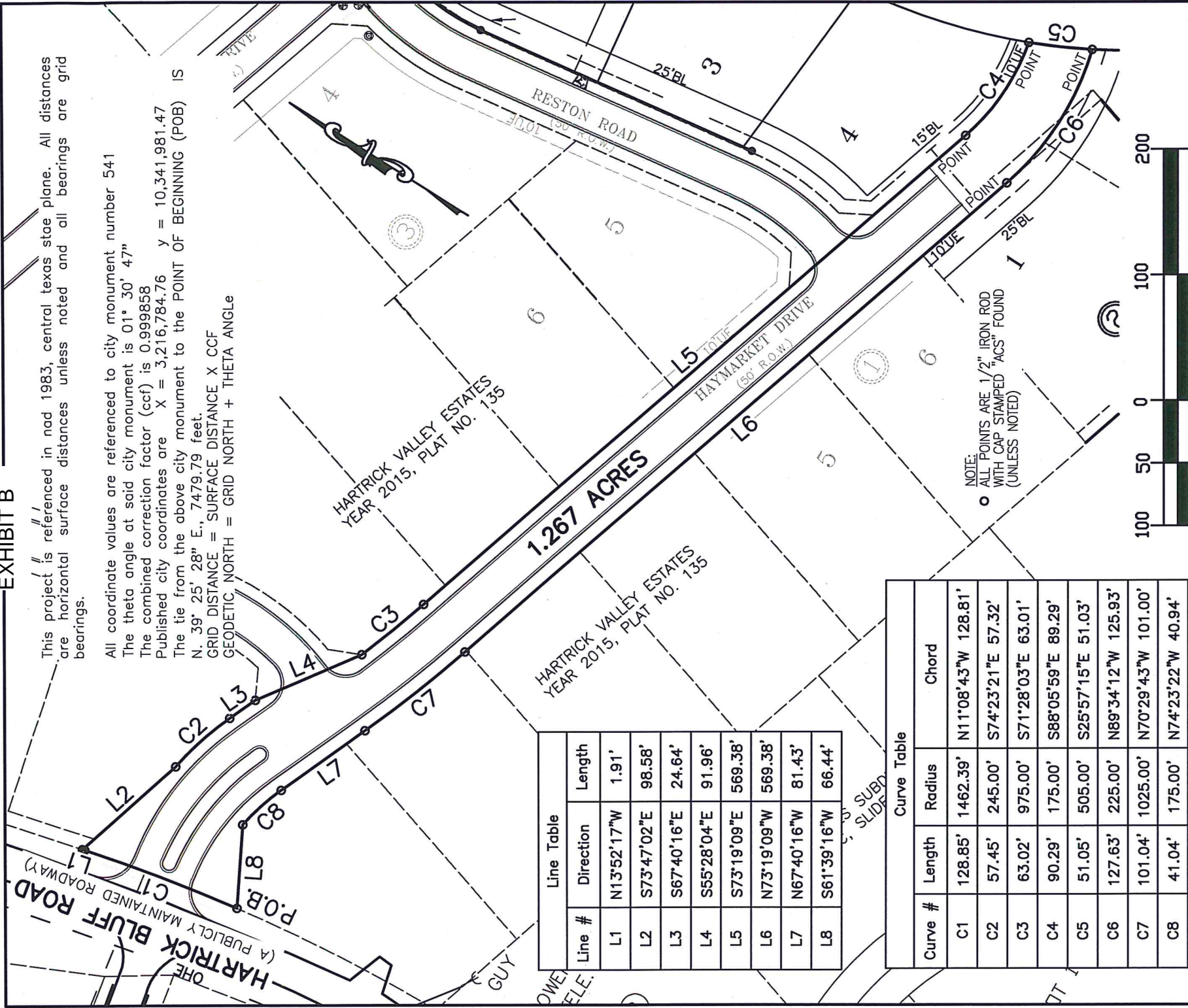
TURLEY ASSOCIATES, INC.

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This project is referenced in nad 1983, central texas stae plane. All distances are horizontal surface distances unless noted and all bearings are grid bearings.

All coordinate values are referenced to city monument number 541
The theta angle at said city monument is 01° 30' 47"
The combined correction factor (ccf) is 0.999858
Published city coordinates are X = 3,216,784.76 Y = 10,341,981.47
The tie from the above city monument to the POINT OF BEGINNING (POB) IS
N. 39° 25' 28" E., 7479.79 feet.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE



Line Table		
Line #	Direction	Length
L1	N13°52'17"W	1.91'
L2	S73°47'02"E	98.58'
L3	S67°40'16"E	24.64'
L4	S55°28'04"E	91.96'
L5	S73°19'09"E	569.38'
L6	N73°19'09"W	569.38'
L7	N67°40'16"W	81.43'
L8	S61°39'16"W	66.44'

Curve Table			
Curve #	Length	Radius	Chord
C1	128.85'	1462.39'	N11°08'43"W 128.81'
C2	57.45'	245.00'	S74°23'21"E 57.32'
C3	63.02'	975.00'	S71°28'03"E 63.01'
C4	90.29'	175.00'	S88°05'59"E 89.29'
C5	51.05'	505.00'	S25°57'15"E 51.03'
C6	127.63'	225.00'	N89°34'12"W 125.93'
C7	101.04'	1025.00'	N70°29'43"W 101.00'
C8	41.04'	175.00'	N74°23'22"W 40.94'

BEING a 1.267 acre tract of land more particularly described by separate field notes.

THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE INSURANCE POLICY AND NO FURTHER EASEMENT RESEARCH WAS PERFORMED BY THIS COMPANY.

BEING a 1.267 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being all of the existing right-of-way of Haymarket Drive (a publicly maintained roadway) as described on the map or plat of Hartrick Valley Estates being of record in Year 2015,Plat No. 135, Plat Records of Bell County, Texas.



STATE OF TEXAS KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis, 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.

COUNTY OF BELL

IN WITNESS THEREOF, my hand and seal, this the 6th day of February 2019.

Michael E. Alvis

Michael E. Alvis, R.P.L.S., No. 5402



301 N. 3rd St.
Temple, Texas 76501
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FY-19-2-ANX Timeline Short Term Lending—Haymarket Drive

DATE	ACTION	TIME LIMIT/NOTES
02-07-09	CITY RECEIVES PETITION of landowner to voluntarily annex area to City limits.	
02-21-19 Regular Meeting	COUNCIL ADOPTS RESOLUTION <ol style="list-style-type: none"> 1. Granting petition (14 days after petition filed) 2. Directing staff to develop service plans; and 3. Setting dates, times, places for public hearings 	
02-28-19	CITY SECRETARY MAILS NOTICE TO <ol style="list-style-type: none"> 1. Property owners 2. Public and private service entities 3. Railroads <i>35th day before 1st hearing</i>	
03-22-19	CITY SECRETARY SENDS NOTICE TO Public school districts located in annexation area <i>13th day before 1st public hearing</i>	
03-24-19	CITY SECRETARY PUBLISHES NOTICES FOR PUBLIC HEARINGS ON ANNEXATION Posts notice on City website Publishes notice in Telegram <i>11th day before 1st public hearing</i> <i>12th day before 2nd public hearing</i>	
04-03-19	RESIDENTS' LAST DAY TO FILE PROTEST <i>10th day after publication of hearing notice</i>	
04-04-19 Regular Meeting	COUNCIL HOLDS 1ST PUBLIC HEARING Staff presents service plan <i>28 days before 1st reading</i>	
04-05-19 Special meeting	COUNCIL HOLDS 2ND PUBLIC HEARING Staff presents service plan <i>27th before 1st reading</i>	
05-02-19 Regular meeting	COUNCIL CONSIDERS ANNEXATION ORDINANCE ON 1ST READING & HOLDS PUBLIC HEARING	
05-16-19 Regular meeting	COUNCIL CONSIDERS ANNEXATION ORDINANCE ON 2ND READING <i>14 days from 1st reading</i>	

ORDINANCE NO. 2019-4964
(FY-19-2-ANX)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE VOLUNTARY ANNEXATION OF APPROXIMATELY 119.827 ACRES OF LAND, WHICH INCLUDES AN APPROXIMATELY 118.560 ACRE TRACT, OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, AND APPROXIMATELY 1.267 ACRES OF RIGHT-OF-WAY OF HAYMARKET DRIVE, IN BELL COUNTY, TEMPLE, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Short Term Lending G.P, Inc. filed a petition on February 7, 2019 seeking voluntary annexation of approximately 119.827 acres of land, which includes an approximately 118.560-acre tract and approximately 1.267 acres of right of way of Haymarket Drive and being more particularly described in Exhibit ‘A’ and Exhibit ‘B,’ which are attached hereto and incorporated herein for all purposes;

Whereas, voluntary annexation is governed by Chapter 43 of the Texas Local Government Code and under Section 43.028(a) a property owner may petition the City for voluntary annexation if the property to be annexed is: (1) one-half mile or less in width; (2) contiguous to the annexing city; and (3) is vacant and without residents or on which fewer than three qualified voters reside - subsection (g) of Section 43.028 states that property may be annexed even if the contiguity requirement is not met, as long as a public right-of-way of a road or highway designated by the municipality exists that (1) is located entirely in the extraterritorial jurisdiction of the municipality; and (2) when added to the area would cause the area to be contiguous to the municipality;

Whereas, the approximately 118.560-acre tract proposed for annexation is not contiguous to the City limits, however, with the addition of approximately 1.267 acres of right-of-way known as Haymarket Drive, the requirements of Section 43.028(g) are satisfied;

Whereas, pursuant to Chapter 43 of the Local Government Code, the City has completed the following steps during the voluntary annexation process:

1. February 21, 2019 - City Council resolution adopted to direct staff to develop the Municipal Service Plan;
2. April 4, 2019 - Public Hearing No. 1; and
3. April 5, 2019 – Public Hearing No. 2;

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 the voluntary annexation of approximately 119.827 acres of land, which includes an approximately 118.560-acre tract out of the Maximo Moreno Survey, Abstract No. 14, and approximately 1.267 acres of right-of-way of Haymarket Drive, Bell County, Texas, more particularly described in Exhibit A and Exhibit B.

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

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

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance 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 **2nd** day of **May**, 2019.

PASSED AND APPROVED on Second Reading on the **16th** day of **May**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Lacy Borgeson
City Secretary

Charla Thomas
Assistant City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

05/02/19
Item #8
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION REVIEW:

Mark Baker, Principal Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-11-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural zoning district to General Retail zoning district on 1.554 +/- acres, situated in the J.J. Simmons, Survey Abstract No. 737, Bell County, Texas, addressed as 5018 State Highway 317.

PLANNING & ZONING COMMISSION RECOMMENDATION: During their April 1, 2019 Planning & Zoning Commission meeting, impacts from some of the more objectionable or intense general retail uses were discussed and their impacts upon the adjacent residential uses.

In an effort to reduce the impacts from some of the more intense or undesirable uses that are permitted in the GR district, the Planning & Zoning Commission voted 8 to 0 to recommend Neighborhood Service (NS).

STAFF RECOMMENDATION: Staff recommends approval for a rezoning from AG to GR district for the following reasons:

1. The proposed GR zoning is compatible with surrounding zoning, existing and anticipated uses as well as future growth trends in the area;
2. The proposal is in compliance with the Thoroughfare Plan; and
3. Public facilities are available to serve the subject property.

ITEM SUMMARY: The applicant, Turley Associates, on behalf of Jack Ralston requests rezoning of 1.554 +/- acres from Agricultural (AG) zoning district to General Retail (GR) zoning district. The subject property is currently unplatted and occupied by an existing unoccupied structure that has been used as a single-family residence.

While no end-user has been formally identified, the property is proposed to be developed with non-residential uses. There are several residential and non-residential uses that are permitted by-right or with a conditional use permit (CUP) in the GR district. A comparison between the existing and proposed zoning districts, is shown in the attached table. Additionally, uses that are not permitted in the NS district have also been identified and are highlighted in red.

It is notable that this is the second non-residential rezoning request within the last month along this section of SH 317. The other was for a similar sized property at 4940 SH 317 and was rezoned to NS per Ordinance 2019-4956 on March 7, 2019. In this case, the applicant was specifically requesting NS. It would be anticipated that further rezoning of properties to NS and GR will continue in the future.

TRAFFIC IMPACTS: While the property fronts along State Highway 317 (SH 317), the presence of median breaks at Poison Oak Road and Oak Hills Drive may be problematic for some northbound traffic. Turning movements into the property will be limited to right-in and right-out. The nearest median break is approximately 290 feet to the south at the intersection with Poison Oak Road. The right-in right-out restriction may generate some traffic concerns and limit certain uses. A table showing some of the higher trip-generating uses allowed in GR has been attached.

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 Suburban Commercial Future Land Use Map (FLUM) designation. The Suburban Commercial designation is appropriate for office and retail service uses and while it supports Office 1 (O-1), Office 2 (O-2) and Neighborhood Service (NS) zoning designations, the GR designation is considered on a case by case basis. In addition, the Suburban Commercial designation can be found to be appropriate for office and retail service uses adjacent to residential neighborhoods as well as high profile corridors.

Thoroughfare Plan (CP Map 5.2)

The subject property takes access from State Highway 317 (SH 317), a major arterial street. TxDOT improvements are complete with direct property access driveways in place. The state was notified of the proposed rezoning and no comments have been received. TxDOT improvements include a ten-foot sidewalk on the east side of SH 317.

Availability of Public Facilities (CP Goal 4.1)

Waste water will be provided by on-site septic; however, an eight-inch sewer line is available approximately 1000 feet to the north on the east side of SH 317. Water is available from an 18-inch water line in SH 317.

Temple Trails Master Plan Map and Sidewalks Ordinance

A proposed local connector trail is shown on the Trails Master Plan. SH 317, as an arterial requires a six-foot sidewalk. Compliance with the Trails Master Plan and sidewalks has been addressed by the upsized sidewalk from six-feet to ten-feet, which was put into place by TxDOT widening improvements along the east side of SH 317. A six-foot sidewalk, however is still required on the west side of SH 317 and will be addressed during platting.

SUBDIVISION PLAT: A subdivision plat will be required for this property prior to any new construction, accessory or otherwise. The plat will address connection to public facilities but since the property frontage has been recently improved by a state highway improvement project, any needed right-of-way is not anticipated. The change of use, however will trigger compliance to parking requirements.

As a result of increased occurrence of rezoning along this section of SH 317, staff has discussed with the applicant, the opportunity of cross-access easements along the north and south boundaries of these properties. While these cross-access easements are not a required part of the rezoning process, they have been suggested to improve traffic circulation along this developing corridor. The creation of these easements will be further addressed during the platting process. The applicant is aware of this suggestion and agrees with the easement provisions.

DEVELOPMENT REGULATIONS: The attached tables compare and contrast, the current development standards for AG with the proposed GR standards as provided for in UDC Sections 4.2, 4.5 and 4.5.1

PUBLIC NOTICE: Eight 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 April 23, 2019, at 9:00 AM, two notices in agreement have been received.

The newspaper printed notice of the public hearing on March 18, 2019, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Boundary Map \(Exhibit A\)](#)

[Photos](#)

[Tables](#)

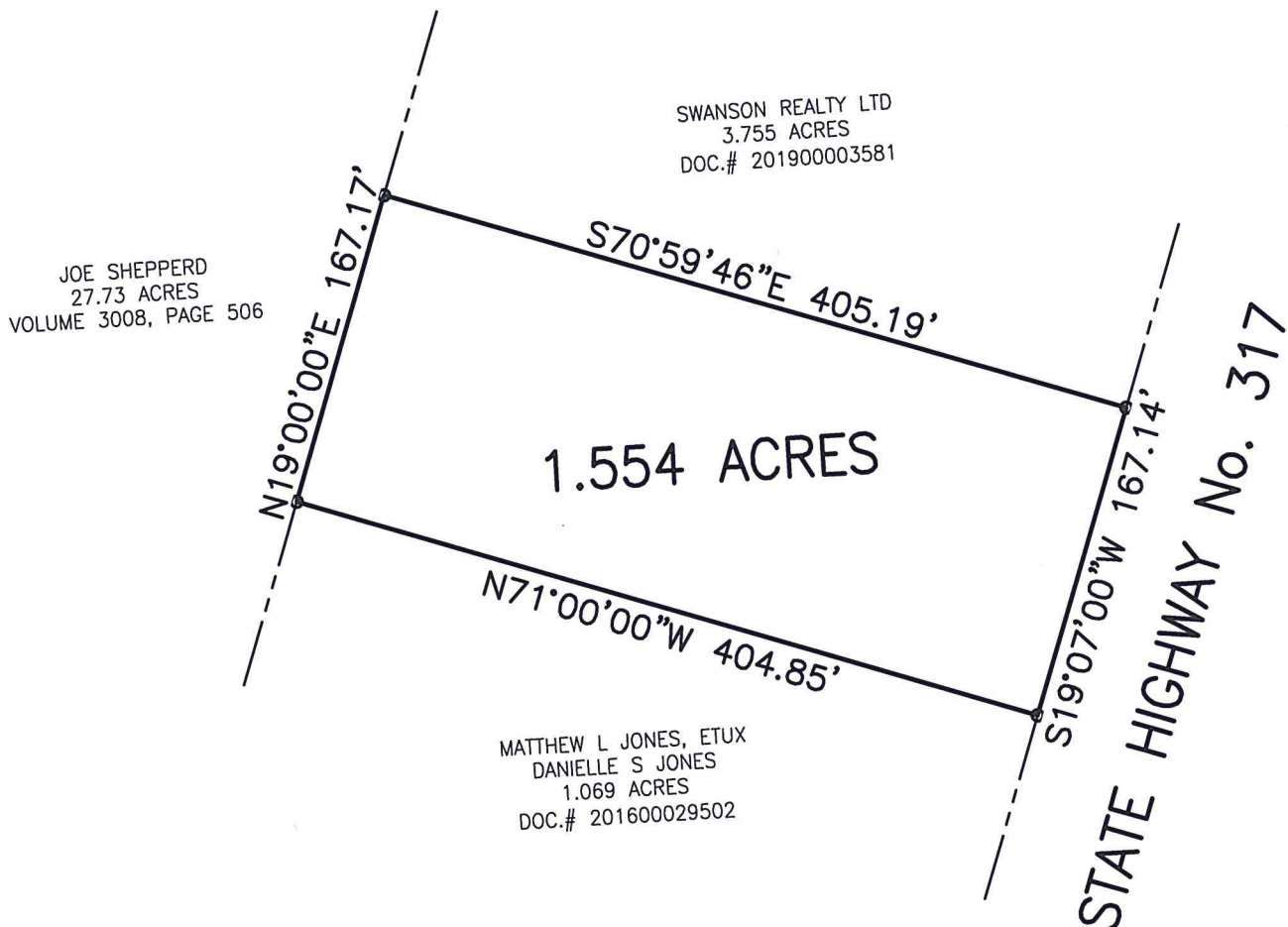
[Maps](#)

[Returned Property Notices](#)

[P&Z Excerpts \(April 1, 2019\)](#)

[Ordinance](#)

EXHIBIT A



THIS SURVEY WAS NOT BASED ON AN ON-THE-GROUND SURVEY. THIS SURVEY IS BASED ON PREVIOUS SURVEYS PROVIDED BY CLIENT AND DEEDS OF RECORD IN BELL COUNTY, TEXAS.



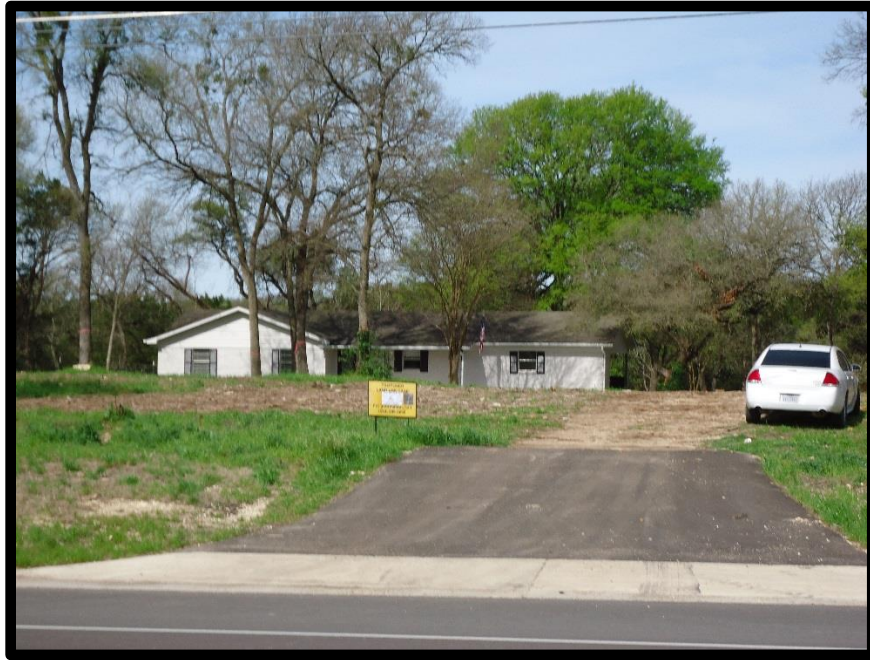
STATE OF TEXAS } KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis,
COUNTY OF BELL } a Registered Professional Land Surveyor in the State of Texas,
do hereby certify that this survey was this day made
on the ground of the property described herein and
is correct.

IN WITNESS THEREOF, my hand and seal, this the 4th day of March 2019.

Michael E. Alvis, R.P.L.S., No. 5402



Site & Surrounding Property Photos



Site: Unoccupied Single-Family Residential Uses on Acreage (AG)



North – Single-Family Residential Uses on Acreage (AG)



West – Aerial Image (Google Maps) (AG)
Property Boundary in RED is approximate
Primarily Undeveloped with Scattered Single-Family Residential Uses on Acreage



East – Undeveloped & Scattered Single-Family Residential Uses on Acreage (AG)



**East & South - Toward Poison Oak Intersection
Single-Family Residential Uses on Acreage (AG)**



South – Single-Family Residential Uses on Acreage (AG)

Tables

Permitted & Conditional Uses Table
Comparison between AG & GR

Use Type	Agricultural (AG)	General Retail (GR) Not Permitted in NS
Agricultural Uses	Farm, Ranch or Orchard	Farm, Ranch or Orchard
Residential Uses	Single Family Residence (Detached & Attached) Industrialized Housing Family or Group Home Home for the Aged (CUP)	Single Family Residence (Detached & Attached) Duplex Townhouse Industrialized Housing Family or Group Home Home for the Aged
Retail & Service Uses	None	Most Retail & Service Uses Alcoholic Beverage Sales, off-premise consumption, Package Store (CUP)
Office Uses	None	Offices
Commercial Uses	None	Plumbing Shop Upholstery Shop Kennel without Veterinary Hospital (CUP) Indoor Flea Market
Industrial Uses	Temporary Asphalt & Concrete Batching Plat (CUP)	Temporary Asphalt & Concrete Batching Plat (CUP) Laboratory, medical, dental, scientific or research Recycling collection location
Recreational Uses	None	Park or Playground Beer & Wine - On Premise Consumption < 75% from revenue All Alcohol - On Premise Consumption >75% from revenue (CUP)
Vehicle Service Uses	None	Auto Leasing, Rental Auto Sales - New & Used (Outside Lot) Car Wash Vehicle Servicing (Minor) Fuel Sales
Restaurant Uses	None	With & Without Drive-In
Overnight Accommodations	RV Park (CUP)	Hotel or Motel

Surrounding Property Uses

	<u>Surrounding Property & Uses</u>		
<u>Direction</u>	<u>FLUP</u>	<u>Zoning</u>	<u>Current Land Use</u>
Site	Suburban Commercial	AG	SF Residential Uses
North	Suburban Commercial	AG	Scattered SF Residential Uses
South	Suburban Commercial	AG & NS	Scattered SF Residential Uses
East	Suburban Commercial	AG	Scattered SF Residential Uses
West	Suburban Commercial	AG	Undeveloped

Comprehensive Plan Compliance

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use Map	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		

Dimensional Standards

	<u>Current (AG) Residential</u>	<u>Proposed (GR) 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 (2½ in NS)

- ❖ 10' rear setback (Non-residential use abuts a residential zoning district or use - UDC Section 4.4.4.F3)

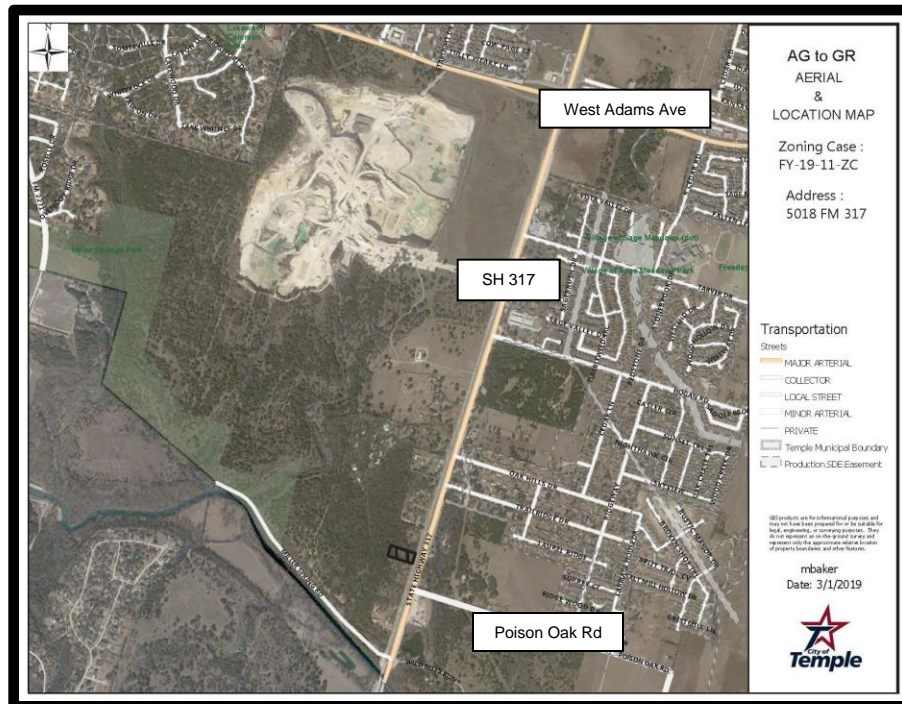
General provisions for buffering and screening for non-residential uses adjacent to residential uses are found in UDC Section 7.7, highlighted provisions include but not limited to:

- * Landscaping or solid fencing from 6 to 8 feet in height (UDC Section 7.7.4),
- * Refuse containers located in the side or rear of the property (UDC Section 7.7.6), and
- * Screened outdoor storage (UDC Section 7.7.8.B1).

**Traffic Count Information
Select - GR Permitted & Conditional Uses**

<u>Peak Hour Trip Rates Table (9th Ed. ITE Manual)</u>	
<u>Use</u>	<u>Peak Hour Trip Rate</u>
Single Family (Detached) Residence	1.00 (per Dwelling Unit)
Townhouse	0.52 (per Dwelling Unit)
Assisted Living Facility	0.22 (per Bed)
Congregate Care	0.17 (per Dwelling Unit)
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)
Gasoline Service Station / Convenience Store / Fuel Pumps / Car Wash	13.94 (per Fueling Station)
Fast Food Restaurant (No Drive-Thru)	26.15 (per 1,000 S.F.)
Restaurant w/ Drive Thru	33.84 (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.)
Arts & Crafts Store	6.21 (per 1,000 S.F.)
Hotel	0.60 (per Room)
Motel	0.47 (per Room)
Bar (CUP)	11.34 (per 1,000 S.F.)

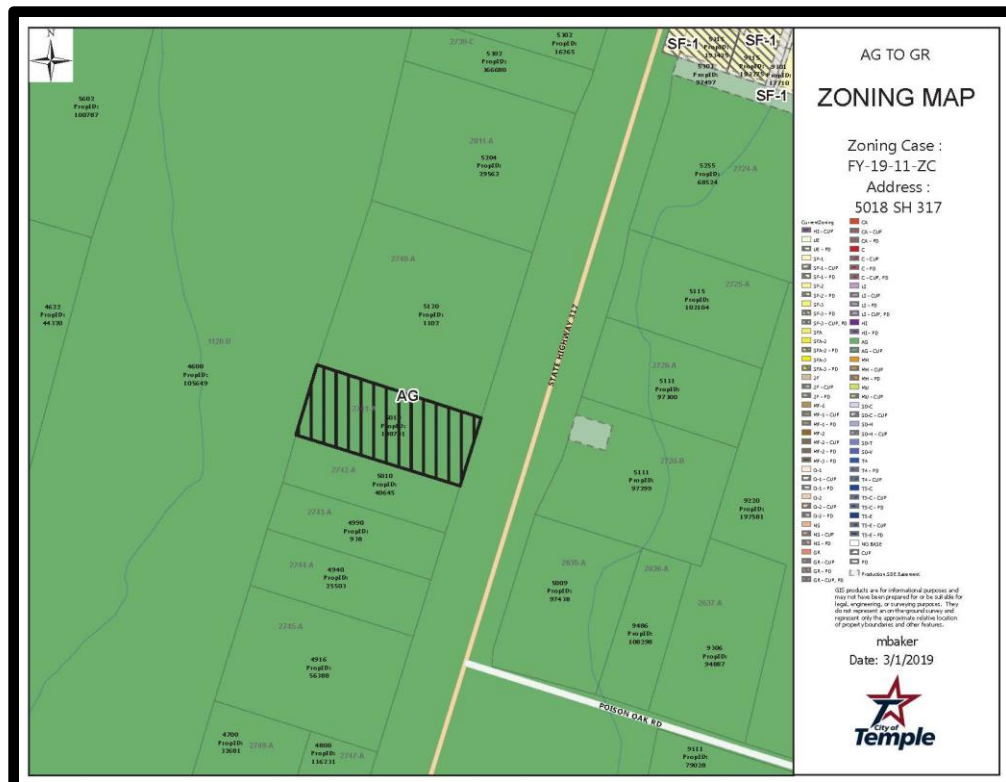
Maps



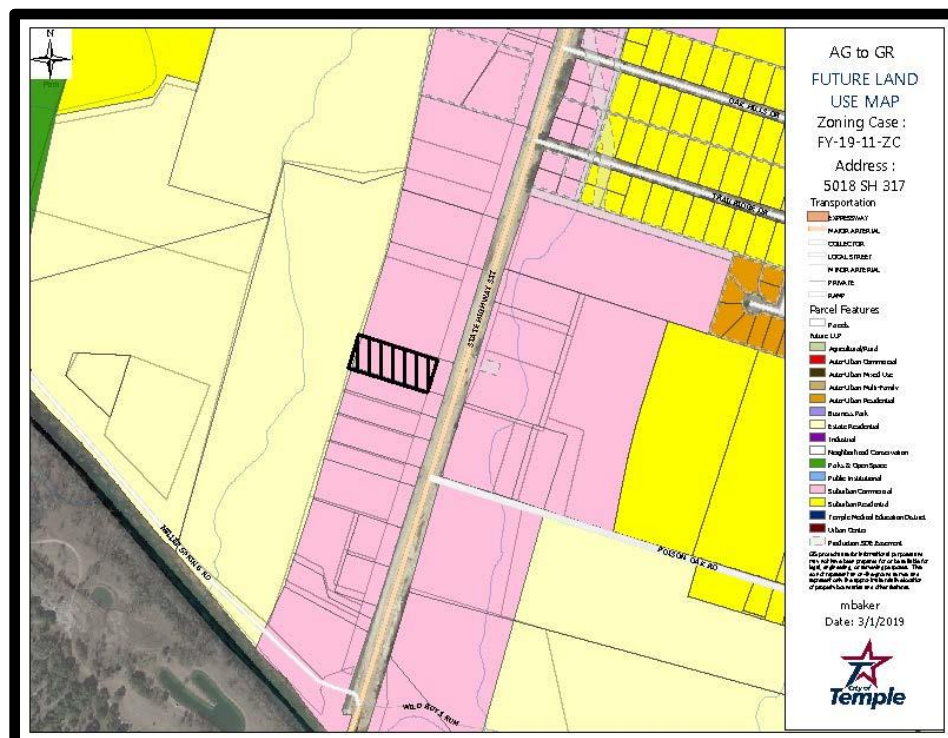
Aerial & Location Combination Map



Aerial Map (Zoomed-In with boundary in RED) – Temple GIS Maps



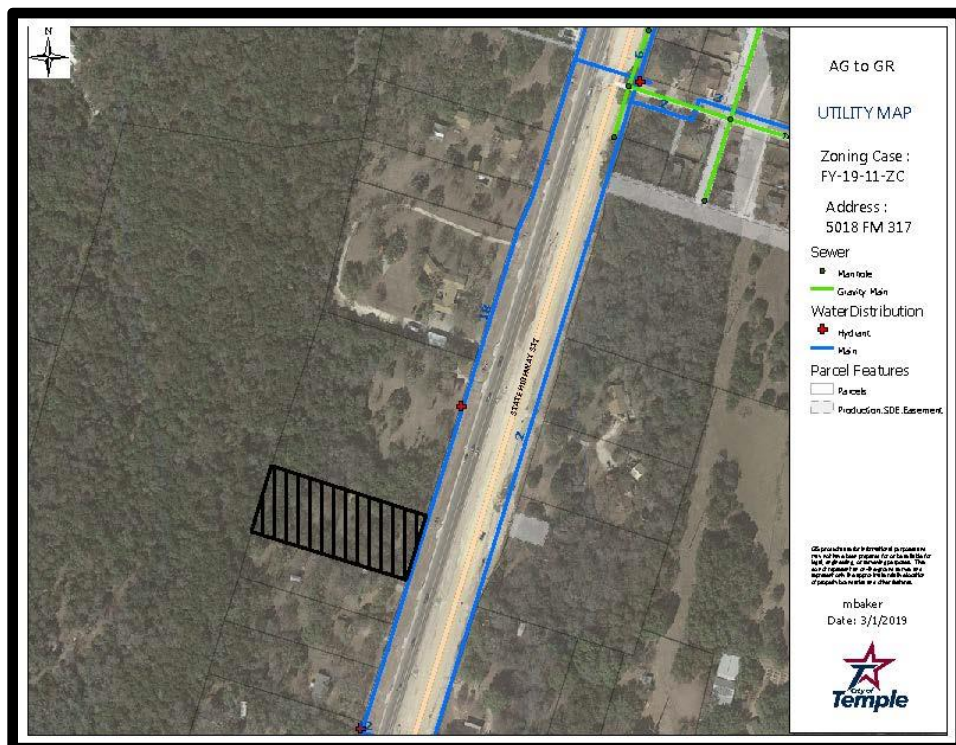
Zoning Map



Future Land Use Map



Thoroughfare & Trails Map



Utility Map



Notification Map



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

1102
SWANSON REALTY LTD
P.O. BOX 21355
WACO, TX 76702

Zoning Application Number: FY-19-11-ZC

Case Manager: Mark Baker

Location: 5018 State Highway 317

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

I ☒ agree

() disagree with this request

Comments:

Signature

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 **April 1, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

RECEIVED
MAR 25 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Number of Notices Mailed: 8

Date Mailed: March 20, 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**

105649
SHEPPERD, JOE
4622 STATE HWY 317
BELTON, TX 76513

Zoning Application Number: FY-19-11-ZC

Case Manager: Mark Baker

Location: 5018 State Highway 317

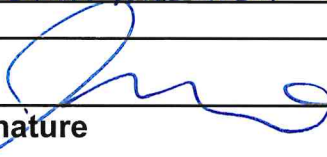
The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice,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

I ☒ agree

() disagree with this request

Comments:

I would prefer not to have a car lot on this
tract, or an offensive use that would have a
detrimental effect.


Signature

Joe Shepperd
Print Name

joeshep@hri-tor.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, mbaker@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **April 1, 2019**.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

RECEIVED
APR 01 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Number of Notices Mailed: 8

Date Mailed: March 20, 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, APRIL 1, 2019**

ACTION ITEMS

Item 2: FY-19-11-ZC – Hold a public hearing to discuss and recommend action for a rezoning request from Agricultural (AG) zoning district to General Retail (GR) zoning district, on 1.554 +/- acres, situated in the J.J. Simmons, Survey Abstract No. 737, Bell County, Texas, addressed as 5018 State Highway 317.

Mr. Mark Baker, Principal Planner, stated this item is a rezoning request and scheduled to go to City Council for first reading on May 2, 2019 and second reading on May 16, 2019.

No user has been identified by the developer for use of the property.

A subdivision plat is required for any new construction but the change of use triggers compliance to parking requirements (a Remodel Permit).

Zoning map shown. Existing uses are primarily residential.

Future Land Use and Character Map designates the subject property as Suburban Commercial which is appropriate for retail and offices uses and supports general retail uses and zoning (GR) at this location.

Water is available through an 18-inch line located in State Highway 317. Sewer is available through an eight-inch line located approximately 1,000 feet north of the subject property. Any extension requirements will be addressed at the platting stage.

State Highway 317 is designated as a Major Arterial by the Thoroughfare Plan. The Texas Department of Transportation (TxDOT) improvements are completed and include a 10-foot sidewalk on the east side of State Highway 317.

There is an existing local connector trail.

On-site and area photos shown.

Surrounding properties include single family residential uses on acreage, zoned AG, to the north and south, and undeveloped land with scattered single-family residential uses on acreage, zoned AG, to the east.

Comparison use table for AG and GR shown.

Buffering and Screening Per UDC Section 7.7.4 – Buffering:

May consist of evergreen hedges composed of five-gallon plants or larger, with a planted height of six-feet on 36-inch centers

May consist of a six-foot to eight-foot high fence or wall, constructed by any number of allowed materials per UDC Section 7.7.5, such as:

Wood

Masonry

Stone or pre-cast concrete

Along the common boundary, continuous buffer and screening is required:

Between non-residential and an agricultural or residential zoning district or use

Eight notices were mailed in accordance with all state and local regulations with two responses returned in agreement and returned in disagreement.

The request is in compliance with the Future Land Use and Character Map, Thoroughfare Plan, is compatible with surrounding uses and zoning, and public facilities are available to serve the site.

Staff recommends approval of the request for a rezoning from AG to GR.

Mr. Baker explained NS was discussed briefly with the applicant and Staff was comfortable with GR. The lot itself is too small to accommodate a lot of the GR uses, so the market would probably limit itself to certain uses and would not accommodate and meet the development standards.

Commissioner Fettig stated from the residents' comments they seem to be concerned about some of the GR uses that might go in if allowed and in some of the areas NS would be a better fit.

Information on whether additional lots would be brought in later was not available nor has any use or user been specified.

Mr. Baker believed the structures are currently occupied as single-family residential.

Mr. Baker also agreed that NS would still apply to a lot of the smaller retail applications. Commercial uses would not be allowed at all and went back to the comparison table to review uses.

Chair Langley opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Fettig made a motion to approve Item 2, FY-19-11-ZC, from AG to Neighborhood Service (NS), not GR), and Vice-Chair Ward made a second.

Motion passed: (8:0)

Commissioner Marshall absent.

ORDINANCE NO. 2019-4965
(FY-19-11-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM AGRICULTURAL ZONING DISTRICT TO GENERAL RETAIL ZONING DISTRICT, ON APPROXIMATELY 1.554 ACRES, SITUATED IN THE J.J. SIMMONS SURVEY, ABSTRACT NO. 737, BELL COUNTY, TEXAS, ADDRESSED AS 5018 STATE HIGHWAY 317, 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 of the rezoning from Agricultural zoning district to General Retail zoning district, on approximately 1.554 acres, situated in the J.J. Simmons, Survey Abstract No. 737, Bell County, Texas, addressed as 5018 State Highway 317, as outlined in 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 **2nd** day of **May**, 2019.

PASSED AND APPROVED on Second Reading on the **16th** day of **May**, 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

05/02/19
Item #9
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Amanda Rice, Deputy City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending City Code of Ordinances, Chapter 27, "Stormwater," to bring this chapter into compliance with the City's current Texas Commission on Environmental Quality (TCEQ) permits, simplify and clarify language and terms, and provide more effective enforcement tools.

STAFF RECOMMENDATION: Adopt ordinance on first reading as presented in the item description and conduct a public hearing. Second reading will be scheduled for May 16, 2019.

ITEM SUMMARY: In a continuing effort to review and update the City's Code of Ordinances, Staff is proposing amendments to Chapter 27, "Stormwater Management." The amendments include a general clean-up of the language and changes to formatting. For example, Staff suggests changing the formatting section of titles and the numbering of subsections to conform with that of other City Code Chapters and correcting minor spelling errors.

Other proposed amendments to Chapter 27 include:

- A change in title of the Chapter from "Storm Water Management" to "Stormwater."
- A deletion of the Table of Contents to make this Chapter consistent with other City Code chapters.
- Addition of a list of acronyms and consolidation of definitions placed at the beginning of the Chapter to aid the reader.
 - Currently acronyms and definitions are scattered throughout the Chapter.
- Deletion of defined words that are not used within the Chapter.
- Addition of and updates to definitions to reflect the following TCEQ permits:
 - Multi-Sector General Permit (TXR050000) - effective 8/14/16
 - Construction General Permit (TXR150000) - effective 3/5/18
 - General Permit for Phase II (Small) MS4s (TXR040000) - effective 1/24/19
- Renaming of the term "Stormwater Management Plan (SWMP)" that applied to construction contractors to "Post-Construction Management Plan."
 - This change is recommended to prevent confusion with the Stormwater Management Plan (SWMP) that the City is required to submit to TCEQ for the City's MS4 permit.
- Update of sections regulating large and small construction site requirements, including submittal requirements, to bring the Chapter into compliance with TCEQ Construction General Permit TXR150000.

- Addition of an administrative enforcement section in Article II. Stormwater Compliance for Construction Activity.
- Deletion of "Stormwater Management Plan Requirements."
 - These requirements would be placed in a separate guidance document called "Post-Construction Management Plan."
- Update of the Post-Construction Stormwater Runoff Control article to comply with General Permit for Phase II (Small) MS4s (TXR040000). This update includes requiring:
 - Post-construction management plans to include maintenance and repair plans for stormwater management facilities;
 - Parties responsible for stormwater management facilities to keep records of these facilities' maintenance and repairs and allow the City to inspect these records; and
 - Parties responsible for stormwater management facilities to regularly inspect these facilities and allow the City to inspect these facilities.
- Update of the General Prohibitions and Requirements section in the "Illicit Discharge Prevention" article in accordance with General Permit for Phase II (Small) MS4s (TXR040000).
 - Example: The current Chapter 27 provides for swimming pool water to be discharged if it is dechlorinated to a specific level and does not contain harmful quantities of a certain chemicals. The proposed change would allow swimming pool discharges that do not violate Texas Surface Water Quality Standards, which is consistent with TXR040000.
- Addition of a section regulating pesticides, herbicides, and fertilizers, which prohibits a person from violating federal and state laws and regulations governing these products or discarding, storing, or transporting these products in a manner that is likely to cause or does cause the product to enter the City's stormwater system or any other water source, including lakes and creeks.
- Addition of a section that prohibits illicit and unauthorized connections to the City's MS4.
- Addition of a section that lays out a notification procedure for people to follow when they release a hazardous substance into the public water or the City's MS4.
- Addition of a new division for Stormwater Discharges for Industrial Activity to meet requirements in Multi-Sector General Permit (TXR050000) and General Permit for Phase II (Small) MS4s (TXR040000).
- Addition of a new article titled "Enforcement" to meet requirements in Multi-Sector General Permit (TXR050000) and General Permit for Phase II (Small) MS4s (TXR040000). This article would include:
 - Administrative enforcement remedies
 - Criminal enforcement
 - Escalated scale of fines from \$250 for the first violation to a \$2000 maximum fine.
 - Civil Remedies
 - Authority to the City to seek civil penalties of up to \$5000 as well as all other legal and equitable remedies.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Current Chapter 27](#)

[Clean copy of amendments to Chapter 27](#)

[Ordinance](#)

Chapter 27

STORM WATER MANAGEMENT

ARTICLE I. EROSION AND SEDIMENTATION CONTROL

Sec. 27 -1. Intent.

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of drainage ways, waterways, and watercourses. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the city. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any residential and non-residential subdivision development and applicable city projects or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the city.

Sec. 27-2. Lands to which this Article applies.

- (a) A person engaging in any development activity one acre or larger, within the city limits, shall prepare a storm water pollution prevention plan and submit information in conformance with this article, the Drainage Criteria Design Manual (DCDM) and Storm Water Best Management Practice Manual (SWBMPM), and applicable TCEQ requirements to the city engineer for approval. This article applies regardless of whether an owner is required to obtain a permit from the city to conduct such land disturbing or construction activity.
- (b) In determining if a project is five acre or larger, the City will consider whether or not the development is a part of a common plan. A construction activity is a part of a common plan if it is completed in separate stage, phases or in combination with other construction activities. Common plans are often, but not solely identified by plats, blueprints, contracts, zoning requests and building permits. Additionally, common plans may exist and erosion and sedimentation control may be required when there is more than one operator operating in one area which is larger than five acres, even though no single individual project is larger than five acres individually.
- (c) Lands under active agricultural use, as defined in the Use Table found in section 5.1.3 of the Temple Unified Development Code, are exempted from the requirements of this section until such time that construction or modification to the

exempted land begins so that the use of the land in whole or in part will change from agriculture to any other use. At that time, the land shall lose its exemption and become subject to the provisions of this article.

- (d) The owner of the property on which the activity occurs, in addition to the person engaging in development activity, is responsible for violations of this article. Both the owner and the person engaging in the development activity shall be accountable for any erosion of the property or construction site which results in accumulation of sediment in streets, alleys, any waterway or other private properties from construction activity. Any accumulation or deposit of soil material beyond the limits of the property or in city streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort or adversely impacts storm water quality as determined by the city is declared a public nuisance and shall constitute a violation of this article.
- (e) The storm water pollution prevention requirements of this article shall apply to all land areas considered to be part of the development activity. Additionally, when land disturbing activity occurs on a development, all disturbed land areas related to the development shall have 70% vegetation established before final occupancy of structures located thereon or final acceptance of the subdivision may be obtained.
- (f) This article applies whether or not a building permit is required.

Sec. 27 -3. Definitions.

Best Management Practices (BMPs) are schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control construction site runoff, spills or leaks, waste disposal, or drainage from raw material storage areas. [Reference: TPDES General Permit TXR150000].

Clearing is any activity that removes the vegetative surface cover. Vegetative cutting and mulching is exempted from this definition

City Engineer means the city engineer or his/her designee.

Drainage way is any creek, stream, channel, swale, or low lying area that conveys surface runoff throughout the site.

Erosion control is a measure that prevents erosion.

Grading is the excavation or fill of material, including the resulting conditions thereof.

Land disturbing activity means any activity, including but not limited to excavation, clearing, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, storm water runoff or wind for residential and non-residential subdivisions and applicable city projects. Land disturbing activity does not include any vegetative cutting and mulching. All installations and maintenance of franchise utilities such as telephone, gas, electric, etc., shall be considered land disturbing activities.

Phasing is clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Sediment control is any measure that prevents eroded sediment from leaving the site.

Site is a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Stabilization is the use of practices that prevent exposed soil from eroding.

Start of construction is the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Watercourse is any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the city

Waterway is a channel that directs surface runoff to a watercourse or to the public storm drain.

Sec. 27-4. City of Temple Drainage Criteria and Design Manual.

This article is cumulative of the regulations found in the City's DCDM and SWBMPM which describes in detail the technical procedures to be used to comply with the provisions contained in this article. Although the intention of the manuals are to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used to conduct hydrologic and hydraulic studies if approved by the city engineer.

Sec. 27-5. Storm water pollution prevention measures required.

The Texas Commission on Environmental Quality (TCEQ) regulates storm water discharges from construction sites. Prior to initiating any development activity, a person shall review the state requirements to determine the current requirements. All TCEQ requirements for storm water protection from construction activity must be followed.

Sec. 27-6. Submittals to City Engineer.

- (a) Sites one acre or greater but less than five acres. For storm water discharges from construction activities one acre or greater but less than five acres into the city's storm drainage system, one copy of the Storm Water Pollution Prevention Plan (SWPPP) and one copy of the construction site notice must be submitted to the city engineer.
- (b) Sites five acres or greater. For storm water discharges from construction activities which disturb five acres or more into the city's storm drainage system, one copy of each: the NOI, the SWPPP and Construction Site Notice must be submitted to the city engineer.

Sec. 27-7. Storm Water Pollution Prevention Plan.

- (a) A SWPPP must be developed in accordance with the requirements of the general permit for all construction activity which disturbs one acre or more. The SWPPP must be prepared by or under the direction of a licensed professional engineer or a certified professional in erosion and sedimentation control (CPESC) indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.
- (b) Each person, including an owner, engaging in land disturbing or development activity shall implement and maintain the storm water pollution prevention measures shown on its approved storm water pollution prevention plan in order to minimize the erosion and the transport of silt, earth, topsoil, and other storm water pollutants by water runoff or construction activities, beyond the limits of the owner's site onto city streets, drainage easements, drainage facilities, storm drains of other city property prior to beginning any development activity.
- (c) A SWPPP required by this article shall clearly identify the property where land disturbing activity will take place, and the location of all storm water pollution prevention measures to be installed and maintained throughout the duration of the development for which that plan is submitted.
- (d) An erosion and sediment control plan is not required for the following:
 - 1. Areas under active agriculture use, as defined in the Use Table found in section 5.1.3 of the Temple Unified Development Code;
 - 2. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources; or
 - 3. Existing nursery and agricultural operations conducted as a main or accessory use;
 - 4. A legally permitted land fill operation; or
 - 5. Vegetative cutting and mulching.

Sec. 27-8. Development Compliance.

- (a) To obtain coverage under the general permit for storm water discharges from construction activities between one and five acres into the city's storm drainage system the following are required:
 - a. Prepare and implement the SWPPP;
 - b. Post Site Notice; and
 - c. Submit required copies to City Engineer, including Notice of Termination (NOT).
- (b) To obtain coverage under the general permit for storm water discharges from

construction activities five acres or more into the city's storm drainage system, the following is required:

- a. Prepare and implement the SWPPP;
 - b. Submit NOI to TCEQ;
 - c. Post NOI and Site Notice; and
 - d. Submit required copies to City Engineer, including Notice of Termination (NOT).
- (c) Phasing. When phasing is requested, the erosion plan in each phase must be established, reviewed and approved by city engineer prior to the start of any subsequent phase, and shall be allowed only when there are no outstanding storm water pollution prevention violations for the development for which the request is made.
- (d) Erosion Control Devices. In addition to the other requirements of this article, when construction or land disturbing activities are conducted as part of a development, the developer for such subdivision shall continue to maintain all temporary storm water pollution prevention devices until permanent erosion control has been established on all those lots within the subdivision for which a building permit has not been issued and at least 70 percent of the native background vegetative cover in unpaved areas, as determined by the city engineer, has been achieved.
- (e) Transfer of Property by Developer. If the developer sells all of the lots in a subdivision to one purchaser, that purchaser:
1. Becomes the developer for the subdivision; and
 2. Is liable for a violation of this article.

Sec. 27-9. Inspection.

- (a) The city engineer or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the owner or developer wherein the work fails to comply with the SWPPP. To obtain inspections, the owner or developer shall notify the city engineer at least two working days before each of the following:
1. Installation of sediment and erosion measures; and
 2. Final acceptance of public infrastructure, or prior to issuance of certificate of occupancy dependent upon respective development stage.
- (b) The owner or developer shall make regular inspections of all control measures. The purpose of such inspections will be to determine the overall effectiveness of

the control plan and the need for additional control measures. All inspections shall be documented in written form and kept on file available for viewing upon request.

- (c) The city engineer or its designated agent may enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under section (b). The filing of a SWPPP under this article shall be deemed consent by the property owner for such entry.

Sec. 27-10. Appeals and Enforcement.

- (a) *Stop-Work Order; Revocation of Permit* In the event that any person holding an approved SWPPP pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may suspend or revoke the building or construction (for public infrastructure) permit.
- (b) *Appeals.* In the event the developer or builder does not agree with a decision of the city engineer, they may appeal to the director of public works. Appeals from the director's decision shall be automatically referred to the city manager for final decision, with due regard for the city engineer and public works directors recommendations. The city manager's decision shall be rendered as soon as possible and shall be final.
- (c) *Violations.* No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. A person performing work on a development commits an offense if the person conducts a land-disturbing or construction activity, and:
 - 1. Has not developed and implemented a SWPPP in accordance with TCEQ requirements for the location of the development;
 - 2. Fails to install storm water pollution prevention devices or to maintain storm water pollution prevention devices throughout the duration of land disturbing activities, in compliance with the SWPPP for the location where the violation occurred;
 - 3. Fails to remove off-site sedimentation that is a direct result of land disturbing activities where such off-site sedimentation results from the failure to implement or maintain storm water pollution prevention devices as specified in an approved SWPPP for the location where the violation occurred;
 - 4. Allows sediment laden water to flow from a site without being treated through an storm water pollution prevention device;

5. Fails to maintain existing storm water pollution prevention devices, including replacement of existing grass or sod; or
6. Violates any provision of this section.

(d) *Penalties.* In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

ARTICLE II. POST CONSTRUCTION STORM WATER RUNOFF CONTROL

Subchapter A. General Provisions

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

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

Sec. 27-11. Applicability.

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

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

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

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

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

Sec. 27-12. Compatibility with other permit and ordinance requirements

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

Sec. 27-13. Definitions. For the purposes of this ordinance the following shall mean:

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

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

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

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

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

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

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

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

Developer means a person who undertakes land disturbance activities.

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

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

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

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

Land disturbing activity means any activity, including but not limited to excavation, clearing, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, storm water runoff or wind for residential and non-residential subdivisions and applicable city projects. Land disturbing activity does not include any vegetative cutting and mulching. All installations and maintenance of franchise utilities such as telephone, gas, electric, etc., shall be considered land disturbing activities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subchapter B. Requirements for Storm Water Management Plan Approval

Sec. 27-14. Storm water management plan.

(a) A storm water management plan is required for all land disturbing activities which disturb one (1) acre or more of land, and any time land is situated on a CBZ.

(b) No application for a construction, building or other development permit will be approved unless it includes a storm water management plan (“SWMP”) detailing how runoff and associated water quality impacts resulting from the land disturbing activity will be controlled or managed.

(c) This plan must meet the submittal requirements outlined in the submittal checklist found in section 27-6 (b) of this chapter, be sealed by a professional engineer and must indicate whether storm water will be managed on-site or off-site. If on-site, the plan must include the specific location and type of practices in order to receive consideration for BMP credit.

(d) The SWMP shall be developed and coordinated with the drainage plan and may be shown on the same sheet if applicable. It shall also be coordinated with the landscaping plan to prevent conflicts and assure compatible land use, if landscaping is a selected and approved BMP.

(e) No building, construction, or other development permit shall be issued until a SWMP has undergone a review and been approved by the city after determining that the plan is consistent with the requirements of this ordinance.

Sec. 27-15. Storm water management plan requirements.

(a) A SWMP shall be required with construction and building permit applications and will include sufficient information to evaluate the environmental characteristics of the project site, the potential impacts of all proposed land disturbing activity of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. The intent of this is to determine the type of storm water management measures necessary for the proposed project, and ensure adequate planning for management of storm water runoff from future land disturbing activity.

(b) The following information, in addition to all requirements found within DCDM, Section 9, “Storm Water Best Practices,” shall be included in the SWMP:

1. Plan. A map (or maps) and a written description of the SWMP and justification of proposed changes in natural conditions may also be required.
2. Engineer Analysis. Sufficient engineering analysis to show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with this ordinance and the specifications found within DCDM, Section 9, “Storm Water Best Practices.”
3. Inventory. A written or graphic inventory, as described in DCDM, Section 9, “Storm Water Best Practices” of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site.
4. Maintenance and Repair Plan. The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures, which meet all specification found in DCDM, Section 9, “Storm Water Best Practices,” shall be included in the plan.
5. Maintenance easements. Except for CBZs, the applicant must ensure access to all storm water BMPs at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.
6. Maintenance agreement. The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site storm water management measure in accordance with the specifications of this ordinance.
7. Maintenance by city. At its sole discretion the city may agree to accept a development’s storm water management facility as a public improvement and maintain it as such. This agreement may be reached in lieu of a maintenance agreement. This section in no way guarantees the city’s acceptance of any BMP as a public improvement.

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

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

Subchapter C. Basic Storm Water Management Design Criteria.

Sec. 27-16. Potential pollutants from land disturbing activity.

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

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

Sec. 27-17. Best Management Practices (BMPs).

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

Sec. 27-18. Required permanent BMP. To preserve the existing natural resources in Temple and promote sustainable development, demonstration of compliance with the following permanent BMPs, where applicable, are required in the SWMP of all land disturbing activities.

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

DCCDM, Section 9, “Storm Water Best Practices.”.

Sec. 27-19. Additional BMP Credit Point Requirements.

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

Table 1 Additional BMP Credit Point Requirements

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

<u>Residential</u>	
	<i>Number of additional BMP Credits required</i>
1 acre ≤ Disturbed Area < 5 acres	1
5 acres ≤ Disturbed Area < 20 acres	2
≥ 20 acres	3

Sec. 27-20. Factors to be considered.

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

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

Sec. 27-21. Additional BMPs.

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

1. Vegetated swales.
2. Vegetated filter strips.
3. Permeable and semi-pervious pavement.
4. Discharge of roof drains to pervious surface.
5. Extended Detention Basins for Storm Water Quality Benefits.
6. Retention ponds.
7. Detention Pond Outlet for Erosion Protection and Storm Water Quantity Benefits.
8. Subsurface treatment devices.

9. Landscaping.
10. Cluster design.
11. Preservation of existing tree canopy.
12. Other BMPs. Other BMPs and innovative designs will be considered when submitted to the city engineer with supporting calculations and references.

Sec. 27-22. Maintenance agreements.

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

Subchapter D. Creek Buffer Zones.

Sec. 27-23. Establishment.

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

Sec. 27-24. Design Standards.

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

Sec. 27-25. Designation Requirements.

- (a) Preliminary plats, final plats, plans, construction and building permit applications must clearly show the limits of CBZs based on criteria in this chapter.
- (b) The limits must be indicated by dashed lines and labeled "Creek Buffer Zone."
- (c) CBZ designation may be combined with other lines in cases where erosion hazard zone lines coincide with flood plain limits or other public utility easements, such as drainage easements.

(d) Properties next to natural or constructed channels with a minimum of the ratio found in the DCDM, Section 9, “Storm Water Best Practices” or flatter side slopes are not required to comply with these erosion hazard zone criteria unless, in the opinion of a licensed professional engineer, erosion hazard zone delineation is warranted. CBZs may not apply to waterways that have been engineered to convey a 1% chance storm (100-year frequency storm) and to withstand erosive forces or that have been adequately stabilized by manmade construction materials such as concrete rip-rap and concrete retaining walls. Wood timbers ties shall not be considered to adequately stabilize waterways due to their relatively short life span of service.

Sec. 27-26. Exception Process.

(a) It is the expressed intent of this chapter that all sections and parts should be complied with except in those instances when the provisions of this section are not applicable. It is further the intent of this chapter that the granting of an exception shall not be a substitute for the amending of this chapter.

(b) The city engineer may recommend to the city council an exception from these regulations be granted when, in its opinion, undue hardship will result from requiring strict compliance. In considering, recommending and granting an exception, either the city council shall prescribe such conditions that it deems necessary or desirable in the public interest.

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

(c) No exception shall be granted unless the city council finds:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of his land; and
2. That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.

(d) Such findings of the city council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the meeting at which such exception is recommended and granted.

(e) Exceptions may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice served.

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

Sec. 27-27. Licensed Professional Engineer’s Responsibilities.

(a) It is the developer or land owner’s licensed professional engineer’s responsibility to adhere to these criteria when preparing preliminary plats, plans or building permit applications.

(b) The licensed professional engineer shall recognize these criteria as the minimum standards such that unique or site specific geological, topographical, or other factors may require detailed study during design. Adjustments from these minimum standards are allowed based on the findings from engineering analysis and engineering judgment.

(c) It is the licensed professional engineer’s responsibility for determining and providing CBZs delineation on preliminary plats, final plats, plans, construction and building permit applications based on engineering judgment and best practices.

Subchapter E. Construction Inspection of Storm Water Facilities.

Sec. 27-28. Inspection.

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

(b) The city engineer or designated agent may make inspections as hereinafter described and either shall approve that portion of the work completed or shall notify the landowner or agent wherein the work fails to comply with the SWMP as approved. To obtain inspections, the landowner applicant or developer shall notify the city engineer at least two working days before the following:

3. Start of construction;
4. Installation of post construction; and
5. Final acceptance of public infrastructure, or prior to issuance of certificate of occupancy dependent upon respective development stage.

(d) For all privately owned and maintained storm water maintenance facilities the landowner or agent shall make regular inspections of all BMPs. The purpose of such inspections will be to determine the overall effectiveness of the SWMP and the need for additional control measures. All inspections shall be documented in written form and kept on file available for viewing upon request.

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

Subchapter F. Maintenance and repair of Storm Water Facilities.

Sec. 27-29. Maintenance easement.

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

Sec. 27- 30. Maintenance covenants.

(a) Maintenance of all storm water management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the city and recorded into the land record prior to final plat, or building or construction permit approval, whichever comes first. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.

(b) The city, at its sole discretion, in lieu of a maintenance covenant, may accept dedication of any existing or future storm water management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Sec. 27-31. Minimum inspection requirements for all storm water maintenance facilities.

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

Sec. 27-32. Inspection programs for storm water facilities.

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

Sec. 27-33. Right-of-entry for inspection.

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

Sec. 27-34. Records of installation and maintenance activities.

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

Subchapter G. Enforcement and Penalties.

Sec. 27-35. Failure to maintain storm water maintenance facilities.

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

Sec. 27-36. Violations.

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

Sec. 27-37. Notice of violation.

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

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

Sec. 27-38. Stop work orders.

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

Sec. 27-39. Appeals.

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

ARTICLE III. ELICIT DISCHARGE PREVENTION

Subchapter A. General Provisions.

Sec. 27-40. Purpose.

The purpose of this Article is to protect the public health, safety, environment and general welfare through the regulation of non-storm water discharges to City's municipal separate storm sewer system (MS4) to the maximum extent practicable as required by Federal and State law. This Article establishes methods for controlling the introduction of pollutants into the City's MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit and the Texas Pollutant Discharge Elimination System (TPDES) permit processes. The objectives of this ordinance are to:

- (a) Regulate the contribution of pollutants or contaminants to the City's MS4 or the waters in the State or U.S. by any person;
- (b) Prohibit illicit discharges and illegal connections to City's MS4;
- (c) Prevent non-storm water discharges, generated as a result of spills, releases, inappropriate dumping or disposal, to City's MS4;
- (d) Protect and preserve the functionality of water courses and ways located within the City; and,
- (e) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this Article.

Sec. 27-41. Applicability.

The provisions of this Article shall apply to all water or substances entering the MS4 generated on any developed or undeveloped lands throughout the corporate limits of the City unless specifically exempted by this Article.

Sec. 27-42. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Article, shall have the meanings hereinafter designated. Additionally, all references to any Federal or State regulation or act shall refer to the current regulation or act and any amendments thereto.

Agricultural storm water runoff. Any storm water or tail water runoff from orchards, cultivated crops, pastures, range lands, forest lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 Code of Federal Regulations (C.F.R.) § 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 C.F.R. § 122.24.

Best management practices (BMPs). Best management practices include schedules of activities, prohibitions of practices, maintenance or monitoring procedures, structural controls, and other management practices to prevent or reduce the discharge of pollutants or contaminants into the City's MS4, the waters in the State or U.S. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, discharge or release, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.

Contamination. The presence of, or entry into a public water supply system, the MS4 or waters in the State or U.S. of any substance, including pollutants, which may be deleterious to the public health and/or the quality of the water.

Contaminant. Any substance deleterious to the public health and/or the quality of the water.

Conveyance. Curbs, gutters, natural and human-made or altered drainage channels or ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport storm water runoff.

Director. The Director of Public Works or his/her duly authorized representative or designee.

Domestic sewage. Waste and wastewater from humans or household operations that is discharged to a wastewater collection system or otherwise enters a treatment works.

Extremely hazardous substance. Any substance listed in the Appendices to 40 C.F.R. Part 355, Emergency Planning and Notification.

Fire protection water. Any water, and any substances or materials contained therein, used by any person other than the Fire Department to control or extinguish a fire.

Garbage. Waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

Harmful quantity. The amount of hazardous substance the discharge or spill of which is determined to be harmful to the environment or public health or welfare or may reasonably be anticipated to present an imminent and substantial danger to the public health or welfare by federal law and by the state law.

Hazardous household waste (HHW). Any waste generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 C.F.R. § 261.4(b)(1), would be classified as a hazardous waste under 40 C.F.R. Part 261.

Hazardous substance. A material where either of the following conditions are met:

- (a) the elements, compounds, and hazardous wastes are listed in Table 302.4 of 40 C.F.R. Part 302; or
- (b) a solid waste, as defined in 40 C.F.R. § 261.2, which is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b), if it exhibits any of the characteristics identified in 40 C.F.R. § 261.20 through § 261.24 (e.g., ignitability, corrosivity, reactivity, or toxicity).

Hazardous waste. Any waste identified or listed as a hazardous waste by the EPA under the Federal Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act (RCRA), 40 U.S.C. §§ 6901 et seq., or the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Article 361 et seq.

Hazardous waste treatment, disposal, and recovery facility. All land, and structures, other appurtenances and improvements on the land, used for the treatment, disposal, or recovery of hazardous waste.

Illegal connection. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4 including, without limitation, any conveyances which allow any non-storm water discharge including sewage, processed wastewater or wash water to enter the MS4.

Illicit discharge. Any discharge to the MS4 that is not entirely composed of storm water, except discharges pursuant to this Article, State or Federal law and discharges resulting from emergency fire fighting activities.

Industrial. Activities including manufacturing, processing, material storage, and waste material disposal (and similar activities where storm water can contact industrial waste) at an industrial facility described by the TPDES Multi Sector General Permit, TXR050000, or by another TCEQ or TPDES permit.

Industrial waste. Any waterborne liquid or solid waste or substance that results from any process of industry, manufacturing, mining, production, trade or business as more specifically defined in 40 C.F.R. 122.26 (b)(14).

Maximum extent practicable (MEP). The technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in storm water discharges that was established by the Federal Clean Water Act § 402(p). A discussion of MEP as it applies to the MS4 is found at 40 C.F.R. § 122.34.

Municipal separate storm sewer system (MS4). A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, inlets, gutters, ditches, natural and human-made or altered drainage channels, or storm drains) owned or operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage and which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. § 122.2.

NPDES Permit. A permit issued by EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group or generally on an area-wide basis.

Non-point source. Any source of any discharge of a pollutant that is not a point source.

Notice of Intent (NOI). A written submission to the Executive Director of the TCEQ from an applicant requesting coverage under a general permit issued by the TCEQ. Each NOI shall also be submitted to the appropriate MS4 operator receiving the permitted discharge.

Notice of Change (NOC). A written notification to the Executive Director of the TCEQ from a permittee authorized under a general permit issued by the TCEQ providing

changes to information that was previously provided in a notice of intent. Each NOC shall also be submitted to the appropriate MS4 operator receiving the permitted discharge.

Notice of Termination (NOT). A written submission to the Executive Director of the TCEQ from a permittee authorized under a general permit issued by the TCEQ seeking to terminate such permit coverage. Each NOT shall also be submitted to the appropriate MS4 operator receiving the permitted discharge.

Oil. Oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include used oil, petroleum product, or oil designated as a hazardous substance in 40 C.F.R. § 302.4.

Operator. An entity or individual who meets one of the following conditions:

- (a) the person or persons associated with a large or small construction activity that meets either of the following two criteria: (1) the person or entity having operational control over construction plans and specifications to the extent necessary to meet the requirements and conditions of a NPDES or TPDES permit; or (2) the person or entity having day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a Storm Water Pollution Prevention Plan (SWPPP) for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other NPDES or TPDES permit conditions); or
- (b) the owner, person or entity that is responsible for the management of an industrial facility subject to the provisions of a NPDES or TPDES permit.

Petroleum product. A petroleum substance obtained from distilling and processing crude oil and that is liquid at standard conditions of temperature and pressure, and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including but not limited to motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

Petroleum storage tank (PST). Any one or combination of aboveground or underground storage tanks that contain petroleum products and any connecting underground pipes.

Point source. Any discernable, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container,

rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff (40 CFR 122.22).

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; motor oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; noxious or offensive matter of any kind; biochemical oxygen demand (BOD); sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation); oil and grease; and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the MS4 (40 CFR 122.32(e)(3)). The term “pollutant” does not include tail water or rainwater runoff from cultivated or uncultivated rangeland, pastureland and farmland.

Pollution. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the State or U.S. that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness of the public enjoyment of the water for any lawful or reasonable purpose.

Premises. Any site and/or facility, as defined under this Article, or building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips, owned or operated by a person from which there has been, is or may be a discharge.

Release. Any spilling, leaking, pumping, pouring, emitting, emptying, injecting, escaping, leaching, dumping, or disposing of a pollutant or contaminant into the MS4 or water in the State or U.S.

Reportable quantity (RQ). For any “hazardous substance,” the quantity established and listed in Table 302.4 of 40 C.F.R. Part 302 (except for any discharge into water in the State where the Final RQ threshold is greater than 100 pounds, in this case the RQ threshold shall be 100 pounds); for any “extremely hazardous substance,” the quantity established in 40 C.F.R. Part 355 and listed in Appendix A thereto.

Rubbish. Non-putrescible solid waste, excluding ashes, that consists of both (a) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (b) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and

similar materials that will not burn at ordinary incinerator temperatures (1,600 to 1,800 degrees Fahrenheit).

Sewage (or sanitary sewage). The domestic sewage and/or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to a publicly-owned treatment works.

Storm water discharge associated with industrial activity. Storm water runoff that exits any system that is used for collecting and conveying storm water that originates from manufacturing, processing, material storage, and waste material disposal areas (and similar areas where storm water can contact industrial pollutants related to the industrial activity) at an industrial facility described by the applicable TPDES.

Storm water pollution prevention plan (SWPPP). A plan required by a NPDES or TPDES permit that describes and ensures the implementation of BMPs that are to be used to reduce the pollutants in storm water discharges associated with construction or other industrial activity at the regulated facility to water in the State and U.S.

Tail water. The runoff of irrigation water from the lower end of an irrigated field.

TPDES permit. A permit issued by the State through the TCEQ, predecessor or any successor agency, under the authority delegated by EPA pursuant to 33 U.S.C § 1342(b) (Federal Clean Water Act) and pursuant to the Texas Water Code that authorizes the discharge of pollutants to water in the State or U.S., whether the permit is applicable to a person, group, or generally on an area-wide basis.

Used oil (or used motor oil). Any oil that has been refined with crude oil, or any synthetic oil, that has been used, and, as a result of use, is contaminated by physical or chemical impurities.

Vehicle. For purposes of this Article vehicle includes any vehicle held for personal use including automobiles, trucks, recreational vehicles, motorcycles of any type and boats or personal watercrafts.

Water in the State. Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state, except that water in treatment systems which are authorized by State or Federal law, regulation or permit, and which are created for the purpose of waste treatment are not considered to be water in the State.

Waters of the United States (or waters in the U.S.). Any water characterized as:

- (a) All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate wetlands;
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) that are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) that are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) Wetlands adjacent to waters (others than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems including treatment ponds or lagoons designed to meet the requirements of the Federal Clean Water Act are not waters of the United States. This exclusion applies only to manmade bodies of water that neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

Water quality standards. Provisions that consist of a designated use or uses for the water in the State and water quality criteria for such waters based upon such uses. Water quality criteria consist of narrative provisions and numerical criteria deemed by the State to be necessary to protect those uses, as specified in 30 Texas Administrative Code (TAC) Article 307.

Watercourse. A watercourse includes a drainage path or way or the channel of a stream, to include, without limitation, waters in the State or U.S., in which water flows within a defined bed and banks, even though the same may be slight, imperceptible or even absent in places, and originates from a definite source or sources. The water need not always be present and may be intermittent if the latter occurs with some degree of

regularity, depending on the characteristics of the sources (i.e.: water is present or flowing during and/or after a rainfall event).

Wetlands. Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard waste. Leaves, grass, grass clippings, bushes, shrubs, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

Sec. 27-43. General Prohibition and Requirements.

(a) No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of storm water.

(b) It is an affirmative defense to any enforcement action for violation of Subsection (a) of this section that the discharge was composed entirely of one or more of the following categories of discharges:

- (1) A discharge or flow from water line flushing, but not including a discharge from water line disinfection by hyperchlorination or other means unless the total residual chlorine (TRC) has been reduced to less than 0.10 milligrams per liter (mg/l) and it contains no harmful quantity of chlorine or any other chemical used in line disinfection;
- (2) Runoff or return flow from lawn watering, landscape irrigation and other irrigation utilizing potable water, groundwater, or surface water sources;
- (3) A discharge from a potable water source;
- (4) A discharge or flow from a diverted stream flow or natural spring;
- (5) A discharge or flow from rising ground waters and springs;
- (6) Uncontaminated groundwater infiltration (as defined as 40 C.F.R. § 35.2005(20)) to the MS4;
- (7) A discharge or flow from uncontaminated pumped ground water;
- (8) Uncontaminated discharge or flow from a foundation drain or footing drain;
- (9) A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant or contaminant;
- (10) Uncontaminated discharge or flow from a crawl space pump, or sump pump;
- (11) A discharge or flow from individual residential vehicle washing;
- (12) A discharge or flow from a riparian habitat or wetland;
- (13) Swimming pool water that has been de-chlorinated so that TRC is less than 0.10 mg/l and that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
- (14) A discharge or flow from water used in street washing;

- (15) A discharge or flow resulting from fire fighting activities by the Fire Department (fire fighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
- (16) Other allowable non-storm water discharges listed in 40 CFR 122.23(d)(2)(iv)(B)(1).
- (17) A discharge authorized by, and in full compliance with, a NPDES or TPDES permit. Such TPDES permit includes the TPDES Multi Sector General Permit and the TPDES Construction General Permit;
- (18) Other similar occasional incidental non-storm water discharges, unless the TCEQ develops permits or regulations addressing these discharges;
- (19) Agricultural storm water runoff;
- (20) A discharge or flow from a potable water source not containing any pollutant, contaminant or a harmful quantity of a substance or material from the cleaning or draining of a storage tank or other container;
- (21) Storm water runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant and
- (22) A discharge or flow from water used in vehicle, exterior building, and pavement wash water where detergents and soaps are not used and where spills or leaks of hazardous substances or hazardous waste have not occurred (unless all spilled material is removed).

(c) The use of BMPs or the presence of pervious cover that filters pollutants or contaminants from a discharge before the discharge reaches the MS4 will be considered an additional affirmative defense if no pollutant or contaminant is present upon the discharges release into the MS4.

(d) No affirmative defense shall be available under Subsection (b) of this section if the discharge, release or flow in question has been determined by the Director to be a source of a pollutant or contaminant to water in the State or U.S. or the MS4, written notice of such determination has been provided to the discharger and the discharge has continued to occur seven (7) calendar days following receipt of such notice.

(e) *Illegal Connections.* The construction, connection, use, maintenance or continued existence of any illegal connection to the MS4 is prohibited.

- (1) This prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person violates this Article if the person connects a line conveying domestic or industrial sewage to the MS4, or allows such a connection to continue.
- (3) Illegal connections in violation of this Article shall be disconnected and redirected, if necessary, by the owner or operator to an approved onsite

wastewater management system or the sanitary sewer system upon approval of the Director.

- (4) Any drain or conveyance that has not been documented in plans, maps or an equivalent, and which may be connected to the MS4, shall be located by the owner, occupant or operator of that property within three (3) calendar days following receipt of a written notice of violation (NOV) from the Director. Such notice may grant a longer time period, not to exceed sixty (60) calendar days but shall require that the drain or conveyance be identified as a storm sewer, sanitary sewer or other type of conveyance, and that the outfall location or point of connection to the MS4, sanitary sewer system or other discharge point be identified. Results of these investigations shall be documented and provided to the Director to confirm compliance with this Article.

(f) *NPDES/TPDES Required.* A person violates this Article if the person discharges, or causes to be discharged, storm water without first having obtained a NPDES or TPDES permit to do so (if applicable) or fails to comply with paragraph (h) of this section.

(g) *Submission of SWPPP/NOI/NOC/NOT Required.* The operator or owner of a premises, required to have a NPDES or TPDES permit to discharge storm water shall submit a copy of the SWPPP to the Director within two (2) business days of the time that the operator or owner submits notification to the TCEQ that a SWPPP is available, if applicable. The operator or owner shall also submit a copy of the applicable NOI, NOC and NOT to the Director in accordance with the time frame provided for under the applicable TPDES or NPDES permit.

(h) *Compliance with NPDES/TPDES.* A premises shall be operated in strict compliance with the requirements of any applicable and required NPDES or TPDES permit. A person violates this Article if the person operates a premises in violation of a requirement of any such permit.

(i) *Modification of SWPPP.* The Director may request that any operator or owner of a premises to consider modifying the applicable SWPPP if, in the best professional judgment of the Director, the SWPPP does not comply with the requirements of the applicable NPDES or TPDES to discharge storm water. Any deficiencies so noted shall be provided to the operator or owner in writing and the Director shall give the operator or owner a reasonable amount of time, not to exceed thirty (30) days, to consider and implement such changes to the SWPPP. If the operator or owner disagrees with the Director, the operator or owner shall submit, in writing, the basis for such disagreement and non-implementation.

(j) *Notice of Release Required.* Notwithstanding any other requirements of local, State or Federal law, as soon as any person responsible for a premises or operation, or responsible for emergency response for a premises or operation has information of any

known or suspected release of materials which are resulting or may result in illicit discharges of contaminants or pollutants into the MS4, the waters in the State or U.S. in any reportable or harmful quantity said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of household hazardous waste, hazardous substance(s) or hazardous waste said person shall immediately notify the Director by telephone and other State or Federal emergency response agencies, if required. In the event of a release of non-hazardous materials, said person shall notify the Director by phone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice within three (3) business days of the personal notification.

(k) *Watercourse Protection.* Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that may pollute, contaminate, or adversely retard the flow of water through the watercourse.

(l) *Best Management Practices (BMPs) Required.* The owner or operator of a commercial or industrial premises or any premises where a SWPPP is required by the TCEQ, shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4, waters in the State or U.S. or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants or contaminants to the MS4. Compliance with all terms and conditions of a valid NPDES or TPDES permit authorizing the discharge of storm water associated with industrial activity, to the maximum extent practicable, shall be deemed compliance with the provisions of this paragraph. These BMPs shall be part of a SWPPP as necessary for compliance with the requirements of the NPDES or TPDES permit.

Subchapter B. Specific Prohibitions and Requirements

Sec. 27-44. Specific Prohibitions and Requirements.

(a) The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibitions in Subchapter A of this Article.

(b) No person shall introduce, release or cause to be introduced any discharge into the MS4 that causes or contributes to causing the City to violate a water quality standard, the City's storm water permit coverage for discharges from its MS4, any applicable EPA or TCEQ regulation or State or Federal law.

(c) No person shall discharge, release, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4:

- (1) Any used motor oil, antifreeze, or any other motor vehicle fluids;
- (2) Any industrial waste;
- (3) Any hazardous substance or hazardous waste, including HHW;
- (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
- (5) Any garbage, rubbish, or yard waste;
- (6) Any discharge from: a commercial carwash facility, vehicle dealership, rental agency, body shop, repair shop, maintenance facility, or commercial or public facility that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance from any vehicle washing, cleaning, or maintenance;
- (7) Any discharge from the washing, cleaning, de-icing, or other maintenance of aircraft;
- (8) Any discharge from a commercial mobile power washer including, without limitation, discharges from mobile vehicle detailing or cleaning equipment, or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
- (9) Any discharge from commercial or professional floor, rug, or carpet cleaning containing a harmful quantity of any pollutant or contaminant;
- (10) Any discharge from the wash down or other cleaning of pavement or the exterior of buildings that contains any soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
- (11) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow down from a boiler;
- (12) Any ready-mixed concrete, mortar, ceramic, or asphalt base material, or material from the cleaning of vehicles or equipment containing, or used in transporting or applying, such material;
- (13) Any discharge or wash down water from any commercial animal pen, kennel, or fowl or livestock containment area, to include a livestock management facility as defined in Chapter 6 of this Code, containing more than five (5) animals;
- (14) Any filter backwash from a swimming pool, fountain or spa;
- (15) Any swimming pool water containing TRC of 0.10 mg/l or more or containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
- (16) Any fire protection water containing oil or hazardous substances or materials, unless treatment adequate to remove pollutants and contaminants

occurs before discharge. (This prohibition does not apply to discharges or flow from fire fighting by the Fire Department.);

- (17) Any water from a water curtain in a spray room used for painting vehicles or equipment;
- (18) Any substance or material that will damage, block, or clog the MS4;
- (19) Any release from a petroleum storage tank (PST) or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge satisfies all of the following criteria;
 - (a) Compliance with all State and Federal standards and requirements;
 - (b) No discharge containing a harmful quantity of any pollutant; and
 - (c) No discharge containing more than 50 parts per billion of benzene; 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX); or 15 mg/l of total petroleum hydrocarbons (TPH).
- (20) Any amount of herbicides or pesticides that constitute a harmful quantity.

(d) No person shall introduce or cause to be introduced into the MS4 any sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with any land filling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures or other BMPs to the maximum extent practicable.

(e) *Motor vehicle fluids, Oil, Petroleum product and Used Oil Regulation.* No person shall:

- (1) Discharge motor vehicle fluids, oil, petroleum products or used oil into the MS4 or a sewer drainage system, septic tank, surface water, groundwater, or watercourse;
- (2) Knowingly mix or commingle motor vehicle fluids, oil, petroleum products or used oil with any type of waste that is to be disposed of in a landfill or knowingly directly dispose of motor vehicle fluids, oil, petroleum products or used oil on land or in a landfill; or
- (3) Apply motor vehicle fluids, oil, petroleum products or used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces motor vehicle fluids, oil, petroleum products or used oil into the environment.

Subchapter C. Compliance and Enforcement.

Sec. 27-45. Compliance Monitoring.

(a) *Right of Entry; Inspection and Sampling.* The Director shall have the right to enter the premises of any person discharging into the MS4 or to waters in the State or U.S. to determine if the person is complying with all requirements of this Article. A

person shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties necessary to ensure compliance with this Article. A person shall make available to the Director, upon request, any NOIs, NOCs, NOTs, SWPPPs and any modifications thereto, self-inspection reports, monitoring records, compliance evaluations, and any other records, reports, or other documents related to compliance with this Article or compliance with any State or Federal storm water discharge permit. (State law reference: Texas Water Code § 26.173.)

- (1) Where a person has security measures in force that require proper identification and clearance before entry into its premises, the person shall make necessary arrangements with its security personnel or employees so that, upon presentation of suitable City issued identification, the Director shall be permitted to enter without unreasonable delay. Unreasonable delays, which shall be defined as delays in excess of forty-eight (48) hours of the initial request, shall be considered a violation of this Article.
- (2) The Director shall have the right to set up on the person's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the person's operations related to all discharges regulated by this Article.
- (3) If the Director has reason to believe that there is an actual or potential illicit discharge associated with a premises, the Director may require any person to conduct specified sampling, testing, analysis, and other monitoring of such premises' discharges, and may specify the frequency and parameters of any such activities necessary to ensure compliance with this Article. All required sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition. All such activities shall be at the person's sole expense.
- (4) Any temporary or permanent obstruction that obstructs safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the person at the written or verbal request of the Director and shall not be thereafter replaced. The costs of providing such access shall be borne by the person.

(b) *Search Warrants.* If the City is able to demonstrate probable cause to believe that there may be a violation of this Article or that there is a need to inspect and/or sample a premises as part of a routine inspection and sampling program established by the City and designed to verify compliance with this Article or any order issued hereunder, or to protect the public health, safety, and welfare of the community, then the City may seek issuance of a search warrant to gain entry from any court of competent jurisdiction.

Sec. 27-46. Administrative Enforcement Remedies.

(a) *Generally.* Nothing in this section shall limit the authority of the Director to take any action, including emergency action or any other enforcement action, without first issuing any other type of notice or order provided under this section. Compliance with

any notice or order issued hereunder in no way relieves the alleged violator of liability for any violations occurring before or after receipt of any notice or order.

(b) *Warning Notice.* When the Director finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Director may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting that the person immediately comply with this Article or any order so issued.

(c) *Notification of Violation (NOV).* When the Director finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Director may serve upon that person a written NOV. Within ten (10) calendar days of the receipt of the NOV the person shall submit an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions and time lines for completion, to the Director. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the Director within the same time period. Receipt of the NOV is presumed to occur five (5) calendar days following the date the NOV is mailed..

(f) *Stop Work Orders.* When the Director finds that any owner or operator of a premises under construction has violated, continues to violate or threatens to violate any provision of this Article, or any order issued hereunder, the City may issue a stop work order which shall suspend or revoke the building or construction (for public infrastructure) permit.

Sec. 27-47. Right to Reconsideration and Appeal.

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

Sec. 27-48. Severability.

The provisions and sections of this ordinance shall be deemed to be severable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

(Article II added by Ordinance No. 2012-4541, July 5, 2012)
(Ordinance No. 2011-4454, July 21, 2011)

Chapter 27 STORMWATER

ARTICLE I. IN GENERAL

Sec. 27-1. Acronyms.

BMP means best management practices.

CBZ means a creek buffer zone.

DCDM means the City's Drainage Criteria and Design Manual.

EPA means the federal Environmental Protection Agency.

MS4 means municipal separate storm sewer system.

NEC means no exposure certification.

NOC means notice of change.

NOI means notice of intent.

NOT means notice of termination.

NPDES means National Pollutant Discharge Elimination System

PST means a petroleum storage tank.

SWP3 means a storm water pollution prevention plan.

TCEQ means the Texas Commission on Environmental Quality.

TPDES means Texas Pollutant Discharge Elimination System.

mg/L means milligrams per liter.

Sec. 27-2. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Chapter, will have the meanings hereinafter designated. Additionally, all references to any federal or state regulation or act refer to the current regulation or act and any amendments thereto.

Agricultural stormwater runoff - Any stormwater or tail water runoff from orchards, cultivated crops, pastures, range lands, forest lands, and other non-point source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 Code of Federal Regulations (C.F.R.) § 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 C.F.R. § 122.24.

Best Management Practices (BMPs) - Schedules of activities, prohibitions of practices, maintenance or monitoring procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control construction site runoff, spills or leaks, sludge or waste disposal, or drainage from raw material storage areas.

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

City - The City of Temple, Texas, the City Council of Temple, Texas, or its representative, employee, agent, or designee.

City Council – the City’s elected governing body.

City Manager – the City’s city manager or their designee.

Clean Water Act (CWA) - The Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et. seq.

Clearing - Any activity that removes the vegetative surface cover. Vegetative cutting and mulching are exempted from this definition.

Creek – A channel having 64 acres or greater of contributing drainage areas.

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

Commencement (or start) of Construction - The initial disturbance of soils associated with clearing, grading, or excavation activities, as well as other construction-related activities (e.g., stockpiling of fill material, demolition).

Common Plan of Development - A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development (also known as a “common plan of development or sale”) is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities. A common plan of development does not necessarily include all construction projects within the jurisdiction of a public entity (e.g., a city or university). Construction of roads or buildings in different parts of the jurisdiction would be considered separate “common plans,” with only the interconnected parts of a project being considered part of a “common plan” (e.g., a building and its associated parking lot and driveways, airport runway and associated taxiways, a building complex, etc.). Where discrete construction projects occur within a larger common plan of development or sale but are located ¼ mile or more apart, and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale, provided that any interconnecting road, pipeline, or utility project that is part of the same “common plan” is not included in the area to be disturbed.

Construction Activity - Includes soil disturbance activities, including clearing, grading, excavating, construction-related activity (e.g., stockpiling of fill material, demolition), and construction support activity. This does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities). Regulated construction activity is defined in terms of small and large construction activity.

Construction Support Activity – A construction-related activity that specifically supports construction activity, which can involve earth disturbance or pollutant-generating activities of its own, and can include, but are not limited to, activities associated with concrete or asphalt batch plants, rock crushers, equipment staging or storage areas, chemical storage areas, material storage areas, material borrow areas, and excavated material disposal areas. Construction support activity must only directly support the construction activity authorized under a general permit issued by TCEQ.

Contaminant - Any substance deleterious to the public health or the quality of the water.

Contamination - The presence of, or entry into a public water supply system, the MS4, or waters in the State of Texas or United States of any substance, including pollutants, which may be deleterious to the public health or the quality of the water.

Conveyance - Curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport stormwater runoff.

Creek Buffer Zone (CBZ) – All property located on or adjacent to a natural, vegetated, earthen, or grass lined creek, channel, or stream is hereby deemed to be within a CBZ.

Developer – A person who undertakes land disturbance activities.

Discharge – means discharge of stormwater runoff or non-stormwater discharges.

Discharger – (a) any person who causes, allows, permits, or is otherwise responsible for a discharge, including but not limited to any operator of a construction site or industrial facility; or (b) any owner or operator of a facility that is the source of a discharge.

Domestic sewage - Waste and wastewater from humans or household operations that is discharged to a wastewater collection system or otherwise enters a treatment works.

Drainage Criteria and Design Manual (DCDM) – A manual containing all approved methods and design criteria for drainage and stormwater control.

Drainage way - Any creek, stream, channel, swale, or low-lying area that conveys surface runoff throughout the site.

Drought-Stricken Area – An area in which the National Oceanic and Atmospheric Administration’s U.S. Seasonal Drought Outlook indicates for the period during which the construction will occur that any of the following conditions are likely: (1) “Drought to persist or intensify;” (2) “Drought ongoing, some improvement;” (3) “Drought likely to improve, impacts ease;” or (4) “Drought development likely”. See http://www.cpc.ncep.noaa.gov/products/expert_assessment/seasonal_drought.html.

Erosion control is a measure that prevents erosion.

Executive director – The executive director of TCEQ.

Extremely hazardous substance - Any substance listed in the Appendices to 40 C.F.R. Part 355, Emergency Planning and Notification.

Facility – Any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fire protection water - Any water, and any substances or materials contained therein, used by any person other than the Fire Department to control or extinguish a fire.

Final Stabilization - A construction site status where any of the following conditions are met:

(a) All soil disturbing activities at the site have been completed and a uniform (that is, evenly distributed, without large bare areas) perennial vegetative cover with a density of at least 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

(b) For individual lots in a residential construction site by either:

(1) the homebuilder completing final stabilization as specified in condition (a) above; or

- (2) the homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefits of, final stabilization. If temporary stabilization is infeasible, then the homebuilder may fulfill this requirement by retaining perimeter controls or BMPs and informing the homeowner of the need for removal of temporary controls and the establishment of final stabilization. Fulfillment of this requirement must be documented in the homebuilder's storm water pollution prevention plan (SWP3).
- (c) For construction activities on land used for agricultural purposes (such as pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface water and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition (a) above.
- (d) In arid, semi-arid, and drought-stricken areas only, all soil disturbing activities at the site have been completed and both following criteria have been met:
 - (1) temporary erosion control measures (for example, degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by the operator; and
 - (2) the temporary erosion control measures are selected, designed, and installed to achieve 70% of the native background vegetative coverage within three years.

Garbage - Waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

Grading - The excavation or fill of material, including the resulting conditions thereof.

Harmful quantity - The amount of hazardous substance the discharge or spill of which is determined to be harmful to the environment or public health or welfare or may reasonably be anticipated to present an imminent and substantial danger to the public health or welfare by federal or state law.

Hazardous household waste – Any waste generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day recreational areas) by a consumer which, except for the exclusion provided in 40 C.F.R. § 261.4(b)(1), would be classified as a hazardous waste under 40 C.F.R. Part 261.

Hazardous substance - A material where either of the following conditions are met:

- (a) the elements, compounds, and hazardous wastes are listed in Table 302.4 of 40 C.F.R. Part 302; or
- (b) a solid waste, as defined in 40 C.F.R. § 261.2, which is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b), if it exhibits any of the characteristics identified in 40 C.F.R. § 261.20 through § 261.24 (e.g., ignitability, corrosivity, reactivity, or toxicity).

Hazardous waste - Any waste identified or listed as a hazardous waste by the EPA under the Federal Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq., or the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361 et seq.

Illicit connection - Any man-made drain or conveyance that allows an illicit discharge to enter into the MS4.

Illicit discharge - Any discharge to the MS4 that is not entirely composed of stormwater, except discharges pursuant to this Chapter and other local, state, or federal laws, regulations, or permits and discharges resulting from firefighting activities.

Industrial activity - Any of the ten (10) categories of industrial activities included in the definition of “stormwater discharges associated with industrial activity” as defined in 40 Code of Federal Regulations (CFR) §122.26(b)(14)(i)-(ix) and (xi).

Industrial waste - Solid waste from manufacturing portions of industrial activities.

Infeasible - Not technologically possible, or not economically practicable and achievable in light of best industry practices.

Land disturbing activity - Any activity, including but not limited to excavation, clearing, and grading, which disturbs the natural or improved vegetative ground cover so as to expose soil to the erosive forces of rain, stormwater runoff, or wind for residential and non-residential subdivisions and applicable city projects. Land disturbing activity does not include any vegetative cutting and mulching. All installations and maintenance of franchise utilities such as telephone, gas, electric, etc., will be considered land disturbing activities.

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

Large Construction Activity - Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (for example, the

routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities).

Maximum extent practicable - The technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in stormwater discharges that was established by the Federal Clean Water Act, 33 U.S.C. § 1251 et seq. A discussion of MEP as it applies to the MS4 is found at 40 C.F.R. § 122.34.

Minimize - To reduce or eliminate to the extent achievable using stormwater controls that are technologically available and economically practicable and achievable in light of best industry practices.

Multi-sector general permit - Either the general NPDES permit issued by the EPA under 40 CFR Section 122.28, as amended, or the general TPDES permit issued by TCEQ under Chapter 205, Title 30 of the Texas Administrative Code, as amended, that authorizes stormwater from an industrial facility to be discharged into waters of the United States or state water, including any subsequent modifications or amendments to the permit, any renewals of the permit, and the associated EPA or TCEQ regulations.

Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (a) owned or operated by the U.S., a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under the CWA § 208 that discharges to surface water in the state;
- (b) that is designed or used for collecting or conveying stormwater;
- (c) that is not a combined sewer; and
- (d) that is not part of a publicly owned treatment works (POTW) as defined in 40 CFR §122.2.

Non-point source - Any source of any discharge of a pollutant that is not a point source.

No exposure certification (NEC) - A written submission to the executive director from a permit applicant notifying that they intend to obtain a conditional exclusion from permit requirements by certifying that there is no exposure of industrial materials or activities to rain, snow, snowmelt, or stormwater runoff.

Notice of Change (NOC) – A written notification to TCEQ required by EPA or TCEQ regulations or by the terms governing a multi-sector general permit or construction general permit, informing TCEQ of changes to information that was provided in a notice of intent or prior notice of change.

Notice of Intent (NOI) - The notice of intent application form required by EPA or TCEQ regulations or by the terms governing a multi-sector general permit or construction general permit to obtain NPDES or TPDES permit coverage.

Notice of Termination (NOT) - the notice of termination required by EPA or TCEQ regulations or by the terms governing a multi-sector general permit or construction general permit to terminate NPDES or TPDES permit coverage.

NPDES Permit - A permit issued by the EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group, or generally on an area-wide basis.

Oil - Oil of any kind in any form, including, but not limited to, petroleum, fuel oil, crude oil, or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.

Operator - The person or persons associated with a large or small construction activity that is either a primary or secondary operator as defined below:

Primary Operator – the person or persons associated with construction activity that meets either of the following two criteria:

- (1) the person or persons have on-site operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- (2) the person or persons have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a storm water pollution prevention plan (SWP3) for the site or other permit conditions (for example, they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

Secondary Operator – The person or entity, often the property owner, whose operational control is limited to:

- (1) the employment of other operators, such as a general contractor, to perform or supervise construction activities; or
- (2) the ability to approve or disapprove changes to construction plans and specifications, but who does not have day-to-day on-site operational control over construction activities at the site.

Secondary operators must either prepare their own SWP3 or participate in a shared SWP3 that covers the areas of the construction site, where they have control over the construction plans and specifications.

If there is not a primary operator at the construction site, then the secondary operator is defined as the primary operator and must comply with the requirements for primary operators.

Outfall – A point source at the point where stormwater runoff associated with construction activity discharges to surface water in the state and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other water of the U.S. and are used to convey waters of the U.S.

Petroleum product - A petroleum substance obtained from distilling and processing crude oil and that is liquid at standard conditions of temperature and pressure and capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including, but not limited to, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

Petroleum storage tank (PST) – (a) Any one or combination of aboveground storage tanks that contain petroleum products and that are regulated by TCEQ; or (b) Any one or combination of underground storage tanks and all connecting underground pipes that contain petroleum products and that are regulated by TCEQ.

Phasing - Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Point Source – Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, or vessel or other floating craft from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutant - Anything that causes or contributes to pollution. The term includes, but is not limited to, paints, varnishes, and solvents; motor oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform, and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; noxious or offensive matter of any kind; biochemical oxygen demand (BOD); sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation); oil and grease; and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the MS4; dredged spoil; solid waste; incinerator residue; sewage sludge; filter backwash; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock, sand, and dirt; and industrial, municipal, and agricultural waste discharged into any surface water in the state. The term "pollutant" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland. For this Chapter, the term "pollutant" includes sediment.

Pollution - The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Post-construction management plan – A comprehensive plan that is used to manage the quality of discharges from a site after the completion of construction activity. This plan describes the use of structural and non-structural stormwater controls and their maintenance as well as other best management practices.

Premises - Any site or facility or building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips, owned or operated by a person from which there has been, is, or may be a discharge.

Release - Any spilling, leaking, pumping, pouring, emitting, emptying, injecting, escaping, leaching, dumping, or disposing of a pollutant or contaminant into the MS4 or waters in the state or of the United States.

Reportable quantity (RQ) - will be as provided by 30 Tex. Admin. Code § 101.1, except as otherwise provided by state or federal law, regulation, or permit.

Responsible party - Any person or legal entity, individual or corporate, including an owner, operator, contractor, or subcontractor, any or all of whom may be engaged in, consent to, or perform a construction project or construction activity.

Rubbish - Non-putrescible solid waste, excluding ashes, that consists of both (a) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (b) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600 to 1,800 degrees Fahrenheit).

Sediment control - Any measure that prevents eroded sediment from leaving the site.

Separate storm sewer system - A conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), designed or used for collecting or conveying stormwater that is not a combined sewer and that is not part of a publicly owned treatment works.

Sewage (or sanitary sewage) - The domestic sewage or industrial waste that is discharged into the City sanitary sewer system and passes through the sanitary sewer system to a publicly-owned treatment works.

Site – The land or water area where any facility or activity, including construction activity, is physically located or conducted, including adjacent land used in connection with the facility or activity.

Small Construction Activity - Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site (for example, the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities).

Stabilization - The use of practices that prevent exposed soil from eroding.

Stormwater (or Stormwater Runoff) - Rainfall runoff, snow melt runoff, and surface runoff and drainage.

Stormwater associated with construction activity – Stormwater runoff from a construction activity.

Stormwater discharge associated with industrial activity - Stormwater runoff that exits any system that is used for collecting and conveying stormwater that originates from manufacturing, processing, material storage, or waste material disposal areas (and similar areas where stormwater can contact industrial pollutants related to the industrial activity) at an industrial facility described by an applicable TPDES or NPDES permit.

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

Stormwater management facility - Any facility that is built to control stormwater runoff in order to comply with BMPs.

Storm water pollution prevention plan (SWP3). A plan required by a NPDES or TPDES permit that describes and ensures the implementation of BMPs that must be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity at the regulated facility to water in the state and U.S.

Structural control (or practice) - A pollution prevention practice that requires the construction of a device, or the use of a device, to reduce or prevent pollution in stormwater runoff. Structural controls and practices may include but are not limited to: silt fences, earthen dikes, drainage swales, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

Surface water in the state - Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHW) out 10.36 miles into the Gulf), and all other bodies of surface

water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

Tail water - The runoff of irrigation water from the lower end of an irrigated field.

Temporary stabilization - A condition where exposed soils or disturbed areas are provided a protective cover or other structural control to prevent the migration of pollutants. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either permanent stabilization can be achieved or until further construction activities take place.

TPDES permit - A permit issued by the state through TCEQ, or any predecessor or any successor agency, under the authority delegated by EPA pursuant to 33 U.S.C § 1342(b) (Federal Clean Water Act), as amended, and pursuant to the Texas Water Code, as amended, that authorizes the discharge of pollutants to water in the state or of the United States, whether the permit is applicable to a person, group, or generally on an area-wide basis.

Turbidity – A condition of water quality characterized by the presence of suspended solids or organic material.

Unauthorized connection – Any man-made drain or conveyance that connects to the MS4 without City authorization.

Used oil (or used motor oil) - Any oil that has been refined with crude oil, or any synthetic oil, that has been used, and, because of use, is contaminated by physical or chemical impurities.

Vehicle - Includes any vehicle held for personal use including automobiles, trucks, recreational vehicles, motorcycles of any type, and boats or personal watercrafts.

Watercourse – A watercourse includes a drainage path or way or the channel of a stream, to include, without limitation, waters in the state or of the United States, in which water flows within a defined bed and banks, even though the same may be slight, imperceptible or even absent in places, and originates from a definite source or sources. The water need not always be present and may be intermittent if the latter occurs with some degree of regularity, depending on the characteristics of the sources (i.e., water is present or flowing during or after a rainfall event).

Water in the state - Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or

partially inside or bordering the state or inside the jurisdiction of the state, except that water in treatment systems which are authorized by state or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

Water quality standard - Provisions that consist of a designated use or uses for the water in the state and water quality criteria for such waters based upon such uses. Water quality criteria consist of narrative provisions and numerical criteria deemed by the state to be necessary to protect those uses, as specified in 30 Texas Administrative Code (TAC) Article 307, as amended.

Waters of the United States - Waters of the United States or waters of the U.S. means:

- (a) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) all interstate waters, including interstate wetlands;
- (c) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) all impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) the territorial sea; and
- (g) wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of federal Clean Water Act (CWA), as amended, are not waters of the U.S. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the U.S. (such as disposal area in wetlands) nor resulted from the impoundment of waters of the U.S. Waters of the U.S. do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with the EPA.

Wetlands - Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard waste - Leaves, grass, grass clippings, bushes, shrubs, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

ARTICLE II. STORMWATER COMPLIANCE FOR CONSTRUCTION ACTIVITY

Sec. 27-3. In general.

(a) Purpose.

During the construction process, soil is highly vulnerable to erosion by wind and water. Clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat. Eroded soil endangers water resources by reducing water quality and causes the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of drainage ways, channels, and watercourses.

The purpose of this Article is to safeguard persons, protect property, and prevent damage to the environment in the City. This Article will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any residential and non-residential subdivision development and applicable City projects or other activity that disturb or break the topsoil or result in the movement of earth within the City.

(b) Definition. For the purposes of this Article, the following definition applies:

Discharge means the drainage, release, or disposal of pollutants in stormwater and certain non-stormwater from areas where soil disturbing activities (e.g., clearing, grading, excavation, stockpiling of fill material, and demolition), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck wash out, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

Sec. 27-4. Applicability of Article.

(a) A person engaging in any small or large construction activity as defined by this Chapter within the City limits must comply with the terms of this Article. This Article applies regardless of whether an owner or developer is required to obtain any permit, including a building permit, related to the construction activity.

(b) In determining if a project qualifies as large or small construction activity, the City will consider whether the development is a part of a common plan. A construction activity is a part of a common

plan if it is completed in separate stages, phases, or in combination with other construction activities. Common plans are often, but not solely identified by plats, blueprints, contracts, zoning requests, and building permits. Additionally, common plans may exist and erosion and sedimentation control may be required when there is more than one operator operating in one area which is larger than five acres, even though no single individual project is larger than five acres individually.

- (c) This Article does not apply to discharges from stormwater from agricultural activities. Persons discharging stormwater from agricultural activities must follow all applicable state, federal, and local laws, regulations, or permits.
- (d) The owner of the property on which the activity occurs, in addition to the person engaging in construction activity, is responsible for violations of this Article. Both the owner and the person engaging in the construction activity are responsible for any erosion of the property or construction site which results in accumulation of sediment in streets, alleys, any channel, other private properties, or drainage facilities stemming from the construction activity. Any accumulation or deposit of soil material beyond the limits of the property or construction site or in city streets, alleys, channels, private properties, or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort or adversely impact stormwater quality as determined by the City is declared a public nuisance and is a violation of this Article.

Sec. 27-5. City of Temple Drainage Criteria and Design Manual.

- (a) This Article is cumulative of the regulations found in the City's DCDM. Although the intention of this manual is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used to conduct hydrologic and hydraulic studies if approved by the City and allowed under state and federal laws, regulations, or permits.
- (b) Failure to abide by the regulations found in the DCDM is an offense unless approved by the City or otherwise allowed under state or federal laws, regulations, or permits.

Sec. 27-6. Stormwater pollution prevention measures required.

- (a) The Texas Commission on Environmental Quality (TCEQ) regulates stormwater discharges from construction sites. Prior to initiating any construction activity, a person must comply with all state and federal requirements. If applicable, an operator of a construction site must obtain a construction general permit or individual permit. An operator of a construction site must comply with all terms and conditions of a construction general permit or an individual permit, whichever is obtained from TCEQ for or applicable to the construction site. Failure to comply with all TCEQ requirements and terms and conditions of a TCEQ issued permit is an offense.
- (b) An operator of a construction site regulated under this Chapter must implement best management practices to control and minimize the discharge into the MS4, waters of the United States, and state water of any sediment, silt, earth, soil, or other material from the construction site. Erosion control

elements meeting the criteria for best management practices must be installed before any construction site is established in accordance with an installation schedule as specified in a stormwater pollution prevention plan required by the construction general permit or individual permit. Failure to comply with this Subsection is an offense.

Sec. 27-7. Requirements to post, notify, and make available.

- (a) A responsible party for a large or small construction activity must post at the construction site the applicable TCEQ site notice as required by TCEQ and TCEQ issued permits.
- (b) A copy of the signed NOI for large construction activity and a copy of the signed and certified construction site notice for large and small construction activity must be provided to the City within two (2) days prior to commencement of construction activities, as applicable, by a responsible party.
- (c) A responsible party must make any applicable SWP3 available to the City upon request as soon as reasonably possible.
- (d) Failure, refusal, or inability to provide a SWP3 for inspection constitutes a violation of this Section.
- (e) It is unlawful for any person to engage in construction activity in violation of the elements of an applicable SWP3.
- (f) A responsible party must provide the City a copy of any notice of change (NOC) sent to TCEQ related to a construction activity as required by a TCEQ permit. This copy must be provided to the City within two (2) days after the date it is sent to TCEQ.
- (g) A responsible party must provide the City a copy of any notice of termination (NOT), small construction site completed site notice or large construction site secondary operator completed site notice necessary to close out a construction activity regulated by TCEQ. This copy must be provided to the City within two (2) days after the date it is sent to TCEQ.
- (h) Where permanent improvements have been constructed, the final inspection by the City will verify whether the final stabilization criteria have been met.
- (i) Where no permanent improvements are planned, a responsible party must continue to maintain temporary BMPs until the site has reached final stabilization.
- (j) A responsible party for a site must continue to regulate the site and maintain an open, active permit until final stabilization is achieved; and, where applicable, until a NOT or small construction site completed site notice or large construction site secondary operator completed site notice has been filed with TCEQ and a copy provided to the City.

- (k) Where the site has met final stabilization requirements, but the controls or measures implemented thereafter fail, each discharge of construction related contamination by the operator constitutes a violation of this Section.
- (l) Removal of temporary BMPs will be required after the site achieves final stabilization.
- (m) Failure to comply with any provision of this Section is an offense.

Sec. 27-8. Compliance monitoring.

- (a) The City may enter any site in which there is construction activity regulated by this Article to ensure compliance with all applicable federal, state, and local laws, regulations, and permits.
 - (1) The responsible party related to this construction activity must:
 - (A) allow the City ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties;
 - (B) make available to the City any SWP3 or modifications to SWP3s, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and other records, reports, and documents required by a construction general permit or an individual permit; and
 - (C) retain and provide to the City, upon request, any annual, semi-annual, or periodic monitoring reports as required by a construction general permit or an individual permit.
 - (2) If the property owner, operator, manager, or person in charge of this construction activity has security measures in force that require proper identification and clearance before entry into the premises, they must make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City is permitted to enter without delay to inspect as authorized by this Article.
 - (3) Any temporary or permanent obstruction to safe and easy access to a property that is to be inspected must be promptly removed by the responsible party for this construction activity at the written or verbal request of the City and may not be replaced. The cost of clearing access to the facility must be borne by the obstructor.
- (b) The responsible party of construction activity regulated by this Article must notify the City at least two (2) working days before each of the following:
 - (1) start of construction;
 - (2) installation of sediment and erosion measures;
 - (3) installation of facilities related to final stabilization; and

- (4) final acceptance of public infrastructure or prior to issuance of certificate of occupancy dependent upon respective development stage.
- (c) When phasing is requested, the erosion and sediment controls in each phase must be established, reviewed, and approved by the City prior to the start of any subsequent phase, which will be allowed only when there are no outstanding SWP3 violations for the development for which the request is made.
- (d) A person permitted by TCEQ for construction activity, owner, or designated agent must conduct inspections of disturbed areas of the construction site, the site's erosion and sedimentation controls, and any facilities on the site in accordance with the requirements of the construction general permit or the individual permit, whichever is applicable to the site, or if not required by such permits, on a regular basis. All inspection reports must be kept on file available for viewing upon request by the City. Inspectors under this Subsection must direct the person responsible for the site to make any necessary repairs or modifications to bring the site into compliance with this Chapter and all other local, state, and federal laws, rules, and regulations.
- (e) A person commits an offense if they:
 - (1) fail or refuse to allow the City to access the construction site for purposes of inspection, including preventing entry through security measures;
 - (2) fail, refuse, or are unable to provide information or documents as required by this Section when requested by City;
 - (3) fail to notify the City at least two working days before any delineated construction phase as provided by Subsection (b), above.
 - (4) fail to remove any obstructions to City inspections when requested by the City.

Sec. 27-9. Offenses.

- (a) Offenses. It will be an offense to this Article for a person performing any construction activity regulated by this Article to:
 - (1) commence any construction activity without first obtaining a TPDES general construction permit or individual permit if required by state or federal law;
 - (2) construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Article;
 - (3) fail to develop or implement a SWP3 in accordance with TCEQ requirements and this Article for a construction site;

- (4) fail to install stormwater pollution prevention devices or to maintain stormwater pollution prevention devices throughout the duration of land disturbing activities in compliance with the SWP3 for the construction site;
- (5) fail to remove off-site sedimentation that is a direct result of construction activities;
- (6) allow sediment laden water resulting from below ground installations to flow from a site without being treated through an erosion control device;
- (7) fail to maintain existing stormwater pollution prevention devices, including replacement of existing grass or sod;
- (8) fail to comply with any term of a TPDES general construction permit or individual permit;
- (9) discharge construction related contamination due to failure of controls or measures implemented where the site has met final stabilization requirements; each discharge by the responsible party for the site constitutes a separate violation;
- (10) engage in any construction activity that results in a measurable volume of sediment, soil, soil material, or other pollutants entering the City's MS4;
- (11) engage in construction activity without using BMPs necessary to protect the City's MS4 from runoff or other media capable of transporting sediment, soil, soil material, and pollutants into the City's MS4; and
- (12) violate any provision of this Article.

Sec. 27-10. Administrative Enforcement.

(a) Notice of Violation.

- (1) Upon observation of an alleged violation or condition the City believes constitutes a violation of this Article, the City may issue a notice of violation letter to a responsible party for the site. The notice of violation may be personally delivered to a responsible party for the site, if such person is available on site; or in the absence of such person, may be posted at the construction site. Notice of violations may also be sent by mail to the responsible party. Notice of violations will provide three (3) 24-hour periods to correct the violation alleged. The first 24-hour period must be used by the responsible party to remediate and remove the offending material, if any, from the City's MS4 or obtain and post permit documents or provide a copy of a complete SWP3 to the City, as applicable. The next two 24-hour periods will follow immediately and must be used by the

responsible party to appropriately install or repair the corrective BMP that was lacking or failed to protect City property.

- (2) If correction is not made timely, the City may issue a stop work order.
 - (3) If a corrective action is not timely accomplished to protect the City's MS4, the City may pursue criminal or civil remedies.
 - (4) Additional or cumulative enforcement action may be taken as the seriousness of the alleged pollutant encroachment on the MS4 may warrant.
 - (5) Additional compliance time may be given, if within the judgment and discretion of the City, municipal obligations to environmental health and safety and municipal stormwater compliance obligations to enforcement agencies are not compromised.
- (b) Stop work order; revocation of permit. In the event that any person violates the terms of a SWP3 or construction general permit or individual permit, this Chapter, the DCDM, or any other federal, state, or local law, regulation, or permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of the public or be materially detrimental to the public welfare or injurious to other property, the City may suspend or revoke any City issued permit related to this violation or injurious action, including any building or construction permits, or halt the permitted or approved activity until the violation is abated or corrected. The City may also issue a stop work order if the site fails any City inspection.
- (1) Failure to comply with a stop work order or a revocation of a permit is an offense.
 - (2) Issuing a stop work order or revoking a permit is not a bar to, or a prerequisite for, taking any other action against a person.

Sec. 27-11. Reserved.

ARTICLE III. POST-CONSTRUCTION STORMWATER RUNOFF CONTROL

Subchapter A. General Provisions

Sec. 27-12. Purpose.

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

- (a) minimize increases in stormwater runoff from any land disturbing activity to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (b) minimize increases in non-point source pollution caused by stormwater runoff from land disturbing activity which would otherwise degrade local water quality;
- (c) minimize the total annual volume of surface water runoff which flows from any specific site during and following land disturbing activity to not exceed the pre-land disturbing activity hydrologic regime to the maximum extent practicable; and
- (d) reduce stormwater runoff rates and volumes, soil erosion, and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

Sec. 27-13. Compatibility with other permit and ordinance requirements

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

Subchapter B. Post-Construction Best Management Practices.

Sec. 27-14. Compliance with all post-construction standards.

An owner, operator, or manager of a property or their designee must comply with all post-construction (permanent) best management practices of the DCDM as well as other parts of this manual, and all other applicable federal, state, or local laws, regulations, and permits.

Sec. 27-15. Post-construction management plan.

- (a) The responsible party for a construction site regulated under this Chapter must submit a post-construction management plan to the City prior to receiving any building or construction permit or when requested by the City. This plan must provide for the use of structural and non-structural stormwater controls and their maintenance to be used and maintained post-construction as well as other post-construction best management practices.
- (b) Such plan must comply with all requirements found within the DCDM as well as with all federal, state, and local requirements.

Subchapter C. Maintenance and Repair of Stormwater Management Facilities.

Sec. 27-16. Maintenance and repair plan.

The design and planning of all stormwater management facilities included in a post-construction management plan must provide detailed maintenance and repair procedures to ensure their continued function. These plans must identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary for adequate repair and maintenance. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures, which meet all specifications found in the DCDM, must be provided to the City as part of the responsible party's post-construction management plan.

Sec. 27-17. Records of installation and maintenance activities.

- (a) Parties responsible for the operation and maintenance of a stormwater management facility, including a property owner, must make written records of the installation and of all maintenance and repairs, and must retain the records for at least five (5) years. These records must be made available to the City during inspection of the facility and at other reasonable times upon request.
- (b) Failure to maintain these records or make them available upon request by the City is an offense.

Subchapter D. Inspection of Stormwater Management Facilities.**Sec. 27-18. Inspection of permanent, post-construction stormwater management facilities.**

- (a) Inspections of permanent, post-construction, stormwater management facilities must comply with all requirements found within DCDM related to inspections of these facilities as well as with all federal, state, and local laws, regulations, and permits.
- (b) For all privately owned and maintained stormwater maintenance facilities, the person responsible for the facility must make regular inspections of all BMPs as required by the DCDM and state and federal laws, regulations, and permits. If the frequency of inspection for a particular stormwater management

facility is not provided by any applicable law, regulation, or permit, then the inspection must be performed no less frequently than once a year or as required by the City.

- (1) The purpose of such inspections must be to determine the overall effectiveness of these BMPs and the need for additional control measures.
 - (2) Repair and maintenance needs may include: removal of silt, litter, and other debris from all catch basins, inlets, and drainage pipes, grass cutting, vegetation removal, and necessary replacement of landscape vegetation.
 - (3) Any repair or maintenance needs found must be addressed in a timely manner, as determined by the City, and the inspection and maintenance requirements may be increased by the City as deemed necessary to ensure proper functioning of a stormwater management facility.
 - (4) Results of inspections must be documented in written form. All these inspection reports must be kept on file available for viewing upon request by the City.
- (c) The City may inspect a stormwater management facility to ensure compliance with all applicable federal, state, and local laws, regulations, and permits.
- (d) A person responsible for a facility commits an offense if they:
- (1) fail or refuse to allow the City to access to a stormwater management facility for purposes of inspection, including preventing entry through security measures;
 - (2) fail to timely inspect a stormwater management facility as required by the DCDM, federal, or state law, regulation, or permit, or as required by the City; or
 - (3) fail, refuse, or are unable to provide a post-construction management plan or any inspection report when requested by the City.

Subchapter E. Enforcement and Penalties.

Sec. 27-19. Failure to maintain stormwater management facilities.

- (a) If a person responsible for a post-construction stormwater management facility fails or refuses to maintain such facility, the City may correct a violation by performing all necessary work to place the facility in proper working condition after providing notice in writing to the person responsible for the facility of the violation. The City may issue a written notice to the person responsible of the facility, if such person is available at the facility; or, in the absence of such a person, by posting the notice at the facility or by mail. The person responsible for the facility will have three (3) days from the date a written notice is provided to perform maintenance or repair of the facility in the manner approved by the City. If the person responsible for the facility fails to correct the violation in a way that is approved by the City, the City may perform

the maintenance or repair the facility and assess the owner of the facility for the cost of the repair work.

- (b) If a stormwater management facility poses an imminent danger to public safety or public health, the City, after providing verbal notice to the person responsible for the facility, may perform the maintenance or repair the facility and assess the owner of the facility for the cost of the repair work.
- (c) Failure to pay for any of the City's work to repair or maintain a stormwater facility under Subsections (a) or (b), above, may result in a lien levied against the property.
- (d) Failure or refusal to comply with a notice to repair or maintain a stormwater facility by the City notice's deadline is an offense.
- (e) Failure or refusal to maintain any post-construction stormwater management facility as required by any local, state, or federal law, regulation, or permit is an offense irrespective of whether the violation was timely remedied after City notice.
- (f) Providing notice of violation or repairing or performing maintenance on a facility by the City is not a bar to, or a prerequisite for, the City taking any other action against a person.

Article IV. Creek Buffer Zones.

Sec. 27-20. Establishment of Creek Buffer Zones (CBZs).

All property located on or adjacent to a natural, vegetated, earthen or grass lined creek, channel, stream, or channel is hereby deemed to be within a CBZ. When a property is located within a CBZ, the developer, builder, operator, and owner must comply all applicable requirements of the DCDM.

Sec. 27-21. Design Standards.

CBZs must be designed and designated by the requirements and standards found in this Chapter and in the DCDM.

Sec. 27-22. Offense.

A person who fails to comply by any term of this Article commits an offense.

Secs. 27-23 – 27-39. Reserved.

ARTICLE IV. REGULATION OF NON-STORMWATER DISCHARGES

DIVISION I. ILLICIT DISCHARGE PREVENTION

Sec. 27-40. Purpose.

The purpose of this Article is to protect the public health, safety, environment, and general welfare through the regulation of non-stormwater discharges to the City's municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This Article establishes methods for controlling the introduction of pollutants into the City's MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit and the Texas Pollutant Discharge Elimination System (TPDES) permit processes. The objectives of this Article are to:

- (a) regulate the contribution of pollutants or contaminants to the City's MS4 or waters of the state of Texas or United States by any person;
- (b) prohibit illicit discharges and illicit connections to the City's MS4;
- (c) prevent non-stormwater discharges, generated because of spills, releases, or inappropriate dumping or disposal, to the City's MS4;
- (d) protect and preserve the functionality of watercourses and channels located within the City; and
- (e) establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this Article.

Sec. 27-41. Applicability.

The provisions of this Article apply to all water or substances entering the MS4 generated on any developed or undeveloped lands throughout the corporate limits of the City unless specifically exempted by this Article.

Sec. 27-42. Responsibility for administration; authority.

- (a) The City may administer, implement, and enforce the provisions of this Article. The City Manager may designate a City employee or department as a TPDES Stormwater Manager or Inspector. Such manager or inspectors have the authority to enforce this Article in its entirety.
- (b) The City has the authority to:
 - (1) prohibit illicit discharges and illicit connections and unauthorized connections;

- (2) respond to and contain other releases, control the discharge of spills, and prohibit dumping or disposal of materials other than stormwater into the MS4;
- (3) require compliance with conditions in the City's ordinances, permits, contracts, or orders;
- (4) require installation, implementation, and maintenance of control measures;
- (5) receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this permit, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;
- (6) receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with the City's General Permit to Discharge under the Texas Pollutant Discharge Elimination System, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;
- (7) enter and inspect private property including facilities, equipment, practices, or operations related to stormwater discharges to the MS4, as needed;
- (8) respond to non-compliance with BMPs required by the MS4 consistent with the City's ordinances or other regulatory mechanisms; and
- (9) assess penalties, including monetary, civil, or criminal penalties.

Sec. 27-42. General Prohibitions and Requirements.

- (a) A person commits an offense if they discharge or causes to be discharged any water that does not consist entirely of stormwater into a MS4, waters of the United States, or state waters.
- (b) It is an affirmative defense to prosecution to discharge the following non-stormwater sources, unless they are determined by the City or TCEQ to be significant contributors of pollutants to the MS4 or they are otherwise prohibited by the City:
 - (1) Water line flushing (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);
 - (2) Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
 - (3) Discharges from potable water sources that do not violate Texas Surface Water Quality Standards;
 - (4) Diverted stream flows;

- (5) Rising ground waters and springs;
 - (6) Uncontaminated ground water infiltration;
 - (7) Uncontaminated pumped ground water;
 - (8) Foundation and footing drains;
 - (9) Air conditioning condensation;
 - (10) Water from crawl space pumps;
 - (11) Individual residential vehicle washing;
 - (12) Flows from wetlands and riparian habitats;
 - (13) Dechlorinated swimming pool discharges that do not violate Texas Surface Water Quality Standards;
 - (14) Street wash water excluding street sweeper waste water;
 - (15) Discharges or flows from emergency firefighting activities (firefighting activities do not include washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);
 - (16) Other allowable non-stormwater discharges listed in 40 CFR § 122.26(d)(2)(iv)(B)(1);
 - (17) Non-stormwater discharges that are specifically listed in the TPDES Multi Sector General Permit (MSGP) TXR050000 or the TPDES Construction General Permit (CGP) TXR150000;
 - (18) Discharges that are authorized by a TPDES or NPDES permit or that are not required to be permitted; and
 - (19) Other similar occasional incidental non-stormwater discharges such as spray park water, unless the TCEQ develops permits or regulations addressing these discharges.
- (c) The use of BMPs or the presence of pervious cover that filters pollutants or contaminants from a discharge before the discharge reaches the MS4 will be considered an additional affirmative defense if no pollutant or contaminant is present upon the discharge's release into the MS4.
- (d) In any civil or criminal action, the discharger has the burden of proving that a discharge in violation of Subsection (a) is uncontaminated or falls within a defense to prosecution under Subsection (b). Prima facie proof that a discharge is uncontaminated must be made in the form of an analysis by a

certified laboratory, using standard methods or procedures prescribed by EPA or TCEQ regulations. A copy of the laboratory analysis must be provided to the City.

- (e) Right of entry; inspection and sampling. A discharger must comply with all requirements provided in Section 27-53, below.

Sec. 27-43. Specific Prohibitions and Requirements.

- (a) The specific prohibitions and requirements in this Section are not inclusive of all the discharges prohibited by the general prohibitions in Section 27-42, above.
- (b) A person commits an offense if he discharges or causes to be discharged into the MS4, waters of the United States, or state water a pollutant or substance that causes or contributes in causing the City to violate a Texas surface water quality standard, the City's NPDES permit or TPDES permit, or state or federal law or regulation.
- (c) A person commits an offense if he discharges or allows or permits the discharge of any of the following into the MS4:
- (1) used motor oil, antifreeze, or any motor vehicle fluid;
 - (2) industrial waste;
 - (3) hazardous substance or hazardous waste, including hazardous household waste;
 - (4) domestic sewage, septic tank waste, grease trap waste, or grit trap waste;
 - (5) garbage, rubbish, or yard waste;
 - (6) wastewater from:
 - (A) any commercial vehicle washing facility, including any commercial car wash located on the premises of any office building or in any parking garage;
 - (B) any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility;
 - (C) any washing, cleaning, or maintenance of any business, commercial, or public service vehicle (including a truck, bus, or heavy equipment) by a business or public entity that operates more than two of such vehicles;
 - (D) discharge from the washing, cleaning, de-icing, or other maintenance of aircraft;

- (E) any mobile power washing operation if the wastewater contains a harmful quantity of any soap, detergent, degreaser, solvent, emulsifier, dispersant, or other cleaning substance or pollutant;
 - (F) floor, rug, or carpet cleaning;
 - (G) the washdown or other cleaning of pavement if the wastewater contains a harmful quantity of any soap, detergent, solvent, degreaser, emulsifier, dispersant, or other cleaning substance or pollutant;
 - (H) the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum product or hazardous substance has occurred, unless all harmful quantities of the released material have been previously removed; or
 - (I) a portable restroom or other temporary sanitary facility;
- (7) effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow down from a boiler, except as allowed under a TPDES permit;
 - (8) ready-mixed concrete, mortar, ceramic, or asphalt base material, or hydromulch material, or wastewater from the cleaning of vehicles or equipment containing, or used in transporting or applying, such material;
 - (9) runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area;
 - (10) filter backwash from a swimming pool, fountain, or spa;
 - (11) swimming pool water that violates Texas Surface Water Quality Standards;
 - (12) fire protection water containing oil or hazardous substances or materials, unless treatment adequate to remove pollutants and contaminants occurs before discharge, except that this prohibition does not apply to discharges or flow from emergency firefighting (emergency firefighting does not include washing of trucks, runoff water from training activities, test water from fire suppression systems, and similar activities);
 - (13) water from a water curtain in a spray room used for painting vehicles or equipment;
 - (14) substance or material that will damage, block, or clog the MS4;
 - (15) discharge from a petroleum storage tank (PST) or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of a PST release, unless the discharge satisfies all of the following criteria: (a) is in compliance with all state and federal standards and requirements; (b) does not contain a harmful quantity of any pollutant; and (c) discharge does not contain more than 50 parts per billion of

benzene, 500 parts per billion combined total quantities of benzene, toluene, ethylbenzene, and xylene (BTEX), or 15 mg/L of total petroleum hydrocarbons (TPH);

(16) paint, finish, or paint cleaning material, including, but not limited to, auto body paint, latex paint, wood finishing material, texturing product, varnish, paint thinner, or paint solvent of any kind; and

(17) a harmful quantity of dust resulting from sanding, grinding, cutting, sawing, or storage of any materials.

(d) A person commits an offense if they discharge into the MS4 a harmful quantity of sediment, silt, earth, soil, or other material associated with:

(1) clearing, grading, filling, excavating, or other construction activities; or

(2) landfilling or other placement or disposal of soil, rock, or other earth materials in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable.

(e) A person commits an offense if they:

(1) discharge motor vehicle fluid, oil, petroleum product, or used oil into the MS4, into a private drainage system that feeds into the MS4, or into any septic tank, surface water, groundwater, or watercourse within the City;

(2) mix or commingle motor vehicle fluid, oil, petroleum product, or used oil with any type of waste that is to be disposed of in a landfill or directly dispose of motor vehicle fluids, oil, petroleum products, or used oil on land or in a landfill; or

(3) apply motor vehicle fluid, oil, petroleum product, or used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces or has the potential to introduce motor vehicle fluids, oil, petroleum products, or used oil into the MS4 or a sewer drainage system, septic tank, surface water, groundwater, or watercourse or any part of the environment.

Sec. 27-44. Regulation of pesticides, herbicides, and fertilizers.

(a) Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer within the City must comply fully with all applicable state and federal statutes and regulations, including, but not limited to:

(1) the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended;

(2) federal regulations promulgated pursuant to FIFRA; and

- (3) applicable provisions of Chapters 63 and 76 of the Texas Agriculture Code, as amended, and state regulations promulgated pursuant to those chapters.
- (b) A license, permit, registration, certification, or evidence of financial responsibility required by state or federal law for the sale, distribution, application, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must be presented to any City official, including any environmental health officer, Public Works Department employee, City code compliance officer, and any police officer for examination upon request.
- (c) No person must, within the City, use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.
- (d) No person may, within the City, use, dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer or a pesticide, herbicide, or fertilizer container in a manner that the person knows or reasonably should know is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4, waters of the United States, or state water.

Sec. 27-45. Illicit or unauthorized connections.

- (a) Illicit connections. The construction, connection, use, maintenance, or continued existence of any illicit connection, as defined by this Chapter, to the MS4 is prohibited.
- (b) Unauthorized Connections. The construction, connection, use, maintenance, or continued existence of any unauthorized connection, as defined by this Chapter, to the MS4 is prohibited.
- (c) A person violates this Article if the person connects a line conveying domestic or industrial sewage to the MS4 or allows such a connection to continue.
- (d) These prohibitions expressly include, without limitation, currently unauthorized or illicit connections that were made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (e) Unauthorized or illicit connections to the MS4 in violation of this Article must be disconnected and redirected, if necessary, by the discharger to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City at the expense of the discharger.
- (f) A person who constructs, connects, maintains, permits, or allows the continued existence of an unauthorized or illicit connection commits an offense.
- (g) Any drain or conveyance that has not been documented in plans, maps, or an equivalent, and which may be connected to the MS4, must be located by the owner or operator of a facility within three (3) days following receipt of a written notice of violation (NOV) from the City. Such notice may grant a longer time period, not to exceed sixty (60) days, but must require that the drain or conveyance be identified as a storm sewer, sanitary sewer, or other type of conveyance and that the outfall location

or point of connection to the MS4, sanitary sewer system, or other discharge point be identified. Results of these investigations must be documented and provided to the City to confirm compliance with this Article.

Sec. 27-46. Watercourses.

Watercourse Protection. Every person owning property through which a watercourse passes, or the property's occupant, lessee, tenant, agent, or manager, or the like, must keep and maintain the section of the watercourse within this property free of trash, debris, and other obstacles that may pollute, contaminate, or adversely retard the flow of water through the watercourse. Failure for a person to comply with this Section is an offense.

Sec. 27-47. Notification of release.

(a) A discharger of a reportable quantity of a hazardous or extremely hazardous substance into the MS4, waters of the United States, or state water must telephone and notify the City, TCEQ, and applicable fire department immediately after becoming aware of the discharge. A discharger of a reportable quantity of any of the following substances into the MS4, waters of the United States, or state water must telephone and notify the City and TCEQ concerning the incident within twenty-four (24) hours after its occurrence:

(1) An amount of oil that either:

(A) violates applicable water quality standards; or

(B) causes a film or sheen upon, or discoloration of, the surface of the water or an adjoining shoreline, or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline.

(2) A harmful quantity of any other pollutant that is not a hazardous or extremely hazardous substance but has been discharged in a quantity that exceeds surface water quality standards as set forth in Chapter 307, Title 30 of the Texas Administrative Code, as amended.

(b) The notification required by Subsection (a) of this Section must include all the following information:

(1) the identity or chemical name of the substance released and whether the substance is an extremely hazardous substance;

(2) the exact location of the discharge, including any known name of the waters involved or threatened and any other environmental media affected;

(3) the time and duration of the discharge at the moment of notification;

- (4) an estimate of the quantity and concentration, if known, of the substance discharged;
 - (5) the source of the discharge;
 - (6) any known or anticipated health risks associated with the discharge and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;
 - (7) precautions that should be taken as a result of the discharge;
 - (8) steps that have been taken to contain or clean up the discharged substance and related material and to minimize the impact of the discharge; and
 - (9) the name and telephone number of each person to be contacted for further information.
- (c) Within three (3) days after a discharge under this Section, the discharger must, unless expressly waived in writing by the City, submit a written report containing each item of information required by Subsection (b), as well as the following additional information:
- (1) the ultimate duration, concentration, and quantity of the discharge;
 - (2) all actions taken to respond to, contain, and clean up the discharged substances, and all precautions taken to minimize the impact of the discharge;
 - (3) any known or anticipated acute or chronic health risks associated with the discharge;
 - (4) where appropriate, advice regarding medical attention necessary for exposed individuals;
 - (5) the identity of each governmental entity and private sector representative responding to the discharge; and
 - (6) measures taken or to be taken by the discharger to prevent similar future occurrences.
- (d) The notifications required by Subsections (b) and (c) of this Section do not relieve the discharger from any expense, loss, damage, or other liability that may be incurred as a result of the discharge, including any liability for damage to the City, to natural resources, or to any other person or property. The notifications also do not relieve the discharger from any fine, penalty, or other liability that may be imposed under this Chapter or under any other local, state, or federal law, regulation, or permit.
- (e) A release report required by a state or federal regulatory authority that contains the information described in Subsections (b) and (c) of this Section meets the reporting requirements of Subsection (c), upon submittal of the report to the City.
- (f) The owner or operator of any facility, vehicle, or other source responsible for a discharge described in Subsection (a) of this Section must:

(1) comply with all state, federal, and local laws, regulations, and permits requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the discharge; and

(2) reimburse the City for any costs incurred by the City in responding to the discharge.

(g) A discharger commits an offense if he:

(1) fails or refuses to report the discharge within the time required by Subsection (a) after becoming aware of the discharge;

(2) fails or refuses to submit a written report within the time required by Subsection (c), if this requirement was not expressly waived in writing by the City;

(3) knowingly provides false or incorrect information in a notification or report required under this Section; or

(4) fails or refuses to take the necessary action to clean up pollution or damage to the MS4, waters of the United States, or state water, or to other property, that is caused by the discharge.

DIVISION II. STORMWATER DISCHARGES FOR INDUSTRIAL ACTIVITY

Sec. 27-48. Applicability of Division.

The provisions of this Division apply to discharges from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial facility, which facility is within one of the categories of facilities listed in 40 CFR Section 122.26(b)(14), as amended, or is identified in a multi-sector general permit as being engaged in industrial activity. The term does not include any discharge that is excluded from the EPA's definition of "stormwater discharge associated with industrial activity."

Sec. 27-49. Permits required.

(a) All facilities required by state or federal law must obtain a multi-sector general permit or an individual NPDES or TPDES permit, whichever is applicable for the activity conducted at the industrial facility.

(b) Facilities regulated under the TPDES General Permit TXR050000 may be excluded from permit requirements if there is no exposure of industrial materials or activities from precipitation or runoff. To qualify for a no exposure exclusion from permit requirements, the operator of a facility must comply with all TCEQ's requirements for exclusion. Facilities that qualify for this exclusion and that contribute stormwater discharge to a MS4 must provide copies of the certification that industrial facilities and materials are isolated from stormwater by storm resistant shelters to the City. Failure to provide this certification to the City is an offense.

- (c) A person violates this Division if the person discharges, causes to be discharged, or allows to be discharged stormwater associated with industrial activity without first having obtained a multi-sector general permit or an individual NPDES or TPDES permit, as applicable, to do so.

Sec. 27-50. Compliance with permits.

Responsible parties of an industrial facility must comply with all terms and conditions of a multi-sector general permit or an individual NPDES or TPDES permit, whichever is applicable for the activity conducted at the industrial facility. A person who violates a term or condition of an applicable a multi-sector general permit or an individual NPDES or TPDES permit commits an offense.

Sec. 27-51. When SWP3, NOI, NEC, NOC, and NOT are required.

- (a) Responsible parties of such facilities must submit a copy of any applicable NOI, NEC, NOC, and NOT to the City within two (2) days after submitting such document to TCEQ.
- (b) Responsible parties of an industrial facility required to have a SWP3 under a multi-sector general permit or an individual NPDES or TPDES permit must provide a copy of the SWP3 to the City upon request.
- (c) Failure to comply with this Section is an offense.

Sec. 27-52. Best Management Practices (BMPs).

- (a) Responsible parties of an industrial facility governed by this Division must use best management practices to control and minimize the discharge into the MS4, waters of the United States, and state water of any material or substance handled, stored, or generated by the industrial facility and any pollutant that may be attributed to those materials or substances. The applicable SWP3 must establish BMPs. Compliance with required BMPs must be at the responsible parties' expense.
- (b) Responsible parties of an industrial facility must comply with all BMPs required by the state, federal, or local laws, regulations, and permits.
- (c) The City may require a person responsible of an industrial facility to implement, at said person's expense, additional BMPs, in addition to those required by TCEQ or the EPA, to prevent discharge of pollutants or contaminants to the MS4.

Sec. 27-53. Right of entry; inspection and sampling.

- (a) The City is authorized to enter the premises of any person who is discharging stormwater into the MS4, waters of the United States, or state water to determine if the discharger is complying with all requirements of this Chapter and of any applicable state or federal discharge permits, limitations, or requirements.

(b) A discharger must:

- (1) allow the City ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties;
- (2) retain records of all monitoring and reporting records, including records of calibration and maintenance, and copies of all records and reports required by a TCEQ permit for a period of three (3) years from the date of the record or sample, measurement, report, application, or certification;
- (3) retain any applicable SWP3 for a minimum of one (1) year after a NPDES or TPDES general permit is terminated or allowed to expire without renewal;
- (4) make available to the City any SWP3s or modifications to plans, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and other records, reports, and documents required by the NPDES permit or TPDES permit; and
- (5) retain and provide to the City, upon request, any annual, semi-annual, or periodic monitoring reports as required by the NPDES or TPDES permit.

(c) A person commits an offense if they fail to comply with any of the requirements provided in Subsection (b), above.

(d) If a discharger has security measures in force that require proper identification and clearance before entry into the premises, the discharger must make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City is permitted to enter without delay for the purpose of performing the City's responsibilities.

(e) The City has the authority to install on the discharger's property, or to require installation of, such devices as are necessary to conduct sampling or metering of the discharger's operations.

(f) The City may require a discharger that contributes, or the City believes may contribute, a harmful quantity of a pollutant to the MS4, waters of the United States, or state water to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges. All such activities must be at the discharger's expense. The City may specify the frequency and parameters of any required monitoring.

(g) The City may require the discharger to install monitoring equipment as necessary at the discharger's expense.

(h) All required sampling and monitoring equipment must be maintained in a safe and proper operating condition by the discharger. The discharger must ensure that each device used to measure stormwater flow and quality is calibrated for accuracy.

- (i) Any temporary or permanent obstruction that obstructs safe and easy access to facility that is to be inspected or sampled must be promptly removed by the discharger at the written or verbal request of the City and must not be thereafter replaced. The costs of clearing access to the facility must be borne by the discharger.
- (j) Failure for a discharger to comply with any provision of this Section is an offense.

ARTICLE V. ENFORCEMENT

Sec. 27-54. Administrative Enforcement Remedies.

- (a) Generally. Unless otherwise provided in this Chapter, nothing in this Chapter limits the authority of the City to take any action, including emergency action and filing a civil suit or criminal charges, without first issuing any other type of notice or order provided under this Article. Compliance with any notice issued hereunder in no way relieves the alleged violator of liability for any violations occurring before or after receipt of any notice or order.
- (b) Notification of Violation (NOV). Except as otherwise provided by this Chapter, when the City finds that any person has violated, or continues to violate, any provision of this Chapter, the City may serve upon that person a written NOV in person or by mail. Notice of violations may order a violator to perform, within a prescribed period, any or all of the following actions:
 - (1) provide the City an explanation of the violation;
 - (2) provide the City a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions and timelines for completion, which will be subject to City approval;
 - (3) correct the violation and make any remediation necessary within a period prescribed by the City; and
 - (4) perform any other action deemed necessary by the City to ensure the public's health, safety, and welfare and prevent property damage.
- (c) If the person denies that any violation occurred or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention must be submitted to the City by a date specified in the Notice of Violation.
- (d) Failure to take timely or proper action as required by Subsection (b) or reply to the City by a specified date as required by Subsection (c) is an offense.

- (e) All plans submitted to the City under Subsection (b)(2), above, must be approved by the City. If the City disapproves of a plan, the City may require a submitter to modify a plan.
 - (1) Failure to comply with a plan approved by the City or failure to obtain City approval for a plan under this Subsection is an offense.
- (f) The City may issue a stop work order if the City does not accept a person's denial of a violation or contention that corrective action is not needed submitted under Subsection (c).
- (g) Stop Work Orders. When the City finds that any person has violated, continues to violate, or threatens to violate any provision of this Chapter, or any order issued by the City hereunder, the City may issue a stop work order, which will: (1) suspend or revoke any City issued permits or approvals associated with the regulated activity, facility, or site in question; or (2) halt the permitted or approved activity or facility until the violation is abated or corrected.
- (h) If a violator fails to timely correct a violation or make required remediation or there is an imminent danger to the public health, safety, or welfare, the City may perform any action deemed necessary by the City to ensure the public's health, safety, and welfare. The City may charge the owner of the property for any work performed by the City under this Subsection. Failure to pay the City for this work may result in the City filing a lien against the property.

Sec. 27-55. Criminal and Civil Enforcement.

- (a) The commission of any act that is prohibited by this Chapter or the failure to perform any act that is required by this Chapter is a violation.
- (b) Penalties for violations.
 - (1) Criminal.
 - (A) A person who knowingly, intentionally, recklessly, or with criminal negligence violates any provision of this Chapter commits an offense.
 - (B) A person who violates any provision of this Chapter commits a Class C misdemeanor. A person convicted of a violation of this Chapter must be fined a minimum amount of not less than two hundred fifty dollars (\$250.00) for the first violation, five hundred dollars (\$500.00) for the second violation, and a thousand dollars (\$1000.00) for the third violation and each violation thereafter. The maximum fined amount for any violation of this Chapter may not be more than two thousand dollars (\$2,000.00) per violation.
 - (C) A person is criminally responsible for a violation of this Chapter if the person:
 - i. commits or assists in the commission of the violation or causes or permits another person to commit the violation;

ii. owns, operates, or manages a site or facility determined to be the cause of the violation.

(D) Each violation of this Article constitutes a separate offense, and each day or portion of a day an offense continues will be considered a new violation for purposes of enforcing this Article.

(E) Filing criminal charges will not be a bar against, or a prerequisite for, taking any other action against a person.

(2) Civil.

(A) The City has the authority to pursue all legal and equitable remedies to enforce provisions of this Chapter, including, but not limited to, civil penalties of up to \$5000.00 a day or a portion of a day for each violation of this Article, injunctive relief, and all other available relief.

(B) The City has the authority to recover expenses and loss or damage to City property.

(C) Filing a suit for civil penalties will not be a bar against, or a prerequisite for, taking any other action against a person.

(c) Remedies Nonexclusive. The remedies provided for in this Section are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant person.

ARTICLE VI. MISC. PROVISIONS.

Sec. 27-56. Authority to enter agreements to enforce provisions of this Chapter.

The City has the authority to enter any interagency or interlocal agreements or other maintenance agreements, as necessary, to comply with the requirements of any state, federal, or local law or regulation or to enforce the terms of this Chapter.

Sec. 27-57. Severability.

The provisions and sections of this ordinance must be deemed to be severable, and the invalidity of any portion of this ordinance must not affect the validity of the remainder.

ORDINANCE NO. 2019-4966

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CODE OF ORDINANCES CHAPTER 27, "STORMWATER MANAGEMENT" TO BRING THIS CHAPTER INTO COMPLIANCE WITH THE CITY'S CURRENT TCEQ PERMITS, SIMPLIFY AND CLARIFY LANGUAGE AND TERMS, AND PROVIDE MORE EFFECTIVE ENFORCEMENT TOOLS; 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 27, "Stormwater Management" that include general language clean-up and changes to formatting - Staff suggests changing the formatting section of titles and the numbering of subsections to conform with that of other City Code Chapters and correcting minor spelling errors;

Whereas, other proposed amendments to Chapter 27 include:

- A change in title of the Chapter from "Storm Water Management" to "Stormwater;"
- A deletion of the Table of Contents to make this Chapter consistent with other City Code chapters;
- Addition of a list of acronyms and consolidation of definitions placed at the beginning of the Chapter to aid the reader;
 - Currently acronyms and definitions are scattered throughout the Chapter;
- Deletion of defined words that are not used within the Chapter;
- Addition of and updates to definitions to reflect the following TCEQ permits:
 - Multi-Sector General Permit (TXR050000) - effective 8/14/16;
 - Construction General Permit (TXR150000) - effective 3/5/18;
 - General Permit for Phase II (Small) MS4s (TXR040000) - effective 1/24/19;
- Renaming of the term "Stormwater Management Plan (SWMP)" that applied to construction contractors to "Post-Construction Management Plan;"
 - This change is recommended to prevent confusion with the Stormwater Management Plan (SWMP) that the City is required to submit to TCEQ for the City's MS4 permit;
- Update of sections regulating large and small construction site requirements, including submittal requirements, to bring the Chapter into compliance with TCEQ Construction General Permit TXR150000;
- Addition of an administrative enforcement section in Article II. Stormwater Compliance for Construction Activity;
- Deletion of "Stormwater Management Plan Requirements;"
 - These requirements would be placed in a separate guidance document called "Post-Construction Management Plan;"

- Update of the Post-Construction Stormwater Runoff Control article to comply with General Permit for Phase II (Small) MS4s (TXR040000) - This update includes requiring:
 - Post-construction management plans to include maintenance and repair plans for stormwater management facilities;
 - Parties responsible for stormwater management facilities to keep records of these facilities' maintenance and repairs and allow the City to inspect these records; and
 - Parties responsible for stormwater management facilities to regularly inspect these facilities and allow the City to inspect these facilities;
- Update of the General Prohibitions and Requirements section in the "Illicit Discharge Prevention" article in accordance with General Permit for Phase II (Small) MS4s (TXR040000);
- Addition of a section regulating pesticides, herbicides, and fertilizers, which prohibits a person from violating federal and state laws and regulations governing these products or discarding, storing, or transporting these products in a manner that is likely to cause or does cause the product to enter the City's stormwater system or any other water source, including lakes and creeks;
- Addition of a section that prohibits illicit and unauthorized connections to the City's MS4;
- Addition of a section that lays out a notification procedure for people to follow when they release a hazardous substance into the public water or the City's MS4;
- Addition of a new division for Stormwater Discharges for Industrial Activity to meet requirements in Multi-Sector General Permit (TXR050000) and General Permit for Phase II (Small) MS4s (TXR040000);
- Addition of a new article titled "Enforcement" to meet requirements in Multi-Sector General Permit (TXR050000) and General Permit for Phase II (Small) MS4s (TXR040000). This article would include:
 - Administrative enforcement remedies;
 - Criminal enforcement
 - Escalated scale of fines from \$250 for the first violation to a \$2000 maximum fine;
 - Civil Remedies
 - Authority to the City to seek civil penalties of up to \$5000 as well as all other legal and equitable remedies;

Whereas, for the above reasons, Staff recommends Council amend the Code of Ordinances Chapter 27, "Stormwater Management," as outlined in Exhibit 'A,' attached hereto and incorporated herein for all purposes; 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 27, “Stormwater Management” as outlined in Exhibit ‘A,’ 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 **2nd** day of **May**, 2019.

PASSED AND APPROVED on Second Reading on the **16th** day of **May**, 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

05/02/19
Item #10
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Olson, Assistant City Manager
Don Bond, Interim Public Works Director
Christine Leal, Water Conservation Coordinator

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING: Consider adopting an ordinance updating the City of Temple’s Drought Contingency Plan.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance on first reading and set second and final reading for May 16, 2019.

ITEM SUMMARY: Title 30, Texas Administrative Code, Chapter 288 requires wholesale public water suppliers and retail public water suppliers serving 3,300 connections or more to adopt and submit Drought Contingency plans to the Texas Commission on Environmental Quality. In March 2000, the Temple City Council adopted the City’s initial Water Conservation & Drought Contingency Plan. The plan was last updated in 2014. The City’s plan provides a mechanism for conservation of available water supply; protection of the integrity of water supply facilities; and protection of the public health, safety and welfare.

The proposed update was developed to provide a combination of proactive and reactive strategies to achieve the goals of the Water Conservation Plan and to provide specific, phased, and enforceable measures related to water use.

The plan meets the requirements of the Texas Administrative Code and recommends measures that are achievable, practical, and sustainable.

FISCAL IMPACT: There is no direct fiscal impact for this ordinance.

ATTACHMENTS:

[Drought Contingency Plan
Ordinance](#)

ORDINANCE NO. 2019-4967

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ADOPTING AN UPDATE TO THE CITY OF TEMPLE'S DROUGHT CONTINGENCY PLAN; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Title 30, Texas Administrative Code, Chapter 288 requires wholesale public water suppliers and retail public water suppliers serving 3,300 connections or more to adopt and submit drought contingency plans to the Texas Commission on Environmental Quality;

Whereas, in March 2000, City Council adopted the City's initial Water Conservation and Drought Contingency Plan, last updated in 2014, which provides a mechanism for the conservation of available water supply, protection of the integrity of water supply facilities, and protection of the public health, safety, and welfare;

Whereas, the proposed update was developed to provide a combination of proactive and reactive strategies to achieve the goals of the Water Conservation Plan and to provide specific, phased, and enforceable measures related to water use - the plan meets the requirements of the Texas Administrative Code and recommends measures that are achievable, practical, and sustainable; and

Whereas, the City Council has considered these matters and deems it in the public interest to authorize these actions.

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 adopts the City of Temple's Drought Contingency Plan which is attached hereto as Exhibit A and is 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 is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **2nd** day of **May**, 2019.

PASSED AND APPROVED on Second Reading on the **16th** day of **May**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



DROUGHT CONTINGENCY PLAN

Updated:
May 2019

Utility Services Division
Department of Public Works
City of Temple, Texas
Public Water Supply Number: 140005

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Section I. Declaration of Policy, Purpose, and Intent

The City of Temple ("The City") formally adopted this Drought Contingency Plan ("The Plan") to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage during drought or other water supply emergencies. This Plan is designed to meet the requirements of 30 Tex. Admin. Code § 288, pertaining to Drought Contingency Plans for Municipal Uses by Public Water Suppliers. These regulations require all Texas retail and wholesale public water suppliers providing water service to 3,300 or more connections to update Drought Contingency Plans by May 1, 2009, and every five years thereafter.

Water uses regulated or prohibited under this Plan are considered non-essential, and continuation of such uses during times of water shortage or other emergency water supply conditions constitutes a waste of water which subjects the offender(s) to penalties defined in Section XIII of this Plan.

Section II. Public Involvement

Opportunity for public input into the preparation of the Plan was provided by the City at public workshops and hearings.

Section III. Public Education and Notification

The City will periodically provide the public, retail water customers, and wholesale water customers with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the response measures to be implemented in each stage. This information will be provided through the City's website and media releases and may also include additional means such as printed brochures and utility bill inserts.

Notification

Notification of the Public:

The City Manager shall notify the public of water shortage stages by appropriate means which may include:

- publication in a newspaper of general circulation
- direct mail to each customer
- public service announcements
- signs posted in public places
- other appropriate means

Additional Notification:

The City Manager shall directly notify appropriate individuals and entities, which may include:

- Mayor and City Council
- City department heads
- City and/or County emergency management coordinator
- County Judge & Commissioners
- Texas Commission on Environmental Quality
- major water users
- critical water users, e.g. hospitals

Section IV. Wholesale Water Contract Provisions

In the event that a wholesale water contract is renewed, extended, or amended, the wholesale customer shall be required to develop and implement a water conservation and drought contingency plan. This requirement shall be made a part of the contract. Further, if the wholesale customer intends to resell the water, a contract between the initial supplier and wholesale customer must provide that the contract for resale of the water have a water conservation requirement, so that each successive customer in the resale of the water will be required to implement conservation measures in accordance with 30 Tex. Admin. Code § 288.

It shall also be a contract provision in every wholesale water contract entered into or renewed after the adoption of the Plan, that in case of water shortage, potable water must be distributed in accordance with Texas Water Code § 11.039.

Section V. Coordination with Regional Water Planning Groups

The utility service area of the City is located within the Brazos G Regional Water Planning Area. The City has provided a copy of this Plan to the Brazos G Regional Water Planning Group. A copy of the transmittal letter is included in Appendix B.

Section VI. Authorization

The City Manager is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager shall have the authority to initiate or terminate drought stages or water shortage response measures as described in this Plan.

Section VII. Application

The provisions of this Plan shall apply to all persons, customers, and property using water provided by the City. The terms “person” and “customer” as used in this Plan include individuals, corporations, partnerships, associations, and all other legal entities.

Section VIII. Definitions

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

City Manager means the appointed City Manager or his/her designee.

Commercial and Institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company, or organization using water supplied by the City.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-essential water use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (g) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Section IX. Initiation and Termination of Water Shortage Stages

The City Manager shall monitor water supply and/or demand conditions on a regular basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified “triggers” are reached.

The triggering criteria described below are based on known capacity limits of the water treatment system, total daily water demand, and the water level of the City’s water supply source.

Year-Round Water Conservation

Customers shall be requested to adopt year-round water conservation practices, regardless of the season or water supply conditions. Guidelines for Year-Round Water Conservation as provided in Section X, “Water Shortage Response,” remain in effect until the City Manager declares a water shortage. Year-Round Water Conservation automatically resumes by default immediately upon ordered termination of all water shortage stages. The peak season for water use in Temple is the period from June 1st to September 30th, and special attention to water conservation in this period is critical to protecting valuable drinking water resources.

Moderate Water Shortage

Requirements for initiation- Customers shall be required to comply with the requirements and restrictions for Moderate Water Shortage as provided in Section X, “Water Shortage Response” when one of the following criteria are met:

1. When total daily water demand equals or exceeds 85% of plant capacity for 3 consecutive days or 90% of plant capacity on a single day;
2. Brazos River Authority initiates Stage 2 of their Drought Contingency Plan; or
3. The City Manager declares a Moderate Water Shortage.

Requirements for termination – Declaration of Moderate Water Shortage may be rescinded when all the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days or when the City Manager declares termination. Upon termination of Moderate Water Shortage, the standard condition of Year-Round Water Conservation becomes operative.

Severe Water Shortage

Requirements for initiation- Customers shall be required to comply with the requirements and restrictions for Severe Water Shortage as provided in Section X, “Water Shortage Response” when one of the following criteria are met:

1. When total daily water demand equals or exceeds 90% of plant capacity for 3 consecutive days or 95% of plant capacity on a single day;

2. Brazos River Authority initiates Stage 3 of their Drought Contingency Plan; or
3. The City Manager declares a Severe Water Shortage.

Requirements for termination- Declaration of Severe Water Shortage may be rescinded when all the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days or when the City Manager declares termination. Upon termination of Severe Water Shortage, water use requirements and restrictions of Moderate Water Shortage become operative unless otherwise determined by the City Manager.

Emergency Water Shortage

Requirements for initiation- Customers shall be required to comply with the requirements and restrictions for Emergency Water Shortage as provided in Section X, "Water Shortage Response" when one of the following criteria are met:

1. Major water line breaks, or pump or system failures occur, which cause loss of capability to provide water service;
2. Natural or man-made contamination of the water supply source;
3. Brazos River Authority initiates Stage 4 of their Drought Contingency Plan; or
4. The City Manager declares an Emergency Water Shortage.

Requirements for termination- Declaration of Emergency Water Shortage may be rescinded when all the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days or when the City Manager declares termination. Upon termination of Emergency Water Shortage, water use requirements and restrictions of Severe Water Shortage become operative unless otherwise determined by the City Manager.

Section X. Water Shortage Response

The City Manager shall monitor water supply and/or demand conditions on a regular basis and, in accordance with the triggering criteria set forth in Section IX of this Plan, shall determine that a moderate, severe, or emergency water shortage exists and shall implement the following actions:

Year-Round Water Conservation Guidelines

Target: Achieve a voluntary reduction in daily water demand.

Voluntary Water Use Restrictions:

- (a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number, and Saturdays and Wednesdays for water customers with a street address ending in an odd number, and to irrigate landscapes only before 10:00 a.m. or after 8:00 p.m. on designated watering days. However, irrigation of landscaped areas is permitted anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or a permanently installed drip irrigation system;

- (b) Irrigation of public landscaped areas by the City shall adhere to a Year-Round Water Conservation water use schedule approved by the City Manager; and
- (c) Water customers are requested to practice water conservation and to minimize water use for non-essential purposes.

Wholesale Customers

- (a) The City Manager will request wholesale water customers to implement a comparable stage of the customer's water conservation or drought contingency plan.

Moderate Water Shortage Response

Target: Achieve a 10 percent reduction in daily water demand.

Mandatory Water Use Restrictions:

Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- (a) Irrigation of landscaped areas shall be limited to Sundays and Thursdays for customers with a street address ending in an even number, and Saturdays and Wednesdays for water customers with a street address ending in an odd number. Additionally, irrigation of landscapes is only permitted before 10:00 a.m. or after 8:00 p.m. on designated watering days. However, irrigation of landscaped areas is permitted anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or a permanently installed drip irrigation system;
- (b) Irrigation of public landscaped areas by the City shall adhere to the Moderate Water Shortage water use schedule approved by the City Manager;
- (c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days;
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system;
- (e) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days before 10:00 a.m. or after 8:00 p.m. However, if the golf course utilizes a water source other than that provided by the City, the facility shall not be subject to these regulations;
- (f) All restaurants are prohibited from serving water to patrons except upon request of the patron;
- (g) The following uses of water are defined as non-essential and are prohibited:
 - (i) wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - (ii) use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - (iii) use of water for dust control;

- (iv) flushing gutters or permitting water to run or accumulate in any gutter or street; and
- (v) failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (h) The City Manager may order water rationing to selected users of the system in accordance with the following sequence:
 - (i) Recreational users
 - (ii) Commercial and Industrial users
 - (iii) School users
 - (iv) Residential Users
 - (v) Hospitals, public health facilities, and safety facilities.

Wholesale Customers

- (a) The City Manager will request wholesale water customers to implement response measures of the customer's water conservation or drought contingency plan that are comparable to the City's Moderate Water Shortage Response; and
- (b) The City Manager will initiate contact with wholesale water customers to discuss water supply and/or demand conditions and the possibility of pro rata curtailment of water diversions and/or deliveries.

Severe Water Shortage Response

Target: Achieve a 20 percent reduction in daily water demand.

Mandatory Water Use Restrictions:

All requirements of Moderate Water Shortage response shall remain in effect during Severe Water Shortage, and:

- (a) Irrigation of landscaped areas shall be limited to designated watering days. Additionally, irrigation of landscapes is only permitted before 8:00 a.m. or after 8:00 p.m. on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or a permanently installed drip irrigation system;
- (b) Irrigation of public landscaped areas by the City shall adhere to the Severe Water Shortage water use schedule approved by the City;
- (c) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited unless the golf course utilizes a water source other than that provided by the City;
- (d) Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare. The use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City; and

- (e) The City Manager may order water rationing to selected users of the system in accordance with the following sequence:
 - (i) Recreational users
 - (ii) Commercial and Industrial users
 - (iii) School users
 - (iv) Residential Users
 - (v) Hospitals, public health facilities, and safety facilities.

Wholesale Customers

- (a) The City Manager will request wholesale water customers to implement response measures of the customer's water conservation or drought contingency plan that are comparable to the City's Severe Water Shortage Response; and
- (b) The City Manager will initiate preparations for the implementation of pro rata curtailment of water diversions and/or deliveries by preparing a monthly water usage allocation baseline for each wholesale customer according to the procedures specified in Section XI of the Plan.

Emergency Water Shortage Response

Target: Achieve a 30 percent reduction in daily water demand.

Mandatory Water Use Restrictions:

All requirements of Moderate and Severe Water Shortage response remain in effect during Emergency Water Shortage, and:

- (a) Irrigation of landscaped areas is absolutely prohibited;
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited;
- (c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited;
- (d) The use of water for construction purposes from designated fire hydrants under special permit is prohibited, even when previously allowed.
- (e) No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved; and
- (f) The City Manager is authorized to implement any actions or restrictions necessary to protect the public health, safety, and welfare including, but not limited to, water rationing, water service termination; and mandatory closure of commercial and industrial facilities; and
- (g) The City Manager may order water rationing to selected users of the system in

accordance with the following sequence:

- (i) Recreational users
- (ii) Commercial and Industrial users
- (iii) School users
- (iv) Residential Users
- (v) Hospitals, public health facilities, and safety facilities.

Wholesale Customers

- (a) The City Manager will request wholesale water customers to implement response measures of the customer's water conservation or drought contingency plan that are comparable to the City's Emergency Water Shortage Response; and
- (b) The City Manager may initiate pro rata curtailment of water diversions and/or deliveries in accordance with the procedures in Section XI of the Plan in order to achieve a 30 percent reduction in all wholesale customers' allocations.

Section XI. Pro Rata Water Allocation (Wholesale Customers)

In the event that the triggering criteria specified in Section IX of the Plan for Emergency Water Shortage have been met, the City Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code § 11.039 and according to the following water allocation policies and procedures:

- (a) A wholesale customer's monthly allocation shall be a percentage of the customer's water usage baseline. The percentage will be set by resolution of the City Council based on the City Manager's assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries. Monthly allocations may be adjusted periodically by resolution of the City Council as conditions warrant. Once pro rata allocation is in effect, water diversions by or deliveries to each wholesale customer shall be limited to the allocation established for each month.
- (b) A monthly water usage allocation shall be established by the City Manager for each wholesale customer. The wholesale customer's water usage baseline will be computed on the average water usage by month for the previous four-year period. If the wholesale water customer's billing history is less than four years, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists.

Example of Calculation of Monthly Allocation for Hypothetical Wholesale Water Customer

YEAR	2014	2015	2016	2017	2018	SUM	AVERAGE	ALLOCATION PERCENTAGE	MONTHLY ALLOCATION
January	133	137	146	148	156	720	144	75%	108
February	115	122	133	133	147	650	130	75%	98
March	130	150	146	149	159	734	147	75%	110
April	130	167	168	157	187	809	162	75%	121
May	160	152	179	183	171	845	169	75%	127
June	226	184	172	205	249	1,036	207	75%	155
July	235	274	232	314	246	1,301	260	75%	195
August	222	203	206	337	309	1,277	255	75%	191
September	199	160	196	229	198	982	196	75%	147
October	165	172	197	165	185	884	177	75%	133
November	139	142	149	153	162	745	149	75%	112
December	142	143	150	156	165	756	151	75%	113
TOTAL	1,863	2,006	2,074	2,329	2,334	10,606	2,148		

- (c) The City Manager shall provide notice, by certified mail, to each wholesale customer informing them of their monthly water usage allocations and shall notify the news media and the executive director of the Texas Commission on Environmental Quality upon initiation of pro rata water allocation.
- (d) Upon request of the customer or at the initiative of the City Manager the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the wholesale customer's normal water usage; (2) the customer agrees to transfer part of its allocation to another wholesale customer; or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Council of the City.
- (e) During any period when pro rata allocation of available water supplies is in effect, wholesale customers shall pay the following surcharges on excess water diversions and/or deliveries. The below surcharges shall be cumulative:
- 1.5 times the normal water charge per 1,000 gallons for deliveries exceeding the monthly allocation up through 5 percent above the monthly allocation;
 - 2.0 times the normal water charge per 1,000 gallons for deliveries exceeding the monthly allocation from 5 percent through 10 percent above the monthly allocation;
 - 2.5 times the normal water charge per 1,000 gallons for water deliveries exceeding the monthly allocation from 10 percent through 15 percent above the monthly allocation, and;
 - 3.0 times the normal water charge per 1,000 gallons for water deliveries more than 15 percent above the monthly allocation.

Section XII. Variances

The City Manager may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

- (a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City within 5 days after the Plan or a drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
- (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.
- (g) Alternative water-use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (h) Other pertinent information.

Section XIII. Enforcement

- (a) No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this ordinance, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the City Manager, in accordance with provisions of this ordinance.
- (b) Any person who violates this ordinance is guilty of a Class C Misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than two-thousand dollars (\$2,000.00). Each day that one or more of the provisions in this ordinance is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this ordinance, the City Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge in accordance with current

policies and ordinances and any other cost incurred by the City in discontinuing service. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the ordinance is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

- (c) Any person, including a person classified as a water customer of the City in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this ordinance and that the parent could not have reasonably known of the violation.
- (d) Any employee of the City, police officer, or other employee designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall
- (e) direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than 3 days nor more than 5 days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this ordinance. If the alleged violator fails to appear in municipal court a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

Section XIV. Severability

It is hereby declared to be the intention of the City Council of the City 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 shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would not have been enacted by the City Council of the City without the incorporation into this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

Appendix A—Ordinance

Appendix B—Transmittal Letter

Transmittal Letter



COUNCIL AGENDA ITEM MEMORANDUM

05/02/19
Item #11
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Olson, Assistant City Manager
Don Bond, Interim Public Works Director
Christine Leal, Water Conservation Coordinator

ITEM DESCRIPTION: PUBLIC HEARING – Consider adopting a resolution updating the City of Temple's Water Conservation Plan.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Title 30, Texas Administrative Code, Chapter 288 requires wholesale public water suppliers and retail public water suppliers serving 3,300 connections or more to adopt and submit Water Conservation plans to the Texas Commission on Environmental Quality. In March 2000, the Temple City Council adopted the City's initial Water Conservation and Drought Contingency Plan. The plan was last updated in 2014. The City's plan provides a mechanism for conservation of available water supply; protection of the integrity of water supply facilities; and protection of the public health, safety and welfare.

The proposed update considers use and loss over the past five years and provides new goals for the next ten years, based on two five-year periods. The proposed goals are based on achieving and sustaining a total loss off 14.0%. The goals are:

- Reduce consumption
- Reduce loss and waste
- Reduce summer peak demand
- Improve efficiency in use
- Increase recycling and reuse
- Extend the life of current water suppliers

The plan meets the requirements of the Texas Administrative Code and recommends goals that are achievable, practical, and sustainable.

FISCAL IMPACT: There is no direct fiscal impact for this resolution.

ATTACHMENTS:

[Water Conservation Plan
Resolution](#)

RESOLUTION NO. 2019-9650-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN UPDATE TO THE CITY OF TEMPLE'S WATER CONSERVATION PLAN; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Title 30, Texas Administrative Code, Chapter 288 requires wholesale public water suppliers and retail public water suppliers serving 3,300 connections or more to adopt and submit water conservation plans to the Texas Commission on Environmental Quality;

Whereas, in March 2000, City Council adopted the City's initial Water Conservation and Drought Contingency Plan, last updated in 2014, which provides a mechanism for the conservation of available water supply, protection of the integrity of water supply facilities, and protection of the public health, safety, and welfare;

Whereas, the proposed update considers use and loss over the past five years and provides new goals for the next ten years, based on two five-year periods - the proposed goals are based on achieving and sustaining a total loss of 14.0% which are:

- Reduce consumption;
- Reduce loss and waste;
- Reduce summer peak demand;
- Improve efficiency in use;
- Increase recycling and reuse; and
- Extend the life of current water suppliers;

Whereas, the plan meets the requirements of the Texas Administrative Code and recommends measures that are achievable, practical, and sustainable; 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 adopts the City of Temple's Water Conservation Plan as attached hereto as Exhibit 'A,' 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 **2nd** day of **May**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



UTILITY PROFILE AND WATER CONSERVATION PLAN

Updated:
May 2019

**Utility Division
Department of Public Works
City of Temple, Texas
Public Water Supply Number: 140005**

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INTRODUCTION AND OBJECTIVES

Water supply has always been a key issue in the development of Texas. In recent years, population growth and economic development in Region G have led to growing demands for water. Additional supplies to meet high demand will be expensive and difficult to develop; therefore, it is important that we make efficient use of existing supplies. Water conservation will delay the need for new supplies, minimize the environmental impacts associated with developing new supplies, and delay the high cost of additional water supply development.

Recognizing the need for efficient use of existing water supplies, the Texas Commission on Environmental Quality (TCEQ) developed guidelines and requirements governing the development of water conservation plans for public water suppliers.

The City of Temple ("The City") has adopted this Water Conservation Plan ("The Plan") pursuant to 30 Tex. Admin. Code § 288. The objectives of the water conservation plan are:

- To reduce the consumption of water,
- To reduce the loss and waste of water,
- To reduce summertime peak demand,
- To improve efficiency in the use of water,
- To increase recycling and/or reuse of water, and
- To extend the life of current water supplies.

The City's Water Conservation Plan is intended to provide strategies to reduce the consumption and loss of water, improve the efficiency of water use, increase the reuse of water, and extend the life of current water supplies. This Plan is intended to enable the City to meet or exceed its water conservation goals, including quantified five and ten-year GPCD targets.

UTILITY PROFILE

The City's Utility Profile is an evaluation of the City's service area, current capabilities of the water and wastewater system, and the use characteristics of each system.

1. SERVICE AREA AND CUSTOMER DATA

A. Population and Service Area Data

In 2018, the City served 84,041 retail water customers. By 2030, the City's is projected to serve 108,258 retail water customers.¹ The City also provides water to four wholesale customers (City of Morgan's Point Resort, City of Troy, Little River-Academy, Arrowhead Hill), which will represent an additional 9,450 people served by the City by 2030. A copy of the City's service area map and Certificate of Convenience and Necessity (CCN) map is included in Appendix A.

Table 1. Population and Service Area Data

	RETAIL	WHOLESALE	TOTAL
Service Area Size (mi ²)	110.10	12.90	123.00
Current Population			
Service Area	84,041	9,355	93,396
Water Service	84,041	9,355	93,396
Wastewater Service	78,793	0	78,793
Population Served for Previous Five years			
2014	73,248	8,861	82,109
2015	76,280	9,078	85,358
2016	78,242	9,295	87,537
2017	79,798	9,316	89,114
2018	84,041	9,355	93,396
Projected Service Area Population			
2020	87,654	9,400	97,054
2030	108,258	9,450	117,708
2040	116,291	9,475	125,766
2050	121,962	9,500	131,462
2060	124,909	9,550	134,459

Table 1: Historical data for the population served by retail connections is calculated using population estimates from the City's Comprehensive Annual Financial Report (CAFR) plus the number of customers accounts outside of the city limits multiplied by 2.47 people per connection. Calculations for the population served wholesale are provided by the

¹ Data provided by City of Temple, Utility Business Office.

City's wholesale customers themselves. Estimates for the future population are calculated using the assumption of 2% to 4% annual growth rate.

B. Customer Data

1. Customer Connections

Table 2. Current Active Connections* (as of January 1, 2019)

CUSTOMER TYPE	TOTAL
Residential	34,080
<i>Single-Family</i>	25,600
<i>Multi-Family</i>	8,480
Commercial	2,090
Institutional	781
Industrial	44
Agricultural	6
Other (Wholesale)	5
TOTAL	37,006

* All connections are metered.

Table 3. Number of New Connections per Year (previous 3 years)

YEAR	2018	2017	2016
Residential	1,242	928	1,312
<i>Single-Family</i>	777	741	775
<i>Multi-Family</i>	465	187	537
Commercial	34	35	61
Industrial	1	11	1
Institutional	11	0	4
Agricultural	0	0	0
Other (Wholesale)	1	0	0
TOTAL	1,289	974	1,378

2. High Volume Customers

Table 4. Usage by High Volume Customers—top 5 in 2018

	CUSTOMER	ANNUAL USE (1,000 GALLONS/YEAR)	TREATED/RAW WATER
1	Scott & White	356,015	Treated
2	City of Morgan's Point Resort	167,799	Treated
3	Panda Temple Power, LLC	150,100	Treated
4	City of Troy	113,234	Treated
5	VA Hospital	106,007	Treated

3. Wholesale Customers

Table 5. Wholesale Water Customer Data for 2018 (in acre-feet)

WHOLESALE CUSTOMER	CONTRACTED AMOUNT	WATER DELIVERED
City of Morgan's Point Resort	1,935.61	514.96
City of Troy	967.80	347.50
Bell County WCID #2	322.60	131.23
Arrowhead Hill	29.03	10.75
TOTAL	3,255.04	1,004.44

2. WATER USE DATA FOR SERVICE AREA

A. Water Accounting Data

Table 6. Monthly Diversions for All Water Uses (in acre-feet)

YEAR	2014	2015	2016	2017	2018
January	1,050	1,040	970	1,100	1,330
February	960	910	1,000	1,060	1,040
March	1,090	1,060	1,080	1,230	1,280
April	1,310	1,230	1,090	1,240	1,350
May	1,610	1,210	1,080	1,500	1,780
June	1,630	1,290	1,410	1,710	2,060
July	1,740	1,810	2,050	2,100	2,360
August	2,140	2,120	1,810	1,860	2,250
September	1,820	1,790	1,690	1,780	1,500
October	1,560	1,570	1,690	1,650	1,220
November	1,210	1,000	1,210	1,400	1,050
December	1,120	1,020	1,120	1,320	1,050
TOTAL	17,240	16,050	16,200	17,950	18,270

Table 6: Monthly water diversions are determined by a master meter located at the point of diversion on the Leon River. The meter is read and recorded each day.

Table 7. Water Sales for Previous 5 Years (in 1,000 gallons)

YEAR	2014	2015	2016	2017	2018
Residential	2,395,166	2,559,446	2,670,139	2,813,903	2,847,170
Single-Family	2,111,056	2,172,109	2,280,203	2,430,717	2,481,605
Multi-Family	284,110	387,337	389,936	383,186	365,565
Commercial	797,504	593,141	624,674	626,923	617,879
Industrial	433,489	383,674	243,468	266,142	343,321
Institutional	504,144	539,027	576,281	623,181	669,521
Agriculture	2,179	2,738	5,042	4,812	5,750
Other/Wholesale	185,626	228,861	246,374	286,513	327,297
TOTAL	4,318,108	4,306,887	4,365,978	4,621,474	4,810,938

Table 8. Water Loss for Previous 5 Years

YEAR	AMOUNT (GALLONS)	WATER LOSS / MAIN LINE MILE	PERCENT LOSS
2014	537,103,375	905,739	11.35 %
2015	461,258,613	767,690	9.96 %
2016	729,664,885	1,196,329	14.92 %
2017	1,045,125,588	1,688,410	19.18 %
2018	807,523,940	1,285,866	14.86 %

Table 8: The data above does not necessarily align with historical Water Loss Audits reported to the Texas Water Development Board. The numbers listed above are considered to be more accurate and were used to inform the GPCD and water loss goals in this Plan. Length of main lines in 2018: 628 miles.

Table 9. Wholesale Water Delivery (in acre-feet)

YEAR	TREATED WATER
2014	569.66
2015	672.63
2016	773.00
2017	879.26
2018	1,004.44
TOTAL	3,898.99

B. Projected Water Demands

According to the latest Region G Water Plan (2016), the City's total water demand (retail and wholesale) is expected to increase from 22,601 acft/yr (2020) to 23,656 acft/yr (2030).² The existing contract with the Brazos River Authority is expected to reliably meet the increase in demand projected over the next decade –barring prolonged emergency drought conditions.

3. WATER SUPPLY SYSTEM DATA

A. Water Supply Sources

The City maintains Run of the River water rights for 12,500 acft/yr from a reservoir on the Leon River, and the City purchases an additional 31,953 acft/yr from the Brazos River Authority from Lake Belton. Raw water diversions from the Leon River are metered, calculated, and recorded at a minimum of once a day as part of the treatment control process.

Table 10. Water Supply Sources

WATER TYPE	SOURCE	AMOUNT AUTHORIZED (ACRE-FEET/YEAR)	
Surface Water	Leon River	Brazos River Authority Contracts:	
		Run of the River	12,500
		Storage Agreement	20,000
		Option Contract	9,453
		System Rate	2,500
			44,453

B. Treatment and Distribution System

Designed Daily Capacity of System:

The City's two water treatment plants have a total design daily capacity of 41.000 MGD.

Elevated Storage:

The City has 9.75 MG in elevated storage.

Ground Storage:

The City has 12.60 MG in ground storage.

Water System Description

The City has two (2) water treatment plants. One plant is a conventional treatment plant equipped with four (4) up-flow clarifiers and eight (8) gravity filters with a maximum treatment capacity of 29.4 million

² 2016 Brazos G Regional Water Plan, Volume I, Table 4.3-25.

gallons per day (MGD). The second treatment plant is a micro-filtration pall membrane treatment plant equipped with 11 racks of micro-filtration modules. Each rack is outfitted with 78 modules—ten (10) racks of Pall modules and one (1) rack of Scinor modules. The membrane plant has a maximum capacity of 11.6 MGD at 20 degrees Celsius.

The conventional treatment plant has two clearwells onsite that capture and store treated effluent water from both treatment plants. Treated water is stored in the clearwells (maximum 3.5 MG per well) until demand calls for water to be transferred into the distribution system's point of entry. In addition, there are eleven (11) water towers throughout the City totaling 9.75 MG of elevated storage.

Filter backwash water is recycled to the head of the plant and retreated. The treatment plant recycles on average .293 MGD or about 2.71% of the total treated production for the conventional water treatment plant. The membrane water treatment plant on average recycles .875 MGD or about 16.55% of the total treated production.

4. WASTEWATER SYSTEM DATA

The City is served by two wastewater treatment plants: Doshier Farm Wastewater Treatment Plant and Temple-Belton Wastewater Treatment Plant.

A. Doshier Farm Wastewater Treatment Plant

1. Wastewater System Data

Doshier Farm Wastewater Treatment Plant: TPDES Permit No. WQ0010470002

The Doshier Farm Wastewater Treatment Plant is owned by the City of Temple and operated by the Brazos River Authority. Treated wastewater is either used as Type I or Type II reuse, or it is discharged as effluent into an unnamed tributary which flows into Little Elm Creek.

Designed Daily Capacity of wastewater treatment plant:

Doshier Farms total design daily capacity of 7.5 MGD.

Treated effluent is used for:

- On-site irrigation
- Off-site irrigation (average 1.2 MG per month)
- Plant wash-down
- Chlorination/dechlorination
- Off-site Type II Power Plant Cooling

Approximate amount (per month): 55 MG

2. Wastewater Data for Service Area

The Doshier Farm Wastewater Treatment Plant serves approximately 25% of the City's water system service area.

Table 11. Doshier Farm: Monthly Volume of Treated Wastewater (in 1,000 gallons)

YEAR	2014	2015	2016	2017	2018
January	Data Not Available	80,292	94,663	74,644	54,589
February		60,901	62,062	66,522	54,234
March		100,054	133,992	79,447	62,461
April		73,389	106,734	127,864	57,466
May		119,142	123,665	70,220	55,874
June		108,537	92,207	63,057	50,924
July		68,645	53,549	55,066	48,753
August		52,641	77,482	60,013	50,934
September		49,104	54,573	53,654	55,271
October	52,682	84,136	48,858	51,329	88,960
November	55,688	140,986	60,705	52,610	68,210
December	50,796	143,984	63,279	56,842	94,630
TOTAL		1,001,519	971,769	811,268	742,306

B. Temple-Belton Wastewater Treatment Plant

1. Wastewater System Data

Temple-Belton Wastewater Treatment Plant: TPDES Permit No. WQ0011318001

The Temple-Belton Wastewater Treatment Plant is co-owned by the City of Temple and the City of Belton, and it is operated by the Brazos River Authority. Treated wastewater is either used as Type I or Type II reuse, or it is discharged as effluent into Nolan Creek Segment No. 1218.

Designed Daily Capacity of wastewater treatment plant:

Temple-Belton total design daily capacity of 10.0 MGD.

Treated effluent is used for:

- On-site irrigation
- Plant wash-down
- Chlorination/dechlorination
- Off-site Type II Power Plant Cooling
- Sludge Compost Process (12,000 Gallons per month)

Approximate amount (in gallons per month): 76.8 MG

2. Wastewater Data for Service Area

The Temple-Belton Wastewater Treatment Plant serves approximately 75% of the City's water system service area.

Table 12. Temple-Belton: Monthly Volume of Treated Wastewater (in 1,000 gallons)

YEAR	2014	2015	2016	2017	2018
January	146,995	171,234	174,575	165,488	142,294
February	132,134	135,830	145,899	147,573	129,694
March	148,261	196,481	253,147	175,227	152,853
April	138,458	154,804	207,788	242,161	144,616
May	164,604	235,138	231,562	158,027	148,300
June	148,102	200,364	204,903	146,160	138,739
July	149,717	154,201	144,641	142,518	140,850
August	137,486	138,025	189,285	150,288	143,531
September	134,384	130,709	146,540	137,566	147,148
October	140,843	187,468	141,827	140,882	222,659
November	142,260	275,817	150,606	135,674	164,899
December	137,456	240,163	149,391	143,766	201,797
TOTAL	1,720,700	2,220,234	2,140,164	1,885,330	1,877,380

WATER CONSERVATION PLAN

1. WATER CONSERVATION GOALS

The purpose of this section is to identify water conservation opportunities, potential targets, and goals. The City established the following 5-year and 10-year water conservation goals to generate enough water savings to extend the life of the existing supply without burdening customers with higher costs.

The projected reductions are shown at five and ten-year increments, as required by 30 Tex. Admin. Code § 288. These targets and goals will be updated every five years, or whenever the Plan is revised. The goals are based on the recommendation of a 1% reduction each year in gallons per capita per day (GPCD). It should be noted that all the performance indicators outlined below are developed assuming a year of average rainfall.

Overall progress toward conservation goals for reducing consumption, loss, waste, and peak demand will be evaluated annually when the water conservation annual report is completed, per TCEQ requirements.

Table 13. Five & Ten-Year Water Conservation Goals

	HISTORIC 5-YEAR AVERAGE	BASELINE	GOALS		
			FY 2019	FY 2023	FY 2028
Total (GPCD)	176	177	175	168	160
Total Residential (GPCD)	93	93	92	88	84
Water Loss (GPCD)	25	26	26	24	21
Water Loss (%)	14.05%	14.86%	14.69%	14.00%	14.00%

Table 13: Total and Residential GPCD goals were determined by calculating an annual 1% reduction in GPCD from the baseline year, 2018. GPCD is calculated using following method:

$$Total\ GPCD = \frac{\left(\frac{Total\ Water\ Produced - Wholesale\ Water\ Sales}{Service\ Area\ Population} \right)}{365}$$

$$Residential\ GPCD = \frac{\left(\frac{Residential\ Water\ Sales}{Service\ Area\ Population} \right)}{365}$$

2. REQUIRED CONSERVATION MEASURES

A. Record Management Program

The City uses an electronic billing system to monitor and maintain records of water deliveries and sales. The Utility Business Office (UBO), which is overseen by the Finance Department, maintains electronic records of customer connections, water sales, population data, and wholesale water sales/contracts. In addition, the City's water treatment plant maintains daily records of the amount of water diverted and treated.

B. Metering Devices

The City maintains meters to ensure that accurate readings (accuracy within plus or minus 5%) are recorded. The City uses positive displacement meters that meet AWWA standards. The most common meter size in the City is 5/8" x 3/4".

C. Universal Metering

The City requires meters for all connections and bills by volume of use. Residential, commercial, institutional, industrial, and agricultural use is metered by permanent meter installations that are maintained by City personnel. Construction use is metered via fire hydrant meters. In addition to metering of customer connections, the amount of raw water the City diverts from the Leon River is metered as an essential part of the City's treatment control process.

The City's Metering Division has an ongoing program for meter replacement and testing.

- Meter Change-Out Program – Meters that have been in service for ten years or longer are scheduled for replacement.
- Meter Accuracy Testing – Meters that are 3" or larger are tested on an annual basis. Meters that fail to meet AWWA standards are either repaired or replaced.

D. Unaccounted-For Water Use

The City's Utility Division performs periodic visual inspections along distribution lines and maintains accurate records of water leaks and line repairs. The Utility Division's goal is to physically walk all water main lines 12" or larger at least once per year. Leaking water lines are repaired or replaced as quickly as possible. In situations where repair is not immediately possible, water loss is mitigated by reduction of pressure. On-call, after-hours crews respond to and repair emergency water leaks at all hours.

The City compares daily water diversion amounts with daily water treatment production to determine water loss prior to distribution. Water production amounts are compared to metered water sales to determine distribution water loss. The City also measures and collects data on water use for firefighting, construction, and main flushing. The City's Utility Division uses the data listed above to determine the amount of unaccounted-for water use. This information is reported in the Water Loss Audit, which is submitted to the Texas Water Development Board every year by May 1st.

E. Continuing Public Education & Information

Various staff members within the Public Works Department and Utility Business Office provide education programs for schools, service groups, and non-profit local organizations. Water conservation education efforts include tours of Public Works facilities, educational information published on the City's website, presentations at area schools and businesses, and environmental education events.

In addition to year-round public education efforts, as the high-use season of summer approaches, these efforts are increased and expanded. Just prior to and during the summer months, press releases are issued regarding the City's Water Conservation Plan and Drought Contingency Plan.

The City's Department of Public Works produces written materials in the form of:

- Brochures
- Newsletter articles
- Media releases
- Public service announcements
- Social media blasts

Notices regarding water conservation are inserted in all customer bills, and items promoting conservation may be offered as "give-away" items at public events or speaking engagements.

F. Non-Promotional Water Rate Structure

The City's current rate structure offers uniform rates for service and was last revised October 2012. The rate structure is evaluated on an ongoing basis, and adjustments are made, as appropriate, in consideration of conservation needs.

*Table 14. City of Temple Water Rates
(effective October 1, 2012 per Resolution No. 2012-6697-R)*

METER SIZE	RATE
¾ inch	\$10.00
1 inch	\$16.00
1 ½ inches	\$20.00
2 inches	\$64.00
3 inches	\$128.00
4 inches	\$200.00
6 inches	\$640.00
8 inches	\$1,120.00
10 inches	\$1,120.00
Volume Unit Charge (per 1,000 gallons)	
Straight Volumetric Rate (above 2,000 gallons)	\$3.20

G. Reservoir Systems Operations Plan

The City does not operate any reservoirs. The City's water supply source, the Leon River, is fed by the Belton Lake Reservoir, which is operated by the U.S. Army Corps of Engineers.

H. Enforcement Procedures and Plan Adoption

The authority to implement and enforce this plan is granted by the City Council in accordance with the City Charter, Section 3.7, *Exclusive Right to Own, Maintain, and Operate Water Utility*. The City Council officially adopted this Plan during a regular Council meeting on May 16, 2019. A copy of the Resolution adopting this 2019 update to the City's Water Conservation Plan is provided in Appendix B.

I. Coordination with the Regional Water Planning Group

The City is located within the Brazos G Regional Water Planning Area. This Plan is consistent with the most recent Regional Water Plan (2016 Brazos G Regional Water Plan) and meets the standards for water conservation planning as outlined in 30 Tex. Admin. Code § 288. The City provided a copy of this Plan to the regional water planning group. A copy of the transmittal letter is included in Appendix C.

J. Plan Review and Update

The City's Utility Division reviews the Water Conservation Plan annually and updates the plan as necessary to reflect changes in the City's water conservation policy. The Utility Profile and Water Conservation Plan are reviewed and updated every five years in accordance with the requirements of TCEQ under 30 Tex. Admin. Code § 288. The next revision of the plan is expected no later than May 1, 2024.

3. ADDITIONAL REQUIREMENTS FOR LARGE SUPPLIERS

A. Leak Detection and Repair

Measures to control water loss are part of the routine operations of the City. Metering personnel and utility operations crews watch for and report signs of illegal connections. Utility crews look for evidence of leaks in the distribution system, and they respond quickly to repair leaks reported by the public and City staff. Areas of the water distribution system in which numerous leaks and line breaks occur are targeted for replacement as funds are available through Capital Improvement Project funds.

B. Contract Requirements for Successive Customer Conservation

In the event that a wholesale water contract is renewed, extended, or amended, it shall be a requirement that the wholesale customer develop and implement a water conservation plan.

- This requirement shall be made a part of the contract.
- If the wholesale customer intends to resell the water, a contract between the initial supplier and wholesale customer must provide that the contract for resale of the water have a water conservation requirement, so that each successive customer in the resale of the water will be required to implement conservation measures in accordance with 30 Tex. Admin. Code § 288.
- It shall also be a contract provision in every water wholesale contract entered into or renewed after the adoption of this Water Conservation Plan, that in case of water shortage, potable water must be distributed in accordance with Texas Water Code § 11.039.

4. ADDITIONAL CONSERVATION STRATEGIES

A. Water Reuse

The City achieves substantial water savings by providing direct reuse to one of the City's top water users, Panda Power. Since 2014, the City has provided nearly 5 billion gallons of reclaimed wastewater to Panda Power to use in their power plant cooling towers. In addition, the City uses reclaimed wastewater to supplement irrigation at Wilson Park and the City's tree farm on the east side of Temple. Over the last five years, 20% of all the water distributed through the utility system was reclaimed and reused.

Table 15. City of Temple Reuse – in gallons

YEAR	PANDA POWER REUSE		CITY OF TEMPLE REUSE	TOTAL ANNUAL REUSE*	
	DOSHIER FARM	TEMPLE-BELTON	DOSHIER FARM		
2014	247,098,000	--	17,997,000	265,095,000	6%
2015	676,072,000	758,336,000	30,851,000	1,465,259,000	32%
2016	538,628,000	513,496,000	14,219,000	1,066,343,000	22%
2017	406,054,000	455,960,000	13,301,000	875,315,000	16%
2018	395,346,000	921,050,000	20,698,000	1,337,094,000	25%
TOTAL	2,263,198,000	2,648,842,000	97,066,000	5,009,106,000	20%

* Reuse as a percent of total system input

B. Golf Course Conservation

The City's municipal golf course, Sammons Golf Course, uses no potable water for irrigation. Instead, each year the City uses between 40 and 50 million gallons of raw water from Lake Polk to water the course. In the future, the City may consider piping reuse to the golf course to supplement the raw water drawn from Lake Polk.

[illegible]

APPENDIX B – WATER CONSERVATION RESOLUTION

ORDINANCE NO. 2014-4655

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ADOPTING AN UPDATE TO THE CITY OF TEMPLE'S WATER CONSERVATION PLAN; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Title 30, Texas Administrative Code, Chapter 288 requires wholesale public water suppliers and retail public water suppliers serving 3,300 connections or more to adopt and submit Water Conservation plans to the Texas Commission on Environmental Quality;

Whereas, in March 2000, City Council adopted the City's initial Water Conservation and Drought Contingency Plan which provides a mechanism for the conservation of available water supply, protection of the integrity of water supply facilities, and protection of the public health, safety, and welfare;

Whereas, the proposed plan update considers use and loss over the past five years and provides new goals for the next ten years, based on two five-year periods – these goals are based off of a one-percent (1%) reduction in water loss per year as outlined below:

- To reduce the consumption of water;
- To reduce the loss and waste of water;
- To reduce summertime peak demand;
- To improve efficiency in the use of water;
- To increase recycling and/or reuse of water; and
- To extend the life of current water suppliers;

Whereas, the proposed plan updates identify the requirements that need to be addressed, in accordance with the Texas Administrative Code, and recommends the development of the plan for a public water system;

Whereas, through the establishment of the above listed goals, conservation may be achieved in a practical manner, which are not costly but rather achievable and sustainable; and

Whereas, the City Council has considered these matters and deems it in the public interest to authorize these actions.

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

Part 1: The City Council adopts an update to the City of Temple's Water Conservation Plan which recommends considers use and loss over the past five years and provides new goals for the next ten years, based on two five-year periods – these goals are based off of a one-percent (1%) reduction in water loss per year as outlined below:

- To reduce the consumption of water;
- To reduce the loss and waste of water;
- To reduce summertime peak demand;
- To improve efficiency in the use of water;
- To increase recycling and/or reuse of water; and
- To extend the life of current water suppliers;

Part 2: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs 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 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

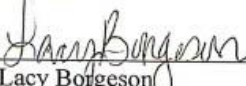
Part 5: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 17th day of April, 2014.

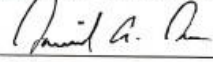
PASSED AND APPROVED on Second Reading on the 1st day of May, 2014.



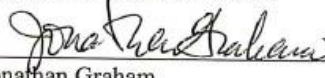
ATTEST:


Lacy Borgeson
City Secretary

THE CITY OF TEMPLE, TEXAS


DANIEL A. DUNN, MAYOR

APPROVED AS TO FORM:


Jonathan Graham
City Attorney

APPENDIX C – REGIONAL WATER PLANNING GROUP COORDINATION



May 1, 2019

Brazos River Authority
Brazos G – Water Planning Group
P.O. Box 7555
Waco, TX 76714

Re: Updated Water Conservation Plan for the City of Temple

To Whom It May Concern:

Please find attached the City of Temple's updated Water Conservation Plan. This plan was adopted by our City Council on April 17, 2019.

If there are any questions, please contact Water Conservation Coordinator.

Sincerely,

Water Conservation Coordinator
Department of Public Works

Office of City Manager 2 North Main, Suite 304 Temple, TX 76501
254.298.5600 (ph) 254.298.5459 (fax)



COUNCIL AGENDA ITEM MEMORANDUM

05/02/19
Item #12
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION REVIEW:

Mark Baker, Principal Planner

ITEM DESCRIPTION: FY-19-19-PLT: Consider adopting a resolution authorizing approval of the final plat of The Reserve at Pea Ridge Phase II, a 16.92 +/- acre, 56-lot, three-block, five-tract, residential subdivision, with developer-requested exceptions, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, addressed as 2499 South Pea Ridge Road.

STAFF RECOMMENDATION: Staff recommends approval of the final plat of The Reserve at Pea Ridge, Phase II, subdivision, and the requested exceptions to the Design Criteria related to the number of residential subdivision entrances, UDC Section 8.2.1D related to street layout and projection of streets and UDC Section 8.2.1E1 related to street radius.

PLANNING & ZONING COMMISSION RECOMMENDATION: At their April 1, 2019 meeting, the Planning & Zoning Commission voted 8 to 0 to recommend approval per staff's recommendation.

ITEM SUMMARY: This second and final phase proposes the development of 56 residential lots consistent with the Planned Development ordinance for PD-SF-2 (Ord.2018-4941). Similar in nature to Phase 1, the applicant, Yalgo Engineering, on behalf of WBW Land Investments is requesting consideration of exceptions to the Design Criteria related to the number of residential openings in a subdivision and to Unified Development Code (UDC) Section 8.2.1.D.4.b, related to the projection of streets - street openings every 1,000 feet along each boundary of the subdivision.

Important dates for The Reserve at Pea Ridge subdivision are as follows:

- Planned Development (PD-SF-2) for Phase I (Ordinance 2018-4907 - April 19, 2018)
- Development Participation Agreement (Land Swap and Authorization of ROW Improvements to South Pea Ridge Road (Resolution 2018-9109-R - April 19, 2018)
- Phase I & Exceptions to Design Criteria and UDC - 247 Lots (Resolution 2018-9159-R - June 7, 2018 – Recorded February 21, 2019
- Planned Development (PD-SF-2) for Phase II - (Ordinance 2018-4941 - December 6, 2018)

Both the Design Criteria for residential subdivision entrances and UDC Section 8.2.1.D.4.b provide for the number of access points as well as their alignment into a subdivision. Although this phase contains only 56-lots, the three access points connect directly to South Pea Ridge solely. The overall street alignment and street projection of the Reserve at Pea Ridge subdivision was considered by staff, which proposed 303 lots in total. While the Design Criteria requires three entrances for subdivisions containing between 151 and 300 lots, due to the location and the landlocked-nature of phase II toward the north, south and west, direct access would be limited to South Pea Ridge Road.

Additionally, a land swap with the City of Temple, effective with the adoption of Resolution 2018-9109-R by City Council on April 19, 2018, further perpetuates the limitation of future access points. The land swap accommodates future park land and trails accessibility as well as developable land for the property owner, which has been included into Phase II. While the existing utility easement in Phase II provides for trail accessibility, it does not lend itself for vehicular subdivision access. Nevertheless, since City parkland, that was part of the land swap, referenced earlier, lies directly to the west, north and south of Phase II, street projection is not possible and therefore, the exceptions are necessary.

Staff has no issues with the three access points as proposed by Phase II and is supportive of the requested exceptions.

As the property is zoned Planned Development-Single-Family Dwelling Two (PD-SF-2) per Ordinance 2018-4941, detached single family homes on lots with a minimum 5,000 square feet is permitted. The lots range from the smallest at 7,800 square feet (multiple lots) to the largest at 17,856 square feet (Lot 6, Block 3).

Water is available from the extension of an existing eight-inch water line in South Pea Ridge Road. Sewer is available from the extension of an existing 24-inch sewer line west of the subject property. Sewer is also available from an eight-inch sewer line, across South Pea Ridge, in Wind Chime Way.

Phase II provides sole access from South Pea Ridge Road, an existing collector and this limitation, as discussed earlier in this report, is the basis for the exceptions. As a collector, a minimum four-foot sidewalk is required and a note on the plat of Phase I was provided. The sidewalk relative to Phase II however, is part of a larger TCIP scheduled improvement program and no note was necessary for Phase II.

The final plat proposes the creation of three new local streets as follows:

1. Wind Chime Way,
2. Clyde Drive,
3. Hardin Drive

The Development Review Committee reviewed the final plat of The Reserve at Pea Ridge, Phase II subdivision on January 10, 2019. The plat was deemed administratively complete on March 21, 2019.

Park fees are required at the rate of \$225 per lot (\$68,175) which have been agreed upon by the City and the developer to be used for the park and trail improvements. While this does not require an exception to the UDC, it does require an amendment to the existing Development Participation Agreement approved on April 19, 2018.

Phase II has been provided with a single trail connection between Lots 12 and 13, Block 1 in the form of a six-foot-wide concrete sidewalk within a ten-foot wide access easement (AE). Trail will be built the full length of the creek within the floodplain property dedicated to the City as park land.

Construction and site plans will be submitted to Parks staff prior to construction. The trail will be constructed with the infrastructure of Phase I.

Since the final plat for Phase II requires exceptions to the UDC, the City Council is the final plat authority and will be considered at the same meeting with the proposed amendment to the existing Development Agreement.

SCHOOL DISTRICT: Belton independent School District (BISD)

FISCAL IMPACT: N/A

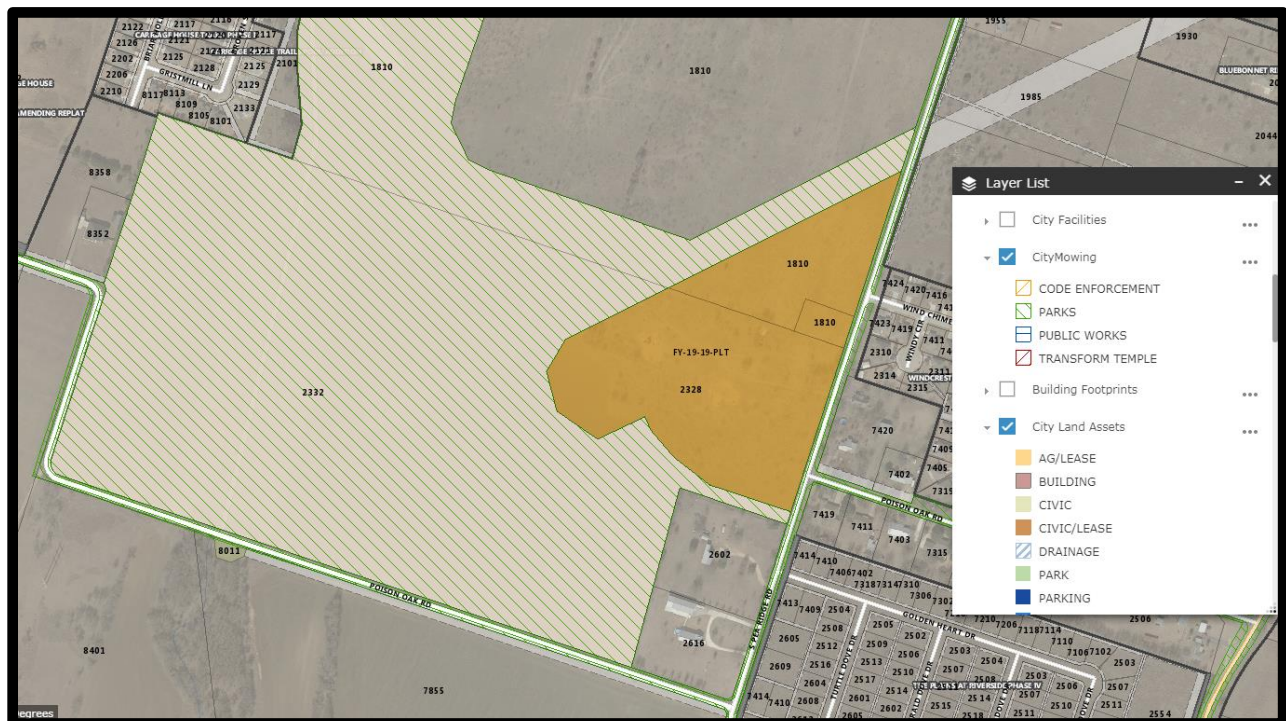
ATTACHMENTS:

[Vicinity Map, Aerial & Street View Photo](#)
[Final Plat](#)
[Water Layout](#)
[Sanitary Sewer Layout](#)
[P&Z Excerpts \(April 1, 2019\)](#)
[Resolution](#)

Vicinity Map, Aerial & Street View



Vicinity Map (City of Temple GIS Maps)



Aerial (Google Earth) – City Land Asset & Responsibility related to Parks shown by hatching



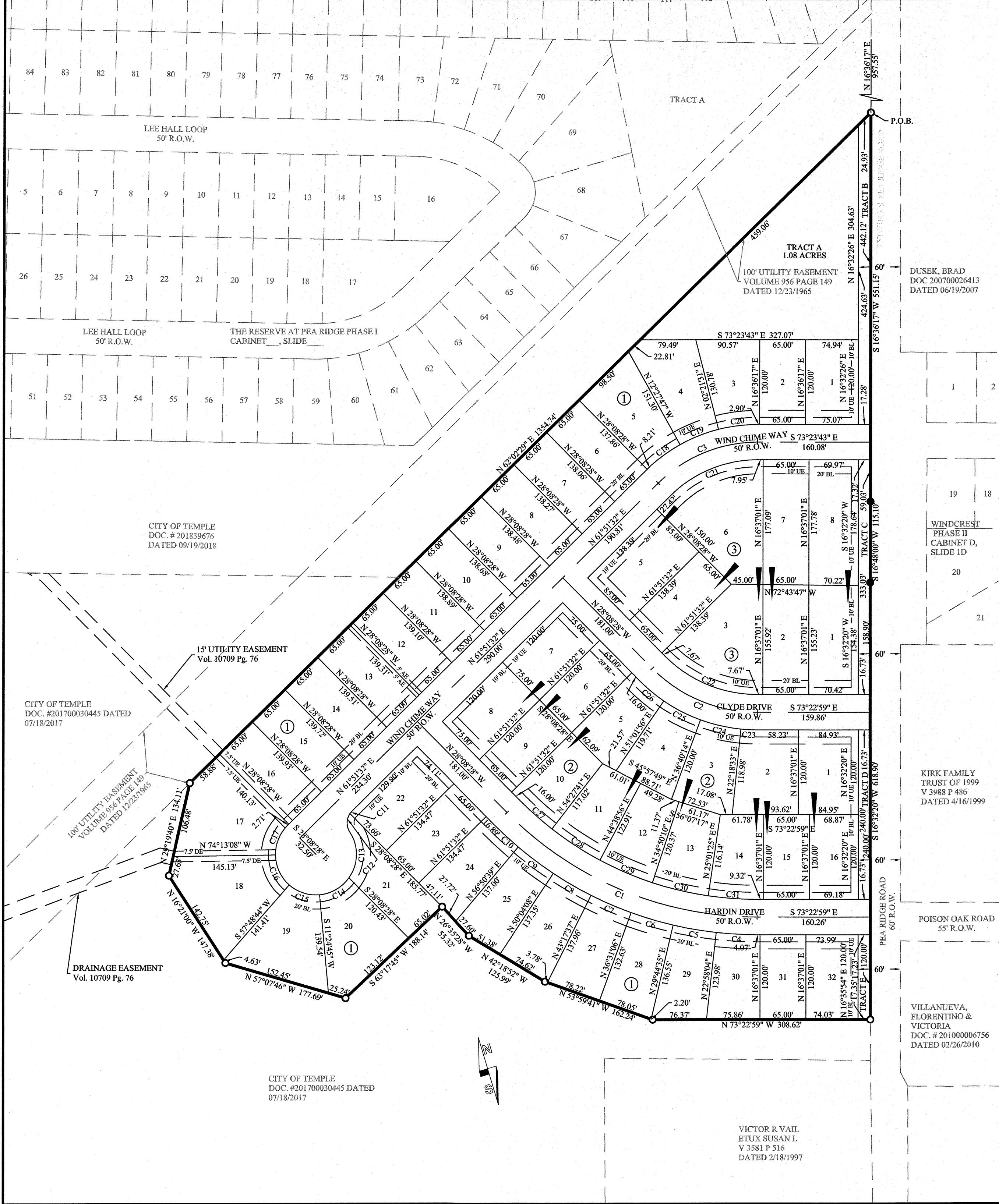
Street View – Looking toward Phase II from S. Pea Ridge Road (Photo 1)



Street View – Looking toward Phase II from S. Pea Ridge Road (Photo 2)



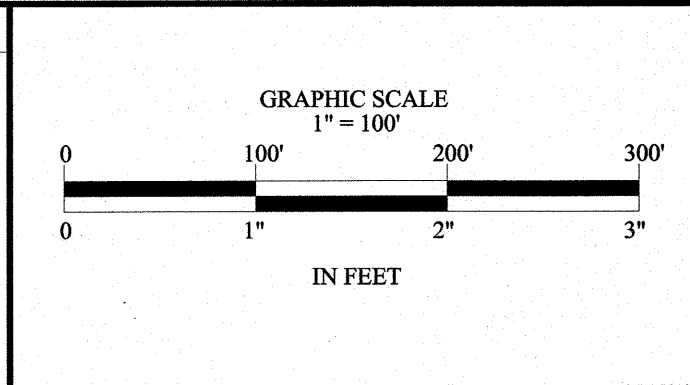
On Site – Looking North toward Phase I (*Note: Powerline in Easement*)



LEGEND	
AE	ACCESS EASEMENT
BM	BENCHMARK
DA	DRAINAGE AREA
DE	DRAINAGE EASEMENT
ELEV	ELEVATION
NTS	NOT TO SCALE
NO	NUMBER
RE	REFERENCE
REV	REVISION
TBM	TEMPORARY BENCHMARK
TYP	TYPICAL
OHE	OVERHEAD OR UNDERGROUND EASEMENT
UE	UTILITY EASEMENT
	LOTS WITH MIN FEE (SEE TABLE)
○	1/2" IRON ROD FOUND
●	1/2" IRON ROD W/ CAP MARKED "YALGO, 6200" SET
→	CHANGE IN BEARING
→	DRAINAGE ARROW (SEE NOTE 3)

REV.	DESCRIPTION	DATE	BY
2	REVISIONS PER CITY COMMENTS	01/14/2019	TWF
1	ORIGINAL RELEASE	12/17/2018	TWF
PROJECT NUMBER: RP01		CLIENT NAME: WBW DEVELOPMENT GROUP, LLC - SERIES 027	
APPROVED BY: TWF		CLIENT LOCATION: KILLEEN, TX	
AUTHORIZED BY: WBW			

PROJECT INFORMATION	
TOTAL SIZE:	16.92 Acres
TOTAL BLOCKS:	3
TOTAL LOTS:	56
TOTAL TRACTS:	5



BENCHMARK	
Temple City Survey Monument ACS-85 in roadway of Upland Bend Drive:	
City of Temple Coordinate System, an extension of the Texas State Plane Coordinate System, NAD83 datum, Texas Central Zone No. 4203, as derived from GPS observations - N: 10373987.97 E: 3206064.84 Z: 566.61' (NAVD88-GEOID12B)	

DRAINAGE EASEMENT NOTE:
To allow for proper drainage conditions, all drainage easements shall be properly graded, maintained free and clear of obstructions, and special positive overflow sections shall be provided and maintained by the lot owner for all lots having a BFE as shown hereon.

The City of Temple Drainage Criteria and Design Manual allows for major storm runoff to accumulate to levels above the top of curb. Homeowners and homebuilders are advised to consider this when preparing site grading plans and setting finished floor elevations.

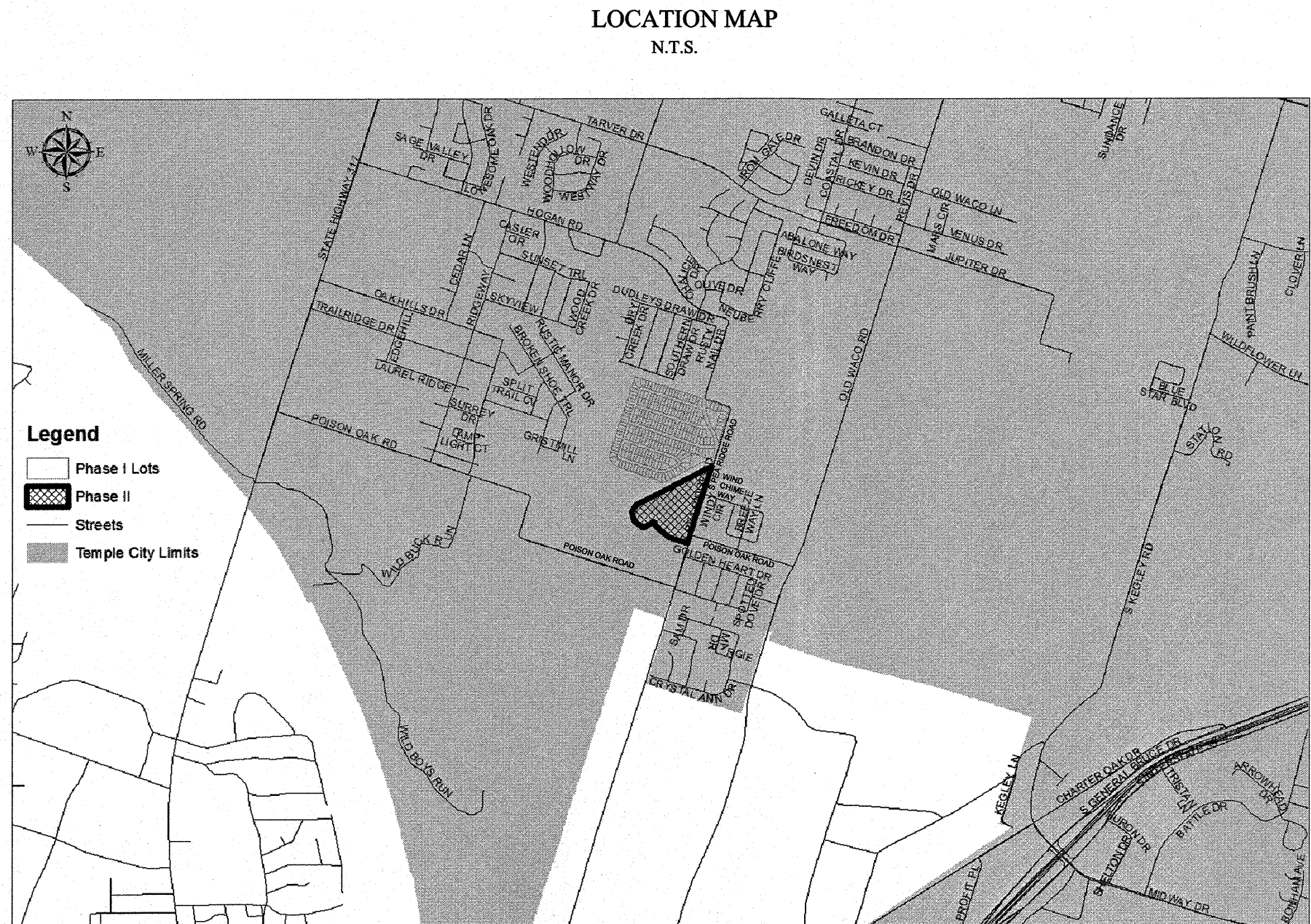
No portion of this tract is within a Special Flood Hazard Area per FEMA's Flood Insurance Rate Map (FIRM) Panel for Bell County, Texas Dated September 26, 2008, panel number 48027C0335E. The Surveyor does not certify as to the accuracy or inaccuracy of said information and does not warrant, or imply, that structures placed within the Special Flood Hazard Areas shown hereon, or any of the platted areas, will be free from flooding or flood damage.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Texas Central Zone No. 4203. All bearings are grid bearings and all distances are horizontal ground distances. All coordinates are referenced to Temple City Monument ACS-85. The Combined Correction Factor (CCF) is 0.9998602. Grid distance = Ground distance X CCF. Published City coordinates for said Temple City Monument ACS-85 are N=10373987.97, E=3206064.84. Reference tie from POB to City Monument shown hereon is S 46°35'29" E, 1149.28'.

- Notes:
- All permanent corners set are 1/2" iron rods with cap marked "YALGO 6200" unless otherwise noted hereon. Iron rods set in areas where there is an expectation of movement will not be considered permanent and not marked accordingly.
 - Streets located within a 50 ft. right-of-way shall have a minimum pavement width of 31 ft. back-to-back of curb.
 - Arrow (→) indicates that the storm water runoff must flow directly from all adjacent upstream lots to the downstream lot, without impediment or diversion to other lots. Drainage plans presented by the homebuilder for each individual lot must allow storm water to pass from upstream lots to the downstream lots without impediment.
 - No driveway access to Pea Ridge Road is permitted for Lots 1 and 32 Block 1, Lots 1 and 16 Block 2, and Lots 1 and 8 Block 3.
 - Tract A shall be dedicated to The City of Temple for Parkland.
 - Tracts B, C, D, and E shall be dedicated to The City of Temple for Right-of-Way a total of 0.44 acres.

CURVE TABLE					
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	500.00'	394.81'	384.63'	N 50°45'43" W	45°14'32"
C2	210.00'	165.82'	161.55'	N 50°45'43" W	45°14'32"
C3	200.00'	156.19'	152.25'	N 84°13'55" E	44°44'45"
C4	525.00'	58.19'	58.16'	N 70°12'27" W	6°21'04"
C5	525.00'	62.08'	62.05'	N 63°38'40" W	6°46'31"
C6	525.00'	62.08'	62.05'	N 56°52'09" W	6°46'31"
C7	525.00'	62.08'	62.05'	N 50°05'38" W	6°46'31"
C8	525.00'	62.08'	62.05'	N 43°19'07" W	6°46'31"
C9	525.00'	62.08'	62.05'	N 36°32'36" W	6°46'31"
C10	525.00'	45.95'	45.94'	S 30°38'54" E	5°00'53"
C11	23.50'	4.60'	4.59'	S 56°15'09" W	11°12'47"
C12	23.50'	27.64'	26.08'	S 16°56'56" W	67°23'40"
C13	57.50'	69.00'	64.94'	S 17°37'53" W	68°45'35"
C14	57.50'	49.58'	46.80'	S 70°42'43" W	49°24'05"
C15	57.50'	46.57'	45.30'	N 55°23'15" W	46°23'59"
C16	57.50'	48.14'	46.75'	N 08°12'12" W	47°58'08"
C17	57.50'	46.24'	45.01'	N 38°49'12" E	46°04'40"
C18	226.97'	50.17'	50.07'	N 71°12'17" E	12°39'53"
C19	226.97'	58.71'	58.55'	N 84°56'52" E	14°49'19"
C20	226.97'	56.07'	55.93'	S 80°33'51" E	14°09'15"
C21	175.00'	136.67'	133.22'	S 84°13'55" W	44°44'45"
C22	185.00'	146.08'	142.31'	S 50°45'43" E	45°14'32"
C23	235.00'	23.35'	23.34'	N 70°32'13" W	5°41'52"
C24	235.00'	58.90'	58.75'	N 60°30'37" W	14°21'41"
C25	235.00'	58.90'	58.75'	N 46°08'55" W	14°21'41"
C26	235.00'	44.41'	44.34'	N 33°31'6" W	10°49'37"
C27	475.00'	61.33'	61.29'	S 31°50'23" E	7°23'52"
C28	475.00'	81.35'	81.25'	S 40°26'42" E	9°48'45"
C29	475.00'	81.35'	81.25'	S 50°15'27" E	9°48'45"
C30	475.00'	81.35'	81.25'	S 60°04'12" E	9°48'45"
C31	475.00'	69.69'	69.63'	S 69°10'47" E	8°24'24"

TAX CERTIFICATE	
THE TAX APPRAISAL DISTRICT OF BELL COUNTY DOES HEREBY CERTIFY THERE ARE CURRENTLY NO DELINQUENT TAXES DUE TO THE TAX APPRAISAL DISTRICT OF BELL COUNTY ON THE PROPERTY DESCRIBED BY THIS PLAT.	
DATED THIS THE _____ DAY OF _____, 201_ A.D.	
BY: _____	
BELL COUNTY TAX APPRAISAL DISTRICT	



THE RESERVE AT PEA RIDGE PHASE II
TO THE CITY OF TEMPLE, BELL COUNTY, TEXAS
BEING PART OF THE B. ROBERTSON SURVEY, A-17
BELL COUNTY, TEXAS

STATE OF TEXAS: That WBW Development Group, LLC - Series 027, the undersigned owner of the land shown on this plat, and designated herein as **THE RESERVE AT PEA RIDGE PHASE II**, Temple, Bell County, Texas, being 16.92 acres of land part of the B. Robertson Survey, Abstract No. 17, Bell County, Texas, and whose name is subscribed hereto, hereby dedicates to the use of the public forever, all streets, alleys, water courses, drains, easements, and public places as shown hereon.

WBW Development Group, LLC - Series 027
A Texas Series Limited Liability Company

By: _____
Bruce Whittis, President

STATE OF TEXAS
COUNTY OF BELL:

This instrument was acknowledged before me on _____, by Bruce Whittis, President of WBW Development Group, LLC - Series 027, a separate series of WBW Development Group, LLC, a Texas series limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 20__ A.D.

Notary Public for the State of Texas

SURVEYOR'S CERTIFICATE

STATE OF TEXAS: I, the undersigned, Registered Professional Land Surveyor, in the State of Texas, do hereby certify to the best of my knowledge and belief, that this plat is true and correct, that it was prepared from an actual survey of the property made on the ground, and that all boundary survey monuments are correctly shown thereon.

Luther E. Frohish
Registered Professional Land Surveyor No. 6200

ENGINEER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

THAT I, Tyler W. Freese, do hereby certify that I have prepared, to the best of my knowledge and belief, all drainage calculations have designed all drains, streets/roads and appurtenances in accordance with the City of Temple Subdivision Regulations.

THIS DOCUMENT IS RELEASED FOR THE
PURPOSE OF REVIEW UNDER THE
AUTHORITY OF TYLER W. FREESE, P.E.
12/37/6 ON 3/20/2019. IT IS NOT TO BE
USED FOR CONSTRUCTION PURPOSES.

TYLER W. FREESE
REGISTERED PROFESSIONAL
ENGINEER NO. 127376

This final plat has been submitted to and considered by the Planning and Zoning Commission of the City of Temple, Texas, and is hereby approved by such commission.
Dated this _____ day of _____, 20__

Chairperson: _____

This final plat has been submitted to and considered by the Planning and Zoning Commission of the City of Temple, Texas, and is hereby approved by such commission.
Dated this _____ day of _____, 20__

Secretary of Planning & Zoning Commission: _____

This final plat has been submitted to and considered by the City Council of the City of Temple, Texas, and is hereby approved by such council.
Dated this _____ day of _____, 20__

City Secretary: _____

PLAT FILED FOR RECORD this the _____ day of _____, 20__ A.D. in
Cabinet _____, Slide _____, Plat Records of Bell County, Texas.

DEDICATION FILED FOR RECORD this the _____ day of _____, 20__ A.D. in
Volume _____, Page _____, Official Records, Bell County, Texas.

FINAL PLAT
THE RESERVE AT PEA RIDGE PHASE II
CITY OF TEMPLE, BELL COUNTY, TEXAS

Yalgo, LLC
3000 Illinois Ave., Suite 100
Killeen, TX 76543
PH (254) 953-5353
FX (254) 953-5057
Texas Registered
Engineering Firm # 10264
Texas Registered
Surveying Firm 10194095

SHEET
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OF
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY WATER DISTRIBUTION SYSTEM GENERAL CONSTRUCTION NOTES

1. This water distribution system must be constructed in accordance with the current Texas Commission on Environmental Quality (TCEQ) Rules and Regulations for Public Water Systems 30 Texas Administrative Code (TAC) Chapter 290 Subchapter D. When conflicts are noted with local standards, the more stringent requirement shall be applied. Construction for public water systems must always, at a minimum, meet TCEQ's "Rules and Regulations for Public Water Systems."

2. All newly installed pipes and related products must conform to American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61-G and must be certified by an organization accredited by ANSI, as required by 30 TAC §290.44(a)(1).

3. Plastic pipe for use in public water systems must bear the National Sanitation Foundation Seal of Approval (NSF pw-G) and have an ASTM design pressure rating of at least 150 psi or a standard dimension ratio of 26 or less, as required by 30 TAC §290.44(a)(2).

4. No pipe which has been used for any purpose other than the conveyance of drinking water shall be accepted or relocated for use in any public drinking water supply, as required by 30 TAC §290.44(a)(3).

5. Water transmission and distribution lines shall be installed in accordance with the manufacturer's instructions. However, the top of the water line must be located below the frost line and in no case shall the top of the water line be less than 24 inches below ground surface, as required by 30 TAC §290.44(a)(4).

6. The hydrostatic leakage rate for polyvinyl chloride (PVC) pipe and appurtenances shall not exceed the amount allowed or recommended by formulas in America Water Works Association (AWWA) C-605 as required in 30 TAC §290.44(a)(5). Please ensure that the formula for this calculation is correct and most current formula is in use;

$Q = (LD \sqrt{P}) / 148,000$

Where:

- Q = the quantity of makeup water in gallons per hour,
- L = the length of the pipe section being tested, in feet,
- D = the nominal diameter of the pipe in inches, and
- P = the average test pressure during the hydrostatic test in pounds per square inch (psi).

Revised: January 10, 2014 2

The hydrostatic leakage rate for ductile iron (DI) pipe and appurtenances shall not exceed the amount allowed or recommended by formulas in America Water Works Association (AWWA) C-605 as required in 30 TAC §290.44(a)(5). Please ensure that the formula for this calculation is correct and most current formula is in use;

$Q = (SD \sqrt{P}) / 148,000$

Where:

- L = the quantity of makeup water in gallons per hour,
- S = the length of the pipe section being tested, in feet,
- D = the nominal diameter of the pipe in inches, and
- P = the average test pressure during the hydrostatic test in pounds per square inch (psi).

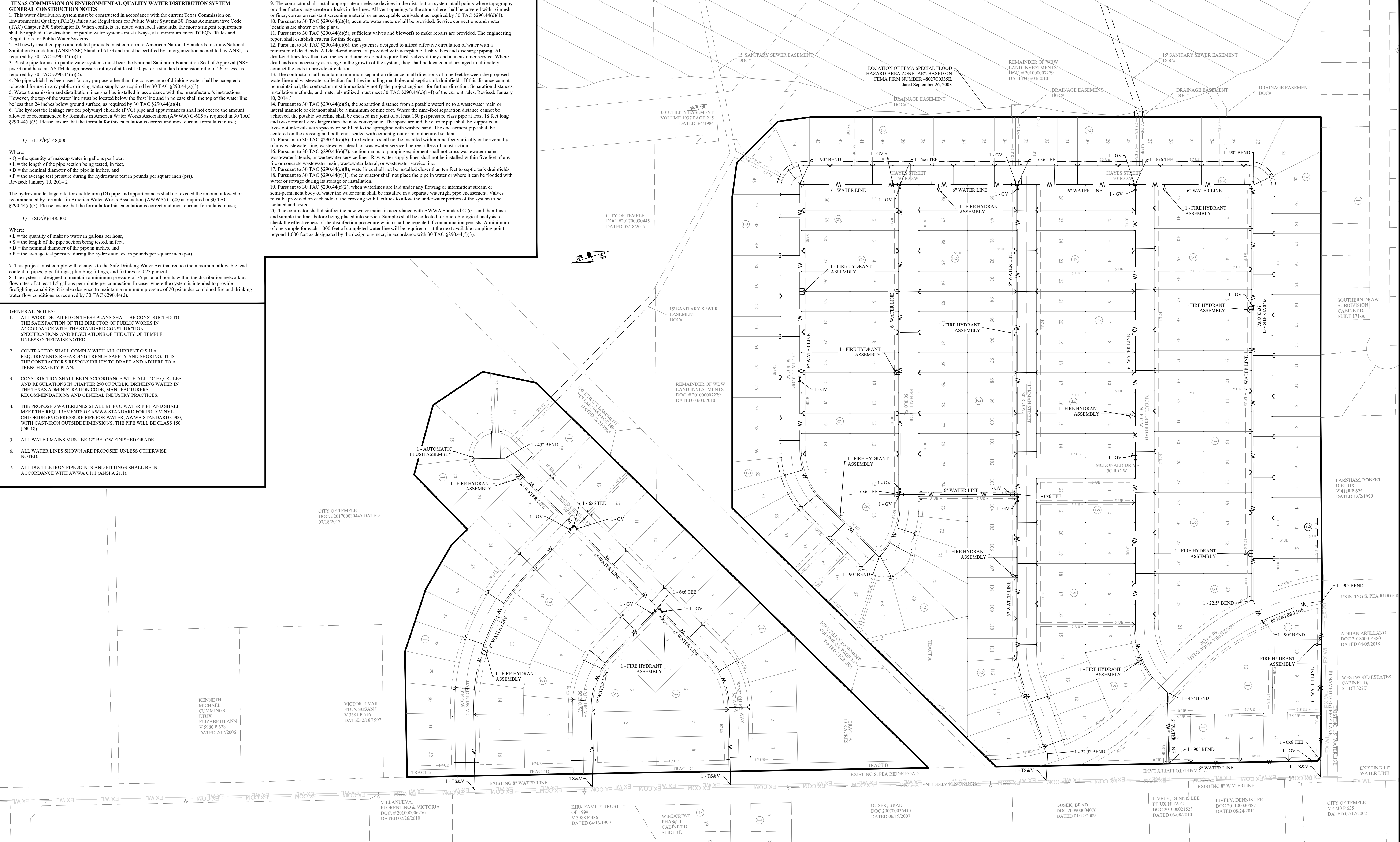
7. This project must comply with changes to the Safe Drinking Water Act that reduce the maximum allowable lead content of pipes, pipe fittings, plumbing fittings, and fixtures to 0.25 percent.

8. The system is designed to maintain a minimum pressure of 35 psi at all points within the distribution network at flow rates of at least 1.5 gallons per minute per connection. In cases where the system is intended to provide firefighting capability, it is also designed to maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions as required by 30 TAC §290.44(d).

GENERAL NOTES:

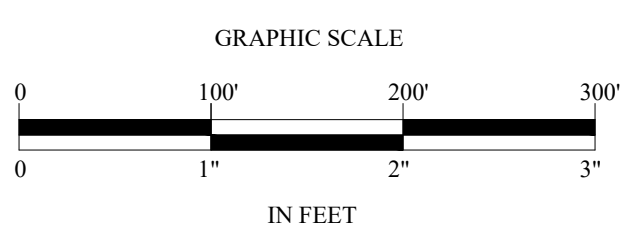
1. ALL WORK DETAILED ON THESE PLANS SHALL BE CONSTRUCTED TO THE SATISFACTION OF THE DIRECTOR OF PUBLIC WORKS IN ACCORDANCE WITH THE STANDARD CONSTRUCTION SPECIFICATIONS AND REGULATIONS OF THE CITY OF TEMPLE, UNLESS OTHERWISE NOTED.
2. CONTRACTOR SHALL COMPLY WITH ALL CURRENT O.S.H.A. REQUIREMENTS REGARDING TRENCH SAFETY AND SHORING. IT IS THE CONTRACTOR'S RESPONSIBILITY TO DRAFT AND ADHERE TO A TRENCH SAFETY PLAN.
3. CONSTRUCTION SHALL BE IN ACCORDANCE WITH ALL T.C.E.Q. RULES AND REGULATIONS IN CHAPTER 290 OF PUBLIC DRINKING WATER IN THE TEXAS ADMINISTRATION CODE, MANUFACTURERS RECOMMENDATIONS AND GENERAL INDUSTRY PRACTICES.
4. THE PROPOSED WATERLINES SHALL BE PVC WATER PIPE AND SHALL MEET THE REQUIREMENTS OF AWWA STANDARD FOR POLYVINYL CHLORIDE (PVC) PRESSURE PIPE FOR WATER, AWWA STANDARD C900, WITH CAST-IRON OUTSIDE DIMENSIONS. THE PIPE WILL BE CLASS 150 (DR-18).
5. ALL WATER MAINS MUST BE 42" BELOW FINISHED GRADE.
6. ALL WATER LINES SHOWN ARE PROPOSED UNLESS OTHERWISE NOTED.
7. ALL DUCTILE IRON PIPE JOINTS AND FITTINGS SHALL BE IN ACCORDANCE WITH AWWA C111 (ANSI A 21.1).

9. The contractor shall install appropriate air release devices in the distribution system at all points where topography or other factors may create air locks in the lines. All vent openings to the atmosphere shall be covered with 16-inch or finer, corrosion resistant screening material or an acceptable equivalent as required by 30 TAC §290.44(d)(1).
10. Pursuant to 30 TAC §290.44(d)(4), accurate water meters shall be provided. Service connections and meter locations are shown on the plans.
11. Pursuant to 30 TAC §290.44(d)(5), sufficient valves and blowoffs to make repairs are provided. The engineering report shall establish criteria for this design.
12. Pursuant to 30 TAC §290.44(d)(6), the system is designed to afford effective circulation of water with a minimum of dead ends. All dead-end mains are provided with acceptable flush valves and discharge piping. All dead-end lines less than two inches in diameter do not require flush valves if they end at a customer service. Where dead ends are necessary as a stage in the growth of the system, they shall be located and arranged to ultimately connect the ends to provide circulation.
13. The contractor shall maintain a minimum separation distance in all directions of nine feet between the proposed waterline and wastewater collection facilities including manholes and septic tank drainfields. If this distance cannot be maintained, the contractor must immediately notify the project engineer for further direction. Separation distances, installation methods, and materials utilized must meet 30 TAC §290.44(c)(1-4) of the current rules. Revised: January 10, 2014 3
14. Pursuant to 30 TAC §290.44(e)(5), the separation distance from a potable waterline to a wastewater main or lateral manhole or cleanout shall be a minimum of nine feet. Where the nine-foot separation distance cannot be achieved, the potable waterline shall be encased in a joint of at least 150 psi pressure class pipe at least 18 feet long and two nominal sizes larger than the new conveyance. The space around the carrier pipe shall be supported at five-foot intervals with spacers or be filled to the springline with washed sand. The encasement pipe shall be centered on the crossing and both ends sealed with cement grout or manufactured sealant.
15. Pursuant to 30 TAC §290.44(e)(6), fire hydrants shall not be installed within nine feet vertically or horizontally of any wastewater line, wastewater lateral, or wastewater service line regardless of construction.
16. Pursuant to 30 TAC §290.44(e)(7), suction mains to pumping equipment shall not cross wastewater mains, wastewater laterals, or wastewater service lines. Raw water supply lines shall not be installed within five feet of any tile or concrete wastewater main, wastewater lateral, or wastewater service line.
17. Pursuant to 30 TAC §290.44(e)(8), waterlines shall not be installed closer than ten feet to septic tank drainfields.
18. Pursuant to 30 TAC §290.44(f)(1), the contractor shall not place the pipe in water or where it can be flooded with water or sewage during its storage or installation.
19. Pursuant to 30 TAC §290.44(f)(2), when waterlines are laid under any flowing or intermittent stream or semi-permanent body of water the water main shall be installed in a separate watertight pipe encasement. Valves must be provided on each side of the crossing with facilities to allow the underwater portion of the system to be isolated and tested.
20. The contractor shall disinfect the new water mains in accordance with AWWA Standard C-651 and then flush and sample the lines before being placed into service. Samples shall be collected for microbiological analysis to check the effectiveness of the disinfection procedure which shall be repeated if contamination persists. A minimum of one sample for each 1,000 feet of completed water line will be required or at the next available sampling point beyond 1,000 feet as designated by the design engineer, in accordance with 30 TAC §290.44(f)(3).



PRINTED ON January 14, 2019

REV.	DESCRIPTION	DATE	BY	PROJECT INFORMATION
				TOTAL SIZE: 63.08 ACRES
				TOTAL BLOCKS: 9
				TOTAL LOTS: 303
				TOTAL TRACTS: 2
1	ORIGINAL RELEASE	04/04/2018	TWF	
PROJECT NUMBER: RP01		CLIENT NAME: WBW DEVELOPMENT GROUP, LLC - SERIES 027		
		CLIENT LOCATION: KILLEEN, TX		
APPROVED BY: TWF				
AUTHORIZED BY: WBW				



BENCHMARK
City Survey Monument ACS-85 in roadway of Upland Bend Drive:
City of Temple Coordinate System, an extension of the Texas State Plane Coordinate System, NAD83 datum, Texas Central Zone
No. 4203, as derived from GPS observations -
N: 10375987.97
E: 3206064.84
Z: 566.61' (NAVDS88-GEOID12A)

WATER LAYOUT
THE RESERVE AT PEA RIDGE
CITY OF TEMPLE, BELL COUNTY, TEXAS

ENGINEER'S APPROVAL

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF REVIEW UNDER THE AUTHORITY OF TYLER W. FRESE, P.E. 127376 ON 01/14/2019. IT IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.

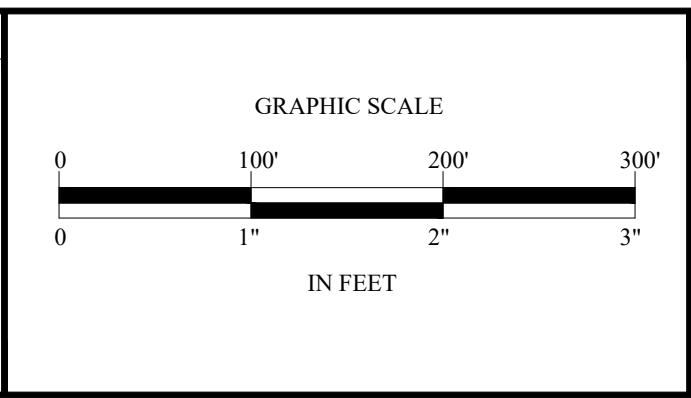
Yalgo, LLC
3000 Illinois Ave., Suite 100
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Engineering Firm # 10264
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Surveying Firm # 10194095

SHEET
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OF
53



REV.	DESCRIPTION	DATE	BY
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PROJECT NUMBER: RP01		CLIENT NAME: WBW DEVELOPMENT GROUP, LLC - SERIES 027	
APPROVED BY: TWF		CLIENT LOCATION: KILLEEN, TX	
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City Survey Monument ACS-85 in roadway of Upland Bend Drive:
City of Temple Coordinate System, an extension of the Texas State Plane Coordinate System, NAD83 datum, Texas Central Zone
No. 4203, as derived from GPS observations -
N: 10375987.97
E: 3206064.84
Z: 566.61' (NAVD88-GEOID12A)

SANITARY SEWER LAYOUT
THE RESERVE AT PEA RIDGE
CITY OF TEMPLE, BELL COUNTY, TEXAS

ENGINEER'S APPROVAL	Yalgo, LLC	SHEET
THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF REVIEW UNDER THE AUTHORITY OF TYLER W. FREESE, P.E. 127376 ON 01/14/2019. IT IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.	3000 Illinois Ave., Suite 100 Killeen, TX 76543 PH (254) 953-5353 FX (254) 953-5057 Texas Registered Engineering Firm # 10264 Texas Registered Surveying Firm # 10194095	6 OF 53

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, APRIL 1, 2019**

ACTION ITEMS

Item 3: FY-19-19-PLT – Consider and recommend action on the final plat of The Reserve at Pea Ridge Phase II, a 16.92 +/- acre, 56-lot, 3-block, 5-tract, residential subdivision, with developer-requested exceptions to the Design Criteria for the number of residential subdivision entrances and to UDC Section 8.2.1D.4, related to street layout and the projection of streets, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, addressed as 2499 South Pea Ridge Road.

Mr. Baker stated with the exceptions this item is scheduled to go to City Council on May 2, 2019.

Background:

Zoning for Reserves at Pea Ridge - Phase I:

Planned Development (PD-SF-2)

April 19, 2018 (Ord. No. 2018-4907)

Land Swap:

April 19, 2018 (Res. No. 2018-9109-R)

Phase I Final Plat w/ requested Exceptions:

247 Lots

Approved June 27, 2018 (Res. No. 2018-9159-R)

Recorded – February 21, 2019

Zoning for Reserves at Pea Ridge - Phase II:

Planned Development (PD-SF-2)

December 6, 2018 (Ord. No. 2018-4941)

Street level photos shown.

Background continued:

Phase II Final Plat (Residential Subdivision):

16.92 +/- Acres

56 Lot, 3 Block, 5-Tract residential subdivision

Development Review Committee (DRC) reviewed the plat on January 10, 2019 and deemed it administratively complete on March 21, 2019.

Water is available from an eight-inch water line in South Pea Ridge Road.

Sewer is available from the extension of an existing 24-inch sewer line west of the subject property and an eight-inch sewer line across South Pea Ridge at Wind Chime Way.

There is a Trail Connection between Lots 12 and 13, Block 1, in the form of a 16-foot concrete sidewalk.

Park Fees in the amount of \$68,175 are to be used for Park and Trail improvements. It does not require an exception but amendment to Developer Participation Agreement is required.

Amendment and the final plat to be scheduled for City Council consideration on May 2, 2019.

Exceptions:

1. Design Criteria - Residential Subdivision Entrances: Requires subdivisions containing between 151- and 300 lots to provide for a minimum of three entrances

All three entrances for Phase II are from South Pea Ridge

Staff considered both phases for compliance – Additional entrances could not be accommodated

2. UDC Section 8.2.1.D.4.b: Projection of Streets – Related to street openings every 1,000 feet along each boundary of the subdivision

Factors:

Existing land-locked nature of this subdivision – Access points limited in relation to surrounding subdivisions (e.g. Southern Draw) and adjacent City-owned property

The Land Swap – Added to limitation factor (needed for future park land and trail accessibility)

Staff is supportive of the requested exceptions.

City Council is the final plat authority since the exceptions to the UDC are requested (May 2, 2019).

Vicinity map shown.

Staff recommends approval to the final plat of The Reserve at Pea Ridge, Phase II and the requested exceptions to:

The Design Criteria – Number of subdivision entrances

UDC 8.2.1D – Street Layout and Projection

A public hearing is not required for this item.

Vice-Chair Ward made a motion to approve Item 3, **FY-19-19-PLT**, per staff recommendation, and Commissioner Alaniz made a second.

Motion passed: (8:0)

Commissioner Marshall absent.

RESOLUTION NO. 2019-9651-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING APPROVAL OF THE RESERVE AT PEA RIDGE PHASE II, AN APPROXIMATELY 16.92 ACRE, 56-LOT, 3-BLOCK, 5-TRACT, RESIDENTIAL SUBDIVISION, WITH DEVELOPER-REQUESTED EXCEPTIONS SITUATED IN THE BALDWIN ROBERTSON SURVEY, ABSTRACT NO. 17, BELL COUNTY, ADDRESSED AS 2499 SOUTH PEA RIDGE ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this second and final phase of The Reserve at Pea Ridge proposes the development of 56 residential lots consistent with the Planned Development ordinance for Planned Development-Single Family Two, which is similar in nature to Phase 1;

Whereas, the applicant, Yalگو Engineering, on behalf of WBW Land Investments is requesting consideration of exceptions to the Design Criteria related to the number of residential openings in a subdivision and exceptions to Unified Development Code (UDC) Section 8.2.1.D.4.b, related to the projection of streets: street openings every 1,000 feet along each boundary of the subdivision;

Whereas, both the Design Criteria for residential subdivision entrances and UDC Section 8.2.1D.4.b provide for the number of access points as well as their alignment into a subdivision - although this phase contains only 56-lots, the three access points connect directly to South Pea Ridge solely;

Whereas, the overall street alignment and street projection of the Reserve at Pea Ridge subdivision was considered by staff, which proposed 303 lots in total - while the Design Criteria requires three entrances for subdivisions containing between 151 and 300 lots, due to the location and the landlocked-nature of Phase II toward the north, south and west, direct access would be limited to South Pea Ridge Road;

Whereas, additionally, a land swap with the City of Temple, effective with the adoption of Resolution 2018-9109-R by City Council on April 19, 2018 further perpetuates the limitation of future access points - the land swap accommodates future park land and trails accessibility as well as developable land for the property owner, which has been included into Phase II;

Whereas, while the existing utility easement in Phase II provides for trail accessibility, it does not lend itself for vehicular subdivision access - nevertheless, since City parkland, that was part of the land swap, referenced earlier, lies directly to the west, north and south of Phase II, street projection is not possible and therefore, the exceptions are necessary;

Whereas, Staff has no issues with the three access points as proposed by Phase II and is supportive of the requested exceptions;

Whereas, as the property is zoned Planned Development-Single-Family Dwelling Two per Ordinance 2018-4941, detached single family homes on lots with a minimum 5,000 square feet is permitted - the lots range from the smallest at 7,800 square feet (multiple lots) to the largest at 17,856 square feet (Lot 6, Block 3);

Whereas, water is available from the extension of an existing 8-inch water line in South Pea Ridge Road - sewer is available from the extension of an existing 24-inch sewer line west of the subject property and also available from an 8-inch sewer line, across South Pea Ridge, in Wind Chime Way;

Whereas, Phase II provides sole access from South Pea Ridge Road, an existing collector and this limitation, as discussed earlier, is the basis for the exceptions - as a collector, a minimum 4-foot sidewalk is required and a note on the plat of Phase I was provided;

Whereas, the Development Review Committee reviewed the final plat of The Reserve at Pea Ridge, Phase II subdivision on January 10, 2019 and it was deemed administratively complete on March 21, 2019;

Whereas, park fees are required at the rate of \$225 per lot (\$68,175) which have been agreed upon by the City and the developer to be used for the park and trail improvements - while this does not require an exception to the UDC, it does require an amendment to the existing Development Participation Agreement approved on April 19, 2018;

Whereas, Phase II has been provided with a single trail connection between Lots 12 and 13, Block 1 in the form of a 6-foot-wide concrete sidewalk within a 10-foot wide access easement (AE) – trail will be built the full length of the creek within the floodplain property dedicated to the City as park land;

Whereas, since the final plat for Phase II requires exceptions to the UDC, the City Council is the final plat authority;

Whereas, Staff recommends Council authorize the approval of the final plat of The Reserve at Pea Ridge, Phase II, an approximately 16.92 acre, 56-lot, 3-block, 5-tract, residential subdivision, with developer-requested exceptions to the design criteria for the number of residential subdivision entrances, and to UDC Section 8.2.1.D.4 related to street layout and the projection of streets, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Temple, Texas, addressed as 2499 South Pea Ridge Road, with requested exceptions to UDC Section 8.2.1D related to street layout and projection of streets and UDC Section 8.2.1E1 related to street radius; and

Whereas, the City Council has considered the matter and deems it in the public interest to approve the Final Plat of The Reserve at Pea Ridge, Phase II, with the above requested exceptions.

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 approves the final plat of The Reserve at Pea Ridge, Phase II, a residential subdivision consisting of approximately 16.92 acre, 56-lot, 3-block, 5-tract, residential subdivision, with developer-requested exceptions to the Design Criteria for the number of residential subdivision entrances and to UDC Section 8.2.1D.4, related to street layout and the projection of streets, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, addressed as 2499 South Pea Ridge Road, as outlined in the final plat attached hereto as Exhibit 'A,' 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 2nd day of **May**, 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

05/02/19
Item #13
Regular Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Brian Chandler, Planning Director

ITEM DESCRIPTION: FY-19-3-ANX: Consider adopting a resolution granting a petition to institute voluntary annexation proceedings of 89.373 acres of land out of the Maximo Moreno Survey, Abstract 14, located on the east side of Old State Highway 95, directing Staff to develop a municipal services plan, and calling public hearings to consider the petition.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On April 18, 2019, Short Term Lending G.P., Inc. ("Short Term Lending") filed a petition seeking voluntary annexation of 89.373 acres of land out of the Maximo Moreno Survey, Abstract 14, and being more particularly described in the attached survey. The property is located on the east side of Old State Highway 95 (also known as Little River Road) and south of Barnhardt Road.

Voluntary annexation is governed by Chapter 43 of the Local Government Code and applies only to the annexation of an area that is (1) less than one-half mile in width, (2) contiguous to the annexing municipality, and (3) vacant and without residents or on which fewer than three qualified voters reside. The petition and the property meet the statutory requirements.

Pursuant to Chapter 43 of the Local Government Code, the City must adopt a municipal services plan for the annexed area and conduct two public hearings. The proposed resolution would direct Staff to develop the municipal services plan and set the dates for the public hearings.

The proposed dates for the public hearings are June 6, 2019 (regular meeting) and June 7, 2019, (special meeting). Planning staff will present a municipal services plan at the hearing on June 6, 2019, as required by state law, showing how the City will serve the area proposed to be annexed. The proposed schedule anticipates completion of annexation proceedings through a Second Reading at City Council on July 18, 2019.

The property to be annexed does include 10.086 acres which the City wishes to acquire to serve as right-of-way for the future extension of Blackland Road. In a separate item on this Agenda, Staff is seeking Council's authorization to purchase this needed property.

FISCAL IMPACT: If the property is annexed, the City's ad valorem tax base will increase and result in future property tax revenue for the City. TISD has requested that the City begin the design process for the future expansion of Blackland Road east in order to provide needed connectivity and utility extensions.

ATTACHMENTS:

[Petition for Voluntary Annexation](#)
[Survey](#)
[Resolution](#)

VOLUNTARY PETITION FOR ANNEXATION

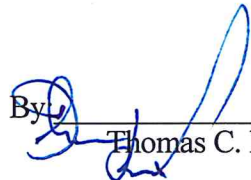
DATE: April 17, 2019

To the City Council of the City of Temple:

Short Term Lending G.P., Inc., a Texas corporation, is the sole owner of the tract of land containing approximately 89.373 acres ("the Tract"). The Tract is more particularly described by metes and bounds in Exhibit A to this petition.

The Tract is one-half mile or less in width, contiguous to the City of Temple, Texas; and has less than three qualified voters as residents. The owner is petitioning the City Council to take the appropriate actions to annex the Tract pursuant to Section 43.028 of the Texas Local Government Code.

Short Term Lending GP, Inc.
a Texas corporation

By: 
Thomas C. Baird, President

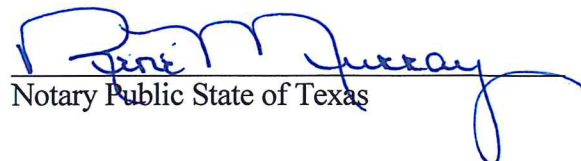
STATE OF TEXAS §

COUNTY OF BELL §

BEFORE ME, the undersigned authority, on this day personally appeared Thomas C. Baird, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act of Short Term Lending GP., Inc., a Texas corporation, as President, for the purposes and consideration therein expressed.

Given under my hand and seal of office this 17th day of April, 2019.




Notary Public State of Texas

BEING a 89.373 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of that certain 137.034 acre tract of land described in a Partition Deed dated January 9, 2009 between Alice B. Hoelscher, Individually and as Executor of the Estate of Claudia Barnhart, Madison Thomas Barnhart and Glenn Walter Barnhart and Alice B. Hoelscher and husband, Clifford E. Hoelscher and being of record in Document No. 2009-00004519, Official Public Records of Bell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1" iron pipe found being the southwest corner of the said 137.034 acre tract and being the northwest corner of that certain 41.7 acre tract of land standing in the name of Marilyn Thompson Miller and being identified as Parcel No. 116622 according to the Bell County Tax Appraisal District property ownership maps and being in the east right-of-way line of Old Highway No. 95 (a publicly maintained roadway) for corner;

THENCE N. 16° 25' 57" E., 1142.97 feet departing the said 41.7 acre tract and with the west boundary line of the said 137.034 acre tract (calls N. 18° 13' 06" E., 1142.93 feet) and with the said east right-of-way line to a 1/2" iron rod in concrete found being an ell corner in the said west boundary line and being the southwest corner of that certain 5 acre tract of land described in a Special Warranty Deed dated September 30, 2004 from TXU Gas Company, a Texas corporation to PDH Holding Company LLC, a Texas limited liability company and being of record in Volume 5497, Page 724, Official Public Records of Bell County, Texas for corner;

THENCE departing the said east right-of-way line and with the south, east and north boundary lines of the said 5 acre tract and continuing with the west boundary line of the said 137.034 acre tract the following three (3) calls;

- 1) S. 73° 34' 14" E., 659.56 feet (calls S. 71° 47' 21" E., 660.17 feet) to a chain link fence corner post found for corner;
- 2) N. 16° 26' 19" E., 329.32 feet (calls N. 18° 11' 49" E., 329.77 feet) to a chain link fence corner post found for corner;
- 3) N. 73° 31' 00" W., 659.23 feet (calls N. 71° 44' 03" W., 659.73 feet) to a 1/2" iron rod in concrete found being the northwest corner of the said 5 acre tract and being an ell corner in the west boundary line of the said 137.034 acre tract and being in the aforementioned east right-of-way line of Old Highway No. 95 for corner;

THENCE N. 16° 38' 13" E., 223.26 feet departing the said 5 acre tract and with the said west boundary line (calls N. 18° 27' 49" E., 617.92 feet) and with the said east right-of-way line to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;

THENCE departing the said east right-of-way line and the said west boundary line and over and across the said 137.034 acre tract the following two (2) calls:

- 1) S. 73° 36' 49" E., 2280.33 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;
- 2) N. 16° 36' 43" E., 321.05 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set being an ell corner in the east boundary line of the said 137.034 acre tract and being an ell corner in the west boundary line of that certain 22.572 acre tract of land described in a Deed dated May 18, 2015 from Veterans Land Board of the State of Texas to Robert Weldon Turner

and being of record in Document No. 2015-00019496, Official Public Records of Bell County, Texas for corner;

THENCE with the east boundary line of the said 137.034 acre tract and with the west boundary line of the said 22.572 acre tract the following four (4) calls:

- 1) S. 73° 02' 56" E., 194.50 feet (calls S. 71° 30' 00" E., 194.40 feet) to a 5/8" iron rod with cap stamped "TCE 2181" found for corner;
- 2) S. 16° 39' 43" W., 336.83 feet (calls S. 18° 30' 00" W., 336.90 feet) to a 5/8" iron rod with cap stamped "TCE 2181" found for corner;
- 3) N. 73° 12' 43" W., 194.22 feet (calls N. 71° 30' 00" W., 194.40 feet) to a 5/8" iron rod with cap stamped "TCE 2181" found for corner;
- 4) S. 16° 40' 05" W., 699.15 feet (calls S. 18° 30' 00" W., 699.60 feet) to a railroad tie fence corner post found being the southwest corner of the said 22.572 acre tract and being the northwest corner of that certain 5 acre tract of land described in a Deed to Temple Longhorn Club and being of record in Volume 758, Page 26, Deed Records of Bell County, Texas for corner;

THENCE continuing with the said east boundary line and with the west and south boundary lines of the said 5 acre tract the following two (2) calls:

- 1) S. 16° 25' 10" W., 246.87 feet (calls S. 18° 13' 46" W., 246.91 feet) to a 1/2" iron rod with cap stamped "RPLS 2475" set being the southwest corner of the said 5 acre tract and being an ell corner in the said east boundary line for corner;
- 2) S. 73° 25' 34" E., 903.52 feet (calls S. 71° 38' 55" E., 904.70 feet) to an 8" diameter fence corner post found being the southeast corner of the said 5 acre tract and being an ell corner in the east boundary line of the said 137.034 acre tract and being in the west right-of-way line State Highway No. 95 for corner;

THENCE S. 04° 24' 25": W., 233.23 feet departing the said 5 acre tract and continuing with the east boundary line of the said 137.034 acre tract (calls S. 06° 08' 30" W., 233.01 feet) and with the said west right-of-way line to an 8" diameter fence corner post found being an ell corner in the east boundary line of the said 137.034 acre tract and being the northeast corner of that certain 15.311 acre tract of land described in a Special Warranty Deed dated January 30, 1992 from First Cam Co., a Texas Corporation to Alvin Dusek and wife, Dolores Dusek and being of record in Volume 2802, Page 30, Official Public Records of Bell County, Texas for corner;

THENCE departing the said west right-of-way line and continuing with the east boundary line of the said 137.034 acre tract and with the north and west boundary lines of the said 15.311 acre tract the following two (2) calls:

- 1) N. 73° 45' 01" W., 953.23 feet (calls N. 71° 57' 31" W., 953.96 feet) to a 5/8" iron rod with cap stamped "ACS" found being an ell corner of the said 137.034 acre tract and being the northwest corner of the said 15.311 acre tract for corner;

2) S. 16° 45' 05" W., 471.06 feet (calls S. 18° 33' 44" W., 471.19 feet) to a 5/8" iron rod with cap stamped "ACS" found being the southeast corner of the said 137.034 acre tract and being the northeast corner of the aforementioned 41.7 acre tract for corner;

THENCE N. 74° 21' 14" W., 2275.08 feet departing the said 15.311 acre tract and with the south boundary line of the said 137.034 acre tract (calls N. 72° 33' 21" W., 2274.92 feet) and with the north boundary line of the said 41.7 acre tract to the Point of Beginning and containing 89.373 acres of land.

I, Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.

Michael E. Alvis, R.P.L.S. #5402
January 31, 2019



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 COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 535
THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 32' 22"
THE COMBINED CORRECTION FACTOR (CCF) IS 0.999836
PUBLISHED CITY COORDINATES ARE X = 3,232,625.47 Y = 10,351,575.12
THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
N. 03° 09' 53" E., 5481.83 FEET.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGL

Line Table		
Line #	Direction	Length
L1	N16°26'19"E	329.32'
CALLS	N18°11'49"E	329.77'
L2	N16°38'13"E	223.26'
CALLS	N18°27'49"E	617.92'
L3	N16°36'43"E	321.05'
L4	S73°02'56"E	194.50'
CALLS	S71°30'00"E	194.40'
L5	S16°39'43"W	336.83'
CALLS	S18°30'00"W	336.90'
L6	N73°12'43"W	194.22'
CALLS	N71°30'00"W	194.40'
L7	S16°25'10"W	246.87'
CALLS	S18°13'46"W	246.91'
L8	S04°24'25"W	233.23'
CALLS	S06°08'30"W	233.01'

The following documents affect this lot:
Volume 493, Page 5

The following documents do not affect this lot:
Volume 529, Page 138
Volume 568, Page 387
Volume 568, Page 582
Volume 600, Page 485
Volume 684, Page 589

The following are a blanket easement and are non-locatable by description:
Volume 683, Page 205
Volume 957, Page 482
Volume 957, Page 483

BEING a 89.373 acre tract of land more particularly described by separate field notes.

BEING a 89.373 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of that certain 137.034 acre tract of land described in a Partition Deed dated January 9, 2009 between Alice B. Hoelscher, Individually and as Executor of the Estate of Claudia Barnhart, Madison Thomas Barnhart and Glenn Walter Barnhart and Alice B. Hoelscher and husband, Clifford E. Hoelscher and being of record in Document No. 2009-00004519, Official Public Records of Bell County, Texas.



STATE OF TEXAS I KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis, 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 within the Special Flood Hazard Area as per the Federal Emergency Management Agency Federal Insurance Administration Map No. 48027C0365E, dated September 26, 2008.

IN WITNESS THEREOF, my hand and seal, this the 1st day of February 2019.

Michael E. Alvis

Michael E. Alvis, R.P.L.S., No. 5402

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 coordinate values are referenced to city monument number 535

The theta angle at said city monument is 01° 32' 22"

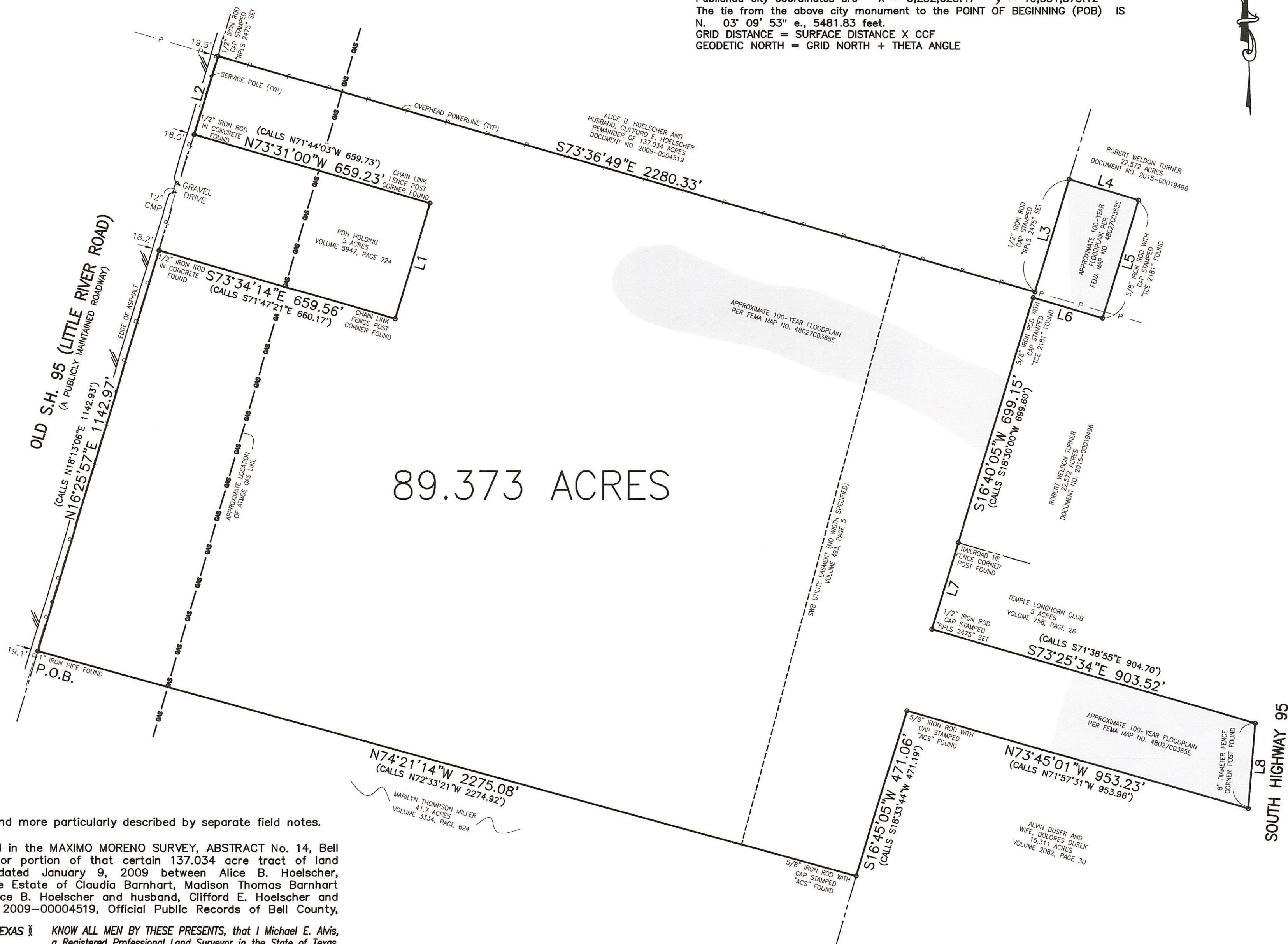
The combined correction factor (ccf) is 0.999836

Published city coordinates are X = 3,232,625.47 y = 10,351,575.12

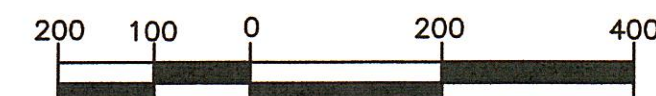
The tie from the above city monument to the POINT OF BEGINNING (POB) IS N. 03° 09' 53" e., 5481.83 feet.

GRID DISTANCE = SURFACE DISTANCE X CCF

GEODETIC NORTH = GRID NORTH + THETA ANGLE



89.373 ACRES



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THIS DRAWING IS THE PROPERTY OF TURLEY ASSOCIATES INC. AND MUST BE SURRENDERED UPON REQUEST. THE INFORMATION THEREON MAY NOT BE REPRODUCED WITHOUT THE WRITTEN PERMISSION OF TURLEY ASSOCIATES INC.

SURVEY OF:
89.373 ACRES
OLD HIGHWAY 95 PROPERTY
BELL COUNTY, TX
BELL CAD # 6349

PREPARED FOR:
SHORT TERM LENDING
OLD HIGHWAY 95 PROPERTY
TEMPLE, TX

REVISIONS		
DATE	DESCRIPTION	DFTR
2/4	LEGAL DOC CHANGE	BRC
2/5	CLIENT ALTERATION	BRC

DRAFTSMAN:
BRC
DATE:
2/5/2019
COMPUTER FILE NAME:
19-132 CERT SOUTH.dwg
REFERENCE DRAWING NUMBERS:

JOB NUMBER:
19-132
DRAWING NUMBER:
19-132C
PAGE #
01

TURLEY ASSOCIATES, INC.
ENGINEERING • PLANNING • SURVEYING
301 N. 3rd St.
TEMPLE, TEXAS 76501
254.773.2400
www.turley-inc.com
TBP# No. F-1658 • TPL# No. 10056000

RESOLUTION NO. 2019-9652-R
(FY-19-3-ANX)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING A PETITION TO INSTITUTE VOLUNTARY ANNEXATION PROCEEDINGS OF APPROXIMATELY 89.373 ACRES OF LAND OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, LOCATED ON THE EAST SIDE OF OLD STATE HIGHWAY 95, DIRECTING STAFF TO DEVELOP A MUNICIPAL SERVICES PLAN, AND CALLING PUBLIC HEARINGS TO CONSIDER THE PETITION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on April 18, 2019, Short Term Lending G.P., Inc. (“Short Term Lending”) filed a petition seeking voluntary annexation of approximately 89.373 acres of land out of the Maximo Moreno Survey, Abstract No. 14, and being more particularly described in Exhibit A which is attached hereto and incorporated herein for all purposes - the property is located on the east side of Old State Highway 95 (also known as Little River Road) and south of Barnhardt Road;

Whereas, voluntary annexation is governed by Chapter 43 of the Local Government Code and applies only to the annexation of an area that is: (1) less than one-half mile in width, (2) contiguous to the annexing municipality, and (3) vacant and without residents or on which fewer than three qualified voters reside - the petition and the property meet the statutory requirements;

Whereas, pursuant to Chapter 43 of the Local Government Code, the City must adopt a municipal services plan for the annexed area and conduct two public hearings - the proposed resolution would direct Staff to develop the municipal services plan and set the dates for the public hearings;

Whereas, the proposed dates for the public hearings are June 6, 2019 (regular meeting) and June 7, 2019, (special meeting) - Planning staff will present a municipal services plan at the hearing on June 6, 2019, as required by state law, showing how the City will serve the area proposed to be annexed;

Whereas, the proposed schedule anticipates completion of annexation proceedings through a Second Reading at City Council on July 18, 2019;

Whereas, the property to be annexed does include 10.086 acres which the City wishes to acquire to serve as right-of-way for the future extension of Blackland Road and in a separate item on this Agenda, Staff is seeking Council’s authorization to purchase this needed property;

Whereas, the City’s ad valorem tax base will increase and result in future property tax revenue; 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 the petition to institute voluntary annexation proceedings, directs Staff to develop a Municipal Services Plan and calls public hearings for the voluntary annexation of approximately 89.373 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95, Temple, Texas, and being more particularly described in the survey attached hereto as Exhibit 'A' and incorporated herein for all purposes.

Part 3: The City Council hereby calls two public hearings to gather comments concerning the proposed annexation described above, with the first public hearing scheduled for the Regular Council Meeting on June 6, 2019, at 5:00 PM, and the second public hearing at a Special Called City Council Meeting on June 7, 2019, at 8:30 AM - both public hearings will be held in the City Council Chambers on the 2nd floor of the Municipal Building located at Main and Central in Temple, Bell County, Texas.

Part 4: The City Staff is hereby authorized to relocate the second public hearing to a suitable location within the area to be annexed in the event of protest.

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.

PASSED AND APPROVED this the 2nd day of **May**, 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

05/02/19
Item #14
Regular Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Brian Chandler, Planning Director

ITEM DESCRIPTION: FY-19-4-ANX: Consider adopting a resolution granting a petition to institute voluntary annexation proceedings of 47.655 acres of land out of the Maximo Moreno Survey, Abstract 14, located on the east side of Old State Highway 95 and south of Barnhardt Road, directing Staff to develop a municipal services plan, and calling public hearings to consider the petition.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On April 18, 2019, Temple Independent School District ("TISD") filed a petition seeking voluntary annexation of 47.655 acres of land out of the Maximo Moreno Survey, Abstract 14, and being more particularly described in the attached survey. The property is located on the east side of Old State Highway 95 (also known as Little River Road) and south of Barnhardt Road.

Voluntary annexation is governed by Chapter 43 of the Local Government Code and applies only to the annexation of an area that is (1) less than one-half mile in width, (2) contiguous to the annexing municipality, and (3) vacant and without residents or on which fewer than three qualified voters reside. The petition and the property meet the statutory requirements.

Pursuant to Chapter 43 of the Local Government Code, the City must adopt a municipal services plan for the annexed area and conduct two public hearings. The proposed resolution would direct Staff to develop the municipal services plan and set the dates for the public hearings.

The proposed dates for the public hearings are June 6, 2019 (regular meeting) and June 7, 2019, (special meeting). Planning staff will present a municipal services plan at the hearing on June 6, 2019, as required by state law, showing how the City will serve the area proposed to be annexed. The proposed schedule anticipates completion of annexation proceedings through a Second Reading at City Council on July 18, 2019.

FISCAL IMPACT: At the present time, the property is exempt from property taxes, and it will remain so under the ownership of the TISD. TISD has requested that the City begin the design process for the future expansion of Blackland Road east in order to provide needed connectivity and utility extensions.

ATTACHMENTS:

Petition for Voluntary Annexation
Survey
Resolution

VOLUNTARY PETITION FOR ANNEXATION

DATE: 4-17-2019

To the City Council of the City of Temple:

Temple Independent School District is the sole owner of the tract of land containing approximately 47.655 acres ("the Tract"). The Tract is more particularly described by metes and bounds in Exhibit A to this petition.

The Tract is one-half mile or less in width, contiguous to the City of Temple, Texas; and has less than three qualified voters as residents. The owner is petitioning the City Council to take the appropriate actions to annex the Tract pursuant to Section 43.028 of the Texas Local Government Code.

Temple Independent School District


By and Through
Temple Independent School District

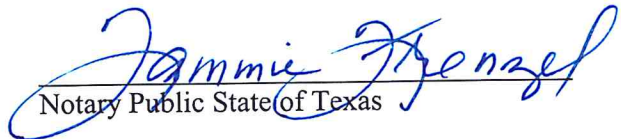
STATE OF TEXAS §

COUNTY OF BELL §

BEFORE ME, the undersigned authority, on this day personally appeared Bobby Ott, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as the act of Temple Independent School District for the purposes and consideration therein expressed.

Given under my hand and seal of office this 17th day of April, 2019.




Notary Public State of Texas

BEING a 47.655 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of that certain 137.034 acre tract of land described in a Partition Deed dated January 9, 2009 between Alice B. Hoelscher, Individually and as Executor of the Estate of Claudia Barnhart, Madison Thomas Barnhart and Glenn Walter Barnhart and Alice B. Hoelscher and husband, Clifford E. Hoelscher and being of record in Document No. 2009-00004519, Official Public Records of Bell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod with cap stamped "ACS" found being the most westerly northwest corner of the said 137.034 acre tract and being the southwest corner of that certain 2.00 acre tract of land described in a General Warranty Deed dated January 30, 2013 from Patricia A. Conlin to Lisa A. Kathan and Ronald L. Thweatt and being of record in Document No. 2013-00004053, Official Public Records of Bell County, Texas and being in the east right-of-way line of Old Highway No. 95 (a publicly maintained roadway) for corner;

THENCE S. 72° 24' 25" E., 350.99 feet departing the said east right-of-way line and with a northerly boundary line of the said 137.034 acre tract (calls S. 70° 38' 16" E., 350.86 feet) and with the south boundary line of the said 2.00 acre tract to a 5/8" iron rod with cap stamped "ACS" found being an ell corner of the said 137.034 acre tract and being the southeast corner of the said 2.00 acre tract for corner;

THENCE N. 16° 25' 40" E., 263.50 feet with a westerly boundary line of the said 137.034 acre tract (calls N. 18° 12' 52" E., 263.55 feet) and with the east boundary line of the said 2.00 acre tract to a 5/8" iron rod with cap stamped "ACS" found being the most northerly northwest corner of the said 137.034 acre tract and being the northeast corner of the said 2.00 acre tract and being in the south right-of-way line of Barnhardt Road (a publicly maintained roadway) for corner;

THENCE S. 73° 35' 04" E., 1847.50 feet departing the said 2.00 acre tract and with the north boundary line of the said 137.034 acre tract (calls S. 71° 47' 08" E., 1847.76 feet) and with the said south right-of-way line to a 1" iron pipe found being the northeast corner of the said 137.034 acre tract and being the northwest corner of that certain 0.984 acre tract of land described in a Deed dated July 13, 1977 from Raymond E. Shephard and wife, Vera A. Shephard to Robert W. Turner and wife, Kathy L. Turner and being of record in Volume 1466, Page 851, Deed Records of Bell County, Texas for corner;

THENCE departing the said south right-of-way line and with the east boundary line of the said 137.034 acre tract the following two (2) calls:

- 1) S. 13° 08' 49" W., 121.34 feet (calls S. 14° 50' 15" W., 122.00 feet) with the west boundary line of the said 0.984 acre tract to a 5/8" iron rod with cap stamped "TCE 2181" found being the southwest corner of the said 0.984 acre tract and being the northwest corner of that certain 22.572 acre tract of land described in a Deed dated May 18, 2015 from Veterans Land Board of the State of Texas to Robert Weldon Turner and being of record in Document No. 2015-00019496, Official Public Records of Bell County, Texas for corner;
- 2) S. 16° 40' 44" W., 520.07 feet (calls S. 18° 29' 20" W., 520.13 feet) departing the said 0.984 acre tract and with the west boundary line of the said 22.572 acre tract to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;

THENCE departing the said east boundary line and the said west boundary line and over and across the said 137.034 acre tract the following two (2) calls:


- 1) S. 16° 36' 44" W., 321.05 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;

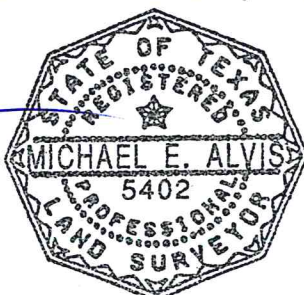
- 2) N. 73° 36' 49" W., 2280.33 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set being in the west boundary line of the said 137.034 acre tract and being in the aforementioned east right-of-way line of Old Highway No. 95 for corner;

THENCE with the west boundary line of the said 137.034 acre tract and with the said east right-of-way line the following four (4) calls:

- 1) N. 16° 38' 13" E., 394.80 feet (calls N. 18° 27' 49" E., 617.92 feet) to a 5/8" iron rod with cap stamped "ACS" found being at the beginning of a curve to the right having a radius equals 540.50 feet (calls 540.50 feet), chord bearing equals N. 26° 19' 19" E., 184.33 feet (calls N. 28° 05' 33" E., 184.37 feet) for corner;
- 2) 185.24 feet along the arc of said curve to the right (calls 185.28 feet) to a 5/8" iron rod with cap stamped "ACS" found for corner;
- 3) N. 36° 13' 40" E., 98.44 feet (calls N. 37° 54' 45" E., 98.41 feet) to a 5/8" iron rod with cap stamped "ACS" found being at the beginning of a curve to the left having a radius equals 605.50 feet (calls 605.50 feet), chord bearing equals N. 33° 38' 37" E., 39.95 feet (calls N. 36° 01' 58" E., 39.84 feet) for corner;
- 4) 39.95 feet along the arc off said curve to the left (calls 39.84 feet) to the Point of BEGINNING and containing 47.655 acres of land.

I, Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.


 Michael E. Alvis, R.P.L.S. #5402
 January 31, 2019



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 COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 535
 THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 32' 22"
 THE COMBINED CORRECTION FACTOR (CCF) IS 0.999836
 PUBLISHED CITY COORDINATES ARE X = 3,232,625.47 Y = 10,351,575.12
 THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
 N. 07° 46' 18" E., 7828.10 FEET.
 GRID DISTANCE = SURFACE DISTANCE X CCF
 GEODETIC NORTH = GRID NORTH + THETA ANGL

OLD S.H. 95 (LITTLE RIVER ROAD)
(A PUBLICLY MAINTAINED ROADWAY)

1/2" IRON ROD
CAP STAMPED
"RPLS 2475" SET

(CALLS N16°27'49"E 617.92')
N16°38'13"E 394.80'

TELE
RISER (TYP)

31.3'
26.5'
19.3'
17.0'

5/8" IRON ROD WITH
CAP STAMPED
"ACS" FOUND

LISA A. KATHAN AND
RONALD L. THWEATT
2.00 ACRES
DOCUMENT NO. 2013-0004053

5/8" IRON ROD WITH
CAP STAMPED
"ACS" FOUND

L1
L2
APPROXIMATE LOCATION
OF ATMOS GAS LINE

OVERHEAD POWERLINE (TYP)

N73°36'49"W 2280.33'
ALICE B. HOELSCHER AND
HUSBAND, CLIFFORD E. HOELSCHER
REMAINDER OF 137.034 ACRES
DOCUMENT NO. 2009-0004519

BARNHARDT ROAD
(A PUBLICLY MAINTAINED ROADWAY)
(CALLS S71°47'08"E 1847.76')
S73°35'04"E 1847.50'

47.655 ACRES

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 coordinate values are referenced to city monument number 535
The theta angle at said city monument is 01° 32' 22"
The combined correction factor (ccf) is 0.999836
Published city coordinates are X = 3,232,625.47 Y = 10,351,575.12
The tie from the above city monument to the POINT OF BEGINNING (POB) IS
N. 03° 09' 53" E., 5481.83 feet.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

TP&L UTILITY EASEMENT (NO WIDTH SPECIFIED)
VOLUME 529, PAGE 138

SERVICE POLE (TYP)

APPROXIMATE 100-YEAR
FLOODPLAIN PER
FEMA MAP NO. 48027C0365E

IRON PIPE FOUND
ROBERT W. TURNER
KATHY L. TURNER
0.984 ACRES
VOLUME 1466, PAGE 85

5/8" IRON ROD WITH
CAP STAMPED
"TCE 2181" FOUND

S16°40'44"W 520.07'
(CALLS S18°29'20"W 520.13')
ROBERT WELDON TURNER
22.572 ACRES
DOCUMENT NO. 2015-00019496

1/2" IRON ROD
CAP STAMPED
"RPLS 2475" SET

ALICE B. HOELSCHER AND
HUSBAND, CLIFFORD E. HOELSCHER
REMAINDER OF 137.034 ACRES
DOCUMENT NO. 2009-0004519

ROBERT WELDON TURNER
22.572 ACRES
DOCUMENT NO. 2015-00019496

The following documents
affect this lot:
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The following documents
do not affect this lot:
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The following are a blanket
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Volume 957, Page 482
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Line Table		
Line #	Direction	Length
L1	S72°24'25"E	350.99'
CALLS	S70°38'16"E	350.86'
L2	N16°25'40"E	263.50'
CALLS	N18°12'52"E	263.55'
L3	S13°08'49"W	121.34'
CALLS	S14°50'15"W	122.00'
L4	S16°36'44"W	321.05'
L5	N36°13'40"E	98.44'
CALLS	N37°54'45"E	98.41'



BEING a 47.655 acre tract of land more particularly described by separate field notes.

BEING a 47.655 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of that certain 137.034 acre tract of land described in a Partition Deed dated January 9, 2009 between Alice B. Hoelscher, Individually and as Executor of the Estate of Claudia Barnhart, Madison Thomas Barnhart and Glenn Walter Barnhart and Alice B. Hoelscher and husband, Clifford E. Hoelscher and being of record in Document No. 2009-0004519, Official Public Records of Bell County, Texas.

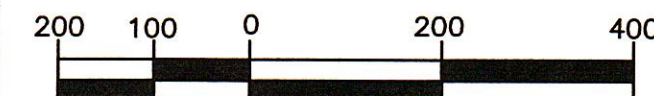
STATE OF TEXAS I KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this survey was this day made on the ground of the property described herein and is correct and that there are no discrepancies, conflicts, shortages 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 within the Special Flood Hazard Area as per the Federal Emergency Management Agency Federal Insurance Administration Map No. 48027C0365E, dated September 26, 2008.

IN WITNESS THEREOF, my hand and seal, this the 1st day of February 2019.

Michael E. Alvis
Michael E. Alvis, R.P.L.S., No. 5402

Curve Table			
Curve #	Length	Radius	Chord
C1	185.24'	540.50'	N26°19'19"E 184.33'
CALLS	185.28'	540.50'	N28°05'33"E 184.37'
C2	39.95'	605.50'	N33°38'37"E 39.95'
CALLS	39.84'	605.50'	N36°01'58"E 39.84'



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SURVEY OF:
47.655 ACRES
OLD HIGHWAY 95 PROPERTY
BELL COUNTY, TX
BELL CAD # 6349

PREPARED FOR:
SHORT TERM LENDING
OLD HIGHWAY 95 PROPERTY
TEMPLE, TX

REVISIONS		
DATE	DESCRIPTION	DFTR
2/4	LEGAL DOC CHANGE	BRC
2/5	CLIENT ALTERATION	BRC
2/6	CHANGE LEGAL	BRC

DRAFTSMAN:
BRC
DATE:
2/6/2019
COMPUTER FILE NAME:
19-132 CERT NORTH
REFERENCE DRAWING NUMBERS:

JOB NUMBER:
19-132
DRAWING NUMBER:
19132-B
PAGE #
01

TURLEY ASSOCIATES, INC.
ENGINEERING • PLANNING • SURVEYING
301 N. 3rd St.
TEMPLE, TEXAS 7650
TBE No. F-1658 • TPLS No. 10056000
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RESOLUTION NO. 2019-9653-R
(FY-19-4-ANX)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING A PETITION TO INSTITUTE VOLUNTARY ANNEXATION PROCEEDINGS OF APPROXIMATELY 47.655 ACRES OF LAND OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, LOCATED ON THE EAST SIDE OF OLD STATE HIGHWAY 95 AND SOUTH OF BARNHARDT ROAD, DIRECTING STAFF TO DEVELOP A MUNICIPAL SERVICES PLAN, AND CALLING PUBLIC HEARINGS TO CONSIDER THE PETITION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on April 18, 2019, Temple Independent School District (“TISD”) filed a petition seeking voluntary annexation of approximately 47.655 acres of land out of the Maximo Moreno Survey, Abstract No. 14, and being more particularly described in Exhibit A which is attached hereto and incorporated herein for all purposes - the property is located on the east side of Old State Highway 95 (also known as Little River Road) and south of Barnhardt Road;

Whereas, voluntary annexation is governed by Chapter 43 of the Local Government Code and applies only to the annexation of an area that is: (1) less than one-half mile in width, (2) contiguous to the annexing municipality, and (3) vacant and without residents or on which fewer than three qualified voters reside - the petition and the property meet the statutory requirements;

Whereas, pursuant to Chapter 43 of the Local Government Code, the City must adopt a municipal services plan for the annexed area and conduct two public hearings - the proposed resolution would direct Staff to develop the municipal services plan and set the dates for the public hearings;

Whereas, the proposed dates for the public hearings are June 6, 2019 (regular meeting) and June 7, 2019, (special meeting) - Planning staff will present a municipal services plan at the hearing on June 6, 2019, as required by state law, showing how the City will serve the area proposed to be annexed;

Whereas, the proposed schedule anticipates completion of annexation proceedings through a Second Reading at City Council on July 18, 2019;

Whereas, at the present time, the property is exempt from property taxes, and it will remain so under the ownership of the TISD; 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 the petition to institute voluntary annexation proceedings, directs Staff to develop a Municipal Services Plan and calls public hearings for the voluntary annexation of approximately 47.655 acres of land out of the Maximo Moreno Survey, Abstract No. 14, Temple, Texas, and being more particularly described in the survey attached hereto as Exhibit 'A' and incorporated herein for all purposes.

Part 3: The City Council hereby calls two public hearings to gather comments concerning the proposed annexation described above, with the first public hearing scheduled for the Regular Council Meeting on June 6, 2019, at 5:00 PM, and the second public hearing at a Special Called City Council Meeting on June 7, 2019 at 8:30 AM - both public hearings will be held in the City Council Chambers on the 2nd floor of the Municipal Building located at Main and Central in Temple, Bell County, Texas.

Part 4: The City Staff is hereby authorized to relocate the second public hearing to a suitable location within the area to be annexed in the event of protest.

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.

PASSED AND APPROVED this the **2nd** day of **May**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney