



**MEETING OF THE
TEMPLE CITY COUNCIL
MUNICIPAL BUILDING
2 NORTH MAIN STREET
3rd FLOOR – CONFERENCE ROOM
THURSDAY, JUNE 20, 2019
1:30 P.M.
AGENDA
*REVISED***

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, June 20, 2019.
2. Discuss possible amendments to the City's Code of Ordinances, Chapter 6 "Animals & Fowl".
3. Discuss the status of right-of-way acquisitions for the Outer Loop Phase 6 expansion project and the Charter Oak water line project.

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

4. Discuss the employment, duties, and work plans of the City Manager, and the Finance Director.

Texas Government Code § 551.074 – The City Council will meet in executive session to discuss the hiring process, appointment, employment, and duties of the City Manager, and the Finance Director. No final action will be taken.

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

REVISED

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 Park and Recreation Month July 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.

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

Minutes

- (A) [June 6, 2019 Special & Regular Called Meeting](#)
- (B) [June 7, 2019 Special Meeting](#)

Contracts, Leases, & Bids

- (C) [2019-9688-R](#): Consider adopting a resolution authorizing a construction contract with Landmark Structures I, L.P., of Fort Worth, for construction of the new Pepper Creek 1.0-MG elevated storage tank and demolition of the existing Pepper Creek elevated storage tank in the amount of \$2,688,000, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2019 Utility Revenue Bonds.

- (D) [2019-9689-R](#): Consider adopting a resolution authorizing a lease agreement with Linda Joyner, for lease of space in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library).
- (E) [2019-9690-R](#): Consider adopting a resolution authorizing a lease agreement with Scott Farr for lease of T-hangar #22 at the Draughon-Miller Central Texas Regional Airport.
- (F) [2019-9691-R](#): Consider adopting a resolution authorizing a one-year renewal to the depository services agreement with BBVA Compass Bank.
- (G) [2019-9692-R](#): Consider adopting a resolution authorizing a yearly subscription for permitting, planning and code enforcement online software through South Central Planning and Development Commission in the amount of \$52,635.
- (H) [2019-9693-R](#): Consider adopting a resolution authorizing deductive change order #3 with Santa Clara Construction, Ltd., of Austin, for construction of Phase 5 of the Bird Creek Interceptor Project, in the amount of \$6,922.41.
- (I) [2019-9694-R](#): Consider adopting a resolution authorizing change order #3 with SSP Industries, LP, of Killeen, for construction of the Shallowford Lift Station Improvements, in the amount of \$164,549.33.
- (J) [2019-9695-R](#): Consider adopting a resolution authorizing a change order to the Construction Manager-at-Risk contract for four facility construction projects with RM Rodriguez Construction, LP of Temple in the deductive amount of \$31,323.31.
- (K) [2019-9696-R](#): Consider adopting a resolution authorizing an amendment to the professional services agreement with Kasberg, Patrick and Associates, for construction phase services to oversee the construction of the new Pepper Creek 1.0-MG elevated storage tank and demolish the existing Pepper Creek elevated storage tank, in an amount not to exceed \$192,380.
- (L) [2019-9697-R](#): Consider adopting a resolution authorizing certain amendments to the Temple Economic Development Corporation's Articles of Incorporation.
- (M) [2019-9698-R](#): Consider adopting a resolution authorizing the purchase of budgeting, performance, strategic planning and citizen engagement software subscription with Carahsoft Technology Corporation of Reston, Virginia in the amount of \$81,869.
- (N) [2019-9699-R](#): Consider adopting a resolution authorizing the purchase of wastewater line chemical root control services for FY2019 with Duke's Root Control, Inc. of Syracuse, New York, in the estimated annual amount of \$50,000.
- (O) [2019-9700-R](#): Consider adopting a resolution authorizing the payment of \$25,383.26 to Waste Management of Texas for the City's portion of the Household Hazardous Waste event.

Ordinances – Second & Final Reading

- (P) SECOND READING – FINAL HEARING – Consider adopting ordinances repealing the following chapters in the City's Code of Ordinances:
- (A) 2019-4970: Chapter 11 – Fair Housing
 - (B) 2019-4971: Chapter 20 – Massage Establishments; and
 - (C) 2019-4972: Chapter 30 – Railroads

Misc.

- (Q) 2019-9701-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.

V. REGULAR AGENDA

ORDINANCES

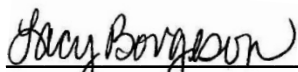
5. 2019-4973: FIRST READING – PUBLIC HEARING – FY-19-14-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a Site Plan to allow a restaurant where less than 50% of the gross revenue will be from the sales of all alcoholic beverages with on-premise consumption on Lot 1, Block 1, Los Tres Maguelles Subdivision, located at 2801 South General Bruce Drive within the I-35 Corridor Overlay Retail sub-district.
6. 2019-4974: FIRST READING – PUBLIC HEARING – FY-19-15-ZC: Hold a public hearing to discuss and recommend action on a Conditional Use Permit with a Site Plan to allow for a child care facility in Moore's Knight Addition, Block 10, Lot 7, 8, Pt 6, addressed as 109 South General Bruce Drive, and located within the I-35 Corridor Overlay Retail sub-district.

RESOLUTIONS

7. 2019-9702-R: FY-18-26-PLT: Consider adopting a resolution authorizing approval of the Enclave at Lake Belton Preliminary Plat, a 88.625 +/- acre, 34-lot residential subdivision, with a developer-requested exception to UDC Section 8.3 related to park fees, located in Bell County, Texas, south of State Highway 36, approximately 1,000 feet west of the Lake Belton Bridge in Temple's northwest Extraterritorial Jurisdiction.
8. 2019-9703-R: Consider adopting a resolution authorizing a Developer Participation Agreement with 3 Nex-Gen Devel LLC to construct public water and sewer line improvements in the County View subdivision.
9. 2019-9704-R: Consider adopting a resolution authorizing the purchase of property located at 1701 North General Bruce Drive, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2019 Combination Tax & Revenue Certificates of Obligation Bonds.

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 1:15 pm, on Monday, June 17, 2019.



City Secretary, TRMC



COUNCIL AGENDA ITEM MEMORANDUM

06/20/19
Item #4(A-B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Approve Minutes:

- (A) June 6, 2019 Special & Regular Called Meeting
- (B) June 7, 2019 Special 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:

[June 6, 2019 Special & Regular Called Meeting Minutes / Video](#)
[June 7, 2019 Special Meeting Minutes](#)



COUNCIL AGENDA ITEM MEMORANDUM

06/20/19
Item #4(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 construction contract with Landmark Structures I, L.P., of Fort Worth, for construction of the new Pepper Creek 1.0-MG elevated storage tank and demolition of the existing Pepper Creek elevated storage tank in the amount of \$2,688,000, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2019 Utility Revenue Bonds.

STAFF RECOMMENDATION: Adopt resolution as presented in item summary.

ITEM SUMMARY: On October 4, 2018, Council authorized a professional services agreement with Kasberg, Patrick and Associates (KPA) in the amount of \$159,590 to design and bid the replacement of the existing 220,000-gallon elevated storage tank (EST) located on FM 2305 west of FM 2271 with a new 1.0-MG EST located in the same general vicinity to address the low pressure and water quality concerns in the area. See attached project map for reference.

As shown on the attached bid tabulation, two bids were received on June 6th, for construction of a new 1.0 MG composite EST on Green Park Drive just south of FM 2305 and demolition of the existing EST. The two bids were \$2,688,000 and \$2,766,800. The engineer's opinion of probable cost to construct the new 1.0MG EST was \$2,500,000. KPA has evaluated the bids and recommends awarding construction to Landmark in their attached recommendation letter. The proposed timeline will be broken down into two phases with 365 days to construct the new EST and an additional 90 days to complete the remaining fencing, sitework, and demolition of the existing EST. Late days may be assessed at the end of each phase if not completed in accordance with the timeline.

FISCAL IMPACT: The construction of this project is being funded with the issuance of the 2019 Utility Revenue Bonds. We are declaring an official intent to reimburse for this contract. A budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds. The bonds will be sold in August 2019.

Once the budget adjustment is approved, funding for the construction contract with Landmark Structures I, L.P. for construction of the new Pepper Creek elevated storage tank and demolition of the existing Pepper Creek elevated storage tank in the amount of \$2,688,000 will be available in account 561-5100-535-6991, project 101948, as shown below:

Project Budget	\$	3,400,000
Encumbered/Committed to Date		(159,789)
Construction Award - Landmark Structures I, L.P.		(2,688,000)
KPA Contract Amendment #1		(192,380)
Remaining Project Funds Available	\$	359,831

ATTACHMENTS:

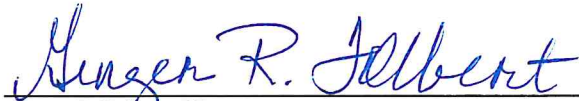
[Bid Tabulation](#)
[Recommendation Letter](#)
[Project Map](#)
[Resolution](#)

BID TABULATION
CITY OF TEMPLE
PEPPER CREEK 1MG ELEVATED STORAGE TANK
June 6, 2019; 2:00 PM

				BIDDER INFORMATION			
				Landmark Structures I, LP 1665 Harmon Road Fort Worth Texas 76177		Phoenix Fabricators and Erectors, LLC 182 South County Road 900E Avon IN 46123	
Bid No.	Estimated Quantity	Unit	Bid Data Description	Unit Price	Extended Amount	Unit Price	Extended Amount
1	100%	LS	Mobilization, Bonds & Insurance, not-to-exceed 5% of the Base Bid Amount	\$ 120,000.00	\$ 120,000.00	\$ 75,000.00	\$ 75,000.00
2	100%	LS	Prepare Trench Safety Plan in Conformance with State Law & OSHA, Sealed by a Licensed Professional Engineer in the State of Texas	2,500.00	2,500.00	1,000.00	1,000.00
3	660	LF	Implement & Follow Trench Safety Plan (Pipe)	5.00	3,300.00	3.00	1,980.00
4	1,300	SF	Implement & Follow Trench Safety Plan (Bore Pits)	1.00	1,300.00	2.50	3,250.00
5	100%	LS	Prepare Stormwater Pollution Prevention Plan, Including Submission to & Receiving Permits from TCEQ	500.00	500.00	2,500.00	2,500.00
6	100%	LS	For Preparing & Submitting a Control Plan prepared & signed by a P.E. for Vehicular Traffic	1,000.00	1,000.00	2,000.00	2,000.00
7	100%	LS	Implement & Administer Barricade, Signing & Traffic Safety Plan	1,000.00	1,000.00	4,000.00	4,000.00
8	100%	LS	Video of site Pre-Construction & Post Construction Site Conditions for the Total Project, Including the Existing Pepper Creek Tank Site	1,000.00	1,000.00	500.00	500.00
9	100%	LS	Demolition & Haul Off of Existing Storage Shed, Fencing & Trees on the Tank Site as shown in Plans	7,500.00	7,500.00	8,000.00	8,000.00
10	100%	LS	Constructing a 1,000,000 Gallon Steel Composite Elevated Storage Tank, Including but not Limited to Disinfection, Site Work, Grading, Driveway, Electrical, Instrumentation, Piping, Valves, Appurtenances & Coating System called for in the Plans & Specifications, all in accordance with the American Water Works Association Specification D-100, D-102, D-107 & C652	2,188,000.00	2,188,000.00	2,339,770.00	2,339,770.00
11	100%	LS	Complete Excavation Safety & Support System in Full Accordance with the Latest OSHA Standards	1,000.00	1,000.00	1,500.00	1,500.00
12	500	LF	Provide & Install 16-inch Diameter DIP Water Line, Including Connection & Thrust Restraint	140.00	70,000.00	80.00	40,000.00
13	5	EA	16" Bends & Fittings (90, 45, 22 1/2, 11 1/4, Reducer)	1,800.00	9,000.00	2,000.00	10,000.00
14	3	EA	16" Gate Valve	11,000.00	33,000.00	9,000.00	27,000.00
15	1	EA	12" X 12" Tee	2,000.00	2,000.00	600.00	600.00
16	1	EA	Standard Fire Hydrant Assembly	6,500.00	6,500.00	500.00	500.00
17	160	LF	10-inch Diameter PVC SDR 26 (Pressure Rated), including Thrust Restraint	50.00	8,000.00	25.00	4,000.00
18	2	EA	10" Bends & Fittings (90, 45, 22 1/2, 11 1/4)	550.00	1,100.00	600.00	1,200.00
19	100%	LS	10" Sloped End Treatment (SET-PD)(4:1)	1,800.00	1,800.00	4,000.00	4,000.00
20	100%	LS	For Channel Grading , Including Asphalt Valley Gutter as Shown on Sheet P-05, & establishment of vegetatative cover, including water to sustain growth	4,500.00	4,500.00	7,500.00	7,500.00
21	2	EA	For Painting City of Temple Logo on the Exterior of the Tank Bowl	5,000.00	10,000.00	6,000.00	12,000.00
22	5,000	SY	4" Crushed Stone, including liner	9.00	45,000.00	12.00	60,000.00
23	450	SY	Asphalt Pavement	40.00	18,000.00	50.00	22,500.00
24	950	LF	Chain Link Fence with 6 Strand Barb Wire	36.00	34,200.00	30.00	28,500.00
25	50	LF	Remove & Replace Asphalt	40.00	2,000.00	110.00	5,500.00
26	95	LF	28" Encasement by Bore	600.00	57,000.00	300.00	28,500.00
27	1,000	LF	Furnish, Install, Maintain & Remove Silt Fence as required in the Stormwater Pollution Prevention Plan	4.00	4,000.00	4.00	4,000.00
28	100%	LS	Water Quality Sampling Station, Including tap, supply line, & meter box assembly	2,300.00	2,300.00	3,000.00	3,000.00
29	100%	LS	All Materials, Equipment, Tools & Labor Necessary for Microbiological Testing in accordance with AWWA C-651	3,000.00	3,000.00	2,500.00	2,500.00
30	100%	LS	All Materials, Equipment, Tools & Labor Necessary for Pressure Testing Water Pipe, Including Any Necessary Repairs	1,500.00	1,500.00	2,500.00	2,500.00
31	100%	LS	All Materials, Equipment, Tools & Labor Necessary for Flushing Water Pipe, Including Any Necessary Repairs	2,500.00	2,500.00	2,500.00	2,500.00
32	100%	LS	Demolition & Haul Off of Existing Pepper Creek Elevated Stroage Tank, including Storage Shed, Fencing, Vaults, Piping & Appurtenances, & Site Restoration as shown in the Plans	35,000.00	35,000.00	50,000.00	50,000.00
33	100%	LS	Fire Hydrant, Including necessary fittings & bends at Existing Pepper Creek Elevated Stroage Tank, as shown in the Plans	7,500.00	7,500.00	6,000.00	6,000.00
34	100%	LS	Provide Project Record Drawings (As Builts)	3,000.00	3,000.00	5,000.00	5,000.00
TOTAL BASE BID AMOUNT - (Items 1 - 34)				\$ 2,688,000.00		\$ 2,766,800.00	

Did Bidder Acknowledge Addendum No. 1, 2 & 3?	YES	YES
Did Bidder provide Bid Security?	YES	YES
Did Bidder provide required documents?	YES	YES

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


Ginger R Tolbert, PE

6/7/19
Date

Kasberg, Patrick & Associates, LP





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

June 7, 2019

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

Re: City of Temple, Texas
Pepper Creek 1,000,000 Gallon Elevated Storage Tank

Dear Ms. Carlos:

On June 6, 2019, the City of Temple received competitive bids from two (2) approved tank manufacturers for the 1,000,000 Gallon Elevated Storage Tank. The attached Bid Tabulation shows Landmark Structures I, LP of Ft. Worth, Texas, as the low bidder at \$2,688,000.00 for the project, which includes construction of the Proposed 1MG Tank, demolition of the Existing 0.2 MG Tank, extension of a 16" Waterline and Drainage/Channel improvements.

The bid items directly associated with construction of the new 1MG Tank total \$2,452,100, demolition of the existing tank total \$42,500, extension of the 16" Waterline total \$178,000 and drainage channel improvements total \$15,400. Our Final Opinion of Probable Construction Cost for construction of the new tank was \$2,500,00.

Landmark Structures I, LP has successfully completed tank projects for the City of Temple and KPA Engineers and are a leader in composite tank construction. Therefore, we recommend that a contract be awarded to Landmark Structures I, LP for the City of Temple Pepper Creek 1,000,000 Gallon Elevated Storage Tank project.

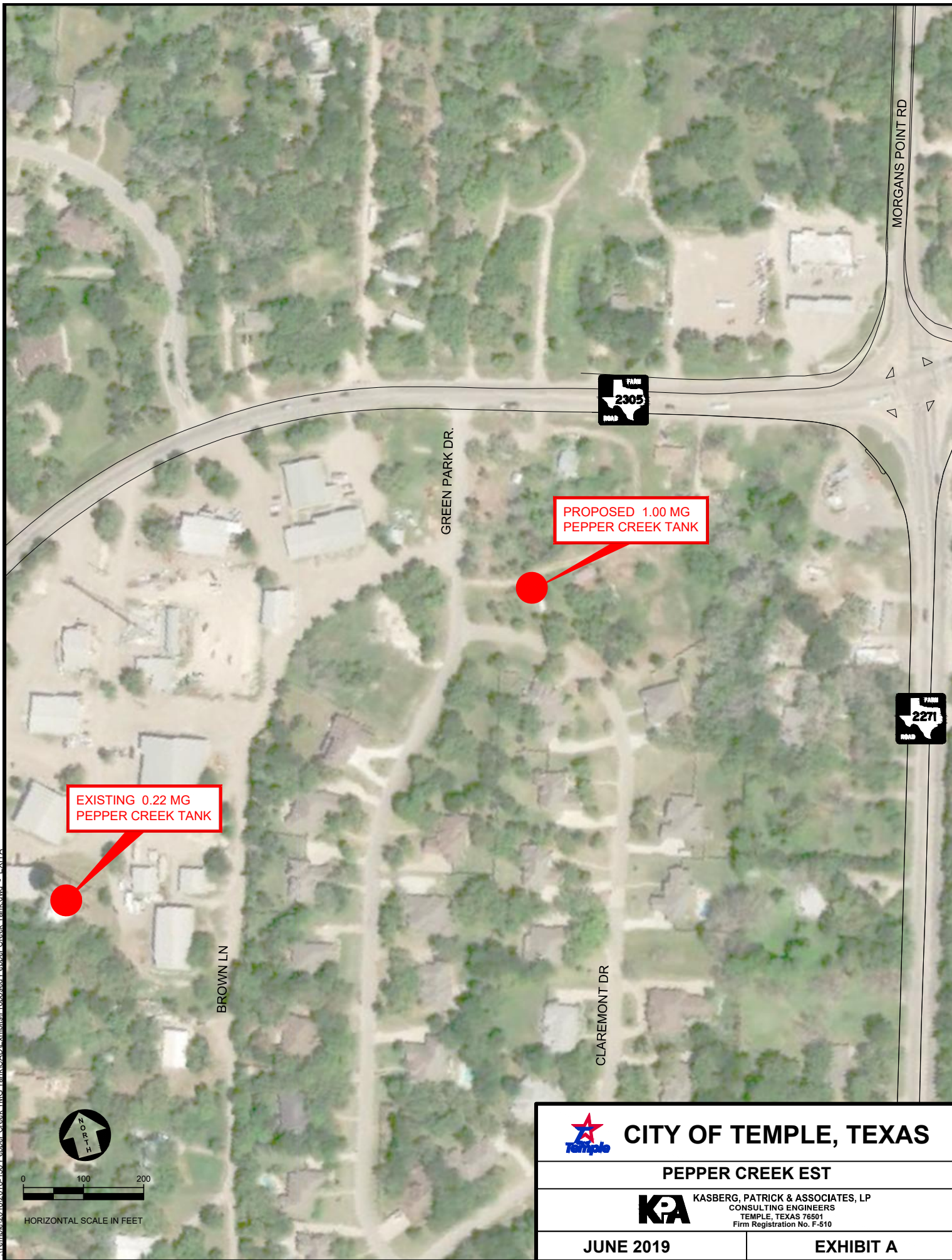
Sincerely,

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

Ginger R. Tolbert, P.E.
Principal

xc: 2018-156-40

P:\Temple\2018\2018-156 Pepper Creek 1MG Tank\CAD\Exhibits\Processed Pepper Creek Tank.dwg - EXH A



CITY OF TEMPLE, TEXAS

PEPPER CREEK EST



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

JUNE 2019

EXHIBIT A

RESOLUTION NO. 2019-9688-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH LANDMARK STRUCTURES I, LP, OF FORT WORTH, TEXAS IN THE AMOUNT OF \$2,688,000, FOR CONSTRUCTION OF THE NEW PEPPER CREEK 1.0-MG ELEVATED STORAGE TANK, AND DEMOLITION OF THE EXISTING PEPPER CREEK ELEVATED STORAGE TANK, AS WELL AS, DECLARE AN OFFICIAL INTENT TO REIMBURSE THE EXPENDITURES WITH THE ISSUANCE OF 2019 UTILITY REVENUE BONDS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 4, 2018, Council authorized a professional services agreement with Kasberg, Patrick and Associates (KPA) in the amount of \$159,590 to design and bid the replacement of the existing 220,000-gallon elevated storage tank (EST) located on FM 2305 west of FM 2271, with a new 1.0-MG EST located in the same general vicinity to address the low pressure and water quality concerns in the area;

Whereas, on June 6, 2019, two bids were received for the project ranging from \$2,688,000 to \$2,766,800 – Landmark Structures I, LP of Fort Worth, Texas submitted the low bid;

Whereas, Staff recommends Council authorize a construction contract with Landmark Structures I, LP of Fort Worth, Texas in the amount of \$2,688,000 for construction of the new Pepper Creek 1.0-MG elevated storage tank and demolition of the existing Pepper Creek elevated storage tank;

Whereas, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

Whereas, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations and the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution - upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

Whereas, Section 1.150.2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid;

Whereas, the construction of this project is being funded with the issuance of 2019 Utility Revenue Bonds and the City is declaring an official intent to reimburse for this contract - a budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds which will be sold in August 2019;

Whereas, once the budget adjustment is approved, funding will be available in Account No. 561-5100-535-6991, Project No. 101948; and

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

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

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute a construction contract with Landmark Structures I, LP of Fort Worth, Texas in the amount of \$2,688,000, for construction of the new Pepper Creek 1.0-MG elevated storage tank and demolition of the existing Pepper Creek elevated storage tank.

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

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

PASSED AND APPROVED this the 20th day of **June**, 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

06/20/19
Item #4(D)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a lease agreement with Linda Joyner, for lease of space in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library).

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Linda Joyner has been a tenant of the Temple Public Library for several years, leasing Suite 306-A in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library). Suite 306-A consists of approximately 250 sq. ft. of office space. Ms. Joyner has recently requested to renew her lease for a one-year period, versus the six-month periods for which she has previously leased this space.

The lease term will run from July 1, 2019 to June 30, 2020. The rent will be \$1.00 per square foot or \$250 per month.

FISCAL IMPACT: The annual rent to be received from Linda Joyner is \$3,000 and will be deposited into account 110-0000-461-0937.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9689-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR LEASE AGREEMENT WITH LINDA JOYNER, FOR LEASE OF SPACE IN THE E. RHODES AND LEONA B. CARPENTER FOUNDATION BUILDING; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Linda Joyner (“Tenant”) has been a tenant of the Temple Public Library for several years, leasing Suite 306-A, and has requested to lease Suite 306-A in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library) for a one-year term which will run from July 1, 2019 to June, 2020 at the rental rate of \$1.00 per square foot or \$250 per month;

Whereas, Staff recommends Council authorize a one-year lease with Linda Joyner for lease of space in the E. Rhodes and Leona B. Carpenter Foundation Building (Temple Public Library);

Whereas, the lease agreement allows for a 30-day termination clause for any reason should the lessee or the City desire to terminate the lease;

Whereas, the City will receive annual rent in the amount of \$3,000, and those funds will be deposited into Account No. 110-0000-461-0937; 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 a one-year lease agreement with Linda Joyner, for lease of space in the E. Rhodes and Leona B. Carpenter Foundation Building (the Temple Public Library).

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 **20th** day of **June**, 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

06/20/19
Item #4(E)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Joseph Medici, Airport Director
Charla Thomas, Assistant City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a lease agreement with Scott Farr for lease of T-hangar #22 at the Draughon-Miller Central Texas Regional Airport.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Scott Farr has requested to lease T-hangar #22 at the Airport for aircraft storage and aeronautical purposes. The rent for this T-hangar will be \$185 per month, due on the 1st day of the month.

Mr. Farr will be leasing T-Hangar #22, which will be used to store the following aircraft:

Type:	Piper
Manufacturer:	Lycoming
Model:	PA-28-235
U.S. Registration No./Tail #:	N9118W

The initial term of this lease agreement will be for 12 months and may be renewed for additional 12-month terms at the agreement of the parties, and as evidenced by the execution of a written amendment or addendum, or a new lease agreement reflecting any new rental rates or changes to terms and conditions. Staff recommends that the lease have an effective date of June 21, 2019.

Mr. Farr agrees to use the T-hangar solely for aircraft hangar purposes and aeronautical operations and understands that the hangar space is for storage of an operable airworthy aircraft. Mr. Farr further understands that commercial activity is prohibited in the T-hangar.

Pursuant to the lease agreement, Mr. Farr will: timely pay rent, store only aircraft and items related to aeronautical operations on the leased premises, grant the City the right to enter the T-hangar at any time for inspection, repairs, additions, alterations, or repairs, furnish a duplicate key or combination to the Airport Director for any lock used to secure the T-hangar, keep the premises in a good and orderly condition, comply with all terms of the lease agreement and all ordinances, rules, regulations of the City and the Airport, and maintain the required liability insurance as evidenced by a current certificate of insurance that names the City as an additional insured. This is an as-is lease, the City will not be making any adjustments or upgrades to the space.

FISCAL IMPACT: Annual lease revenue of \$2,220 for rental of T-Hangar #22 will be deposited into Account 110-0000-446-3021.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9690-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AIRPORT HANGAR LEASE AGREEMENT WITH SCOTT FARR, IN THE AMOUNT OF \$185 PER MONTH, FOR THE USE OF T-HANGAR NO. 22 AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Scott Farr has requested to lease T-hangar No. 22 at the Airport for aircraft storage and aeronautical purposes - the rent for this T-hangar will be \$185 per month, due on the 1st day of the month;

Whereas, Mr. Farr will be leasing T-hangar No. 22, which will be used to store the following aircraft:

Type:	Piper
Manufacturer:	Lycoming
Model:	PA-25-235
U.S. Registration No./ Tail No.:	N9118W

Whereas, Staff recommends Council authorize a 12-month airport hangar lease agreement with Scott Farr at the rental rate of \$185 per month, to commence June 21, 2019, which may be renewed for additional 12-month terms at the agreement of the parties, and as evidenced by the execution of a written amendment or addendum, or a new lease agreement reflecting any new rental rates or changes to terms and conditions;

Whereas, Mr. Farr agrees to use the T-hangar solely for aircraft hangar purposes and aeronautical operations and understands that the hangar space is for storage of an operable airworthy aircraft - Mr. Farr further understands that commercial activity is prohibited in the T-hangar;

Whereas, pursuant to the lease agreement, Mr. Farr will: timely pay rent, store only aircraft and items related to aeronautical operations on the leased premises, grant the City the right to enter the T-hangar at any time for inspection, repairs, additions, alterations, or repairs, furnish a duplicate key or combination to the Airport Director for any lock used to secure the T-hangar, keep the premises in a good and orderly condition, comply with all terms of the lease agreement and all ordinances, rules, regulations of the City and the Airport, and maintain the required liability insurance as evidenced by a current certificate of insurance that names the City as an additional insured - this is an as-is lease, the City will not be making any adjustments or upgrades to the space;

Whereas, the City will receive annual lease revenue of \$2,220 for rent which will be deposited into Account No. 110-0000-446-3021; 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 airport hangar lease agreement with Scott Farr in the amount of \$185 per month for the use of T-hangar No. 22 at the Draughon-Miller Central Texas Regional Airport beginning June 21, 2019.

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

PASSED AND APPROVED this the **20th** day of **June**, 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:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing a one-year renewal to the depository services agreement with BBVA Compass Bank.

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

ITEM SUMMARY: Approval of this item will provide for continued depository services through BBVA Compass Bank through August 31, 2020.

On June 18, 2015, Council authorized a two-year depository services agreement with BBVA Compass Bank. The awarded contract included provisions for the award of three one-year renewals. Staff is pleased with the depository services being provided by BBVA Compass Bank and staff believes that the cost of BBVA Compass Bank's services are fair and reasonable. Accordingly, staff is recommending that Council authorize an execution to the depository services agreement until August 31, 2020. This will be the third and final one-year renewal authorized under the agreement.

FISCAL IMPACT: The current average cost for banking services is approximately \$4,700 per month before interest paid and earnings credit on available balances. This amount will vary from month to month depending on transaction volume and services elected. The fees for services will remain the same for the renewal of the agreement.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9691-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE DEPOSITORY SERVICES AGREEMENT WITH BBVA COMPASS BANK; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 18, 2015, Council authorized a two-year depository services agreement with BBVA Compass Bank - the contract included provisions for the award of three one-year renewals;

Whereas, Staff has been pleased with the depository services provided by BBVA Compass Bank and believes that the cost of BBVA Compass Bank's services are fair and reasonable to the City of Temple;

Whereas, Staff recommends Council authorize continued depository services through BBVA Compass Bank through August 31, 2020 - this will be the third and final renewal authorized under the agreement;

Whereas, the current average cost for banking services is approximately \$4,700 per month before interest paid and earnings credit on available balances and varies from month to month depending on transaction volume and services elected - the fees for services will remain the same for the renewal of the agreement; 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 one-year renewal to the depository services agreement with BBVA Compass Bank.

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 **20th** day of **June**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

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: Consider adopting a resolution authorizing a yearly subscription for permitting, planning and code enforcement online software through South Central Planning and Development Commission in the amount of \$52,635.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City has been using the My Government Online solution since March 2018 for Community Development and would like to continue using through 2019. This software was purchased to enable a more efficient workflow, easier navigation and a fully integrated development process. The software allowed staff to create a customized workflow that best fit the needs of our development community. The software enables Mobility/In-Field Usage: View, schedule and modify inspections and record notes while in the field from laptops, iPads, Smart Phone and tablet devices.

The My Government Online solution is available through the South-Central Planning and Development Commission. On January 19, 2017, Council authorized an interlocal contract with South Central Planning and Development Commission that facilitates the purchase of this online software. This interlocal agreement automatically renews in 12-month periods.

FISCAL IMPACT: Funding for the online subscription to My Government Online through South Central Planning and Development Commission in the amount of \$52,635 is available in the FY 2019 Operating Budget as shown below:

Account Number	Funding
110-1900-519-2515 (60%)	\$ 31,581
520-5000-535-2515 (40%)	\$ 21,054
Total Funding Available	\$ 52,635

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9692-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A YEARLY SUBSCRIPTION THROUGH SOUTH CENTRAL PLANNING AND DEVELOPMENT COMMISSION OF HOUMA, LOUISIANA IN THE AMOUNT OF \$52,635, FOR AN ONLINE SOFTWARE SUBSCRIPTION FOR PERMITTING, PLANNING AND CODE COMPLIANCE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has been using the My Government Online solutions since March 2018 for Community Development software and would like to continue using it through 2019 - this software was purchased to enable a more efficient workflow, easier navigation and a fully integrated development process;

Whereas, the software allows staff to create a customized workflow that best fits the needs of our development community by enabling mobility/in-field usage to view, schedule and modify inspections, and record notes from laptops, iPads, Smart Phones and tablet devices;

Whereas, the My Government Online solution is available through the South Central Planning and Development Commission - on January 19, 2017, Council authorized an interlocal contract with South Central Planning and Development Commission that facilitates the purchase of this online software and the agreement automatically renews in 12-month periods, if so agreed to by both parties;

Whereas, Staff recommends Council authorize a yearly subscription with South Central Planning and Development Commission of Houma, Louisiana in the amount of \$52,635, for the purchase of online software for permitting, planning and code compliance;

Whereas, funding is available for this subscription in the fiscal year 2019 Operating Budget in Account No. 110-1900-519-2515 (60%) and Account No. 520-5000-535-2515 (40%); 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 a yearly subscription with South Central Planning and Development Commission of Houma, Louisiana in the amount of \$52,635, for online software for permitting, planning and code compliance and authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute any documents 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 **20th** day of **June**, 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:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing deductive change order #3 with Santa Clara Construction, Ltd., of Austin, for construction of Phase 5 of the Bird Creek Interceptor Project, in the amount of \$6,922.41.

STAFF RECOMMENDATION: Adopt resolution as presented in item summary.

ITEM SUMMARY: The existing Bird Creek Interceptor built in the mid-1950's provides wastewater service to many neighborhoods, restaurants and commercial developments, draining an area approximately 6,200 acres in size through the middle of Temple. Over the years, the wastewater line has deteriorated, taking in additional flows during rain events. These excess flows and line condition have led to unauthorized sanitary sewer discharges into Bird Creek. This project, phased and implemented over several years, is targeted toward reducing overflows and rehabilitating infrastructure, ultimately providing for increased capacity within the wastewater collection system.

Phase 1, 2, and 3 of the project have been completed. Bird Creek Interceptor Phase 5 from Lion's Park to Shallow Ford Lift Station is currently under construction. This phase will provide for increased capacity, through a large diameter collection interceptor, to convey flows through the park for adequate conveyance to the wastewater treatment plant. Phase 4, the last section to be addressed, is anticipated to begin construction in FY 2019 (project map attached).

On January 9, 2018, the City authorized contract amendment 12 with Jacobs (Engineer) in the amount of \$11,027.40, for bidding and award services for Bird Creek Interceptor Phase 5. On July 19, 2018, Council authorized a construction contract with Santa Clara in the amount of \$2,068,811. On February 7, 2019, Council authorized change order #1 in the amount of \$16,533.82 modifications of pipe depth and a watermain bypass. On May 10, 2019, the City began processing change order #2 in the amount of \$23,944.97 that included fence restoration, Lions Park sod and roadway staking.

The attached change order #3 is necessary to reconcile quantities including eliminating one 8-foot diameter man hole and providing two service connections on the Macey parcel, as promised during easement negotiations. The associated costs will be a net decrease in the amount of \$6,922.41 (\$30,317.59 total increase and \$37,240 total decrease). This proposed change order decreases the total contract price to \$2,102,367.38, a net 1.6% increase to the original contract amount including all change orders. The Engineer recommends the change order in their attached recommendation letter. Additional construction time associated with the change order revises the contractual end date to August 11, 2019.

FISCAL IMPACT: Funding for deductive change order #3 with Santa Clara Construction, Ltd. for construction of Phase 5 of the Bird Creek Interceptor Project in the amount of \$6,922.41 will be recognized in project 101477 as follows:

	520-5400-535-6361	561-5400-535-6925	Total
Project Budget	\$ 1,000,000	\$ 1,603,790	\$ 2,603,790
Encumbered/Committed to Date	(790,457)	(1,603,790)	(2,394,247)
Santa Clara Construction, Ltd. CO #3	6,922	-	6,922
Remaining Project Funds	\$ 216,465	\$ -	\$ 216,465

ATTACHMENTS:

[Recommendation Letter](#)
[Change Order Form](#)
[Project Map](#)
[Resolution](#)



2705 Bee Caves Rd, Suite 300
Austin, TX 78746 USA
Phone (512) 314-3100 Fax (512) 314-3135

June 3, 2019

Mr. Ed Kolacki
Project Manager, City of Temple | Department of Public Works
3210 E. Avenue H
Temple, TX 76501

Subject: Bird Creek Interceptor Project – Contract #5
Jacobs Project Number: WJXK5800
Design Change #3 – Macey Connections and Shallowford Liftstation Connection

Dear Mr. Kolacki:

Attached is Santa Clara Construction, Ltd. (SCC) Request for Design Change #3 in the amount of -\$6,922.41. This change order includes five contract items associated with two changes in design:

- Addition of the Macey property lateral connections based on the MOA made with the City of Temple and the Macey's (Item CO3-1).
- The Shallowford Liftstation Connection was modified to coordinate best with the Shallowford Liftstation contractor's (SSP) with the following changes:
 - Furnish 40 LF of 48" Interceptor that will be given to SSP for installation (Item CO3-2)
 - Deduct the total installation price of 40 LF of 48" Interceptor since SSP will be performing the installation (Item ADD1-7)
 - Deduction of one 8' diameter manhole that was initially proposed at the border of the Shallowford liftstation that is no longer required MH-A (Item 15)
 - Deduction of the extra manhole depth charges associated with removal of MH-A (Item 16)

We have reviewed the Design Change #3 and recommend moving forward with the deduction to contract of -\$6,922.41 to SCC. If you have any questions, or require any further information, please feel free to contact me at (512) 314-3144 or Rick.Villalobos@jacobs.com.

Sincerely,

Rick Villalobos, P.E.
Project Manager

Attachments: Change Order #3, Macey Connections backup

CHANGE ORDER

PROJECT: Bird Creek Interceptor Phase 5
OWNER: City of Temple
CONTRACTOR: Santa Clara Construction, Ltd.
ENGINEER: Jacobs Engineering Group, Inc.
CHANGE ORDER #: 3

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

Installation of wastewater laterals to Macey property and rental property, removal of MH-A, and modification to 48" connection to Shallowford Liftstation.

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
CO 3-1	Add Two wastewater Laterals from MH A-3, one to the Macey property and one to the rental house of the Macey's	1	LS	\$24,567.59	\$24,567.59
CO 3-2	Add Furnish Only 48" FRPM SN 46	40	LF	\$143.75	\$5,750.00
ADD 1-7	Modification Furnish and Install 48" FRPM Class SN46, Greater than 20' Depth, including excavation and backfill	-40	LF	\$256.00	-\$10,240.00
15	Modification Furnish and Install 8' Diameter Manhole (6' depth)	-1	EA	\$11,000.00	-\$11,000.00
16	Modification Furnish and Install Manhole Extra Depth	-16	VF	\$1,000.00	-\$16,000.00

TOTAL CHANGE IN CONTRACT AMOUNT -\$6,922.41

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:	\$ 2,068,811.00
Previous Change in Contract Amount:	\$ 40,478.79
Change in Contract Amount:	\$ -6,922.41
Revised Contract Amount:	\$ 2,102,367.38
Original Contract Time:	300 Days
Previous Change in Contract Time:	30 Days

Change in Contract Time:

5 Days

Revised Contract Time:

335 Days

Original Final Completion Date:

July 7, 2019

Revised Final Completion Date:

Aug. 11, 2019

Recommended by:

Recommended by:

Project Manager (City Staff) Date

Architect/Engineer Date

Agreed to:

Approved by City of Temple:

Contractor Date

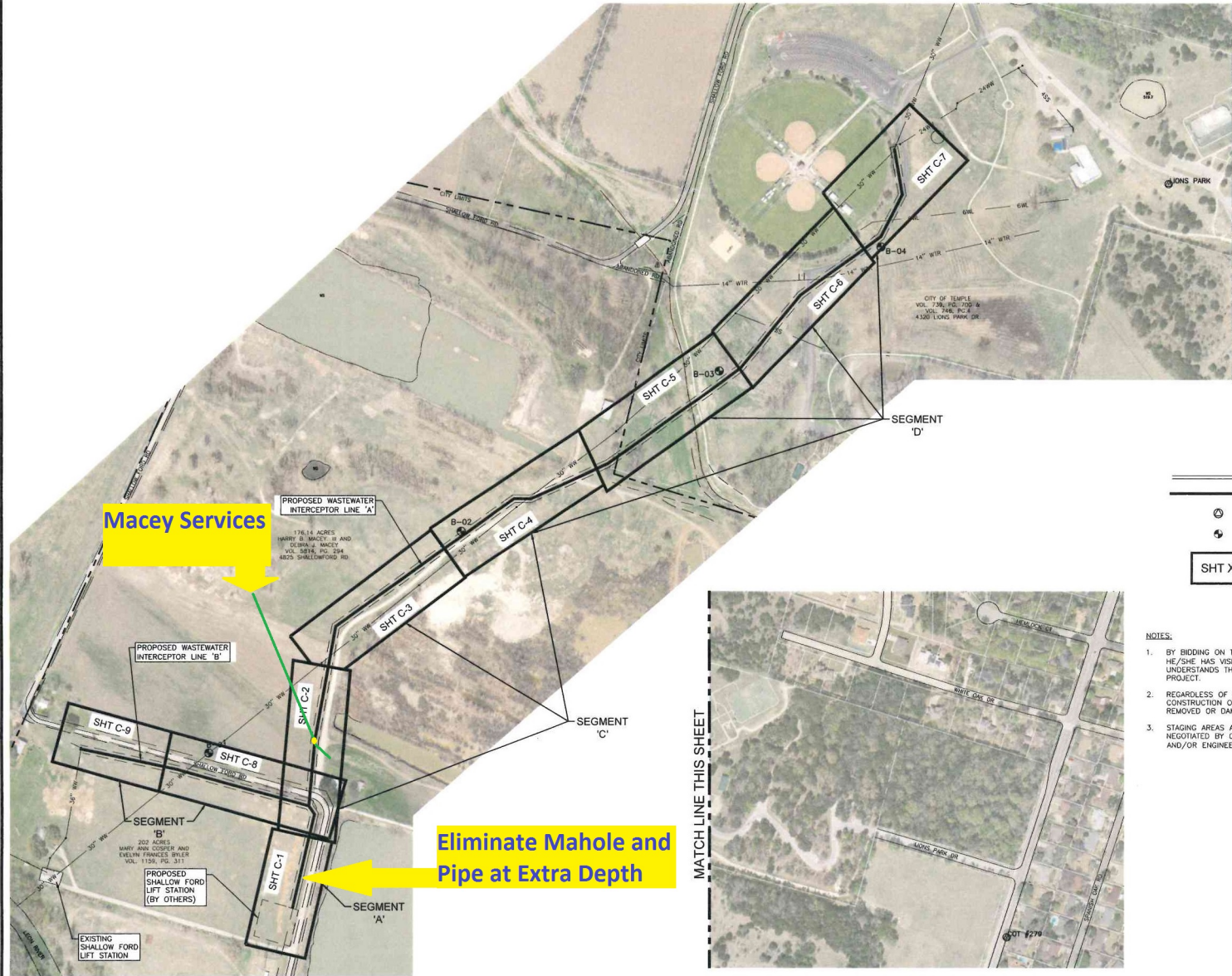
Brynn Myers, City Manager Date

Approved as to form:

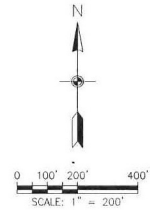
Approved by Finance Department:

City Attorney's Office Date

Finance Date



MATCH LINE THIS SHEET



LEGEND	
	PROP. WW GRAVITY LINES
	TEMPORARY BENCHMARK LOCATION
	BORE LOG
	SHEET NUMBER

NOTES:

- BY BIDDING ON THIS PROJECT, THE CONTRACTOR ACKNOWLEDGES HE/SHE HAS VISITED THE SITE, IS FAMILIAR WITH THE AREA, AND UNDERSTANDS THE LEVEL OF WORK REQUIRED TO ACCESS THE PROJECT.
- REGARDLESS OF ACCESS ROUTES, TREES OUTSIDE THE TEMPORARY CONSTRUCTION OR PERMANENT EASEMENTS SHALL NOT BE REMOVED OR DAMAGED.
- STAGING AREAS ARE INDICATED AS SHOWN. ADDITIONAL WORKSPACE NEGOTIATED BY CONTRACTOR SHALL BE REVIEWED BY OWNER AND/OR ENGINEER PRIOR TO USE BY CONTRACTOR.

BENCHMARK DESCRIPTIONS

TBM "LIONS PARK"
ELEVATION = 536.17'
N=10362662.03 E=32147111.42
L.B. 301 PG. 42
SQUARE CUT AT SOUTH SIDE OF CONCRETE BASE AROUND SEWER MANHOLE #228 00788.

TBM "COT #279"
ELEVATION = 579.99'
N=10362079.47 E=3216162.23
L.B. 301 PG. 43
SQUARE AND PUNCH CUT IN TOP OF CONCRETE CURB ON EAST SIDE OF HOOVER ROAD, 1/2" - 5' SOUTH OF MANHOLE #4751.

		JACOBS 2705 SEC 34 RD, SUITE 300, AUSTIN, TX 78746 (512) 314-3100, FAX (512) 314-3135 TDD: REGISTRATION #1-2865		TEMPLE BIRD CREEK INTERCEPTOR CONTRACT 5 TEMPLE, TEXAS OVERALL SITE PLAN	
DESIGNED BY: GAB DRAWN BY: OT REVIEWED BY: JR CHECKED BY: GAB PROJECT NO: 20050327/PA142500 FILE NAME: C-3 OVERALL SITE PLAN DATE: MAY 15, 2018	DESCRIPTION SHEET DATE	VERIFY SCALE BAR IS ONE INCH ON ORIGINAL DRAWING. IF NOT A RAIL ON THIS SHEET, ADJUST SCALE.			
SHEET REF. NO. G-3		CONFORMED SET			

CONFORMED SET

1/25/2024 Temple - Bird Cr. Interceptor (C-3) (Final) Temple Bird Creek Contract 5 (Sheet) C-3 OVERALL SITE PLAN

RESOLUTION NO. 2019-9693-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING DEDUCTIVE CHANGE ORDER NO. 3 WITH SANTA CLARA CONSTRUCTION, LTD., OF AUSTIN, TEXAS IN THE AMOUNT OF \$6,922.41 FOR CONSTRUCTION OF PHASE 5 OF THE BIRD CREEK INTERCEPTOR PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the existing Bird Creek Interceptor was built in the mid-1950's and provides wastewater service to many neighborhoods, restaurants and commercial developments, and drains an area approximately 6,200 acres in size through the middle of Temple;

Whereas, over the years, the wastewater line has deteriorated, taking in additional flows during rain events which have led to unauthorized sanitary sewer discharges into Bird Creek;

Whereas, this project, phased and implemented over several years, is targeted toward reducing overflows and rehabilitating infrastructure, ultimately providing for increased capacity within the wastewater collection system;

Whereas, Phases 1, 2, and 3 of the project have been completed, and Phase 5, from Lions Park to Shallow Ford Lift Station, currently under construction, will provide for increased capacity through a large diameter collection interceptor which will convey flows through the park for adequate conveyance and treatment to the wastewater treatment plant;

Whereas, Phase 4, which is the last section to be addressed, is anticipated to begin construction in fiscal year 2019;

Whereas, on January 9, 2018, the City authorized Contract Amendment 12 with Jacobs Engineering in the amount of \$11,027.40 for bidding, and awarded services for Bird Creek Interceptor Phase 5 - on July 19, 2018, Council authorized a construction contract with Santa Clara Construction, Ltd. in the amount of \$2,068,811.00;

Whereas, on February 7, 2019, Council authorized Change Order No. 1 in the amount of \$16,533.82 for modifications of pipe depth and a watermain bypass - on May 10, 2019, the City began processing Change Order No. 2 in the amount of \$23,944.97 that included fence restoration, Lions Park sod and roadway staking;

Whereas, deductive change order No. 3 is necessary to reconcile quantities, including eliminating one 8-foot diameter man hole and providing two service connections on the Macey parcel as promised during easement negotiations, which will decrease the contract price to \$2,102,367.38 - a 1.6% increase to the original contract amount;

Whereas, Staff and the City's engineer recommend Council authorize deductive change order No. 3 with Santa Clara Construction, Ltd., in the amount of \$6,922.41 for the construction of Phase 5 of the Bird Creek Interceptor Project;

Whereas, funds for this deductive Change Order will be recognized in Account No. 520-5400-535-6361 and Account No. 561-5400-535-6925, Project No. 101477; 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 deductive change order No. 3 with Santa Clara Construction, Ltd. in the amount of \$6,922.41 for construction of Phase 5 of the Bird Creek Interceptor 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 20th day of **June**, 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:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing change order #3 with SSP Industries, LP, of Killeen, for construction of the Shallowford Lift Station Improvements, in the amount of \$164,549.33.

STAFF RECOMMENDATION: Adopt resolution as presented in item summary.

ITEM SUMMARY: Sewer overflows within the Bird Creek basin are problematic, and the City has a significant capital effort underway to address deteriorated sewer mains and interceptor pipe to reduce inflow, infiltration and overflows. In 2007, Council authorized a professional services agreement for engineering services related to the Bird Creek Interceptor, addressing significant issues within the basin and embarking upon a 10-year plan to address system needs. The Shallowford Lift Station (SFLS) receives wastewater from the Bird Creek basin and will be demolished upon completion of the new SFLS currently under construction.

On December 17, 2015, Council authorized an agreement with Kasberg, Patrick, & Associates, LP (Engineer) in the amount of \$641,530 for design and bidding services for the SFLS. On March 15, 2018, Council authorized a construction contract with SSP for \$6,100,000. On October 24, 2018, the City approved change order #1 in the amount of \$21,739.08 for increased manhole diameters and a site dewatering line under Shallowford Road. On February 7, 2019, Council approved change order #2 in the amount of \$48,771.43 to address excessive ground water conditions onsite.

The attached change order #3 is necessary to extend the 48" gravity line on the Lift Station site to a connection point with the Bird Creek Phase 5 Project which is concurrently being constructed. This allows continued Lift Station construction of structures and a perimeter masonry wall directly adjacent to and on top of this 48" line. Also included are manufacturer-required piping modifications for surge valves, grading for drainage onsite and along the Brazos River Authority owned access road, and additional unforeseen items. See project map and recommendation letter for more details. The proposed change order increases the total contract amount to \$6,335,059.84, a 3.85% net increase to the original contract amount including all change orders.

The Engineer recommends the change order in their attached recommendation letter. Additional construction time associated with the change order revises the contract end date to September 9, 2019.

FISCAL IMPACT: A budget adjustment is being presented to Council for approval to appropriate funding for change order #3 with SSP Industries, LP for construction of the Shallowford Lift Station Improvements. Funding in the amount of \$164,549.33 is available in account 561-5400-535-6905, project 101475, as follows:

Project Budget	\$	7,227,395
Budget Adjustment		162,915
Encumbered/Committed to Date		(7,225,761)
SSP Industries, LP - Change Order #3		(164,549)
Remaining Project Funds Available	\$	-

ATTACHMENTS:

[Recommendation Letter](#)
[Budget Adjustment](#)
[Change Order Form](#)
[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

June 6, 2019

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

Re: City of Temple, Texas
Shallowford Lift Station

Dear Mr. Kolacki:

Enclosed is one copy of Change Order No. 3 for the referenced project. This Change Order additions and/or modifications to the plan sheets to address items encountered during the construction process. Additionally, two (2) items are included which address final connections between the multiple contracts involved in the construction of the Gravity Sewer, Lift Station, Force Main and TBWWTP Headworks projects.

Change Order 3, totaling \$164,549.33, consists of the following items:

1. CO3-1. Extension of 48" HOBAS Gravity Sewer Pipe. This segment of piping was originally included in the Gravity Interceptor project. However, due to the alignment and depth of the line work (and its relation to aspects of the Lift Station project) it was moved to SSP's contract to minimize potential conflicts with Lift Station construction activities. This extended the Gravity Sewer to the north of the Lift Station site where the Interceptor Contractor will make the final connection.
2. CO3-2. Sump Pump Discharge Piping. This item includes a wall core to allow the sump pump discharge piping to access the exterior of the building through the side wall of the basement.
3. CO3-3. Basement Access Cover. The plans showed grating at the access point. This was changed to a solid plate to prevent potential issues with the HVAC system sizing.
4. CO3-4. Clear/Shape Drainage Ditch. The existing site drainage is to the southeast corner of the lift station property, then across a road (via cattle guard). The drainage then runs back to the west along the south side of the existing access road. This portion of the drainage channel had been silted in and grown up with vegetation. This item clears/cleans and reshapes the existing drainage channel.
5. CO3-5. Piping Modifications at Surge Valves. The surge valves were designed to be installed in a horizontal position. The valves require a vertical installation. The addition of a 90 degree bend and spool piece was required to adjust the orientation.

Mr. Ed Kolacki
Page Two
June 6, 2019

6. CO3-6. 30" Flow Meter Installation. This final connection, including flow meter, to the Headworks Facility was not included in any of the three construction contracts (Lift Station, Force Main, Headworks). The Headworks project included the stub-out from the Headworks and the below grade piping from the face of the headworks to the fence of the WWTP. The Force Main Project connected at the fenceline and extends to the Lift Station site. The vertical, above ground connection is required. This includes the flow meter which relays a signal back to the Lift Station to allow operation of the automated plug valves (force main operation).
7. CO3-7. Additional Course of CMU to South Wall. The elevation of the footing for the south CMU wall was adjusted down 8" to better match the natural ground. An additional course of CMU was added along the south face to allow the top of the wall to be uniform around the entire

We recommend approval of Change Order No. 3 in the amount of \$164,549.33. The total change orders on this project total approximately 3.85% of the original contract amount. We are available to discuss at your convenience.

Sincerely,



Thomas D. Valle, P.E.

TDV/
2015-152-41

CHANGE ORDER

PROJECT: **Shallowford Lift Station**
 OWNER: **City of Temple**
 CONTRACTOR: **SSP Industries, LP**
 ENGINEER: **Kasberg, Patrick & Associates, LP**
 CHANGE ORDER #: **3**

Make the following additions, modifications or deletions (circle those that apply) to the work described in the Contract Documents for modifications and/or additions to the Shallowford Lift Station Project as follows:

Item	Description	Quantity	Unit	Cost	Total
CO3-1	48" HOBAS Gravity Sewer Pipe Installation from MH to north outside of CMU Wall. No Connection.	100%	LS	\$ 56,919.26	\$ 56,919.26
CO3-2	Sump Pump Discharge Piping	100%	LS	\$ 1,569.93	\$ 1,569.93
CO3-3	Change Grate Cover to Solid Plate @ Basement	100%	LS	\$ 567.06	\$ 567.06
CO3-4	Clear / Reshape Drainage Ditch along existing Access Road	100%	LS	\$ 4,518.55	\$ 4,518.55
CO3-5	Additional Spool pieces/fittings necessary to adjust orientation of Surge Valve	100%	LS	\$ 5,287.80	\$ 5,287.80
CO 3-6	30" Flow Meter/Aerial Piping Installation	100%	LS	\$ 93,869.04	\$ 93,869.04
CO 3-7	Add additional course of CMU to South Wall (added height)	100%	LS	\$ 1,817.69	\$ 1,817.69
Total Add				\$	164,549.33

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	\$ 6,100,000.00
Previous Net Change in Contract Amount	\$ 70,510.51
Net Change in Contract Amount	\$ 164,549.33
Revised Contract Amount	\$ 6,335,059.84
Original Contract Time	450 Days
Previous Net Change in Contract Time	15
Net Change in Contract Time	30
Revised Contract Time	450 days
Original Final Completion Date	July 26, 2019
Revised Final Completion Date	September 9, 2019

Recommended By:

Recommended By:

Project Manager (City Staff)

Date

Engineer

Date

Agreed To:

Approved by City of Temple:

Contractor

Date

Brynn Myers, City Manager

Date

Approved as to Form:

Approved by Finance Department:

City Attorney's Office

Date

Finance

Date

RESOLUTION NO. 2019-9694-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING CHANGE ORDER NO. 3 WITH SSP INDUSTRIES, LP OF KILLEEN, TEXAS IN THE AMOUNT OF \$164,549.33, FOR CONSTRUCTION OF THE SHALLOWFORD LIFT STATION IMPROVEMENTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, sewer overflows within the Bird Creek basin are problematic, and the City has a significant capital effort underway to address deteriorated sewer mains and interceptor pipe to reduce inflow, infiltration and overflows;

Whereas, in 2007, Council authorized a professional services agreement for engineering services related to the Bird Creek Interceptor, addressing significant issues within the basin and embarking upon a 10-year plan to address system needs;

Whereas, the Shallowford Lift Station (SFLS) receives wastewater from the Bird Creek basin and will be demolished upon completion of the new SFLS, which is currently under construction;

Whereas, on December 17, 2015, Council authorized an agreement with Kasberg, Patrick, & Associates, LP (KPA) for design and bidding services for the SFLS, and on March 15, 2018, Council authorized a construction contract with SSP Industries, LP in the amount of \$6,100,000 - on October 24, 2018, the City approved Change Order No. 1 to the construction contract in the amount of \$21,739.08, for increased manhole diameters and a site dewatering line under Shallowford Road;

Whereas, on February 7, 2019, Council approved Change Order No. 2 in the amount of \$48,771.43 to address excessive ground water conditions onsite;

Whereas, Change Order No. 3 is necessary to extend the 48-inch gravity line on the Lift Station site to a connection point with the Bird Creek Phase 5 Project which is concurrently being constructed and which will allow continued Lift Station construction of structures and a perimeter masonry wall directly adjacent to and on top of this 48-inch line - also included are manufacturer-required piping modifications for surge valves, grading for drainage onsite and along the Brazos River Authority owned access road, and additional unforeseen items;

Whereas, this change order increases the total contract amount to \$6,335,059.84, a 3.85% net increase to the original contract amount;

Whereas, Staff and KPA recommend Council approve Change Order No. 3 with SSP Industries, LP, of Killeen, Texas in the amount of \$164,549.33, for construction of the Shallowford Lift Station Improvements;

Whereas, funding is available, but a budget adjustment is being presented to Council for approval to appropriate funds to Account No. 561-5400-535-6905, Project No. 101475; 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 Change Order No. 3 with SSP Industries, LP of Killeen, Texas in the amount of \$164,549.33 for the construction of the Shallowford Lift Station Improvements.

Part 4: The City Council authorizes an amendment to the fiscal year 2019 budget, substantially in the form of the copy attached hereto as Exhibit 'A.'

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 **20th** day of **June**, 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

06/20/19
Item #4(J)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing & Facility Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a change order to the Construction Manager-at-Risk contract for four facility construction projects with RM Rodriguez Construction, LP of Temple in the deductive amount of \$31,323.31.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On August 20, 2018, Council authorized a guaranteed maximum price (GMP) Construction Manager-at-Risk (CMAR) contract to RM Rodriguez Construction, LP (RMR) in the amount of \$444,872 for the following facility construction projects:

	<u>GMP</u>	<u>Actual Cost</u>	<u>Savings</u>
Water Treatment Plant Renovations	\$130,262	\$113,159.65	\$17,102.35
City Hall, Suite 306, Renovations	99,885	85,831.37	14,053.63
Summit Recreation Center Vestibule Construction	44,550	44,382.67	167.33
South Temple Park Restroom Construction	<u>170,175</u>	not complete	
	<u>\$444,872</u>		<u>\$31,323.31</u>

CMAR contracts are structured as cost reimbursement basis contracts. The first three projects listed above are complete, and the costs incurred by RMR were \$31,323.31 under the GMP. Accordingly, Staff is requesting that Council authorize a deductive change order in the amount of \$31,323.31.

FISCAL IMPACT: Funding for deductive change order #1 to the CMAR contract with RM Rodriguez Construction, LP will be recognized as follows:

	City Manager Office Suite 101654 110-1100-513-6310 110-5911-513-6310 364-1100-513-6310	Summit Air Dam Vestibule 101548 110-5932-551-6310 362-3200-551-6421	South Temple Park Restrooms 101819 110-3500-552-6332 365-3500-552-6988	Water Treatment Plant 101452 520-5100-535-6310 520-5110-535-6310	
					Total
Project Budget	\$ 149,821	\$ 54,300	\$ 199,325	\$ 144,833	\$ 548,279
Encumbered/Committed to Date	(152,024)	(54,300)	(182,175)	(144,833)	(533,332)
RM Rodriguez CO #1	14,054	167	-	17,102	31,323
Remaining Project Funds	\$ 11,851	\$ 167	\$ 17,150	\$ 17,102	\$ 46,270

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9695-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A DEDUCTIVE CHANGE ORDER TO THE CONSTRUCTION MANAGER-AT-RISK CONTRACT FOR FOUR FACILITY CONSTRUCTION PROJECTS WITH RM RODRIGUEZ CONSTRUCTION, LP, OF TEMPLE, TEXAS IN THE AMOUNT OF \$31,323.31; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on August 20, 2018, Council authorized a guaranteed maximum price (“GMP”) Construction Manager-at-Risk (“CMAR”) contract with RM Rodriguez Construction, LP (“RMR”) for the following facility construction projects:

	GMP	Actual Cost	Savings
Water Treatment Plant Renovations	\$130,262	\$113,159.65	\$17,102.35
City Hall, Suite 306, Renovations	\$99,885	\$85,831.37	\$14,053.63
Summit Recreation Center Vestibule Construction	\$44,550	\$44,382.67	\$167.33
South Temple Park Restroom Construction	<u>\$170,175</u>	not complete	_____
	\$444,872	\$31,323.31	

Whereas, CMAR contracts are structured as cost reimbursement basis contracts - the first three projects listed above are complete, and the costs incurred by RMR were \$31,323.31 under the GMP;

Whereas, Staff recommends Council authorize a deductive change order to the Construction Manager-at-Risk contract for four facility construction projects with RM Rodriguez Construction, LP, of Temple, Texas in the amount of \$31,323.31;

Whereas, funding for deductive change order No.1 will be recognized as follows:

- Account No. 110-1100-513-6310, Project No. 101654;
- Account No. 110-5911-513-6310, Project No. 101654;
- Account No. 364-1100-513-6310, Project No. 101654;
- Account No. 110-5932-551-6310, Project No. 101548;
- Account No. 362-3200-551-6421, Project No. 101548;
- Account No. 110-3500-552-6332, Project No. 101819;
- Account No. 365-3500-552-6988, Project No. 101819;
- Account No. 520-5100-535-6310, Project No. 101452; and
- Account No. 520-5110-535-6310, Project No. 101452; 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 Manager-at-Risk contract for four facility construction projects with RM Rodriguez Construction, LP, of Temple, Texas in the amount of \$31,323.31.

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 20th day of **June**, 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

06/20/19
Item #4(K)
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 and Associates, for construction phase services to oversee the construction of the new Pepper Creek 1.0-MG elevated storage tank and demolish the existing Pepper Creek elevated storage tank, in an amount not to exceed \$192,380.

STAFF RECOMMENDATION: Adopt resolution as presented in item summary.

ITEM SUMMARY: On October 4, 2018, Council authorized a professional services agreement with KPA in the amount of \$159,590 to design and bid the replacement of the existing 220,000-gallon elevated storage tank (EST) located on FM 2305 west of FM 2271 with a new 1.0-MG EST located in the same general vicinity to address the low pressure and water quality concerns in the area. See Project Map.

Staff is prepared to proceed with construction (separate Council item). The proposed timeline for construction is 455 calendar days from the Notice to Proceed. As identified in the attached engineer's proposal, services will be added for construction administration and daily project representation for construction of the new EST and demolition the existing EST. The recommended consultant services and associated costs are as follows:

Construction Administration	\$ 86,500
Construction Staking	\$ 4,400
On-Site Project Representation	\$ 64,000
HOT Inspection (including shop inspection)	\$ 37,480
Total	\$192,380

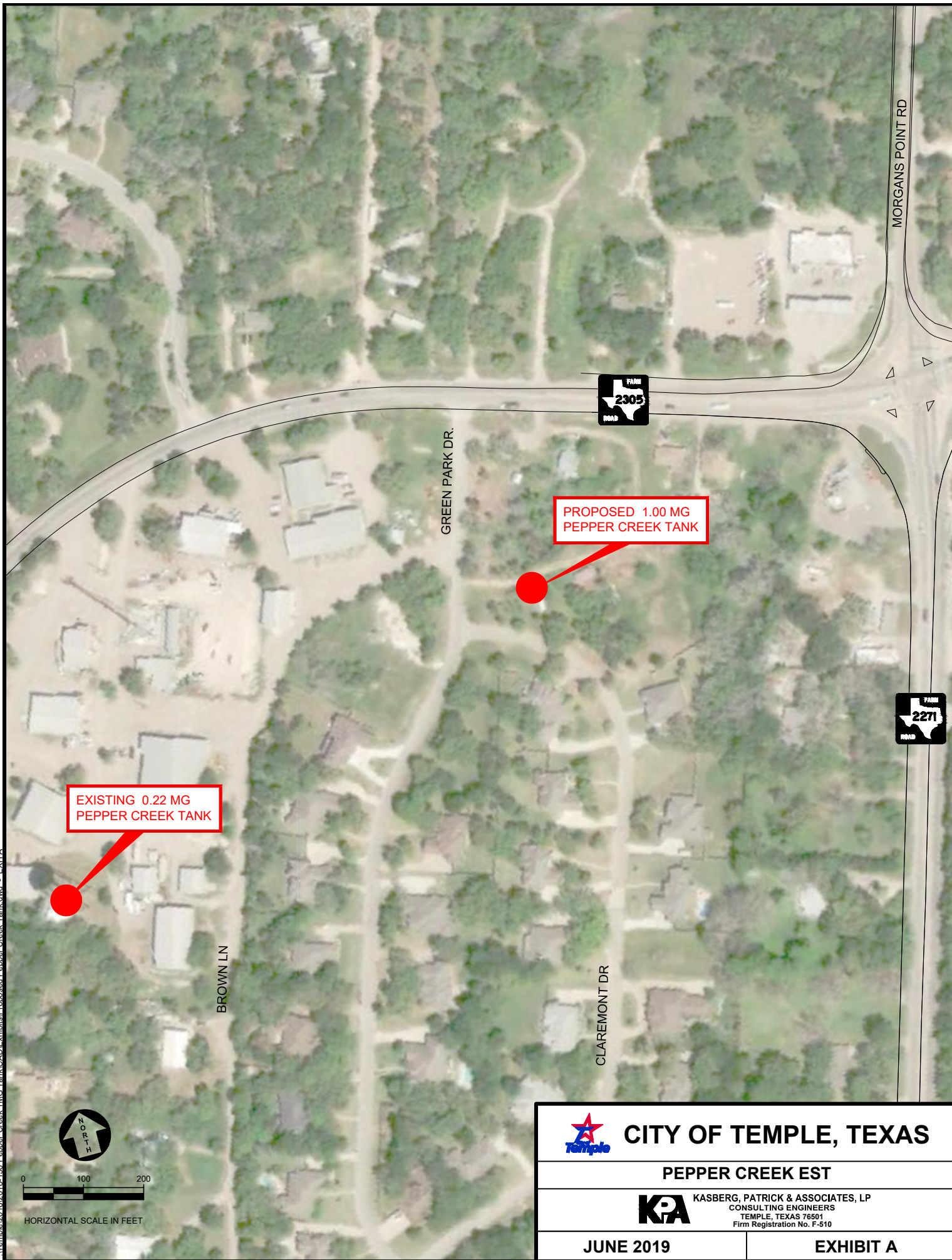
FISCAL IMPACT: Funding for contract amendment #1 to the professional services agreement with KPA to design and bid the replacement of the existing Pepper Creek elevated storage tank (EST) in the amount of \$159,590 is available in account 561-5100-535-6991, project 101948, as follows:

Project Budget	\$	3,400,000
Encumbered/Committed to Date		(159,789)
Construction Award - Landmark Structures I, L.P.		(2,688,000)
KPA Contract Amendment #1		(192,380)
Remaining Project Funds Available	\$	359,831

ATTACHMENTS:

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

P:\Temple\2018\2018-156 Pepper Creek 1MG Tank\CAD\Exhibits\Processed Pepper Creek Tank.dwg - EXH A



0 100 200

HORIZONTAL SCALE IN FEET



CITY OF TEMPLE, TEXAS

PEPPER CREEK EST



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

JUNE 2019

EXHIBIT A



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

June 10, 2019

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

Re: City of Temple, Texas
Pepper Creek 1,000,000 Gallon Elevated Storage Tank

Dear Ms. Carlos:

This letter is in response to your request to amend the current contract for the Pepper Creek 1,000,000 Gallon Elevated Storage Tank as shown on Exhibit A to add construction phase services. The project is anticipated to begin construction in July, and is a 455 calendar day (15 month) project. We will provide constructing staking, construction administration services, daily on-site representation and coatings/welding inspections for construction of the new elevated storage tank, waterline and demolition of existing PC Tank.

The following not-to-exceed lump sum amounts will be applicable as part of this Contract Amendment No. 1:

Basic Services

A. Construction Administration (15 months)	\$	86,500.00
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Special Services

A. Construction Staking		4,400.00
B. On-site Representation		64,000.00
C. HOT Inspection (including shop inspection)		37,480.00

Total	\$	192,380.00
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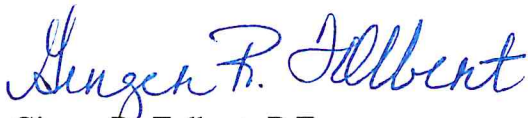
Exhibit B provides a more detailed breakdown and description of the tasks included in our Scope of Services. All County Surveying, Inc. will provide construction staking for the project. HOT Inspection Services, Inc. will observe welding and steel erection, radiographic test grading, surface preparation and coatings, fabrication and shop inspections.

Ms. Sharon Carlos, P.E.
June 10, 2019
Page Two

KPA's on-site representative will observe construction of the concrete pedestal, waterline, drainage line/channel improvements and demolition of existing tank. These services are based on a 15 month construction period. The KPA portion of costs for on-site representation is based on an anticipated average of two (2) hours per day during construction.

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

Sincerely,



Ginger R. Tolbert, P.E.
GRT/

EXHIBIT "B"

Scope of Services Pepper Creek 1,000,000 Gallon Elevated Storage Tank

I. Basic Services

A. Contract Administration

1. Conduct pre-construction conference;
2. Review submittals/shop drawings;
3. Prepare Partial Payment forms and review partial payment requests;
4. Make periodic project visits during construction;
5. Communicate with City Project Manager weekly regarding project status and schedule;
6. Conduct construction progress meetings;
7. Coordinate contractor schedule with City Staff;
8. Advise and consult with the Owner, communicate with Contractor, prepare routine change orders as required, and keep the Owner informed of the progress;
9. Check final pay quantities and pay requests;
10. Prepare Record Drawings.
11. **KPA** will utilize McCreary and Associates as a sub-consultant to perform submittal review, periodic visits and construction administration services for electrical and SCADA components of the project. Documents. These services are based on a 15 month construction period.

II. Special Services

A. Construction Staking (All County Surveying, Inc.)

1. Site staking for tank, access drive and fencing;
2. Staking for waterline extension;
3. Staking for drain line and channel grading.

B. On-Site Representation

12. **KPA** will respond to Contractor's requests for information (RFI);
13. **KPA** will prepare daily reports, including weather conditions, and deliver to Project Manager weekly;
14. **KPA** will utilize HOT Inspection Services, Inc. as a sub-consultant to perform observations of welding and steel erection, radiographic test grading, surface preparation and coatings, fabrication and shop inspections for conformance with the project Contract Documents. These services are based on a 15 month construction period.

KPA will observe daily construction activities which will be necessary for scheduling and coordinating HOT Inspection Services, Inc. site visits at critical hold points. The **KPA** portion of costs for on-site representation is based on an anticipated average of two (2) hours per day during construction, including associated vehicle cost; **KPA** will provide construction reports.

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: Pepper Creek 1.0MG Elevated Storage Tank
OWNER: City of Temple
ARCHITECT/ENGINEER: Kasberg, Patrick & Associates
AMENDMENT #: 1

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

Add the following construction phase services:

Construction Administration	\$ 86,500
Construction Staking	\$ 4,400
On-Site Project Representation	\$ 64,000
HOT Inspection	<u>\$ 37,480</u>
Total	\$192,380

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>159,590.00</u>
Previous Net Change in Contract Amount:	\$ <u>-0-</u>
Amount This Amendment:	\$ <u>192,380.00</u>
Revised Contract Amount:	\$ <u>351,970.00</u>
Original Contract Completion Date:	<u>March 26, 2019</u>
Revised Contract Completion Date:	<u>October 31, 2020</u>


Recommended by:

 June 11, 2019
Project Manager Date

Approved by City of Temple:

Brynn Myers, City Manager Date

Agreed to:


Architect or Engineer 6/10/19 Date

Approved as to form:

City Attorney's Office Date

Approved by Finance Department:

Finance Date

RESOLUTION NO. 2019-9696-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 AN AMOUNT NOT TO EXCEED \$192,380, FOR CONSTRUCTION PHASE SERVICES TO OVERSEE THE CONSTRUCTION OF THE NEW PEPPER CREEK 1.0-MG ELEVATED STORAGE TANK AND DEMOLISH THE EXISTING PEPPER CREEK ELEVATED STORAGE TANK; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 4, 2018, Council authorized a professional services agreement with Kasberg, Patrick and Associates (“KPA”) in the amount of \$159,590 to design and bid the replacement of the existing 220,000-gallon elevated storage tank (EST) located on FM 2305 west of FM 2271 with a new 1.0-MG EST located in the same general vicinity to address the low pressure and water quality concerns in the area;

Whereas, services will be added for construction administration and daily project representation for construction of the new EST and demolition of the existing EST;

Whereas, Staff recommends Council approve an amendment to the professional services agreement with Kasberg, Patrick and Associates, LP in an amount not to exceed \$192,380, for construction phase services to oversee the construction of the new Pepper Creek 1.0-MG elevated storage tank and demolish the existing Pepper Creek elevated storage tank;

Whereas, funding is available for this amendment to the professional services agreement in Account No. 561-5100-535-6991, Project No. 101948; 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 in an amount not to exceed \$192,380, for construction phase services to oversee the construction of the new Pepper Creek 1.0-MG elevated storage tank and demolish the existing Pepper Creek elevated storage tank.

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 **20th** day of **June**, 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

06/20/19
Item #4(L)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Brynn Myers, City Manager
Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing certain amendments to the Temple Economic Development Corporation's Articles of Incorporation.

STAFF RECOMMENDATION: Adopt resolution presented in item description.

ITEM SUMMARY: In May 2017, the City Council approved amendments to the Temple Economic Development Corporation's (TEDC) Amended and Restated Bylaws. At that time, any amendments to TEDC's Bylaws had to be approved by the City Council. TEDC requested approval of two amendments to its Amended and Restated Bylaws. First, TEDC requested that the Bylaws be amended to address proposed changes to the Board of Directors' structure. Second, TEDC requested that the Bylaws be amended to remove the requirement that any future amendments be approved by the City Council. With Council's approval in May 2017, the Bylaws were amended as requested.

TEDC recently informed City Staff that a similar change needed to be made to TEDC's Articles of Incorporation. TEDC's Articles of Incorporation currently state that any amendments must be approved by the City Council, as a "Sponsoring Entity." TEDC's Board desires that the Articles of Incorporation be amended to comport with the Bylaws, to allow the Board to amend the Bylaws and Articles of Incorporation without the need for permission or approval of the City Council. This requested amendment does require City Council's approval. If approved, future amendments to TEDC's Articles will only require approval of its Board of Directors.

FISCAL IMPACT: Funding for the current agreement with TEDC is included in the FY 2019 operating budget. The total amount budgeted is \$2,397,127 which is comprised of the operating expense component of \$1,530,554 and the incentive matrix component of \$866,573. These amendments do not impact funding under the agreement.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9697-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING CERTAIN AMENDMENTS TO THE TEMPLE ECONOMIC
DEVELOPMENT CORPORATION'S ARTICLES OF INCORPORATION; AND
PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in May 2017, the City Council approved amendments to the Temple Economic Development Corporation's (TEDC) Amended and Restated Bylaws and at that time, any amendments to TEDC's Bylaws had to be approved by the City Council - TEDC requested approval of two amendments to its Amended and Restated Bylaws;

Whereas, first, TEDC requested that the Bylaws be amended to address proposed changes to the Board of Directors' structure, and second, TEDC requested that the Bylaws be amended to remove the requirement that any future amendments be approved by the City Council - with Council's approval in May 2017, the Bylaws were amended as requested;

Whereas, TEDC recently informed City Staff that a similar change needed to be made to TEDC's Articles of Incorporation - TEDC's Articles of Incorporation currently state that any amendments must be approved by the City Council, as a "Sponsoring Entity;"

Whereas, TEDC's Board desires that the Articles of Incorporation be amended to comport with the Bylaws, to allow the Board to amend the Bylaws and Articles of Incorporation without the need for permission or approval of the City Council - this requested amendment requires City Council's approval;

Whereas, once approved, future amendments to TEDC's Articles will only require approval of its Board of Directors; 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 certain amendments to the Temple Economic Development Corporation's Articles of Incorporation as outlined above, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute any documents that may be associated with this amendment.

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 **20th** day of **June**, 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: Consider adopting a resolution authorizing the purchase of budgeting, performance, strategic planning and citizen engagement software subscription with Carahsoft Technology Corporation of Reston, Virginia in the amount of \$81,869.

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

ITEM SUMMARY: The City wants to enable the new Strategic Plan with performance measures and to be able to budget, plan, report, and communicate based on that Strategic Plan which will drive departmental objectives and efficiency. OpenGov software can enable this full cycle of internal planning, budgeting, reporting in a single platform, eliminating challenges involved in working with silo tools for different functions. In addition, anything the City is using OpenGov for internally, can be used, and easily re-purposed if desired, for citizen engagement/communications. The reporting, dashboards, and other information in OpenGov can be easily published for internal management reports with narrative, graphics, and other assets. If desired, it is simple to make this content available (modified or not) on our website for citizens and stakeholders.

OpenGov allows for creation of yearly budget by user departments, outside of Naviline, to be imported back into Naviline when done as well as eases the creation of a budget book. It will display our City budget online with easy to use graphs and data, has access to open data sources from other data sources and can be easily manipulated to create different graphs and comparisons. The software has a Capital Improvement Plan (CIP) module that be used to track CIP projects and budget online that allows visibility to our citizens.

The OpenGov platform will enable City staff the ability to track our Strategic Plan internally in easy to use dashboards, while providing administration and department heads the ability to see executive views of city performance. OpenGov uniquely ties together our financial and non-financial data from across the City's current systems and ties it together in a single source of truth. OpenGov will provide internal efficiencies and streamline information sharing tied to our new Strategic Plan, which will increase data-driven decision making.

OpenGov's modern user interface, intuitive tools for key processes and reporting can extend the life and utility of our Naviline financial software, defraying/delaying significant cost, risk, and disruption of an ERP replacement project until it is convenient and desirable for the City. This initial purchase is for three months of subscription and implementation services. Our ongoing yearly cost of the subscription will be \$79,829 beginning in October of 2019.

The OpenGov platform will be purchased through Carahsoft Technology Corporation which has been awarded a Texas Department of Information Resources (DIR) contract #DIR-TSO-3926, which this purchase is recommended for awarded under. Contracts awarded by DIR have been competitively procured and meet the statutory procurement requirements for Texas municipalities.

FISCAL IMPACT: A budget adjustment is presented to Council to appropriate funding for the purchase of OpenGov software platform with Carahsoft Technology Corporation. The one-time startup costs are \$62,047, with an additional three months of pro-rated subscription fees in FY 2019 of \$19,822.

The annual subscription fees are \$79,829 will be included in the proposed FY 2020 Operating Budget to be filed on June 27, 2019.

After approval of the budget adjustment, funding will be available for the total amount of \$81,869 as follows:

	OpenGov Software		
	110-1900-519-6221 Project 102058	110-1900-519-2515	Total
Budget	\$ 62,047	\$ 19,822	\$ 81,869
Carahsoft Technology Corp	(62,047)	(19,822)	(81,869)
Remaining Project Funds	\$ -	\$ -	\$ -

ATTACHMENTS:

[Budget Amendment](#)
[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.

+

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
110-1900-519-25-15		Other Services / Dues & Subscriptions	\$ 19,822	
110-1900-519-62-21	102058	Capital Equipment / Computer Software	62,047	
110-1500-515-65-31		Cap-Spec Proj/Cont - Contingency		81,869
TOTAL.....			\$ 81,869	\$ 81,869

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

Appropriate funding for the implementation and subscription to the OpenGov software with Carahsoft Technology Corporation.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes

☐ No

DATE OF COUNCIL MEETING

06/20/19

WITH AGENDA ITEM?

☒ Yes

☐ No

Department Head/Division Director

Date _____

	Approved
	Disapproved

Finance

Date _____

	Approved
	Disapproved

City Manager

Date _____

	Approved
	Disapproved

RESOLUTION NO. 2019-9698-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A BUDGETING, PERFORMANCE, STRATEGIC PLANNING AND CITIZEN ENGAGEMENT SOFTWARE SUBSCRIPTION IN THE AMOUNT OF \$81,869, WITH CARAHSOFT TECHNOLOGY CORPORATION OF RESTON, VIRGINIA; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City wants to enable the new Strategic Plan with performance measures and to be able to budget, plan, report, and communicate based on that Strategic Plan, which will drive departmental objectives and efficiency - OpenGov software can enable this full cycle of internal planning, budgeting and reporting in a single platform by eliminating challenges involved in working with silo tools for different functions;

Whereas, in addition, anything the City is using OpenGov for internally, can be used and easily re-purposed if desired, for citizen engagement/communications - the reporting, dashboards, and other information in OpenGov can be easily published for internal management reports with narratives, graphics, and other assets and if desired, it is simple to make this content available on the City's website for citizens and stakeholders;

Whereas, OpenGov allows for creation of yearly budgets by user departments, outside of Naviline, to be imported back into Naviline when done, as well as eases the creation of a budget book - it will display our City budget online with easy to use graphs and data, has access to open data sources from other data sources that can be easily manipulated to create different graphs and comparisons;

Whereas, the software has a Capital Improvement Plan (CIP) module that can be used to track CIP projects and budget online that allows visibility to our citizens;

Whereas, the OpenGov platform will enable City staff the ability to track our Strategic Plan internally in easy to use dashboards, while providing administration and department heads the ability to see executive views of city performance - OpenGov uniquely ties together our financial and non-financial data from across the City's current systems and ties it together in a single source of truth;

Whereas, OpenGov will provide internal efficiencies and streamline information sharing tied to our new Strategic Plan, which will increase data-driven decision making;

Whereas, OpenGov's modern user interface, intuitive tools for key processes and reporting can extend the life and utility of our Naviline financial software, defraying/delaying significant cost, risk, and disruption of an ERP replacement project until it is convenient and desirable for the City;

Whereas, the initial purchase price of \$81,869 is for three months of subscription and implementation services - our ongoing yearly cost of the subscription will be \$79,829 beginning in October of 2019;

Whereas, Carahsoft Technology Corporation has been awarded a Texas Department of Information Resources (DIR) contract No. DIR-TSO-3926 - contracts awarded by DIR have been competitively procured and meet the statutory procurement requirements for Texas municipalities;

Whereas, Staff recommends Council authorize the purchase of a budgeting, performance, strategic planning and citizen engagement software subscription in the amount of \$81,869, from Carahsoft Technology Corporation of Reston, Virginia;

Whereas, funding is available, but a budget adjustment is being presented to Council for approval to appropriate funds to Account No. 110-1900-519-6221, Project No. 102058 and Account No. 110-1900-519-2515 - the annual subscription fees will be included in the proposed fiscal year 2020 Operating Budget; 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 a budgeting, performance, strategic planning and citizen engagement software subscription in the amount of \$81,869, from Carahsoft Technology Corporation of Reston, Virginia, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute any documents 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 **20th** day of **June**, 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:

Don Bond, Public Works Director
Carrie Weir, Interim – Utility Director
Belinda Mattke, Director of Purchasing & Facility Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of wastewater line chemical root control services for FY2019 with Duke's Root Control, Inc. of Syracuse, New York, in the estimated annual amount of \$50,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Authorization of this purchase will provide for the continued purchase of root control management supplies and services from Duke's Root Control, Inc. (Duke's) during FY2019 utilizing BuyBoard contract #555-18, which is effective until February 28, 2021. Contracts awarded through BuyBoard have been competitively procured and meet the statutory procurement requirements for Texas municipalities.

The Utility Department utilizes root control chemicals to manage and minimize the growth of roots in the wastewater system. In older wastewater systems, roots from trees and vegetation enter the system through cracks in the pipes in an attempt to find a source of water. These roots grow, eventually making any existing cracks in the system bigger resulting in further deterioration of the lines and blockages in the system. Chemical root control, when applied in targeted areas, can substantially reduce roots from blocking the system and help keep lines open.

FISCAL IMPACT: Funding for wastewater line chemical root control services from Duke's Root Control, Inc. is included in the FY 2019 Operating Budget in account 520-5400-535-2616 in the amount of \$50,000.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9699-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF WASTEWATER LINE CHEMICAL ROOT CONTROL SERVICES FROM DUKE'S ROOT CONTROL, INC. OF SYRACUSE, NEW YORK IN THE ESTIMATED ANNUAL AMOUNT OF \$50,000, FOR FISCAL YEAR 2019; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Utility Department utilizes root control chemicals to manage and minimize the growth of roots in the wastewater system - in older wastewater systems, roots from trees and vegetation enter the system through cracks in the pipes in an attempt to find a source of water and these roots grow, eventually making any existing cracks in the system bigger resulting in further deterioration of the lines and blockages in the system;

Whereas, chemical root control, when applied in targeted areas, can substantially reduce roots from blocking the system and help keep lines open;

Whereas, Duke's Root Control, Inc. has been awarded a BuyBoard contract, which Staff is recommending be used for this purchase - contracts awarded through BuyBoard have been competitively procured and meet the statutory procurement requirements for Texas municipalities;

Whereas, funds are available for this purchase in Account No. 520-5400-535-2616; 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 wastewater line chemical root control services from Duke's Root Control, Inc. of Syracuse, New York in the estimated annual amount of \$50,000, for fiscal year 2019.

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

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

PASSED AND APPROVED this the **20th** day of **June**, 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:

Kenny Henderson, Transportation Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing the payment of \$25,383.26 to Waste Management of Texas for the City's portion of the Household Hazardous Waste event.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Authorization of this payment to Waste Management of Texas (WM) in the amount of \$25,383.26 will reimburse Waste Management for the City's share of the Household Hazardous Waste (HHW) event held this past September 29, 2018. The City just recently received the invoice from WM after WM compiled the City's share of the HHW event based on the amount invoiced from WM's environmental company.

The total cost of the September 2018 HHW event was \$75,383.26. Per an agreement with WM, WM covers the first \$50,000 for these HHW events leaving the amount due from the City of \$25,383.26.

FISCAL IMPACT: Funding in the amount of \$50,000 has been provided by Waste Management through our Temple Landfill Lease Agreement. The remaining \$25,383.26 will be funded through the Solid Waste Department's landfill tipping fees account, 110-2330-540-2649.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9700-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PAYMENT TO WASTE MANAGEMENT OF TEXAS OF HOUSTON, TEXAS IN THE AMOUNT OF \$25,383.26, FOR THE CITY'S PORTION OF THE HOUSEHOLD HAZARDOUS WASTE EVENT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, authorization of this payment to Waste Management of Texas (WM) in the amount of \$25,383.26, will reimburse WM for the City's share of the Household Hazardous Waste (HHW) event held this past September 29, 2018;

Whereas, the City recently received the invoice from WM after WM compiled the City's share of the HHW event based on the amount invoiced from WM's environmental company;

Whereas, the total cost of the September 2018 HHW event was \$75,383.26 and per an agreement with WM, WM covers the first \$50,000 for these HHW events leaving an amount due from the City of \$25,383.26;

Whereas, funding in the amount of \$50,000 has been provided by Waste Management through our Temple Landfill Lease Agreement and the remaining \$25,383.26 will be funded through the Solid Waste Department's landfill tipping fees, Account No. 110-2330-540-2649; 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 payment to Waste Management of Houston, Texas in the amount of \$25,383.26, for the City's portion of the September 29, 2018 Household Hazardous Waste event.

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 **20th** day of **June**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Amanda Rice, Deputy City Attorney

ITEM DESCRIPTION: SECOND READING – FINAL HEARING – Consider adopting ordinances repealing the following chapters in the City’s Code of Ordinances:

- (A) Chapter 11 – Fair Housing
- (B) Chapter 20 – Massage Establishments; and
- (C) Chapter 30 – Railroads

STAFF RECOMMENDATION: Adopt ordinances on first reading as presented in the item description and conduct a public hearing. Second reading will be scheduled for June 20, 2019.

ITEM SUMMARY: In a continuing effort to review and update the City's Code of Ordinances, Staff is proposing to repeal three chapters of the Code of Ordinances for the reasons outlined below.

(A) **Chapter 11 – Fair Housing**

Chapter 11 is the City’s local adoption of similar regulations found in the Federal Fair Housing Act (“FHA”) and the Texas Fair Housing Act (“THA”). The FHA and THA protect people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities. The FHA and THA prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, familial status, and disability. Some prohibited acts under both statutes include refusing to rent or sell housing, refusing to negotiate for housing, otherwise making housing unavailable, setting different terms, conditions, or privileges for the sale or rental of a dwelling, providing a person with different services or facilities, or falsely denying that housing is available for inspection, sale, or rental. The FHA and THA also prohibit harassment and discriminatory practices in mortgage lending.

An individual may file a complaint under the FHA with the Housing and Urban Development’s Office of Fair Housing and Equal Opportunity. An individual may file a complaint under the THA with the Texas Workforce Commission.

As stated above, Chapter 11 is the City's local adoption and implementation of the FHA and THA. The City is not required to have local regulations related to fair housing, unless the City desires to include additional protected statuses. For example, if the City wanted to prohibit discrimination in housing on the basis of student status or source of income, the City would need local regulations to include those protected classes. The City would also need to appoint a Fair Housing Administrator to take and investigate complaints.

At this time, Staff is not recommending the addition of any protected classes and is therefore recommending that Council repeal Chapter 11 and rely exclusively on the FHA and THA to prevent discriminatory housing practices.

If Council approves, Chapter 11 will be repealed and retitled "Chapter 11 – Reserved."

B. Chapter 20 – Massage Establishments

This Chapter includes licensing and operation requirements for massage establishments. Specifically, massage establishments operating in the City must obtain a license from the City Secretary's office before beginning operations. The license must be renewed each year. Chapter 20 also allows for the inspection of massage establishments by City Staff, sets requirements for hours of operation, and includes certain sanitary requirements for these types of establishments.

State law also regulates the operation of massage establishments and the practice of massage therapy. Those regulations are found in Chapter 455 of the Texas Occupations Code. Section 455.005 states that the regulations in Chapter 455 supersede any regulation adopted by a city relating to the licensing and regulation of massage therapists, except that a city may continue to regulate zoning requirements and adopt regulations authorizing an investigation into the background of an owner or operator of a massage establishment.

Section 455.005 clearly states that the City's regulations are preempted by the State regulations found in the Texas Occupations Code. For this reason, Staff is recommending the repeal of Chapter 20.

If Council approves, Chapter 20 will be repealed and retitled "Chapter 20 – Reserved."

C. Chapter 30 – Railroads

Chapter 30 includes the following four sections:

Sec. 30-1. Construction and maintenance of crossings.

Every railroad company, constructing and operating its railway through the limits of the city shall erect and perpetually maintain good and sufficient crossings, including culverts and waterways for drainage, at all streets over which its road may pass, including streets hereafter laid out and opened. In crossing streets, such railway shall conform to the grade and level of streets as established by the city.

Sec. 30-2. Blocking streets for more than five minutes.

It shall be unlawful for the directing officer or the operator of any railway train or car to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel, for a period of time longer than five minutes. This section shall not apply to trains or cars in motion, other than those engaged in switching.

Sec. 30-3. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

- (1) Train shall mean all cars, engines, equipment or vehicles operated on fixed tracks or rails, whether drawn by locomotive or propelled by self-contained motors.
- (2) Normal track speed shall mean maximum speed established by the owner and operator of a train for safe operation, having regard for all factors relating to actual and potential hazards, such as curbs, grades, crossings, types of trains and tonnage, not to exceed 55 miles per hour under any circumstances.

Sec. 30-4. Speed limit.

It shall be unlawful for any person to operate a train on a railroad within the corporate limits of the City of Temple at a rate of speed in excess of 25 miles per hour, except that a person may operate a train at the normal track speed between the city limits and crossings located at the Old Taylor Highway, Zenith Boulevard, Industrial Boulevard and Eighth Street, and at 40 miles per hour between the 49th Street crossing and the city boundary closest to the City of Belton. Speed limits established in this section shall apply to the head end of an outbound train when it enters any of the crossings which delimit the speed zones established in this section, but an outbound train may resume normal train speed once it completely occupies the crossing.

The railroad industry is heavily regulated by federal law. The Interstate Commerce Commission Termination Act ("ICCTA") of 1995 created the Surface Transportation Board ("STB") and gave the STB exclusive jurisdiction over the construction, acquisition, and operation of railroad facilities. The ICCTA states that the remedies set forth in this statute are exclusive and preempt the remedies provided under other federal or state laws. The Federal Railroad Safety Act was enacted in 1970 to promote safety in every area of railroad operations.

There have been multiple court cases across the country which have analyzed the effect of the ICCTA and the Federal Railroad Safety Act on local railroad regulations. The consensus among the courts is that state and local regulations of railroad operations are preempted by the two federal statutes. While the City's regulations could be enforced, it is Staff's opinion that they would not withstand a court challenge. For these reasons, Staff is recommending the repeal of Chapter 30.

If Council approves, Chapter 30 will be repealed and retitled "Chapter 30 – Reserved."

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Chapter 11 Ordinance](#)
[Chapter 20 Ordinance](#)
[Chapter 30 Ordinance](#)
[Ordinances](#)



Chapter 11

FAIR HOUSING

- Sec. 11-1. Definitions.**
- Sec. 11-2. Discrimination in the sale or rental of housing.**
- Sec. 11-3. Discrimination in the financing of housing.**
- Sec. 11-4. Discrimination in the provision of brokerage services.**
- Sec. 11-5. Exemptions and exclusions.**
- Sec. 11-6. Fair housing administrator.**
- Sec. 11-7. Complaints.**

Chapter 11

FAIR HOUSING

Sec. 11-1. Definitions.

For the purposes of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words so used in the present tense include the future, words in the masculine gender include the feminine, words in the plural number include the singular, and words in the singular number include the plural.

Discriminatory housing practice means an act that is unlawful under section 11-2, 11-3 or 11-4 of this chapter.

Dwelling means any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as, a residence by one or more families or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Family includes a single individual.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.

To rent includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Sec. 11-2. Discrimination in the sale or rental of housing.

Except as exempted by section 11-5, it shall be unlawful for any person to:

- (1) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to families with children or to any person because of race, color, sex, religion, national origin, handicap;
- (2) Discriminate against persons in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion, national origin, handicap, or the fact that they are families with children;
- (3) Make, print, publish, or cause to be made, printed or published any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, sex,

religion, national origin, handicap, or presence of families with children, or an intention to make any such preference, limitation or discrimination.

- (4) Represent to any person because of race, color, sex, religion, national origin, handicap, or to families with children that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;
- (5) For profit or with the hope or expectation of profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of families with children or persons of a particular race, color, sex, religion, national origin, or handicap;
- (6) For profit or with the hope or expectation of profit, to influence or attempt to influence, by any words, acts, or failure to act, any seller, purchaser, landlord or tenant of a dwelling so as to promote the maintenance of racially segregated housing or so as to retard, obstruct or discourage racially integrated housing.

Sec. 11-3. Discrimination in the financing of housing.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or other assistance, because of:

- (1) The race, color, sex, religion, national origin, or handicap of present or prospective owners, lessees, tenants or occupants of a dwelling, or of any person associated with them.
- (2) The fact that present or prospective owners, lessees, tenants or occupants of a dwelling, or any person associated with them, are families with children.

Sec. 11-4. Discrimination in the provision of brokerage services.

It shall be unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms and conditions of such access, membership or participation because of families with children or on account of race, color, sex, religion, national origin, or handicap.

Sec. 11-5. Exemptions and exclusions.

(a) There shall be exempted from the application of section 11-2 hereof all transactions involving:

- (1) The rental of units in dwellings containing living quarters occupied or

intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one of such units as his residence;

- (2) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four such rooms are offered.
- (3) The sale or rental of any single house by a private individual who owns such house, provided that:
 - a. The sale or rental is made without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman, or person; and
 - b. The sale is made without the publication, posting or mailing of any advertisement or written notice in violation of section 11-2(3) of this chapter (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer of title); and
 - c. The owner does not own more than three (3) single-family houses at the time of the sale; and
 - d. The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time.
 - e. If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four-month period.

(b) Nothing in this chapter shall prohibit a religious organization, association, or society or any non-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, handicap or whether families have children.

(c) Nothing in this chapter shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose, provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such

lodgings to its members or from giving preference to its members.

(d) Nothing in this chapter shall bar any person from owning or operating a housing accommodation in which a room or rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains a common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.

Sec. 11-6. Fair housing administrator.

The city manager shall appoint a fair housing administrator (hereinafter referred to as "administrator"), who shall have the responsibility for implementing this chapter. The administrator may delegate his authority to investigate and conciliate complaints to other city employees under his direction.

Sec. 11-7. Complaints.

(a) Only the person who claims to have been injured by a discriminatory housing practice or who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (thereafter referred to as "person aggrieved") may file a complaint with the administrator. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The administrator shall prepare complaint forms and furnish them



Chapter 20

MASSAGE ESTABLISHMENTS

- Sec. 20-1. Definitions.**
- Sec. 20-2. License required; appeals, payment of fee prerequisite to issuance; expiration date.**
- Sec. 20-3. License to be displayed.**
- Sec. 20-4. Investigation of applicant.**
- Sec. 20-5. Employees to be listed with police; medical certificate required.**
- Sec. 20-6. License fee.**
- Sec. 20-7. Grounds for refusal to issue or renew license.**
- Sec. 20-8. Revocation, suspension of license; notice.**
- Sec. 20-9. Appeal from nonissuance, revocation or suspension.**
- Sec. 20-10. Hours of operation; living on premises prohibited.**
- Sec. 20-11. Inspection of premises, examination of employees; procedure on denial of permission to enter premises.**
- Sec. 20-12. Record of employees to be kept.**
- Sec. 20-13. Location restricted.**
- Sec. 20-14. Sanitary requirements.**
- Sec. 20-15.**
- Sec. 20-16. Reserved.**

Chapter 20

MASSAGE ESTABLISHMENTS

Sec. 20-1. Definitions.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this chapter.

(a) *Chief of police* means the chief of police of the City of Temple, or his duly authorized representative.

(b) *Director of public health* means the Bell County Health Department Director, or his duly authorized representative.

(c) *Massage* means any process consisting of kneading, rubbing, or otherwise manipulating the skin of the body of a human being, either with the hand or by means of electrical instruments or apparatus, or other special apparatus, but shall not include massage by duly licensed physicians and chiropractors, and registered physical therapists who treat only patients recommended by a licensed physician and who operate only under such physician's direction, nor massage of the face practiced by beauty parlors or barbershops duly licensed under the penal code of the state.

(d) *Massage establishment* means any building, room, place or establishment, other than a regularly licensed hospital, where manipulated massage or manipulated exercises are practiced upon the human body by anyone not a duly licensed physician or chiropractor whether with or without the use of mechanical, therapeutic or bathing devices, and shall include turkish bathhouses. This term shall not include, however, duly licensed beauty parlors or barbershops or a place wherein registered physical therapists treat only patients recommended by a licensed physician and operate only under such physician's direction.

Sec. 20-2. License required; appeals, payment of fee prerequisite to issuance; expiration date.

It shall be unlawful for any person to operate a massage establishment without first having obtained a license therefor from the city controller in accordance with the provisions of this chapter, or to operate a massage establishment after such license has been revoked, or during a period for which such license has been suspended. Such license shall be issued only upon the payment of the fee specified in section 20-6 and upon approval in writing of the director of public health and of the chief of police and upon the issuance of a certificate of occupancy from the building official. Such license shall expire on the thirty-first day of December each year.

Sec. 20-3. License to be displayed.

The license required by this chapter shall be posted and kept in some conspicuous place in the massage establishment.

Sec. 20-4. Investigation of applicant.

After an application has been made for issuance of an original license or a renewal of an existing license to operate a massage establishment as defined herein, the chief of police, as the principal enforcement officer of this chapter, shall determine whether the applicant has been finally convicted in any court of theft, fornication, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation, or whether such establishment employs any person who has been finally convicted in any court of theft, fornication, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation.

Sec. 20-5. Employees to be listed with police; medical certificate required.

At the time of making application for the license required by this chapter the applicant shall furnish to the chief of police and the director of public health the names and addresses of all employees of massage establishments, and all such employees shall be required to secure from the director of public health a medical certificate certifying that such employee has been examined and that such examination discloses the fact that such person employed or to be employed by such establishment, is free from any infectious or communicable disease. Such medical certificate shall be renewed annually by the director of public health.

Sec. 20-6. License fee.

The annual license fee shall be twenty-five dollars (\$25.00) for each such establishment. If the license is obtained between January first and June thirtieth of any year, the full amount of such fee shall be paid. If such license is obtained between July first and December thirty-first of any year, the fee shall be one-half (1/2) of such amount. No refund of license fees shall be made.

Sec. 20-7. Grounds for refusal to issue or renew license.

The chief of police shall refuse to approve issuance or renewal of any license required by this chapter to any applicant who has been finally convicted in any court of theft, fornication, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation; or to any applicant who employs in such establishment any person who has been finally convicted of theft, fornication, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation.

Sec. 20-8. Revocation, suspension of license; notice.

(a) A license issued pursuant to this chapter shall be revoked upon final conviction in any court of the holder of such license for the offense of theft, fornication, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation.

(b) A license issued pursuant to this chapter shall be suspended for a period of not less than thirty (30) days nor more than ninety (90) days upon final conviction in any court of the holder of such license for the operation of the massage establishment in violation of any statute of this state, or any provision of this Code or other ordinance of the City of Temple.

(c) Any license issued pursuant to this chapter shall be suspended for a period of ninety (90) days upon the final conviction in any court of any employee of such massage establishment for the offense of theft, fornication, sodomy, procuring, pandering, keeping a bawdy house, keeping an assignation house, engaging in prostitution or engaging in assignation, or a violation of any provision of this chapter, directly or indirectly related to or arising from such employment.

(d) Written notice of such revocation or suspension shall be given by the chief of police to the holder of such license at the holder's last-known address.

Sec. 20-9. Appeal from nonissuance, revocation or suspension.

In the event the chief of police shall refuse to approve the issuance of an original license or the renewal of a license to any applicant, or revokes or suspends the license issued to any license holder under this chapter, this action shall be final unless the license holder shall, within ten (10) days after the receipt of written notice of such action, file with the city manager a written appeal. The city manager shall, within ten (10) days after the appeal is filed, consider all the evidence in support of or against the action appealed, and render a decision either sustaining or reversing the action. If the city manager sustains the action, the applicant or license holder may, within ten (10) days of that decision file a written appeal with the city secretary to the city council. Such written appeal shall set forth the specific grounds therefor. The city council shall, within thirty (30) days, grant a hearing thereon to consider the action, at which hearing the city council may make such investigation as it may see fit. The city council shall have authority to sustain, reverse or modify the action appealed. Such decision of the city council shall be final.

Sec. 20-10. Hours of operation; living on premises prohibited.

No massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 8:00 a.m., and no establishment shall be operated or conducted in connection either directly or indirectly, with any place used for living or sleeping quarters.

Sec. 20-11. Inspection of premises, examination of employees; procedure on denial of permission to enter premises.

(a) The director of public health shall be authorized to make or cause to be made inspections to determine the condition of any massage establishment in order to safeguard the health, safety, and welfare of the public and to make examinations through the licensed physicians of the department as are necessary to determine whether employees of the massage establishment are infected with any infectious disease.

(b) If in the opinion of the director of public health or his designated representative,

there is probable cause to enter a massage establishment for the purpose of making inspections and examinations pursuant to this chapter, he shall request the owner or occupant thereof to grant permission for such entry, and if refused he shall make application to a magistrate for a search warrant, showing said magistrate why such search warrant should be issued for the purpose herein.

Sec. 20-12. Record of employees to be kept.

The manager or person in charge of a massage establishment shall keep a list of the names and addresses of all employees, both on duty and off duty, and such list shall be shown to all proper authorities of the police and health departments upon request.

Sec. 20-13. Location restricted.

It shall be unlawful for any massage establishment to be operated in any section of the city which is zoned for residential purposes.

Sec. 20-14. Sanitary requirements.

(a) It shall be the duty of every person conducting or operating a massage establishment to keep the same at all times in a clean and sanitary condition. All instruments and mechanical, therapeutic, and bathing devices, or parts thereof, that come into contact with the human body, shall be sterilized by a modern and approved method of sterilization before initial use, and any such instruments and devices, or parts thereof, after having been used upon one patron, shall be sterilized before being used upon another. All towels and linens furnished for use of one patron shall not be furnished for use of another until thoroughly laundered.

(b) All masseurs and operators shall wash their hands thoroughly before administering massage manipulations to each patron accommodated.

(c) No person suffering from a communicable disease shall work or be employed in a massage establishment.

(d) No person shall be accommodated as a patron within a massage establishment when to the knowledge of the owner, person in control, or an employee, such person is suffering from a communicable disease.

Sec. 20-15.

It shall be unlawful for any person in a massage establishment, as defined in section 20-1(d), to administer a massage, as defined in section 20-1(c) to any person of the opposite sex.

Sec. 20-16. Reserved.



Chapter 30

RAILROADS

- Sec. 30-1. Construction and maintenance of crossings.**
- Sec. 30-2. Blocking streets for more than five minutes.**
- Sec. 30-3. Definitions.**
- Sec. 30-4. Speed limit.**

Chapter 30

RAILROADS

Sec. 30-1. Construction and maintenance of crossings.

Every railroad company, constructing and operating its railway through the limits of the city shall erect and perpetually maintain good and sufficient crossings, including culverts and waterways for drainage, at all streets over which its road may pass, including streets hereafter laid out and opened. In crossing streets, such railway shall conform to the grade and level of streets as established by the city.

Sec. 30-2. Blocking streets for more than five minutes.

It shall be unlawful for the directing officer or the operator of any railway train or car to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel, for a period of time longer than five (5) minutes. This section shall not apply to trains or cars in motion, other than those engaged in switching.

Sec. 30-3. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

- (1) *Train* shall mean all cars, engines, equipment or vehicles operated on fixed tracks or rails, whether drawn by locomotive or propelled by self-contained motors.
- (2) *Normal track speed* shall mean maximum speed established by the owner and operator of a train for safe operation, having regard for all factors relating to actual and potential hazards, such as curbs, grades, crossings, types of trains and tonnage, not to exceed fifty-five (55) miles per hour under any circumstances.

Sec. 30-4. Speed limit.

It shall be unlawful for any person to operate a train on a railroad within the corporate limits of the City of Temple at a rate of speed in excess of twenty-five (25) miles per hour, except that a person may operate a train at the normal track speed between the city limits and crossings located at the Old Taylor Highway, Zenith Boulevard, Industrial Boulevard and Eighth Street, and at forty (40) miles per hour between the 49th Street crossing and the city boundary closest to the City of Belton. Speed limits established in this section shall apply to the head end of an outbound train when it enters any of the crossings which delimit the speed zones established in this section, but an outbound train may resume normal train speed once it completely occupies the crossing.

ORDINANCE NO. 2019-4970

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, REPEALING CHAPTER 11 – FAIR HOUSING; 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 Council repeal Chapter 11 – Fair Housing of the Code of Ordinances;

Whereas, Chapter 11 is the City's local adoption of similar regulations found in the Federal Fair Housing Act ("FHA") and the Texas Fair Housing Act ("THA") - the FHA and THA protect people from discrimination when they are renting or buying a home, securing a mortgage, seeking housing assistance, or engaging in other housing-related activities;

Whereas, the FHA and THA prohibit discrimination in housing on the basis of race, color, national origin, religion, sex, familial status, and disability - some prohibited acts under both statutes include refusing to rent or sell housing, refusing to negotiate for housing, otherwise making housing unavailable, setting different terms, conditions, or privileges for the sale or rental of a dwelling, providing a person with different services or facilities, or falsely denying that housing is available for inspection, sale, or rental;

Whereas, the FHA and THA also prohibit harassment and discriminatory practices in mortgage lending - an individual may file a complaint under the FHA with the Housing and Urban Development's Office of Fair Housing and Equal Opportunity and they may also file a complaint under the THA with the Texas Workforce Commission;

Whereas, the City is not required to have local regulations related to fair housing, unless the City desires to include additional protected statuses - the City would also need to appoint a Fair Housing Administrator to take and investigate complaints;

Whereas, at this time, Staff is not recommending the addition of any protected classes and is therefore recommending that the City rely exclusively on the FHA and THA to prevent discriminatory housing practices;

Whereas, once repealed Chapter 11 will be retitled "Chapter 11 – Reserved."; 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 repeals Chapter 11 – Fair Housing of the Code of Ordinances.

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 **6th** day of **June**, 2019.

PASSED AND APPROVED on Second Reading on the **20th** day of **June**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney

ORDINANCE NO. 2019-4971

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, REPEALING CHAPTER 20 – MASSAGE ESTABLISHMENTS;
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 Council repeal Chapter 20 – Massage Establishments of the Code of Ordinances;

Whereas, currently massage establishments operating in the City must obtain a license from the City Secretary's office before beginning operations and the license must be renewed each year - Chapter 20 allows for the inspection of massage establishments by City Staff, sets requirements for hours of operation, and includes certain sanitary requirements for these types of establishments;

Whereas, Chapter 455 of the Texas Occupations Code also regulates the operation of massage establishments and the practice of massage therapy - Section 455.005 states that the regulations in Chapter 455 supersede any regulation adopted by a city relating to the licensing and regulation of massage therapists, except that a city may continue to regulate zoning requirements and adopt regulations authorizing an investigation into the background of an owner or operator of a massage establishment;

Whereas, Section 455.005 clearly states that the City's regulations are preempted by the State regulations found in the Texas Occupations Code - for this reason, Staff is recommending the repeal of Chapter 20;

Whereas, once repealed Chapter 20 will be retitled "Chapter 20 – Reserved"; 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 repeals Chapter 20 – Massage Establishments.

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 **6th** day of **June**, 2019.

PASSED AND APPROVED on Second Reading on the **20th** day of **June**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney

ORDINANCE NO. 2019-4972

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, REPEALING CHAPTER 30 – RAILROADS; 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 Council repeal Chapter 30 – Railroads of the Code of Ordinances;

Whereas, Chapter 30 includes the following four sections:

- Section 30-1 - Construction and maintenance of crossings;
- Section 30-2 - Blocking streets for more than five minutes;
- Section 30-3 – Definitions; and
- Section 30-4 - Speed limit;

Whereas, the railroad industry is heavily regulated by federal law - the Interstate Commerce Commission Termination Act (“ICCTA”) of 1995 created the Surface Transportation Board ("STB") and gave the STB exclusive jurisdiction over the construction, acquisition, and operation of railroad facilities;

Whereas, the ICCTA states that the remedies set forth in this statute are exclusive and preempt the remedies provided under other federal or state laws - the Federal Railroad Safety Act was enacted in 1970 to promote safety in every area of railroad operation;

Whereas, there have been multiple court cases across the country which have analyzed the effect of the ICCTA and the Federal Railroad Safety Act on local railroad regulations and the consensus among the courts is that state and local regulations of railroad operations are preempted by the two federal statutes;

Whereas, while the City’s regulations could be enforced, it is Staff’s opinion that they would not withstand a court challenge and for these reasons, Staff is recommending the repeal of Chapter 30;

Whereas, once repealed Chapter 30 will be retitled “Chapter 30 – Reserved”; 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 repeals Chapter 30 – Railroads.

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 **6th** day of **June**, 2019.

PASSED AND APPROVED on Second Reading on the **20th** day of **June**, 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

06/20/19
Item #4(Q)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2018-2019 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$5,358,471.

ATTACHMENTS:

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

RESOLUTION NO. 2019-9701-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 20th day of **June**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2019 BUDGET
June 20, 2019

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
520-5200-535-2516		Other Services / Judgments & Damagers	\$ 3,556	
520-0000-443-3054		Other Charges / Insurance Claims		\$ 3,556
To appropriate insurance proceeds from QEO Group, LLC related to damages on asset 13885 that occurred on 09/04/18.				
110-2031-521-2516		Other Services / Judgments & Damages	\$ 7,227	
110-0000-461-0554		Insurance Claims / Insurance Claims		\$ 7,227
To appropriate insurance proceeds from TML related to damages on asset 14053 that occurred on 05/17/19.				
110-2041-521-6213	102012	Capital Equipment / Automotive - Cargo Van	\$ 3	
110-0000-313-0330		Reserved for Drug Enforcement / Reserved for Seized Funds		\$ 3
To appropriate additional funds for lights on the cargo van purchased with seized funds.				
110-3270-551-2214		Capital < \$5,000 / Buildings & Grounds - Windows at Sammons Community Center	\$ 1,500	
110-0000-445-1587		Recreational Services / Donations - Parks		\$ 1,500
To appropriate a donations received from Vista Real Estate for installation of windows in the workout area at Sammons Community Center.				
430-5700-580-7550		Payment to Refunding Agent	\$ 5,285,213	
430-5700-580-7312		Bond Issuance Costs	\$ 31,290	
430-5700-580-7314		Original Issue Discount	\$ 23,881	
430-0000-490-1575		Refunding Bond Proceeds		\$ 4,880,000
430-0000-490-1518		Bond Premium		\$ 415,355
430-5700-580-7211		Bond Interest		\$ 45,029
To appropriate the 2019 General Obligation Refunding Bonds (Debt Service Portion) - transaction closed on 05/09/19. This budget adjustment accounts for the revenue received from the bond issue and the amount paid to the refunding escrow agent.				
110-3610-560-6212	102057	Capital Equipment / Office Machines - Copier	\$ 3,927	
110-0000-490-1070		Lease Proceeds / Other Financing		\$ 3,927
110-5700-580-7122		Capital Lease / Principal	\$ 795	
110-5700-580-7224		Capital Lease / Interest	\$ 32	
110-3620-560-2328		Repair & Maintenance / Pumps & Wells		\$ 827
To appropriate lease proceeds and the associated capital expenditures related to the copier lease for Airport. The lease meets the criteria to be classified as a capital lease. This budget adjustment will also reallocate funding for the lease payment for copier for the remainder of the fiscal year.				
110-1100-513-1119		Salaries / Overtime - CMO	\$ 1,047	
110-4100-551-1119		Salaries / Overtime - PARD Administration		\$ 1,047
To reallocate funding for overtime worked by Communications Specialist who moved from PARD Administration to Marketing & Communications effective 05/03/19.				
TOTAL AMENDMENTS			\$ 5,358,471	\$ 5,358,471

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2019 BUDGET
June 20, 2019

		APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit Credit
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	\$ -
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	(120,190)
		Net Balance of Contingency Account	\$ 216,216
		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	\$ 217,196
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	\$ -



COUNCIL AGENDA ITEM MEMORANDUM

06/20/19
Item #5
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION REVIEW:

Mark Baker, Principal Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-14-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a Site Plan to allow a restaurant where less than 50% of the gross revenue will be from the sales of all alcoholic beverages with on-premise consumption on Lot 1, Block 1, Los Tres Maguelles Subdivision, located at 2801 South General Bruce Drive within the I-35 Corridor Overlay Retail sub-district.

PLANNING & ZONING COMMISSION RECOMMENDATION: During their May 20, 2019 Planning & Zoning Commission meeting, voted 5 to 0 and 1 abstention to recommend approval per staff's recommendation.

STAFF RECOMMENDATION: Based on the following analysis:

1. The project has demonstrated compliance with the specific standards in Unified Development Code (UDC) Section 5.3.15;
2. The project has demonstrated compliance to Chapter 4 of the City of Temple Code of Ordinances related to alcoholic beverages; and
3. The request is compatible with existing adjacent and anticipated retail and service uses.

Staff recommends approval of the requested Conditional Use Permit, subject to the following condition:

1. Substantial compliance with the site plan attached as Exhibit A.

ITEM SUMMARY: The applicant, Juan Flores, on behalf of Los Tres Magueyes restaurant, requests a Conditional Use Permit to allow the sale all alcoholic beverages where there is less than 50% of the total gross revenue being from such sales with on-premise consumption. This request is for the recently permitted Los Tres Magueyes restaurant located at 2801 South General Bruce Drive.

BACKGROUND: A restaurant that generates less than 50% of its total gross revenue from the sale of all alcoholic beverages in the Commercial (C) zoning district is subject to approval of a Conditional Use Permit. It should be noted that adjacent establishments that serve beer and wine only with less than 75% of revenue from such sales is permitted by-right in the (C) district. The proposal is compatible with the immediate area with the necessary conditions in place, which compliance with Unified Development Code (UDC) Section 5.3.15 as well as Chapter 4 of the City Code.

UDC Section 5.3.15 provides for multiple performance standards related to the provision of a Conditional Use Permit for the on-premise sale of alcoholic beverages. Some of which include, but not limited to:

- *The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the Conditional Use Permit, such limitation in time being subject to City review and possible extension,*
- *The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the Citizens of the City,*
- *The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.*

Additionally, the UDC states:

The City Council may deny or revoke a Conditional Use Permit in accordance with UDC Section 3.5 if it affirmatively determines that the issuance of the permit is:

- Incompatible with the surrounding uses of property; or*
- Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants, and*
- Per UDC Section 3.5.5, the Planning & Zoning Commission may recommend, and the City Council may impose additional conditions of approval.*

Further, Chapter 4 of the City Code provides standards for all establishments with alcoholic beverage sales with on-premise consumption that is less than 50% of the gross total revenue. The standards include a distance requirement of not being within 300 feet of a place of worship, public school or public hospital as well as how the distance is measured. None of the identified uses are within 300 feet of the proposed restaurant. The closest, being the existing Faith Baptist Church at 1102 South 51st Street located approximately 850 +/- feet to the north east. Compliance to Chapter 4 standards are required and are included as a condition.

Adherence to both UDC Section 5.3.15 and Chapter 4 in their entirety is included by reference in the Ordinance as conditions of approval. A Conditional Use Permit runs with the property and a change in ownership or change in the lessee does not affect the Conditional Use Permit.

SUBDIVISION / SITE DEVELOPMENT: A 1-lot, 1-block final plat for the Los Tres Maguelles subdivision was recorded on September 17, 2018. The site plan was reviewed and complies with the Retail sub-district standards of the I-35 Corridor Overlay. As a result, a building permit (FY-19-5-BDNC) was issued for the construction of a 6,605 square foot restaurant on March 20, 2019. Additionally, the site plan includes provisions for a covered outdoor patio area of 539 +/- square feet. The patio area will be partially enclosed by a 3' 6" (42-inch) high bannister railing. Sales and consumption of all alcoholic beverages within the covered patio area is permitted since it is considered on-premise. Development of the property is subject to the Retail-sub-district standards of the I-35 Corridor Overlay.

DEVELOPMENT REVIEW COMMITTEE (DRC): The DRC reviewed the proposed conditional use permit on May 6, 2019. No issues were identified during the review.

PUBLIC NOTICE: Twelve properties within 200-feet of the subject property, were sent notice of the public hearing as required by State law and City Ordinance. As of Tuesday June 11, 2019, at 9:00 AM, four notices, two from the same property owner, have been received in agreement.

The newspaper printed notice of the public hearing on May 8, 2019, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Chapter 4 – Code of Ordinances – Alcoholic Beverages
UDC Section 5.3.15 – Alcoholic Beverage Sales with On-Site Consumption
Site and Surrounding Property Photos
Los Tres Maguelles Final Plat
Los Tres Magueyes Site Plan (Exhibit A)
Notification Map
Returned Property Notices
P&Z Excerpts (May 20, 2019)
Ordinance

Chapter 4

ALCOHOLIC BEVERAGES

State law reference -- Alcoholic Beverage Code § 1.01 et seq.

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

“City” means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

“City Council” means the City’s elected governing body.

“City Manager” means the City’s city manager or their designee.

“License or permit” means a license or permit granted by the Texas Alcoholic Beverage Commission.

“Licensee or permittee” means a person holding a license or permit granted by the Texas Alcoholic Beverage Commission.

“Private school” means a private school, including a parochial school, that:

- (a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
- (b) has more than 100 students enrolled and attending courses at a single location.

ARTICLE II. EXTENDED HOURS

Sec. 4-2. Extended hours.

- (a) Pursuant to Sections 105.03(d) and 105.05(d) of the V.C.T.A., Alcoholic Beverage Code, as amended, the City adopts extended hours sales of alcoholic beverages in any part of the City as follows:

- (1) A holder of a mixed beverage late hours permit may sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.
- (2) A holder of a retail dealer's on-premise late hours license may sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

State law reference -- V.T.C.A., Alcoholic Beverage Code § § 105.03, 105.05, and 105.06.

ARTICLE III. ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL

Sec. 4-3. Sales near school, church, or hospital.

- (a) The sale of alcoholic beverages is prohibited at a place of business that is located within:
 - (1) 300 feet of a church, public or private school, or public hospital;
 - (2) 1,000 feet of a private school if City Council receives a request from the governing body of the private school.
- (b) Subsection (a)(1) does not apply to the holder of:
 - (1) a license or permit who also holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission covering a premise that is located within 300 feet of a private school; or
 - (2) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 300 feet of a private school.
- (c) Subsection (a)(2) does not apply to the holder of:
 - (1) a retail on-premises consumption permit or license if less than 50% of the gross receipts for the premises is from the sale or service of alcoholic beverages;
 - (2) a retail off-premises consumption permit or license if less than 50% of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or

service of alcoholic beverages;

- (3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in V.T.C.A., Alcoholic Beverage Code Chapter 102, as amended;
- (4) a license or permit issued under V.T.C.A., Alcoholic Beverage Code Chapters 27 (Temporary and Special Wine and Beer Retailer's Permit), 31 (Caterer's Permit), or 72 (Temporary Licenses), all as amended, who is operating on the premises of a private school; or
- (5) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 1,000 feet of a private school.

(Prior Code, § 4-2; Ord. No. 2017-4830)

State law reference -- V.T.C.A., Alcoholic Beverage Code § 109.33.

Sec. 4-4. Measurement of distances for church and public hospital.

The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-3; Ord. No. 2009-4323)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b).

Sec. 4-5. Measurement for public and private school.

The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school will be:

- (a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- (b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the

property line to the base of the floor on which the permit or license holder is located.

- (c) As to any business who held a license or permit on September 1, 1983, the measurement of the distance between the place of business of the dealer and a public or private school will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-4; Ord. No. 2017-4830)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b), (d).

Sections 4-6--4-10. Reserved.

ARTICLE IV. MUNICIPAL FEES AND REGISTRATION

State law reference -- Authority to require licenses and permits and fees, V.T.C.A., Alcoholic Beverage Code § § 11.38; 61.36.

Sec. 4-11. Municipal fees and City registration.

- (a) A municipal fee is levied in the amount of one-half the state fee for each license or permit issued for premises located within the City, except as otherwise provided by state law. The municipal fees must be paid to the City when the license or permit fees are paid to the state.
- (b) The City will issue a certificate of registration under this Section to a licensee or permittee authorizing the sale of alcoholic beverages under this Chapter and a license or permit, if the licensee or permittee:
 - (1) pays the fees established by Subsection (a); and
 - (2) provides the City with a copy of the license or permit.
- (c) A person who sells an alcoholic beverage at a business location before the person receives a certificate of registration from the City as provided by this Section commits a Class C misdemeanor.

- (d) The City's certificate of registration must be displayed in a conspicuous place at all times on the licensed or permitted premises. It is unlawful for a person in charge of such premises to fail to display this certificate of registration.

(Prior Code, § 4-11; Ord. No. 2009-4323)

State law reference -- Authority for license and permit fees, V.T.C.A. Alcoholic Beverage Code § 11.38; § 61.36.

Sections 4-12--4-20. Reserved.

ARTICLE V. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

Sec. 4-21. Sale of alcoholic beverages on City property prohibited except where specially permitted.

- (a) City Property. It is unlawful for any person to sell alcoholic beverages in any public park of the City, or on or in other publicly owned property, save and except that the City and concessionaires or caterers having a contract with the City to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed or permitted by the state, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within the Sammons Park Restaurant, Clubhouse, and deck exclusively. The City Manager may authorize a special event permit for the sale of alcoholic beverages on City property other than a City park.
- (b) Criteria for Permits. The City Council may from time to time by resolution establish criteria for special event permit applications and approvals under this Section.

(Prior Code, § 4-21; Ordinance No. 2009-4323)

ARTICLE VI. ENFORCEMENT

Sec. 4-22. Criminal offense.

- (a) A person violating a provision of this Chapter commits a Class C misdemeanor for each separate violation for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense is punishable by a fine not to exceed five hundred dollars (\$500.00).

(b) A culpable mental state is hereby not required to prove an offense under this Chapter.

1. Commission means the City of Temple.
2. Executive Director and Chief Clerk means the Director of Public Works.
3. Permit, when referring to City's administration of Registration requirements, means Conditional Use Permit.

5.3.14 Recycling Collection Location or Operation

A recycling operation inside a building, recycling operation outside a building and recycling collection location may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The buying and receiving area must be set back a minimum of 50 feet from the public street right-of-way.
- B. A minimum separation of 75 feet is required between any processing operation and the property line of any adjacent property zoned for residential purposes.
- C. The internal circulation area within a tract used for a recycling collection location must consist of a non-permeable surface of either asphalt or concrete.

5.3.15 Alcoholic Beverage Sales for On-Premise Consumption

An establishment with alcoholic beverage sales for on-premise consumption may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The following standards apply to all establishments with on-premise consumption of alcoholic beverages.
 1. The permittee must design and operate the establishment in such a manner that the use of the premises does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
 2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the Conditional Use Permit, such limitation in time being subject to City review and possible extension. Nothing in this Section herein permits the sale of

Article 5: Use Standards

Sec. 5.3. Specific Use Standards

alcoholic beverages prior to the issuance of an applicable permit or license issued by the Texas Alcoholic Beverage Commission.

3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its Conditional Use Permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.
6. The establishment must provide adequate parking spaces in accordance with the standards in Sec. 7.5.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a Conditional Use Permit in accordance with Sec. 3.5 if it affirmatively determines that the issuance of the permit is:
 - a. Incompatible with the surrounding uses of property; or
 - b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants.

9. A Conditional Use Permit runs with the property and a change in the owner or lessee of a permitted establishment does not affect the Conditional Use Permit.
 10. All Conditional Use Permits must be further conditioned that the permit may be canceled, suspended or revoked in accordance with the revocation clause set forth in paragraph 8 above.
 11. The use must comply with City of Temple Code of Ordinances, Chapter 4, "Alcoholic Beverages."
- B.** In addition to the standards in subsection A above, the following standards apply to all establishments where the gross revenue from the sale of alcoholic beverages for on-premise consumption is 75% or more of the total gross revenue of the establishment.
1. The establishment must not be within 300 feet of a public park or any residentially zoned or developed lot.
 2. The distance between the establishment where alcoholic beverages are sold and a protected use listed in (B)(1) must be measured in a straight, direct line from the property line of the establishment to the nearest property line of a property where a protected use is located.
 3. An establishment in a multi-storied building on other than the ground floor must be treated as though it were on the ground floor for purpose of the measurement between property lines.

[Ord. 2017-4830 Chapter 4 & Ord. 2017-4829]

5.3.16 Outdoor Shooting Range

An outdoor shooting range may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A.** Only handguns (pistols and revolvers) are permitted to be used at the outdoor shooting range. No shotguns, rifles or automatic weapons are permitted at the range.
- B.** No armor piercing or incendiary ammunition is allowed.
- C.** Ammunition larger than 0.460 caliber is not allowed.

Site & Surrounding Property Photos



Site – Los Tres Magueyes Resturant (Under Construction) (C)



North: Existing Commercial & Service Uses (C)



East: Existing Commercial Uses (C)

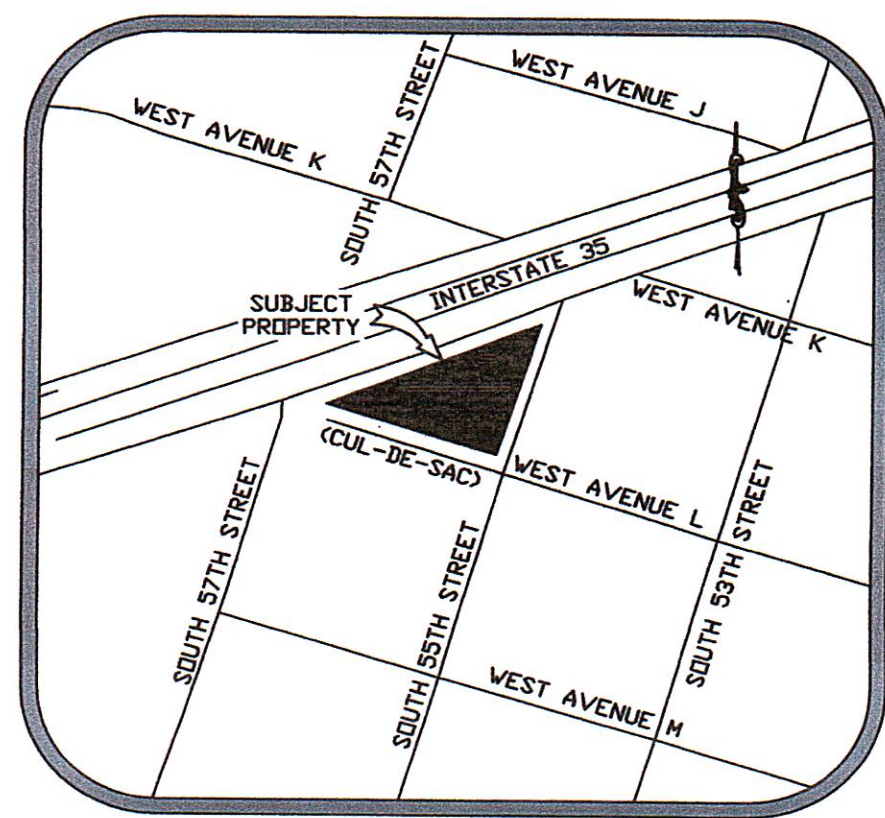


South: Existing Restaurant – Clem Mikeska's Bar-B-Q (C)

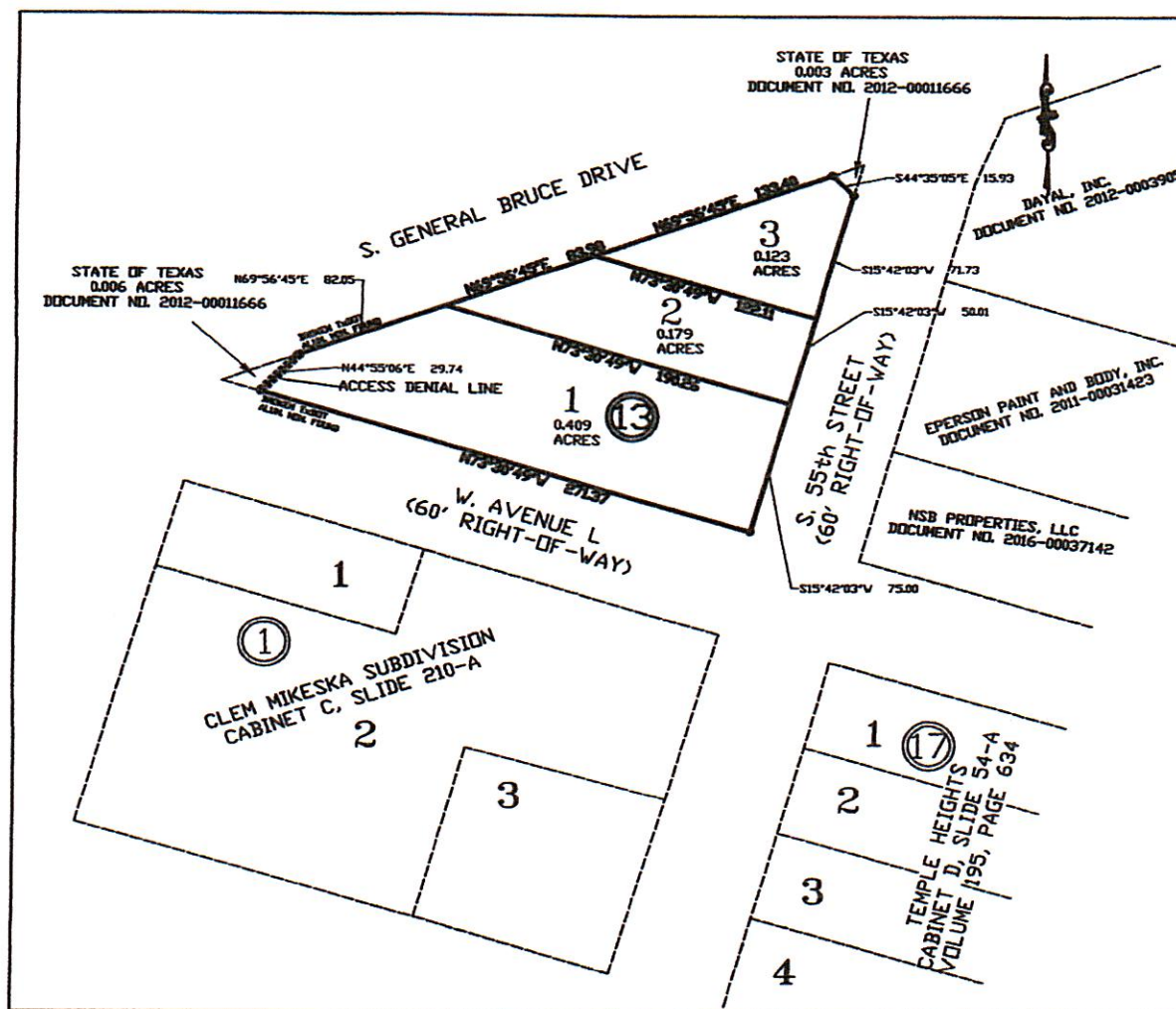


West: South General Bruce Dr. (I-35 Frontage & Business Access) (C)

2018
148

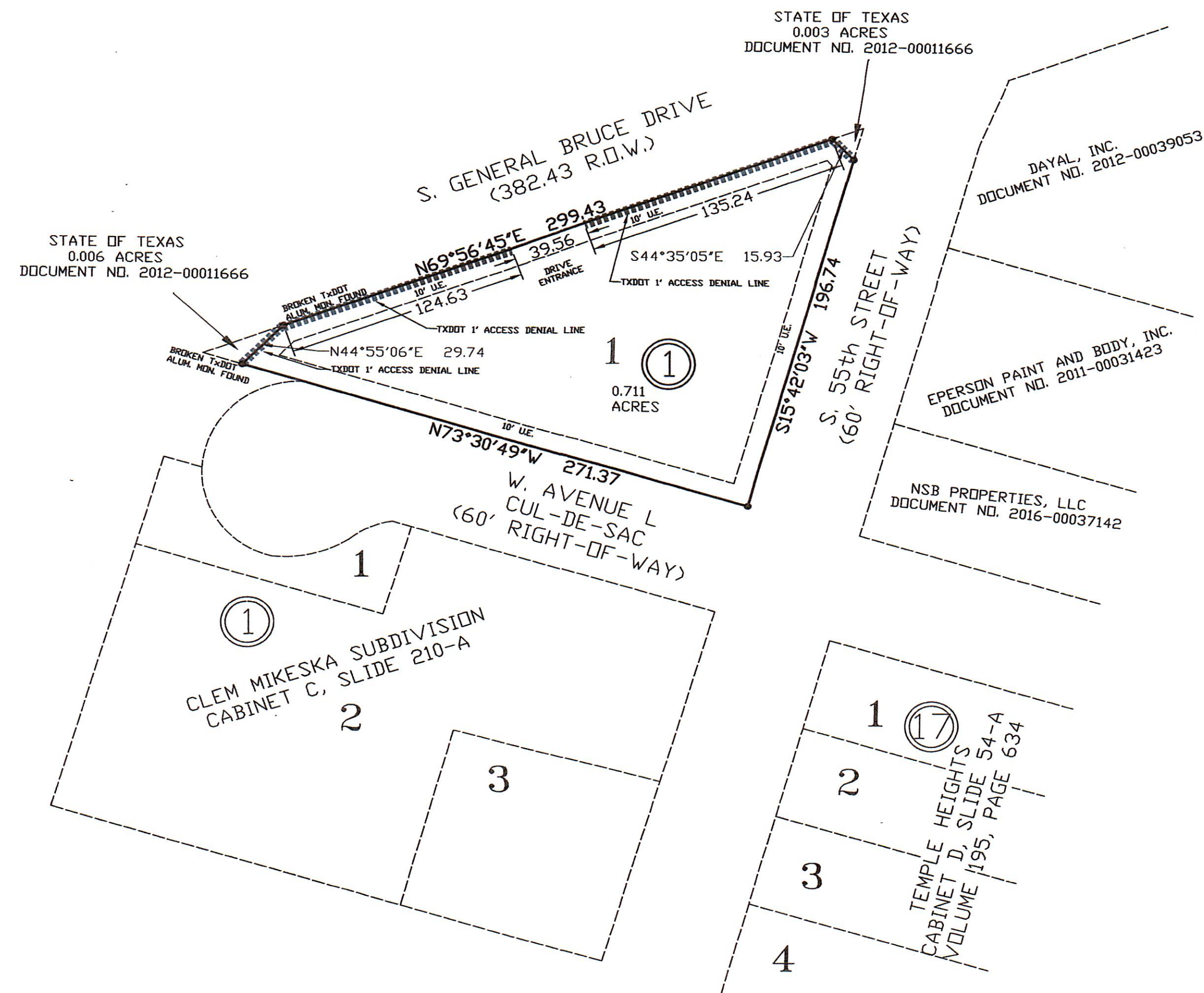


VICINITY MAP
N.T.S.



ORIGINAL CONFIGURATION (SCALE 1:100)

THE PURPOSE OF THIS REPLAT IS TO COMBINE THE REMAINDERS OF LOTS 1, 2, AND 3, BLOCK 13 TEMPLE HEIGHTS ADDITION ACCORDING TO THE PLAT OF RECORD IN VOLUME 195, PAGE 634, DEED OF RECORDS BELL COUNTY, TEXAS INTO A SINGLE BUILDING SITE.



SCALE: 1"=50'

THIS PROJECT IS REFERENCED IN NAD 1983 CENTRAL TEXAS STATE PLANE.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 98
THE THETA ANGLE AT SAID MONUMENT IS 01° 31' 23"
THE COMBINED CORRECTION FACTOR (CCF) IS 0.999851
PUBLISHED CITY COORDINATES ARE X=3,222,001.05 Y=10,373,842.49
THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
S. 60° 33' 25" E., 131.38 FEET.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

FILED FOR RECORD THIS 17th DAY OF September, 2018, IN YEAR 2018, PLAT # 148,
PLAT RECORDS OF BELL COUNTY, TEXAS.

DEDICATION INSTRUMENT 2018-39322, OFFICIAL PUBLIC RECORDS OF BELL COUNTY, TEXAS.

TRACT SURVEYED JULY 23, 2018

0.711 ACRES MORE FULLY DESCRIBED BY METES & BOUNDS BY SEPARATE
FIELD NOTES PREPARED AND ATTACHED TO DEDICATION INSTRUMENT

UE = UTILITY EASEMENT

NOTES:

1. THIS PROPERTY IS NOT WITHIN THE 100-YEAR FLOOD BOUNDARY PER F.E.M.A. FEDERAL INSURANCE RATE MAP Nos. 48027C0335E and 48027C0355E, BOTH DATED SEPTEMBER 26, 2008
2. ALL BOUNDARY CORNERS ARE 1/2" IRON ROD WITH CAP STAMPED "RPLS 2475" SET UNLESS OTHERWISE NOTED HEREOF.
3. UTILITY COMPANIES HAVE BEEN PROVIDED A COPY OF THIS PLAT FOR THEIR REVIEW.

STATE OF TEXAS
COUNTY OF BELL

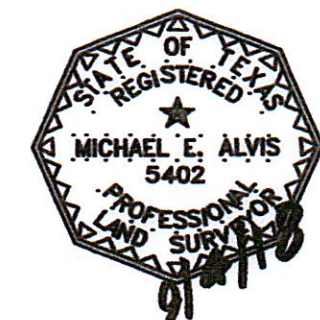
I, THE UNDERSIGNED, A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY, THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT:



Jennifer Ryken, P.E.
No. 106277

STATE OF TEXAS
COUNTY OF BELL

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, 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 UNDER MY SUPERVISION ON THE GROUND, AND THAT ALL NECESSARY SURVEY MONUMENTS ARE CORRECTLY SHOWN THEREON.



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

STATE OF TEXAS
COUNTY OF BELL

I, THE UNDERSIGNED, DIRECTOR OF PLANNING OF THE CITY OF TEMPLE, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE CITY OF TEMPLE, IT QUALIFIES FOR ADMINISTRATIVE PLAT APPROVAL AS PROVIDED IN THE ORDINANCE, AND IT IS HEREBY APPROVED.

Director of Planning
9-14-18
DATE

STATE OF TEXAS
COUNTY OF BELL

MIGUEL FLORES AND SPOUSE, MARIA FLORES AND JUAN FLORES AND SPOUSE, BRENDA FLORES, OWNERS OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS FINAL PLAT OF LOS TRES MAGUELLES, A SUBDIVISION IN THE CITY OF TEMPLE, BELL COUNTY, TEXAS AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES AS SHOWN HEREON.

Miguel Flores
MIGUEL FLORES, OWNER

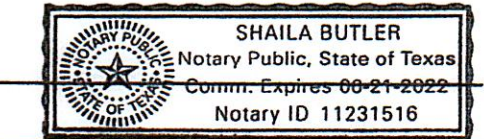
Maria Flores
MARIA FLORES, OWNER

Juan Flores, Owner
Brenda Flores, Owner

STATE OF TEXAS
COUNTY OF BELL

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 16 DAY OF Sept., 2018 BY MIGUEL FLORES, OWNER OF THE SAID 0.711 ACRE TRACT DESCRIBED HEREON.

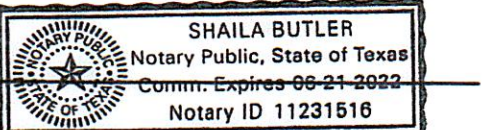
Shaila Butler
NOTARY PUBLIC



STATE OF TEXAS
COUNTY OF BELL

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 16 DAY OF Sept., 2018 BY MARIA FLORES, OWNER OF THE SAID 0.711 ACRE TRACT DESCRIBED HEREON.

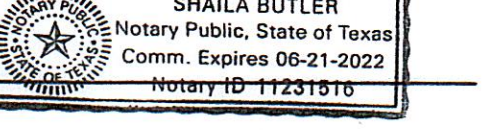
Shaila Butler
NOTARY PUBLIC



STATE OF TEXAS
COUNTY OF BELL

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 16 DAY OF Sept., 2018 BY JUAN FLORES, OWNER OF THE SAID 0.711 ACRE TRACT DESCRIBED HEREON.

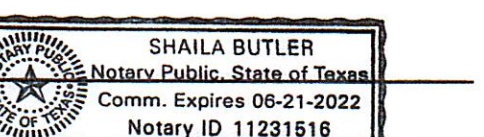
Shaila Butler
NOTARY PUBLIC



STATE OF TEXAS
COUNTY OF BELL

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 16 DAY OF Sept., 2018 BY BRENDA FLORES, OWNER OF THE SAID 0.711 ACRE TRACT DESCRIBED HEREON.

Shaila Butler
NOTARY PUBLIC



AFFIDAVIT:
THE TAX APPRAISAL DISTRICT OF BELL COUNTY, TEXAS DOES HEREBY CERTIFY THERE ARE CURRENTLY NO DELINQUENT TAXES DUE TO THE TAX APPRAISAL DISTRICT OF BELL COUNTY, TEXAS ON THE PROPERTY DESCRIBED BY THIS PLAT.

DATED THIS 10th DAY OF September, 2018.

BELL COUNTY TAX APPRAISAL DISTRICT

By: Megan Logan

FINAL PLAT of:
LOS TRES MAGUELLES

BEING A REPLAT OF THE REMAINDER OF LOTS 1, 2 AND 3, BLOCK 13, TEMPLE HEIGHTS ADDITION ACCORDING TO THE MAP OR PLAT OF RECORD IN VOLUME 195, PAGE 634, DEED RECORDS OF BELL COUNTY, TEXAS AND IN CABINET D, SLIDE 54-A, PLAT RECORDS OF BELL COUNTY, TEXAS

0.711 ACRES
1 BLOCK, 1 LOT

BELL COUNTY, TEXAS A SUBDIVISION IN THE CITY OF TEMPLE,



SURVEY FIRM # 10056000
ENGINEER FIRM # F-1658

FINAL PLAT of:
LOS TRES MAGUELLES
A SUBDIVISION IN THE CITY OF TEMPLE, BELL COUNTY, TEXAS

PREPARED FOR:

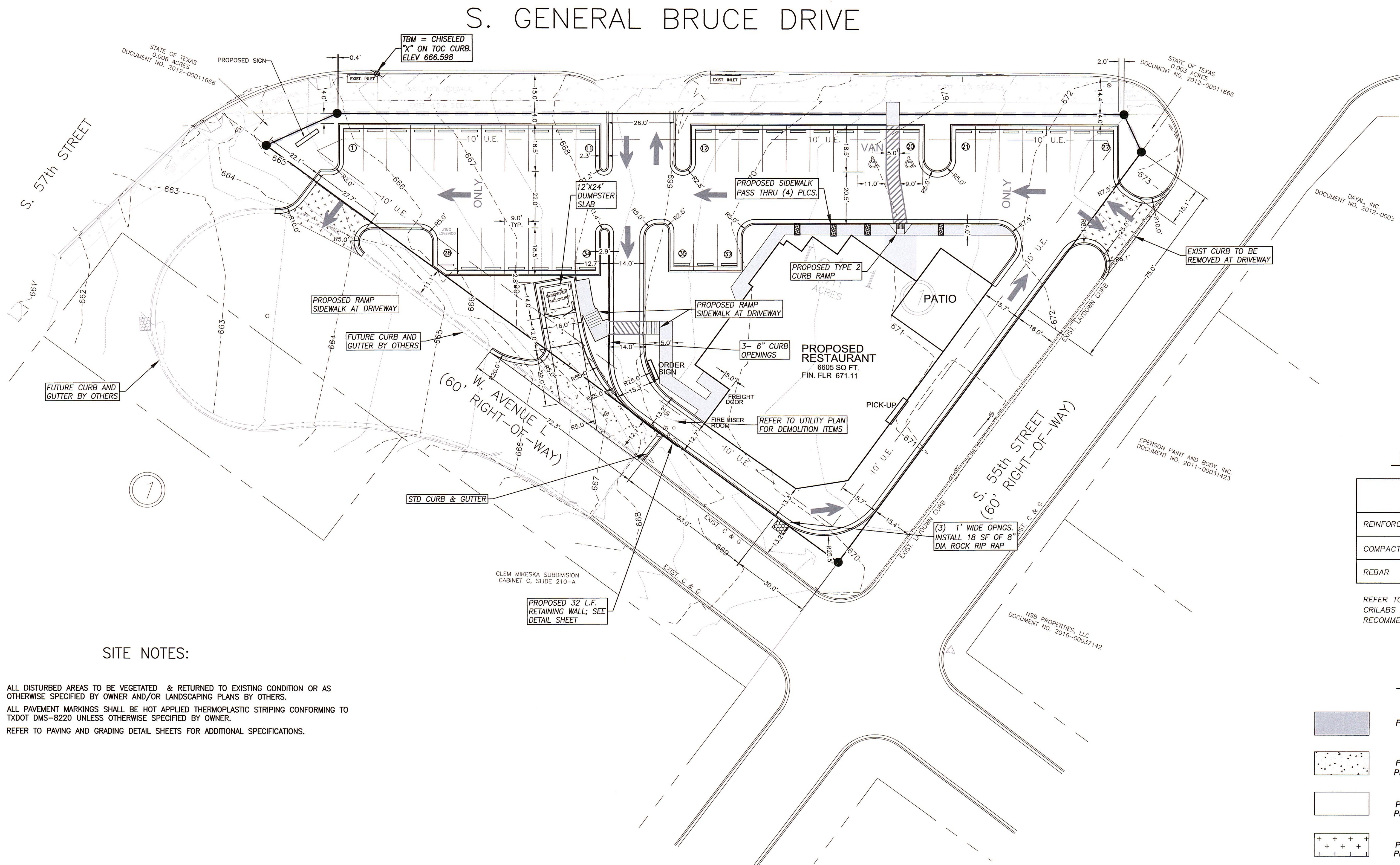
MIGUEL FLORES
875 STONE ROAD, TEMPLE, TEXAS

REVISIONS

DATE: 07/27/18
DRN. BY: MEA
REF.:
FB/LB
JOB NO.: 18-1396
SHEET 1 OF 1
COMPUTER
DWG. NO. 18-1396

181396-D
FILE NO.

Inst#2018-39322



SITE NOTES:

- ALL DISTURBED AREAS TO BE VEGETATED & RETURNED TO EXISTING CONDITION OR AS OTHERWISE SPECIFIED BY OWNER AND/OR LANDSCAPING PLANS BY OTHERS.
- ALL PAVEMENT MARKINGS SHALL BE HOT APPLIED THERMOPLASTIC STRIPING CONFORMING TO TXDOT DMS-8220 UNLESS OTHERWISE SPECIFIED BY OWNER.
- REFER TO PAVING AND GRADING DETAIL SHEETS FOR ADDITIONAL SPECIFICATIONS.

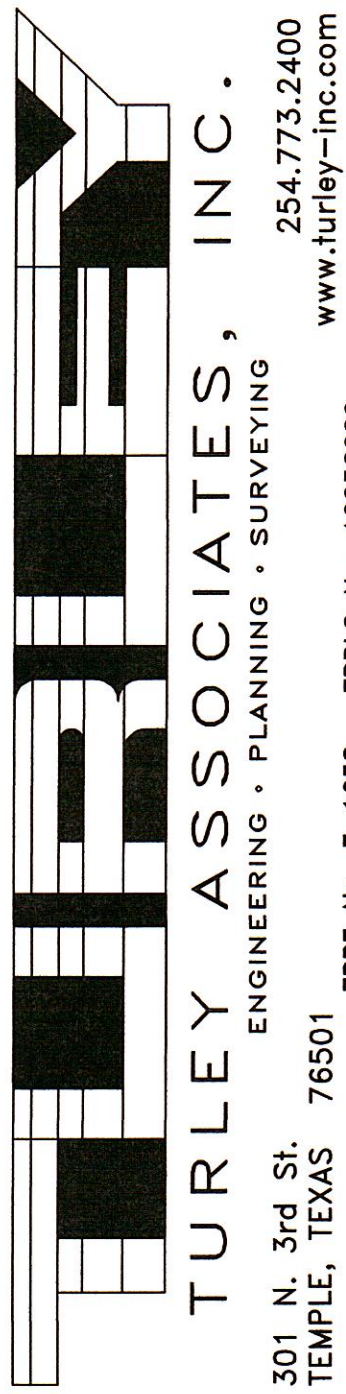
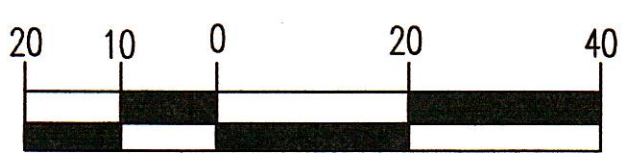
PAVEMENT TABLE

	MEDIUM DUTY	HEAVY DUTY
REINFORCED CONCRETE	6"	7"
COMPACTED SUBGRADE	8"	8"
REBAR	#3 @ 16" O.C.E.W.	#3 @ 14" O.C.E.W.

REFER TO GEOTECHNICAL REPORT 18-3975 BY CRILABS FOR ALL PAVEMENT AND FOUNDATION RECOMMENDATIONS.

LEGEND:

- PROPOSED SIDEWALK
- PROPOSED HEAVY DUTY CONCRETE PER GEOTECH REPORT
- PROPOSED MEDIUM DUTY CONCRETE (UNHATCHED) PER GEOTECH REPORT
- PROPOSED DRIVEWAY CONCRETE PER CITY OF TEMPLE STANDARDS AND SPECS
- 12 PARKING SPACE QTY PER ROW
- TRAFFIC FLOW DIRECTION STRIPING



© TURLEY ASSOCIATES, INC.

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SITE PLAN
LOS TRES MAGUEYES
A SUBDIVISION IN THE CITY OF TEMPLE,
BELL COUNTY, TEXAS

PREPARED FOR:

MIGUEL FLORES
875 STONE ROAD, TEMPLE, TEXAS



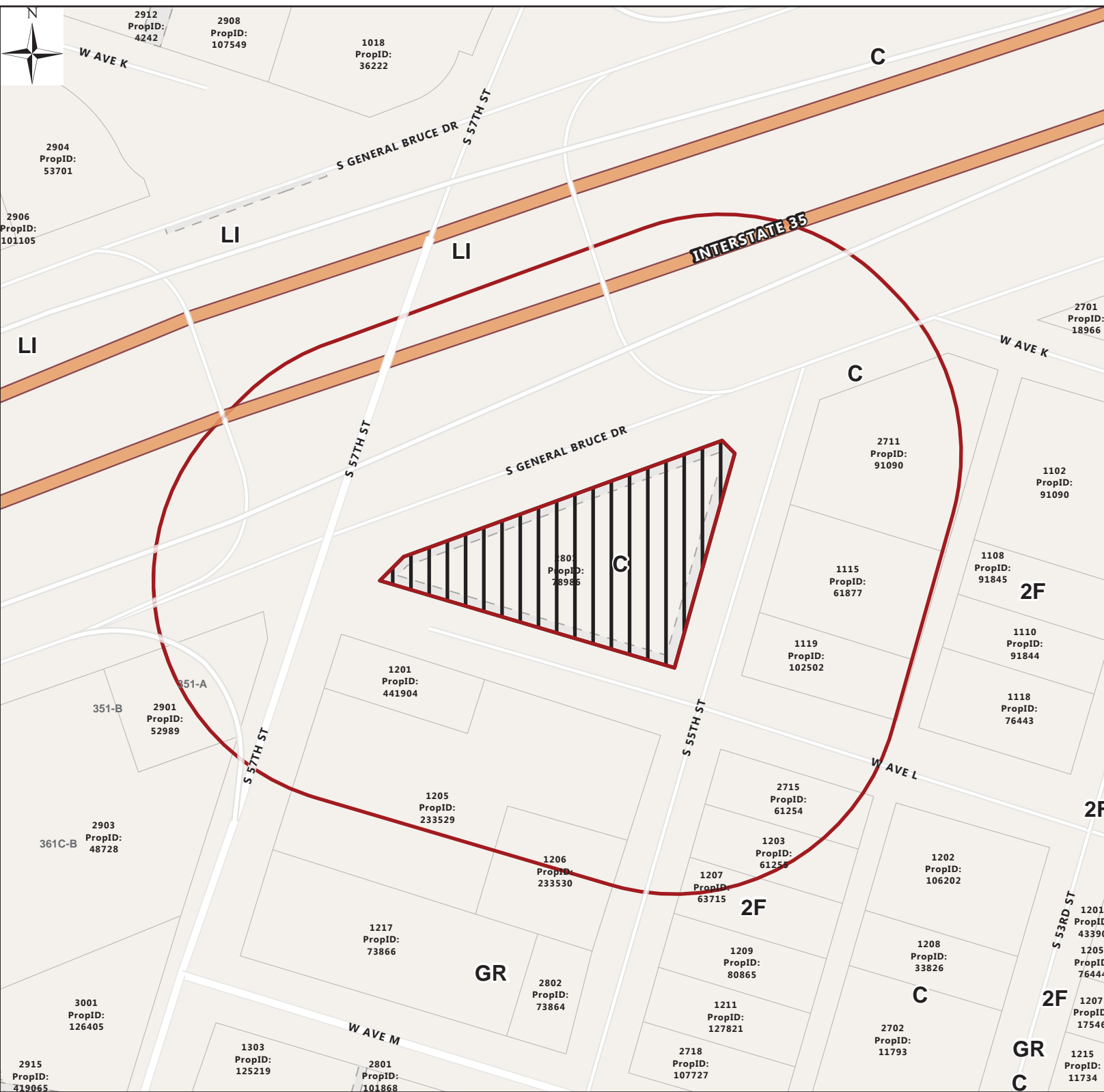
REVISIONS

DATE	DESCRIPTION	DFTR
11/27/18	REV PER CITY COMMENTS	KDS

DRAFTSMAN:
KDS
DATE:
AUG 16 2018
COMPUTER FILE NAME:
18-1396 SitePlan
REFERENCE DRAWING NUMBERS:
REF DWGS NO.s

18-1396
DRAWING NUMBER:
181396-D

PAGE #
06



Conditional Use Permit

200' NOTIFICATION MAP

Zoning Case :

FY-19-14-ZC

Address :

2801 S. General Bruce

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.

mbaker

Date: 4/17/2019





RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

102502
NSB PROPERTIES LLC
2702 TIMBER RIDGE DR
TEMPLE, TX 76502

Zoning Application Number: FY-19-14-ZC

Case Manager: Mark Baker

Location: 2801 South General Bruce Drive

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:

Los Tres Magueyes is a welcome
addition to the area. Please do whatever
is necessary to help them get up and
running as soon as possible.

Terence L. Orf
Signature

Terence L. Orf
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, mbaker@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **May 20, 2019**.

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

RECEIVED

MAY 13 2019

CITY OF TEMPLE
PLANNING & DEVELOPMENT

Number of Notices Mailed: 12

Date Mailed: MAY 8, 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**

61255
PARKWAY DRIVE LLC
PO BOX 826
TEMPLE, TX 76503-0826

RECEIVED
MAY 15 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-14-ZC

Case Manager: Mark Baker

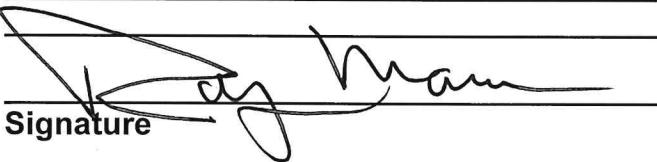
Location: 2801 South General Bruce Drive

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

Reuben Mark
Print Name

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, mbaker@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **May 20, 2019**.

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

Number of Notices Mailed: 12

Date Mailed: MAY 8, 2019

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



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

RECEIVED
MAY 15 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

61254
PARKWAY DRIVE LLC
PO BOX 826
TEMPLE, TX 76503-0826

Zoning Application Number: FY-19-14-ZC

Case Manager: Mark Baker

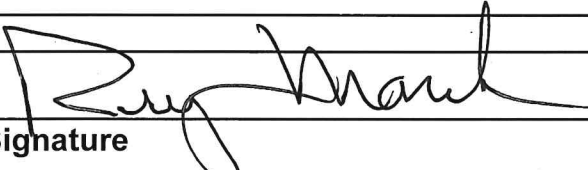
Location: 2801 South General Bruce Drive

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

RUBY MARSHALL
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 **May 20, 2019**.

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

Number of Notices Mailed: 12

Date Mailed: MAY 8, 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**

91090
DAYAL INC
2711 S GENERAL BRUCE DR
TEMPLE, TX 76504-6498

RECEIVED

May 15 2019

PLANNING DEPARTMENT

Zoning Application Number: FY-19-14-ZC

Case Manager: Mark Baker

Location: 2801 South General Bruce Drive

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

Dimple Patel

Dimple.PATEL@SBCGLOBAL.NET

(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 **May 20, 2019**.

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

Number of Notices Mailed: 12

Date Mailed: MAY 8, 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, MAY 20, 2019**

ACTION ITEM

Item 2: FY-19-14-ZC - Hold a public hearing to discuss and recommend action on a Conditional Use Permit (CUP) with a Site Plan to allow a restaurant where less than 50% of the gross revenue will be from the sales of all alcoholic beverages with on-premise consumption on Lot 1, Block 1, Los Tres Magueyes Subdivision, located at 2801 South General Bruce Drive within the I-35 Corridor Overlay Retail sub-district.

Mr. Mark Baker, Principal Planner, stated this case is scheduled to go to City Council for first reading on June 20, 2019 and second reading on July 11, 2019.

This request is to allow an establishment that generates less than 50 percent of its total revenue from the sale of all alcoholic beverages with on-premise consumption in which a Conditional Use Permit (CUP) is required in a Commercial © base zoning.

This case involving the Los Tres Magueyes restaurant is in compliance with the I-35 Overlay standards (retail Sub-District) and is currently under construction.

Site plan and aerial map shown.

Conditional Use Permit:

- Subject to Chapter 4-Code of Ordinances (Alcoholic Beverages) Sale of Alcoholic Beverages- Compliance
- Three Hundred feet minimum distances from sensitive uses (place of worship, public school or public hospital- Faith Baptist Church 850 feet (East) (Distance as per Chapter 4 and TABC measurement requirements

UDC Section 5.3.15- Compliance

- Establishes standards for alcoholic beverage sales with on-site consumption, such as:
 1. Six-month compliance, from issuance of CUP, for TABC licensing;
 2. Permittee must demonstrate that granting of CUP is not a detriment to the public welfare
 3. All CUPs may be cancelled, suspended or revoked;
 4. CUP runs with the land (does not affect change of ownership or lessee);
 5. Reiterates Chapter 4 requirements

Zoning Map is shown.

On-Site photos shown.

Twelve public notices were emailed in accordance with all state and local regulations with four notices returned in agreement and no responses returned in disagreement.

Compliance summary shown, and all sections found to be in compliance.

Staff recommends approval of the request for a Conditional Use Permit to allow sales of all alcoholic beverages, with on-premise consumption, where the gross revenue from such sales is less than 50% of the total gross revenue of the establishment, subject to three conditions:

1. Sale of all alcoholic beverages with on-premise consumption, be contained within the developed site of Lot 1, Block 1 Los Tres Magueyes subdivision, located at 2801 South General Bruce Drive;
2. Compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages; and
3. Compliance with UDC Section 5.3.15 related to all alcoholic beverage sales with on-premise consumption.

Chair Langley opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Alaniz made a motion to approve Item 2, **FY-19-14-ZC**, per staff recommendation, and Commissioner Fettig made a second.

Motion passed: (5:0:1)

Commissioner Jeanes abstained.

Commissioners Armstrong, Marshall, and Vice-Chair Ward absent.

ORDINANCE NO. 2019-4973
(FY-19-14-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT WITH A SITE PLAN TO ALLOW A RESTAURANT WHERE LESS THAN 50% OF THE GROSS REVENUE WILL BE FROM THE SALES OF ALL ALCOHOLIC BEVERAGES WITH ON-PREMISE CONSUMPTION ON LOT 1, BLOCK 1, LOS TRES MAGUELLES SUBDIVISION, LOCATED AT 2801 SOUTH GENERAL BRUCE DRIVE WITHIN THE I-35 CORRIDOR OVERLAY RETAIL SUB-DISTRICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant, Juan Flores, on behalf of Los Tres Magueyes restaurant, requests a Conditional Use Permit (CUP) to allow for the sale of all alcoholic beverages where there is less than 50% of the total gross revenue being from such sales with on-premise consumption - this request is for the recently permitted Los Tres Magueyes restaurant located at 2801 South General Bruce Drive;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration to the planned development conditions, recommends approval of the requested Conditional Use Permit, subject to the following condition:

- Substantial compliance with the site plan attached as Exhibit A.

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

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

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Part 2: The City Council approves of a Conditional Use Permit with a Site Plan to allow a restaurant where less than 50% of the gross revenue will be from the sales of all alcoholic beverages with on-premise consumption on Lot 1, Block 1, Los Tres Maguelles Subdivision, located at 2801 South General Bruce Drive within the I-35 Corridor Overlay Retail sub-district and subject to the following condition:

- Substantial compliance with the site plan attached as Exhibit A.

Part 3: The City Council approves the Site Development Plan which is made a part hereof for all purposes.

Part 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **20th** day of **June**, 2019.

PASSED AND APPROVED on Second Reading on the **11th** day of **July**, 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

06/20/19
Item #6
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Jason Deckman, Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-15-ZC: Hold a public hearing to discuss and recommend action on a Conditional Use Permit with a Site Plan to allow for a child care facility in Moore's Knight Addition, Block 10, Lot 7, 8, Pt 6, addressed as 109 South General Bruce Drive, and located within the I-35 Corridor Overlay Retail sub-district.

STAFF RECOMMENDATION: Staff recommends approval of FY-19-15-ZC, a Conditional Use Permit allowing a child care facility within the I-35 Corridor Overlay Retail sub-district for the following reasons:

1. Demonstrated compliance to UDC Section 3.5.4 (A-G) Conditional Use Permit Review Criteria;
2. The request complies with the Future Land Use and Character Map;
3. Public facilities are available to serve the property;
4. The use is compatible with Zoning and surrounding uses and,

Staff recommends Approval of the Conditional Use Permit subject to the following conditions:

1. Development of the facility shall comply with the requirements of the I-35 Corridor Zoning Overlay Retail sub-district; and
2. Substantial compliance with the building footprint and parking layout depicted by Site Plan attached as Exhibit A;

PLANNING & ZONING COMMISSION RECOMMENDATION: At their May 20, 2019 meeting, the Planning & Zoning Commission voted 6 to 0 to recommend approval of the proposed Conditional Use Permit per staff's recommendation.

ITEM SUMMARY: The applicant, Otis Kent, is requesting a Conditional Use Permit (CUP) to allow a child care facility in an existing building within the I-35 Corridor Overlay Retail sub-district. The applicant is certified by the Texas Department of Family and Protective Services (DFPS) to operate a child care facility and will be subject to applicable state standards.

A child care facility in the Retail sub-district of the I-35 Corridor Overlay is shown as a Conditional Use in UDC 6.7.11. Prior to the August 2017 overlay code amendments, this use was prohibited in the I-35 Overlay. The limitations listed in UDC 5.3.10 require that play areas be separated and fenced from vehicle circulation and parking areas. The applicant plans to construct a fenced outdoor playground and has worked closely with staff to ensure that the fence design will be compliant with both overlay and state standards. The proposed tubular steel panel fence will comply with screening requirements in UDC Section 7.7.5 and will meet the intent of the I-35 Corridor Overlay to enhance the city's image as a desirable place to live, work, and shop. A formal review of the dimension and materials of the proposed fence will take place when construction plans are submitted for permitting.

Finally, the proposed Conditional Use Permit has demonstrated compliance to the Conditional Use Permit Review Criteria as set forth in UDC Section 3.5.4 (A-G). A brief summary of each item is provided in the attached table.

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

Future Land Use and Character Map (FLUM) (CP Map 3.1)

The Land Use and Character Map identifies this area as Auto-Urban Commercial. These areas are designated for commercial use, generally concentrated at intersections versus strip development along the major roads. The use of a higher landscape surface area, better landscaping along frontages parking areas, and other design standards are intended to significantly enhance the appearance of these areas. In consideration of the proposed development, the child care facility will be consistent with the Future Land Use Map.

Thoroughfare Plan (CP Map 5.2)

This property fronts on the I-35 corridor. However, this segment of South General Bruce Drive is physically separated from the northbound I-35 frontage road and only local traffic is reasonably expected along this street.

Availability of Public Facilities (CP Goal 4.1)

A 4" water line along South 33rd Street and a 6" sewer line running through the property currently serve the property's existing use and proposed use. No extension of public facilities is requested or expected. No other impacts to public facilities are anticipated.

Temple Trails Master Plan Map and Sidewalks Ordinance

The Temple Trails Master Plan map does not identify any existing or proposed trails along South General Bruce Drive or South 33rd Street. No sidewalks will be required.

DEVELOPMENT REGULATIONS: UDC Section 7.5 requires a day care center to provide a minimum of one parking spot per 400 sq ft of building space. As shown on the attached survey, the building is approximately 4,800 sq ft, and the provided Site Plan shows 12 diagonal parking spaces. The site plan is compliant with the parking requirements of UDC 7.5.

PUBLIC NOTICE: Seventeen notices of the public hearing were sent out to property owners within 200-feet of the subject property as required by State law and City Ordinance. As of Tuesday, June 4, 2019 at 12:00 pm, one notice has been received in agreement. Staff will provide an update to City Council if necessary.

The newspaper printed notice of the Planning and Zoning Commission public hearing on May 9, 2019, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Conditional Use Permit Review Criteria Table \(UDC Section 3.5.4 \(A-G\)\)](#)

[UDC references](#)

[Survey, Floor plan, Site plan](#)

[Vicinity Maps](#)

[Site Photos](#)

[Extract of DFPS Standards](#)

[DFPS Certification](#)

[Ordinance](#)

UDC Code Section 3.5.4	Criteria met?	Discussion
A. The conditional use is compatible with and not injurious to the use and enjoyment of the property and does not significantly diminish or impair property values within the immediate area.	Yes	The previous building renovation and proposed site development will continue to enhance the aesthetics of this property. The development of a child care facility will not diminish or impair property values in the surrounding area.
B. The establishment of the conditional use does not impede normal and orderly development and improvement of surrounding vacant property.	Yes	Operation a child care facility will have little to no effects on the adjacent properties and will not impede development or improvements of the surrounding commercial establishments.
C. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided.	Yes	The child care facility will be located in an existing building that is currently connected to municipal water and sewer lines as well as commercial utilities. The property fronts onto two public streets for access by families and employees.
D. The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.	Yes	The property has existing driveway connections to two public streets, and the parking spaces are designed for single direction travel as shown on the site plan. No issues with circulation were noted during review of the conditional use permit.
E. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration.	Yes	Staff does not anticipate that the proposed child care facility will create offensive odors, fumes, dust, noise, or vibration.
F. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.	Yes	Any exterior lighting proposed will be required to meet the provisions of UDC 7.1.8 with regard to glare. Compliance for exterior lighting will be addressed during review of the building plans.
G. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.	Yes	The site contains existing trees, grass, and shrubs. Compliance with UDC Section 7.4 will be confirmed during review of the building permit for the required playground area fence.

6.7.11 Retail Sub-District

The retail locations in Temple have been and should continue to be a major factor in the City's growth and employment efforts. These standards will continue to attract new retail activity to the City and enhance the City's image as a desirable place to live, work and shop on the I-35 Corridor.

A. Permitted Uses

Permitted uses are governed by the uses permitted in the use table in Sec. 5.1 of this UDC for the underlying zoning district. Unless otherwise regulated in the standards for this overlay district, permitted uses are governed by the standards of this Zoning Ordinance for the underlying base zoning district.

B. Prohibited and Conditional Uses

Notwithstanding such uses being permitted in the underlying base zoning district according to the use table in Sec. 5.1, the following uses are prohibited or require a Conditional Use Permit in accordance with Sec. 3.5.

Use	Prohibited Use	Conditional Use	Standards
Residential			
All Residential Uses listed in the use table in Sec. 5.1 except as follows:	✓		
Multiple-family dwelling (apartment)		✓	5.3.3
Recreational vehicle park	✓		
Nonresidential			
Animal feed lot	✓		
Animal shelter (public or private)		✓	
Auto storage or auto auction	✓		
Boat sales or repair		✓	
Body Piercing Studio	✓		5.3.27
Bottling works	✓		
Building material sales	✓		
Car wash		✓	
Child care facility		✓	5.3.9 and 5.3.10
Contractor storage and equipment yard	✓		
Correctional facility	✓		
Day camp for children	✓		
Drag strip or commercial racing	✓		
Flea market (outdoors)	✓		

- E. In the LI and HI zoning districts, a group day care home child care facility may be allowed only when provided in conjunction with service to employees of the principal use.

5.3.10 Child Care Facility: Day Care Center

A day care center child care facility may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

A. Location

Each facility must be located in an area that is free from conditions dangerous to the physical and moral well-being of the children.

B. Construction Codes

The building is subject to all other applicable laws, ordinances and regulations of the City including, but not limited to, building, electrical, fire and health requirements and is subject to Chief Building Official enforcement.

C. Play Area

The play area must be separated and fenced from the vehicle circulation and parking areas.

D. TDHS Standards

The fenced outdoor play area, the indoor play area and all other pertinent standards as required must conform to Texas Department of Human Services standards, and the applicant must document this conformity to the Chief Building Official.

E. Accessory Use

In the LI and HI zoning districts, a day care center child care facility may be permitted only when provided in conjunction with service to employees of the principal use.

5.3.11 Pre-School

A pre-school may be permitted in accordance with the use table in Sec. 5.1 provided that such use is permitted only when provided in conjunction with service to employees of the principal use.

1. Buffering may consist of evergreen hedges composed of plants purchased in five-gallon or larger containers, with a minimum planted height of six feet, placed on 36-inch centers.
2. Buffering may consist of fences or walls constructed of wood, masonry, stone or pre-cast concrete, with integrated color, texture and pattern. Structural buffering must be from 6 to 8 feet in height above the adjacent grade. Fences or walls used for buffering must not contain openings of more than 20 square inches in each square foot of wall or fence surface. Gates must be equal in height and screening characteristics to the fence or wall in order to create a visual barrier.

7.7.5 Materials for Fences, Walls, Screens and Enclosures

A. Allowed Materials

Fences, walls, screens, enclosures and gates must be constructed of one or a combination of the following materials:

1. Plain or coated chain link (installed as manufactured, without affixing materials such as slats and tarps);
2. Exterior Insulation and finish systems (EIFS);
3. Fiberglass composite (manufactured for fencing);
4. Fired brick;
5. Latticework that does not exceed 2 feet in height and is anchored as a design element at the top of a 6-foot tall fence;
6. Natural stone;
7. Pre-cast concrete;
8. Split faced block;
9. Smooth faced block;
10. Support poles made of metal or wood;
11. Stucco;
12. Tubular aluminum;
13. Tubular steel;

14. Wood planks; or
15. Wrought iron.

B. Prohibited Materials

Permits must not be issued for materials not manufactured specifically for fencing, such as fibrous masonry products, landscape timbers, railroad ties, latticework panels, plywood, corrugated steel panels or fiberglass panels.

C. Electric Fences

1. An electric fence is allowed in the Agricultural zoning district, with proof submitted to the electrical inspector that the fence will be designed to retain animals, be inaccessible to the general public and not pose a hazard to life.
2. An electric fence is allowed in association with a permitted nonresidential outdoor storage area in the Commercial, Light Industrial and Heavy Industrial zoning districts subject to the following standards.
 - a. Unless otherwise specified in this Section, electric fences must be installed in conformance with the specifications set forth in the City's electrical code and the International Electrotechnical Commission Standard No. 60335-2-76. In addition, the electric fence controller must meet the requirements of Underwriters Laboratories Standard UL69, Electric-Fence Controller, and labeled as such.
 - b. The electric fence controller and emergency entry key safe for the electric fence must be located in a single accessible location for the entire fence.
 - c. The electric fence must be surrounded by a non-electrical fence or wall six to eight feet in height.
 - d. The electric fence must be installed a minimum of one foot from the surrounding non-electric fence or wall, except along the gate. Along the gate, the electric fence must be installed a



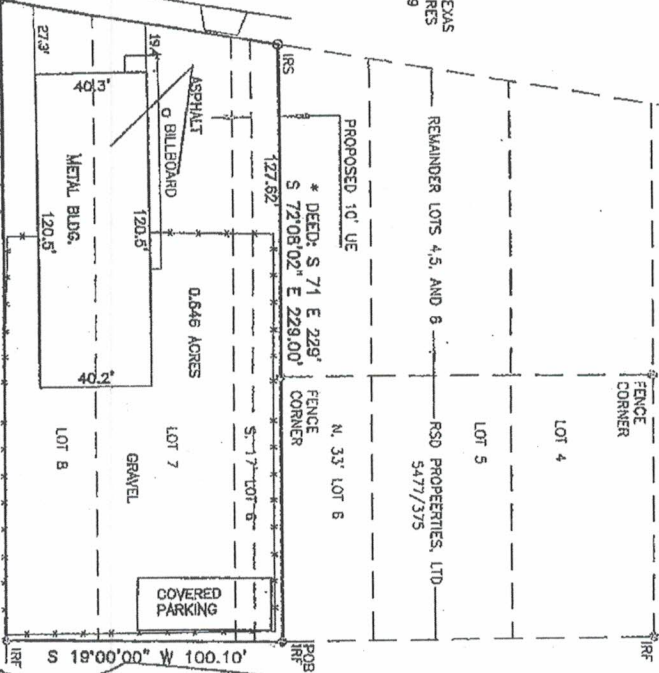
STATE OF TEXAS
11.200 ACRES
622/129

IH 35
* DEED: N 28°47' E 101.64'
N 28°42'58" E 101.90'

SCOTT IVAN BLACK
TRACT NO. 3, 1.83 ACRES
S & E 0.71 ACRES
4434/344

* DEED: N 71° W 246.20'
N 72°08'02" W 246.20'

EXIT NOW OUTDOOR, LLC
TRACT C
LOTS 7, 8 AND S. 17' LOT 6
BLOCK 10 MOORE'S KNIGHT ADDITION
A-1387-A
METES AND BOUNDS DESCRIPTION
964/226



S 19°00'00" W 100.10'
* DEED: S 19° W 100'

S. 33RD STREET

AVE. B

[Handwritten signature]
4-12-16
4-12-16

STATE OF TEXAS :
COUNTY OF BELL :

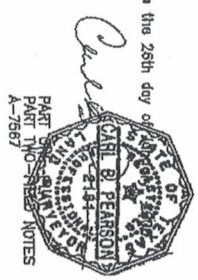
KNOW ALL MEN BY THESE PRESENTS, that I, Carl B. Pearson, Registered Professional Land Surveyor in the State of Texas, do hereby certify that I did cause to be surveyed on the ground on January 25, 2008, that certain 0.646 acre tract of land out of the C.S. Western Survey, Abstract #550, Temple, Bell County, Texas, sold 0.646 acres tract being further identified as Lots 7 and 8, and the South 17 feet of Lot 6, Block 10, Moore's Knight Addition, Temple, Bell County, Texas, according to the plat of record in Cabinet A, Slide 139-A, Plat Records, Bell County, Texas.

I further certify that this plat is a true and accurate representation of said survey.

IN WITNESS WHEREOF, my hand and seal this 26th day of April, 2008.

Carl B. Pearson
Registered Professional Land Surveyor
Seal No. 2181

TEMPLE CIVIL ENGINEERING
P.O. BOX 1128
TEMPLE, TX 76503-1129



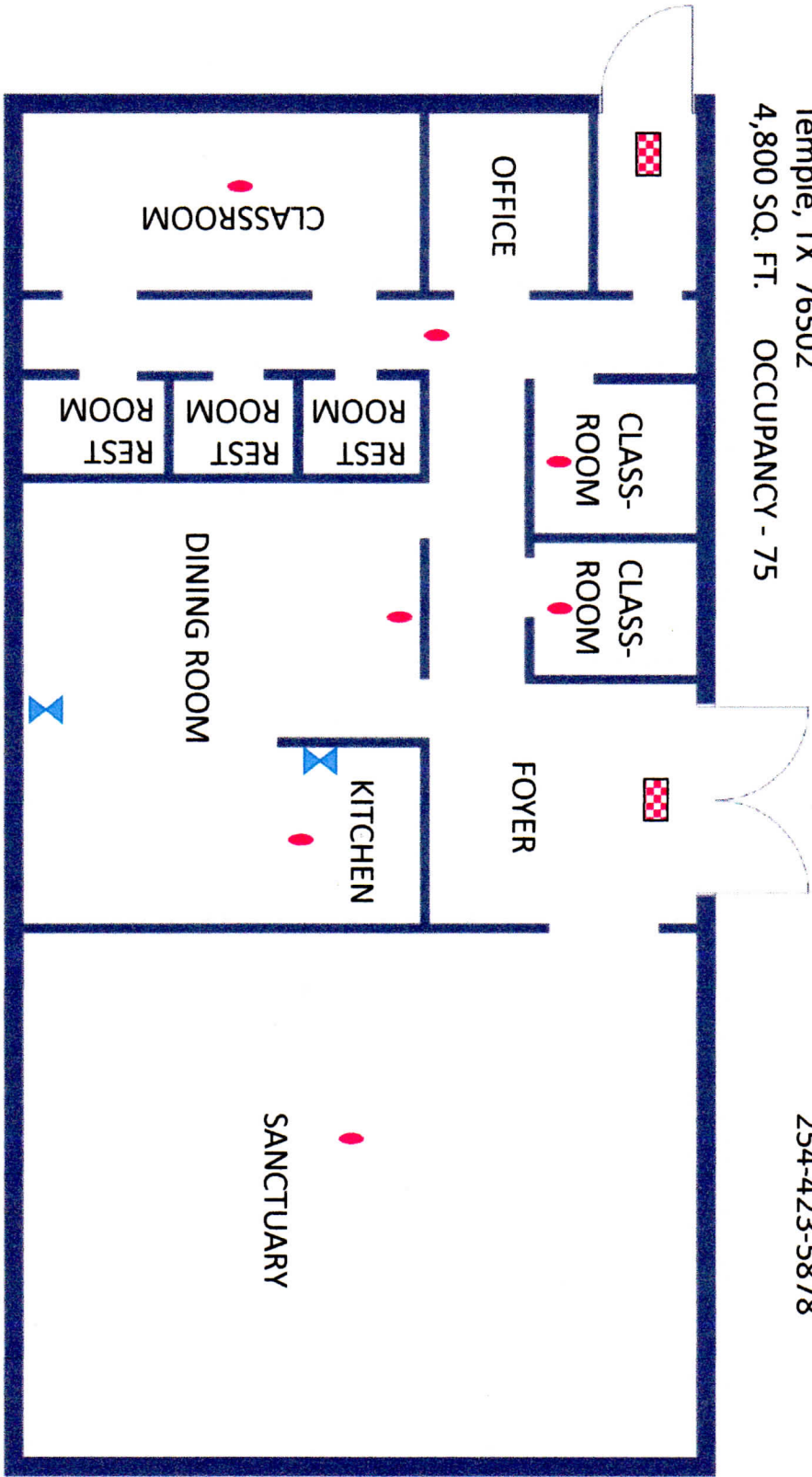
[Handwritten signature]
Eugene C. Kent

S. GENERAL BRUCE DRIVE

Fire Protection Plan
109 South General Bruce Drive
Temple, TX 76502
4,800 SQ. FT. OCCUPANCY - 75

OTIS KENT
ROK DEVELOPMENT
254-423-5878

- - SMOKE ALARM (7)
- - FIRE HYDRANT ON 33RD ST.
- ✕ - FIRE EXTINGUISHER (2)
- - EMERGENCY EXIT SIGNS (2)



33RD STREET

AVE. B

APPROX. 110 FT.
TO HYDRANT FROM
REAR WALL OF
STRUCTURE

Per county survey, lot is 100.1 ft. wide
And 229 ft. long along the north
fence line. This fence line can easily,
with easements and driveway,
accommodate 12 parking spaces
(9 feet wide X 12 spaces = 108 ft.).

The driveway has approximately 37 ft. of width.
This, plus the 18 ft. per slanted parking spot
equates to approximately 55 ft. of width for
the parking spaces and driveway.

The 12 spaces are appropriate parking for the
proposed day care facility based on square
footage of the building listed on county survey
and taxes of 4800 sq. ft. (1 parking spot per
400 sq. ft. of building space)





I-35 Overlay - CUP

OVERVIEW MAP

Conditional Use Permit:
FY-19-15-ZC

Address:
109 S General Bruce Dr.

Transportation

Streets

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- RAMP
- Railroad
- Temple Municipal Boundary

Parcel Features

- Parcels
- Easement

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

jdeckman
Date: 5/2/2019





I-35 Overlay - CUP

AERIAL MAP

Conditional Use Permit:
FY-19-15-ZC

Address:
109 S General Bruce Dr.

Transportation

Streets

LOCAL STREET

RAMP

Temple Municipal Boundary

Parcel Features

Parcels

Easement

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

jdeckman
Date: 5/14/2019





Facing north from S. General Bruce Dr.



Facing northwest across S. General Bruce Dr.



Facing south along S. General Bruce Dr.



Facing west across parking area



Proposed playground area to be fenced



Facing southwest from S. 33rd St.

Division 2, Outdoor Space Requirements

§746.4301. How many square feet of outdoor activity space must I have?

*Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003*

- Medium** (a) You must have 80 square feet of outdoor activity space for each child using the outdoor activity area at one time, unless you are licensed to provide only:
- (1) An alternate care program; or
 - (2) A get-well care program.
- Medium** (b) You must have enough square footage in the outdoor activity space to equal at least 25% of your licensed indoor capacity.
- Low** (c) If you were licensed before September 1, 2003, you do not have to comply with the outdoor activity space requirements specified in subsection (b) of this section unless the permit issued prior to September 1, 2003, is no longer valid.

Helpful Information

- *The National Association for the Education of Young Children affirms that adequate outdoor space for play is necessary for the development of gross motor (large muscle) skills and to provide children with fresh air and sunshine.*
- *Exposure to sun is needed, but children should be protected from excessive exposure so shaded areas should be provided by means of open space and tree plantings or other cover in outdoor spaces.*

§746.4305. Must I fence the outdoor activity space?

*Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003*

- Medium-High** Yes. A fence or wall at least four feet high must enclose the outdoor activity space unless you meet one of the following:
- (1) You are licensed to provide only an after-school care program in a classroom facility owned, operated, and administered by and located in a public school as defined by the Texas Education Agency;
 - (2) You are licensed to provide only an alternate care program;
 - (3) You are licensed to provide only a get-well care program; or
 - (4) The only children using the outdoor activity space are five years old or older.

Helpful Information

Enclosed outdoor areas keep pre-kindergarten age and younger children in a controlled area for their safety and ease of supervision.

§746.4307. How many exits must I have from my fenced outdoor activity space?

*Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003*

Medium Each fenced yard must have at least two exits. An entrance to the building may count as one exit, but one exit must be away from the building.

§746.4309. May I keep the gates leading into my outdoor activity space locked while children are in care?

*Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003*

Medium-High Yes, however the locking mechanism must be accessible to all employees at all times. Employees must be able to open the gates immediately in an emergency and satisfactorily demonstrate this ability to Licensing staff upon request.

§746.4311. Must the outdoor activity space be connected to the child-care center?

*Subchapter T, Physical Facilities
Division 2, Outdoor Space Requirements
September 2003*

Medium-High No; however, all outdoor activity areas used by children must be accessible by a safe route. We must approve a plan to use an outdoor activity space that is not connected to the child-care center, such as a near-by park, schoolyard, rooftop, or other alternative. We will consider the following criteria before approving the plan:

- (1) Traffic patterns of vehicles and people in the area;
- (2) Ages of children in the groups;
- (3) Availability of appropriate equipment;
- (4) Usage of the location by other persons when the children would be most likely to use it;
- (5) Neighborhood circumstances, hazards, and risks;
- (6) Accessibility to children and caregivers on foot or the availability of push-carts or other means of transporting infants and toddlers;
- (7) Reasonable accessibility of restroom facilities; and
- (8) Ability to obtain assistance if needed when injury or illness occurs.

Certificate of Training

Presented to:

Otis Kent

For completion of **5** Clock Hours of Training

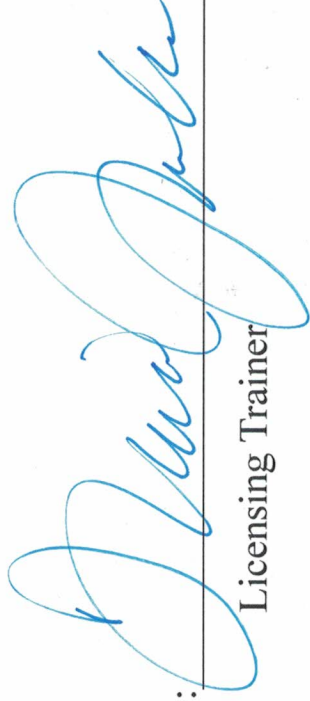
Licensed Center Orientation

August 03, 2016

Presented by

Texas Department of Family and Protective Services
Child Care Licensing

By: _____

A handwritten signature in blue ink, appearing to read "David J. [unclear]", is written over a horizontal line.

Licensing Trainer

ORDINANCE NO. 2019-4974
(FY-19-15-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT WITH A SITE PLAN TO ALLOW FOR A CHILD CARE FACILITY IN THE MOORE'S KNIGHT ADDITION, BLOCK 10, LOT 7, 8, Pt 6, ADDRESSED AS 109 SOUTH GENERAL BRUCE DRIVE, LOCATED WITHIN THE I-35 CORRIDOR OVERLAY RETAIL SUB-DISTRICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant, Otis Kent, is requesting a Conditional Use Permit (CUP) to allow a child care facility in an existing building within the I-35 Corridor Overlay Retail sub-district - the applicant is certified by the Texas Department of Family and Protective Services (DFPS) to operate a child care facility and will be subject to applicable state standards;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration to the planned development conditions, recommends approval of the requested Conditional Use Permit;

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

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

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Part 2: The City Council approves a Conditional Use Permit with a Site Plan to allow for a child care facility on approximately 0.546 acres out of the C.S. Masters Survey, Abstract No. 550, Bell County, Texas, in the Moore's Knight Addition, Block 10, Lot 7, 8, Pt 6, (S 17' OF 6), addressed as 109 South General Bruce Drive, and located within the I-35 Corridor Overlay Retail sub-district.

Part 3: The City Council approves the Site Development Plan which is made a part hereof for all purposes.

Part 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

Part 5: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such

invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **20th** day of **June**, 2019.

PASSED AND APPROVED on Second Reading on the **11th** day of **July**, 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

06/20/19

Item #7

Regular Agenda

Page 1 of 2

DEPT. / DIVISION SUBMISSION & REVIEW:

Mark Baker, Principal Planner

ITEM DESCRIPTION: FY-18-26-PLT: Consider adopting a resolution authorizing approval of the Enclave at Lake Belton Preliminary Plat, a 88.625 +/- acre, 34-lot residential subdivision, with a developer-requested exception to UDC Section 8.3 related to park fees, located in Bell County, Texas, south of State Highway 36, approximately 1,000 feet west of the Lake Belton Bridge in Temple's northwest Extraterritorial Jurisdiction.

STAFF RECOMMENDATION: Staff recommends approval of the preliminary plat of The Enclave at Lake Belton subdivision, and recommends approval of the requested exception to UDC Section 8.3 related to the payment of park fees.

PLANNING & ZONING COMMISSION RECOMMENDATION: At their June 3, 2019 meeting, the Planning & Zoning Commission voted 8 to 0 to recommend approval per staff's recommendation.

ITEM SUMMARY: The applicant, Clark & Fuller Engineering, on behalf of the owner, Rancho Lago Development, is requesting consideration of an exception to UDC Section 8.3 related to the payment of Park fees.

Since the subdivision is within Temple's extraterritorial jurisdiction (ETJ), park fees are required at the rate of \$225 (\$7,650 total) per residential lot. However, to qualify for an administrative waiver of park fees in the ETJ, UDC Section 8.3.1C provides for the following:

1. The area proposed for development is more than a mile from the existing City limits'
2. The proposed subdivision will create fewer than nine lots; and
3. The City has not set forth plans to annex the area proposed for development in the City's Municipal Annexation Plan.

Since there are 34 lots proposed, provision No. 2 cannot be met, an exception is required.

Parks staff has considered the three criteria relative to the plat location and City limits and Parks staff supports the exception. The developer has proposed to dedicate open space and trails in excess of the value of the park fees. This will primarily be located in the drainage and flowage easement areas of Block 1. The developer's attorney is looking at the best way for this to be accommodated. In addition, the developer is exploring the possibility of trail easements to provide connectivity to public U.S. Army Corps of Engineers (USACE) land surrounding the subdivision.

This preliminary plat proposes the development of the 88.625 acres as follows:

- Total of 34 lots, 1 Block (2 Phases)
- 1st Phase 15 Residential Lots
- 2nd Phase 19 Residential Lots
- Smallest Lot - 0.74 +/- acre (Lot 27)
- Largest Lot - 18.81 +/- acre (Lot 1)

Water will be provided by The Grove Water Supply Corporation (WSC). Waste water will be provided by on-site septic. All lots meet the minimum requirement of 22,500 square feet, as required by UDC Section 8.2.7F.

The proposed 34-lot subdivision will contain two phases with its sole access from State Highway 36 being from a 60-foot wide private roadway (Blanco Springs Road) leading into the subdivision. TxDOT has indicated that this will be the only allowed access and no additional access will be granted.

All roads within the subdivision will be private and are proposed to be gated at two separate points within the subdivision.

The preliminary plat proposes the creation of four new private local streets as follows:

1. Blanco Springs Road,
2. Hidden Cove Drive,
3. Waterview Drive, and
4. Waterview Circle

The Development Review Committee reviewed the preliminary plat of The Enclave at Lake Belton subdivision on July 26, 2018. The plat was deemed administratively complete on May 30, 2019. The reason for the delay was due to securing and preparation of several easements on the property.

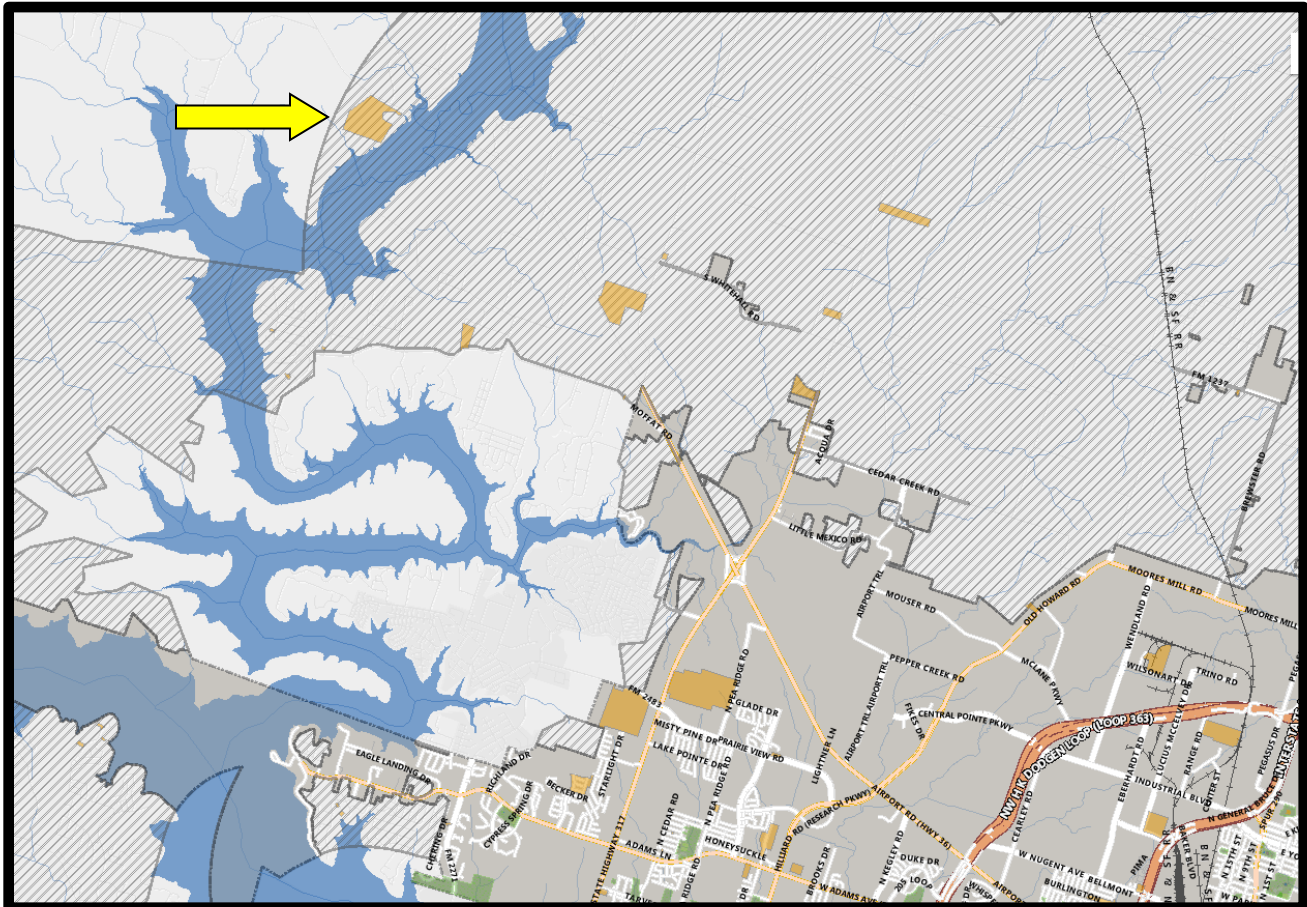
SCHOOL DISTRICT: Belton independent School District (BISD)

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Vicinity Map, Aerial & Street View Photo](#)
[Preliminary Plat](#)
[Topo / Utility Plan](#)
[P&Z Excerpts \(June 3, 2019\)](#)
[Resolution](#)

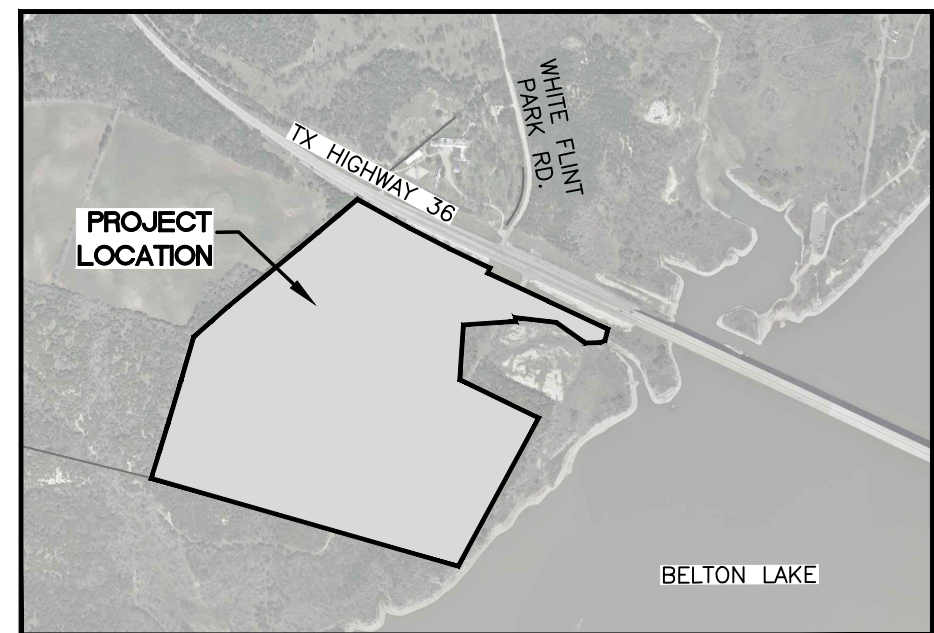
Vicinity Map & Aerial Photo



Vicinity Map – Yellow Arrow points to Subject Property (City of Temple GIS Maps)



Aerial Photo – (City of Temple GIS Maps)



DEVELOPER

RANCHO LAGO DEVELOPMENT, INC
3103 LEGEND OAKS BLVD, BELTON, TX 76513
(972) 672-9041

REGISTERED PROFESSIONAL LAND SURVEYOR

QUICK INC.
1430 N. ROBERTSON RD, SALADO, TEXAS 76571
(512) 915-4950

REGISTERED PROFESSIONAL ENGINEER:

CLARK & FULLER, PLLC
215 N. MAIN STREET, TEMPLE, TEXAS 76501
(254) 899-0899

OWNER:
RANCHO LAGO DEVELOPMENT, INC
3103 LEGEND OAKS BLVD, BELTON, TX 76513
(972) 672-9041

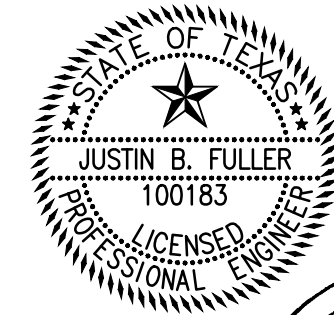
GENERAL NOTES:

1. THE SHOWN FEMA 100-YR FLOOD PLAIN BOUNDARY IS BASED ON INFORMATION AVAILABLE FROM THE FEMA FIRM RATE MAP NUMBERED 48027C0175E, DATED SEPTEMBER 26, 2008 AND IS APPROXIMATE.
2. STREET SECTION WILL CONFORM TO THE CITY OF TEMPLE TYPICAL RURAL STREET SECTION WITH 22" HMAC PAVEMENT AND 12" CONCRETE RIBBON CURB ON EACH SIDE.
3. HORIZONTAL DATUM IS TEXAS STATE PLANE CENTRAL ZONE NAD 83.

STATE OF TEXAS

COUNTY OF BELL

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT.



JUSTIN B. FULLER
REGISTRATION NUMBER 100183

RECOMMENDED FOR PRELIMINARY APPROVAL:

THIS 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 _____, 2019

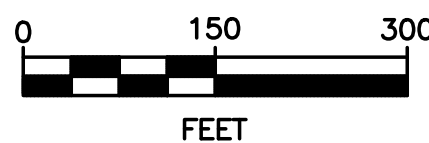
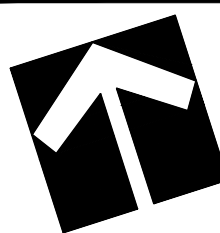
CHAIRPERSON:_____

THIS 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 _____, 2019

SECRETARY TO PLANNING AND ZONING COMMISSION:

THIS 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 _____, 2019

CITY SECRETARY:_____



LEGEND



PHASE II PROPOSED DEVELOPMENT

DEVELOPMENT STATISTICS

TOTAL NUMBER OF LOTS = 34

TOTAL ACREAGE: 88.625 ACRES

EASEMENTS

(UNLESS OTHERWISE NOTED)

15' UTILITY EASEMENT ALONG ALL PRIVATE ROAD
FRONTAGE

25' UTILITY EASEMENT ALONG ALL PUBLIC ROAD
FRONTAGE



THE ENCLAVE AT LAKE BELTON NEW SUBDIVISION

TEMPLE ETJ, TEXAS

PRELIMINARY PLAT

DRAWING STATUS

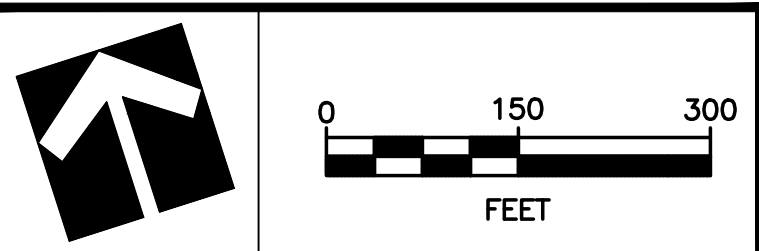
THESE DRAWINGS WERE PREPARED UNDER THE AUTHORITY OF JUSTIN B. FULLER P.E. 100183. CLARK & FULLER, PLLC FIRM NO: F-10384.

☒ **FOR REVIEW**
THIS DOCUMENT IS RELEASED FOR THE PURPOSES OF INTERIM REVIEW ONLY
AS PER DATE ON DRAWING. IT IS NOT TO BE USED FOR BIDDING OR
CONSTRUCTION PURPOSES. ONLY DRAWINGS ISSUED "FOR CONSTRUCTION"
CAN BE CONSIDERED COMPLETE.

☐ FOR CONSTRUCTION
FINAL DRAWINGS

Designed	JBF
Drafted	ECB
Project No	161684.01
Plot Date	5-28-19

1



- LEGEND**
- NEW STANDARD FIRE HYDRANT
 - PROPOSED 6" C900 PVC DR18 WATER MAIN
 - NEW STREET LIGHT

FLOOD PLAIN NOTES
THE SHOWN FEMA 100-YR FLOOD PLAIN BOUNDARY IS BASED ON INFORMATION AVAILABLE FROM THE FEMA FIRM RATE MAP NUMBERED 48027C0175E, DATED SEPTEMBER 26, 2008 AND IS APPROXIMATE.

TOPOGRAPHY NOTE
THE CONTOURS SHOWN ON THIS SHEET ARE BASED ON BELI COUNTY 1 FT LIDAR TOPOGRAPHIC DATA.



**THE ENCLAVE AT LAKE BELTON
NEW SUBDIVISION**
TEMPLE ETJ, TEXAS

TOPOGRAPHIC AND UTILITY MAP

DRAWING STATUS
THESE DRAWINGS WERE PREPARED UNDER THE AUTHORITY OF JUSTIN B. FULLER P.E. 100183, CLARK & FULLER, PLLC FIRM NO: F-10384.
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☐ FOR CONSTRUCTION
FINAL DRAWINGS

	Designed	JBF
	Drafted	ECB
	Project No	161684.01
	Plot Date	5-28-19

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, JUNE 3, 2019**

ACTION ITEM

Item 3: [FY-18-26-PLT](#) – Consider and recommend action on the Enclave at Lake Belton Preliminary Plat, a 88.625 +/- acre, 34-lot residential subdivision, with a developer requested exception to UDC Section 8.3 related to park fees situated in the George H. Dumas Survey, Abstract No. 268 and the William Steel Survey, Abstract No. 742, Bell County, Texas, located south of State Highway 36, approximately 1,000 feet west of the Lake Belton Bridge in Temple's northwest Extraterritorial Jurisdiction (ETJ).

Mr. Mark Baker, Principal Planner, stated this item was scheduled to go forward to City Council on June 20, 2019.

Aerial map shown.

Development Review Committee (DRC) reviewed this plat on July 26, 2018 and deemed it administratively complete on May 30, 2019. The delay was a result of securing and preparing several easements.

Water is available through Grove Water Supply Corporation and wastewater will be on-site septic systems.

The subject property is located within the Belton Independent School District (BISD).

The exception requested is for Unified Development Code (UDC) Section 8.3 – Payment of Park Fees:

- Required at the rate of \$225 per residential lot (\$7,650)
- Preliminary plat does not qualify for an administrative waiver in the ETJ, since there are more than 9 lots proposed

Staff supportive of the requested exception to waive park fees:

- Due to proximity to City limits (far reaches within the ETJ)
- No foreseen annexation into the City

Developer proposes to provide open space and trails

- Primarily located within the drainage & flowage easement areas of Block 1
- Developer is exploring the possibility of trail easements providing connectivity to public Corps land surrounding the subdivision

The preliminary plat proposes four new private local streets:

Blanco Springs Road

Hidden Cove Drive
Waterview Drive
Waterview Circle

Private entry gates are proposed.

Texas Department of Transportation (TxDOT) will allow proposed Blanco Springs Road as the primary access and no additional access will be permitted.

Topo and utility map shown.

Staff recommends approval of the Preliminary Plat of The Enclave at Lake Belton and the requested exception to UDC Section 8.3 – Payment of Park Fees.

This item does not require a public hearing.

Commissioner Fettig made a motion to approve Item 2, **FY-18-26-PLT**, per staff recommendation, and Commissioner Castillo made a second.

Motion passed: (8:0)

Commissioner Wright absent

RESOLUTION NO. 2019-9702-R
(FY-18-26-PLT)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE ENCLAVE AT LAKE BELTON PRELIMINARY PLAT, AN APPROXIMATELY 88.625-ACRE, 34-LOT RESIDENTIAL SUBDIVISION, WITH A DEVELOPER-REQUESTED EXCEPTION TO THE UNIFIED DEVELOPMENT CODE SECTION 8.3 RELATED TO PARK FEES, LOCATED IN BELL COUNTY, TEXAS, SOUTH OF STATE HIGHWAY 36, APPROXIMATELY 1,000 FEET WEST OF THE LAKE BELTON BRIDGE IN TEMPLE'S NORTHWEST EXTRATERRITORIAL JURISDICTION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant, Clark & Fuller Engineering, on behalf of the owner, Rancho Lago Development, is requesting consideration of an exception to Unified Development Code (UDC) Section 8.3 related to the payment of park fees - since the subdivision is within Temple's extraterritorial jurisdiction (ETJ), park fees are required at the rate of \$225 (\$7,650 total) per residential lot, however, to qualify for an administrative waiver of park fees in the ETJ, UDC Section 8.3.1C provides for the following:

1. The area proposed for development is more than a mile from the existing City limits';
2. The proposed subdivision will create fewer than nine lots; and
3. The City has not set forth plans to annex the area proposed for development in the City's Municipal Annexation Plan;

Whereas, since there are 34 lots proposed, provision No. 2 cannot be met, and an exception is required;

Whereas, the developer has proposed to dedicate open space and trails, in excess of the value of the park fees, which will primarily be located in the drainage and flowage easement areas of Block 1;

Whereas, Staff recommends Council approve the Enclave at Lake Belton Preliminary Plat, an approximately 88.625-acre, 34-lot residential subdivision, with a developer-requested exception to Unified Development Code Section 8.3 related to park fees, located in Bell County, Texas, south of State Highway 36, approximately 1,000 feet west of the Lake Belton Bridge in Temple's northwest Extraterritorial Jurisdiction; and

Whereas, the City Council has considered the matter and deems it in the public interest to approve the Enclave at Lake Belton Preliminary Plat, with the above requested exception.

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 Enclave at Lake Belton Preliminary Plat, an approximately 88.625-acre, 34-lot residential subdivision, with a developer-requested exception to Unified Development Code Section 8.3 related to park fees, located in Bell County, Texas, south of State Highway 36, approximately 1,000 feet west of the Lake Belton Bridge in Temple's northwest Extraterritorial Jurisdiction.

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 **20th** day of **June**, 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

06/20/19
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brynn Myers, City Manager
Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Developer Participation Agreement with 3 Nex-Gen Devel, LLC to construct public water and sewer line improvements in the County View subdivision.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: 3 Nex-Gen Devel, LLC ("3 Nex-Gen") is the developer of the County View subdivision located in northeast Temple. Turley Associates, Inc., on behalf of 3 Nex-Gen, submitted a request for the City to enter into a Developer Participation Agreement with 3 Nex-Gen for the construction of public water and sewer line improvements to serve the subdivision and surrounding area.

The County View subdivision is located on the east side of Temple, south of Buc-ee's between Loop 363 and Lower Troy Road. The subdivision includes 207 residential lots and eight commercial lots with public streets, water lines, and sewer lines. The total estimated cost for the public improvements is \$3,987,465.

3 Nex-Gen has requested that the City participate in the cost of constructing the water and sewer line improvements in the amount of \$680,768.42 which represents approximately 17.1% of the total estimated cost of all public improvements in the subdivision. The City's participation is authorized under Texas Local Government Code, Chapter 212, Subchapter C titled "Developer Participation in Contract for Public Improvements." In accordance with Chapter 212, the City's participation may not exceed 30% of the total cost of public improvements in the development.

Staff recommends approval of the request as the development will bring needed public infrastructure to an area of the City that is not currently served.

FISCAL IMPACT: A budget adjustment is presented to Council for approval to appropriate funding for the Developer Participation Agreement with 3 Nex-Gen Devel, LLC to construct public water and sewer line extensions in the County View subdivision. Upon approval, funding will be available for the total amount of \$680,768.42 in account 520-5900-535-6362, project #102109 as follows:

Project Budget	\$	180,769
Budget Adjustment Presented for Approval		500,000
3 Nex-Gen Devel, LLC		(680,769)
Remaining Funds Available	\$	-

ATTACHMENTS:

[Budget Adjustment
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.

+

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
520-5900-535-63-62	102109	Cap Bldg & Grnds / Water & Sewer Ext	\$ 500,000	
520-5000-535-63-69	101921	Cap Bldg & Grnds / Approach Mains		500,000
TOTAL.....			\$ 500,000	\$ 500,000

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

To appropriate funding for a cost sharing agreement with 3 Nex-Gen Devel, LLC for the construction of a water and sewer line extension in the County View subdivision. The City's total participation is \$680,769 with \$500,000 of that amount being funded from the annual allocation of funding for approach mains. The additional amount needed of \$180,769 is available from project savings.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes

☐ No

DATE OF COUNCIL MEETING

06/20/19

WITH AGENDA ITEM?

☒ Yes

☐ No

Department Head/Division Director

Date _____

	Approved
	Disapproved

Finance

Date _____

☐ Approved
☐ Disapproved

City Manager

Date _____

☐ Approved
☐ Disapproved

RESOLUTION NO. 2019-9703-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A DEVELOPER PARTICIPATION AGREEMENT WITH 3 NEX-GEN DEVEL, LLC IN THE AMOUNT OF \$680,768.42 TO CONSTRUCT PUBLIC WATER AND SEWER LINE IMPROVEMENTS IN THE COUNTY VIEW SUBDIVISION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, 3 Nex-Gen Devel, LLC (“3 Nex-Gen”) is the developer of the County View subdivision located in northeast Temple - Turley Associates, Inc., on behalf of 3 Nex-Gen, submitted a request for the City to enter into a Developer Participation Agreement with 3 Nex-Gen for the construction of public water and sewer line improvements to serve the subdivision and surrounding area;

Whereas, the County View subdivision is located on the east side of Temple, south of Buc-ee’s between Loop 363 and Lower Troy Road and includes 207 residential lots and 8 commercial lots with public streets, water lines, and sewer lines - the total estimated cost for the public improvements is \$3,987,465;

Whereas, 3 Nex-Gen has requested that the City participate in the cost of constructing the water and sewer line improvements in the amount of \$680,768.42 which represents approximately 17.1% of the total estimated cost of all public improvements in the subdivision;

Whereas, Texas Local Government Code §212.071 and §212.072 authorize the City to enter into an agreement with a developer for the construction of public improvements and caps the City’s level of participation at 30% of the total contract price;

Whereas, Staff recommends Council authorize a Developer Participation Agreement with 2 Nex-Gen Devel, LLC to construct public water and sewer line improvements in the County View subdivision;

Whereas, funds are available for this project, but an amendment to the fiscal year 2019 budget needs to be approved to transfer the funds to Account No. 520-5900-535-6362, Project No. 102109; 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 Developer Participation Agreement with 3 Nex-Gen Devel, LLC to construct public water and sewer line improvements in the County View subdivision.

Part 3: The City Council authorizes an amendment to the fiscal year 2018 budget, substantially in the form of the copy attached hereto as Exhibit 'A.'

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 **20th** day of **June**, 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

06/20/19
Item #9
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brynn Myers, City Manager
Kayla Landeros, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of property located at 1701 North General Bruce Drive, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2019 Combination Tax & Revenue Certificates of Obligation Bonds.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The property located at 1701 North General Bruce Drive is currently owned by MW Builders of Texas, Inc ("MW Builders"). The property previously served as MW Builders' Temple office and housed several of its employees. Earlier this year, MW Builders vacated the property to consolidate their offices in the Pflugerville area. MW Builders then listed the property for sale at \$1,950,000.

The property is 9.1 acres in size and consists of a main office building with 14,520 square feet of space. The property also includes a multi-use building with 3,960 square feet, an auto shop with 2,856 square feet and a barn with 4,921 square feet. The main office building will come furnished with several desks, tables, built-in shelving, and other items, all of which are in good condition and can be used by Staff.

At this time, the planned use of the building is to house several Parks & Recreation Department employees. The property, with the main office building and other usable structures, will accommodate several Parks & Recreation employees and will help to consolidate the Department's operations at a central location.

Staff has executed a Commercial Contract for the purchase of this property at the price of \$1,950,000. The feasibility period under the contract ends on July 1, 2019. The original closing date was scheduled for July 31, 2019, however with the decision to use the property for Parks & Recreation employees, funding must be secured through the issuance of Certificates of Obligation. The Finance Department will be bringing forth action items related to the funding in August. The actual purchase of the property will be contingent upon approval of the proposed Certificates of Obligation. To accommodate this process, Staff requested that the closing date be extended to September 13. The seller has agreed to this request if an additional \$15,000 in escrow funds be paid which will be non-refundable. The City has previously paid \$20,000 in escrow funds to the seller.

Staff recommends approval of this purchase. The property, in particular the main office building, is in very good condition which allows the City to begin using the property almost immediately. Additionally, the purchase will allow for the consolidation of several employees into a central location making Parks & Recreation operations more efficient.

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

Once the budget adjustment is approved, funding will be available in account 365-4100-551-6424, project 102111, for the purchase of property located at 1701 North General Bruce Drive in the amount of \$2,000,000. The additional \$50,000 above of the contract price will cover signage, security and other related move-in type expenses.

ATTACHMENTS:
[Resolution](#)

RESOLUTION NO. 2019-9704-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF PROPERTY LOCATED AT 1701 NORTH GENERAL BRUCE DRIVE; DECLARING OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES WITH THE ISSUANCE OF 2019 COMBINATION TAX REVENUE CERTIFICATES OF OBLIGATION BONDS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the property located at 1701 North General Bruce Drive is currently owned by MW Builders of Texas, Inc (“MW Builders”), previously served as MW Builders’ Temple office, and housed several of its employees;

Whereas, earlier this year, MW Builders vacated the property to consolidate their offices in the Pflugerville area and listed the property for sale at \$1,950,000;

Whereas, the property is approximately 9.1 acres in size and consists of a main office building with 14,520 square feet of space, a multi-use building with 3,960 square feet, an auto shop with 2,856 square feet and a barn with 4,921 square feet - the main office building will come furnished with several desks, tables, built-in shelving, and other items, all of which are in good condition and can be used by City Staff;

Whereas, the planned use of the building is to house several Parks & Recreation Department employees - the property has one main office building and other usable structures, and will accommodate several Parks & Recreation employees which will help to consolidate the Department’s operations to one central location;

Whereas, Staff has executed a Commercial Contract for the purchase of this property at the price of \$1,950,000 - the feasibility period under the contract ends on July 1, 2019;

Whereas, the original closing date was scheduled for July 31, 2019, however with the decision to use the property for Parks & Recreation employees, funding must be secured through the issuance of Certificates of Obligation - the Finance Department will be bringing forth action items related to the funding in August;

Whereas, the actual purchase of the property will be contingent upon approval of the proposed Certificates of Obligation and to accommodate this process, Staff requested that the closing date be extended to September 13 - the seller has agreed to this request if an additional \$15,000 in escrow funds be paid which will be non-refundable;

Whereas, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

Whereas, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations and the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution - upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

Whereas, Section 1.150.2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid; and

Whereas, this project is being funded with the issuance of 2019 Combination Tax & Revenue Certificates of Obligation Bonds, as well as declaring an official intent to reimburse for this purchase;

Whereas, a budget adjustment will be prepared at the time of the bond sale to reimburse expenditures incurred prior to the issuance of the bonds - once the budget adjustment is approved, funding will be available in Account No. 365-4100-551-6424, Project No. 102111 - the additional \$50,000 above of the contract price will cover signage, security and other related move-in type expenses; 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: This Resolution is a declaration of official intent by the City under Section 1.150.2 of the Treasury Regulations that it reasonably expects to reimburse the expenditures described in Part 1 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

Part 3: The City Council authorizes the the purchase of property located at 1701 North General Bruce Drive in the amount of \$1,950,000 and an additional \$50,000 to cover the escrow funds, signage, security, and other related move-in type expenses 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 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 **20th** day of **June**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney