



**JOINT MEETING OF THE
TEMPLE CITY COUNCIL
&
CITY OF TEMPLE BENEFITS TRUST
MUNICIPAL BUILDING
2 NORTH MAIN STREET
3rd FLOOR – CONFERENCE ROOM**

THURSDAY, JULY 11, 2019

2:00 P.M.

AGENDA

CITY OF TEMPLE EMPLOYEE BENEFITS TRUST

1. [2019-9704-R](#): Consider adopting a resolution authorizing the purchase of employee insurance policies from the following vendors for FY2020:
 - (A) Medical & Pharmacy Insurance Plans from Scott and White Health Plan of Temple;
 - (B) Dental Insurance Plans from United Concordia Companies, Inc. of Harrisburg, Pennsylvania;
 - (C) Vision Fully Insured Policy from Standard Insurance Company of Portland, Oregon;
 - (D) Flexible Spending Account (FSA), Dependent Spending Account, Cafeteria 125 Plan, and Health Savings Account (HSA) administrative services from Discovery Benefits, LLC of Fargo, North Dakota;
 - (E) Consolidated Omnibus Budget Reconciliation Act (COBRA) administrative services from Discovery Benefits, LLC of Fargo, North Dakota;
 - (F) Basic Life, Voluntary Life and Accidental Death and Dismemberment (AD&D) policies from Standard Insurance Company of Portland, Oregon;
 - (G) Short-Term and Long-Term Disability insurance from Standard Insurance Company of Portland, Oregon; and
 - (H) Accident, Critical Illness, Hospital Indemnity and Cancer insurance plans from The Guardian Life Insurance Company of America of New York, New York.

ADJOURN THE CITY OF TEMPLE EMPLOYEE BENEFITS TRUST MEETING AND CONVENE THE WORKSHOP OF THE TEMPLE CITY COUNCIL

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, July 11, 2019.
2. Receive a presentation regarding the fiscal year 2020 Proposed Business Plan including a proposed strategic plan, financial plan, annual budget, capital improvement program, and annual work plan.
3. Discuss the employment, duties, and work plans of the City Manager, City Attorney, 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, City Attorney, and the Finance Director. No final action will be taken.

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. 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.

3. 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](#)
- (C) [June 20, 2019 Special & Regular Called Meeting](#)

Contracts, Leases, & Bids

- (D) [2019-9705-R](#): Consider adopting a resolution authorizing a contract for the asbestos abatement and demolition of the old airport terminal building with Garrett Demolition, Inc. of Burleson in the amount of \$79,715.
- (E) [2019-9706-R](#): Consider adopting a resolution authorizing a contract with Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$77,900.

- (F) [2019-9707-R](#): Consider adopting a resolution authorizing an increase of \$26,023 to the estimated spending under the annual contract for construction material testing with Langerman Foster Engineering Company, LLC of Waco, for the construction of a new Pepper Creek elevated storage tank, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2019 Utility Revenue Bonds.
- (G) [2019-9708-R](#): Consider adopting a resolution authorizing contract amendment #1 to the professional services agreement with Kimley-Horn and Associates, Inc., of Austin, for professional services required to design South Pea Ridge Road from Hogan Road to Poison Oak Road in an amount of \$82,840.
- (H) [2019-9709-R](#): Consider adopting a resolution authorizing acceptance of grant funding in the estimated amount of \$1,917,000 from the Texas Department of Transportation, Aviation Division, Airport Project Participation Grant Fund, for the design and construction of the Airfield Lighting Improvements project at the Draughon-Miller Central Texas Regional Airport, with an estimated City match of 10% or \$213,000 for a total project cost of \$2,130,000.
- (I) [2019-9710-R](#): Consider adopting a resolution authorizing the Temple Police to submit an application and accept funding through the Bureau of Justice Assistance Bulletproof Vest Partnership Program of 2019 for the purchase of ballistic vests and replacements for the Police Department in the amount of \$26,406.73, with \$13,203.36 of required City matching funds.
- (J) [2019-9711-R](#): Consider adopting a resolution authorizing a grant application and acceptance of services from the University of North Texas Rescuing Texas History Mini-Grants 2019 Program in the amount of \$1,000.
- (K) [2019-9712-R](#): Consider adopting a resolution ratifying change order #4 to a contract with Choice Builders, LLC, of Temple, for construction of the Conner Park drainage channel improvements, in the amount of \$32,036.
- (L) [2019-9713-R](#): Consider adopting a resolution authorizing the purchase of solid waste fleet automation hardware, implementation and software subscription services with Routeware Inc., of Portland, Oregon, in the amount of \$222,251, as well as, declare an official intent to reimburse a portion the expenditures with the issuance of 2019 Limited Tax Notes.
- (M) [2019-9714-R](#): Consider adopting a resolution authorizing the purchase of a sealing melter from Crafc0, Inc., in Chandler, Arizona, in the amount of \$50,267.12, as well as, declare an official intent to reimburse the expenditure with the issuance of 2019 Limited Tax Notes.
- (N) [2019-9715-R](#): Consider adopting a resolution authorizing the purchase of a 16-foot cutting width mower from Professional Turf Products, L.P. of Euless in the amount of \$99,697.85.
- (O) [2019-9716-R](#): Consider adopting a resolution authorizing the purchase of a property necessary for the Poison Oak Road Expansion Project and authorizing closing costs and relocation benefits associated with the purchase in an estimated amount of \$163,000.
- (P) [2019-9717-R](#): Consider adopting a resolution accepting the donation of 1.280 acres of land located to the west of the Leon River and to the east of Interstate 35 from Kasberg, Patrick & Associates, LP to the City of Temple.

Ordinances – Second & Final Reading

- (Q) [2019-4973](#): SECOND READING – FINAL 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.
- (R) [2019-4974](#): SECOND READING – FINAL HEARING – FY-19-15-ZC: Consider adopting an ordinance authorizing 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.

Misc.

- (S) [2019-9718-R](#): Consider adopting a resolution setting the date, time and place of public hearings on the proposed FY 2019-2020 Budget for August 1, 2019 at 5:00 p.m. and August 23, 2019 at 8:30 a.m. in the City Council Chambers.
- (T) [2019-9719-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.

IV. REGULAR AGENDA

ORDINANCES

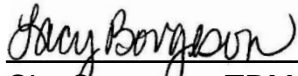
- 4. [2019-4975](#): FIRST READING – PUBLIC HEARING – FY-19-16-ZC: Consider an ordinance adopting a rezoning from Agricultural to Single Family Attached Three zoning district on 2.089 +/- acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8355 Tarver Drive.
- 5. [2019-4976](#): FIRST READING – PUBLIC HEARING – FY-19-3-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 89.373 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95, and 3.950 acres of right-of-way of Old Highway 95 in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.
- 6. [2019-4977](#): FIRST READING – PUBLIC HEARING – FY-19-4-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 47.655 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95 and the south side of Barnhardt Road, and 2.371 acres of right-of-way of Barnhardt Road in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.
- 7. [2019-4978](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending City Code of Ordinances, Chapter 6, "Animals and Fowl," to bring this chapter into compliance with state regulations, simplify and clarify language and terms, and provide more effective enforcement tools.

RESOLUTIONS

8. **2019-9720-R:** Consider adopting a resolution authorizing proceeding with the issuance of City of Temple, Texas Combination Tax and Revenue Certificates of Obligation, Series 2019 and further directing the Publication of Notice of intention to issue Certificates of Obligation in an amount not to exceed \$19,500,000 and other matters related to the issuance.

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 10:45 am, on Wednesday, July 3, 2019.



City Secretary, TRMC

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

I certify that this Notice of Meeting Agenda was removed by me from the outside bulletin board in front of the City Municipal Building on _____ day of _____ 2019.

Title _____



EMPLOYEE BENEFITS TRUST AGENDA ITEM MEMORANDUM

07/11/19
Item #1 EBT
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Tara Raymore, Director of Human Resources

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of employee insurance policies from the following vendors for FY2020:

- (D) Medical & Pharmacy Insurance Plans from Scott and White Health Plan of Temple;
- (E) Dental Insurance Plans from United Concordia Companies, Inc. of Harrisburg, Pennsylvania;
- (F) Vision Fully Insured Policy from Standard Insurance Company of Portland, Oregon;
- (D) Flexible Spending Account (FSA), Dependent Spending Account, Cafeteria 125 Plan, and Health Savings Account (HSA) administrative services from Discovery Benefits, LLC of Fargo, North Dakota;
- (E) Consolidated Omnibus Budget Reconciliation Act (COBRA) administrative services from Discovery Benefits, LLC of Fargo, North Dakota;
- (F) Basic Life, Voluntary Life and Accidental Death and Dismemberment (AD&D) policies from Standard Insurance Company of Portland, Oregon;
- (G) Short-Term and Long-Term Disability insurance from Standard Insurance Company of Portland, Oregon; and
- (H) Accident, Critical Illness, Hospital Indemnity and Cancer insurance plans from The Guardian Life Insurance Company of America of New York, New York.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On April 30, 2019, the City received proposals for Medical, Pharmacy, Dental, Vision, COBRA, FSA, Dependent Spending Account, HSA, Basic Life, Voluntary Life, Accidental Death & Dismemberment, Short-Term and Long-Term Disability. Staff and the Benefits Consultant have reviewed the proposals and make the following recommendations:

- A. Medical and Pharmacy:** On April 30, 2019, the City received proposals for fully insured and self-funded ASO (Administrative Services Only) medical and prescription insurance for City employees to include high deductible health plan and preferred provider organization (PPO) plan options. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Baylor Scott & White Health Plan for four fully insured plan options, that would be in effect from October 1, 2019 through September 30, 2020.

- B. Dental:** On April 30, 2019, the City received proposals for fully insured and self-funded ASO (Administrative Services Only) dental insurance for City employees. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with United Concordia Company for two fully insured plan options that would be in effect from October 1, 2019 through September 30, 2020.
- C. Vision:** On April 30, 2019, the City received proposals for fully insured and self-funded ASO (Administrative Services Only) vision insurance for City employees. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Standard Insurance Company for fully-insured vision insurance that would be in effect from October 1, 2019 through September 30, 2020.
- D. FSA, Dependent Spending Account, Cafeteria Plan, and HSA:** On April 30, 2019, the City received proposals for administration services for Flexible Spending Account (FSA), Dependent Spending Account, Cafeteria 125 Plan and Health Savings Account (HSA). City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Discovery Benefits, LLC for the administrative services that would be in effect from October 1, 2019 through September 30, 2020.
- E. COBRA:** On April 30, 2019, the City received proposals for Consolidated Omnibus Budget Reconciliation Act (COBRA) services. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Discovery Benefits, LLC. that would be in effect from October 1, 2019 through September 30, 2020.
- F. Basic Life, Voluntary Life, & AD&D:** On April 30, 2019, the City received proposals for Basic Life, Voluntary Life, and Accidental Death & Dismemberment (AD&D) policies. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Standard Insurance Company that would be in effect from October 1, 2019 through September 30, 2020.
- G. Short-Term and Long-Term Disability:** On April 30, 2019, the City received proposals for Short-Term and Long-Term Disability insurances. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Standard Insurance Company that would be in effect from October 1, 2019 through September 30, 2020.
- H. Accident, Critical Illness, Hospital Indemnity and Cancer Insurance:** In 2018, the City received proposals for worksite benefits, and Council awarded the purchase of these insurances from The Guardian Life Insurance Company of America for accident, critical illness, hospital indemnity, and cancer insurance plans. City staff recommends a one-year renewal of this contract from October 1, 2019 through September 30, 2020.

Items A-G above provide for the option to extend these agreements for four additional one-year periods beyond FY 2020. Staff will evaluate each awarded employee insurance policy annually, and if deemed to be in the best interest of the City and agreeable to the vendor, Staff will present recommendations for renewals to the Employee Benefits Trust.

ACTION REQUIRED: The Mayor shall recess the Council meeting and convene a meeting of the trustees of the City of Temple Employee Benefits Trust. The Trustees (all Councilmembers) will conduct the business of the Trust as shown on the Trust Agenda, including awarding contracts to the various vendors. Once business has been concluded, the Mayor will adjourn the Trust meeting and reconvene the Council meeting. No action is required of the Council on this item. All action is performed by the Trustees.

FISCAL IMPACT: Funding of the contracts awarded by the Trust will be accomplished at a Council meeting in August when the budget is adopted.

(NOTE: The trust was established in order to eliminate the premium tax that is passed on from the insurance companies.)

Proposed FY 20 Budget Amounts	Insurance Type
<i>Employees:</i>	
\$ 4,485,544	Medical/Prescription
371,540	Health Savings Account
93,163	Dental
45,175	Basic Life
10,054	AD&D
107,640	Long Term Disability
<i>Retirees:</i>	
\$ 166,471	Medical/Prescription - Retirees < age 65
3,831	Dental - Retirees < age 65
\$ 5,283,418	TOTAL

ATTACHMENTS:
[Resolution](#)

RESOLUTION NO. 2019-9704-R

A RESOLUTION OF THE CITY OF TEMPLE, TEXAS, EMPLOYEE BENEFITS TRUST, AUTHORIZING THE PURCHASE OF EMPLOYEE INSURANCE POLICIES FOR DENTAL INSURANCE THROUGH UNITED CONCORDIA COMPANIES; AUTHORIZING THE PURCHASE OF EMPLOYEE INSURANCE POLICIES FOR VISION, BASIC LIFE, ACCIDENTAL DEATH AND DISMEMBERMENT, VOLUTARY LIFE, VOLUNTARY ACCIDENTAL DEATH AND DISMEMBERMENT, SHORT-TERM DISABILITY AND LONG-TERM DISABILITY INSURANCE THROUGH STANDARD INSURANCE COMPANY; AUTHORIZING THE PURCHASE OF AN EMPLOYEE INSURANCE POLICY FOR MEDICAL AND PHARMACY INSURANCE THROUGH SCOTT AND WHITE HEALTH PLAN; AUTHORIZING THE PURCHASE OF EMPLOYEE INSURANCE POLICIES FOR ACCIDENT, CRITICAL ILLNESS, HOSPITAL INDEMNITY AND CANCER INSURANCE FROM THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA; AUTHORIZING THE PURCHASE OF EMPLOYEE FLEXIBLE SPENDING ACCOUNT, DEPENDENT SPENDING ACCOUNT, CAFETERIA 125 PLAN, HEALTH SAVINGS ACCOUNT ADMINISTRATIVE SERVICES AND CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT ADMINISTRATIVE SERVICES FROM DISCOVERY BENEFITS, LLC FOR FISCAL YEAR 2020; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on April 30, 2019, the City received proposals for Medical, Pharmacy, Dental, Vision, Consolidated Omnibus Budget Reconciliation Act administrative services (COBRA), Flexible Spending Account (FSA), Dependent Spending Account, Health Savings Account (HSA), Basic Life, Voluntary Life, Accidental Death & Dismemberment, and Short-Term and Long-Term Disability - Staff and the benefits consultant have reviewed the proposals and make the following recommendations:

- A. Medical and Pharmacy: On April 30, 2019, the City received proposals for fully insured and self-funded ASO (Administrative Services Only) medical and prescription insurance for City employees to include high deductible health plan and preferred provider organization (PPO) plan options. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Baylor Scott & White Health Plan for four fully insured plan options, that would be in effect from October 1, 2019 through September 30, 2020;
- B. Dental: On April 30, 2019, the City received proposals for fully insured and self-funded ASO (Administrative Services Only) dental insurance for City employees. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with United Concordia Company for two fully insured plan options that would be in effect from October 1, 2019 through September 30, 2020;

- C. Vision: On April 30, 2019, the City received proposals for fully insured and self-funded ASO (Administrative Services Only) vision insurance for City employees. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Standard Insurance Company for fully-insured vision insurance that would be in effect from October 1, 2019 through September 30, 2020;
- D. FSA, Dependent Spending Account, Cafeteria Plan, and HSA: On April 30, 2019, the City received proposals for administration services for Flexible Spending Account (FSA), Dependent Spending Account, Cafeteria 125 Plan and Health Savings Account (HSA). City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Discovery Benefits, LLC for the administrative services that would be in effect from October 1, 2019 through September 30, 2020;
- E. COBRA: On April 30, 2019, the City received proposals for Consolidated Omnibus Budget Reconciliation Act (COBRA) services. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Discovery Benefits, LLC. that would be in effect from October 1, 2019 through September 30, 2020;
- F. Basic Life, Voluntary Life, & AD&D: On April 30, 2019, the City received proposals for Basic Life, Voluntary Life, and Accidental Death & Dismemberment (AD&D) policies. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Standard Insurance Company that would be in effect from October 1, 2019 through September 30, 2020;
- G. Short-Term and Long-Term Disability: On April 30, 2019, the City received proposals for Short-Term and Long-Term Disability insurances. City staff and the benefits consultant reviewed the proposals and recommend that the Trustees authorize a one-year contract with Standard Insurance Company that would be in effect from October 1, 2019 through September 30, 2020; and
- H. Accident, Critical Illness, Hospital Indemnity and Cancer Insurance: In 2018, the City received proposals for worksite benefits, and Council awarded the purchase of these insurances from The Guardian Life Insurance Company of America for accident, critical illness, hospital indemnity, and cancer insurance plans. City staff recommends a one-year renewal of this contract from October 1, 2019 through September 30, 2020;

Whereas, items A-G above provide for the option to extend these agreements for four additional one-year periods beyond fiscal year 2020 - Staff will evaluate each awarded employee insurance policy annually, and if deemed to be in the best interest of the City and agreeable to the vendor, Staff will present recommendations for renewals to the Employee Benefits Trust;

Whereas, funding of the contracts awarded by the Trust will be accomplished at a Council meeting in August when the budget is adopted; 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 of Temple Employee Benefits Trust authorizes the purchase of employee insurance policies for dental through United Concordia Companies through fiscal year 2020.

Part 3: The City of Temple Employee Benefits Trust authorizes the purchase of employee insurance policies for vision, basic life, voluntary life, accidental death and dismemberment, short-term disability and long-term disability insurance from Standard Insurance Company through fiscal year 2020.

Part 4: The City of Temple Employee Benefits Trust authorizes the purchase of an employee insurance policy for medical and pharmacy insurance from Scott and White Health Plan through fiscal year 2020.

Part 5: The City of Temple Employee Benefits Trust authorizes the purchase of employee insurance policies for accident, critical illness, hospital indemnity and cancer insurance from The Guardian Life Insurance Company of America through fiscal year 2020.

Part 6: The City of Temple Employee Benefits Trust authorizes the purchase of employee flexible spending account, dependent spending account, cafeteria 125 plan, health savings account administrative services and consolidated omnibus budget reconciliation act administrative services from Discovery Benefits, LLC through fiscal year 2020.

Part 7: 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 **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

07/11/19
Item #3(A-C)
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
- (C) June 20, 2019 Special & Regular Called 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](#)
[June 20, 2019 Special & Regular Called Meeting Minutes / Video](#)

TEMPLE CITY COUNCIL

JUNE 6, 2019

The City Council of the City of Temple, Texas conducted a workshop on Thursday, June 6, 2019 at 3:30 PM, at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

PRESENT:

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

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, June 6, 2019.

Ms. Landeros briefly discussed item 7(I). She explained that the originally tax abatement agreement with East Penn was approved by the Council in December 2018; but that agreement has not been executed. The agreement on the agenda for consideration is a new tax abatement agreement. East Penn is constructing improvements in Tax Abatement Reinvestment Zone#38, with a planned investment of \$100-million and the creation of 266 jobs. The original planned completion date is for the improvements was by the end of 2021; and all jobs filled by December 31, 2022. East Penn has requested a start date of construction in summer of 2020, and installation of production equipment and hiring of employees at a slower pace than originally planned. Their reasons are due to they have another plant in the northern part of the US that has been impacted by some sever weather events. The new plan is for construction in 2020, with the building completed in May 2022, and all equipment stalled in December 2023, and jobs filled by 2024. Ms. Landeros noted that once construction begins in 2020, both real and personal property improvements will begin as well. By 2024, they anticipate being short 35 jobs. Essentially this is a two-year project timeline change, with the scope and size of project remaining the same. The current Temple employees will relocate to the new location once completed.

Tax abatement agreements have a life of five years; the life of the original agreement began on December 6, 2018 and will end December 5, 2023. This means East Penn will need to have their improvements completed by December 5, 2023 and as many employees hired. The new agreement as proposed will require completion of improvements by December 1, 2023 and lowers the required number of jobs to be filled in 2023 to 231 instead of the 266. East Penn still plans to create 266 jobs. The tax abatement

agreement begins January 1st of the year after substantial completion of the improvements; which may be once they receive the issuance of the Certificate of Occupancy. The impact this new agreement has, is that there will be a period of time that the City of Temple is collecting 100% of the taxes for whatever improvements (real or personal) that are installed. The tax abatement agreement, which is a 50% tax abatement) will begin at a later date.

Councilmember Long asked what the City has contributed or spent?

Ms. Landeros explained that as part of both the Niagara and East Penn projects, the City constructed a portion of the roadway that runs to the east. The utility improvements are focused more on Niagara.

Ms. Myers added, the City of Temple does not have an Economic Development Agreement beyond the Tax Abatement Agreement with East Penn. The road improvements are driven more by the Niagara project which is currently under construction. The investment made has supported both Niagara and East Penn.

Ms. Barnard noted there has been mention of the possible need for rail improvements for future years.

Councilmember Williams asked if the 266 jobs were all new or if that included the current Temple employees.

Ms. Myers replied, it was for 266 new employees.

Ms. Myers then discussed item 7(F) on the consent agenda stating that this will allow a pavement condition survey for all city streets. She explained that over the last several years the City has been investing heavily in the Transportation Capital Improvement and Infrastructure. This will allow the staff to assess the exiting program and determine the progress of the 2012 TCIP assessment and where to make new investments within the program.

Item 8 - Zoning case FY-19-9-ZC was originally requested as Planned-Development General Retail, and later modified by the applicant. At the Council's meeting on May 16, 2019 they approved the zoning as Planned Development-Single Family Two on the majority, and Planned Development Single Family - General Retail on 1.66 acres.

2. Discuss repealing Chapters 11 – “Fair Housing”; 20 – “Massage Establishments”; and 30 – “Railroads” in the City’s Code of Ordinances.

Ms. Landeros provided an overview to the Council. She began by explaining this is part of the on-going review of the Code. Staff is recommending that Council repeal Chapters 11, 20, and 30.

Chapter 11 is the local adopt of Fair Housing laws. There are fair housing statues at both the State and Federal levels. Those statues protect people from discrimination when they rent or buy a home, obtain a mortgage, seek housing assistance or engage in other housing related activities. Both these statutes and our local Chapter also prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, familial status, and/or disability.

Currently Chapter 11 requires the appointment of a Fair Housing Administrator and requires the City to investigate complaints where a citizen of Temple feels they have been discriminated against in some type of housing situation. This Chapter is not used very often. In addition, we are not required to have local fair housing regulations. Citizens can make complaints to the Texas Workforce Commission or to HUD's Office of Fair Housing and Equal Opportunity.

During the review of Chapter 11, we have found that City's that do have fair housing regulations typically add protected statues such as Veteran status, age, sexual orientation, gender identity, creed, student status, marital status, transgender, and gender expression.

At this time Staff is not recommending that the addition of any protected statuses. For this reason, Staff is recommending to repeal Chapter 11. The City and citizens would rely exclusively on the Federal and State Housing Act to prevent discriminatory housing practices.

Chapter 20 regulates massage establishments. This Chapter was adopted in 1974, and last amended in 1989. It requires establishments to be licensed with the City before operating and to maintain a current license; and are issued through the City Secretary's Office. This allows the City to investigate applicants; as well as to refuse to issue, suspend, or revoke a license in certain circumstances. This Chapter include regulations regarding hours of operations, inspections, and sanitary requirements.

The regulations within Chapter 20 are not very comprehensive in comparison with the regulations that exist at the State level. Specifically in Texas Occupations Code, Chapter 455 which grants regulation authority of massage establishments, massage therapists, and the massage schools to the Texas Department of Licensing and Regulations. Those rules have minimum standards for the issuance, suspension, and revocation of licenses. At the State level the licenses are issued for two-year periods.

The Texas Occupations Code Section 455.055 states that Chapter 455 supersedes any regulation(s) adopted by a municipality relating to the licensing or regulations of massage therapist. Chapter 455 does not affect local regulations that relate to zoning requirements, or authorizes or requires an investigation into the background of an owner, operator, or investor in a massage establishment. At this time Staff believes that the regulations in Chapter 20 exceed what is currently allowed by State law

and request to repeal Chapter 20.

Chapter 30, includes three sections that relate to the operation of railroads within the City. "Construction and maintenance of crossings" - that railroads must maintain crossing within the City; "Blocking streets for more than five minutes" - prohibits a train from blocking a crossing for longer than five minutes; and "Speed limit" - trains may not exceed 25 miles per hour (or 40 miles per hour in some areas of town). This chapter was originally adopted in 1935, and last amended in 1986.

The railroad industry is heavily regulated by Federal law with two primary regulations (1) the Interstate Commerce Commission Termination Act (ICCTA) which give exclusive jurisdiction over the construction, acquisition, and operation of railroad facilities; and (2) the Federal Railroad Safety Act (FRSA) which was enacted in 1970 to promote safety in every area of railroad operations.

There is a specific case law and we have an attorney general opinion related to a preemption of a previous State statute within the Transportation Code (section 471.007 that imposed a criminal penalty against a railroad company if a train blocked a crossing for more than 10 minutes. For this reason Staff also recommends the appeal of Chapter 30.

3. Receive presentation from Hill Country Transit District regarding the District's proposed budget for FY 2020.

Bell County Judge, David Blackburn and Daryl Burner, Hill Country Transit Director of Urban Operation provided a presentation the Council.

Judge Blackburn explained that the Transit District budget runs from September 1 - August 31 of each year. The purpose of this meeting is to explain the needs of the District and gage the level of contributions that can be expected from the City and other entities. Judge Blackburn noted the level of funding contributions has a direct impact on the service levels received across the UZA (urban zone areas).

Bell County is the only county to contribute along with four cities (Temple, Killeen, Harker Heights, and Copperas Cove). The funds are separate from each other, but crossed in some areas like administrative costs. Judge Blackburn noted there would a few pubic forums for East and Bell County. Killeen on June 18th and City of Temple Public Library on June 21 at 6:00 pm.

Mr. Burner then provided an overview. He noted there is a definite need for public transportation within the City, as many depend on this to move around town for medical and personal needs using the fixed routes, special transit, and rural routes.

There are five funding sources, federal, state, self, local, and farebox. In

2018 there were 484,134 passenger trips via the fix route system. The goal is to have 10 passenger trips per hour with Belton being the lowest. Temple has 17.3 on the 510 route, and 10.6 on the 520 route. The Special Transit System (STS) has 101,967 passenger trips per hour.

In 2018 some service levels were cut due to funding and ridership. Route 5 in Killeen as well as some Saturday service peak hours in both UZA in Harker Heights and Copperas Cove. The Hill Country Transit District has had six triennial audits. There are 23 categories of measure. The District has met and exceeded all performance measures. The Fixed Route average is 13.9 passengers per hour which is an indicator of the market and demand. In 2018-2019 there is an anticipated loss of ridership of 19.7% within the Temple-Belton UZA. This is high, but was expected due to the cuts and a 31.6% decrease in Killeen-Harker Heights UZA.

Each year there is a shortfall between the funding and source levels. The Hill Country District relies heavily on the County and Cities to make the difference. The 'match' is a critical piece of funding for the District; and there are two types of grants used, operating (50/50) and capital (80/20).

The FY20 request from the City of Temple is \$117,305 which is \$23,306 less than the FY19 request.

Mr. Burner added it is a very uncertain time for the City of Killeen. They have some difficult decisions to make this year with the least impact to those that need this service. Route 4 is a very busy route and sometimes has standing room only. He then explained the different options:

- (1) remodify Route 4 at the cost of \$222,366;
- (2) modify Route 4 and add Route 5 at the cost of \$645,027 (recommended);
- (3) full restoration of system at a cost of \$806,618 (not feasible); or
- (4) terminate Route 4, keep only Route 2 at a cost of \$120,850; this option is only if the City of Killeen can only provide the same level as the current year.

Mayor Pro Tem Morales stated this is a complex matter, but very important to the community. She requested additional meetings to discuss the different options for the City of Temple.

Councilmember Walker expressed her concerns with the rural routes, and that services are provided to these areas that are not offering contributions.

At approximately 4:36 pm, Mayor Davis announced that the Council would enter into executive session.

- 4. Discuss the hiring process, appointment, employment, work plan, and duties of the City Attorney. 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 Attorney.
No final action will be taken.**

At approximately 4:55 pm, Mayor Davis adjourned the executive session of the City Council.

I. CALL TO ORDER

1. Invocation

Pastor Paul Alexander, with the Church of the Living God provided the Invocation.

2. Pledge of Allegiance

Joseph Medici, Airport Manager led the Pledge of Allegiance.

II. PUBLIC COMMENTS

Alan Lytle, 504B Paseo Del Plata, expressed his concern with regards to the City's rapid growth and the resources available within the public works and solid waste departments.

III. PUBLIC APPEARANCE

3. Receive comments from Keith Martin related to de-annexation of property located on Pendleton Road in north Temple.

Mr. Martin, 10297 Pendleton Road, Troy, explained that in 2014 he purchased two tracts of land on Pendleton Road. Due to the increased tax value, he realized that only he and the two adjacent neighbors were paying City of Temple taxes. He continued by noting that in 2008 these tracts were part of a 12-year opt out program and the owners at that time opted to not participate in the program for unknown reasons. Mr. Martin stated he does not receive any city services, and would like to be de-annexed from the city.

IV. PUBLIC HEARING

At this time, Mayor Davis read both items 3 and 4 into the record for one presentation.

4. PUBLIC HEARING – FY-19-3-ANX: Receive Municipal Service Plan and conduct a public hearing to receive comments on the possible annexation of 3.950 acres of Old Highway 95 and 89.373 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95, in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.

- 5. PUBLIC HEARING – FY-19-4-ANX: Receive Municipal Service Plan and conduct a public hearing to receive comments on the possible annexation of 2.371 acres of Barnhardt Road and 47.655 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95 and the south side of Barnhardt Road, in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.**

Tammy Lyerly, City Planner presented both items 4 and 5 to the Council. She noted that case FY-19-4-ANX was located at the intersection of Barnhardt Road and Old Highway 95, and consisted of approximately 2.371 acres of Barnhardt Road (0.41 miles), and 47.655 +/- acres of privately owned land; and case FY19-3-ANX was located to the south, consisting of approximately 3.950 acres of Old Highway 95 (0.51 miles) and 89.373 +/- acres of privately owned land. Both of these cases include a portion of the roadway to be annexed as well.

Ms. Lyerly reviewed the annexation schedule, noting that on May 2nd the petitions were approved by the City Council to develop the Municipal Service Plans on these properties. The service plan has been reviewed by all relevant departments; and there are no issues noted. The first public hearing is tonight, June 6th; with the second public hearing set for Friday, June 7th at 10:00 am. The first reading for the annexation is July 11th with the second and final reading set for July 18th.

The Municipal Service Plan is required to ensure the same level of city services for this property upon annexation as other properties within the City of Temple. TISD is the requestor for the northern piece (Barnhardt and Old Highway 95), and both TISD and the City are working together to extend Blackland Road and utilities to accommodate future schools.

Mayor Davis declared the public hearing open with regards to both items 4 and 5, and asked if anyone wished to address either item. There being none, Mayor Davis declared the public hearing closed.

Mayor Davis announced that the second public hearing would be conducted on Friday, June 7, 2019 at 10:00 am in the Council Chambers.

V. ELECTION

- 6. 2019-9665-R: Consider adopting a resolution electing a Mayor Pro Tem for the City of Temple.**

Mayor Davis expressed his appreciation for Mayor Pro Tem Morales and her willingness to always fill in when necessary.

Motion by Councilmember Susan Long re-appoint Councilmember Judy Morales as the Mayor Pro Tem. seconded by Councilmember Jessica Walker.

Motion passed unanimously.

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

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

(A) April 29, 2019 Special Meeting

(B) May 16, 2019 Special & Regular Called Meeting

(C) May 21, 2019 Special Meeting

(D) May 24, 2019 Special Meeting

(E) May 28, 2019 Special Meeting

(F) 2019-9666-R: Consider adopting a resolution authorizing a professional services agreement with Transmap Corporation, to perform a pavement condition survey with associated asset collections for all City streets in an amount not to exceed \$195,142.

(G) 2019-9667-R: Consider adopting a resolution authorizing a professional service agreement with Strategic Government Resources, Inc., of Keller, for the search and recruitment of the City Attorney position in the estimated amount of \$27,000.

(H) 2019-9668-R: Consider a resolution authorizing an interlocal agreement with the Belton Independent School District to provide school locations for after school latch key programming.

(I) 2019-9669-R: Consider adopting a resolution authorizing a tax abatement agreement with East Penn Manufacturing Co. which will cover increases in the taxable value of real and personal property on an approximately 36.9-acre tract of land designated as Tax Abatement Reinvestment Zone Number 38.

(J) 2019-9670-R: Consider adopting a resolution ratifying a contract with the United States Defense Logistics Agency-Energy to deliver 541,820 gallons of fuel support to the United States Armed Forces at the Draughon-Miller Central Texas Regional Airport.

(K) 2019-9671-R: Consider adopting a resolution authorizing an amendment to a professional services agreement with Jacobs Engineering Group, Inc. for additional construction phase services associated with the Bird Creek Interceptor Project in an amount not to exceed \$50,000.

(L) 2019-9672-R: Consider adopting a resolution authorizing a three-year agreement for the rental/lease of non-civil uniforms and floor mats with Cintas Corporation of Round Rock, in the estimated annual amount of \$75,000.

(M) 2019-9673-R: Consider adopting a resolution authorizing a change order to the contract with Tex-Global Contractors, Inc., of Fort Worth for construction of Phase 3B of the Outer Loop in the amount of \$86,636.42.

(N) 2019-9674-R: Consider a resolution authorizing a change order to the construction contract with R.T. Schneider Construction Co., Ltd, for services to construct the Rail Backage Road Project within the Industrial Rail Park in northwest Temple, in the amount of \$39,587.

(O) 2019-9675-R: Consider adopting a resolution authorizing change order #3 with Bell Contractors, Inc., of Belton for construction of the Northwest & Northeast Little Elm Creek Trunk Sewer project, in the amount of \$38,588.07.

(P) 2019-9676-R: Consider adopting a resolution authorizing change order #2 with Bruce Flanigan Construction, Inc., of Belton, for construction of the Shallowford 30" Force Main, in the amount of \$16,459.18.

(Q) 2019-9677-R: Consider adopting a resolution authorizing a supplemental agreement with Axon Enterprise, Inc. of Scottsdale, Arizona, for additional digital police evidence management equipment in the amount of \$58,806 for a 53.5-month term.

(R) 2019-9678-R: Consider adopting a resolution authorizing release of a 0.67-acre waterline and wastewater line easement described in a Warranty Deed to W.J. Weltler, and wife, Willie M.

Weltler, recorded in Vol. 3915, Pg. 278, Deed Records of Bell County, Texas, located generally at 2610 South Martin Luther King Jr. Drive.

(S) 2019-9679-R: Consider adopting a resolution authorizing an increase in the FY2019 estimated expenditures from \$100,000 to \$300,000 for aggregate base purchases from Heartland Quarries, LLC dba Heartland Aggregates of Austin.

(T) 2019-9680-R: Consider adopting a resolution authorizing the purchase of resale food items for Sammons Golf Course for FY 2019 in the estimated amount of \$35,000 from Ben E. Keith of Temple.

(U) 2019-4969: SECOND READING – FINAL HEARING – FY-19-13-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural zoning district to Planned Development Single Family Two on a 118.560 +/- acre tract situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located south of FM 93 and east of Hartrick Bluff Road, Temple, Texas.

(V) 2019-9681-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.

Motion by Councilmember Jessica Walker approve the Consent Agenda as presented by Staff, seconded by Mayor Pro Tem Judy Morales.

Motion passed unanimously.

VII. REGULAR AGENDA

ORDINANCES

- 8. 2019-4968: SECOND READING – FINAL HEARING – FY-19-9-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural zoning district to Planned Development General Retail zoning district on a 160.047 +/- acre tract and a 12.541 +/- acre tract situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located south of FM 93 and along and east of Hartrick Bluff Road, Temple, Texas.**

Ms. Myers noted this was on the regular agenda for voting purposes only, to clarify council's original motion on first reading.

Motion by Councilmember Wendell Williams adopt ordinance on second reading as presented by Staff, for Planned Development-Single Family Two on majority; and Planned Development - Single Family - General Retail on 1.66 acres; seconded by Councilmember Susan Long.

Motion passed unanimously.

ORDINANCES

9. FIRST READING – PUBLIC 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

Kayla Landeros, City Attorney explained this is part of the on-going review of the Code. Staff is recommending that Council repeal Chapters 11, 20, and 30.

Chapter 11 is the local adopt of Fair Housing laws. There are fair housing statues at both the State and Federal levels. Those statues protect people from discrimination when they rent or buy a home, obtain a mortgage, seek housing assistance or engage in other housing related activities. Both these statutes and our local Chapter also prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, familial status, and/or disability.

Currently Chapter 11 requires the appointment of a Fair Housing Administrator and requires the City to investigate complaints where a citizen of Temple feels they have been discriminated against in some type of housing situation. This Chapter is not used very often. In addition, we are not required to have local fair housing regulations. Citizens can make complaints to the Texas Workforce Commission or to HUD's Office of Fair Housing and Equal Opportunity.

During the review of Chapter 11, we have found that City's that do have fair housing regulations typically add protected statues such as Veteran status, age, sexual orientation, gender identity, creed, student status, marital status, transgender, and gender expression.

At this time Staff is not recommending that the addition of any protected statuses. For this reason, Staff is recommending to repeal Chapter 11. The City and citizens would rely exclusively on the Federal and State Housing Act to prevent discriminatory housing practices.

Chapter 20 regulates massage establishments. This Chapter was adopted in 1974, and last amended in 1989. It requires establishments to be licensed with the City before operating and to maintain a current license; and are issued through the City Secretary's Office. This allows the City to investigate applicants; as well as to refuse to issue, suspend, or revoke a license in certain circumstances. This Chapter include regulations regarding hours of operations, inspections, and sanitary requirements.

As mentioned earlier, the regulations within Chapter 20 are not very comprehensive in comparison with the regulations that exist at the State level. Specifically in Texas Occupations Code, Chapter 455 which grants regulation authority of massage establishments, massage therapists, and the massage schools to the Texas Department of Licensing and Regulations. Those rules have minimum standards for the issuance, suspension, and revocation of licenses. At the State level the licenses are issued for two-year periods.

The Texas Occupations Code Section 455.055 states that Chapter 455 supersedes any regulation(s) adopted by a municipality relating to the licensing or regulations of massage therapist. Chapter 455 does not affect local regulations that relate to zoning requirements, or authorizes or requires an investigation into the background of an owner, operator, or investor in a massage establishment. At this time Staff believes that the regulations in Chapter 20 exceed what is currently allowed by State law and request to repeal Chapter 20.

Chapter 30, includes three sections that relate to the operation of railroads within the City. "Construction and maintenance of crossings" - that railroads must maintain crossing within the City; "Blocking streets for more than five minutes" - prohibits a train from blocking a crossing for longer than five minutes; and "Speed limit" - trains may not exceed 25 miles per hour (or 40 miles per hour in some areas of town). This chapter was originally adopted in 1935, and last amended in 1986.

The railroad industry is heavily regulated by Federal law with two primary regulations (1) the Interstate Commerce Commission Termination Act (ICCTA) which give exclusive

jurisdiction over the construction, acquisition, and operation of railroad facilities; and (2) the Federal Railroad Safety Act (FRSA) which was enacted in 1970 to promote safety in every area of railroad operations.

There is a specific case law and we have an attorney general opinion related to a preemption of a previous State statute within the Transportation Code (section 471.007 that imposed a criminal penalty against a railroad company if a train blocked a crossing for more than 10 minutes. For this reason Staff also recommends the appeal of Chapter 30.

Mayor Davis declared the public hearing open with regards to item 9, and asked if anyone wished to address this item. There being none, Mayor Davis declared the public hearing closed.

Motion by Councilmember Susan Long adopt ordinance as presented on first reading, with second and final reading set for June 20, 2019; seconded by Councilmember Jessica Walker.

Motion passed unanimously.

RESOLUTIONS

- 10. 2019-9682-R: FY-19-20-PLT and FY-19-21-PLT: Consider adopting a resolution approving the Preliminary Plat of Lake Pointe Terrace and the Final Plat of Lake Pointe Terrace Phase I, located east of State Highway 317, and south of the existing Lake Pointe Subdivision, with a developer-requested exception to the Unified Development Code Section: Parkland Dedication to allow for a private park in lieu of public parkland dedication.**

Tammy Lyerly, City Planner presented this case to the Council. FY-19-20-PLT consists of 169.72 +/- acres, 636 residential lots with a developer-requested exception to the UDC, and FY-19-21-PLT consist of 63.40 +/- acres, 216 residential lots. The applicant for both plats is WBW Development Group, LLC - Series 037.

The property is located between State Highway 317 and North Pea Ridge Road; and north of Hildell Estates. This is adjacent to Stonehollow Drive, which will extend to North Pea Ridge Road to Highway 317.

The Development Review Committee reviewed the plats on January 10, 2019 and deemed them administratively complete on May 2, 2019. The exceptions being requested is section 8.3

Park Land Dedication to allow for a private park in lieu of public parkland to be privately-owned and maintained by the Home Owner's Association. A cost estimate for the amenity improvements has been submitted, and is estimated to be \$645,000 which exceeds the total park fee requirement of \$143,100.

The Park Staff supports this developer requested exception per the conceptual site plan with the amenity center and trail system.

At its May 6, 2019 meeting, the Planning and Zoning Commission voted 6/0 to recommend approval of the Preliminary Plan of Lake Pointe Terrace and the Final Plat of Lake Pointe Terrace Phase I with the developer-requested exceptions related to Park Land Dedication; and subject to the HOA conceptual park site plan and the Lake Pointe Terrace estimate of amenity improvements, per Staff's recommendation.

Motion by Councilmember Susan Long adopt resolution as presented by Staff, seconded by Councilmember Wendell Williams.

Motion passed unanimously.

- 11. 2019-9683-R: FY-19-30-PLT and FY-19-31-PLT: Consider adopting a resolution approving the Preliminary Plat of Pecan Creek South, and the Final Plat of Pecan Creek South Phase I, located north of Southeast H.K. Dodgen Loop, west of South Martin Luther King Jr. Drive, and east of Union Pacific Railroad, with developer-requested exceptions to the Unified Development Code Section: Projection of Streets, regarding street openings every 1000 feet; and Section 8.3: Parkland Dedication to allow for a private park in lieu of public parkland.**

Tammy Lyerly, City Planner presented this case to the Council. FY-19-30-PLT consists of 135.25 +/- acres, 523 residential lots with a developer-requested exception to the UDC, and FY-19-31-PLT consist of 57.35 +/- acres, 190 residential lots. The applicant for both plats is WBW Single Development Group, LLC - Series 104.

The property is unique as there will only be one entrance for access, due to the railroad, and this will be off of South Martin Luther King Jr. Drive. The Union Pacific Railroad is the West boundary, as well the Temple College Campus. The north of the property is a solar field and Tarrant Park. The South is the

Country Lane Apartments. Those boundaries are preventing this development from having more than one access point.

The Development Review Committee reviewed the plats on January 10, 2019 and deemed them administratively complete on May 3, 2019. The Plats comply with Planned Development Multi-Family Two zoning district. The proposed park and trail system is being proposed for the center of the project. The exceptions being requested is section 8.3 Park Land Dedication to allow for a private park in lieu of public parkland to be privately-owned and maintained by the Home Owner's Association, and Section 8.2.1 Projection of Streets, regarding the openings every 1,000 feet.

The total park fee requirement is based on 523 single family lots at \$117,675; and duplexes and multi-family would require \$225/dwelling unit. There are some amenity improvements proposed by the developer at an estimated cost of \$220,000.

The Park Staff supports this developer requested exception per the conceptual site plan with the amenity center and trail system.

At its May 6, 2019 meeting, the Planning and Zoning Commission voted 6/0 to recommend approval of the Preliminary Plan of Pecan Creek South and the Final Plat of Pecan Creek South Phase I with the developer-requested exceptions related to Park Land Dedication; as well as the exception to the UDC Section 8.2.1 Projection of Streets, regarding street openings every 1,000 feet; and subject to the HOA conceptional park site plan and the Pecan Creek South cost estimate of amenity improvements.

Staff's recommends approval of both plats and the two developer-requested exceptions with the following additional condition, that the parkland dedication exception only apply to the single-family and two-family uses, not the multi-family.

Mayor Davis inquired as to the reasoning.

Ms. Lyerly advised that the developer may want to reconfigure the layout of the development and without knowing what those park fees would be, and staff feels it is best to have that separated.

Councilmember Long asked how many multi-family units were part of this development.

Ms. Lyerly explained that it has not yet been determined.

Josh Welch, WBW Development responded to Councilmember Long's questions. He noted that when the property was originally zoned, it was laid out as all single-family. Now there are areas of the property that could potentially be two-family and multi-family. Mr. Welch noted that after discussing this with City Staff, he is ok with keeping the park fees out of the multi-family part. If and when the multi-family piece happens, it will require a site plan to back to Council.

Councilmember Williams asked about the solar park and the VA lake being secured and fenced off.

Mr. Welch stated yes it is fenced off and there is no access from this project. We are working with the VA to ensure they have an access point.

Motion by Mayor Pro Tem Judy Morales adopt resolution as presented by Staff, seconded by Councilmember Jessica Walker.

Motion passed unanimously.

- 12. 2019-9684-R: FY-19-38-PLT: Consider adopting a resolution approving the Final Plat of Cosper Addition, a 2.613 +/- acre, 1-lot, 1-block residential subdivision with developer-requested exceptions to Unified Development Code Section 8.3: Parkland Dedication to allow a waiver to parkland dedication requirements and to Unified Development Code Section 8.2.1: Design Standards/Streets to allow a reduced right-of-way dedication, located at 7947 Witter Lane in Temple's southern Extraterritorial Jurisdiction.**

Tammy Lyerly, City Planner presented this case to the Council. The property is south of West FM 93, and east side of Witter Lane, just north of Forrester Road. During the review process the applicant revised the plat from 2.613 to 2.853 acres. This was reviewed by the Development Review Committee on March 7th and was deemed administratively complete on May 24th.

This case involves two different requested exceptions, one being Section 8.3 of the UDC - to waive the park fees if the subdivision is (1) more than one mile from the existing City limits; (2) will create fewer than nine lots; and (3) the City does not have plans to annex the property.

Council action is required since the proposed plat is less than a mile from the City limits. Parks Staff supports this exception

since this is a 1-lot subdivision within the ETJ where no park exists within a 1/2 mile radius.

The next requested exception to the UDC is Section 8.2.1 Design Standards/Street - to allow a reduced right-of-way dedication along Witter Lane, which is a proposed Minor Arterial on the Thoroughfare Plan. Witter Lane's current right-of-way is 40-feet in width. While examining this property and the location, DRC staff recommended a Collector classification of 55-feet for Witter Lane. The applicants would be subject to a right-of-way dedication of 7.5 feet to meet requirements of the Collector classification, rather than a right-of-way dedication of 15-feet for the Minor Arterial classification of 70-feet. Staff supports this reduced 7.5 foot right-of-way dedication along Witter Lane.

At its June 3, 2019 meeting, the Planning and Zoning Commission vote 8/0 to approve the 2.853 acre Final Plat of Cosper Addition with the developer-requested exceptions to the UDC per Staff's recommendation.

Councilmember Long inquired on what the proposed use would be.

Ms. Lyerly noted it was a residential lot.

Motion by Councilmember Susan Long adopt resolution as presented by Staff, seconded by Councilmember Wendell Williams.

Motion passed unanimously.

Mayor Davis read items 13 & 14 into the records for a single presentation by Ms. Demirs.

- 13. 2019-9685-R: Consider adopting a resolution pursuant to Chapter 2206, Government Code § 2206.053 finding that one property and one permanent utility easement situated in the Baldwin Robertson Survey, Abstract #17, Bell County, Texas, are necessary for the proposed expansion of Poison Oak Road and authorizing the use of eminent domain to condemn the properties.**

Christina Demirs, Deputy City Attorney presented both items 13 & 14, both of which are for right-of-ways needed for the Poison Oak expansion project. The current design requires right of ways from 32 properties, 25 of which are private owners, two public entities (TxDOT and BISD) and one from the City of

Temple. The project includes 13 properties that require owner relocations.

As of today, the City has acquired 13 properties, to include the donation of BISD and City of Temple property. We are currently closing on three properties, of which one will close on Friday, June 7th. The Council has authorized eminent domain on four properties.

The two properties discussed this evening are properties PO009 located at HWY 317 and Poison Oak, and property PO020 which is a whole taking with a house on it, located at 8705 Poison Oak.

The City needs 0.725 acre right of way and 0.618 acre public utility easement from property PO009 Wildcreek, LLC. The initial offer made on December 14, 2018 was for the appraised value of \$13,717. The owner has not yet presented a counter offer to the City. Through Stateside, the owner communicated the preference to proceed with eminent domain. The final offer letter was sent of May 25, 2019.

The second property, PO020 (Johns, Dennis & Ann) is a whole taking. The initial offer was made on October 26, 2018 for the appraised value of \$239,000. The owner made a counter offer to the City on November 26, 2018 that was more than double the appraised value. The owner did not provide any documentation to support the counteroffer. Through Stateside, the City has made many attempts to continue negotiations. The owners have indicated to Stateside their preference is to discontinue negotiations and requested to proceed with eminent domain. The final offer letter was sent on May 24, 2019.

Since both owners have indicated there preference is to proceed with eminent domain, Staff is requesting authority to move forward to initiate eminent domain proceedings. Final offers have been presented to the owners and were not accepted within the 14 days required by law.

Motion by Councilmember Jessica Walker that the City of Temple approve Resolution No. 2019-9685-R and authorize the use of the power of eminent domain to acquire fee simple title to a 0.725-acre tract of land for right of way and to acquire a 0.618-acre permanent utility easement on property located at the southeast corner of State Highway 317 and Poison Oak Road in Temple, Texas being more particularly described as situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, being a portion of a called 26.3-acre tract of land conveyed to Wildcreek, LLC in Document No. 2013-00011870,

Official Public Records of Real Property, Bell County, Texas for the construction and expansion of Poison Oak Road; seconded by Councilmember Susan Long.

Motion passed unanimously.

- 14. 2019-9686-R: Consider adopting a resolution pursuant to Chapter 2206, Government Code § 2206.053 finding that one property situated in the Baldwin Robertson Survey, Abstract #17, Bell County, Texas, are necessary for the proposed expansion of Poison Oak Road and authorizing the use of eminent domain to condemn the properties.**

Motion by Councilmember Susan Long that the City of Temple approve Resolution No. 2019-9686-R and authorize the use of the power of eminent domain to acquire fee simple title to a property located along Poison Oak Road in Temple, Texas being more particularly described as 0.532-acre, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, being all of a called 0.534-acre tract of land conveyed to Ross Ann Johns and husband, Dennis James Johns in Document No. 2011-00021755, Official Public Records of Real Property, Bell County, Texas for the construction and expansion of Poison Oak Road; seconded by Councilmember Wendell Williams.

Motion passed unanimously.

- 15. 2019-9687-R: FY-19-2-APL: Consider action on a resolution for an appeal of standards to Section 6.7.7.I. of the Unified Development Code related to signage in the I-35 Corridor Overlay to allow installation of an additional freestanding sign at 7455 South General Bruce Drive.**

Brian Chandler, Director of Planning presented this case. This is to allow an additional free standing sign at the Johnson Brothers Ford Dealership, for the new tire and auto center on the site. The applicant is Steve Hancock, of H&H Sign Co. on behalf of Harry Adams.

This is an appeal to section 6.7.7.I of the UDC (I-35 Corridor Overlay Signs) to allow the additional sign to advertise the quick lane business. Currently that section allows one freestanding sign per driveway; or utilizing a multi-tenant sign. If it were feasible to add a panel to one of the existing signs they could have done so. There is already a 45-foot Ford sign, along with a 20-foot tall Lincoln sign, and they are proposing 16-foot quick lane sign within the landscaped entryway. The proposed sign

will be set back from the Ford sign, and meet the I-35 sign requirements and be comprised of ACM (aluminum composite material).

Staff recommends approval of the appeal as submitted based on the following: (1) adding the additional sign panel to one of the existing freestanding signs, would not be feasible; (2) the proposed sign is much shorter than the other tow and what is allowed by Code; (3) the signage meets the other I-35 code requirements; and (4) it is necessary to provide visibility for this separate business.

Planning and Zoning heard this appeal on May 20, 2019 and recommends approval as per Staff's recommendation.

Motion by Mayor Pro Tem Judy Morales adopt resolution as presented seconded by Councilmember Susan Long.

Motion passed unanimously.

Timothy A. Davis, Mayor

ATTEST:

Lacy Borgeson
City Secretary

SPECIAL MEETING OF THE TEMPLE CITY COUNCIL

JUNE 7, 2019

The City Council of the City of Temple, Texas conducted a Special Called Meeting on Friday, June 7, 2019 at 10:00 AM, at the Municipal Building, 2 North Main Street, 2nd Floor Council Chambers.

Present:

Councilmember Susan Long
Councilmember Jessica Walker
Mayor Pro Tem Judy Morales
Councilmember Wendell Williams

Absent:

Mayor Timothy A. Davis

I. CALL TO ORDER

1. Invocation

Thomas Pechal, Temple Fire and Rescue voiced the Invocation.

2. Pledge of Allegiance

Brian Chandler, Director of Planning led the Pledge of Allegiance.

II. ANNEXATION - PUBLIC HEARING

Mayor Pro Tem Morales read both items 3 and 4 into the record for one presentation by Ms. Lyerly.

3. SECOND PUBLIC HEARING – FY-19-3-ANX: Receive Municipal Service Plan and conduct a public hearing to receive comments on the possible annexation of 89.373 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95, in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.

4. SECOND PUBLIC HEARING – FY-19-4-ANX: Receive Municipal Service Plan and conduct a public hearing to receive comments on the possible annexation of 47.655 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95 and the south side of Barnhardt Road, in

the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.

Tammy Lyerly, City Planner presented both items 3 and 4 to the Council. She noted this was the second public hearing for these cases. Case FY-19-4-ANX is located at the intersection of Barnhardt Road and Old Highway 95, and consisted of approximately 2.371 acres of Barnhardt Road (0.41 miles), and 47.655 +/- acres of privately owned land; and case FY19-3-ANX is located to the south, consisting of approximately 3.950 acres of Old Highway 95 (0.51 miles) and 89.373 +/- acres of privately owned land. Both of these cases include a portion of the roadway to be annexed as well.

Ms. Lyerly reviewed the annexation schedule, noting that on May 2nd the petitions were approved by the City Council to develop the Municipal Service Plans on these properties. The service plan has been reviewed by all relevant departments; and there are no issues noted. The first public hearing was held on Thursday, June 6th; with the second public hearing today (Friday, June 7th). The first reading for the annexation is July 11th with the second and final reading set for July 18th.

The Municipal Service Plan is required to ensure the same level of city services for this property upon annexation as other properties within the City of Temple. TISD is the requestor for the northern piece (Barnhardt and Old Highway 95), and both TISD and the City are working together to extend Blackland Road and utilities to accommodate future schools.

Mayor Pro Tem Morales declared the public hearing open with regards to both items 3 and 4; and asked if anyone wished to address either item.

Doris Swankey, 2835 E. Hwy 190 expressed her concerns for this process and how it may impact her property. She asked staff what the plans were for her property.

Mr. Chandler, Director of Planning explained this was a voluntary annexation and that Ms. Swankey's property was outside of that area and there should not be a direct impact other than the development that is proposed within the area. Mr. Chandler noted there are two schools being proposed, as well as residential and commercial uses along Old Hwy 95. The City relies heavily on voluntary annexations to manage growth; and will attempt to improve roadways as necessary with that growth. The City is working with TISD to help straighten Blackland and connect to Barnhardt Road.

Ms. Myers, noted that the entities are in the very early preliminary stages of evaluating the infrastructure for that site. Currently, the

option being considered for the extension of Blackland Road is to extend it down, south of Barnhardt Road and not use Barnhardt as the path. It is unknown how far to the east the road will go.

Ms. Swankey explained that she was not protesting the voluntary annexation, but wanted to fully understand the impact it would have on her property. She noted there is so much development along South 5th and with new Everest Facility and there will be an impact to the area.

There being no further comments, Mayor Pro Tem Morales declared the public hearing closed. No action was necessary.

At approximately 10:17 am, the City Council adjourned the public portion of the meeting.

III. EXECUTIVE SESSION

The Council reconvened at approximately 10:50 am for the executive session with no final action in the 3rd Floor Conference Room.

PRESENT:

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

- 5. Discuss the employment, duties, and work plans of the City Manager, Finance Director, and the City Attorney. 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, Finance Director, and the City Attorney. No final action will be taken.**

The executive session was adjourned at approximately 3:30 pm, with no final action.

Timothy A. Davis

ATTEST:

Lacy Borgeson
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

07/11/19
Item #3(D)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Buford Craig, Director of Transform Temple
Belinda Mattke, Director of Purchasing & Facility Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract for the asbestos abatement and demolition of the old Airport terminal building with Garrett Demolition, Inc. of Burleson in the amount of \$79,715.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: A project is currently underway to design a new fixed-base operator (FBO) building for the Airport. Staff and the design consultants are recommending the new FBO be constructed in the same location as the Airport terminal building that was taken out of service as an FBO in 2002. To make way for the construction of a new FBO, an invitation to bid was released to perform the necessary asbestos abatement that is required per State regulations, demolition of the structure, construction of erosion control, and the installation of fencing to secure the Airport upon the completion of the project.

On June 18, 2019, seven responsive bids were received for the project ranging from \$79,715 to \$110,876. Staff is recommending award of the contract to the low bidder, Garrett Demolition, Inc. (Garrett) in the amount of \$79,715. Garrett has previously performed the asbestos abatement and demolition of several commercial properties for the City, and Garrett is current under contract to demolish the Johnson Brothers Ford property. Staff has been pleased with Garrett's performance, and accordingly, Staff is pleased to recommend Garrett for award of this contract.

The proposed contract indicates a 45-day completion period.

At its June 19, 2019, the Tax Increment Financing Reinvestment Zone Number One Board of Directors unanimously recommended award of this contract.

FISCAL IMPACT: Funding for the asbestos abatement and demolition contract with Garrett Demolition, Inc. in the amount of \$79,715 is available in the Reinvestment Zone No. 1 Financing and Project Plans, line 516, account 795-9500-531-6341, project 101982, as follows:

Project Budget	\$	115,000
Encumbered/Committed to Date		(5,012)
Contract Award - Garrett Demolition, Inc.		(79,715)
Remaining Project Funds	\$	<u>30,273</u>

ATTACHMENTS:

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

Tabulation of Bids Received on June 18, 2019 at 2:00 PM
Asbestos Abatement & Demolition of Old Airport Terminal Building with Fencing Requirements
Bid# 95-06-19

Bidders											
			Grant Mackay Company, Inc Houston, Texas		AAR Incorporated Liberty Hill, Texas		RNDI Companies, Inc Rockwall, Texas		Total Demolition, Inc West, Texas		
Item No.	Est Qty	Unit	Description	Unit Price	Total Amount (in numerals)	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1	100%	Lump Sum	Mobilization, Bonds and Insurance, not-to-exceed 5% of the Base Bid Amount, Complete For	\$6,800.00	\$6,800.00	\$7,410.00	\$7,410.00	\$4,500.00	\$4,500.00	\$2,000.00	\$2,000.00
2	100%	Lump Sum	Implement and Administer Barricade, Signing and Detour Plan, Complete For	No Bid	No Bid	\$5,750.00	\$5,750.00	\$2,200.00	\$2,200.00	\$3,169.00	\$3,169.00
3	100%	Lump Sum	Prepare Stormwater Pollution Prevention Plan, Including Submission to (if required) and Receiving Permits from Texas Commission on Environmental Quality (TCEQ), Complete For	\$4,500.00	\$4,500.00	\$990.00	\$990.00	\$3,750.00	\$3,750.00	\$2,040.00	\$2,040.00
4	400	Linear Foot	Furnish, Install, & Maintain Silt Fence, Complete For	\$4.50	\$1,800.00	\$2.10	\$840.00	\$6.75	\$2,700.00	\$2.50	\$1,000.00
5	3	Each	Furnish, Install, & Maintain Inlet Protection, Complete For	\$300.00	\$900.00	\$110.00	\$330.00	\$333.33	\$1,000.00	\$433.00	\$1,299.00
6	400	Linear Foot	Removal of Silt Fence, Complete For	\$2.50	\$1,000.00	\$0.45	\$180.00	\$3.75	\$1,500.00	\$1.00	\$400.00
7	3	Each	Removal of Inlet Protection, Complete For	\$250.00	\$750.00	\$40.00	\$120.00	\$400.00	\$1,200.00	\$1.67	\$5.01
8	800	Linear Foot	Furnish, Install & Maintain Temporary Chain Link Construction Fencing, Complete For	\$6.08	\$4,864.00	\$3.85	\$3,080.00	\$8.50	\$6,800.00	\$4.07	\$3,256.00
9	800	Linear Foot	Removal of Temporary Chain Link Construction Fencing, Complete For	\$0.63	\$504.00	\$1.25	\$1,000.00	\$1.88	\$1,500.00	\$1.35	\$1,080.00
10	100%	Lump Sum	Furnish All Equipment, Material and Labor to Demolish the Old Airport Terminal per the Specifications, including asbestos abatement as defined in Attachment #2B (3,331 sf of flooring and 600sf of pipe insulation), Demolition and Proper Disposal of the Main Structure and adjacent landscaping, Removal and Proper Disposal of miscellaneous trash and debris, and Abandonment of Existing Utilities, Complete For	\$46,420.00	\$46,420.00	\$44,825.00	\$44,825.00	\$46,360.00	\$46,360.00	\$63,785.00	\$63,785.00
11	180	Linear Foot	Furnish and Install 6-foot Permanent Black Vinyl Chain Link Fence, including all Hardware and Appurtenances, Complete For	No Bid	No Bid	\$29.50	\$5,310.00	\$69.44	\$12,500.00	\$25.25	\$4,545.00
12	500	Cubic Yard	Furnish & Install Select Fill Material for Site, Complete For	\$20.00	\$10,000.00	\$24.50	\$12,250.00	\$4.00	\$2,000.00	\$14.60	\$7,300.00
13	1,600	Square Yard	Furnish & Install 4" Top Soil, Complete For	No Bid	No Bid	\$4.50	\$7,200.00	\$1.44	\$2,300.00	\$5.50	\$8,800.00
14	1,600	Square Yard	Furnish & Install Hydromulch with Flexible Growth Medium, including Fertilizing & Watering to Promote and Establish Growth, Complete For	No Bid	No Bid	\$2.65	\$4,240.00	\$3.31	\$5,300.00	\$4.48	\$7,168.00
Total Base Bid Amount				Non-Responsive		\$93,525.00		\$93,610.00		\$105,847.01	
Acknowledge Addendum (2)				Yes		Yes		Yes		Yes	
Bid Bond				Yes		Yes		Yes		Yes	
Bond Requirement Affidavit				Yes		Yes		No		Yes	
Credit Check Authorization				Yes		Yes		Yes		Yes	

Bidders											
			Louie Minor Construction LLC Killeen, Texas		R.T Schneider Construction Co, LTD Belton, Texas		Garrett Demolition, Inc Burleson, Texas		Tasman Geosciences, Inc San Marcos, Texas		
Item No.	Est Qty	Unit	Description	Unit Price	Total Amount (in numerals)	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1	100%	Lump Sum	Mobilization, Bonds and Insurance, not-to-exceed 5% of the Base Bid Amount, Complete For	\$3,000.00	\$3,000.00	\$5,100.00	\$5,100.00	\$2,000.00	\$2,000.00	\$2,500.00	\$2,500.00
2	100%	Lump Sum	Implement and Administer Barricade, Signing and Detour Plan, Complete For	\$3,000.00	\$3,000.00	\$3,140.00	\$3,140.00	\$2,910.00	\$2,910.00	\$3,500.00	\$3,500.00
3	100%	Lump Sum	Prepare Stormwater Pollution Prevention Plan, Including Submission to (if required) and Receiving Permits from Texas Commission on Environmental Quality (TCEQ), Complete For	\$1,800.00	\$1,800.00	\$1,460.00	\$1,460.00	\$750.00	\$750.00	\$500.00	\$500.00
4	400	Linear Foot	Furnish, Install, & Maintain Silt Fence, Complete For	\$5.00	\$2,000.00	\$2.25	\$900.00	\$2.63	\$1,052.00	\$2.80	\$1,120.00
5	3	Each	Furnish, Install, & Maintain Inlet Protection, Complete For	\$100.00	\$300.00	\$175.00	\$525.00	\$50.00	\$150.00	\$200.00	\$600.00
6	400	Linear Foot	Removal of Silt Fence, Complete For	\$5.00	\$2,000.00	\$0.50	\$200.00	\$0.00	\$0.00	\$1.40	\$560.00
7	3	Each	Removal of Inlet Protection, Complete For	\$100.00	\$300.00	\$25.00	\$75.00	\$0.00	\$0.00	\$100.00	\$300.00
8	800	Linear Foot	Furnish, Install & Maintain Temporary Chain Link Construction Fencing, Complete For	\$5.00	\$4,000.00	\$3.65	\$2,920.00	\$3.75	\$3,000.00	\$2.80	\$2,240.00
9	800	Linear Foot	Removal of Temporary Chain Link Construction Fencing, Complete For	\$5.00	\$4,000.00	\$0.50	\$400.00	\$0.00	\$0.00	\$1.40	\$1,120.00
10	100%	Lump Sum	Furnish All Equipment, Material and Labor to Demolish the Old Airport Terminal per the Specifications, including asbestos abatement as defined in Attachment #2B (3,331 sf of flooring and 600sf of pipe insulation), Demolition and Proper Disposal of the Main Structure and adjacent landscaping, Removal and Proper Disposal of miscellaneous trash and debris, and Abandonment of Existing Utilities, Complete For	\$37,500.00	\$37,500.00	\$64,925.00	\$64,925.00	\$52,925.00	\$52,925.00	\$75,000.00	\$75,000.00
11	180	Linear Foot	Furnish and Install 6-foot Permanent Black Vinyl Chain Link Fence, including all Hardware and Appurtenances, Complete For	\$25.00	\$4,500.00	\$29.50	\$5,310.00	\$22.50	\$4,050.00	\$26.60	\$4,788.00
12	500	Cubic Yard	Furnish & Install Select Fill Material for Site, Complete For	\$10.50	\$5,250.00	\$28.70	\$14,350.00	\$17.50	\$8,750.00	\$22.00	\$11,000.00
13	1,600	Square Yard	Furnish & Install 4" Top Soil, Complete For	\$9.38	\$15,000.00	\$2.75	\$4,400.00	\$0.75	\$1,200.00	\$3.63	\$5,808.00
14	1,600	Square Yard	Furnish & Install Hydromulch with Flexible Growth Medium, including Fertilizing & Watering to Promote and Establish Growth, Complete For	\$4.07	\$6,500.00	\$2.50	\$4,000.00	\$1.83	\$2,928.00	\$1.15	\$1,840.00
Total Base Bid Amount				\$89,150.00		\$107,705.00		\$79,715.00		\$110,876.00	
Acknowledge Addendum (2)				Yes		Yes		Yes		Yes	
Bid Bond				Yes		Yes		Yes		Yes	
Bond Requirement Affidavit				Yes		Yes		Yes		Yes	
Credit Check Authorization				Yes		Yes		Yes		Yes	

Not responsive. Bidder did not bid on every line item.

Recommended for Council award.

RESOLUTION NO. 2019-9705-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A DEMOLITION CONTRACT WITH GARRETT DEMOLITION, INC. OF BURLESON, TEXAS IN THE AMOUNT OF \$79,715, FOR THE ASBESTOS ABATEMENT AND DEMOLITION OF THE OLD AIRPORT TERMINAL BUILDING AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, a project is currently underway to design a new fixed-base operator (FBO) building for the Draughon-Miller Central Texas Regional Airport - Staff and the design consultants are recommending the new FBO be constructed in the same location as the Airport terminal building that was taken out of service as an FBO in 2002;

Whereas, to make way for the construction of a new FBO, an invitation to bid was released to perform the necessary asbestos abatement that is required per State regulations, demolition of the structure, construction of erosion control, and the installation of fencing to secure the Airport upon the completion of the project;

Whereas, on June 18, 2019, seven responsive bids were received for the asbestos abatement and demolition project ranging from \$79,715 to \$110,876, with Garrett Demolition, Inc. ("Garrett") of Burleson, Texas providing the low bid in the amount of \$79,715;

Whereas, at its June 19, 2019 meeting, the Reinvestment Zone Board No. 1 unanimously recommended approval of this demolition contract;

Whereas, Garrett has previously performed the asbestos abatement and demolition of several commercial properties for the City and is currently under contract to demolish the Johnson Brothers Ford property - Staff has been pleased with Garrett's performance, and recommends Council authorize a demolition contract with Garrett Demolition, Inc. of Burleson, Texas in the amount of \$79,715 for the asbestos abatement and demolition of the old Airport terminal building;

Whereas, funding is available in Reinvestment Zone No. 1 Financing and Project Plans, Line 516, Account No. 795-9500-531-6341, Project No. 101982; 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 demolition contract with Garrett Demolition, Inc. of Burleson, Texas in the amount of \$79,715, for the asbestos abatement and demolition of the old Airport terminal building at the Draughon-Miller Central Texas Regional Airport.

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

PASSED AND APPROVED this the **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

07/11/19
Item #3(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$77,900.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

BACKGROUND: This item is to engage the audit firm of Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual audit of the City of Temple. This will be the final year of a five-year contract for audit services. Staff anticipates the audit for fiscal year ending September 30, 2019 will be completed and presented to Council in February 2020.

Listed below are the cost proposals related to the audit services:

	Fiscal Year Ending	Fee
First Year	2015	\$ 72,000
Second Year	2016	73,400
Third Year	2017	74,900
Fourth Year	2018	76,400
Fifth Year	2019	77,900

Per the Local Government Code Section 252.022, professional services are exempt from the competitive bidding rules.

FISCAL IMPACT: \$77,900 is proposed in the FY 2019-2020 preliminary budget that was filed on June 27, 2019. The fee for FY 2019 audit is approximately 2.0% higher than the FY 2018 audit fee.

ATTACHMENTS:

[Engagement letter](#)
[Resolution](#)



June 26, 2019

Honorable Mayor and
Members of the City Council
Temple, Texas

We are pleased to confirm our understanding of the services we are to provide the City of Temple, Texas (the City) for the year ended September 30, 2019. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the City of Temple, Texas as of and for the year ended September 30, 2019. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis,
- 2) Budgetary Comparison Schedules and
- 3) GASB – Required Supplementary Pension and OPEB Schedules.

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements.

- 1) Schedule of Expenditures of Federal and State awards and
- 2) Combining and Individual Fund Statements and Schedules.

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information.

- 1) Introductory Section and
- 2) Statistical Data.

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the Honorable Mayor and Members of the City Council of the City of Temple, Texas. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal and state awards, and related notes of the City in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information. With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

In connection with this engagement, we may communicate with you or others via email transmission. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

Engagement Administration, Fees, and Other

We may from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

We will provide copies of our reports to the City; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Brockway, Gersbach, Franklin & Niemeier, P.C. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the federal agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Brockway, Gersbach, Franklin & Niemeier, P.C. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the federal agency. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

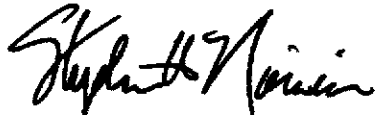
We expect to begin our audit on approximately August 19, 2019 and to issue our reports no later than February 14, 2020. Steve Niemeier is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fee for these services will be at our standard rates, except we agree that our gross fee, including expenses, will not exceed \$ 77,900. Our standard hourly rates vary accordingly to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2018 peer review report accompanies this letter.

We appreciate the opportunity to be of service to the City of Temple, Texas and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,



Stephen H. Niemeier, CPA
Brockway, Gersbach, Franklin & Niemeier, P. C.

RESPONSE:

This letter correctly sets forth the understanding of the City of Temple, Texas

By: _____ Title: City Manager

Date: _____

By: _____ Title: City Attorney

Date: _____



CPAs • Tax • Audit & Accounting

Empowering Peace of Mind

Report on the Firm's System of Quality Control

To the Owners of Brockway, Gersbach, Franklin & Niemeier, P.C.
And the Peer Review Committee of the Texas Society of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Brockway, Gersbach, Franklin & Niemeier, P.C. (the firm) in effect for the year ended April 30, 2018. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act; and Audits of employee benefit plans.,

As part of our review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Brockway, Gersbach, Franklin & Niemeier, P.C. in effect for the year ended April 30, 2018, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Brockway, Gersbach, Franklin & Niemeier, P.C. has received a peer review rating of *pass*.

Bumgardner, Morrison & Company, LLP
BUMGARDNER, MORRISON & COMPANY, LLP
August 20, 2018

Bumgardner, Morrison & Company, LLP
Certified Public Accountants

Members: American Institute of Certified Public Accountants
Texas Society of Certified Public Accountants
AICPA Private Companies Practice Section
AICPA Employee Benefit Plan Audit Quality Center
AICPA Government Audit Quality Center

1501 E Mockingbird Lane, Suite 300
PO Box 3750
Victoria, Texas 77903-3750
Phone: 361.575.0271
Fax: 361.578.0880
Website: BMCcpa.com

RESOLUTION NO. 2019-9706-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH BROCKWAY, GERSBACH, FRANKLIN AND NIEMEIER, P.C., IN AN AMOUNT NOT TO EXCEED \$77,900, TO PERFORM THE ANNUAL CITY OF TEMPLE AUDIT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Brockway, Gersbach, Franklin and Niemeier, P.C. performs the annual audit of the City of Temple - this will be the final year of a 5-year contract for audit services and Staff anticipates the audit for fiscal year ending September 30, 2019 will be completed and presented to Council in February 2020;

Whereas, per Local Government Code Section 252.022, professional services are exempt from the competitive bidding rules;

Whereas, Staff recommends Council authorize the firm of Brockway, Gersbach, Franklin and Niemeier, P.C., to perform the annual audit for fiscal year 2019 for the City of Temple;

Whereas, funds have been budgeted in the fiscal year 2019-2020 preliminary budget which was filed on June 27, 2019; 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 contract with Brockway, Gersbach, Franklin and Niemeier, P.C., in an amount not to exceed \$77,900, to perform the annual audit for fiscal year 2019 for the City of Temple.

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 **11th** day of **July**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

ATTEST:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/11/19
Item #3(F)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Richard Wilson, PE, City Engineer
Belinda Mattke, Director of Purchasing & Facility Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing an increase of \$26,023 to the estimated spending under the annual contract for construction material testing with Langerman Foster Engineering Company, LLC of Waco, for the construction of a new Pepper Creek elevated storage tank, 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 description.

ITEM SUMMARY: On September 6, 2018, Council authorized a renewal to a professional services agreement with Langerman Foster Engineering Company, LLC (LFE) for construction material testing needed for all infrastructure projects, both City-initiated and subdivision-related. The estimated spend presented to Council on September 6, 2018, for FY2019 was \$150,000, which did not include an allowance for significant capital improvement infrastructure projects with required testing estimated at over \$25,000 per project.

On June 20, 2019, Council authorized a construction contract with Landmark Structures, L.P. in the amount of \$2,688,000 for the construction of the new Pepper Creek elevated storage tank. Independent construction material testing during the construction of the elevated storage tank is essential to assure quality construction and compliance with City specifications and standards. Authorization of the increased spend of \$26,023 under the LFE construction material testing annual contract will provide for testing specifically estimated for the construction of the new tank.

The \$26,023 cost estimate is only a projection of the costs that could be incurred if all of the construction material testing is performed as anticipated by the City's Engineering Staff, the project consulting engineer, and LFE. LFE will only invoice for the testing performed at the rates as agreed to in the annual contract for construction material testing.

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 material testing of the new Pepper Creek elevated storage tank by Langerman Foster Engineering Company, LLC in the amount of \$26,023 will be available in account 561-5100-535-6991, project 101948, as shown below:

Project Budget	\$	3,400,000
Encumbered/Committed to Date		(3,040,169)
Construction Material Testing – Langerman Foster Engineering Company, LLC		(26,023)
Remaining Project Funds Available	\$	<u>333,808</u>

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9707-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INCREASE OF \$26,023 TO THE ESTIMATED SPENDING UNDER THE ANNUAL CONTRACT FOR CONSTRUCTION MATERIAL TESTING WITH LANGERMAN FOSTER ENGINEERING COMPANY, LLC OF WACO, TEXAS, FOR THE CONSTRUCTION OF A NEW PEPPER CREEK ELEVATED STORAGE TANK, AS WELL AS, DECLARE AN OFFICIAL INTENT TO REIMBURSE THE EXPENDITURES WITH THE ISSUANCE OF THE 2019 UTILITY REVENUE BONDS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on September 6, 2018, Council authorized a renewal to the professional services agreement with Langerman Foster Engineering Company, LLC (“LFE”) for construction material testing for all infrastructure projects, both City-initiated and subdivision-related;

Whereas, the estimated dollar amount presented to Council on September 6, 2018 for fiscal year 2019 was \$150,000, which did not include an allowance for significant capital improvement infrastructure projects with required testing estimated at \$25,000 per project;

Whereas, on June 20, 2019, Council authorized a construction contract with Landmark Structures, L.P. in the amount of \$2,688,000 for the construction of the new Pepper Creek elevated storage tank - independent construction material testing during the construction of the elevated storage tank is essential to assure quality construction and compliance with City specifications and standard;

Whereas, authorization of the increased spend of \$26,023 under the LFE construction material testing annual contract will provide for testing specifically estimated for the construction of the new tank;

Whereas, the \$26,023 cost estimate is only a projection of the costs that could be incurred if all of the construction material testing is performed as anticipated by City Staff, the project consulting engineer, and LFE - LFE will only invoice for the testing performed at the rates as agreed to in the annual contract for construction material testing;

Whereas, Staff recommends Council authorize an increase of \$26,023 to the estimated spending under the annual contract for construction material testing with Langerman Foster Engineering Company, LLC of Waco, Texas, for the construction of a new 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 an increase of \$26,023 to the estimated spending under the annual contract for construction material testing with Langerman Foster Engineering Company, LLC of Waco, Texas, for the construction of a new 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 **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

07/11/19
Item #3(G)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing contract amendment #1 to the professional services agreement with Kimley-Horn and Associates, Inc., of Austin, for professional services required to design South Pea Ridge Road from Hogan Road to Poison Oak Road in an amount of \$82,840.

STAFF RECOMMENDATION: Adopt resolution as presented in Item Summary.

ITEM SUMMARY: On March 21st, Council authorized a professional services agreement with Kimley-Horn in the amount of \$331,210 to design and bid roadway improvements for South Pea Ridge Road from Westwood Hills Boulevard to the proposed realignment of Poison Oak Road. Improvements include expanded pavement section with continuous left-turn lane, pedestrian facilities, and drainage conveyance.

The recommended services as outlined in the engineer's proposal continues the design from the intersection with Westwood Hills Boulevard westward to the intersection of Hogan and South Pea Ridge Roads. See project map for details. The additional scope increases the overall opinion of probable construction cost to \$4,530,000. The associated tasks and costs for contract amendment #1 are as follows; revising the contractual end date to March 27, 2020:

Project Management	\$ 1,100
Surveying and ROW	\$ 19,000
Environmental	\$ 500
Route and Design Studies	\$ 6,150
Geotechnical	\$ 2,250
Roadway Design	\$ 32,400
Drainage Design	\$ 17,750
Traffic Engineering	\$ 3,690
Total	<u>\$ 82,840</u>

FISCAL IMPACT: Funding for contract amendment # 1 to the professional services agreement with Kimley-Horn and Associates, Inc. for professional services required to design and bid South Pea Ridge in the amount of \$82,840 is available in account 365-3400-531-6860, project 101874, as follows:

Project Budget	\$	1,375,000
Encumbered/Committed to Date		(331,210)
Kimley-Horn & Associates, Inc. - CA #1		(82,840)
Remaining Project Funds Available	\$	960,950

Funding for the construction of South Pea Ridge Road from Hogan Road to Poison Oak Road is programmed in a future year of the City's Transportation Capital Improvement Plan.

ATTACHMENTS:

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



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

Re: City of Temple
South Pea Ridge Road – Contract Amendment #1
Design Services

Dear Ms. Carlos:

At the request of the City of Temple Kimley-Horn is submitting this proposal for the above referenced project. This project will develop final plans, specifications and estimates (PS&E) and bidding phase services for the South Pea Ridge Road Project. The beginning of the proposed improvements will connect to the ongoing South Pea Ridge Road Project near Westwood Hills Boulevard and extend approximately 1800 linear feet west to Hogan Road. The final PS&E will be included with the ongoing South Pea Ridge Road Project and will include final plans, Opinion of Probable Construction Cost (OPCC), geotechnical investigations, environmental investigations and metes and bounds for acquisition of rights-of-way. Based on the current bidding landscape for projects of this nature, we believe the order of magnitude of preliminary opinion of probable construction cost is \$825,500. We have included an exhibit with this proposal for reference purposes.

The work to be performed by Kimley-Horn under this contract consists of providing engineering services for design of the project as described above to include design and preparation of plans and OPCCs. The project includes the design of approximately 0.34 miles of South Pea Ridge Road reconstruction and widening, pedestrian improvements, intersection improvements, storm drain design, striping and signage. The timeframe for design of the project is ten (10) months from the notice to proceed and receipt of all necessary rights-of-entry. Metes and bounds for rights-of-way and easements will be delivered to the designated City of Temple Project Manager. Acquisition processes shall be the responsibility of the City.

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

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

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

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

TASK 1 – PROJECT MANAGEMENT

Kimley-Horn will:

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

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

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

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

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

TASK 2 – SURVEY AND RIGHT-OF-WAY DATA

CP&Y will:

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

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

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

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

2.5 Prepare metes and bounds description and sketch for up to eight (8) parcels for right-of-way acquisition.

Exhibit cost with monuments - \$1000 Each – 8 total

TASK 3 – PHASE 1 ENVIRONMENTAL SITE ASSESSMENT

Kimley-Horn will:

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

3.2 Conduct a site reconnaissance consistent with ASTM E 1527-13, 9. This reconnaissance will be non-invasive and will not consist of any sample collection or analyzing. Should, an additional site reconnaissance be required due to access limitations, the additional site reconnaissance shall be considered additional services.

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

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

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

3.6 Locate readily available resource documents which may include aerial photographs, historic topographic maps, soil surveys, U.S. Fish and Wildlife Service

(USFWS) National Wetlands Inventory (NWI) maps, Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), soil survey maps, and other related data for a desktop review of site conditions. Potential wetlands and waterbodies will be identified to guide the site visit.

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

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

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

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

3.9 Review readily available resources including, but not limited to, federally and state listed threatened and endangered species on a county-wide basis, current and historical topographic maps, aerial photographs, Texas Parks and Wildlife Department's (TPWD)

ecoregion maps and Natural Diversity Database (NDD), and available existing information regarding topography and geology of the site in an attempt to identify potentially suitable threatened and endangered species habitat.

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

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

TASK 4 – ROUTE AND DESIGN STUDIES

Kimley-Horn will:

4.1 Obtain and review any existing data from the City and other entities that may have record documents and can release the information.

4.2 Perform a site visit to evaluate site and traffic characteristics, topography, utilities, and potential environmental issues.

4.3 Design preliminary horizontal and vertical roadway geometrics utilizing Microstation and Geopak roadway design software. All designs shall be in accordance with AASHTO and City of Temple design guidelines and criteria.

- a) Kimley-Horn will provide preliminary Plan-Profile Sheets for South Pea Ridge Road at a scale of 1"=40' horizontal and 1"=10' vertical for review and approval from the City prior to moving on to 30% plans.

4.4 Coordinate with utility companies to determine if relocations and adjustments are required to accommodate the proposed project development.

- a) Field surveys shall locate horizontally: crossings of all utilities identified by markings obtained from performing a one call utility locate service.
- b) After design surveys have located marked utilities from the one call service,

verification of utilities will be performed as available from meeting with the utility companies (Atmos, AT&T, Oncor, etc.). This scope of services includes (1) kickoff meeting and (1) one coordination meeting with the utility owners.

- c) Initial notifications of the project details and expected time lines for project development shall be conveyed to all utility owners existing within the project limits.
- d) Upon determination of required relocation and/or adjustments, coordination with impacted utility owners shall be initiated. Kimley-Horn will not be responsible for design or plans production of any utility relocations necessary to accommodate the proposed improvements unless authorized by the City for additional services.

TASK 5 – GEOTECHNICAL INVESTIGATIONS

Intertek-PSI will:

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

TABLE 1: SUMMARY OF BORINGS

Design Element	Number of Borings	Boring Depth(s) (feet)	Drilling Footage (feet)
Roadway	3	10	30
TOTAL	3	---	30

- a) Borings locations will be identified in the field using available natural landmarks or GPS coordinates. Surveying of the boring locations to obtain surface coordinates and elevations is beyond the scope of work and should be surveyed by others prior to construction. References to elevations of various subsurface strata will be based on depths below existing grade at the time of drilling.
- b) During the field activities, the subsurface conditions will be observed, logged, and visually classified. Field notes will be maintained to summarize soil types and descriptions, water levels, changes in subsurface conditions, and drilling conditions.
- c) Final depths of the borings may be extended or reduced depending on the subsurface materials identified during field activities.
- d) Intertek-PSI will contact Texas One Call/Dig Tess, etc. or other public utility clearance companies prior to the start of drilling activities. It is our experience that these companies do not mark the locations of privately owned utilities. This proposal is based on private utility lines and other subsurface appurtenances are located in the field by others prior to field activities.
- e) Intertek-PSI will exercise reasonable caution to avoid damages to underground utilities by contacting local utility companies prior to the field activities. However, private utility locations are often unknown by public utility companies and by the utility owners. Therefore, Intertek-PSI will not be responsible for damage to the

site or any buried utilities that are not made known to us.

- f) Some damage to the ground surface may result from the drilling operations near the work areas and along ingress/egress pathways. The field crew will attempt to limit such damage, but no restoration other than backfilling the borings is included in this proposal. Excess auger cuttings and drilling spoils would be spread out on site.

5.2 Obtain representative soil samples during the field exploration program and transport to the Intertek-PSI laboratory for testing. The nature and extent of this laboratory testing program will be dependent upon the subsurface conditions identified during the field exploration program. The laboratory testing program on selected samples may include moisture content tests, Atterberg limits tests, unconfined compressive strength tests, swell tests and other tests as required to identify the engineering characteristics of the subsurface materials. Portions of any samples that are not altered or consumed by laboratory testing will be retained for 30 days after the issuance of the geotechnical report and will then be discarded.

TABLE 2: ANTICIPATED FIELD EXPLORATION DESCRIPTION

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

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

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

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

TASK 6 – ROADWAY DESIGN

Kimley-Horn will:

- 6.1 Prepare existing and proposed typical section sheets.
- 6.2 Develop Removal Plans identifying and quantifying removals.
- 6.3 Prepare final Plan-Profile Sheets for South Pea Ridge Road at a scale of 1"=40' horizontal and 1"=10' vertical.
- 6.4 Prepare intersection grading and details sheet detailing intersection modifications at Hogan Road associated with the reconstruction of South Pea Ridge Road.
- 6.5 Prepare proposed grading cross sections at a spacing no less than 50 feet and at driveways, cross drainage structures, utility crossings, and intersections.
- 6.6 Prepare Temporary Traffic Control Plans
 - a) Develop a Sequence of Work and General Traffic Control Notes for construction
 - b) Prepare traffic control plans for a multiple-phase traffic control sequence identifying lane geometry channelizing devices, construction zones, and buffers.
 - c) Design traffic control to maintain one lanes in each direction where possible incorporating the use of temporary pavement where applicable.
 - d) Prepare traffic control typical sections for each construction phase.
- 6.7 Calculate quantities and prepare Item Summaries Sheets tabulating project quantities.
- 6.8 Prepare General Notes and a Construction Timeline Estimate.

TASK 7 – DRAINAGE DESIGN

- 7.1 Impacts to the two (2) existing cross culverts are not anticipated and therefore culvert hydrology & hydraulics are not included in this scope of work.
- 7.1 Storm Drain Design
 - a) Produce interior drainage area maps at 1"=40' scale
 - b) Calculate run-off to each inlet and produce inlet hydraulic information using

"GEOPAK Drainage" software and City of Temple Drainage Criteria and Design Manual.

- c) Produce storm drain calculations per the City of Temple Drainage Criteria and Design Manual using GEOPAK Drainage software.
- d) Provide runoff, inlet and storm drain calculation sheets.
- e) Produce plan and profile sheets at 1"=40' scale for the storm sewer system and include limits of trench protection and hydraulic grade line.
- f) Produce lateral profile sheets for the storm sewer system at 1"=40' scale.
- g) Provide non-structural drainage detail sheet.

7.2 Storm Water Pollution Prevention Plan (SW3P)

- a) Produce Erosion Control Sheets double banked at 1"=40' scale showing controls per Traffic Control Phase

TASK 8 – TRAFFIC ENGINEERING

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

LUMP SUM FEE SCHEDULE

TASK 1 – PROJECT MANAGEMENT	\$1,100
TASK 2 – SURVEY AND RIGHT-OF-WAY DATA	\$19,000
TASK 3 – PHASE 1 ENVIRONMENTAL SITE ASSESSMENT	\$500
TASK 4 – ROUTE AND DESIGN STUDIES	\$6,150
TASK 5 – GEOTECHNICAL INVESTIGATIONS	\$2,250
TASK 6 – ROADWAY DESIGN	\$32,400
TASK 7 – DRAINAGE DESIGN	\$17,750
TASK 8 – TRAFFIC ENGINEERING	\$3,690
TOTAL LUMP SUM FEE	\$82,840

ADDITIONAL SERVICES

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

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

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

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

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

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

CP&Y Construction Easement description	\$750 Each
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CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: South Pea Ridge Road
OWNER: City of Temple
ARCHITECT/ENGINEER: Kimley-Horn and Associates, Inc.
AMENDMENT #: 1

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

Additional services to design proposed South Pea Ridge Road improvements from Hogan Road to Westwood Hills Boulevard. Additional time added to obtain ROEs and complete design.

Project Management	\$ 1,100
Surveying and ROW	\$ 19,000
Environmental	\$ 500
Route and Design Studies	\$ 6,150
Geotechnical	\$ 2,250
Roadway Design	\$ 32,400
Drainage Design	\$ 17,750
Traffic Engineering	\$ 3,690
TOTAL	\$ 82,840

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:	\$ 331,210.00
Previous Net Change in Contract Amount:	\$ -0-
Amount This Amendment:	\$ 82,840.00
Revised Contract Amount:	\$ 414,050.00
Original Contract Completion Date:	January 18, 2020
Revised Contract Completion Date:	March 27, 2020

Recommended by:

Project Manager Date

Agreed to:

Architect or Engineer Date

Approved by City of Temple:

Brynn Myers, City Manager Date

Approved as to form:

City Attorney's Office Date

Approved by Finance Department:

Finance Date

RESOLUTION NO. 2019-9708-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. OF AUSTIN, TEXAS IN THE AMOUNT OF \$82,840, FOR PROFESSIONAL SERVICES REQUIRED TO DESIGN AND BID SOUTH PEA RIDGE ROAD FROM HOGAN ROAD TO POISON OAK ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on March 21, 2019, Council authorized a professional services agreement with Kimley-Horn and Associates, Inc. in the amount of \$331,210 to design and bid roadway improvements for South Pea Ridge Road from Westwood Hills Boulevard to the proposed realignment of Poison Oak Road, which included an expanded pavement section with continuous left-turn lane, pedestrian facilities, and drainage conveyance;

Whereas, the recommended services will continue the design from the intersection with Westwood Hills Boulevard westward to the intersection of Hogan and South Pea Ridge Roads;

Whereas, funding is available for this contract amendment in Account No. 365-3400-531-6860, Project No. 101874; and

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

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

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

Part 2: The City Council authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute a contract amendment to the professional services agreement with Kimley-Horn and Associates, Inc. of Austin, Texas in the amount of \$82,840, for professional services required to design and bid South Pea Ridge Road from Hogan Road to Poison Oak Road.

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

PASSED AND APPROVED this the **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

07/11/19
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DEPT./DIVISION SUBMISSION & REVIEW:

Joseph Medici, A.A.E., Airport Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing acceptance of grant funding in the estimated amount of \$1,917,000 from the Texas Department of Transportation, Aviation Division, Airport Project Participation Grant Fund, for the design and construction of the Airfield Lighting Improvements project at the Draughon-Miller Central Texas Regional Airport, with an estimated City match of 10% or \$213,000 for a total project cost of \$2,130,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Airfield Lighting Improvements project scope includes the replacement of all taxiway and runway lights (possibly with LED fixtures) and lighting-related appurtenances, replacement of all taxiway and runway signage panels, and updating both runway markings. TXDOT Aviation will provide the following project management services in support of the Airfield Lighting Improvement project.

- * Administer consultant selection process and negotiate fees with selected firm.
- * Execute all contracts for design and construction.
- * Advertise for bid.
- * Review and approve plans and specifications.
- * Pay all consultant and construction bills and invoices.
- * Supervise and direct all project work.
- * Participate in construction conferences.
- * Coordinate FAA review of ALP (airspace review).
- * Administer DBE/HUB Program

FISCAL IMPACT: TxDOT will provide a grant in the amount of \$1,917,000 with the City providing a 10% match in the total amount of \$213,000 for the design and construction of the Airfield Lighting Improvements project. Total estimated project cost is \$2,130,000.

Funding for the design match in the amount of \$20,000 is available in the FY 2019 budget in account 110-5900-560-6310, project #101868. It is estimated the City's share of the design costs will be due by January 2020.

Advertising for construction is estimated to take place in August 2020. The City's share of the construction costs are due prior to construction advertising. Funding for the construction match in the amount of \$193,000 will be funded in FY 2020.

A breakdown of the estimated project costs and funding is shown below:

Description	Total Estimated Cost	Federal Participation		Local Participation	
		%	Cost	%	Cost
Estimated Engineering/Design Costs	\$ 200,000	90 %	\$ 180,000	10 %	\$ 20,000
Estimated Total Construction Costs	1,930,000	90 %	1,737,000	10 %	193,000
TOTAL	\$ 2,130,000	\$	1,917,000	\$	213,000

ATTACHMENTS:
[Resolution](#)

RESOLUTION NO. 2019-9709-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING ACCEPTANCE OF GRANT FUNDING FROM THE TEXAS DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION, AIRPORT PROJECT PARTICIPATION GRANT FUND, IN THE ESTIMATED AMOUNT OF \$1,917,000, FOR THE DESIGN AND CONSTRUCTION OF THE AIRFIELD LIGHTING IMPROVEMENTS PROJECT AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT, WITH THE CITY'S ESTIMATED MATCH OF TEN PERCENT OR \$213,000 FOR A TOTAL PROJECT COST OF \$2,130,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Airfield Lighting Improvements project scope includes the replacement of all taxiway and runway lights (possibly with LED fixtures) and lighting-related appurtenances, replacement of all taxiway and runway signage panels, and updating both runway markings;

Whereas, Texas Department of Transportation will provide project management services in support of the Airfield Lighting Improvement project;

Whereas, Staff recommends Council authorize the acceptance of grant funding from the Texas Department of Transportation, Aviation Division, Airport Project Participation Grant Fund, in the estimated amount of \$1,917,000, for the design and construction of the Airfield Lighting Improvements project at the Draughon-Miller Central Texas Regional Airport;

Whereas, funding for the design match in the amount of \$20,000 is available in the fiscal year 2019 budget, Account No. 110-5900-560-6310, Project No. 101868, and the City's share of the design costs will be due by January 2020; 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 acceptance of grant funds from the Texas Department of Transportation, Aviation Division, Airport Project Participation Grant Fund, in the estimated amount of \$1,917,000, for the design and construction of the Airfield Lighting Improvements project at the Draughon-Miller Central Texas Regional Airport.

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 which may be necessary for this grant and to accept any funds that may be received for this grant.

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 **11th** day of **July**, 2019.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

ATTEST:

Lacy Borgeson
City Secretary

Kayla Landeros
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Floyd Mitchell, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing the Temple Police to submit an application and accept funding through the Bureau of Justice Assistance Bulletproof Vest Partnership Program of 2019 for the purchase of ballistic vests and replacements for the Police Department in the amount of \$26,406.73, with \$13,203.36 of required City matching funds.

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

ITEM SUMMARY: The Temple Police Department desires approval to apply and accept grant funds available through the Department of Justice, Bureau of Justice Assistance Bulletproof Vest Partnership Program. This will be the 18th grant received from this program. The grant requires a City match of 50% of the cost associated with the purchase of new ballistic vests. The Police Department buys vests on a yearly basis and budgets for the matching funds required by the grant.

FISCAL IMPACT: If the grant is awarded and accepted, the City will receive \$13,203.37 in grant funds with the City's match being \$13,203.36. Total funding for the purchase of 31 vests is estimated at \$26,406.73. The grant funds are reimbursed to the City after the purchase is completed.

If funding is approved by the Bureau of Justice Assistance Bulletproof Vest Partnership Program, a budget adjustment will be presented for Council's approval appropriating the grant revenue to be received in the amount of \$13,203.37. Funding has been included in the proposed Police Department's FY 2020 operating budget, account 110-2011-521-2113, Clothing and Uniforms for the City's required match.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9710-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE TEMPLE POLICE TO SUBMIT AN APPLICATION AND ACCEPT FUNDING THROUGH THE BUREAU OF JUSTICE ASSISTANCE BULLETPROOF VEST PARTNERSHIP PROGRAM OF 2019 FOR THE PURCHASE OF BALLISTIC VESTS AND REPLACEMENTS FOR THE POLICE DEPARTMENT IN THE AMOUNT OF \$26,406.73, WITH \$13,203.36 OF REQUIRED CITY MATCHING FUNDS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Department of Justice, Bureau of Justice Assistance Bulletproof Vest Partnership Program offers a matching grant program for the purchase of bulletproof vests for the Temple Police Department - this will be the 18th grant received from this program;

Whereas, the grant requires a City match of 50% of the cost associated with the purchase of new ballistic vests, and the Police Department buys vests on a yearly basis and budgets for the matching funds required by the grant;

Whereas, Staff recommends Council authorize the acceptance of grant funds from the Bureau of Justice Assistance Bulletproof Vest Partnership Program of 2019 for the purchase of 31 ballistic vests and replacements for the Police Department in the amount of \$26,406.73, with \$13,203.36 of required City matching funds;

Whereas, if awarded, the City anticipates receiving \$13,203.37 in grant funds with the City's matching funds being \$13,203.36 - total funding for the purchase of 31 vests is estimated at \$26,406.73;

Whereas, the grant funds are reimbursed to the City after the purchase is completed – and therefore a budget adjustment must be approved to appropriate the grant revenue to be received in the amount of \$13,203.37;

Whereas, funds are appropriated in the Police Department's fiscal year 2020 operating budget, Account No. 110-2011-521-2113, Clothing and Uniforms for the City's required match; 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 acceptance of grant funds from the Bureau of Justice Assistance Bulletproof Vest Partnership Program of 2019 for the purchase of thirty ballistic vests and replacements for the Police Department in the amount of \$26,406.73, with \$13,203.36 of required City matching funds.

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 which may be necessary for this grant and accept any funds that may be received for this grant.

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 **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

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DEPT./DIVISION SUBMISSION & REVIEW:

Leigh Gardner, Library Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a grant application and acceptance of services from the University of North Texas Rescuing Texas History Mini-Grants 2019 Program in the amount of \$1,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Temple Public Library requests approval to submit a grant application to the University of North Texas for a Rescuing Texas History Mini-Grant in the amount of \$1,000. If awarded the grant services will be used to digitize a portion of the Temple Daily Telegram. Currently the Temple Daily Telegram is digitized through 1923. Digitization provides for long-term preservation of the newspaper and the history of the City of Temple. No matching funds are required for this grant.

Approval of the resolution will authorize the City Manager or her designee, after approval as to form by the City Attorney, to execute any documents that may be necessary for ratifying this application and to receive any funds that may be disbursed through this grant program.

FISCAL IMPACT: If awarded the grant, the City will receive \$1,000 in services from the University of North Texas Rescuing Texas History Mini-Grants 2019 Program to digitize a portion of the Temple Daily Telegram. No City match is required for these services.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9711-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A GRANT APPLICATION AND ACCEPTANCE OF SERVICES FROM THE UNIVERSITY OF NORTH TEXAS RESCUING TEXAS HISTORY MINI-GRANTS 2019 PROGRAM IN THE AMOUNT OF \$1,000.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Temple Public Library desires to submit a grant application to the University of North Texas for a Rescuing Texas History Mini-Grant in the amount of \$1,000 to digitize a portion of the Temple Daily Telegram;

Whereas, currently the Temple Daily Telegram is digitized through 1923 - digitization provides for long-term preservation of the newspaper and the history of the City of Temple;

Whereas, Staff recommends Council submission of a grant application and acceptance of services from the University of North Texas Rescuing Texas History Mini-Grants 2019 Program in the amount of \$1,000 to digitize a portion of the Temple Daily Telegram;

Whereas, if awarded, the City anticipates receiving \$1,000 in services with no City matching funds required; 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 submission of a grant application and acceptance of services if awarded, from the University of North Texas Rescuing Texas History Mini-Grants 2019 Program in the amount of \$1,000 with no City matching funds required.

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 which may be necessary for to apply for this grant and accept any services that may be received from this grant.

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 **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

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DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, Public Works Director
Richard Wilson, City Engineer

ITEM DESCRIPTION: Consider adopting a resolution ratifying change order #4 to a contract with Choice Builders, LLC, of Temple, for construction of the Conner Park drainage channel improvements, in the amount of \$32,036.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Choice is currently constructing a widened drainage channel along a Pepper Creek tributary from Adams Avenue to the Thompson drainage channel at Old Waco Road.

This change order comprises several revisions and additions requested by staff:

1. Revise proposed sidewalks from 5-feet wide to 6-feet wide.
2. Provide additional sidewalk and appurtenant accessibility ramps to connect the Conner Park walking trail with the neighborhoods to the west.
3. Remove fencing from the original project scope.
4. Provide a graded and top soiled planting bed within area that was reclaimed for Conner Park.
5. Add responsibility for final grass channel topsoil to the contractor's scope (originally planned for City crews).

Choice's original construction contract last was \$705,687.90, and subsequent change orders revised the total contract amount to \$809,527.90. This change order would increase the total contract amount to \$841,563.90, a net 19.3% increase from the original contract amount.

Turley Associates recommended the change order, which revises the contract end date to September 11th, 2019.

FISCAL IMPACT: A budget adjustment is being presented to Council for approval to appropriate funding needed for change order #4 to the construction contract with Choice Builders, LLC in the amount of \$32,036 required for the Conner Park drainage channel improvements. Funding will be available in project #101592 as follows:

	292-2900-534-6312	353-2900-534-6714	Total
Project Budget	\$ 1,005,436	\$ 804,212	\$ 1,809,648
Budget Adjustment	-	33,803	33,803
Encumbered/Committed to Date	(1,005,436)	(804,212)	(1,809,648)
Choice Builders, LLC - CO#4	-	(32,036)	(32,036)
Remaining Project Funds	\$ -	\$ 1,767	\$ 1,767

ATTACHMENTS:

[Engineer's Recommendation & Change Order Form](#)
[Project Map](#)
[Budget Adjustment](#)
[Resolution](#)



TURLEY ASSOCIATES, INC.

301 NORTH THIRD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400
F-1658 TBPLS No. 10056000

June 13, 2019

City of Temple
Department of Public Works
Attn: Mr. Don Bond, P.E., C.F.M.
3210 East Ave. H, Bldg. A
Temple, TX 765101

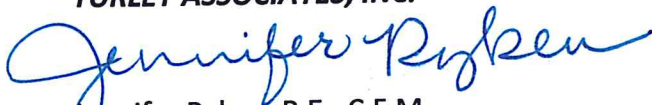
RE: City of Temple
Conner Park Drainage Improvements Project
Choice Builders, LLC. Change Order No. 4

Dear Mr. Bond:

Per our previous progress meetings and phone conversations, Turley Associates, Inc. has prepared a Change Order to the Original Contract for the project listed above. The Change Order deducts all 5' wide concrete sidewalk, one (1) sidewalk ramp, approximately 361 LF of the vinyl coated chain length fence and the two (2) vinyl coated gate panels. The Change Order includes the addition of 930 LF of 6' wide concrete sidewalk that replaces the 5' wide sidewalk referenced above as well as adding additional 6' wide sidewalk to the overall project. A 9' wide sidewalk is also added that will be doveled into the back of curb at Tanglehead Drive running approximately 70 LF crossing the existing culverts and connecting to the existing walking trail. This will include a modified TxDOT type 2 ramp connecting to Tanglehead Drive. Additionally, 1,500 CY of topsoil has been added for the finish out of the channel and the detention pond that was filled previously by the City.

Turley Associates, Inc. recommends that the City of Temple approve a Change Order for Choice Builders, LLC. to the Original Contract for the Conner Park Drainage Improvements project in the amount of \$32,036.00. This Change Order also establishes the new current contract end date of September 11, 2019. Please do not hesitate to contact our office with any questions.

Sincerely,
TURLEY ASSOCIATES, INC.


Jennifer Ryken, P.E., C.F.M.
Senior Project Engineer

CHANGE ORDER

PROJECT: Conner Park Drainage Channel Improvements

OWNER: City of Temple

CONTRACTOR: Choice Builders

ENGINEER: Turley Associates, Inc.

CHANGE ORDER #: Four (4)

Make the following **additions, modifications and deletions** (bold and underline those that apply) to the work described in the Contract Documents:

Deduct:

Item	Description	Quantity	Unit	Unit Price	Extended Amount
CO4-1	5' Wide Concrete Sidewalk	504	LF	\$ 20.00	\$ 10,080.00
CO4-2	TxDOT Type 1 Ramp	1	EA	\$ 1,000.00	\$ 1,000.00
CO4-3	6' Vinyl Chain-link Fence	361	LF	\$ 36.00	\$ 12,996.00
CO4-4	6' Vinyl Coated Gate	2	EA	\$ 722.00	\$ 1,444.00
Deduct Total					\$ 25,520.00

Add:

Item	Description	Quantity	Unit	Unit Price	Extended Amount
CO4-5	6' Wide Concrete Sidewalk	930	LF	\$ 23.00	\$ 21,390.00
CO4-6	9' Wide Concrete Sidewalk	70	LF	\$ 55.00	\$ 3,850.00
CO4-7	TxDOT Type 2 Ramp	1	EA	\$ 1,400.00	\$ 1,400.00
CO4-8	Excavation for Additional Sidewalk	63	CY	\$ 18.00	\$ 1,134.00
CO4-9	Fill Material and Placement for Additional Sidewalk	10	CY	\$ 25.00	\$ 250.00
CO4-10	Topsoil for Channel Finish Out	1000	CY	\$ 10.00	\$ 10,000.00
CO4-11	Topsoil for Parkland Finish Out	500	CY	\$ 10.00	\$ 5,000.00
CO4-12	Placement of Topsoil for Parkland	4,844	SY	\$ 3.00	\$ 14,532.00
Add Total					\$ 57,556.00

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 order 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:	\$ 705,687.90
Previous Net Change in Contract Amount:	\$ 103,840.00
Amount This Amendment:	\$ 32,036.00
Revised Contract Amount:	\$ 841,563.90
Original Final Completion Date:	June 4, 2018
Second Revised Contract Completion Date:	January 11, 2019
New Revised Contract Completion Date:	September 11, 2019

Recommended by:

Project Manager (City Staff) _____ Date _____

Agreed to: _____

Contractor _____ Date 6-24-19

Approved as to form:

City Attorney's Office _____ Date _____

Recommended by:

Architect or Engineer _____ Date 6/14/19

Approved by City of Temple:

Brynn Myers, City Manager _____ Date _____

Approved by Finance Department:

Finance _____ Date _____



Conner Park Drainage Improvements Phase II

City of
Temple

THE MEADOWS

THE MEADOWS

WESTFIELD
MARKET

Concrete Channel
40' Wide
7' Deep
1:1 Sides

MEADOWBROOK DR

WACO ROAD
WEST SUBDIVISION

Concrete Channel
40' Wide
3.2' Deep
1:1 Sides

BRAZOS
BEND

CONNER PARK

TANGLEHEAD DR

Grass Channel
Proposed
Grass Channel
Upgrades

F.M. 2305

OLD WACO RD



This project is for informational purposes only and does not constitute a contract. The information herein is for informational purposes only and does not constitute a contract. The information herein is for informational purposes only and does not constitute a contract. The information herein is for informational purposes only and does not constitute a contract.

RESOLUTION NO. 2019-9712-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING CHANGE ORDER NO. 4 TO THE CONSTRUCTION CONTRACT WITH CHOICE BUILDERS, LLC OF TEMPLE, TEXAS IN THE AMOUNT OF \$32,036, FOR CONSTRUCTION OF THE CONNER PARK DRAINAGE CHANNEL IMPROVEMENTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Choice Builders, LLC (Choice) of Temple, Texas is currently constructing a widened drainage channel along a Pepper Creek tributary from Adams Avenue to the Thompson drainage channel at Old Waco Road - this change order comprises several revisions and additions requested by staff;

Whereas, Staff and Turley Associates recommend Council authorize Change Order No 4 to the contract with Choice in the amount of \$32,036, for construction of the Conner Park drainage channel improvements which includes revising proposed sidewalks from 5-feet wide to 6-feet wide, provide additional sidewalk and appurtenant accessibility ramps to connect the Conner Park walking trail with the neighborhoods to the west, removing fencing from the original project scope, providing a graded and top-soiled planting bed within an area that was reclaimed for Conner Park, and add responsibility for final grass channel topsoil to the contractor's scope (originally planned for City crews);

Whereas, this change order increases the total contract amount to \$841,563.90, a 19.3% net increase to the original contract amount;

Whereas, funding is available, but a budget adjustment is being presented to Council for approval to appropriate funds to Account No. 292-2900-534-6312 and Account No. 353-2900-534-6714, Project No. 101592; and

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

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

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

Part 2: The City Council ratifies Change Order No. 4 to a contract with Choice Builders, LLC of Temple, Texas in the amount of \$32,036, for construction of the Conner Park drainage channel improvements, and authorizes the City Manager, or her designee, after approval as to form, to execute any documents associated with this change order.

Part 3: 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 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 **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

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DEPT./DIVISION SUBMISSION & REVIEW:

Alan DeLoera, Information Technology Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of solid waste fleet automation hardware, implementation and software subscription services with Routeware Inc., of Portland, Oregon, in the amount of \$222,251, as well as, declare an official intent to reimburse a portion the expenditures with the issuance of 2019 Limited Tax Notes.

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

ITEM SUMMARY: In an effort to streamline daily operations and customer service the Solid Waste Department would like to move forward with a turnkey solid waste fleet automation solution that automates and integrates solid waste routes, video capture with picture services, fleet tracking, control center monitoring, fork sensors, and a customer service solution that provides real-time pick-up monitoring and dispatch services. With this automated solution, drivers, dispatchers, and supervisors can check for missed stops before a driver leaves a route which reduces customer calls and expensive return trips. The solution takes video and pictures of all stops to verify service at any location.

Pick-ups, skip reasons, and extras can be logged by a driver right on the in-cab computer, while cameras and sensors on forks can automatically log service events. If a driver skips a stop because the container was blocked or not out, GPS tracking and pictures can prove that that driver made a valid attempt to serve. Data analytics gives supervisors real-time insight to the operations of the solid waste department in an effort to increase efficiencies of routes and improve customer service.

Routeware Control Center (RCC) can create and dispatch work orders and routes, monitor route progress, store service histories, track vehicles and drivers, play-back routes, create geofences, show breadcrumb trails, and display hundreds of reports. This web-based back-office application features a unique, easy-to-use monitoring technique called a Heatmap that presents real-time dashboards and alerts that ensure routes, drivers, and vehicles are operating within their targeted parameters. Heatmaps flash red, yellow, or green as drivers meet or miss predefined targets for certain metrics including route completion status.

Waste collection is an essential city service. Ample opportunity exists for smart technology to increase efficiency and improve the quality of waste collection services to our citizens. We feel that this is the solution to increase efficiencies and customer service through smart technology.

Routeware Inc. has been awarded Contract FL03-19 through the Houston-Galveston Area Council Cooperative (HGAC). Contracts awarded through HGAC have been competitively procured and meet the statutory procurement requirements for Texas municipalities.

FISCAL IMPACT: The hardware and implementation services related to this purchase total \$96,480 and are being funded with the issuance of the 2019 Limited Tax Notes. 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.

After approval of the budget adjustment, funding will be available for the purchase of solid waste fleet automation hardware and implementation services in account 364-2300-540-6766, project 102059, in the amount of \$96,480.

The annual subscription fees of \$125,771 will begin October 1, 2019 and are included in the proposed FY 2020 Operating Budget filed on June 28, 2019.

The hardware and implementation costs of \$96,480 in addition to the annual subscription fees of \$125,771 bring the total investment for FY 2019 and FY 2020 for Routeware software to \$222,251.

<u>Description</u>	<u>Account #</u>	<u>FY</u>	<u>Amount</u>
Hardware & Implementation Services	364-2300-540-6766, project 102059	2019	\$96,480
Software Subscription	110-2310-540-2515	2020	\$125,771
<u>Total Funds Available</u>			<u>\$222,251</u>

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9713-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF SOLID WASTE FLEET AUTOMATION HARDWARE, IMPLEMENTATION AND SOFTWARE SUBSCRIPTION SERVICES IN THE AMOUNT OF \$222,251, WITH ROUTEWARE INC., OF PORTLAND, OREGON, AS WELL AS, DECLARE AN OFFICIAL INTENT TO REIMBURSE A PORTION OF THE EXPENDITURES WITH THE ISSUANCE OF 2019 LIMITED TAX NOTES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in an effort to streamline daily operations and customer service, the Solid Waste Department would like to move forward with a turn-key solid waste fleet automation solution that automates and integrates solid waste routes, video capture with picture services, fleet tracking, control center monitoring, fork sensors, and includes a customer service solution that provides real-time pick-up monitoring and dispatch services;

Whereas, with this automated solution, drivers, dispatchers, and supervisors can check for missed stops before a driver leaves a route which reduces customer calls and expensive return trips - the solution takes video and pictures of all stops to verify service at any location;

Whereas, pick-ups, skip reasons, and extras can be logged by a driver right on the in-cab computer, while cameras and sensors on forks can automatically log service events - if a driver skips a stop because the container was blocked or not out, GPS tracking and pictures can prove that the driver made a valid attempt to serve;

Whereas, Routeware Control Center (RCC) can create and dispatch work orders and routes, monitor route progress, store service histories, track vehicles and drivers, play-back routes, create geofences, show breadcrumb trails, and display hundreds of reports - data analytics gives supervisors real-time insight to the operations of the solid waste department in an effort to increase efficiencies of routes and improve customer service;

Whereas, this web-based back-office application features a unique, easy-to-use monitoring technique called a Heatmap that presents real-time dashboards and alerts that ensure routes, drivers, and vehicles are operating within their targeted parameters - Heatmaps flash red, yellow, or green as drivers meet or miss predefined targets for certain metrics including route completion status;

Whereas, waste collection is an essential City service and ample opportunity exists for smart technology to increase efficiency and improve the quality of waste collection services to our citizens - Staff believes that this is a valuable solution for the City to increase efficiencies and customer service through smart technology;

Whereas, Routeware Inc. has been awarded Contract No. FL03-19 through the Houston-Galveston Area Council Cooperative (HGAC) - contracts awarded through HGAC have been competitively procured and meet the statutory procurement requirements for Texas municipalities and Staff recommends the use of this HGAC contract for the purchase of solid waste fleet automation hardware, implementation and software subscription services in the amount of \$222,251, from Routeware, Inc., of Portland, Oregon;

Whereas, the City finds, considers and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues 2019 Limited Tax Notes to finance the Project;

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

Whereas, upon issuance of the 2019 Limited Tax Notes, the City desires to reimburse these prior expenditures with proceeds of the Notes;

Whereas, Section 1.150-2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from 2019 Limited Tax Notes 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 hardware and implementation services related to this purchase total \$96,480 and are being funded with the issuance of the 2019 Limited Tax Notes – the City is declaring an official intent to reimburse for this purchase and a budget adjustment will be prepared at the time of the sale to reimburse expenditures incurred prior to the issuance of the notes;

Whereas, after approval of the budget adjustment, funding will be available in Account No. 364-2300-540-6766, Project No. 102059 - the annual subscription fees of \$125,771 will begin October 1, 2019 and are included in the proposed fiscal year 2020 Operating Budget filed on June 28, 2019, Account No. 110-2310-540-2515; 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 solid waste fleet automation hardware, implementation and software subscription services in the amount of \$222,251, from Routeware, Inc., of Portland, Oregon, 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: The findings, determinations and certifications contained in the preamble hereof are incorporated herein for all purposes.

Part 4: 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 5: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **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

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DEPT./DIVISION SUBMISSION & REVIEW:

Kirk Scopac, Fleet Services Director
Kenny Henderson, Transportation Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a sealing melter from Crafcro, Inc., in Chandler, Arizona, in the amount of \$50,267.12, as well as, declare an official intent to reimburse the expenditure with the issuance of 2019 Limited Tax Notes.

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

ITEM SUMMARY: Staff recommends the purchase of a Crafcro Super Shot 125 trailer-mounted hot sealant melter to replace the existing nine-year-old unit (asset #13274, Crafcro Super Shot 60). The upgraded replacement has double the capacity of the current asset and a swivel disk applicator that reduce the downtime to replenish sealer and apply the product with improved efficiency and speed.

The Street Division operates a five-person crew that seals cracks in asphalt pavement. This crew was established in 2010 and has sealed approximately 2,000 lane miles of pavement. This pavement maintenance is essential to prolong the life of our streets.

Crafcro, Inc. has been awarded BuyBoard contract #515-16, which Staff is recommending using for this purchase. Contracts awarded by BuyBoard have been competitively procured and meet the statutory procurement requirements for Texas municipalities.

FISCAL IMPACT: The sealing melter from Crafcro is being funded with the issuance of the 2019 Limited Tax Notes. We are declaring an official intent to reimburse for this purchase. A budget adjustment will be prepared at the time of the sale to reimburse expenditures incurred prior to the issuance of the notes.

Once the budget adjustment is approved, funding, for the purchase of a sealing melter from Crafcro, Inc. will be available in account 364-3400-531-6222, project #102033, in the amount of \$50,267.12 as shown below:

Project Budget	\$	52,000
Crafcro, Inc. – Sealing Melter		(50,267)
Remaining Funds Available	\$	<u>1,733</u>

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9714-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A SEALING MELTER FROM CRAFTCO, INC., IN CHANDLER, ARIZONA, IN THE AMOUNT OF \$50,267.12, AS WELL AS, DECLARE AN OFFICIAL INTENT TO REIMBURSE THE EXPENDITURE WITH THE ISSUANCE OF 2019 LIMITED TAX NOTES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Street Division operates a five-person crew that seals cracks in asphalt pavement and was established in 2010 – this crew has sealed approximately 2,000 lane miles of pavement which is essential to prolong the life of our streets;

Whereas, Craftco, 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, Staff recommends the purchase of a Super Shot 125 trailer-mounted hot sealant melter from Craftco, Inc., of Chandler, Arizona in the amount of \$50,267.12, to replace the existing 9-year-old unit (Asset No. 13274, Craftco Super Shot 60) - the upgraded replacement has double the capacity of the current asset and a swivel disk applicator that reduces the downtime to replenish sealer and applies the product with improved efficiency and speed;

Whereas, the City finds, considers and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues 2019 Limited Tax Notes to finance the Project;

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

Whereas, upon issuance of the 2019 Limited Tax Notes, the City desires to reimburse these prior expenditures with proceeds of the Notes;

Whereas, Section 1.150-2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from 2019 Limited Tax Notes proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid;

Whereas, this purchase is being funded with the issuance of the 2019 Limited Tax Notes – the City is declaring an official intent to reimburse for this purchase and a budget adjustment will be prepared at the time of the sale to reimburse expenditures incurred prior to the issuance of the notes;

Whereas, after approval of the budget adjustment, funding will be available in Account No. 364-3400-531-6222, Project No. 102033; 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 sealing melter in the amount of \$50,267.12, from Crafc0, Inc., of Chandler, Arizona, 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: The findings, determinations and certifications contained in the preamble hereof are incorporated herein for all purposes.

Part 4: 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 5: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 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

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DEPT./DIVISION SUBMISSION & REVIEW:

Kirk Scopac, Fleet Services Director
Kenny Henderson, Transportation Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a 16-foot cutting width mower from Professional Turf Products, L.P. of Euless in the amount of \$99,697.85.

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

ITEM SUMMARY: Staff is recommending the purchase of a Toro Groundsmaster 5900, a 16-foot cutting width batwing mower. The FY 2019 Budget included the addition of three-person Drainage maintenance crew along with the equipment to perform tasks. This batwing mower is one of those pieces of equipment that will be used to maintain our ever-growing drainage structure inventory.

Professional Turf Products, L.P. has been awarded contract #529-17 by BuyBoard, which Staff is recommending for this purchase. Contracts awarded through BuyBoard have been competitively procured and meet the statutory procurement requirements for Texas municipalities.

FISCAL IMPACT: Funding for the purchase of a 16-foot mower from Professional Turf Products, L.P. in the amount of \$99,697.85 is available in account 292-2900-534-6222, project #101917, as follows:

Project Budget	\$	99,698
Professional Turf Products, L.P.- Mower		(99,698)
Remaining Funds Available	\$	-

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9715-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A 16-FOOT CUTTING WIDTH MOWER FROM PROFESSIONAL TURF PRODUCTS, L.P. OF EULESS, TEXAS IN THE AMOUNT OF \$99,697.85; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the fiscal year 2019 budget included the addition of a 3-person Drainage maintenance crew along with the equipment to perform the tasks - this Toro Groundmaster 5900, 16-foot cutting width batwing mower is one of the pieces of equipment that will be used to maintain our ever-growing drainage structure inventory;

Whereas, Professional Turf Products, L.P. 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. 292-2900-534-6222, Project No. 101917; 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 16-foot cutting width mower from Professional Turf Products, L.P. of Euless, Texas, in the amount of \$99,697.85.

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 **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

07/11/19
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DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of a property necessary for the Poison Oak Road Expansion Project and authorizing closing costs and relocation benefits associated with the purchase in an estimated amount of \$163,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City is in the design phase for roadway improvements to Poison Oak Road from State Highway 317 to Old Waco Road. Improvements include expanding the current two-lane pavement section to a new four lane roadway, extending to connect to Old Waco Road, pedestrian facilities, drainage conveyance, utilities, street lighting, and landscaping.

The design requires the acquisition of right-of-way from thirty-two properties. Twenty-nine of the thirty-two properties are owned by twenty-five private citizens or entities. One right-of-way has been donated by Belton Independent School District. The City and the State of Texas (TxDOT) own the two remaining properties.

Appraisals have been conducted on all the properties and offers have been made to those property owners based on the appraisals. For those properties that will require relocation, Stateside Right of Way Services, Inc. (Stateside) has prepared and presented the necessary relocation studies. The City has acquired twelve rights-of-way and is coordinating closing on two rights-of-way. Council authorized eminent domain for six properties at its January 17, May 16, and June 6, 2019 meetings.

With the assistance of Stateside, the City has reached an agreement with a property owner. The property is a whole taking and requires the relocation of the owner-occupant. Stateside conducted a relocation study to determine relocation benefits due to the owner-occupant.

At this time, Staff is asking for authorization to purchase the property necessary for the Poison Oak Road Expansion Project and authorizing closing costs and relocation benefits associated with the purchase in an estimated amount of \$163,000.

The addresses and Bell County Appraisal District ID Numbers of the property is 8915 Poison Oak Road, #105518.

FISCAL IMPACT: Funding for the purchase of a property necessary for the Poison Oak Road Expansion Project and authorizing closing costs and relocation benefits associated with the purchase in an estimated amount of \$163,000 is available in account 365-3400-531-6886, project 101715.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9716-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A PROPERTY NECESSARY FOR THE POISON OAK ROAD EXPANSION PROJECT; AUTHORIZING CLOSING COSTS AND RELOCATION BENEFITS ASSOCIATED WITH THE PURCHASE IN AN ESTIMATED AMOUNT OF \$163,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is in the design phase for roadway improvements to Poison Oak Road from State Highway 317 to Old Waco Road, which includes expanding the current two-lane pavement section to a new four-lane roadway, extending to connect to Old Waco Road, pedestrian facilities, drainage conveyance, utilities, street lighting, and landscaping;

Whereas, the design requires the acquisition of rights of way from thirty-two properties and twenty-nine of the thirty-two properties are owned by twenty-five private citizens or entities – one right of way has been donated by Belton Independent School District and the other two remaining properties are owned by the City and the State of Texas (TxDOT);

Whereas, appraisals have been conducted on all of the properties and offers have been made to those property owners based on the appraisals - for those properties that require relocation, Stateside Right of Way Services, Inc. (Stateside) is preparing the necessary relocation studies;

Whereas, the City has acquired twelve rights of way and is coordinating closings on two rights of way - Council authorized eminent domain for six properties at its January 17, 2019, May 16, 2019 and June 6, 2019 meetings;

Whereas, with the assistance of Stateside, the City has reached an agreement with a property owner – the property is a whole taking and requires the relocation of the owner-occupant;

Whereas, Stateside conducted a relocation study to determine relocation benefits due to the owner-occupant and Staff recommends Council authorize the purchase of 8915 Poison Oak Road, Temple, Texas (Bell CAD ID No. 105518) which is necessary for the Poison Oak Road expansion project, and authorize closing costs and relocation benefits associated with the purchase in an estimated amount of \$163,000;

Whereas, funding for the purchase of this property is available in Account No. 365-3400-531-6886, Project No. 101715; and

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

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

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

Part 2: The City Council authorizes the purchase 8915 Poison Oak Road, Temple, Texas, which is necessary for the Poison Oak Road expansion project, authorizes closing costs and relocation benefits associated with the purchase in an estimated amount of \$163,000, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney, to execute any documents that may be necessary for the purchase of this property.

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

PASSED AND APPROVED this the **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

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DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution accepting the donation of 1.280 acres of land located to the west of the Leon River and to the east of Interstate 35 from Kasberg, Patrick & Associates, LP to the City of Temple.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In February 2017, the City accepted the donation of 58.76 acres of land ("Leon River Property") from 302 Acres Leon River, LP. The Leon River Property is adjacent to Bend of the River which is also owned by the City. With the donation of the Leon River Property, the City owns approximately 90 acres on the west side of the Leon River and to the east of Interstate 35.

A portion of the Leon River property was also needed for the construction of a new lift station and trunk sewer line. The construction is near completion and the City's engineer on the project, Kasberg, Patrick & Associates, LP ("KPA") has determined that a portion of the infrastructure was constructed on property that has not been conveyed to the City. KPA has surveyed the additional property needed which is approximately 1.280 acres located at the north end of the Leon River Property. KPA has offered to purchase the property and donate it to the City.

Staff recommends accepting the donation of 1.280 acres of land located to the west of the Leon River and to the east of Interstate 35 from KPA.

FISCAL IMPACT: The City will be responsible for future maintenance of the property and any costs associated with the closing transaction on the land which are expected to be nominal.

ATTACHMENTS:

[Survey](#)
[Resolution](#)

LOT 2, BLOCK 1
CEDON ADDITION 2
Cab. D, Sl. 166-C

LOT 1, BLOCK 1
3513-RSD JOINT VENTURE
ADDITION
Cab. D, Sl. 361-A

Surveyor's Sketch showing
1.280 ACRES, situated in the
NANCY CHANCE SURVEY,
ABSTRACT 5, Bell County,
Texas.

This sketch to accompany a metes and bounds
description of the hereon shown 1.280 Acre tract.

CALLED 58.76 ACRES
CITY OF TEMPLE
Doc. No. 2017-00029277

REMAINDER OF
CALLED 48.055 ACRES
302 ACRES LEON RIVER, LP
TRACT TWO
Vol. 6051, Pg. 347



(Rec. N 39°10'40" W 1248.38')
N 39°12'10" W 1248.02'

S 43°19'05" E 1244.66'

1.280 ACRE
OF LAND

5/8" Iron Rod
w/cap stamped
"ACS" Found
POINT OF
BEGINNING

5/8" Iron Rod
w/cap stamped
"ACS" Set

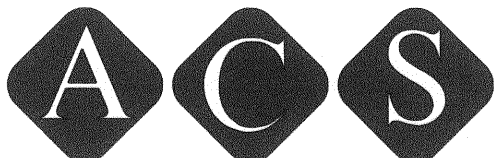
3/4" Iron
Pipe Found

N 46°35'30" E
258.25'

S 46°35'30" W
89.56'
(Rec. S 48°05'59" W)

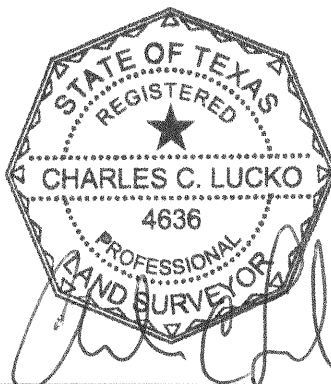
LEON RIVER

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 3. The theta angle at City Monument No. 3 is 01° 31' 42". The combined correction factor (CCF) is 0.999847. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Published City coordinates for City Monument No. 3 are N= 10,368,408.89 E= 3,225,333.77 Reference tie from City Monument No. 3 to the southwest corner of the 1.280 Acre tract S 66°18'37" W 21828.1 feet.



ALL COUNTY SURVEYING, INC.

4330 South 5th Street
Temple, Texas 76502
254-778-2272 Killeen 254-634-4636
Fax 254-774-7608
Tx. Firm Lic. No. 10023600



Survey
completed: 01-12-2018
Scale: 1" = 150'
Job No.: 130566.8.12
Dwg No.: 130566.8.12
Drawn by: SLW
Surveyor: CCL # 4636
Copyright 2018 All County Surveying, Inc.

Plot Date: 06-01-2018

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

May 24, 2018

Surveyor's Field Notes for:

1.280 ACRE, situated in the **NANCY CHANCE SURVEY, ABSTRACT 5**, Bell County, Texas, embracing a portion of the remainder of a called 48.055 Acre tract conveyed as Tract Two to 302 Acres Leon River, LP in Volume 6051, Page 347, Official Public Records of Real Property, Bell County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod with cap stamped "ACS" found at the southernmost corner of the remainder of said 48.055 Acre tract, being the easternmost corner of a called 58.76 Acre tract conveyed to the City of Temple in Document No. 2017-00029277, Official Public Records of Real Property, Bell County, Texas, and being on the right bank of the Leon River, for the southernmost corner of the herein described tract;

THENCE, in a northwesterly direction, with the northeast line of said 58.76 Acre tract, **N 39° 12' 10" W – 1248.02'** (Rec. N 39° 10' 40" W – 1248.38'), to a 1/2" iron rod found, being the westernmost corner of the remainder of said 48.055 Acre tract, same being the southernmost corner of Lot 1, Block 1, 3513-RSD Joint Venture Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Cabinet D, Slide 361-A, Plat Records of Bell County, Texas, for the westernmost corner of the herein described tract;

THENCE, in a southeasterly direction, severing the remainder of said 48.055 Acre tract, **S 43° 19' 05" E – 1244.66'**, to a 5/8" iron rod with cap stamped "ACS" set on the right bank of the said Leon River, for the easternmost corner of the herein described tract;

THENCE, in a southwesterly direction, with the right bank of the Leon River, **S 46° 35' 30" W – 89.56'** (Rec. S 48° 05' 59" W), to the **POINT OF BEGINNING** and containing 1.280 Acre of Land.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 3. The theta angle at City Monument No. 3 is 01° 31' 42". The combined correction factor (CCF) is 0.999847. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Published City coordinates for City Monument No. 3 are N.= 10,368,408.89 E.= 3,225,333.77 Reference tie from City Monument No. 3 to the southwest corner of the 1.280 Acre tract S 66°18'37" W 21828.1 feet.

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

This metes and bounds description to accompany a Surveyor's Sketch of the herein described 1.280 Acre tract.

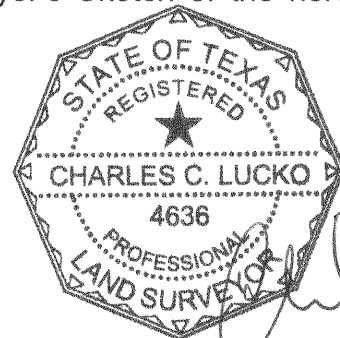
Surveyed January 12, 2018

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

server/projects/pro130000/130500/130566/130566.8.12.doc



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

RESOLUTION NO. 2019-9717-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE ACCEPTANCE OF THE DONATION OF APPROXIMATELY 1.280 ACRES OF LAND LOCATED TO THE WEST OF THE LEON RIVER AND TO THE EAST OF INTERSTATE 35 FROM KASBERG, PATRICK & ASSOCIATES, LP OF TEMPLE, TEXAS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in February 2017, the City accepted the donation of approximately 58.76 acres of land (“Leon River Property”) from 302 Acres Leon River, LP - the Leon River Property is adjacent to Bend of the River, which is also owned by the City;

Whereas, with the donation of the Leon River Property, the City owns approximately 90 acres on the west side of the Leon River and to the east of Interstate 35;

Whereas, a portion of the Leon River property was needed for the construction of a new lift station and trunk sewer line of which the construction is near completion;

Whereas, the City’s engineer on the project, Kasberg, Patrick & Associates, LP (“KPA”), has determined that a portion of the infrastructure was constructed on property that has not been conveyed to the City, and therefore KPA has offered to purchase the property and donate it to the City;

Whereas, KPA has surveyed the additional property needed which is approximately 1.280 acres located at the north end of the Leon River Property;

Whereas, Staff recommends Council accept the donation of approximately 1.280 acres of land located to the west of the Leon River and to the east of Interstate 35 from Kasberg, Patrick & Associates, LP, of Temple, Texas;

Whereas, the City will be responsible for future maintenance of the property and any costs associated with the closing transaction on the land, which are expected to be nominal; 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 accepts the donation of approximately 1.280 acres of land located to the west of the Leon River and to the east of Interstate 35 from Kasberg, Patrick & Associates, LP, of Temple, Texas.

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 to accept this donation.

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 **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

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DEPT. / DIVISION SUBMISSION REVIEW:

Mark Baker, Principal Planner

ITEM DESCRIPTION: SECOND READING – FINAL 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)

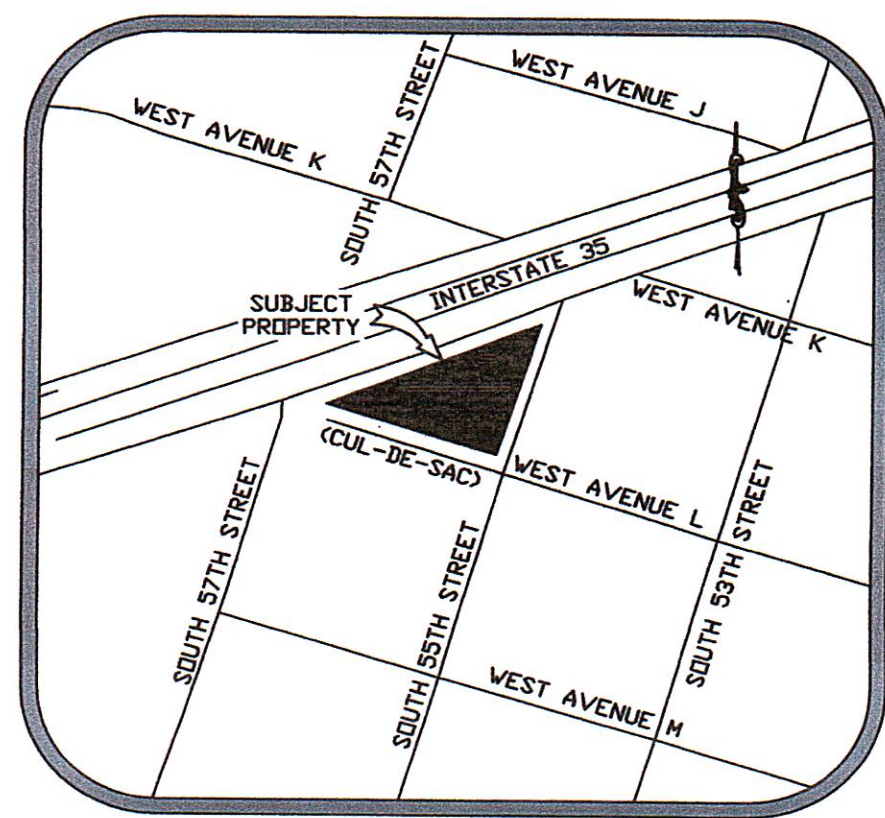


South: Existing Restaurant – Clem Mikeska's Bar-B-Q (C)

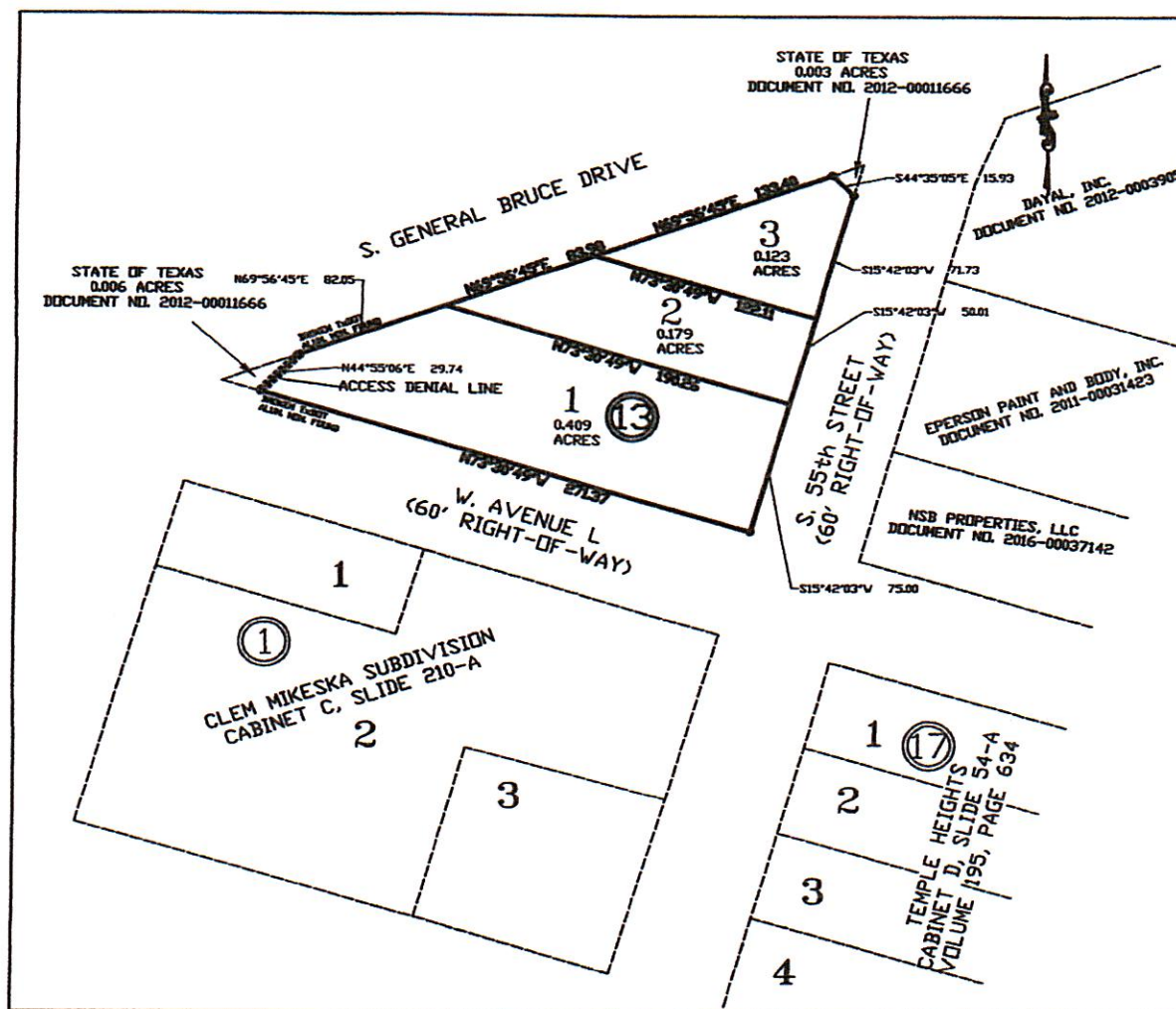


West: South General Bruce Dr. (I-35 Frontage & Business Access) (C)

2018
148

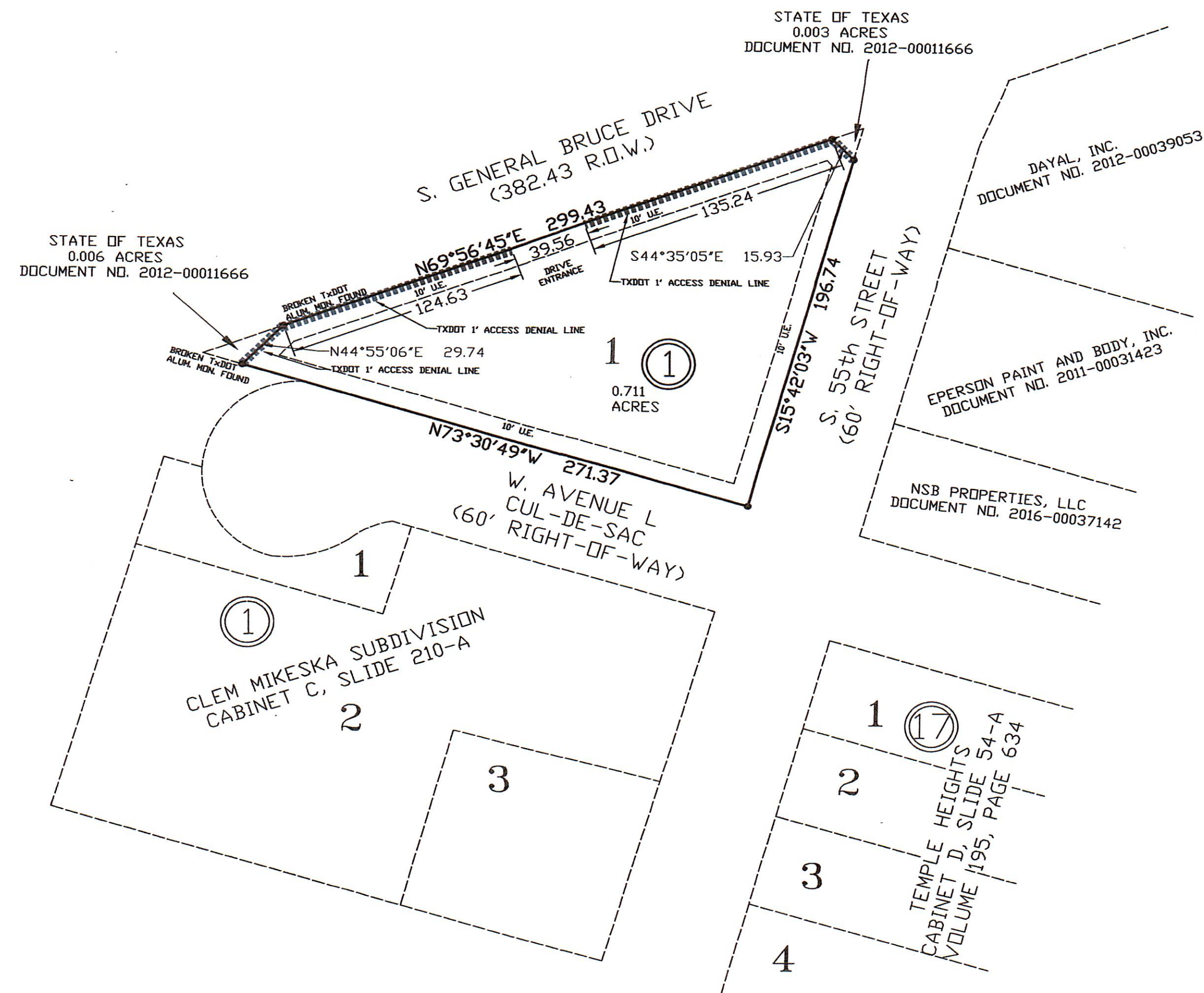


VICINITY MAP
N.T.S.



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

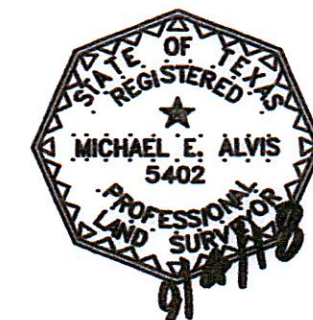
I, THE UNDERSIGNED, A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY, THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT:



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

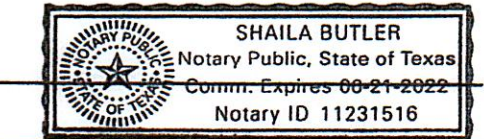
Maria Flores
MARIA FLORES, OWNER

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.

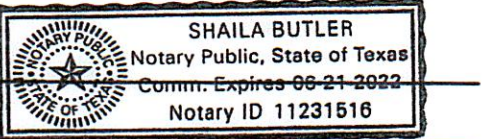
Shaila Butler
NOTARY PUBLIC



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.

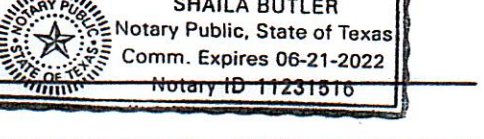
Shaila Butler
NOTARY PUBLIC



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.

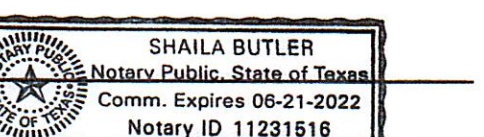
Shaila Butler
NOTARY PUBLIC



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:

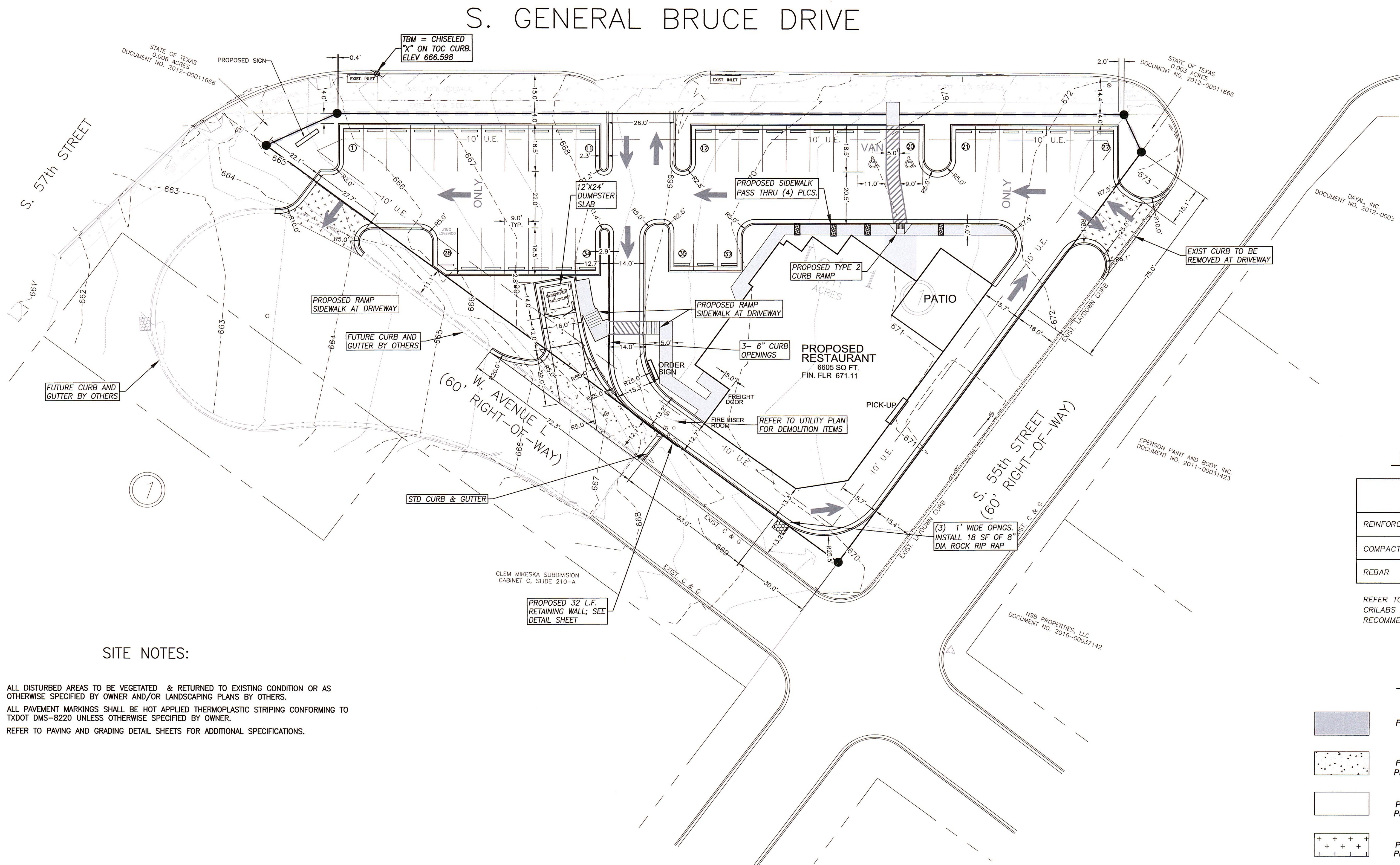
MIGUEL FLORES
875 STONE ROAD, TEMPLE, TEXAS

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.

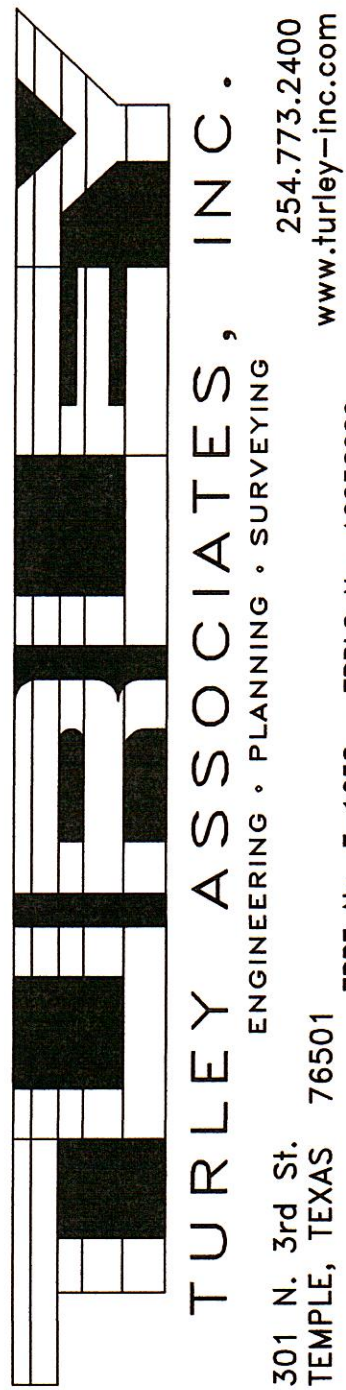
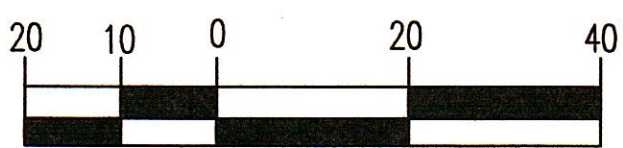
PAVEMENT TABLE

	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.

THIS DRAWING IS THE PROPERTY OF TURLEY ASSOCIATES INC. AND MUST BE SURRENDERED UPON REQUEST. THE INFORMATION THEREON MAY NOT BE REPRODUCED WITHOUT THE WRITTEN PERMISSION OF TURLEY ASSOCIATES INC.

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

PREPARED FOR:

MIGUEL FLORES
875 STONE ROAD, TEMPLE, TEXAS



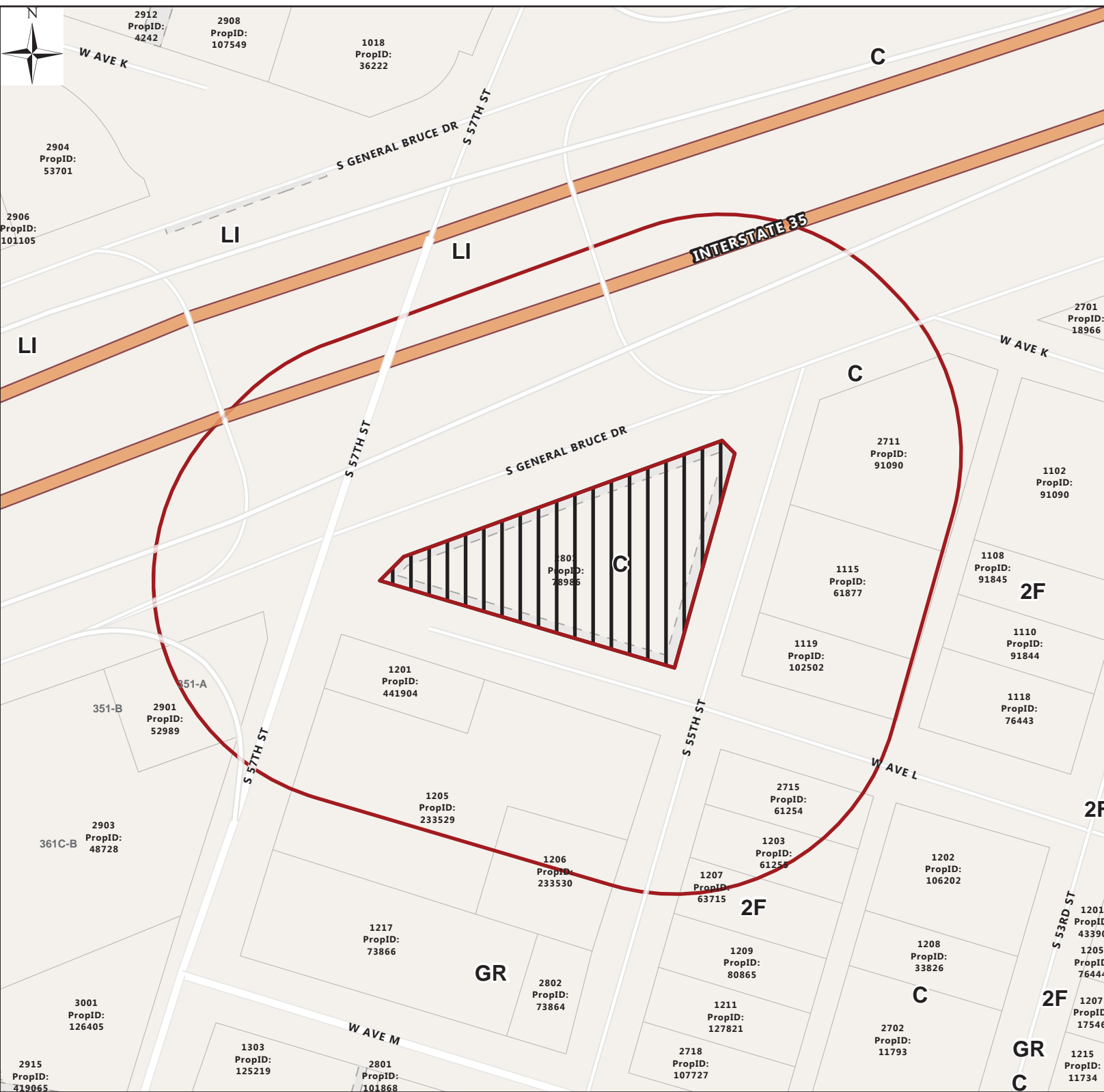
REVISIONS

DATE	DESCRIPTION	DFTR
1/27/18	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

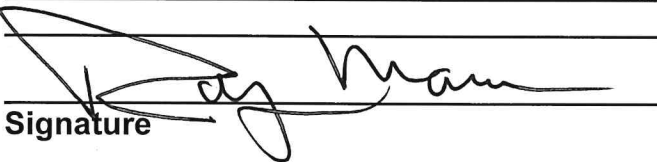
Location: 2801 South General Bruce Drive

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

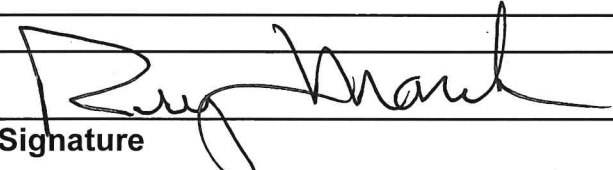
Location: 2801 South General Bruce Drive

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

07/11/19
Item #3(R)
Consent Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Jason Deckman, Planner

ITEM DESCRIPTION: SECOND READING – FINAL HEARING – FY-19-15-ZC: Consider adopting an ordinance authorizing 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



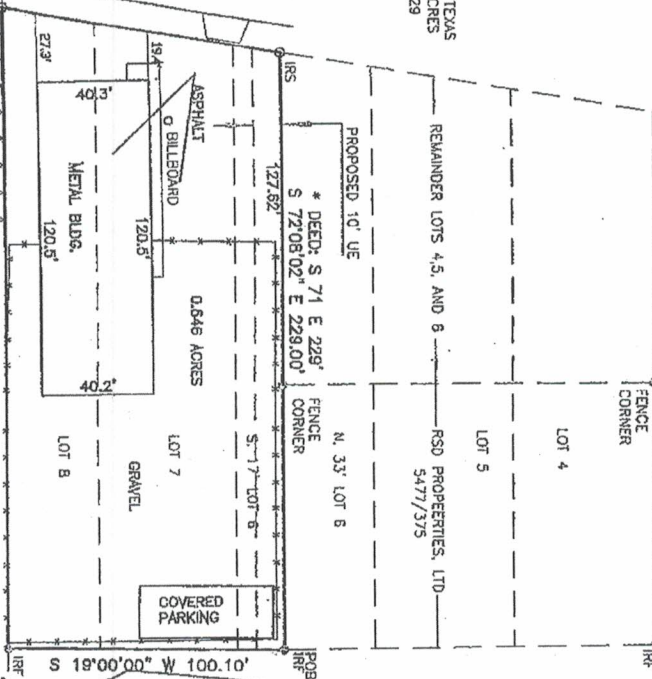
STATE OF TEXAS
11.200 ACRES
622/129

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-1587-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 :

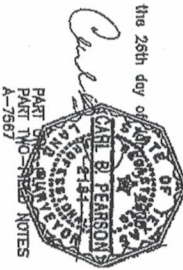
KNOW ALL MEN BY THESE PRESENTS, that I, Carl B. Pearson, Registered Professional Land Surveyor in the State of Texas, do hereby certify that I did cause to be surveyed on the ground on January 25, 2008, that certain 0.646 acre tract of land out of the C.S. Western Survey, Abstract #550, Temple, Bell 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 the 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



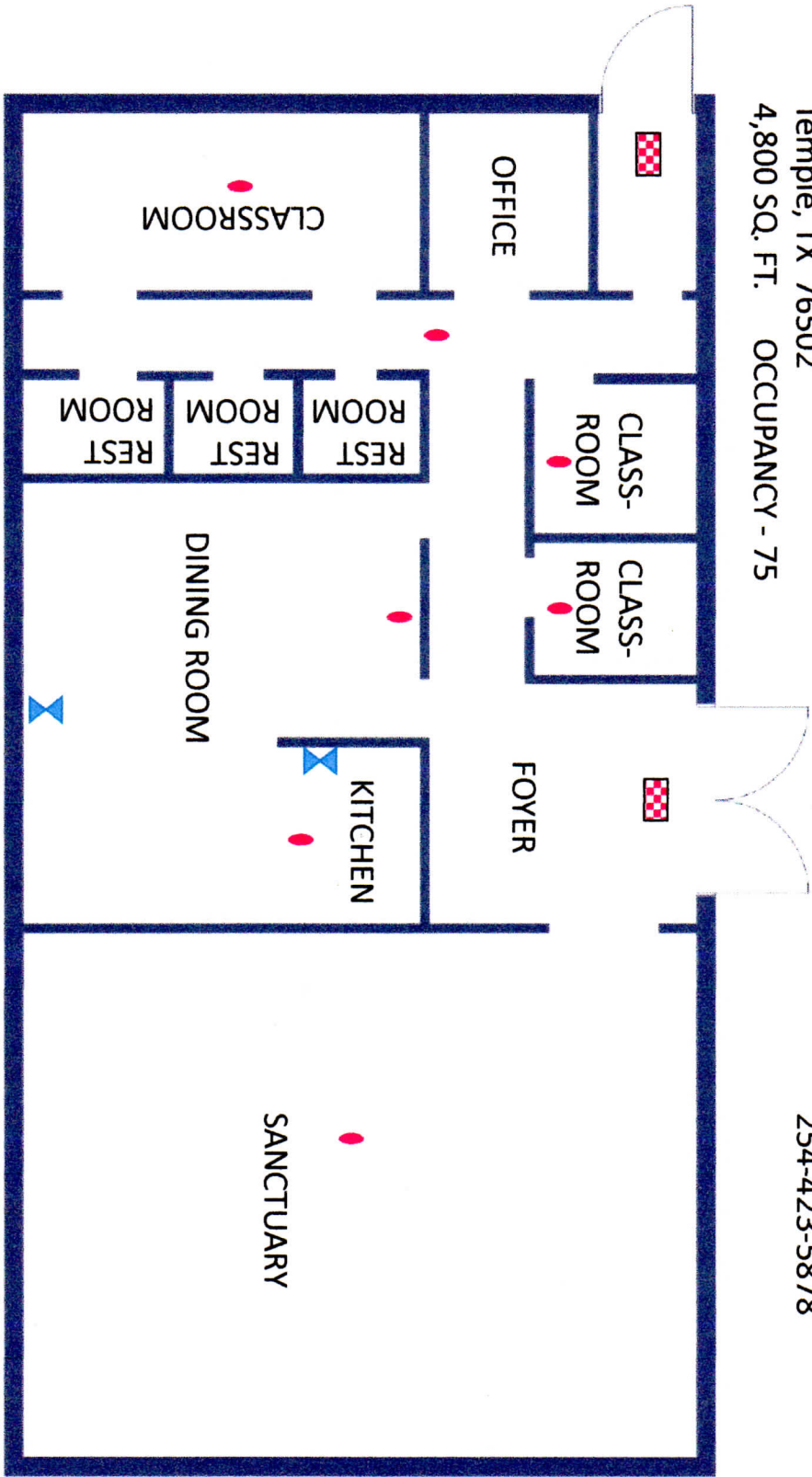
[Handwritten signature]
Eugene C. Kent

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

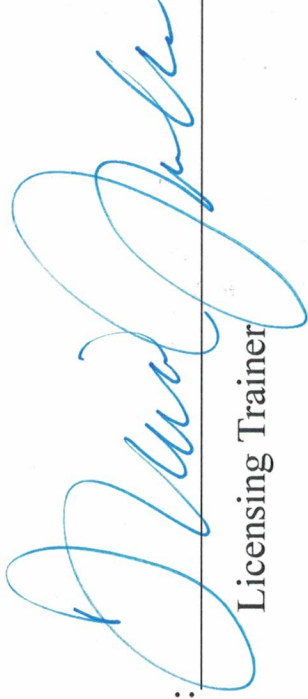
Licensed Center Orientation

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

07/11/19
Item #3(S)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Brynn Myers, City Manager
Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution setting the date, time and place of public hearings on the proposed FY 2019-2020 Budget for August 1, 2019 at 5:00 p.m. and August 23, 2019 at 8:30 a.m. in the City Council Chambers.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This proposed resolution will comply with the City Charter requirement that the date, time and place of the public hearing on the proposed budget be set at the first regular Council meeting after the budget is filed. The public hearing is scheduled for the August 1, 2019, Regular Council meeting, to be held at 5:00 p.m. in the Council Chambers, to receive citizen comments on the operating budget. The resolution will also indicate that a supplemental public hearing on the proposed budget will be conducted at the August 23, 2019 Special Council meeting, just prior to the scheduled adoption of the budget.

Additional public hearings for the FY 2019-2020 Proposed Budget may be scheduled relating to statutory requirements for adoption of a tax rate.

FISCAL IMPACT: The proposed Fiscal Year 2019-2020 Budget for the City totals \$176,459,934 for all funds.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9718-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SETTING THE DATE, TIME AND PLACE OF PUBLIC HEARINGS ON THE PROPOSED FISCAL YEAR 2019-2020 BUDGET FOR AUGUST 1, 2019 AT 5:00 P.M. AND AUGUST 23, 2019, AT 8:30 A.M., IN THE CITY COUNCIL CHAMBERS; DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE SETTING FORTH THE TIME AND PLACE THEREOF; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City Charter directs that the date, time and place of public hearings on the proposed budget be set at the first regular City Council meeting after the annual budget is filed;

Whereas, the public hearings are scheduled for August 1, 2019 (Regular Council Meeting) at 5:00 p.m., and August 23, 2019 (Special Council Meeting) at 8:30 a.m. in the City Council Chambers located in the Municipal Building at 2 North Main Street, Temple, Bell County, Texas;

Whereas, additional public hearings for the fiscal year 2019-2020 Proposed Budget may be scheduled relating to statutory requirements for adoption of a tax rate; 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 directs that public hearings on the City of Temple's Fiscal Year 2019-2020 Proposed Budget be held at meetings of the City Council at 5:00 p.m. on August 1, 2019 (Regular Council Meeting), and at 8:30 a.m. on August 23, 2019 (Special Council Meeting) in the City Council Chambers located in the Municipal Building at 2 North Main Street, Temple, Bell County, Texas.

Part 3: The City Council directs the City Secretary to cause the publication of notice of said hearings setting forth the time and place thereof in a newspaper of general circulation within the City.

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 **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

07/11/19
Item #3(T)
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 \$15,382.

ATTACHMENTS:

Budget Amendments
Resolution

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2019 BUDGET
July 11, 2019

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-3500-552-2516		Other Services / Judgments & Damagers	\$ 1,903	
110-0000-461-0554		Other Charges / Insurance Claims		\$ 1,903
To appropriate proceeds received from Emerson Construction for damages caused to asset # 13293 that occurred on 03/18/19.				
110-2041-521-2516		Other Services / Judgments & Damages	\$ 4,579	
110-0000-461-0554		Insurance Claims / Insurance Claims		\$ 4,579
To appropriate insurance proceeds from Progressive related to damages on asset # 13848 that occurred on 05/22/19.				
110-2020-521-1119		Salaries / Overtime	\$ 4,900	
110-2020-521-2115		Supplies / Fuel	\$ 800	
110-2020-521-2333		Repair & Maintenance / Auto & Equipment (Fleet Services)	\$ 200	
110-2020-521-2511		Other Services / Printing/Publications	\$ 3,000	
110-0000-431-0261		State Grants / State Grants		\$ 8,900
To appropriate the revenue and expenditures related to the Tabaco Enforcement Grant received from the Texas School Safety Center.				
TOTAL AMENDMENTS			\$ 15,382	\$ 15,382
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				(128,070)
Net Balance of Judgments & Damages Contingency Account			\$ 151,655	
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			\$ 251,655	
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	

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2019 BUDGET
July 11, 2019

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	-
		Added to Contingency Sweep Account		-
		Carry forward from Prior Year		-
		Taken From Contingency		-
		Net Balance of Contingency Account	\$	-
		Beginning Compensation Contingency	\$	16,500
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(13,279)
		Net Balance of Compensation Contingency Account	\$	3,221
		Net Balance Hotel/Motel Tax Fund Contingency	\$	3,221
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	336,406
		Added to Contingency Sweep Account		-
		Carry forward from Prior Year		-
		Taken From Contingency		(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	\$	-

RESOLUTION NO. 2019-9719-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 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

07/11/19
Item #4
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tammy Lyerly, Senior Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-16-ZC: Consider an ordinance adopting a rezoning from Agricultural to Single Family Attached Three zoning district on 2.089 +/- acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8355 Tarver Drive.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its June 3, 2019, meeting the Planning and Zoning Commission voted 7/0 to recommend approval of the requested rezoning from Agricultural (AG) zoning district to Single Family Attached Three (SFA-3), per Staff's recommendation. Commissioner Jeanes abstained.

STAFF RECOMMENDATION: Staff recommends approval of the requested rezoning from Agricultural (AG) to Single Family Attached Three (SFA-3) zoning district for the following reasons:

1. Compliance with surrounding zoning and land uses;
2. Compliance with the Thoroughfare Plan; and
3. Compliance with availability of public facilities to serve the subject property

ITEM SUMMARY: The applicant requests this rezoning from Agricultural (AG) to Single Family Attached Three (SFA-3) zoning district to allow a mix of single-family dwellings on 2.089 +/- acres of land at 8355 Tarver Drive.

The applicant's requested SFA-3 zoning district permits single-family attached or detached residences or patio homes and related accessory structures and provides for the development of single-family homes on smaller lots and higher densities. The development in this district should be of higher intensity use that requires close proximity to services such as schools, parks, transit and shopping. This district should be located near collector thoroughfares to accommodate the higher density of population that can occur.

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

Future Land Use and Character Plan (FLUP) (CP Map 3.1)

The subject property is within the Suburban Residential character districts of the *Choices '08* City of Temple Comprehensive Plan. The Suburban Residential land use classification is characterized by mid-size single family lots, allowing for greater separation between dwellings and more emphasis on green space versus streets and driveways. **Although the Single Family Attached Three (SFA-3)**

zoning district is not consistent with the Suburban Residential character, it is possible for this requested zoning district to meet the objective of Suburban Residential character with proper green space design and separation between the mix of single-family dwellings.

Thoroughfare Plan (CP Map 5.2) and Temple Trails Master Plan Map and Sidewalk Ordinance

The subject property's north property line fronts Tarver Drive, a designated Collector in the Thoroughfare Plan. The property's southeast corner fronts South Pea Ridge Road, a designated Proposed Collector in the Thoroughfare Plan. The applicant's requested SFA-3 zoning district is appropriate along Collectors.

Availability of Public Facilities (CP Goal 4.1)

There is an existing 8-inch water line along the north right-of-way of Tarver Drive and an existing 8-inch water line along the east right-of-way of South Pea Ridge Road.

There is an existing 8-inch sanitary sewer line within the south right-of-way of Tarver Drive.

There is an existing concrete drainage culvert within a 50-foot wide drainage and utility easement along the west property boundary of the subject property. Drainage will be addressed during the platting process.

Proposed City Council Meeting Schedule

This item is tentatively scheduled for a City Council public hearing (first reading) on July 11, 2019. The second reading of City Council is tentatively scheduled for July 18, 2019.

PUBLIC NOTICE: Sixteen notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the subject property as required by State law and City Ordinance. As of Friday, June 21, 2019, one notice has been received in favor of the proposed rezoning and two notices have been received in opposition to the proposed rezoning.

The newspaper printed notice of the public hearing on May 23, 2019, in accordance with state law and local ordinance.




FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Site and Surrounding Property Photos](#)
[Location map with Aerial](#)
[Zoning Map](#)
[Future Land Use and Character Map](#)
[Thoroughfare Map](#)
[Utility Map](#)
[Notification Map](#)
[Development Regulations](#)
[Surrounding Property and Uses](#)
[Comprehensive Plan Compliance](#)
[Notification Response Letters](#)
[Ordinance](#)

SURROUNDING PROPERTY AND USES:

The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	AG	Undeveloped Land	 <p>Tarver Drive</p>
East	AG & O-2	Single Family Residential & Undeveloped Land	
			

Direction	Zoning	Current Land Use	Photo
West	SF-2	Single-Family Residential	
			 <p>Tarver Drive</p>
South	AG	Undeveloped Land	

Direction	Zoning	Current Land Use	Photo
North	AG	Elementary School	

DEVELOPMENT REGULATIONS: Standards for single-family residential homes in the SFA-3 district are:

	SFA-3 (Proposed)
Minimum Lot Size	2,300 Square Feet
Minimum Lot Width	20 Feet
Minimum Lot Depth	100 Feet
Front Setback	15 Feet
Side Setback	5/0 Feet
Side Setback (corner)	15 Feet
Rear Setback	10 Feet
Max Building Height	2 ½ Stories

Although the property is anticipated for development of single-family residential dwellings, there are a number of other uses allowed in the SFA-3 district which, include but are not limited to:

Permitted & Conditional Use Table – Single Family Attached Three (SFA-3)	
Agricultural Uses	* Farm, Ranch or Orchard
Residential Uses	* Single Family Residence (Detached & Attached) * Townhouse * Patio Home and Zero Lot Line Dwelling
Retail & Service Uses	* None
Commercial Uses	* None
Industrial Uses	* Temporary Asphalt & Concrete Batching Plat (CUP)
Recreational Uses	* Park or Playground
Educational & Institutional Uses	* Cemetery, Crematorium or Mausoleum (CUP) * Place of Worship * Child Care: Group Day Care (CUP) * Social Service Center (CUP)
Restaurant Uses	* None
Overnight Accommodations	* None
Transportation Uses	* Railroad Track Right-of-Way

Prohibited uses include duplex, triplex, multiple-family dwelling (apartment), HUD-Code manufactured homes and land lease communities, most commercial uses and industrial uses.

Surrounding Property & Uses			
<u>Direction</u>	<u>Future Land Use Map</u>	<u>Zoning</u>	<u>Current Land Use</u>
Site	Suburban Residential	AG	Undeveloped Land
North	Public Institutional	AG	Elementary School
South	Suburban Residential	AG	Undeveloped Land
East	Suburban Residential	AG & O-2	Single Family Residential & Undeveloped Land
West	Auto-Urban Residential	SF-2	Single Family Residential

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

:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use Map	Partial
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	Yes

CP = Comprehensive Plan STP = Sidewalk and Trails Plan



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

231999
WILLS, DAVID ESTATE ETUX SHARISSA
8505 WESTWAY CV
TEMPLE, TX 76502

Zoning Application Number: FY-19-16-ZC

Case Manager: Tammy Lyerly

Location: 8355 Tarver 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:

I enjoy the farmland and there are many subdivisions
in the area for buyers. There is no need for another subdivision.

Sharissa Wills

Signature

Sharissa Wills

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, tylerly@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **June 3, 2019**.

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

Number of Notices Mailed: 16

Date Mailed: May 22, 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

232012
RISINGER, JACQUELINE
917 WESTWAY DRIVE
TEMPLE, TX 76502

RECEIVED
MAY 31 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-19-16-ZC

Case Manager: Tammy Lyerly

Location: 8355 Tarver 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: See Attached typed Comments:
I have no idea what will be built on the plot of land you
want to rezone. Whatever it is up against my back yard fence
for most of the length of the fence. It could be up against a
noisy daycare center or ugly trashy duplexes like the ones on
Hogan Rd. I have no desire to do that.
Jacqueline Risinger JACQUELINE RISINGER
Signature Print Name

e-mail: jsris915@aol.com (Optional)
Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, tllyerly@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **June 3, 2019**.

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

Number of Notices Mailed: 16

Date Mailed: May 22, 2019

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

May 28, 2019

City of Temple:

RECEIVED
MAY 31 2019
CITY OF TEMPLE
PLANNING & DEVELOPMENT

I decided to type out my comments as they are hard to read on the small space provided:

Comments:

I have no idea what will be built on the plot of land you want to rezone which is at the edge of my back yard fence for most of the length of my fence. I could possibly be right up against a noisy day care center or ugly, trashy looking duplexes like the ones on Hogan Road and other areas here in West Temple. I have no desire to do that.

Jacqueline Risinger



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

208940
KIELLA FAMILY LTD
PO BOX 1344
TEMPLE, TX 76503-1344

Zoning Application Number: FY-19-16-ZC

Case Manager: Tammy Lyerly

Location: 8355 Tarver 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

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, tylerly@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **June 3, 2019**.

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

Number of Notices Mailed: 16

Date Mailed: May 22, 2019

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

ORDINANCE NO. 2019-4975
(FY-19-16-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM AGRICULTURAL ZONING DISTRICT TO SINGLE FAMILY ATTACHED THREE ZONING DISTRICT ON APPROXIMATELY 2.089 ACRES, SITUATED IN THE BALDWIN ROBERTSON SURVEY, ABSTRACT NO. 17, BELL COUNTY, TEXAS, ADDRESSED AS 8355 TARVER DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant requests this rezoning from Agricultural to Single Family Attached Three zoning district to allow a mix of single-family dwellings on approximately 2.089 acres of land at 8355 Tarver Drive;

Whereas, the applicant's requested Single Family Attached Three zoning district permits single-family attached or detached residences or patio homes and related accessory structures and provides for the development of single-family homes on smaller lots and higher densities - the development in this district should be of higher intensity use that requires close proximity to services such as schools, parks, transit and shopping and should be located near collector thoroughfares to accommodate the higher density of population that can occur;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, recommends approval of the rezoning from Agricultural zoning district to Single Family Attached Three zoning district on approximately 2.089 acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8355 Tarver Drive, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes; and

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

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

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

Part 2: The City Council approves of the rezoning from Agricultural zoning district to Single Family Attached Three zoning district on approximately 2.089 acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8355 Tarver Drive, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **11th** day of **July**, 2019.

PASSED AND APPROVED on Second Reading on the **18th** 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

07/11/19
Item #5
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tammy Lyerly, Senior Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-3-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 89.373 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95, and 3.950 acres of right-of-way of Old Highway 95 in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.

STAFF RECOMMENDATION: Approve as presented and schedule Second Reading for Thursday, July 18, 2019, at 5:00 P.M. in the City Council Chambers.

ITEM SUMMARY: Short Term Lending G.P., Inc. filed a petition on April 18, 2019, seeking voluntary annexation of 89.373 acres of land into the City of Temple, which is a companion request to voluntary annexation case FY-19-4-ANX that they would both be rezoned together. The property is located on the east side of Old State Highway 95 (also known as Little River Road). Voluntary annexation is governed by Section 43.028 of the Texas Local Government Code and applies only to the annexation of an area that is:

1. Less than one-half mile in width,
2. Contiguous to the annexing municipality, and
3. Vacant and without residents or on which fewer than three qualified voters reside.

On May 2, 2019, the City Council adopted a resolution (#2019-9652-R) directing City staff to create a Municipal Service Plan and public hearing schedule to consider the annexation of the subject property.

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

1. May 2, 2019 – City Council resolution (#2019-9652-R) adopted to direct staff to develop the Municipal Service Plan
2. June 6, 2019 – Municipal Service Plan Public Hearing #1
3. June 7, 2019 – Municipal Service Plan Public Hearing #2

The applicant has not yet submitted a rezoning application for the subject property but has submitted an exhibit showing future zoning areas of General Retail (GR), Planned Development Single Family Two (PD-SF2), and Planned Development General Retail (PD-GR) with companion voluntary annexation case FY-19-4-ANX.

The proposed annexation schedule anticipates completion of annexation proceedings through a Second Reading at City Council on July 18, 2019.

FISCAL IMPACT: The Municipal Service Plan does not contain any proposal to extend water or wastewater services to the area, or any other new physical facilities to serve this small tract.

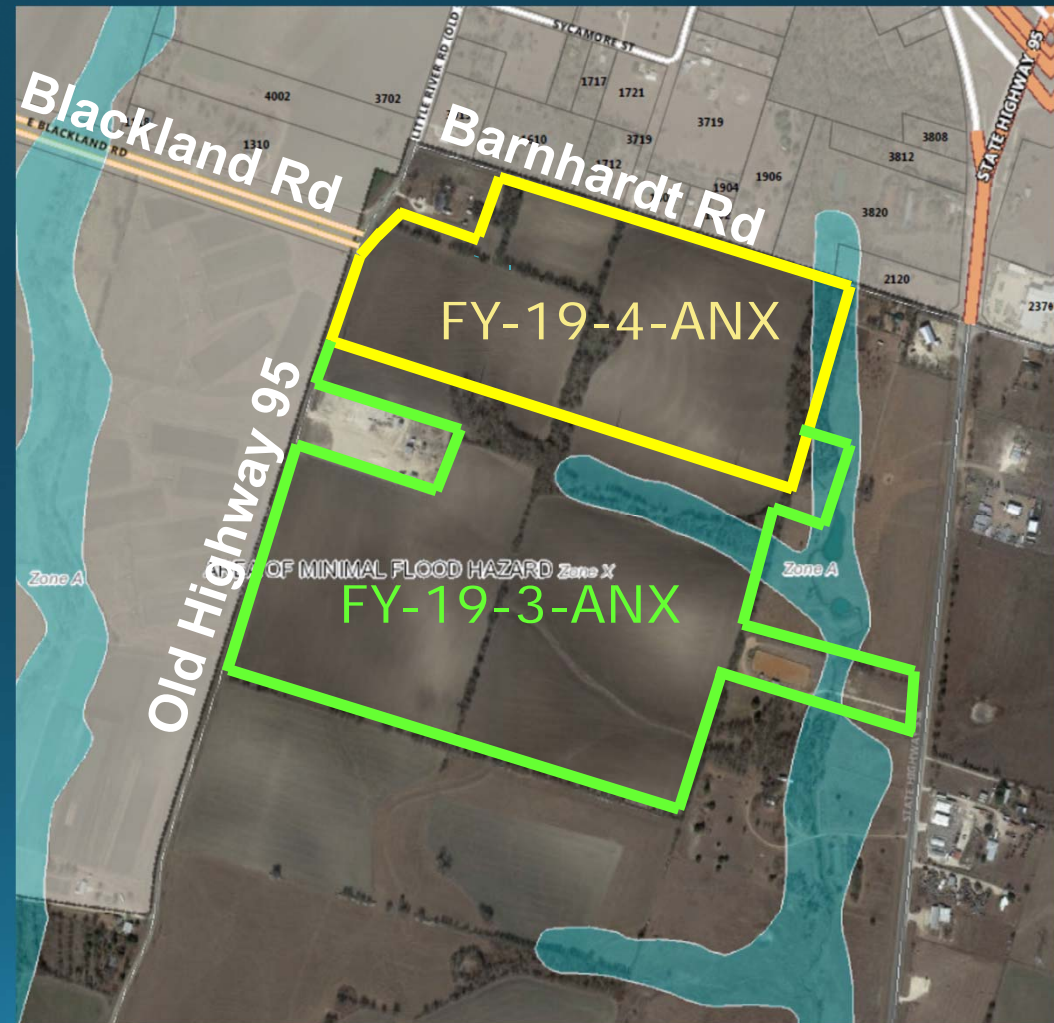
If the property is annexed, the City's ad valorem tax base will increase and result in future property tax revenue for the City. TISD has requested that the City begin the design process for the future expansion of Blackland Road east in order to provide needed connectivity and utility extensions.

ATTACHMENTS:

[Vicinity Map](#)
[Municipal Service Plan](#)
[Voluntary Annexation Petition](#)
[Survey of Proposed Annexation Area \(Exhibit A\)](#)
[Field Notes of Proposed Annexation Area \(Exhibit B\)](#)
[Survey of Old State Highway 95 Annexation \(Exhibit C\)](#)
[Field Notes of Old State Highway 95 Annexation \(Exhibit D\)](#)
[Proposed Zoning Site Plan](#)
[Voluntary Annexation Schedule](#)
[Ordinance](#)

Overall View of Proposed Annexation Areas

- Approximately 2.371 acres of Barnhardt Rd (0.41 miles) and
- 47.655 +/- acres of privately-owned land
- Approximately 3.950 acres of Old Highway 95 (0.51 miles) and
- 89.373 +/- acres of privately-owned land



CITY OF TEMPLE
ANNEXATION SERVICE PLAN—VOLUNTARY ANNEXATION
Old State Highway 95 (Little River Road) (FY-19-3-ANX)

89.373 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95, and being more particularly described as Exhibit “A” (Field Notes) and depicted as Exhibit “B” (Survey) of the Annexation Ordinance (2019-####).

SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

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

2. FIRE PROTECTION AND AMBULANCE SERVICE

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

3. SOLID WASTE COLLECTION

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

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

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

5. MAINTENANCE OF ROADS AND STREETS

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

6. MAINTENANCE OF PUBLIC PARKS, PLAYGROUNDS AND SWIMMING POOLS

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

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

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

8. INSPECTIONS

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

9. CODE ENFORCEMENT

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

10. MOWING

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

CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

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

2. ROADS AND STREETS

The City will undertake to provide the same degree of road and street lighting as is provided in areas of the same or similar topography, land use and population density within the present corporate limits of the City. Maintenance of properly dedicated roads and streets will be consistent with the maintenance provided by the City to other roads and streets in areas of similar topography, land use

and subdivision development of the annexed property. Developers will be required, pursuant to the ordinances of the City to provide internal and peripheral streets and to construct those streets in accordance with the specifications required by the City for the properly dedicated street. City participation in capital expenditures will be in accordance with City policies.

3. WATER AND WASTEWATER FACILITIES

The City of Temple has water facilities to the north along Barnhart Road and to the west along Old State Highway 95 (Little River Road). There are water facilities along the east side of South Highway 95. There are no water facilities to the south.

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

4. CAPITAL IMPROVEMENTS

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

SPECIFIC FINDINGS

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

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

APPROVED ON THIS _____ DAY OF _____, 2019.

City of Temple, Texas

Mayor

ATTEST:

City Secretary

VOLUNTARY PETITION FOR ANNEXATION

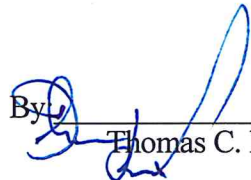
DATE: April 17, 2019

To the City Council of the City of Temple:

Short Term Lending G.P., Inc., a Texas corporation, is the sole owner of the tract of land containing approximately 89.373 acres ("the Tract"). The Tract is more particularly described by metes and bounds in Exhibit A to this petition.

The Tract is one-half mile or less in width, contiguous to the City of Temple, Texas; and has less than three qualified voters as residents. The owner is petitioning the City Council to take the appropriate actions to annex the Tract pursuant to Section 43.028 of the Texas Local Government Code.

Short Term Lending GP, Inc.
a Texas corporation

By: 
Thomas C. Baird, President

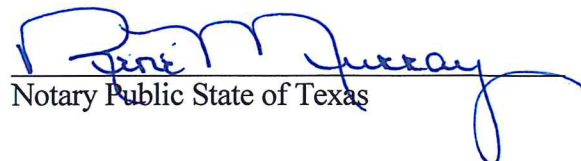
STATE OF TEXAS §

COUNTY OF BELL §

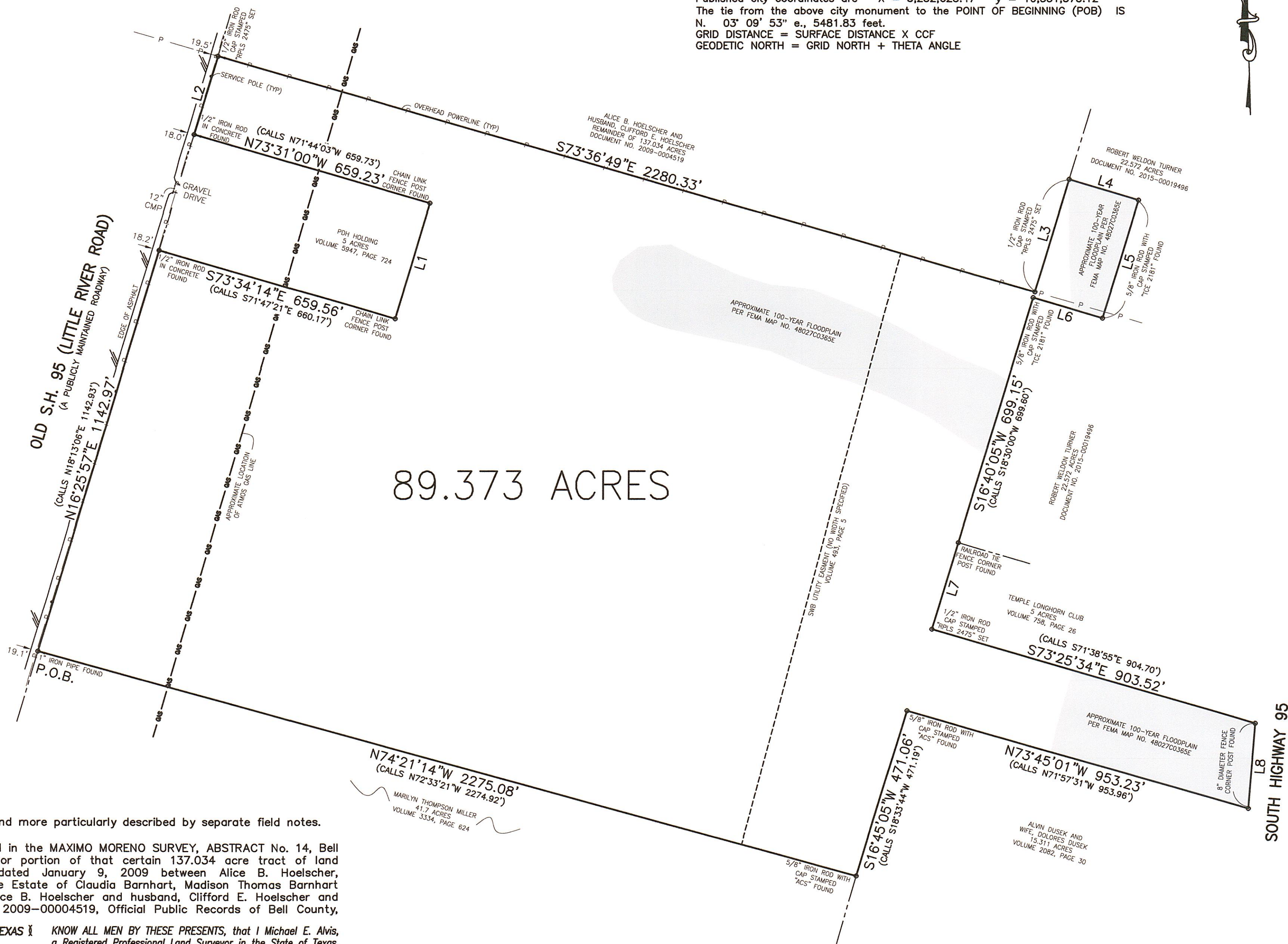
BEFORE ME, the undersigned authority, on this day personally appeared Thomas C. Baird, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act of Short Term Lending GP., Inc., a Texas corporation, as President, for the purposes and consideration therein expressed.

Given under my hand and seal of office this 17th day of April, 2019.




Notary Public State of Texas

Line Table		
Line #	Direction	Length
L1	N16°26'19"E	329.32'
CALLS	N18°11'49"E	329.77'
L2	N16°38'13"E	223.26'
CALLS	N18°27'49"E	617.92'
L3	N16°36'43"E	321.05'
L4	S73°02'56"E	194.50'
CALLS	S71°30'00"E	194.40'
L5	S16°39'43"W	336.83'
CALLS	S18°30'00"W	336.90'
L6	N73°12'43"W	194.22'
CALLS	N71°30'00"W	194.40'
L7	S16°25'10"W	246.87'
CALLS	S18°13'46"W	246.91'
L8	S04°24'25"W	233.23'
CALLS	S06°08'30"W	233.01'



The following documents affect this lot:
Volume 493, Page 5

The following documents do not affect this lot:
Volume 529, Page 138
Volume 568, Page 387
Volume 568, Page 582
Volume 600, Page 485
Volume 684, Page 589

The following are a blanket easement and are non-locatable by description:
Volume 683, Page 205
Volume 957, Page 482
Volume 957, Page 483

BEING a 89.373 acre tract of land more particularly described by separate field notes.

BEING a 89.373 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of that certain 137.034 acre tract of land described in a Partition Deed dated January 9, 2009 between Alice B. Hoelscher, Individually and as Executor of the Estate of Claudia Barnhart, Madison Thomas Barnhart and Glenn Walter Barnhart and Alice B. Hoelscher and husband, Clifford E. Hoelscher and being of record in Document No. 2009-00004519, Official Public Records of Bell County, Texas.



STATE OF TEXAS I KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this survey was this day made on the ground of the property described herein and is correct and that there are no discrepancies, conflicts, shortages in the area, easements, and right-of-ways except as shown hereon, that this tract of land has access to and from a public road, and I have marked all corners with monuments.

This Property is within the Special Flood Hazard Area as per the Federal Emergency Management Agency Federal Insurance Administration Map No. 48027C0365E, dated September 26, 2008.

IN WITNESS THEREOF, my hand and seal, this the 1st day of February 2019.

Michael E. Alvis

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

This project is referenced to the city of temple coordinate system, an extension of the texas coordinate system of 1983, central zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings.

All coordinate values are referenced to city monument number 535

The theta angle at said city monument is 01° 32' 22"

The combined correction factor (ccf) is 0.999836

Published city coordinates are X = 3,232,625.47 y = 10,351,575.12

The tie from the above city monument to the POINT OF BEGINNING (POB) IS N. 03° 09' 53" e., 5481.83 feet.

GRID DISTANCE = SURFACE DISTANCE X CCF

GEODETIC NORTH = GRID NORTH + THETA ANGLE

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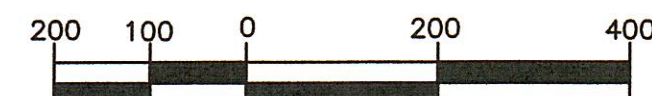
SURVEY OF:
89.373 ACRES
OLD HIGHWAY 95 PROPERTY
BELL COUNTY, TX
BELL CAD # 6349

PREPARED FOR:
SHORT TERM LENDING
OLD HIGHWAY 95 PROPERTY
TEMPLE, TX

REVISIONS		
DATE	DESCRIPTION	DFTR
2/4	LEGAL DOC CHANGE	BRC
2/5	CLIENT ALTERATION	BRC

DRAFTSMAN:
BRC
DATE:
2/5/2019
COMPUTER FILE NAME:
19-132 CERT SOUTH.dwg
REFERENCE DRAWING NUMBERS:

JOB NUMBER:
19-132
DRAWING NUMBER:
19-132C
PAGE #
01



BEING a 89.373 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of that certain 137.034 acre tract of land described in a Partition Deed dated January 9, 2009 between Alice B. Hoelscher, Individually and as Executor of the Estate of Claudia Barnhart, Madison Thomas Barnhart and Glenn Walter Barnhart and Alice B. Hoelscher and husband, Clifford E. Hoelscher and being of record in Document No. 2009-00004519, Official Public Records of Bell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1" iron pipe found being the southwest corner of the said 137.034 acre tract and being the northwest corner of that certain 41.7 acre tract of land standing in the name of Marilyn Thompson Miller and being identified as Parcel No. 116622 according to the Bell County Tax Appraisal District property ownership maps and being in the east right-of-way line of Old Highway No. 95 (a publicly maintained roadway) for corner;

THENCE N. 16° 25' 57" E., 1142.97 feet departing the said 41.7 acre tract and with the west boundary line of the said 137.034 acre tract (calls N. 18° 13' 06" E., 1142.93 feet) and with the said east right-of-way line to a 1/2" iron rod in concrete found being an ell corner in the said west boundary line and being the southwest corner of that certain 5 acre tract of land described in a Special Warranty Deed dated September 30, 2004 from TXU Gas Company, a Texas corporation to PDH Holding Company LLC, a Texas limited liability company and being of record in Volume 5497, Page 724, Official Public Records of Bell County, Texas for corner;

THENCE departing the said east right-of-way line and with the south, east and north boundary lines of the said 5 acre tract and continuing with the west boundary line of the said 137.034 acre tract the following three (3) calls;

- 1) S. 73° 34' 14" E., 659.56 feet (calls S. 71° 47' 21" E., 660.17 feet) to a chain link fence corner post found for corner;
- 2) N. 16° 26' 19" E., 329.32 feet (calls N. 18° 11' 49" E., 329.77 feet) to a chain link fence corner post found for corner;
- 3) N. 73° 31' 00" W., 659.23 feet (calls N. 71° 44' 03" W., 659.73 feet) to a 1/2" iron rod in concrete found being the northwest corner of the said 5 acre tract and being an ell corner in the west boundary line of the said 137.034 acre tract and being in the aforementioned east right-of-way line of Old Highway No. 95 for corner;

THENCE N. 16° 38' 13" E., 223.26 feet departing the said 5 acre tract and with the said west boundary line (calls N. 18° 27' 49" E., 617.92 feet) and with the said east right-of-way line to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;

THENCE departing the said east right-of-way line and the said west boundary line and over and across the said 137.034 acre tract the following two (2) calls:

- 1) S. 73° 36' 49" E., 2280.33 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;
- 2) N. 16° 36' 43" E., 321.05 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set being an ell corner in the east boundary line of the said 137.034 acre tract and being an ell corner in the west boundary line of that certain 22.572 acre tract of land described in a Deed dated May 18, 2015 from Veterans Land Board of the State of Texas to Robert Weldon Turner

and being of record in Document No. 2015-00019496, Official Public Records of Bell County, Texas for corner;

THENCE with the east boundary line of the said 137.034 acre tract and with the west boundary line of the said 22.572 acre tract the following four (4) calls:

- 1) S. 73° 02' 56" E., 194.50 feet (calls S. 71° 30' 00" E., 194.40 feet) to a 5/8" iron rod with cap stamped "TCE 2181" found for corner;
- 2) S. 16° 39' 43" W., 336.83 feet (calls S. 18° 30' 00" W., 336.90 feet) to a 5/8" iron rod with cap stamped "TCE 2181" found for corner;
- 3) N. 73° 12' 43" W., 194.22 feet (calls N. 71° 30' 00" W., 194.40 feet) to a 5/8" iron rod with cap stamped "TCE 2181" found for corner;
- 4) S. 16° 40' 05" W., 699.15 feet (calls S. 18° 30' 00" W., 699.60 feet) to a railroad tie fence corner post found being the southwest corner of the said 22.572 acre tract and being the northwest corner of that certain 5 acre tract of land described in a Deed to Temple Longhorn Club and being of record in Volume 758, Page 26, Deed Records of Bell County, Texas for corner;

THENCE continuing with the said east boundary line and with the west and south boundary lines of the said 5 acre tract the following two (2) calls:

- 1) S. 16° 25' 10" W., 246.87 feet (calls S. 18° 13' 46" W., 246.91 feet) to a 1/2" iron rod with cap stamped "RPLS 2475" set being the southwest corner of the said 5 acre tract and being an ell corner in the said east boundary line for corner;
- 2) S. 73° 25' 34" E., 903.52 feet (calls S. 71° 38' 55" E., 904.70 feet) to an 8" diameter fence corner post found being the southeast corner of the said 5 acre tract and being an ell corner in the east boundary line of the said 137.034 acre tract and being in the west right-of-way line State Highway No. 95 for corner;

THENCE S. 04° 24' 25": W., 233.23 feet departing the said 5 acre tract and continuing with the east boundary line of the said 137.034 acre tract (calls S. 06° 08' 30" W., 233.01 feet) and with the said west right-of-way line to an 8" diameter fence corner post found being an ell corner in the east boundary line of the said 137.034 acre tract and being the northeast corner of that certain 15.311 acre tract of land described in a Special Warranty Deed dated January 30, 1992 from First Cam Co., a Texas Corporation to Alvin Dusek and wife, Dolores Dusek and being of record in Volume 2802, Page 30, Official Public Records of Bell County, Texas for corner;

THENCE departing the said west right-of-way line and continuing with the east boundary line of the said 137.034 acre tract and with the north and west boundary lines of the said 15.311 acre tract the following two (2) calls:

- 1) N. 73° 45' 01" W., 953.23 feet (calls N. 71° 57' 31" W., 953.96 feet) to a 5/8" iron rod with cap stamped "ACS" found being an ell corner of the said 137.034 acre tract and being the northwest corner of the said 15.311 acre tract for corner;

2) S. 16° 45' 05" W., 471.06 feet (calls S. 18° 33' 44" W., 471.19 feet) to a 5/8" iron rod with cap stamped "ACS" found being the southeast corner of the said 137.034 acre tract and being the northeast corner of the aforementioned 41.7 acre tract for corner;

THENCE N. 74° 21' 14" W., 2275.08 feet departing the said 15.311 acre tract and with the south boundary line of the said 137.034 acre tract (calls N. 72° 33' 21" W., 2274.92 feet) and with the north boundary line of the said 41.7 acre tract to the Point of Beginning and containing 89.373 acres of land.

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

Michael E. Alvis, R.P.L.S. #5402
January 31, 2019



THIS PROJECT IS REFERENCED TO THE CITY OF TEMPLE COORDINATE SYSTEM, AN EXTENSION OF THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 535
 THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 32' 22"
 THE COMBINED CORRECTION FACTOR (CCF) IS 0.999836
 PUBLISHED CITY COORDINATES ARE X = 3,232,625.47 Y = 10,351,575.12
 THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
 N. 03° 09' 53" E., 5481.83 FEET.
 GRID DISTANCE = SURFACE DISTANCE X CCF
 GEODETIC NORTH = GRID NORTH + THETA ANGL

Curve Table			
Curve #	Length	Radius	Chord
C1	39.95	605.50	S33°38'37"W 39.95
C2	185.24	540.50	S26°19'19"W 184.33
C3	212.62	620.50	N26°19'46"E 211.58
C4	29.87	525.50	N33°51'17"E 29.86

This project is referenced to the city of temple coordinate system, an extension of the texas coordinate system of 1983, central zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinate values are referenced to city monument number 535
The theta angle at said city monument is 01° 32' 22"
The combined correction factor (ccf) is 0.999836
Published city coordinates are X = 3,232,625.47 y = 10,351,575.12
The tie from the above city monument to the POINT OF BEGINNING (POB) IS N. 08° 12' 33" e., 8079.49 feet.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

Line Table		
Line #	Direction	Length
L1	S18°23'36"W	140.09
L2	S25°18'52"W	119.00
L3	S36°13'40"W	98.44
L4	S16°38'13"W	618.06
L5	S16°29'41"W	329.94
L6	S16°25'57"W	1142.97
L7	N73°34'03"W	63.21
L8	N16°25'57"E	1143.80
L9	N16°29'41"E	330.08
L10	N16°38'13"E	618.07
L11	N36°13'40"E	97.99
L12	N25°18'52"E	109.50
L13	N18°23'36"E	176.43
L14	S73°21'35"E	61.91
L15	S16°38'25"W	44.46

LITTLE RIVER PARTNERS, LP
5.0 ACRES
DOCUMENT NO. 2017-00049517

LITTLE RIVER PARTNERS, LP
51.876 ACRES
DOCUMENT NO. 2017-00049078

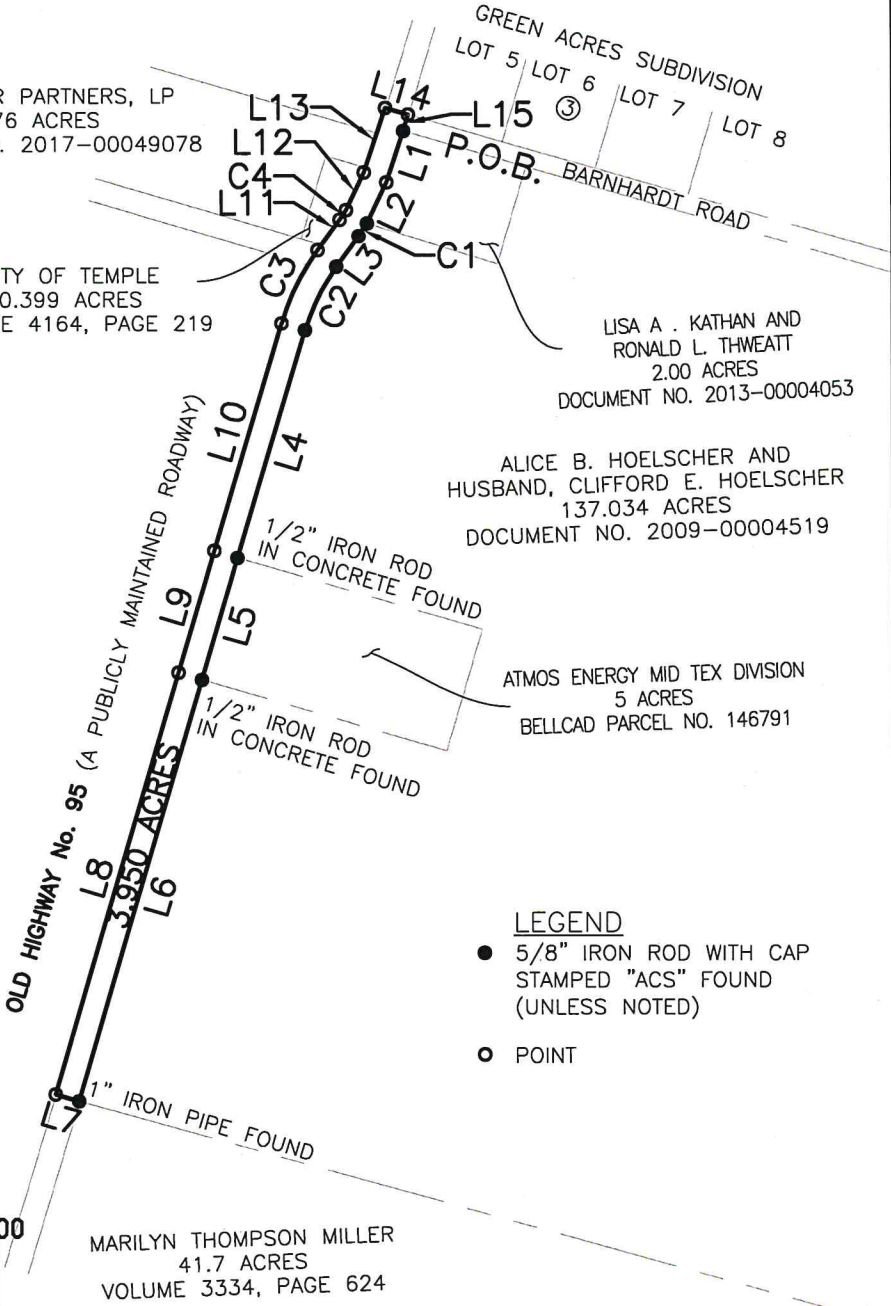
CITY OF TEMPLE
0.399 ACRES
VOLUME 4164, PAGE 219

LISA A. KATHAN AND
RONALD L. THWEATT
2.00 ACRES
DOCUMENT NO. 2013-00004053

ALICE B. HOELSCHER AND
HUSBAND, CLIFFORD E. HOELSCHER
137.034 ACRES
DOCUMENT NO. 2009-00004519

ATMOS ENERGY MID TEX DIVISION
5 ACRES
BELLCAD PARCEL NO. 146791

UNITED STATES OF AMERICA
VOLUME 455, PAGE 150
VOLUME 451, PAGE 19



BEING a 3.950 acre tract of land more particularly described by separate field notes.

BEING a 3.950 acre tract of land situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of the right-of-way of Old Highway No. 95 (a publicly maintained roadway) as occupied and evidenced on the ground.



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

IN WITNESS THEREOF, my hand and seal, this the 29th day of May 2019.

Michael E. Alvis

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

BEING a 3.950 acre tract of land situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of the right-of-way of Old Highway No. 95 (a publicly maintained roadway) as occupied and evidenced on the ground and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod with cap stamped "ACS" found being the northwest corner of that certain 2.00 acre tract of land described in a General Warranty Deed dated January 30, 2013 from Patricia A. Conlin to Lisa A. Kathan and Ronald L. Thweatt and being of record in Document No. 2013-00004053, Official Public Records of Bell County, Texas and being at the intersection of the east right-of-way line of Old Highway No. 95 and the south right-of-way line of Barnhardt Road (a publicly maintained roadway) as occupied and evidenced on the ground for corner;

THENCE departing the said south right-of-way line and with the said east right-of-way line and with the west boundary line of the said 2.00 acre tract the following two (2) calls:

- 1) S. 18° 23' 36" W., 140.09 feet to a point for corner;
- 2) S. 25° 18' 52" W., 119.00 feet to a 5/8" iron rod with cap stamped "ACS" found being the southwest corner of the said 2.00 acre tract and being the most westerly northwest corner of that certain 137.028 acre tract of land described in a Warranty Deed dated April 15, 2019 from Alice B. Hoelscher and Clifford Hoelscher to Short-Term Lending Gp Inc. and being of record in Document No. 2019-00015033, Official Public Records of Bell County, Texas and being at the beginning of a curve to the right having a radius equals 605.50 feet, chord bearing equals S. 33° 38' 37" W., 39.95 feet for corner;

THENCE departing the said 2.00 acre tract and with the west boundary line of the said 137.028 acre tract and partway with the west boundary line of that certain called 5 acre tract of land standing in the name of Atmos Energy Mid Tex Division and being identified as Parcel No 146791 according to the Bell County Tax Appraisal District property ownership maps the following six (6) calls:

- 1) 39.95 feet along the arc of said curve to the right to a 5/8" iron rod with cap stamped "ACS" found for corner;
- 2) S. 36° 13' 40" W., 98.44 feet to a 5/8" iron rod with cap stamped "ACS" found being at the beginning of a curve to the left having a radius equals 540.50 feet, chord bearing equals S. 26° 19' 19" W., 184.33 feet for corner;
- 3) 185.24 feet along the arc of said curve to the left to a 5/8" iron rod with cap stamped "ACS" found for corner;
- 4) S. 16° 38' 13" W., 618.06 feet to a 1/2" iron rod in concrete found being the northwest corner of the said 5 acre Atmos Energy tract and being an ell corner of the said 137.028 acre tract for corner;
- 5) S. 16° 29' 41" W., 329.94 feet departing the said 138.028 acre tract and with the west boundary line of the said 5 acre Atmos Energy tract to a 1/2" iron rod in concrete found being the southwest corner of the said 5 acre Atmos Energy tract and being an ell corner of the said 137.028 acre tract for corner;
- 6) S. 16° 25' 57" W., 1142.97 feet departing the said 5 acre Atmos Energy tract and with the west boundary line of the said 137.028 acre tract to a 1" iron pipe found being the southwest corner of the said 137.028 acre tract and being the northwest corner of that certain 41.7 acre tract of land standing in the name of Marilyn Thompson Miller and being identified as Parcel No. 116622 according to the Bell County Tax Appraisal District property ownership maps for corner;

THENCE N. 73° 34' 03" W., 63.21 feet departing the said 137.028 acre tract and the said 41.7 acre tract and the said east right-of-way line and over and across the right-of-way of Old Highway No. 95 to a point being in

Page 1 of 3



ENGINEERING • SURVEYING • PLANNING
301 NORTH 3RD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400
ENGINEERING FIRM #1658 SURVEY FIRM #10056000

the east boundary line of those certain tracts of land described in Deed to the United States of America and being of record in Volume 455, Page 150 and Volume 451, Page 19, Deed Records of Bell County, Texas as occupied and evidenced on the ground and being in the west right-of-way line of the said Old Highway No. 95 for corner;


THENCE with the said west right-of-way line and with the east boundary line of the said United States of America lands and continuing with the east boundary line of that certain 0.399 acre tract of land described in a Deed to the City of Temple and being of record in Volume 4164, Page 219, Official Public Records of Bell County, Texas and continuing with the east boundary line of that certain 51.876 acre tract of land described in a Deed to Little River Partners, LP and being of record in Document No. 2017-00049078, Official Public Records of Bell County, Texas and continuing with the east boundary line of that certain 5.0 acre tract of land described in a Deed to Little River Partners, LP and being of record in Document No. 2017-00049517, Official Public Records of Bell County, Texas the following eight (8) calls:

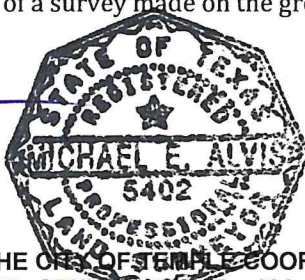
- 1) N. 16° 25' 57" E., 1143.80 feet to a point for corner;
- 2) N. 16° 29' 41" E., 330.08 feet to a point for corner;
- 3) N. 16° 38' 13" E., 618.07 feet to appoint being at the beginning of a curve to the right having a radius equals 620.50 feet, chord bearing equals N. 26° 19' 46" E., 211.58 feet for corner;
- 4) 212.62 feet along the arc of said curve to the right to a point for corner;
- 5) N. 36° 13' 40" E., 97.99 feet to appoint being at the beginning of a curve to the left having a radius equals 525.50 feet, chord bearing equals N. 33° 51' 17" E., 29.86 feet for corner;
- 6) 29.87 feet along the arc of said curve to the left to a point for corner;
- 7) N. 25° 18' 52" E., 109.50 feet to a point for corner;
- 8) N. 18° 23' 36" E., 176.43 feet to a point for corner;

THENCE S. 73° 21' 35" E., 61.91 feet departing the said 5.0 acre tract and the said west right-of-way line and over and across the said right-of-way of Old Highway No. 95 to a point being the southwest corner of Lot 5, Block 3, Green Acres Subdivision and being at the intersection of the east right-of-way line of Old Highway No. 95 and the north right-of-way line of the aforementioned Barnhardt Road for corner;

THENCE S. 16° 38' 25" W., 44.46 feet departing the said Lot 5, Block 3, Green Acres Subdivision and the said north right-of-way line and with the said east right-of-way line and over and across the said right-of-way of Barnhardt Road to the Point of BEGINNING and containing 3.950 acres of land.

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


 Michael E. Alvis, R.P.L.S. #5402
 May 29, 2019



THIS PROJECT IS REFERENCED TO THE CITY OF TEMPLE COORDINATE SYSTEM, AN EXTENSION OF THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS. ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 535
 THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 32' 22"

Page 2 of 3

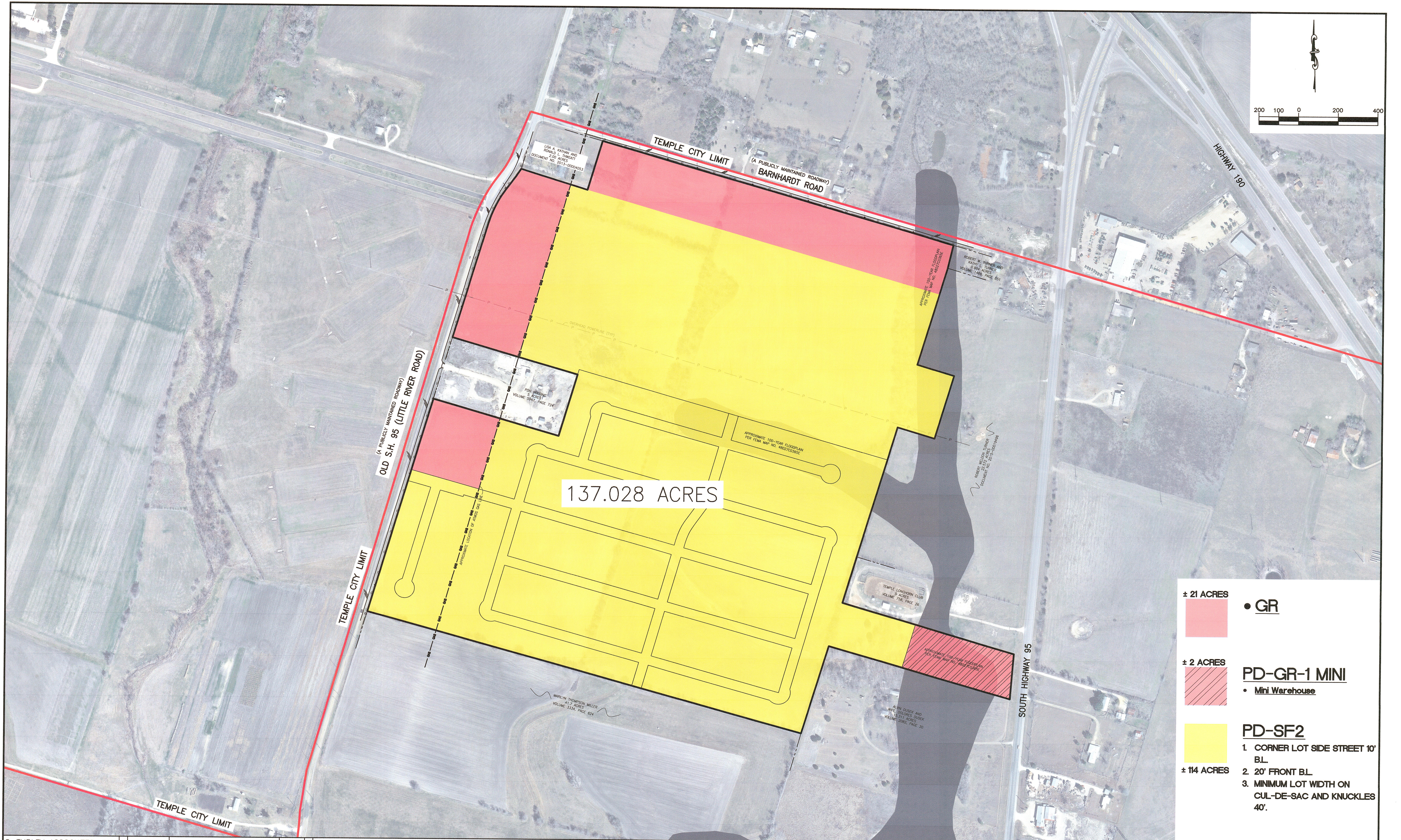


ENGINEERING • SURVEYING • PLANNING
 301 NORTH 3RD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400
 ENGINEERING FIRM #1658 SURVEY FIRM #10056000

THE COMBINED CORRECTION FACTOR (CCF) IS 0.999836
PUBLISHED CITY COORDINATES ARE $X = 3,232,625.47$ $Y = 10,351,575.12$
THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
N. $08^{\circ} 12' 33''$ E., 8079.49 FEET.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGL



ENGINEERING • SURVEYING • PLANNING
301 NORTH 3RD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400
ENGINEERING FIRM #1658 SURVEY FIRM #10056000



- ± 21 ACRES
• **GR**
- ± 2 ACRES
PD-GR-1 MINI
• Mini Warehouse
- ± 114 ACRES
PD-SF2
1. CORNER LOT SIDE STREET 10' B.L.
2. 20' FRONT B.L.
3. MINIMUM LOT WIDTH ON CUL-DE-SAC AND KNUCKLES 40'.

© TURLEY ASSOCIATES, INC. THIS DRAWING IS THE PROPERTY OF TURLEY ASSOCIATES INC. AND MUST BE SURRENDERED UPON REQUEST. THE INFORMATION THEREON MAY NOT BE REPRODUCED WITHOUT THE WRITTEN PERMISSION OF TURLEY ASSOCIATES INC.				TURLEY ASSOCIATES, INC. ENGINEERING • PLANNING • SURVEYING www.turley-inc.com SURVEY FIRM NO. 10056000 • ENGINEERING FIRM NO. 1658 254.773.2400 254.773.3998		DRAFTSMAN: JFBII DESIGNER: JFBII ENGINEER: JFBII DATE: 4/18/19				PROJECT: HILLSIDE VILLAGE FILE NAME: 19-132 REF. DWG(s): 19-715		TITLE: ANNEXATION & ZONING SITE PLAN JOB#: 19-715		PAGE# 01		
REVISIONS		DATE	DESCRIPTION	DFTR.	AUTHORS		301 N. 3rd St. TEMPLE, TEXAS 76501									
		4/17/19	REVISED GR	JFBII												

SCHEDULE

Voluntary Annexation – 89.373 Acres (Short Term Lending GP, Inc.)

DATE	ACTION	TIME LIMIT/NOTES
04-18-19	CITY RECEIVES PETITION of landowner to annex area adjacent to city limits; fewer than 3 qualified voters reside in the area.	N/A
05-02-19 Regular Meeting	COUNCIL ADOPTS RESOLUTION 1. Granting petition (14th day after petition filed); 2. Directing staff to develop service plans; and 3. Setting dates, times, places for public hearings	1. Hear and grant or deny petition after the 5 th day, but on or before the 30 th day after petition is filed. 2. Council must direct Staff to develop the services plan before publication of notice of 1 st hearing required under § 43.063 LGC. § 43.065 LGC
05-03-19	CITY SECRETARY MAILS NOTICES TO 1. Property owners 2. Public and private service entities 3. Railroads <i>34th day before 1st public hearing</i>	Before the 30 th day before the date of the first hearing required under § 43.063. § 43.062(b) LGC
05-20-19	CITY SECRETARY SENDS NOTICE TO Public school districts located in annexation area <i>17th day before 1st public hearing</i>	Within the period prescribed for publishing the notice of the 1 st hearing under § 43.063 LGC
05-19-19	CITY SECRETARY PUBLISHES NOTICES FOR PUBLIC HEARINGS ON ANNEXATION Posts notice on City web site Publishes notice in Telegram <i>18th day before 1st public hearing</i> <i>19th day before 2nd public hearing</i>	Publish hearing notice on or after the 20 th day but before the 10 th day before the date of the hearing § 43.063(c) LGC
05-29-19	RESIDENTS' LAST DAY TO FILE PROTEST <i>10th day after publication of hearing notice</i>	Hold one hearing in area proposed for annexation if more than 10% of adults who are permanent residents of area file written protest within 10 days after publication of notice. § 43.063(b) LGC
06-06-19 Regular meeting	COUNCIL HOLDS 1st PUBLIC HEARING Staff presents service plan <i>35th day before 1st reading of ordinance</i>	Hold hearings on or after the 40 th day but before the 20 th day before the date of institution of annexation proceedings with 1 st reading of ordinance. § 43.063(a) LGC.
06-07-19 Special meeting	COUNCIL HOLDS 2nd PUBLIC HEARING Staff presents service plan <i>34th day before 1st reading of ordinance</i>	Hold hearings on or after the 40 th day but before the 20 th day before the date of institution of annexation proceedings with 1 st reading of ordinance. LGC § 43.063(a)
07-11-19 Regular Meeting	COUNCIL CONSIDERS ANNEXATION ORDINANCE ON 1ST READING & HOLDS PUBLIC HEARING	First reading institutes proceedings for purposes of statutory time limits.
07-18-19 Regular Meeting	COUNCIL CONSIDERS ANNEXATION ORDINANCE ON 2ND READING <i>7th day from 1st reading</i>	Complete annexation proceedings within 90 days from 1 st reading. § 43.064(A) LGC.

DATE	ACTION	TIME LIMIT/NOTES
	INFORMATION TECHNOLOGY SERVICES PREPARES AMENDED CITY MAP 1. Amended City limit boundary 2. Amended City ETJ boundary	

	CITY SECRETARY SENDS NOTICES TO: TEXAS SECRETARY OF STATE 1. Copy of annexation ordinance 2. Annexation map 3. Statement that annexation is not involved in any litigation	Secretary of State certifies to U. S. Department of Commerce that annexation was valid. <i>[No citation found.]</i>
	VOTER REGISTRAR FOR BELL COUNTY 1. Map in format compatible with mapping format used by registrar's office.	Not later than the 30 th day after the date the change is adopted. § 42.0615 Election Code The County Election Administrator is the Voter Registrar for Bell County.
	STATE COMPTROLLER, SALES TAX DIVISION 1. Annexation ordinance 2. Map showing whole municipality	§ 321.102 Tax Code Delivery of notice affects implementation of tax collection.
	BELL COUNTY CLERK 1. Certified copy of annexation ordinance including legal description of annexed area.	Within 30 days after obtaining preclearance for the annexation under the Federal Voting Rights Act. § 41.0015 LGC
	BELL COUNTY CLERK 1. Certified copy of annexation ordinance 2. Copy of petition	For annexation of Sparsely Occupied Area on Petition of Area Landowners § 43.028(f)
	PUC AND FRANCHISEES Utility, telecommunication, transportation, and EMS providers	
	TxDOT If state road is affected.	
	TEXAS COMMISSION ON FIRE PROTECTION	<i>[No citation found. No information found on Commission's web site.]</i>
	U. S. BUREAU OF THE CENSUS	<i>[Or does SOS notify Bureau of the Census?]</i>

	CITY ATTORNEY SENDS INFORMATION TO U. S. ARMY CORPS OF ENGINEERS: 1. Ordinance 2. Map 3. Service plan 4. Copies of pertinent laws /regulations	If annexation affects Corps' property. Army Regulation 405-25
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ORDINANCE NO. 2019-4976
(FY-19-3-ANX)

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE VOLUNTARY ANNEXATION OF APPROXIMATELY 89.373 ACRES OF LAND OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, LOCATED ON THE EAST SIDE OF OLD STATE HIGHWAY 95, AND APPROXIMATELY 3.950 ACRES (0.51 MILES) OF RIGHT-OF-WAY OF OLD HIGHWAY 95 IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF TEMPLE, BELL COUNTY, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Short Term Lending G.P., Inc. filed a petition on April 18, 2019, seeking voluntary annexation of approximately 89.373 acres of land into the City of Temple - the property is located on the east side of Old State Highway 95 (also known as Little River Road);

Whereas, voluntary annexation is governed by Section 43.028 of the Texas Local Government Code and applies only to the annexation of an area that is:

1. Less than one-half mile in width;
2. Contiguous to the annexing municipality; and
3. Vacant and without residents or on which fewer than three qualified voters reside;

Whereas, pursuant to Chapter 43 of the Local Government Code, Council adopted a resolution (2019-9652-R) directing City staff to create a Municipal Service Plan on May 2, 2019, and subsequently held public hearings to consider the annexation of the subject property at City Council meetings held on June 6, 2019 and June 7, 2019;

Whereas, the Municipal Service Plan does not contain any proposal to extend water or wastewater services to the area, or any other new physical facilities to serve this small tract and if the property is annexed, the City's ad valorem tax base will increase and result in future property tax revenue for the City - TISD has requested that the City begin the design process for the future expansion of Blackland Road east in order to provide needed connectivity and utility extensions; and

Whereas, the City Council has considered these matters and deems it in the public interest to authorize these actions.

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

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

Part 2: The City Council approves the voluntary annexation of approximately 89.373 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95, and approximately 3.950 acres (0.51 miles) of right-of-way of Old Highway 95 in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas, described in Exhibit 'A' attached hereto, and said property is hereby annexed and brought within the corporate limits of the City of Temple, Bell County, Texas, and is made an integral part thereof.

Part 3: The service plan submitted in accordance with Chapter 43 of the Texas Local Government Code is hereby approved as part of this Ordinance, made a part hereof and attached hereto as Exhibit "B."

Part 4: The official map and boundaries of the City of Temple are hereby amended so as to include the annexed Property as part of the City of Temple.

Part 5: The annexed Property shall be zoned at a future date, in compliance with the Zoning Ordinance of the City of Temple.

Part 6: The annexed Property shall be included in, and become a part of, the City of Temple City Council Election District Number 3.

Part 7: If the taking of any territory annexed by this Ordinance is declared by a court of competent jurisdiction to be invalid and/or illegal, it shall not affect the balance of the property annexed and attempted to be annexed, and that property shall remain as part of the City of Temple, Texas. It is the intent of this Ordinance that any territory that is not lawful for the City to incorporate be excluded from this annexation and that such exclusion be documented by having a qualified surveyor correct the property description of the annexed area to conform to the Council's intention and to ensure that the boundary description closes.

Part 8: Severability. 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 9: Effective Date. 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 10: Open Meetings. 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.

PASSED AND APPROVED on First Reading and Public Hearing on the **11th** day of **July**, 2019.

PASSED AND APPROVED on Second and Final Reading on the **18th** 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

07/11/19
Item #6
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tammy Lyerly, Senior Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-19-4-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 47.655 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95 and the south side of Barnhardt Road, and 2.371 acres of right-of-way of Barnhardt Road in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.

STAFF RECOMMENDATION: Approve as presented and schedule Second Reading for Thursday, July 18, 2019 at 5:00 P.M. in the City Council Chambers.

ITEM SUMMARY: The Temple Independent School District (TISD) filed a petition on April 18, 2019, seeking voluntary annexation of 47.655 acres into the City of Temple, which is a companion request to voluntary annexation case FY-19-3-ANX that they would both be rezoned together. Voluntary annexation is governed by Section 43.028 of the Texas Local Government Code and applies only to the annexation of an area that is:

4. Less than one-half mile in width,
5. Contiguous to the annexing municipality, and
6. Vacant and without residents or on which fewer than three qualified voters reside.

On May 2, 2019, the City Council adopted a resolution (#2019-9653-R) directing City staff to create a Municipal Service Plan and public hearing schedule to consider the annexation of the subject property.

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

4. May 2, 2019, - City Council resolution (#2019-9653-R) adopted to direct staff to develop the Municipal Service Plan
5. June 6, 2019 - Municipal Service Plan Public Hearing #1
6. June 7, 2019 – Municipal Service Plan Public Hearing #2

The applicant has not yet submitted a rezoning application for the subject property but has submitted an exhibit showing future zoning areas of Planned Development Single Family Two (PD-SF2) and General Retail (GR) and Planned Development General Retail (PD-GR) with companion voluntary annexation case FY-19-3-ANX.

The proposed annexation schedule anticipates completion of annexation proceedings through a Second Reading at City Council on July 18, 2019.

FISCAL IMPACT: The Municipal Service Plan does not contain any proposal to extend water or wastewater services to the area, or any other new physical facilities to serve this small tract.

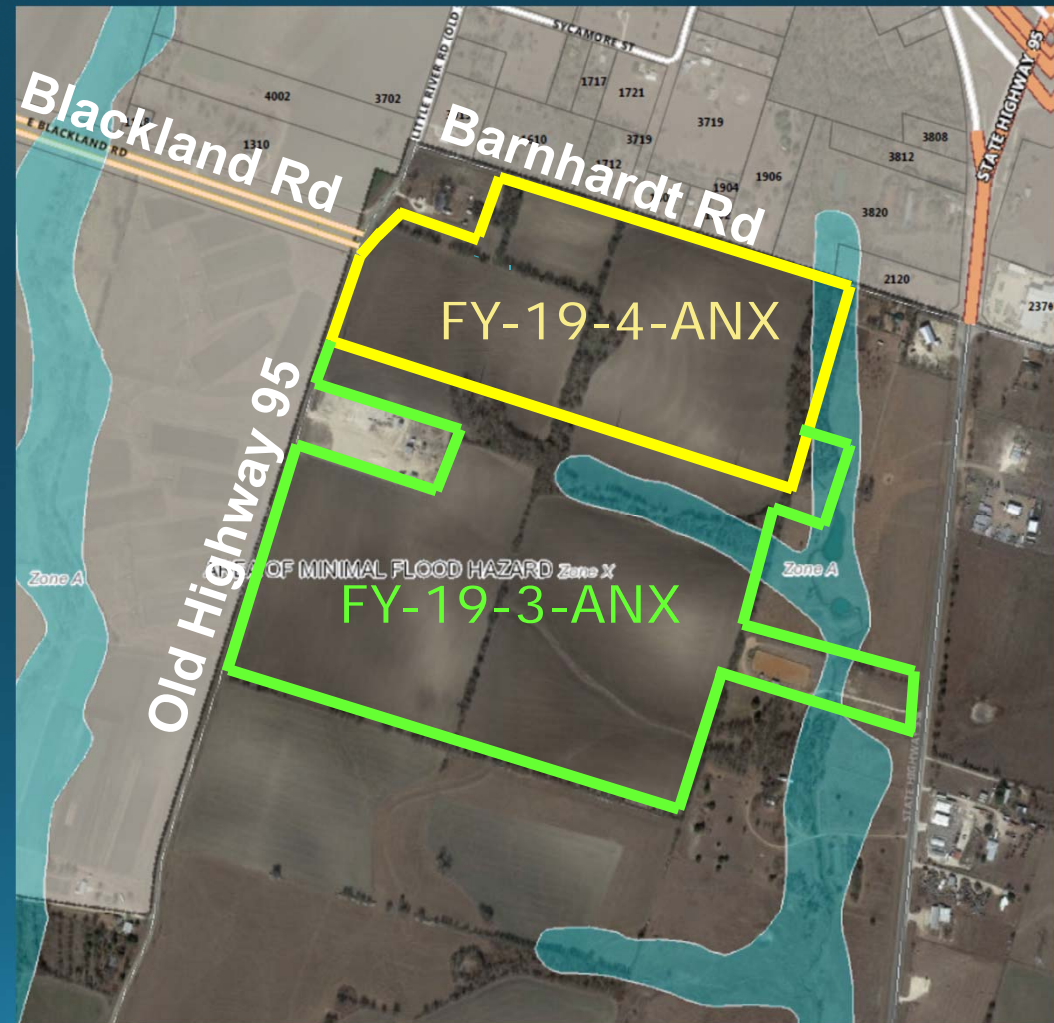
The property is currently exempt from property taxes, and it will remain so under the ownership of the TISD. TISD has requested that the City begin the design process for the future expansion of Blackland Road east in order to provide needed connectivity and utility extensions.

ATTACHMENTS:

Vicinity Map
Municipal Service Plan
Voluntary Annexation Petition
Survey of Proposed Annexation Area (Exhibit A)
Field Notes of Proposed Annexation Area (Exhibit B)
Survey of Barnhardt Road Annexation (Exhibit C)
Field Notes of Barnhardt Road Annexation (Exhibit D)
Proposed Zoning Site Plan
Voluntary Annexation Schedule
Ordinance

Overall View of Proposed Annexation Areas

- Approximately 2.371 acres of Barnhardt Rd (0.41 miles) and
- 47.655 +/- acres of privately-owned land
- Approximately 3.950 acres of Old Highway 95 (0.51 miles) and
- 89.373 +/- acres of privately-owned land



CITY OF TEMPLE
ANNEXATION SERVICE PLAN—VOLUNTARY ANNEXATION
Old State Highway 95 and Barnhardt Road (FY-19-4-ANX)

47.655 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95 and the south side of Barnhardt Road, and being more particularly described as Exhibit “A” (Field Notes) and depicted as Exhibit “B” (Survey) of the Annexation Ordinance (2019-####).

SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

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

2. FIRE PROTECTION AND AMBULANCE SERVICE

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

3. SOLID WASTE COLLECTION

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

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

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

5. MAINTENANCE OF ROADS AND STREETS

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

6. MAINTENANCE OF PUBLIC PARKS, PLAYGROUNDS AND SWIMMING POOLS

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

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

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

8. INSPECTIONS

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

9. CODE ENFORCEMENT

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

10. MOWING

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

CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

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

2. ROADS AND STREETS

The City will undertake to provide the same degree of road and street lighting as is provided in areas of the same or similar topography, land use and population density within the present corporate limits of the City. Maintenance of properly dedicated roads and streets will be consistent with the

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

3. WATER AND WASTEWATER FACILITIES

The City of Temple has water facilities to the north along Barnhart Road and to the west along Old State Highway 95 (Little River Road). There are no water facilities to the south.

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

4. CAPITAL IMPROVEMENTS

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

SPECIFIC FINDINGS

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

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

APPROVED ON THIS _____ DAY OF _____, 2019.

City of Temple, Texas

Mayor

ATTEST:

City Secretary

VOLUNTARY PETITION FOR ANNEXATION

DATE: 4-17-2019

To the City Council of the City of Temple:

Temple Independent School District is the sole owner of the tract of land containing approximately 47.655 acres ("the Tract"). The Tract is more particularly described by metes and bounds in Exhibit A to this petition.

The Tract is one-half mile or less in width, contiguous to the City of Temple, Texas; and has less than three qualified voters as residents. The owner is petitioning the City Council to take the appropriate actions to annex the Tract pursuant to Section 43.028 of the Texas Local Government Code.

Temple Independent School District


By and Through
Temple Independent School District

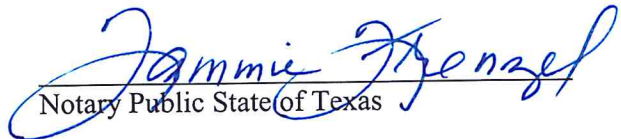
STATE OF TEXAS §

COUNTY OF BELL §

BEFORE ME, the undersigned authority, on this day personally appeared Bobby Ott, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as the act of Temple Independent School District for the purposes and consideration therein expressed.

Given under my hand and seal of office this 17th day of April, 2019.




Notary Public State of Texas

OLD S.H. 95 (LITTLE RIVER ROAD)
(A PUBLICLY MAINTAINED ROADWAY)

1/2" IRON ROD
CAP STAMPED
"RPLS 2475" SET

(CALLS N16°27'49"E 617.92')
N16°38'13"E 394.80'

TELE
RISER (TYP)

31.3'
26.5'
19.3'
17.0'

5/8" IRON ROD WITH
CAP STAMPED
"ACS" FOUND

LISA A. KATHAN AND
RONALD L. THWEATT
2.00 ACRES
DOCUMENT NO. 2013-0004053

5/8" IRON ROD WITH
CAP STAMPED
"ACS" FOUND

L1
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APPROXIMATE LOCATION
OF ATMOS GAS LINE

OVERHEAD POWERLINE (TYP)

N73°36'49"W 2280.33'

ALICE B. HOELSCHER AND
HUSBAND, CLIFFORD E. HOELSCHER
REMAINDER OF 137.034 ACRES
DOCUMENT NO. 2009-0004519

BARNHARDT ROAD
(A PUBLICLY MAINTAINED ROADWAY)
(CALLS S71°47'08"E 1847.76')
S73°35'04"E 1847.50'

47.655 ACRES

This project is referenced to the city of temple coordinate system, an extension of the
texas coordinate system of 1983, central zone. All distances are horizontal surface
distances unless noted and all bearings are grid bearings.

All coordinate values are referenced to city monument number 535
The theta angle at said city monument is 01° 32' 22"
The combined correction factor (ccf) is 0.999836
Published city coordinates are X = 3,232,625.47 Y = 10,351,575.12
The tie from the above city monument to the POINT OF BEGINNING (POB) IS
N. 03° 09' 53" E., 5481.83 feet.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

TP&L UTILITY EASEMENT (NO WIDTH SPECIFIED)
VOLUME 529, PAGE 138

SERVICE POLE (TYP)

APPROXIMATE 100-YEAR
FLOODPLAIN PER
FEMA MAP NO. 48027C0365E

IRON PIPE FOUND
ROBERT W. TURNER
KATHY L. TURNER
0.984 ACRES
VOLUME 1466, PAGE 85

5/8" IRON ROD WITH
CAP STAMPED
"TCE 2181" FOUND

ROBERT WELDON TURNER
22.572 ACRES
DOCUMENT NO. 2015-00019496

1/2" IRON ROD
CAP STAMPED
"RPLS 2475" SET

ALICE B. HOELSCHER AND
HUSBAND, CLIFFORD E. HOELSCHER
REMAINDER OF 137.034 ACRES
DOCUMENT NO. 2009-0004519

ROBERT WELDON TURNER
22.572 ACRES
DOCUMENT NO. 2015-00019496

The following documents
affect this lot:
Volume 493, Page 5

The following documents
do not affect this lot:
Volume 529, Page 138
Volume 568, Page 387
Volume 568, Page 582
Volume 600, Page 485
Volume 684, Page 589

The following are a blanket
easement and are non-locatable
by description.
Volume 683, Page 205
Volume 957, Page 482
Volume 957, Page 483

Line Table		
Line #	Direction	Length
L1	S72°24'25"E	350.99'
CALLS	S70°38'16"E	350.86'
L2	N16°25'40"E	263.50'
CALLS	N18°12'52"E	263.55'
L3	S13°08'49"W	121.34'
CALLS	S14°50'15"W	122.00'
L4	S16°36'44"W	321.05'
L5	N36°13'40"E	98.44'
CALLS	N37°54'45"E	98.41'



BEING a 47.655 acre tract of land more particularly described by separate field notes.
BEING a 47.655 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell
County, Texas and being a part or portion of that certain 137.034 acre tract of land
described in a Partition Deed dated January 9, 2009 between Alice B. Hoelscher,
Individually and as Executor of the Estate of Claudia Barnhart, Madison Thomas Barnhart
and Glenn Walter Barnhart and Alice B. Hoelscher and husband, Clifford E. Hoelscher and
being of record in Document No. 2009-0004519, Official Public Records of Bell County,
Texas.

STATE OF TEXAS I KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis,
a Registered Professional Land Surveyor in the State of Texas,
COUNTY OF BELL I do hereby certify that this survey was this day made
on the ground of the property described herein and
is correct and that there are no discrepancies, conflicts, shortages in the
area, easements, and right-of-ways except as shown hereon, that this tract
of land has access to and from a public road, and I have marked all corners
with monuments.

This Property is within the Special Flood Hazard Area as per the Federal
Emergency Management Agency Federal Insurance Administration Map No.
48027C0365E, dated September 26, 2008.

IN WITNESS THEREOF, my hand and seal, this the 1st day of February 2019.

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

Curve Table			
Curve #	Length	Radius	Chord
C1	185.24'	540.50'	N26°19'19"E 184.33'
CALLS	185.28'	540.50'	N28°05'33"E 184.37'
C2	39.95'	605.50'	N33°38'37"E 39.95'
CALLS	39.84'	605.50'	N36°01'58"E 39.84'



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TURLEY ASSOCIATES, INC.

SURVEY OF:
47.655 ACRES
OLD HIGHWAY 95 PROPERTY
BELL COUNTY, TX
BELL CAD # 6349
PREPARED FOR:
SHORT TERM LENDING
OLD HIGHWAY 95 PROPERTY
TEMPLE, TX

REVISIONS		
DATE	DESCRIPTION	DFTR
2/4	LEGAL DOC CHANGE	BRC
2/5	CLIENT ALTERATION	BRC
2/6	CHANGE LEGAL	BRC

DRAFTSMAN:
BRC
DATE:
2/6/2019
COMPUTER FILE NAME:
19-132 CERT NORTH
REFERENCE DRAWING NUMBERS:

JOB NUMBER:
19-132
DRAWING NUMBER:
19132-B
PAGE #
01

TURLEY ASSOCIATES, INC.
ENGINEERING • PLANNING • SURVEYING
301 N. 3rd St.
TEMPLE, TEXAS 7650
TBE No. F-1658 • TBE/Ls No. 10056000
254-773-2400
www.turley-inc.com

BEING a 47.655 acre tract situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of that certain 137.034 acre tract of land described in a Partition Deed dated January 9, 2009 between Alice B. Hoelscher, Individually and as Executor of the Estate of Claudia Barnhart, Madison Thomas Barnhart and Glenn Walter Barnhart and Alice B. Hoelscher and husband, Clifford E. Hoelscher and being of record in Document No. 2009-00004519, Official Public Records of Bell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod with cap stamped "ACS" found being the most westerly northwest corner of the said 137.034 acre tract and being the southwest corner of that certain 2.00 acre tract of land described in a General Warranty Deed dated January 30, 2013 from Patricia A. Conlin to Lisa A. Kathan and Ronald L. Thweatt and being of record in Document No. 2013-00004053, Official Public Records of Bell County, Texas and being in the east right-of-way line of Old Highway No. 95 (a publicly maintained roadway) for corner;

THENCE S. 72° 24' 25" E., 350.99 feet departing the said east right-of-way line and with a northerly boundary line of the said 137.034 acre tract (calls S. 70° 38' 16" E., 350.86 feet) and with the south boundary line of the said 2.00 acre tract to a 5/8" iron rod with cap stamped "ACS" found being an ell corner of the said 137.034 acre tract and being the southeast corner of the said 2.00 acre tract for corner;

THENCE N. 16° 25' 40" E., 263.50 feet with a westerly boundary line of the said 137.034 acre tract (calls N. 18° 12' 52" E., 263.55 feet) and with the east boundary line of the said 2.00 acre tract to a 5/8" iron rod with cap stamped "ACS" found being the most northerly northwest corner of the said 137.034 acre tract and being the northeast corner of the said 2.00 acre tract and being in the south right-of-way line of Barnhardt Road (a publicly maintained roadway) for corner;

THENCE S. 73° 35' 04" E., 1847.50 feet departing the said 2.00 acre tract and with the north boundary line of the said 137.034 acre tract (calls S. 71° 47' 08" E., 1847.76 feet) and with the said south right-of-way line to a 1" iron pipe found being the northeast corner of the said 137.034 acre tract and being the northwest corner of that certain 0.984 acre tract of land described in a Deed dated July 13, 1977 from Raymond E. Shephard and wife, Vera A. Shephard to Robert W. Turner and wife, Kathy L. Turner and being of record in Volume 1466, Page 851, Deed Records of Bell County, Texas for corner;

THENCE departing the said south right-of-way line and with the east boundary line of the said 137.034 acre tract the following two (2) calls:

- 1) S. 13° 08' 49" W., 121.34 feet (calls S. 14° 50' 15" W., 122.00 feet) with the west boundary line of the said 0.984 acre tract to a 5/8" iron rod with cap stamped "TCE 2181" found being the southwest corner of the said 0.984 acre tract and being the northwest corner of that certain 22.572 acre tract of land described in a Deed dated May 18, 2015 from Veterans Land Board of the State of Texas to Robert Weldon Turner and being of record in Document No. 2015-00019496, Official Public Records of Bell County, Texas for corner;
- 2) S. 16° 40' 44" W., 520.07 feet (calls S. 18° 29' 20" W., 520.13 feet) departing the said 0.984 acre tract and with the west boundary line of the said 22.572 acre tract to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;

THENCE departing the said east boundary line and the said west boundary line and over and across the said 137.034 acre tract the following two (2) calls:


- 1) S. 16° 36' 44" W., 321.05 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set for corner;

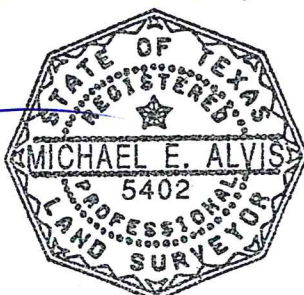
- 2) N. 73° 36' 49" W., 2280.33 feet to a 1/2" iron rod with cap stamped "RPLS 2475" set being in the west boundary line of the said 137.034 acre tract and being in the aforementioned east right-of-way line of Old Highway No. 95 for corner;

THENCE with the west boundary line of the said 137.034 acre tract and with the said east right-of-way line the following four (4) calls:

- 1) N. 16° 38' 13" E., 394.80 feet (calls N. 18° 27' 49" E., 617.92 feet) to a 5/8" iron rod with cap stamped "ACS" found being at the beginning of a curve to the right having a radius equals 540.50 feet (calls 540.50 feet), chord bearing equals N. 26° 19' 19" E., 184.33 feet (calls N. 28° 05' 33" E., 184.37 feet) for corner;
- 2) 185.24 feet along the arc of said curve to the right (calls 185.28 feet) to a 5/8" iron rod with cap stamped "ACS" found for corner;
- 3) N. 36° 13' 40" E., 98.44 feet (calls N. 37° 54' 45" E., 98.41 feet) to a 5/8" iron rod with cap stamped "ACS" found being at the beginning of a curve to the left having a radius equals 605.50 feet (calls 605.50 feet), chord bearing equals N. 33° 38' 37" E., 39.95 feet (calls N. 36° 01' 58" E., 39.84 feet) for corner;
- 4) 39.95 feet along the arc off said curve to the left (calls 39.84 feet) to the Point of BEGINNING and containing 47.655 acres of land.

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


 Michael E. Alvis, R.P.L.S. #5402
 January 31, 2019



THIS PROJECT IS REFERENCED TO THE CITY OF TEMPLE COORDINATE SYSTEM, AN EXTENSION OF THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 535
 THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 32' 22"
 THE COMBINED CORRECTION FACTOR (CCF) IS 0.999836
 PUBLISHED CITY COORDINATES ARE X = 3,232,625.47 Y = 10,351,575.12
 THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS
 N. 07° 46' 18" E., 7828.10 FEET.
 GRID DISTANCE = SURFACE DISTANCE X CCF
 GEODETIC NORTH = GRID NORTH + THETA ANGL

Line Table		
Line #	Direction	Length
L1	N16°38'25"E	44.46
L2	S73°21'35"E	250.57
L3	S73°47'39"E	1246.31
L4	S73°36'06"E	678.18
L5	S16°24'56"W	49.53
L6	N73°35'04"W	1847.50
L7	N73°21'35"W	327.73

This project is referenced to the city of temple coordinate system, an extension of the texas coordinate system of 1983, central zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinate values are referenced to city monument number 535

The theta angle at said city monument is 01° 32' 22"

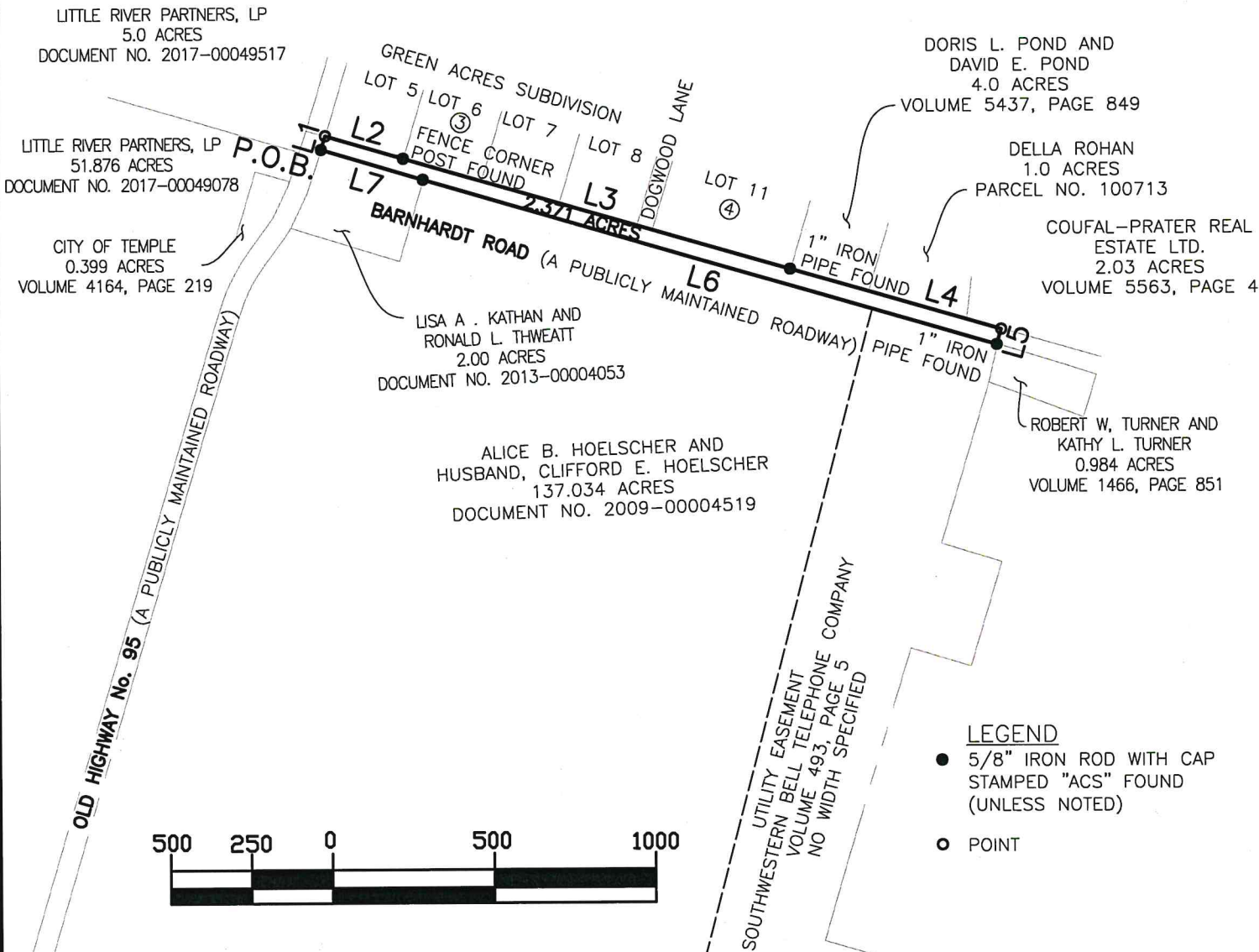
The combined correction factor (ccf) is 0.999836

Published city coordinates are X = 3,232,625.47 y = 10,351,575.12

The tie from the above city monument to the POINT OF BEGINNING (POB) IS N. 08° 12' 33" e., 8079.49 feet.

GRID DISTANCE = SURFACE DISTANCE X CCF

GEODETIC NORTH = GRID NORTH + THETA ANGLE



BEING a 2.371 acre tract of land more particularly described by separate field notes.

BEING a 2.371 acre tract of land situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of the right-of-way of Barnhardt Road (a publicly maintained roadway) as occupied and evidenced on the ground.



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

IN WITNESS THEREOF, my hand and seal, this the 29th day of May 2019.

Michael E. Alvis

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



301 N. 3rd St.
TEMPLE, TEXAS 76501

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TBPE No. F-1658 • TBPLS No. 10056000

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BEING a 2.371 acre tract of land situated in the MAXIMO MORENO SURVEY, ABSTRACT No. 14, Bell County, Texas and being a part or portion of the right-of-way of Barnhardt Road (a publicly maintained roadway) as occupied and evidenced on the ground and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod with cap stamped "ACS" found being the northwest corner of that certain 2.00 acre tract of land described in a General Warranty Deed dated January 30, 2013 from Patricia A. Conlin to Lisa A. Kathan and Ronald L. Thweatt and being of record in Document No, 2013-00004053, Official Public Records of Bell County, Texas and being at the intersection of the east right-of-way line of Old Highway No. 95 (a publicly maintained roadway) and the south right-of-way line of Barnhardt Road (a publicly maintained roadway) as occupied and evidenced on the ground for corner;

THENCE N. 16° 38' 25" E., 44.46 feet departing the said south right-of-way line and the said 2.00 acre tract and with the said east right-of-way line and over and across the said right-of-way of Barnhardt Road to a point being the southwest corner of Lot 5, Block 3, Green Acres Subdivision and being at the intersection of the east right-of-way line of Old Highway No. 95 and the north right-of-way line of the aforementioned Barnhardt Road for corner;

THENCE S. 73° 21' 35" E., 250.57 feet departing the said east right-of-way line and with the said north right-of-way line and with the south boundary line of the said Lot 5, Block 3 to a fence corner post found being the evidenced southeast corner of the said Lot 5, Block 3 and being the southwest corner of Lot 6, said Block 3 for corner;

THENCE S. 73° 47' 39" E., 1246.31 feet with the boundary line of the said Green Acres Subdivision and continuing with the said north right-of-way line to a 1" iron pipe found being the southeast corner of Lot 11, Block 4, said Green Acres Subdivision and being the southwest corner of that certain 4.0 acre tract of land described in a Deed to Doris L. Pond and David E. Pond and being of record in Volume 5437, Page 849, Official Public Records of Bell County, Texas for corner;

THENCE S. 73° 36' 06" E., 678.18 feet departing the said Green Acres Subdivision and with the south boundary line of the said 4.0 acre tract and continuing with the south boundary line of that certain 1.0 acre tract of land standing in the name of Bella Rohan and being described as Parcel No. 100713 according to the Bell County Tax Appraisal District property ownership maps and continuing with the south boundary line of that certain 2.03 acre tract of land described in a Deed to Coufal-Prater Real Estate Ltd. and being of record in Volume 5563, Page 4, Official Public Records of Bell County, Texas to a point for corner;

THENCE S. 16° 24' 56" W., 49.53 feet departing the said 2.03 acre tract and the said north right-of-way line and over and across the said right-of-way of Barnhardt Road to a 1" iron piper found being the northeast corner of that certain 137.028 acre tract of land described in a Warranty Deed dated April 15, 2019 from Alice B. Hoelscher and Clifford Hoelscher to Short-Term Lending Gp Inc. and being of record in Document No. 2019-00015033, Official Public Records of Bell County, Texas and being the northwest corner of that certain 0.984 acre tract of land described in a Deed dated July 13, 1977 from Raymond E. Shepherd and wife, Vera A. Shepherd to Robert W. Turner and wife, Kathy L. Turner and being of record in Volume 1466, Page 851, Deed Records of Bell County, Texas and being in the south right-of-way line of Barnhardt Road for corner;

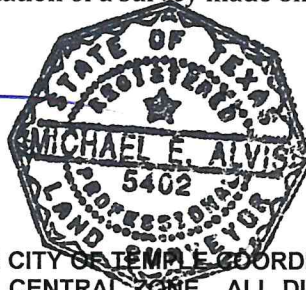
THENCE N. 73° 35' 04" W., 1847.50 feet departing the said .0984 acre tract and with the north boundary line of the said 137.028 acre tract and with the said south right-of-way line to a 5/8" iron rod with cap stamped "ACS" found being the most northerly northwest corner of the said 137.028 acre tract and being the northeast corner of the aforementioned 2.00 acre tract for corner;

THENCE N. 73° 21' 35" W., 327.73 feet departing the said 137.028 acre tract and with the north boundary line of the said 2.00 acre tract and continuing with the said south right-of-way line to the Point of BEGINNING and containing 2.371 acres of land.

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



Michael E. Alvis, R.P.L.S. #5402
May 29, 2019



THIS PROJECT IS REFERENCED TO THE CITY OF TEMPLE COORDINATE SYSTEM, AN EXTENSION OF THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS. ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 535

THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 32' 22"

THE COMBINED CORRECTION FACTOR (CCF) IS 0.999836

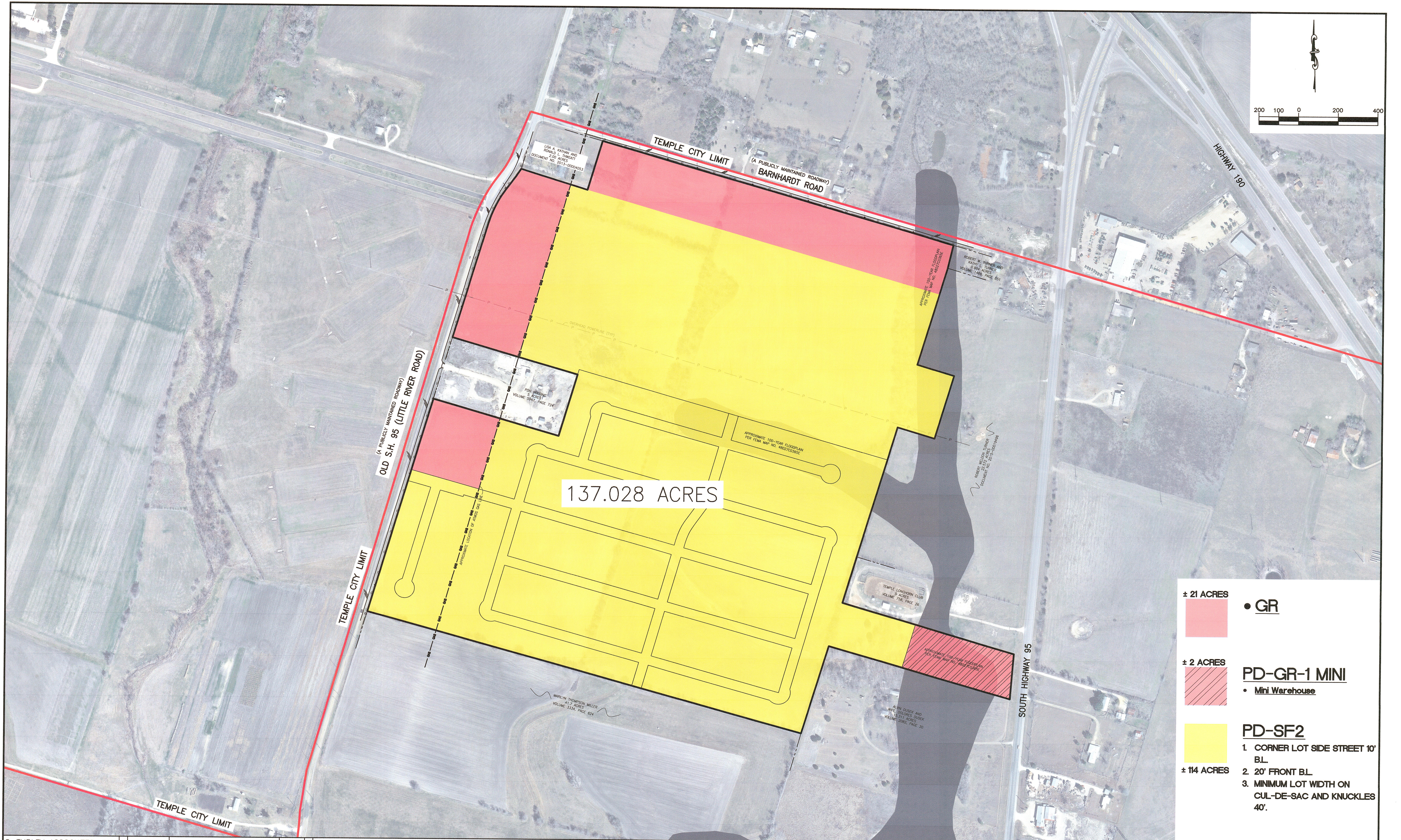
PUBLISHED CITY COORDINATES ARE X = 3,232,625.47 Y = 10,351,575.12

THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS

N. 08° 12' 33" E., 8079.49 FEET.

GRID DISTANCE = SURFACE DISTANCE X CCF

GEODETIC NORTH = GRID NORTH + THETA ANGL



- ± 21 ACRES
• **GR**
- ± 2 ACRES
PD-GR-1 MINI
• Mini Warehouse
- ± 114 ACRES
PD-SF2
1. CORNER LOT SIDE STREET 10' B.L.
2. 20' FRONT B.L.
3. MINIMUM LOT WIDTH ON CUL-DE-SAC AND KNUCKLES 40'.

SCHEDULE

Voluntary Annexation – 47.655 Acres (Temple Independent School District)

DATE	ACTION	TIME LIMIT/NOTES
04-18-19	CITY RECEIVES PETITION of landowner to annex area adjacent to city limits; fewer than 3 qualified voters reside in the area.	N/A
05-02-19 Regular Meeting	COUNCIL ADOPTS RESOLUTION 1. Granting petition (14th day after petition filed); 2. Directing staff to develop service plans; and 3. Setting dates, times, places for public hearings	1. Hear and grant or deny petition after the 5 th day, but on or before the 30 th day after petition is filed. 2. Council must direct Staff to develop the services plan before publication of notice of 1 st hearing required under § 43.063 LGC. § 43.065 LGC
05-03-19	CITY SECRETARY MAILS NOTICES TO 1. Property owners 2. Public and private service entities 3. Railroads <i>34th day before 1st public hearing</i>	Before the 30 th day before the date of the first hearing required under § 43.063. § 43.062(b) LGC
05-20-19	CITY SECRETARY SENDS NOTICE TO Public school districts located in annexation area <i>17th day before 1st public hearing</i>	Within the period prescribed for publishing the notice of the 1 st hearing under § 43.063 LGC
05-19-19	CITY SECRETARY PUBLISHES NOTICES FOR PUBLIC HEARINGS ON ANNEXATION Posts notice on City web site Publishes notice in Telegram <i>18th day before 1st public hearing</i> <i>19th day before 2nd public hearing</i>	Publish hearing notice on or after the 20 th day but before the 10 th day before the date of the hearing § 43.063(c)LGC
05-29-19	RESIDENTS' LAST DAY TO FILE PROTEST <i>10th day after publication of hearing notice</i>	Hold one hearing in area proposed for annexation if more than 10% of adults who are permanent residents of area file written protest within 10 days after publication of notice. § 43.063(b) LGC
06-06-19 Regular meeting	COUNCIL HOLDS 1st PUBLIC HEARING Staff presents service plan <i>35th day before 1st reading of ordinance</i>	Hold hearings on or after the 40 th day but before the 20 th day before the date of institution of annexation proceedings with 1 st reading of ordinance. § 43.063(a) LGC.
06-07-19 Special meeting	COUNCIL HOLDS 2nd PUBLIC HEARING Staff presents service plan <i>34th day before 1st reading of ordinance</i>	Hold hearings on or after the 40 th day but before the 20 th day before the date of institution of annexation proceedings with 1 st reading of ordinance. LGC § 43.063(a)
07-11-19 Regular Meeting	COUNCIL CONSIDERS ANNEXATION ORDINANCE ON 1ST READING & HOLDS PUBLIC HEARING	First reading institutes proceedings for purposes of statutory time limits.
07-18-19 Regular Meeting	COUNCIL CONSIDERS ANNEXATION ORDINANCE ON 2ND READING <i>7th day from 1st reading</i>	Complete annexation proceedings within 90 days from 1 st reading. § 43.064(A) LGC.

DATE	ACTION	TIME LIMIT/NOTES
	INFORMATION TECHNOLOGY SERVICES PREPARES AMENDED CITY MAP 1. Amended City limit boundary 2. Amended City ETJ boundary	

	CITY SECRETARY SENDS NOTICES TO: TEXAS SECRETARY OF STATE 1. Copy of annexation ordinance 2. Annexation map 3. Statement that annexation is not involved in any litigation	Secretary of State certifies to U. S. Department of Commerce that annexation was valid. <i>[No citation found.]</i>
	VOTER REGISTRAR FOR BELL COUNTY 1. Map in format compatible with mapping format used by registrar's office.	Not later than the 30 th day after the date the change is adopted. § 42.0615 Election Code The County Election Administrator is the Voter Registrar for Bell County.
	STATE COMPTROLLER, SALES TAX DIVISION 1. Annexation ordinance 2. Map showing whole municipality	§ 321.102 Tax Code Delivery of notice affects implementation of tax collection.
	BELL COUNTY CLERK 1. Certified copy of annexation ordinance including legal description of annexed area.	Within 30 days after obtaining preclearance for the annexation under the Federal Voting Rights Act. § 41.0015 LGC
	BELL COUNTY CLERK 1. Certified copy of annexation ordinance 2. Copy of petition	For annexation of Sparsely Occupied Area on Petition of Area Landowners § 43.028(f)
	PUC AND FRANCHISEES Utility, telecommunication, transportation, and EMS providers	
	TxDOT If state road is affected.	
	TEXAS COMMISSION ON FIRE PROTECTION	<i>[No citation found. No information found on Commission's web site.]</i>
	U. S. BUREAU OF THE CENSUS	<i>[Or does SOS notify Bureau of the Census?]</i>

	CITY ATTORNEY SENDS INFORMATION TO U. S. ARMY CORPS OF ENGINEERS: 1. Ordinance 2. Map 3. Service plan 4. Copies of pertinent laws /regulations	If annexation affects Corps' property. Army Regulation 405-25
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ORDINANCE NO. 2019-4977
(FY-19-4-ANX)

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE VOLUNTARY ANNEXATION OF APPROXIMATELY 47.655 ACRES OF LAND OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, LOCATED ON THE EAST SIDE OF OLD STATE HIGHWAY 95 AND THE SOUTH SIDE OF BARNHARDT ROAD, AND APPROXIMATELY 2.371 ACRES (0.41 MILES) OF RIGHT-OF-WAY OF BARNHARDT ROAD IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF TEMPLE, BELL COUNTY, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Independent School District (TISD) filed a petition on April 18, 2019, seeking voluntary annexation of approximately 47.655 acres of land into the City of Temple;

Whereas, voluntary annexation is governed by Section 43.028 of the Texas Local Government Code and applies only to the annexation of an area that is:

1. Less than one-half mile in width;
2. Contiguous to the annexing municipality; and
3. Vacant and without residents or on which fewer than three qualified voters reside;

Whereas, pursuant to Chapter 43 of the Local Government Code, Council adopted a resolution (2019-9653-R) directing City staff to create a Municipal Service Plan on May 2, 2019, and subsequently held public hearings to consider the annexation of the subject property at City Council meetings held on June 6, 2019 and June 7, 2019;

Whereas, the Municipal Service Plan does not contain any proposal to extend water or wastewater services to the area, or any other new physical facilities to serve this small tract - the property is currently exempt from property taxes, and it will remain so under the ownership of the TISD who has requested that the City begin the design process for the future expansion of Blackland Road east in order to provide needed connectivity and utility extensions; and

Whereas, the City Council has considered these matters and deems it in the public interest to authorize these actions.

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

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

Part 2: The City Council approves the voluntary annexation of approximately 47.655 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95 and the south side of Barnhardt Road, and approximately 2.371 acres (0.41 miles) of right-of-way of Barnhardt Road in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas, described in Exhibit 'A' attached hereto, and said property is hereby annexed and brought within the corporate limits of the City of Temple, Bell County, Texas, and is made an integral part thereof.

Part 3: The service plan submitted in accordance with Chapter 43 of the Texas Local Government Code is hereby approved as part of this Ordinance, made a part hereof and attached hereto as Exhibit "B."

Part 4: The official map and boundaries of the City of Temple are hereby amended so as to include the annexed Property as part of the City of Temple.

Part 5: The annexed Property shall be zoned at a future date, in compliance with the Zoning Ordinance of the City of Temple.

Part 6: The annexed Property shall be included in, and become a part of, the City of Temple City Council Election District Number 3.

Part 7: If the taking of any territory annexed by this Ordinance is declared by a court of competent jurisdiction to be invalid and/or illegal, it shall not affect the balance of the property annexed and attempted to be annexed, and that property shall remain as part of the City of Temple, Texas. It is the intent of this Ordinance that any territory that is not lawful for the City to incorporate be excluded from this annexation and that such exclusion be documented by having a qualified surveyor correct the property description of the annexed area to conform to the Council's intention and to ensure that the boundary description closes.

Part 8: Severability. 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 9: Effective Date. 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 10: Open Meetings. 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.

PASSED AND APPROVED on First Reading and Public Hearing on the **11th** day of **July**, 2019.

PASSED AND APPROVED on Second and Final Reading on the **18th** 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

07/11/19
Item #7
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Kayla Landeros, City Attorney
Amanda Rice, Deputy City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending City Code of Ordinances, Chapter 6, "Animals and Fowl," to bring this chapter into compliance with state regulations, simplify and clarify language and terms, and provide more effective enforcement tools.

STAFF RECOMMENDATION: Adopt ordinance on first reading as presented in the item description and conduct a public hearing. Second reading will be scheduled for July 18, 2019.

ITEM SUMMARY: In a continuing effort to review and update the City's Code of Ordinances, Staff is proposing amendments to Chapter 6, "Animals and Fowl." The amendments include a general clean-up of the language and changes to formatting. For example, Staff suggests changing the formatting section of titles and the numbering of subsections to conform with that of other City Code Chapters and correcting minor spelling errors.

Other proposed amendments to Chapter 6 include:

- An amended definition of "At-large." Currently, Chapter 6 includes conflicting definitions of the term "at-large." In an effort to clarify this important definition, the draft amendments define "at-large" as any animal not under restraint. "Restraint" is further defined as an animal either (a) kept in a secure enclosure; or (b) kept under the direct physical control of a responsible person by a leash, cord, or other type of lead and obedient to the person's commands. The proposed amendments include several exceptions to the restraint requirement. For example, animals do not have to be restrained in the following instances:
 - The animal is on its owner's property under the immediate supervision and control of a responsible person and obedient to their commands (does not apply to cats);
 - The animal is wearing a functional electronic collar;
 - If a dog, the dog is in a designated dog park;
 - The animal is accompanied by its owner and is at an animal show;
 - The animal is a service animal; or
 - The animal is being used for law enforcement purposes.

- An updated definition of “dangerous dog” that is in line with state regulations found in Chapter 822 of the Texas Health and Safety Code. The proposed amendments clearly incorporate the provisions of Subchapter D, Chapter 822 of the Texas Health and Safety Code and include regulations related to the ownership of dangerous dogs, impoundment of dangerous dogs, and registration of dangerous dogs. These amendments also elect the City to be governed by Section 822.0422 of the Texas Health and Safety Code, which requires dogs reported to have committed dangerous dog acts to be impounded with Animal Services until a dangerous dog hearing can be held.
- A definition of “aggressive dog,” as well as regulations related to the ownership of aggressive dogs, impoundment of aggressive dogs, and registration of aggressive dogs.
- A process for the Animal Services Division to issue orders to animal owners, which includes certain remedial requirements an animal owner must complete to protect other citizens and animals against public nuisances caused by the owner's animal. Public nuisances caused by animals include animals that that destroy or damage property, cause noise that unreasonably disturbs others, are in heat, chase, attack or otherwise interfere with pedestrians or vehicles, are staked or tied within 15 feet of any street, sidewalk, park or other public place, or are repeatedly at-large. Under the proposed amendments, Animals Services may issue an order with certain remedial requirements, which may include the following:
 - Requiring that a dog be on a 4-foot leash when not in a secure enclosure;
 - Muzzling a dog in public to prevent biting;
 - Repairing a broken fence to prevent the animal's escape;
 - Keeping an animal in a different area to prevent noise disturbances;
 - Paying restitution for damages or injury caused by an animal;
 - Taking the animal to training classes; or
 - Sterilizing the animal.
- Limitations on tethering including conditions that must be met for a dog to be legally tethered.
- The creation of an offense for owners who allow animals to ride loose in open vehicles. Animals would need to be secured by a multi-point tether or inside a secure enclosure while riding in the vehicle.
- Clarifications to the multi-pet permit process.
- The creation of an offense for distracted driving due to a loose animal in the vehicle.
- Updates to the rabies article to comply with the Texas Health and Safety Code and Texas Administrative Code requirements.
- Updates to reflect the new structure of the Animal Services Division as a division of the Police Department.
- Updates to regulations related to animal cruelty, the impoundment, adoption, and disposal of animals, and prohibited animals.

The proposed amendments include and re-adopt certain fees that Animals Services charges such as fees for reclamation, adoption, spay and neuter vouchers, euthanasia, and surrender. The amendments also propose the adoption of additional fees such as veterinary costs for impounded animals, higher impoundment fees for seized animals, a multi-pet permit fee, a quarantine fee, a dangerous dog registration fee, and an aggressive dog registration fee. If Council approves the proposed amendments, Staff will bring forward a separate item asking Council to consider adopting a resolution which establishes the applicable fees.

FISCAL IMPACT: As stated above, the proposed amendments include and re-adopt certain fees that Animals Services charges such as fees for reclamation, adoption, spay and neuter vouchers, euthanasia, and surrender. The amendments also propose the adoption of additional fees such as veterinary costs for impounded animals, higher impoundment fees for seized animals, a multi-pet permit fee, a quarantine fee, a dangerous dog registration fee, and an aggressive dog registration fee.

ATTACHMENTS:

[Current Chapter 6](#)

[Clean copy of amendments to Chapter 6](#)

[Ordinance](#)



Chapter 6

ANIMALS AND FOWL

- Sec. 6-1. Division of Animal Services Established.**
- Sec. 6-2. Definitions.**
- Sec. 6-3. At-Large Animals.**
- Sec. 6-4. Animal Nuisance.**
- Sec. 6-5. Care of Animals.**
- Sec. 6-6. Cruelty and Injury to Animals.**
- Sec. 6-7. Impoundment.**
- Sec. 6-8. Disposition and Redemption of Impounded Animals.**
- Sec. 6-9. Adoption of Animals.**
- Sec. 6-10. Rabies.**
- Sec. 6-11. Spaying and Neutering of Animals.**
- Sec. 6-12. Disposal of Animals.**
- Sec. 6-13. Sale of Animals.**
- Sec. 6-14. Keeping of Certain Animals.**
- Sec. 6-15. Additional Regulations.**
- Sec. 6-16. Dangerous Animals.**
- Sec. 6-17. Additional Provisions Relating to Dangerous or Vicious Animals.**
- Sec. 6-18. Impoundment and Reclamation of Dangerous Animals.**
- Sec. 6-19. Affirmative Defenses.**
- Sec. 6-20. Citations.**
- Sec. 6-21. Penalty.**
- Sec. 6-22. Culpability.**

Chapter 6

ANIMALS AND FOWL

Sec. 6-1. Division of Animal Services Established

- (a) Division of Animal Services. In order to protect the public health and welfare, to provide for the public safety, and to more effectively control, regulate and provide for animals within the City of Temple, the division of Animal Services is established. The division of Animal Services shall consist of the Animal Services Manager and such other officers and employees as may be provided by the City Council.
- (b) Animal Services Manager. The Animals Services Manager shall be appointed by the City Manager. The Animal Services Manager shall have control and supervision over all employees assigned to this division subject to the supervision of the City Manager or his designee.
- (c) Functions. The Animal Services Manager shall enforce all laws and ordinances pertaining to the keeping, treatment, impounding and regulation of animals within the City of Temple.
- (d) Duties. The Animal Services Manager shall manage the City's animal shelter. The Animal Services Manager shall keep such records and make such reports concerning the activities of the division of Animal Services as may be required by ordinance, state law, the City Manager, or by the City Council.
- (e) Local Health Authorities. The Animal Services Manager shall act as the local health authority for the purposes of enforcing all laws and regulations of the State of Texas pertaining to animals which authorize the local health authority or Animal Services officers to enforce the same.
- (f) Conduct of Division Members. It shall be the duty of all members of the division of Animal Services to enforce this ordinance and all laws of the State of Texas applicable to domesticated and wild animals, to conduct themselves in a law-abiding manner and to avoid the use of unnecessary force on animals in the possession or control of the Division of Animal Services.

Sec. 6-2. Definitions

For the purposes of this Chapter, and as used herein, the following terms shall have the meaning as given in this section:

Animal. A living organism which feeds on organic matter, has specialized sense organs and nervous system, and is able to move about and to respond rapidly to stimuli, not including a human or an insect.

At large. Off the premises of the owner and not under the complete control of the owner by leash, halter, cage, or other means of confinement.

Dangerous animal. Any dog, cat, or other animal that, without clear provocation, (a) bites or attacks humans or (b) in a vicious or terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated.

Fowl. A bird of any kind.

Hen. A female domestic chicken, not including guinea hens.

Keep. To retain on the premises by any means; to harbor, control, own, or have custody of or possession of.

Keeper. Any person who has custodial or supervisory authority over an animal, or who has any responsibilities for the care, custody or control over an animal, including but not limited to the provision of adequate shelter, food and water, and/or access to necessary veterinary care, even on a temporary basis.

Maintain. To feed, shelter, protect, provide for or bear the expense of.

Owner. Any person, firm, association, partnership or corporation owning, keeping, in charge of, in control of, maintaining or harboring one or more animals or fowl.

Person. Any natural person, corporation, partnership, association, firm or legal entity.

Rooster. A male domestic chicken.

Wild animal. Any animal not ordinarily tame or domesticated, or which by its very nature has propensities toward inflicting serious bodily harm. Any animal or reptile which, in its natural state, possess dangerous or vicious propensities and includes, but is not limited to coyotes, wolves, bears, wildcats (puma, bobcat, lynx), lions, tigers, poisonous snakes, alligators, crocodiles, and monkeys, whether or not said animal or reptile has been tamed.

Sec. 6-3. At-Large Animals

(a) Animal At-Large. It shall be unlawful for the owner of any cat, dog, fowl or other domesticated animal, to permit or allow such animal to run at large within the city limits. "At large" means that an animal is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal. A cat is at large when straying onto the property of anyone except the owner. All animals at large are subject to impoundment by Animal Services.

(b) Pursuit of Animal. Animal services shall have the right to enter onto private property in order to pursue and apprehend a free roaming animal without first requesting permission from the owner of the property. When in pursuit of such animal, no search warrant is required.

Sec. 6-4. Animal Nuisance

(a) Animal Nuisance; Unlawful. It shall be unlawful for any person to keep any animal on any property located within the city limits when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

(b) Animal Nuisance; Defined. Public nuisance animal means any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than the animal's owner, to enjoy life or property. The term "public nuisance animal" includes, but is not limited to:

- (1) Any animal that is found running at large;
- (2) Any animal that damages, soils, defiles, or defecates on any property other than that of its owner;
 - a. In such cases, the owner shall make sanitary disposal of any excreta (waste) deposited by his animal on any property other than that of its owner.
 - b. Failure to remove excreta as required by this section is an offense, and may result in a citation being issued.
- (3) Any animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
 - a. When possible, prior to filing a complaint with the City, the person having been disturbed by an animal as described above must give written notice to the owner or keeper of the animal that the animal's conduct has disturbed his or her peace on more than one occasion. A copy of such written notice must be presented to the City at the time the complaint is filed.
- (4) Any animal in estrus (in heat) that is not confined so as to prevent attraction or contact with other animals;
- (5) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;
- (6) Any animal that chases motor vehicles in a public right-of-way;
- (7) Any animal that attacks other domestic animals without provocation;
- (8) Any animal that is being kept in unsanitary conditions that cause fouling of the air by noxious or offensive odors that create an unreasonable annoyance

or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

- (9) Any animal tied or staked within ten (10) feet of any street, park, or other public land, public sidewalk, public passageway, or public building when on an open or unfenced lot or parcel of land; or
- (10) Any animal that is a wild animal.

Sec. 6-5. Care of Animals

(a) Proper Care. It shall be unlawful for the owner or keeper of any animal to fail or refuse to provide such animal with sufficient wholesome and nutritious food, sufficient clean drinking water, sanitary shelter, veterinary care when necessary to prevent suffering and ensure humane care and treatment, or to unnecessarily expose any such animal to extreme or inclement weather.

- (1) In case of dispute over adequacy of proper care, the Animal Services Manager will be the final authority.
- (2) Violation of this section shall constitute a Class C misdemeanor or state law criminal offense when applicable.

(b) Abandoned Animal. No owner or custodian of any animal shall willfully abandon an animal on any street, road, highway or public place, or on private property when not in the care of another person.

(c) Abandoned Animal in Custody. Any animal left without proper food, water, or shelter for more than three (3) calendar days OR any animal left in conditions which endanger the health, life, and safety of the animal shall be considered abandoned. Animal Services shall take any abandoned animal into protective custody for a reasonable time in order to determine whether ownership can be established and possible criminal prosecution of persons responsible.

Sec. 6-6. Cruelty and Injury to Animals

(a) Injury to Animal. It shall be unlawful for any person to willfully or maliciously strike, beat, abuse, torment, overload, overwork, trap with steel jaw traps or intentionally run down with a vehicle any animal, or otherwise engage in any act or omission which causes or inflicts unnecessary pain, injury, suffering or death to such animal.

(b) Animal Combat. It shall be unlawful to cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(c) Poisoning of Animal. No person, except an authorized Animal Services employee or a licensed veterinarian for humanitarian purposes, shall administer poison to any animal, or knowingly leave any poisonous substance of any kind or ground glass in any place with the intent to injure any animal. The provisions of this section are not applicable to licensed exterminators

using poisons as part of a pest control program or the use of commercial insecticides and rodent baits used to control insects and wild rodents.

(d) Animal in Vehicle. No dog or other animal shall be left enclosed in a parked vehicle in such a way as to subject the animal to extreme temperatures that could adversely affect the animal's health, safety, or welfare. Any Animal Services officer, police officer or personnel of the fire department may use reasonable force to remove the animal from the vehicle if the person believes that an emergency situation exists.

(e) Transportation of Animal. It shall be unlawful to transport or carry on any public roadway, any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unclosed vehicle (including but not limited to convertibles, pickup trucks, jeeps, and flatbed trucks), the animal is safely confined by a vented container or cage, by chain, rope or other device cross- tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.

Sec. 6-7. Impoundment

(a) Impoundment of Animals. In addition to any other remedies provided in this Ordinance, an Animal Services employee, police officer, or any designated employee of the City if an Animal Service officer is not available, may seize, impound and humanely confine to an animal shelter or hospital any of the following animals:

- (1) Any animal at large;
- (2) Any animal constituting a danger to the public;
- (3) Any animal not displaying a metal vaccination tag;
- (4) Any animal that is in violation of any quarantine or confinement order of the Animal Services Manager;
- (5) Any unattended animal that is ill, injured, or otherwise in need of care;
- (6) Any animal that is reasonably believed to have been abused or neglected;
- (7) Any animal that is reasonably suspected of having rabies;
- (8) Any animal that is charged with being potentially dangerous where an Animal Services employee, a police officer, or the Animal Services Manager determines that there is a threat to public health and safety;
- (9) Any animal that a court of competent jurisdiction has ordered impounded or destroyed; or
- (10) Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested or evicted from his regular place of residence.

- (b) Animal Eluding Capture. In the event of actual or immediate danger of injury to any person because of an animal's vicious nature or actions, or in the event that an animal which constitutes a threat to the health or safety of people or other animals is about to elude capture, an officer shall be justified in immediately destroying the animal by the use of any reasonable means available, without liability to the owner for the death of the animal.
- (c) Vicious or Wild Animals. Any vicious animal or wild animal, other than an endangered species, that has been impounded may be immediately disposed of as deemed appropriate by the Animal Services Manager. Wild animals trapped because they have become a nuisance may be transported to less populated areas and released.
- (d) Notification to Animal Services. Any person finding an animal at large upon his property may hold the animal in his own possession and shall notify Animal Services. It shall be the duty of Animal Services to impound the animal.
- (e) Vaccination Tag of Impounded Animal. If a dog or cat wearing a vaccination tag is impounded, an Animal Services officer shall request the name and address of the owner from the veterinarian who issued the tag. If the owner cannot be reached readily by telephone, written notification shall be mailed to the address furnished by the veterinarian.
- (f) Impounded Animal Released to Owner. An impounded dog or cat shall be released to its owner during regular hours of operation only upon payment of the fee as established by City Council, and upon proof of ownership. Possession of a vaccination certificate describing the dog or cat or bearing the same serial number that appears on a metal tag worn by the dog or cat, shall be accepted as prima facie proof of ownership.

Sec. 6-8. Disposition and Redemption of Impounded Animals

- (a) Disposition and Redemption. The Animal Services Manager shall keep any stray dog or cat at least three (3) calendar days prior to release for adoption, and at least five (5) calendar days prior to humane destruction, not counting the day of impoundment. Unadoptable animals or animals selected for destruction because of overcrowding may be humanely destroyed after the three (3) calendar day period.
- (b) Fees. Impoundment fees are set out by resolution adopted by the City Council.
- (1) No animal shall be released to an owner until all impoundment fees have been paid.
 - (2) Any animal impounded more than four (4) times in a twelve-month period shall not be released to its owner or custodian without the written approval of the Animal Services Manager. In this instance, impoundment fees shall be double the highest listed fee.

Sec. 6-9. Adoption of Animals

An impounded dog or cat which is not claimed and redeemed by an owner within the three (3) calendar days following the day of its impoundment may be released to any person for a fee established by City Council. The decision to place an animal for adoption is in the sole discretion of the Animal Services Manager. No person seeking to adopt an animal shall be discriminated against on the basis of race, sex, religion or national origin. No person convicted of the offense of dog fighting and/or cruelty to an animal shall be permitted to adopt any animal.

Sec.6-10. Rabies

(a) Vaccination Against Rabies, Generally. The owner of each dog or cat kept within the City of Temple shall have such dog or cat vaccinated against rabies by the time the dog or cat is four (4) months of age and once each year thereafter. It shall be unlawful for any person to own or keep an unvaccinated dog or cat over four (4) months of age within the city limits.

(b) Vaccination of Adopted Animals; Proof Required. In the event a dog or cat to be adopted from the City of Temple is four (4) months of age or older and is not vaccinated, a fee in an amount set by resolution of the City Council shall be paid at the time of adoption for the issuance of a rabies vaccination certificate, which the adopting person shall present to any veterinarian within one (1) week from the date of adoption for vaccination against Rabies. The issuing veterinarian may present the certificate with a statement verifying the vaccination to the Animal Services Manager for reimbursement of the prepaid fee, or the veterinarian's fee for administering the vaccination, whichever is less.

- (1) A person commits an offense if, after adopting a dog or cat four (4) months of age or older, he knowingly fails to obtain a rabies vaccination for such animal within one (1) week of the adoption date.
- (2) It shall be presumed that the person failed to have the animal vaccinated if within ten (10) days of the adoption date he has not presented the Animal Services Manager with proof of the vaccination. Such proof shall be in the form of a receipt from the veterinarian administering the vaccination. Failure to provide proof as required may result in the issuance of a citation.
- (3) The Animal Services Manager shall be authorized to re-impound any dog or cat adopted under this subsection if the vaccination is not obtained within the required time. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

(c) Issuance of Tags and Certificate. Upon vaccinating any dog or cat, the veterinarian performing such vaccination shall deliver to the animal's owner a numbered metal tag and a certificate of vaccination. A record shall be made by the veterinarian and kept for at least two (2) years showing the date of issuance and serial number of each tag issued, the name and address of the dog or cat's owner, and a brief description of the dog or cat vaccinated.

(d) Vaccination Tag as Evidence. It shall be unlawful for an owner to allow a dog or cat over the age of four (4) months to be at large without wearing a current metal vaccination tag issued by a veterinarian during the preceding twelve (12) months. It shall be prima facie evidence of vaccination against rabies that a dog or cat is wearing attached to its collar a current metal vaccination tag.

(e) Unlawfully Displaying False Tag. It shall be unlawful for any person to cause a dog or cat to wear attached to its collar, or otherwise, a vaccination tag issued for any other dog or cat.

(f) Suspected Rabid Animals. A person having knowledge of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or knowledge of an animal that is reasonably suspected to be rabid, shall report the information immediately to the Animal Services Manager or the police department.

(1) The owner of an animal that is reported to be rabid, or to have exposed an individual to a risk of contracting rabies, shall submit the animal to the Animal Services Manager or a licensed veterinarian to be quarantined until such time as it can be definitely determined whether such animal is infected with rabies, but in no case less than ten (10) days.

(2) It is an offense under this chapter for a person to refuse to submit for quarantine any animal reasonably suspected of being rabid. It is also an offense to knowingly sell, release or otherwise dispose of an animal before the expiration of the quarantine period if the animal is reasonably suspected of being rabid.

(3) An animal that is lacking proof of current vaccination for rabies at the time it bites or scratches a person is presumed to be under suspicion of rabies.

(g) Quarantine and Testing. Animals suspected of being rabid shall be quarantined with a licensed veterinarian at the expense of the owner. If it is determined by a veterinarian that a quarantined animal shows the clinical signs of the disease of rabies, the veterinarian shall humanely destroy the animal. If the animal dies or is destroyed while in quarantine, the veterinarian shall remove the head or brain of the animal and submit it to the Texas Department of State Health Services for testing.

(h) Home Quarantine. The owner of any animal allowed to home quarantine an animal shall comply with written procedures regarding the quarantine as provided to the owner by the Animal Services officer.

(1) Upon the request of the owner of a dog or cat which has bitten or scratched a human, and at the sole discretion of the Animal Services Manager, the Animal Services Manager may permit home quarantine for the animal if all of the following criteria can be met:

a. The animal was currently vaccinated against rabies at the time of the bite or scratch;

- b. The animal was not at large at the time of the bite or scratch;
- c. The animal's owner has secured facilities at his home for the animal which have been approved by the Animal Services Manager;
- d. The Animal Services Manager or a licensed veterinarian must observe the animal on at least the first and tenth days of the quarantine period. All quarantined animals shall be separated from all other animals in such a manner that there is no possibility of physical contact between animals;
- e. If the animal becomes ill during the observation period, the person with possession of the animal must notify the Animal Services Manager;
- f. The owner must sign an agreement to abide by the quarantine rules; and
- g. At the end of the quarantine period, the animal shall be observed by a licensed veterinarian and the veterinarian will generate a letter authorizing the release of the animal from quarantine.

- (2) The owner of an animal under home quarantine commits an offense if he fails to comply with any requirement contained in the home quarantine agreement.

(i) Release of Quarantined Animals. If a veterinarian determines that a quarantined animal does not show the clinical signs of rabies, the animal shall be released to its owner following the quarantine period if:

- (1) The owner has an unexpired rabies vaccination certificate for the animal, or
- (2) The animal is vaccinated against rabies by a licensed veterinarian at the owner's expense, and
- (3) The animal is not the subject of a dangerous animal complaint.

(k) Costs. The owner of an animal that is quarantined under suspicion of rabies shall pay to the City of Temple the reasonable costs of the quarantine and disposition of the animal, or the City may bring suit to collect such costs.

(l) Unclaimed Animals. Animals that are not claimed on or before the third day following the end of the quarantine period may be released to an animal shelter after vaccination for rabies, or they may be humanely destroyed.

Sec. 6-11. Spaying and Neutering of Animals

All adopted animals are required to be spayed or neutered within fourteen (14) days of adoption, unless, the animal is less than four (4) months of age. All pets reaching that age shall be spayed or neutered. Proof of sterilization shall be provided to Animal Services in accordance with this subsection. Failure to provide proof as required shall constitute an offense and a citation may be issued.

Sec. 6-12. Disposal of Animals

(a) Contagious/Threat to Life or Health. It shall be the duty of every person keeping or maintaining any animal which becomes infected or afflicted with disease which is contagious or a threat to the life and health of other animals or to humans, to humanely destroy the animal(s) and dispose of the remains as directed by an Animal Services officer.

(b) Dead Animal Disposed in 24 Hours. Except for animals kept by veterinarians or persons engaged in medical or scientific research, or those mounted by a taxidermist, dead animals shall be disposed of within twenty-four (24) hours of the time of death. The manner in which dead animals are disposed of shall, at minimum, comply with established regulations and applicable laws, specifically in accordance with subsections 6.11(c) and (d), as set forth below.

(c) Disposal on Public Property Prohibited. It shall be unlawful for any person to dispose of any dead animal or fowl upon public property within the City of Temple, other than the sanitary landfill. Public property includes, but is not limited to: streets, alleys, parks, buildings, and grounds owned, operated, or rented by any level of government, and drainage channels maintained by the City of Temple.

(d) Disposal. Dead animals, excluding those intended for human or animal consumption, shall be disposed of as follows:

- (1) Animals weighing fifty (50) pounds or less may be buried on the owner's premises at a depth of at least twelve inches (12");
- (2) Animals may be disposed of at the landfill, sold or given to a renderer, or buried in a properly zoned pet cemetery;
- (3) If requested by the owner, dogs and cats will be picked up by Animal Services and disposed of at the landfill. The fee for this service shall be an amount set by resolution of the City Council;
- (4) The landfill manager shall have the right to refuse a dead animal if placing such animal in the landfill would pose a health risk; and
- (5) The Animal Services Manager shall have the right to refuse to accept any dead animal if he determines that transporting such animal would cause a health risk to humans or to animals at the Animal Services center.

Sec. 6-13. Sale of Animals

(a) Sale on Public Property. It shall be unlawful for any person to sell, give away, place for adoption, or otherwise transfer a dog, cat or other live animal directly from public property or from any other place to which the public has access that is not permanently used and maintained as a private residence, pet shop, veterinarian office or hospital, a licensed animal shelter, hatchery, livestock auction, or a business dealing in farm or ranch supplies.

(b) Exception for Non-Profit. A non-profit animal welfare organization may submit a petition in writing to the Animal Services Manager requesting written authorization to conduct activities encompassed by this section.

(c) Adoption Area. For the benefit of the citizens of Temple, the Animal Services Division may make available to residents of Bell County an adoption area at the City's Animal Services facility or another location determined by the Animal Services Manager. Residents of Bell County desiring to sell pets at a location designated by the Animal Services Manager must remain in control of the animals brought for adoption until custody is taken by a purchaser who will then be responsible for control of the animal. Participants must adhere to the general provisions for adoption established by the City, including but not limited to, the sterilization policy and the vaccination policy. The Animal Services Manager may establish all additional guidelines necessary for the implementation of this ordinance, including fees and regulations for the use of the area. The Animal Services Manager is authorized to refuse service to anyone for any reason, and to declare any animal unsafe, unhealthy, unsanitary, or dangerous.

Sec. 6-14. Keeping of Certain Animals

(a) Restrictions on Keeping of Rabbits. No more than two (2) rabbits or hares may be kept as pets, provided that they are kept in a clean, dry, sanitary, and odor free cage that is not closer than twenty-five (25) feet to the nearest residence on which the cage is located, and that the feed is stored in rodent-proof containers. Rabbits shall not be kept within twenty-five (25) feet of any residence, excluding the residence of the animal's owner or keeper.

(b) Keeping of Swine. It shall be unlawful for any person to keep any swine within the limits of the City of Temple, Texas, unless the swine are kept in a pen or enclosure on a tract of land at least ten (10) acres in size, which is zoned as "agricultural," and the pen or enclosure is located a distance of at least five hundred (500) feet from the nearest residence.

(c) Keeping of Animals or Fowl Near Creeks and Streams. It shall be unlawful for any person to keep or maintain any animal or fowl in a pen, cage or enclosure in, near, or on a creek or stream within the City of Temple and permit drainage from said pens, cages or enclosures, fecal matter or urine to enter a creek or stream. No pigs or hogs shall be permitted or allowed to have access to, to enter, or to drink water from a creek or stream within the City of Temple.

(d) Regulation on Keeping Animals, Fowl and Bees.

- (1) It shall be unlawful for any person to keep or maintain any guinea fowl, peacocks, horses, mules, donkeys, cattle, goats, sheep, chickens, turkeys, geese, ducks or pigeons in any pen, yard, enclosure, barn, building or other place that is located less than one hundred fifty (150) feet from the residence of any person other than the owner or keeper.
- (2) It shall be unlawful for any person to keep bees and beehives in any pen, yard, enclosure, barn, building or other place that is located less than three hundred (300) feet of the residence of any person other than the owner or keeper.
- (3) Notwithstanding the foregoing provisions, in a residential zoning district, no more than six (6) hens may be kept in a back yard, provided the pen or enclosure for housing the hens is at least fifty (50) feet from the nearest residence, and the pen or enclosure is clean, secure, ventilated, large enough for the animal to move freely, and meets any applicable standards or permit requirements found in the Unified Development Code. The accumulation of waste creating an obnoxious odor and/or health hazard is prohibited. Roosters are expressly prohibited.

(e) Exceptions. Sections 6-13(a) through 6-13(d) of this Chapter shall not apply to:

- (1) Veterinarians keeping animals or fowl at the veterinarian's regular place of business during periods of time said animals or fowl are being treated for disease, or injury, or observed in the course of such treatment;
- (2) Animals or fowl kept, maintained and used in the course of medical, educational or scientific research at an established business location or under conditions approved by the Division of Animal Services;
- (3) Circuses, traveling shows, zoos and auction barns operating under permit or sanction of the City of Temple;
- (4) Animals or fowl which, because of injury or age, require temporary care, provided that such animal or fowl shall not be kept for a period of time exceeding thirty (30) days, and shall not be kept or raised for sale, barter or consumption; provided, further, that this exemption shall not apply to wild animals;
- (5) Animals and fowl, such as baby chickens, rabbits, pigeons and ducks, kept at an established place of business dealing in farm and ranch supply and which animal or fowl are domesticated and marketable for human consumption; provided, that said animals or fowl are kept and maintained in an enclosure which is dry, sanitary, cleaned regularly and free of accumulations of odor- causing debris and fecal matter.

Sec. 6.15. Additional Regulations

(a) Injury and Destruction of Wild Birds. Any person eleven (11) years of age, or older, who willfully kills or injures any wild bird, removes the eggs or young from the nest of a wild bird, or in any manner destroys the eggs or young of a wild bird, save and except pigeons, English sparrows, grackles, and blackbirds, shall be guilty of a misdemeanor.

(b) Tampering with Traps. It shall be unlawful for any person to tamper with, destroy, damage, spring, or cause to malfunction any trap set by the division of Animal Services, or to release any dog or cat from any such trap.

(c) Keeping in Unoccupied Residence. It shall be unlawful to keep, shelter or enclose any dog or cat within any residential building which is not occupied as a residence by a person.

(d) Limitation on Number.

- (1) It shall be unlawful for any person to keep, maintain, or shelter more than three (3) dogs, plus one litter to age of three (3) months, within the City of Temple, Texas, without a written permit. Any person desiring to keep, maintain, or shelter more than three (3) dogs plus one litter to age three (3) months must make a written request to the Animal Services Manager for a permit to keep a specified number of dogs, not to exceed five (5) adult dogs at a specified location. Only one permit may be granted for a lot or parcel of real property at least one (1) acre in size. The Animal Services Manager may issue the permit if he determines that such person has a proper and adequate enclosure in which to keep the dogs, and a proper and sanitary shelter for the dogs.
- (2) A permit may be revoked by the Animal Services Manager in the event either of the above criteria is not maintained, if the permittee is convicted of any violation of this chapter, if any one of the dogs is on two (2) separate occasions found at large by an Animal Services officer, or if the Animal Services Manager determines that the animals have become a nuisance.
- (3) The provisions of this section shall apply equally to the keeping of cats. A person may keep three (3) dogs and three (3) cats, plus a litter of each to age three (3) months, without a permit and, with a permit, may keep a larger specified number of dogs or cats.
- (4) The fee for the permit shall be established by City Council.
- (5) The limitations of this section shall not apply to dogs or cats kept upon the business premises of any veterinarian, kennel, animal shelter, pet shop, non-profit animal welfare organization group, or scientific research institution located in a zoning district zoned for such use.

(e) Vehicle Striking Animal. The driver of any vehicle which collides with or strikes any domesticated animal shall stop the vehicle immediately at the scene of the accident, or as close as

possible without interfering with traffic, render reasonable assistance to the animal and either locate and notify the owner of the animal or report the accident and the injury to the Division of Animal Services or the Police Department. An injured animal may be delivered to its owner, a veterinarian, an Animal Services employee or an Animal Services facility. The provisions of this section shall not apply to any emergency vehicle or to a driver taking an ill or injured person to medical care, nor shall it require assistance to an animal if providing such assistance would place any person in danger from the animal or traffic.

(f) Destruction of Ill or Injured Animals by Animal Services. An animal that is severely injured or ill may be destroyed by Animal Services in a humane manner if the animal is suffering and is not expected to survive.

- (1) An animal that exhibits symptoms of mange, distemper, parvovirus or other communicable diseases may be destroyed in a humane manner. Animals suspected of having a communicable disease shall not be confined with healthy animals in the City animal shelter.
- (2) If an injured or diseased animal in the custody of an employee of the Division of Animal Services is wearing a current vaccination tag or other identification, the custodian shall make every reasonable effort to notify the owner of the animal's location and condition before destroying the animal. Once notified, if the owner proceeds immediately to the location of the injured animal, it shall be released to the owner without charge. Animals that are not wearing any type of identification may be destroyed immediately.
- (3) The City of Temple shall not be responsible for obtaining veterinary services for unclaimed diseased or injured animals. In the event a person obtains veterinary services for a diseased or injured animal, a person subsequently claiming ownership of the animal shall be liable for all expenses of treatment. A person or entity that obtains veterinary services for an animal may bring suit against the animal's owner to collect expenses of treatment.
- (4) The City of Temple, its officers, agents and employees, shall not be liable in damages for the destruction of any animal accomplished in accordance with the chapter.

Sec. 6-16. Dangerous Animals

(a) Vicious Dogs Prohibited in Public; Confinement to Private Property. No dog or any other animal with aggressive or vicious propensities, nor a female dog in estrus (in heat) shall be allowed upon any street, avenue, highway, alley, sidewalk, parkway, park or other public place in the city, whether or not said dog is under control by means of a leash, chain or otherwise. A dog that has

attacked or bitten a human being or attacked another animal shall be considered aggressive or vicious propensities.

(b) Dangerous Dogs and Wild Animals. The City of Temple expressly adopts Chapter 822 et seq. of the Texas Health and Safety Code. The City further authorizes the Division of Animal Services to administer the provisions of that Chapter. Such adoption should in no way be construed to limit the authority of Animal Services to provide for the safety or citizenry of the City of Temple in relation to its daily activities.

(c) Dangerous Animals. The City expressly adopts the same provisions for dangerous animals as are used for dangerous dogs.

(d) Guard Dogs. Dogs maintained lawfully as guard dogs or attack dogs as defined herein, shall not be included in the definition of "wild or dangerous animal." As used in this section the term "guard dog or attack dog" means any dog intended to attack intruders, that has completed professional training and is certified, or has been comparably trained, such that its attack can be stopped on command. Display of such certificate shall be required on demand from an Animal Services officer.

(e) Warning Signs Required. It shall be unlawful for any person to leave any guard or attack dog unattended in any place inside any building unless a warning sign has been placed in a clearly visible location at the premises, located so that it can be seen by any person before entering the place to which the dog has access, warning that a guard or attack dog is present. It shall be unlawful for any person to leave any guard or attack dog unattended in any place outside a building except in a fenced yard, with a fence adequate to prevent the dog from leaving the premises, and with a warning sign placed in a clearly visible location at the premises, located so that it can be seen by any person before entering the place to which the dog has access, warning that a guard dog or attack dog is present.

Sec. 6-17. Additional Provisions Relating to Dangerous or Vicious Animals

(a) Change of Owner. If the owner of a registered dangerous animal sells or gives the animal to another person, the owner shall notify the other person at the time of the sale or gift that the animal is a registered dangerous animal.

(b) Registration by New Owner. If a new owner keeps the dangerous animal within the City of Temple, he shall register the animal with the Animal Services Manager within ten (10) calendar days after receiving it.

(c) Re-registration. When the owner of an animal registered as a dangerous animal in another jurisdiction becomes a resident of Temple, he shall register the animal with the Animal Services Manager within ten (10) calendar days after becoming a new resident.

(d) Validation of Re-registration. A re-registration shall be valid only for the time remaining on the prior registration.

(e) Notification by Animal Services Manager. When the Animal Services Manager is informed that a dangerous animal has been moved to another jurisdiction, or when the Animal Services Manager registers a dangerous animal previously registered in another jurisdiction, he should notify the Animal Services authority for such jurisdiction of this information.

(f) Notification of Attacks. The owner of a registered dangerous dog shall notify the Animal Services Manager of all attacks made by the dog on domestic animals, domestic fowl, or humans.

Sec. 6-18. Impoundment and Reclamation of Dangerous Animals

(a) Impoundment Not Possible.

- (1) If Animal Services attempts to impound a dangerous animal at a location away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harborer.
- (2) If an attempt is made to impound a dangerous animal from the premises of the owner or harborer and the impoundment cannot be made with safety, the owner or harborer will be given twenty-four (24) hours' notice that if the animal is not surrendered to Animal Services within twenty-four (24) hour period, then the animal will be destroyed wherever it is found. After this notice, the dangerous animal may be destroyed during an attempt to impound if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this section shall be in writing. A written notice left at the entrance to the premise where the dangerous animal is harbored will be considered valid notice as of the date and time of posting.
- (3) In lieu of surrendering the animal to Animal Services, an owner may permanently remove said animal from the City, if written proof of relocation is provided to the Animal Services Manager and transport is made in compliance with this ordinance.

(b) Dangerous Animal Not Reclaimed. A dangerous animal impounded pursuant to this section and not reclaimed by its owner under the requirements of this section within ten (10) calendar days from the date of notice of impoundment shall be deemed abandoned and, at the discretion of the Animal Services Manager, euthanized in a humane manner.

(c) Return of Dangerous Animal. No dangerous animal shall be returned to its owner at any time unless authorized by this Ordinance and the owner has fulfilled all requirements for reclaiming the animal, as adopted by the City of Temple Animal Services Division and outlined in Texas Health and Safety Code Chapter 822, as amended.

Sec. 6-19. Affirmative Defenses

Any exemptions or exceptions found in this Chapter shall be affirmative defenses and shall be proven by the defendant. It shall not be necessary to list such exceptions or exemptions in the charging instrument or in the prosecution by the City of the offense. It shall be the burden of the person charged with the offense to prove that an exception or justification exists.

Sec. 6-20. Citations

An Animal Services officer or police officer is authorized to issue a citation to any person who violates a provision of this chapter. The citation shall set forth the general nature of the violation charged, and direct the violator to appear in the municipal court of the City of Temple, Texas, on or before a certain day. When the violator is not present, the citation may be issued, a complaint filed, and procedure followed as permitted by law. The violator shall be presumed to be the owner or occupant of the location where an animal is found or located, or the keeper of the animal, when the owner of the animal cannot be verified by a current license or tag.

Sec. 6-21. Penalty

Any person adjudged guilty of an offense under this Chapter shall be guilty of a misdemeanor punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00). Each day that a violation continues shall constitute a separate offense.

Sec. 6-22. Culpability

If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required and the offense is one of strict liability.

Revised September 3, 2014 by Ordinance No. 2015-4725

Chapter 6

ANIMALS

ARTICLE I. IN GENERAL

Sec. 6-1. Animal Services Division established.

To protect the public health and welfare, to provide for the public safety, to promote a safe and healthy environment for both animals and people, and to more effectively control, regulate, and provide for animals within the City of Temple, the Animal Services Division is established (hereinafter called "Animal Services"). Animal Services will consist of upper level management and their designees, including animal services officers, and all others designated by the City Manager. The Temple Police Department will oversee Animal Services.

Sec. 6-2. Enforcement.

- (a) The provisions of this Chapter may be enforced by Animal Services, the Temple Police Department, and any other persons as designated by the City Manager.
- (b) In carrying out their official duties, animal services officers and police officers have the authority to protect themselves, to protect a third person, and to protect any animal from attack or threat of imminent bodily injury and to prevent any animal from enduring further pain or suffering due to disease or injury.
- (c) It is unlawful for any person to interfere with, obstruct, resist, or oppose any animal services officer, police officer, or other person authorized to enforce provisions of this Chapter while such person is apprehending an animal or performing any other duties as required for the enforcement of this Chapter or other state or local law. It is unlawful to take or attempt to take any animal from a vehicle used by the City or its designee to transport any animal or take or attempt to take any animal from a City animal shelter or other kennel or confinement area used to impound an animal.
- (d) It is unlawful for a person to make a false complaint or report of an alleged violation under this Chapter.

Sec. 6-3. Definitions.

For the purposes of this Chapter, and as used herein, the following terms will have the meanings as given in this Section:

Aggressive dog. A dog that:

- (a) makes an unprovoked attack on another domestic animal that causes bodily injury to that animal and occurs in a place other than an enclosure in which the dog was being kept;
- (b) on more than one occasion, when unprovoked, bites one or more persons who were lawfully inside the dog's enclosure;
- (c) repeatedly attempts, successfully or unsuccessfully, to climb over, dig under, chew through, break or otherwise escape from its enclosure in an attempt to attack, chase, or harass a person or another domestic animal;
- (d) commits unprovoked acts in an enclosure in which the dog was being kept, and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person; or
- (e) commits unprovoked acts in a place other than an enclosure in which the dog was being kept, and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to another domestic animal.

Animal. Any living, vertebrate creature, domestic or wild, other than a human.

Applicable fees related to impoundment. Reasonable charges incurred for the care and maintenance provided by the City for impounded animals, including food and veterinary care.

At large. Any animal not under restraint as defined by this Section. An animal inside a vehicle parked in a public place will be considered at large unless it is restrained in such a manner that it cannot exit the vehicle on its own volition.

Bodily injury. Physical pain, illness, or any impairment of physical condition.

Cat. A commonly domesticated member of the Felidae (feline) family, other than a lion, tiger, bobcat, jaguar, panther, leopard, cougar, or other prohibited animal.

Chief of Police. The chief of the Temple Police Department and their designees.

City. The City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, and designees.

City animal shelter. A City facility that keeps or legally impounds stray, homeless, abandoned, or unwanted animals and provides adoption services for such animals.

City Council. The City's elected governing body.

City Manager. The City's city manager or their designee.

Dangerous dog. A dog that:

- (a) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (b) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own, and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Dog. A commonly domesticated member of the Canidae (canine) family, other than a wolf, jackal, fox, dingo, coyote, or other prohibited animal.

Domestic animal. Includes livestock, caged or penned fowl, other than birds of prey, and normal household pets, including, but not limited to, cats and dogs, ferrets, rabbits, cockatiels, parakeets, hamsters, guinea pigs, gerbils, fish, or small, non-poisonous reptiles, snakes, or amphibians.

Fowl. A bird of any kind.

Guard dog. Any dog which has been trained for the purpose of protecting property by a guard dog company which is required to be licensed pursuant to Tex. Occ. Code Ch. 1702, as amended.

Handle. Having charge, care, custody, or control of an animal.

Harbor. To feed, shelter, protect, provide for, care for, bear the expense of, or otherwise maintain an animal.

Hen. A female domestic chicken, not including guinea hens.

Livestock. Includes, regardless of age, sex, or breed, horses and all equine species, including mules, donkeys and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all porcine species.

Keep. To retain on a property by any means, control, own, or have custody or possession of an animal.

Owner. Any person who owns, shelters, keeps, handles, harbors, or has temporary or permanent custody of an animal, or who knowingly allows an animal to remain on any property over which the person has control.

Person. Any natural person, corporation, partnership, association, firm, or legal entity.

Pet. Any animal kept for pleasure or companionship rather than utility or as a service or emotional support animal.

Prohibited animal.

- (a) Any wild or exotic animal or any animal not normally born and raised in captivity, including, but not limited to, the following:
 - (1) a dangerous wild animal as defined by Section 822.101 of the Texas Health and Safety Code, as amended;
 - (2) reptiles: venomous lizards, venomous snakes, crocodiles, alligators, caimans, and gharials;
 - (3) mammals:
 - (A) felines (such as lions, tigers, bobcats, jaguars, leopards, pumas, and cougars), except commonly domesticated cats;
 - (B) canines (such as wolves, dingos, coyotes, foxes, and jackals and any hybrid of a canine, including hybrids of canines and commonly domesticated dogs), except commonly domesticated dogs;
 - (C) mustelids (such as weasels, skunks, martins, minks, badgers, and otters), except ferrets;
 - (D) procyonids (such as raccoons and coati);
 - (E) bears;
 - (F) marsupials (such as kangaroos, opossums, koala bears, wallabies, bandicoots, and wombats);
 - (G) bats;
 - (H) sloths, anteaters, armadillos, and related species;
 - (I) elephants;
 - (J) primates (such as monkeys, chimpanzees, orangutans, and gorillas);
 - (K) rodents (such as beavers and porcupines), except commonly domesticated rodents kept as pets including hamsters, gerbils, guinea pigs, rats, mice, and chinchillas; and
 - (4) amphibians: poisonous frogs.
- (b) This term does not include livestock, fowl, or normal household pets, such as, but not limited to, dogs, cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish, or small, non-poisonous reptiles, snakes, or amphibians.

Properly fitted collar. A collar that measures the circumference of an animal's neck plus at least one inch.

Properly fitted harness. A harness that is of an adequate size, design, and construction as appropriate for an animal's size and weight.

Public nuisance. A condition that is or threatens to be detrimental or dangerous to the public's health, safety, or welfare.

Repeatedly at large animal. An animal that is at large more than four times in a one-year period.

Restraint. An animal either (a) kept in a secure enclosure; or (b) kept under the direct physical control of a responsible person by a leash, cord, or other type of lead and obedient to that person's commands.

Rooster. A male domestic chicken.

Serious bodily injury. An injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Shelter. A clean, sturdy, and dry structure with a roof and three (3) sides and an entryway that is protected from the elements and is large enough to allow the animal to stand erect, sit, turn around, and lie down in a normal manner.

Sterilization. Surgical or chemical treatment of the reproductive organs of a dog or cat to render the animal unable to reproduce.

Unprovoked means an action by a dog that is not:

- (a) in response to being tormented, abused, or assaulted by any person;
- (b) in response to pain or injury;
- (c) in protection of itself or its food, kennel, immediate territory, or nursing offspring; or
- (d) in response to an assault or attempted assault on a person.

Veterinarian. Any person duly licensed to practice veterinary medicine by the Texas State Board of Veterinary Medical Examiners.

Veterinary hospital, clinic, or office. Any establishment maintained and operated by a veterinarian for surgery, diagnosis of, and treatment of diseases and injuries of animals.

ARTICLE II. CARE AND CONTROL

Sec. 6-4. Restraint; animals at large.

- (a) All owners must keep their animals under restraint except as otherwise provided by this Section.
- (b) An animal not under restraint is at large, except if the animal is:
 - (1) on the premises of its owner's property and is under the immediate personal supervision and the control of a responsible person and obedient to that person's commands;
 - (A) It is an exception to the supervision and control requirements of Subsection (b)(1), above, if the animal is a cat and is on the premises of its owner;
 - (2) wearing a functioning electronic collar and is under the control of a responsible person and obedient to that person's commands;
 - (3) if a dog, is in a designated dog park;
 - (4) accompanied by its owner or trainer at a bona fide animal show, field trial, or exhibition;
 - (5) a service animal in the performance of its duty under the Americans with Disabilities Act of 1990, 42 U.S.C.S. § 12101 et seq., as amended and is under the immediate control of a responsible person and obedient to that person's commands; or
 - (6) an animal used for law enforcement purposes by a law enforcement agency.
- (c) It is unlawful for an animal to be at large.
- (d) All animals at large are subject to impoundment by Animal Services. Animal services officers, police officers, and their designees have the authority to impound at large animals as provided below:
 - (1) on public property, in all cases;
 - (2) on private property, if the consent of the resident or property owner is obtained;
 - (3) on private property, in all cases except fenced rear yards of residences, if the officer reasonably believes that the animal will run at large if not impounded, except for cats on the premises of their owner; and
 - (4) when authorized by appropriate courts of law.

Sec. 6-5. Animal defecation.

- (a) If an animal defecates on any public or private property other than the property of its owner, the owner of the animal must immediately remove the feces and dispose of it as required by state and local law.

(b) Failure of an owner to comply with this Section is a public nuisance and an offense under this Chapter.

Sec. 6-6. Public nuisances.

(a) Every owner is responsible for the behavior and conduct of their animals at all times. An owner must:

- (1) prevent their animal from damaging or destroying public or private property other than the owner's private property;
- (2) prevent their animal from causing noise that unreasonably disturbs or interferes with the peace, comfort, and quiet enjoyment of a neighboring person of ordinary sensibilities;
- (3) restrain their animal while it is in heat;
- (4) prevent their animal from chasing, attacking, or otherwise interfering with pedestrians or passersby, regardless of whether the animal is on the owner's property;
- (5) prevent their animal from chasing, attacking, or otherwise interfering with a motor vehicle, bicycle, scooter, or other vehicle, regardless of whether the animal is on the owner's property;
- (6) not tie or stake their animal within fifteen (15) feet of any street, sidewalk, park, or other public land when tied or staked on an open or unfenced property;
- (7) not tie or stake an animal at a location or in a manner that allows the animal to graze on or reach public property; and
- (8) prevent an animal from being repeatedly at large.

(b) Failure of an owner to comply with any of the duties listed in Subsection (a), above, is a public nuisance and an offense under this Chapter.

(c) If Animal Services determines that a public nuisance exists under this Chapter, or an owner is violating any other provision of this Chapter, Animal Services may, at its discretion, issue an order requiring that the owner perform certain remedial requirements to remedy the nuisance or violation of this Chapter. The order may be given to the owner by personal service or by First-Class Mail with Certificate of Mailing.

(d) To appeal an order or decision of Animal Services made under this Section or Subsection 6-23(f), the owner of the animal at issue must file a written notice of appeal with Animal Services within fifteen (15) days of the date the order or decision was made. If the owner fails to timely file a proper appeal, the Animal Services' order or decision will be final.

- (e) A hearing on an appeal under this Section will be held within ten (10) days of the date the appeal was filed.
- (f) Notice of the hearing must be given to the appellant at least seventy-two (72) hours in advance of the hearing, unless the appellant waives their right to this notice. Notice of a hearing must also be given to Animal Services at least seventy-two (72) hours in advance of the hearing date unless they waive their right to notice. If the appellant fails to appear at the hearing, the order or decision of Animal Services will be final.
- (g) The burden of proof in an appeal will be upon the appellant. This burden may be met by a preponderance of evidence.
- (h) At any hearing, the hearing officer is not restricted to the rules of evidence applicable in a court but may rely upon that evidence which a reasonable man would rely upon in reaching a decision. Any person having knowledge of relevant or material facts will be allowed to appear and testify.
- (i) Upon the close of the hearing, the hearing officer must issue a written statement of their findings and decisions, and may sustain, modify, or rescind Animal Services' order or decision. A hearing officer's decision will be final. A copy of this written statement will be sent to the appellant and to Animal Services within five (5) days of the date the statement is written.
- (j) All services of notice and statements must be provided by personal service or by First-Class Mail with Certificate of Mailing.
- (k) Remedial measures.
 - (1) As provided by Subsection (c) or Sec. 6-23(f), Animal Services or a hearing officer may require an owner to take any of the below remedial measures:
 - (A) *Leash*. Securely leash their animal with a leash no longer than four feet in length and keep the animal in the physical control of a person eighteen (18) years of age or older when not securely confined indoors or in a kennel, pen, or fenced-in area. Such animal may not be leashed to inanimate objects, such as trees, posts, buildings, etc.
 - (B) *Muzzle*. Muzzle the animal by a muzzling device sufficient to prevent the animal from biting persons or other animals when the animal is in a public place.
 - (C) *Secure Confinement*. Securely confine their animal in a kennel, pen, or fenced-in area or repair or install a kennel, pen, or fence to securely confine the animal.
 - (D) *Relocation of confinement area*. Relocate on their property the area where the animal is kept, so that the animal does not unreasonably disturb or interfere with the peace, comfort, or quiet enjoyment of a neighboring person of ordinary sensibilities.

(E) *Confinement indoors.* Confine the animal indoors, prohibit the animal from being kept on a porch, patio, or part of a house or structure where the animal can exit on its own volition, or otherwise restrict the confinement of the animal so that the animal cannot escape from its confines.

(F) *Restitution.* Pay restitution for damages or injury caused by the animal.

(G) *Training.* Take the animal to training.

(H) *Spay or neuter.* Spay or neuter the animal.

(I) *Animal enclosure.* Provide a clean, safe, and healthy environment in which the animal will be kept as required by this Chapter.

(J) *Removal from City.* Require a prohibited animal to be removed from the City, unless the owner is exempted by Section 822.102, Subchapter E, Dangerous Wild Animals, Texas Health and Safety Code, as amended.

(K) Take other remedial requirements that under the circumstances Animal Services or a hearing officer finds will serve the interests of the owner in keeping the animal and promote the peace, safety, and welfare of the public as well as the health and welfare of the animal.

(l) If remedial requirements are ordered under this Chapter, Animal Services or a hearing officer will state a time frame within which the owner must comply with the required actions. For good cause, the period to comply may be extended by Animal Services or the hearing officer.

(m) Animal Services and a hearing officer have the authority to inspect the premises in which the owner's animal is kept at reasonable times to ensure continued compliance with the remedial requirements during the prescribed time frame provided by Subsection (l), above.

(n) It is unlawful for the owner of an animal to violate or fail to comply with the remedial requirements ordered by a hearing officer or Animal Services under this Chapter.

Sec. 6-7. Pens and enclosures; sanitary requirements; minimum cage size; overcrowding.

(a) An owner of any animal must maintain and keep all animal cages, pens, coops, kennels, fenced-in areas, and other enclosures of any kind in a sanitary condition. The owner must:

(1) promptly dispose of all animal wastes;

(2) keep the enclosures clean and free from noxious odors; and

(3) keep the enclosures free of flies, mosquitoes, ticks, fleas, and other vectors as feasible.

- (b) Cages, pens, coops, kennels, fenced-in areas, and other enclosures used to confine animals must be of sufficient size to maintain all animals within such enclosure comfortably and in good health. Each animal must have enough space to allow it to turn freely and easily stand, sit, stretch, move its head without touching the top of the enclosure, and assume a comfortable posture for eating and drinking. An enclosure must be large enough to allow all animals within the enclosure to move and lay down without lying on excrement.

Sec. 6-8. Abandoned animal; impoundment.

- (a) Abandoned Animal. Any animal left without proper food, water, or shelter for more than three (3) days or any animal left in conditions that endanger the health, life, and safety of the animal will be deemed abandoned.
- (b) Animal Services, a police officer, or any other authorized agent of the City may impound any abandoned animal.

Sec. 6-9. Cruelty to animals.

- (a) Cruelty to non-livestock and livestock animals, excluding uncaptured wild living creatures, is a violation of the Texas Penal Code and depending on the circumstances, is a Class A misdemeanor, state jail felony, or a felony of the second or third degree.
- (b) Cockfighting is a violation of the Texas Penal Code and depending on the circumstances is a state jail felony or a Class A or Class B misdemeanor.
- (c) Dogfighting is a violation of the Texas Penal Code and depending on the circumstances is a state jail felony or a Class A misdemeanor.
- (d) Animals Services and the Chief of Police have the full authority granted by Section 821.022, Texas Health & Safety Code, as amended, to seize and impound any animal that has been or is being cruelly treated. If Animal Services or Chief of Police has reason to believe that an animal has been or is being cruelly treated, pending a hearing before any justice of the peace or magistrate in Bell County or any municipal court judge on the issues of cruelty and disposition of the animal, the seizure of the subject animal prior to receiving a warrant is hereby authorized if such a delay endangers the life of the animal, or if it would unreasonably prolong the suffering of the animal needing immediate attention.

Sec. 6-10. Standard of care.

- (a) An owner of an animal is required to provide to their animal humane care and treatment, including:
 - (1) access to an adequate supply of fresh air;
 - (2) species-specific food;

- (3) fresh water;
 - (4) exercise;
 - (5) shelter, as defined by this Chapter;
 - (6) access to adequate natural or artificial shade from direct sunlight at all times that is large enough to contain all outdoor pets at one time and is separate from any shade created from the designated shelter; and
 - (7) veterinary care when needed to prevent suffering.
- (b) In case of dispute over adequacy of care and treatment, Animal Services or the Chief of Police will be the final authority.

Sec. 6-11. Tethering of dogs.

- (a) It is unlawful for a person to use a chain, rope, tether, leash, cable, or other like device to attach a dog to a stationary object or trolley system (hereinafter called "tethering") except as provided by this Section.
- (b) A person may tether a dog in the following circumstances:
- (1) during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity;
 - (2) if tethering is required to protect the safety or welfare of a person or the dog and the owner maintains immediate control of the dog;
 - (3) in the immediate control of the owner in a public park; or
 - (4) on the owner's property, if the dog is tethered in such a way as to prevent the dog from:
 - (A) advancing to within fifteen (15) feet of the edge of any public right-of-way; and
 - (B) moving outside the owner's property.
- (c) If a dog is lawfully tethered as provided by Subsection (b)(4), the following conditions must be met:
- (1) the chain, rope, tether, leash, cable, or other like device used to tether:
 - (A) must be attached to a properly fitted collar or harness worn by the dog;
 - (B) must not be used with a pinch-type, prong-type, or choke-type collar;

(C) must not be placed directly around the dog's neck;

(D) must not exceed one-twentieth of the dog's body weight;

(E) must have a length not shorter than the greater of:

(i) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(ii) 10 feet;

(F) must not be in an unsafe condition;

(G) must not cause injury to the dog;

(H) must allow the dog, by design and placement, a reasonable and unobstructed range of motion without entanglement;

(2) the dog must have access to adequate shelter, dry ground, shade from direct sunlight, and clean and wholesome water;

(3) the dog must not be tethered outside in extreme weather conditions, including, but not limited to, conditions in which:

(A) the actual or effective outdoor temperature is below 32 degrees Fahrenheit;

(B) a heat advisory has been issued by a local or state authority or jurisdiction; or

(C) a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service;

(4) if the dog is female, the dog must not be in heat; and

(5) the dog must not be sick or injured.

(d) A person commits an offense if they do not comply with all applicable provisions of this Section.

Sec. 6-12. Safety of animals in motor vehicles.

(a) **Animal in Vehicle.** No person may leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare. Any animal services officer, police officer, or firefighter is authorized to use reasonable force to remove an animal from a vehicle whenever it

appears the animal's health or safety is endangered. Any animal removed from a vehicle in this way will be impounded.

(b) Transportation of Animal. No person may transport any animal in a motor vehicle on any public roadway unless:

(1) the animal is safely confined within the vehicle in such a way as to prevent the animal from falling or jumping from the vehicle or from strangling on a single leash; or

(2) if traveling in an unenclosed vehicle, the animal is safely confined by:

(A) a vented container or cage that is secured in such a way as to prevent the release of the animal and the container or cage from sliding around or falling from the vehicle; or

(B) a multi-point tether that prevents the animal from falling or jumping from the vehicle or from strangling on a single leash.

(i) Unenclosed vehicles include, but are not limited to, convertibles, pick-up trucks, unenclosed jeeps, and flatbed trailers.

(c) Distracted driving. The operator of a vehicle may not allow an animal to freely move about the interior of their vehicle in such a manner as to:

(1) obstruct the operator's view to the front, back, or sides of the vehicle; or

(2) interfere with the operator's control over the driving mechanism of the vehicle.

Secs. 6-13 - 6-19. Reserved.

ARTICLE III. IMPOUNDMENT

Sec. 6-20. Seizure of animals.

(a) Animal Services, any police officer, or any designated agent of the City is authorized to seize, impound, and humanely confine to a City animal shelter or a veterinary clinic any animal:

(1) at large;

(2) for protective custody;

(3) required to be quarantined under Article V. of this Chapter;

(4) displaying signs and symptoms of extreme injury or illness;

- (5) seized pursuant to a warrant or court order;
 - (6) reasonably suspected of having inflicted bodily harm on any human being or animal, or poses a threat to public safety;
 - (7) that is a prohibited animal;
 - (8) not cared for in violation of Sec. 6-10; or
 - (9) abandoned as defined by Sec. 6-8;
- (b) Immediately upon impoundment, the City is authorized to provide each impounded animal with appropriate immunizations and parasite treatment. A veterinarian or a person under the veterinarian's supervision may perform any procedure or treatment that the veterinarian recommends or determines is appropriate. Any costs associated with the provision of necessary immunizations or veterinary care under this Subsection must be paid by the owner of the animal prior to the animal being released to the owner.

Sec. 6-21. Notification to City.

Any person finding an animal at large upon their property may hold the animal in their own possession and notify Animal Services or the Temple Police Department.

Sec. 6-22. Owner notification.

If an animal is impounded, Animal Services must make a reasonable effort to locate the animal's owner by using any contact information from the animal's vaccination tag, microchip, or other identification and to notify the owner of the animal's impoundment.

Sec. 6-23. Domestic animals; time; disposition; reclamation.

- (a) Impounded domestic animals must be kept for three (3) days from the date of impoundment. If the owner of an impounded animal does not reclaim the animal within three (3) days after the date of impoundment, the animal will become the sole property of the City and is subject to disposition as Animal Services deems appropriate. Such animal may be humanely euthanized prior to the expiration of such time if, in the professional opinion of Animal Services or a veterinarian, disposition is necessary to avoid the unnecessary suffering of a sick or injured animal or to prevent the spread of communicable disease. All reasonable steps to contact the owner as provided by Sec. 6-22 must be taken by Animal Services. However, if immediate disposition is necessary prior to the owner being contacted or before the owner redeems the animal, the animal may be humanely euthanized.
- (b) The City will not be liable for damages for the destruction of any animal authorized under this Chapter.

- (c) An impounded domestic animal may be available for reclamation to their owner upon the owner's presenting their appropriate identification such as a government issued license, identification card, passport, handgun license, etc., of which the City will keep a copy, and paying all applicable costs and fees. Possession of a vaccination certificate describing the animal or bearing the same serial number that appears on a metal tag worn by the animal will be accepted as prima facie proof of ownership.
- (d) A dog or cat unvaccinated against rabies may not be reclaimed unless the owner signs a redemption contract agreeing to vaccinate the animal within a prescribed period. The procedure for rabies vaccination for adopted animals described in Sec. 6-38 applies to animals reclaimed after impoundment.
- (e) No impounded domestic animal suffering from disease, ailment, or injury may be redeemed until Animal Services is provided with sufficient information by the owner to determine that arrangements have been made for proper treatment of the animal by a veterinarian. If the City has paid for veterinary care for an animal before or during its impoundment, the animal may not be released to the owner unless the owner reimburses the City for the cost of the veterinary care.
- (f) Impoundment of animals repeatedly at large; release; appeal.
 - (1) Release; transfer of ownership. A repeatedly at large animal may not be released to its owner without the written approval of Animal Services. If released upon approval by Animal Services, the impoundment fees will be doubled. If Animal Services denies the animal's release, the animal will become the sole property of the City and is subject to disposition as Animal Services deems appropriate unless the owner successfully appeals this denial as provided by this Subsection.
 - (2) An owner may appeal Animal Services' denial of an animal's release by using the same appeals procedure provided in Sec. 6-6.
 - (3) If a hearing officer reverses Animal Services' denial of an animal's release on an appeal, the hearing officer may require the owner to take any remedial measure described in Sec. 6-6(k) as a condition of the animal's release and pay double the impoundment fees.

Sec. 6-24. Prohibited animals; seizure; impoundment; time; disposition; reclamation.

- (a) Impounded prohibited animals must be kept for three (3) days from the date of impoundment. If the owner of an impounded prohibited animal does not reclaim the prohibited animal within three (3) days after the date of impoundment, the animal will become the sole property of the City and is subject to disposition as Animal Services deems appropriate. Such animal may be humanely euthanized prior to the expiration of such time if, in the professional opinion of Animal Services or a veterinarian, disposition is necessary to avoid the unnecessary suffering of a sick or injured animal or to prevent the spread of communicable disease. All reasonable steps to contact the owner as provided by Sec. 6-22 must be taken by Animal Services. However, if immediate disposition is necessary prior to the owner being contacted or before the owner redeems the animal, the animal may be humanely euthanized.

- (b) If a prohibited animal cannot be seized or confined in a manner that ensures human safety, the animal may be destroyed during the seizure or confinement.
- (c) Impounded prohibited animals may be available for reclamation by the owner upon the owner's presenting their appropriate identification such as a government issued license, identification card, passport, handgun license, etc., of which the City will keep a copy, and after paying all applicable fees and signing an agreement with the City stipulating that the owner: (1) must, within seventy-two (72) hours, lawfully remove from the City limits the prohibited animal and must not allow the prohibited animal to return to the city; and (2) consents to the City humanely destroying the prohibited animal if the animal is found again within the City limits.
- (d) If the owner of a prohibited animal fails to sign or comply with the agreement provided in Subsection (c), the prohibited animal may be either euthanized or removed from the City as determined by Animal Services. The owner of a prohibited animal may be required to pay to the City the applicable fees and costs which may include the costs of seizure, impoundment, transporting, and handling.
- (e) No impounded prohibited animal suffering from disease, ailment, or injury may be redeemed until Animal Services is provided with sufficient information by the owner to determine that arrangements have been made for proper treatment of the animal by a veterinarian.
- (f) No prohibited animal impounded pursuant to this Section may be returned to its owner unless the owner has complied, as applicable, with Subchapter E, Dangerous Wild Animals, of the Texas Health and Safety Code, as amended.

Sec. 6-25. Impoundment and reclamation fees.

- (a) Impoundment and reclamation fees will be set out by resolution adopted by the City Council.
- (b) No animal may be released to an owner until all impoundment and reclamation fees and any other applicable fees have been paid.
- (c) An impoundment or reclamation fee may be charged for every day and any part of the day that the animal is in the custody of Animal Services.

Secs. 6-26 - 6-30. Reserved.

ARTICLE IV. ADOPTION

State law reference — Dog and Cat Sterilization, V.T.C.A., Health & Safety Code § 828.001 et seq.

Sec. 6-31. Placement of animal for adoption.

- (a) The decision to place an animal for adoption is in the sole discretion of Animal Services.

- (b) No person seeking to adopt an animal will be discriminated against on the basis of race, color, sex, religion, national origin, gender identity, or sexual orientation.

Sec. 6-32. Fees for adoption.

- (a) To adopt an animal from Animal Services the adopter must pay any applicable adoption fees to Animal Services.
- (b) Animal Services may, from time to time, designate and advertise promotional adoption periods during which the adoption fees payable under Subsection (a) will be reduced or waived.

Sec. 6-33. Adoption of two or more animals.

If an adopter adopts two or more animals from Animal Services on the same date and as part of the same transaction, the adopter will be deemed to be the owner of all the animals adopted in the transaction and responsible for complying with all the requirements of this Chapter that relate to the adopted animals.

Sec. 6-34. Sterilization.

- (a) Before an unsterilized dog or cat may be released from Animal Services for adoption, the adopter must sign a sterilization agreement with Animal Services that complies with Section 828.003 of the Texas Health and Safety Code, as amended, agreeing to:
 - (1) have the dog or cat spayed or neutered within fourteen (14) days of the date of adoption or by the date the animal attains six (6) months of age, whichever is later; and
 - (2) deliver to Animal Services in person, by mail, or by e-mail, within seven (7) days after the date of sterilization, written confirmation of sterilization complying with Section 828.005 of the Texas Health and Safety Code, as amended, that the animal was spayed or neutered by the completion date required in Subsection (a)(1).
- (b) An adopter who signs a sterilization agreement under Subsection (a) commits an offense if they fail to:
 - (1) have the adopted dog or cat spayed or neutered within the period required under Subsection (a)(1);
or
 - (2) furnish written confirmation of sterilization as required under Subsection (a)(2).
- (c) It is a defense to prosecution under Subsection (b), if by the seventh (7th) day after the sterilization completion date required in Subsection (a)(1), the adopter delivers to Animal Services in person, by mail, or by e-mail:

- (1) a written letter complying with Section 828.006 of the Texas Health and Safety Code, as amended, stating that the animal is dead, describing the cause of death, if known, and providing the date of death; or
- (2) a written letter complying with Section 828.007 of the Texas Health and Safety Code, as amended, stating that the animal is lost or stolen, describing the circumstances surrounding the disappearance, and providing the approximate date of the disappearance.
- (d) The adopter is solely responsible for ensuring that Animal Services timely receives the written confirmation of sterilization required under Subsection (b)(2) or any written letters described in Subsection (c). The veterinarian is not responsible for providing to Animal Services written confirmation of sterilization. Telephone calls notifying Animal Services of sterilization or possible defenses to this Section will be insufficient proof of sterilization or defenses and do not meet the requirements of this Section.
- (e) If an adopter of a dog or cat violates Subsection (b), Animal Services may reclaim the animal, and ownership of the animal will automatically revert to the City. In such case, there will be no refund of the adoption fee.
- (f) A person may not prevent, obstruct, or interfere with the reclamation of an animal under this Section.

Sec. 6-35. Refusal of adoption.

- (a) Animal Services may refuse to release any animal for adoption for any reason, including, but not limited to, any of the following reasons:
 - (1) the prospective adopter or adoption agency has previously violated a provision of this Chapter or has been convicted of animal cruelty or dogfighting;
 - (2) the prospective adopter or adoption agency has inadequate or inappropriate facilities for confining the animal or is unable to provide proper care to the animal as required by this Chapter; or
 - (3) Animal Services determines that the health, safety, or welfare of the animal or of the public would be endangered by allowing the adoption.

ARTICLE V. RABIES CONTROL

State law reference — Rabies Control Act of 1981, V.T.C.A., Health & Safety Code § 826.001 et seq.; 25 Tex. Admin. Code § 169.21 et. seq.

Sec. 6-36. State law incorporation; local rabies control authority designated.

- (a) The City of Temple hereby incorporates by reference the Texas State Rabies Control Act of 1981, as amended, and the standards established by the appropriate state agency or rule-making board as minimum standards for rabies control and quarantine provisions within the City of Temple. In addition, all the rabies control provisions of this Chapter, which are adopted pursuant to the Texas Health and Safety Code, apply within the City.
- (b) Animal Services is designated as the local rabies control authority for purposes of Chapter 826 of the Texas Health and Safety Code, as amended, and is authorized to perform the duties required of a local rabies control authority under this Chapter and state and other local laws.

Sec. 6-37. Vaccination required for a dog or cat.

An owner of a dog or cat must have the dog or cat vaccinated against rabies as required by state law.

Sec. 6-38. Rabies vaccination for adopted dogs and cats; proof required.

- (a) A person adopting a dog or cat that is four (4) months old or older from a City animal shelter must vaccinate the adopted dog or cat against rabies within seven (7) days of the date of adoption if the adopted animal is unvaccinated against rabies. If the dog or cat is younger than four (4) months old and unvaccinated against rabies at the time of adoption, the adopting person must vaccinate the adopted dog or cat against rabies by a date provided by Animal Services, which must be no earlier than the date by which the dog or cat turns four (4) months old.
- (b) It is presumed that the person failed or refused to have the animal vaccinated against rabies if the adopting person failed to provide written proof of rabies vaccination within seven (7) days of the date of adoption or by the date required by Animal Services, whichever is later. Such proof must be in the form of a written receipt from the veterinarian administering the vaccination or the written certificate of rabies vaccination provided by the veterinarian administering the vaccination. Telephone calls notifying Animal Services of rabies vaccination by the adopter will be insufficient proof of rabies vaccination and do not comply with the requirements of this Section.
- (c) It is the adopter's sole responsibility to provide written proof of rabies vaccination for the adopted animal to Animal Services. The veterinarian administering the vaccination will not be responsible for providing written proof of rabies vaccination to Animal Services.
- (d) Failure to timely provide written proof of rabies vaccination as required by this Section is an offense. This is in addition to an offense under Section 826.022, Texas Health and Safety Code, as amended, for failure or refusal to vaccinate.
- (e) The City may reclaim the adopted animal from an adopter if Animal Services does not receive written proof of rabies vaccination within seven (7) days of the adoption date or by the date required by Animal Services, whichever is later. In such case, there will be no refund of the adoption fee, and ownership of the animal will revert to the City.

(f) A person may not prevent, obstruct, or interfere with the reclamation of an animal under this Section.

Sec. 6-39. Vaccination tag as evidence.

- (a) It is unlawful for an owner to allow a dog or cat the age of four (4) months or older to be in a public place without wearing a current metal vaccination tag issued by a veterinarian.
- (b) It will be a rebuttable presumption that any dog or cat not wearing a current metal vaccination tag attached to its collar or harness does not have a current rabies vaccination.

Sec. 6-40. Unlawfully displaying false tag.

It is unlawful for any person to attach to a dog's or cat's collar a vaccination tag issued to any other dog or cat.

Sec. 6-41. Quarantine.

- (a) An animal required to be quarantined under the Texas Rabies Control Act of 1981, as amended, and any applicable state agency rules, must be placed in a Texas Department of State Health Services-licensed facility specified by Animal Services or in a veterinary clinic, except as otherwise provided by Subsection (b).
- (b) Home Quarantine. Animal Services, at its sole discretion, may allow an owner to home quarantine an animal if all the following criteria are met:
 - (1) the owner signs a home quarantine agreement and agrees to abide by the conditions of this agreement;
 - (2) the owner has not previously violated a home quarantine agreement;
 - (3) the owner has not provided false information to Animal Services in the past;
 - (4) a secure enclosure is approved by Animal Services and is used to prevent escape;
 - (5) the animal was vaccinated against rabies at the time of the potential exposure and the time elapsed since the most recent vaccination has not exceeded the manufacturer recommendations for the vaccine. If an unvaccinated animal is not over four (4) months old at the time of the potential exposure, the City may allow home confinement at its discretion;
 - (6) the animal was not at large at the time of the potential exposure;
 - (7) the owner monitors the animal's behavior and health status and immediately notifies Animal Services if any change is noted;

- (8) Animal Services or a veterinarian observes the animal at least on the first and last day of the home quarantine; and
 - (9) the animal was not a stray as defined in the Texas Health and Safety Code, § 826.002, as amended, at the time of the potential exposure.
- (c) Animal Services may revoke its permission to allow home quarantine if Animal Services finds that an owner provided false information to Animal Services to obtain approval for home quarantine or violated any condition of their home quarantine agreement.
- (1) If permission for home quarantine is revoked, the owner of the animal must immediately deliver the animal required to be quarantined to Animal Services. Failure to immediately deliver an animal for quarantine when home quarantine permission is revoked as required by this Subsection is an offense.
 - (2) Providing false information to Animal Services is an offense.
 - (3) Failure for an owner to abide by the conditions of their home quarantine agreement is an offense.
- (d) Animal Services has the authority to euthanize an animal that has inflicted multiple bite wounds, punctures, or lacerations to a person under 25 Tex. Admin. Code § 169.27, as amended.
- (e) A person may not give or cause to be given any rabies vaccination, anti-rabies treatment, or other treatment to an animal required to be quarantined under the Texas Rabies Control Act of 1981, as amended, and rules adopted thereto that could interfere with the clinical or laboratory diagnosis of rabies or modify the course of the disease in the animal. Failure to comply with this Subsection is an offense.
- (f) The owner of an animal that is quarantined under suspicion of rabies by the City must pay to the City the reasonable costs of the quarantine and disposition of the animal. The City has the authority to bring suit to collect such costs. If the animal is quarantined by the animal's owner at a veterinary clinic or at home, the owner must pay for all costs of the quarantine.

Sec. 6-42. Release of quarantined animals.

- (a) An animal that has been quarantined may be released by Animal Services at the end of the quarantine period if the quarantined animal does not show clinical signs of rabies upon the following conditions:
- (1) the owner provides an unexpired rabies vaccination certificate for the animal or proof that the animal was vaccinated against rabies by a veterinarian to Animal Services prior to release from quarantine;
 - (2) all applicable costs have been paid; and

- (3) the animal is not being held for legal proceedings, including dangerous dog or aggressive dog proceedings as provided by this Chapter.

Secs. 6-43 - 6-50. Reserved.

ARTICLE VI. ADDITIONAL REGULATIONS

Sec. 6-51. Disposal of animals.

- (a) An owner of an animal that is infected or afflicted with a disease that is contagious or a threat to the life or health of other animals or humans must humanely destroy the animal and dispose of the carcass as directed by Animal Services.
- (b) An owner of a dead animal that was not infected or afflicted with a disease described in Subsection (a) must dispose of its carcass as provided under applicable local, state, and federal laws and regulations within twenty-four (24) hours of its death, unless otherwise allowed a longer period under any local, state, or federal law or regulation.
 - (1) An owner of a dead animal may dispose of their animal at the City's landfill if the landfill approves of the disposal and the owner pays all applicable fees. An owner of a dead animal must contact the landfill for approval prior to disposing of a dead animal at the landfill and, if approved, dispose of their animal during the times specified by the landfill.
 - (2) An owner of a dead animal may take their animal to a veterinarian for disposal.
 - (3) An owner of a dead animal may not place their dead animal in a City furnished waste or recycling receptacle.
 - (4) An owner may only bury a dead animal within the City if the following conditions are met:
 - (A) The dead animal:
 - (i) is buried on the owner's property or on private property with the private property owner's consent or is buried on public property with the City's written consent;
 - (ii) is not buried in a flood plain;
 - (iii) is buried at least two (2) feet deep;
 - (iv) weighs less than fifty (50) pounds; and

- (B) The owner of the dead animal calls and receives instructions from Texas811 before digging a grave for the dead animal and follows Texas811's instructions on where to dig and locations to avoid.

Sec. 6-52. Sale of animals.

- (a) A person commits an offense if the person sells, trades, barter, leases, rents, gives away, conveys ownership of, or displays for a commercial purpose any animal on a roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, commercial parking lot, festival, community center, at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event, or any outdoor public place.
- (b) It is an affirmative defense to prosecution under Subsection (a) that the person is an employee of or is acting in their capacity as an employee of: a veterinary clinic; an animal hospital; a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the property for purposes of operating a business selling pets; an animal shelter; an animal welfare, rescue, or adoption agency that is a registered non-profit entity; a bona fide zoological park; an educational institution; a museum; an event being conducted primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; a licensed laboratory; a publicly owned nature center; a bona fide member of an educational or scientific association or society approved by Animal Services; persons holding permits from an agency of the state or the United States for the care and keeping of animals for rehabilitative purposes; a hatchery; a business dealing in farm or ranch supplies; or a person caring for animals in their private residence in compliance with this Chapter.

Sec. 6-53. Dyed animals.

It is unlawful to sell or offer for sale, raffle, offer, or give as a prize, premium, or advertising device or display in any store, shop, carnival, or other public place an animal or fowl of any kind that has been dyed or otherwise colored artificially, including rabbits, goslings, chickens, and ducks.

Sec. 6-54. Keeping of specific animals.

- (a) Restrictions on owning rabbits. A person may not own more than two (2) total rabbits or hares within the City of Temple as pets (e.g., a person may not own as a pet one (1) rabbit and two (2) hares or two (2) rabbits and two (2) hares, etc.).
- (1) All rabbits must be kept in a clean, dry, sanitary, and odor-free cage.
 - (2) Rabbits must not be kept within twenty-five (25) feet of any residence, excluding the residence of the animal's owner.
 - (3) All rabbit feed must be stored in rodent-proof containers.

(b) Keeping of Swine. A person may not own any swine within the limits of the City of Temple, unless the swine are kept in a pen or enclosure on a tract of land at least ten (10) acres in size that is zoned as agricultural.

- (1) The swine's pen or enclosure must be located a distance of at least five hundred (500) feet from any residence.
- (2) All pens and enclosures for swine must be kept in a clean and sanitary condition.
- (3) No swine may be permitted or allowed to have access to enter or to drink water from any public body of water, including a creek, stream, or lake, within the City.

(c) Regulations to owning livestock and fowl.

- (1) A person may not own any horses, mules, donkeys, cattle, goats, sheep, or other livestock, excluding swine, or guinea fowl, peacocks, chickens, turkeys, geese, ducks, pigeons, or other fowl kept in any pen, yard, enclosure, barn, building, structure, or other location within the City of Temple unless such location is no less than one hundred fifty (150) feet from the residence of any person, excluding the residence of the animal's owner.

(A) All locations in which these animals are kept must be kept in a clean and sanitary condition.

- (2) Notwithstanding Subsection (c)(1), a person may own no more than six (6) hens within the City if the pen, coop, or other enclosure for housing the hens is no less than fifty (50) feet from the nearest residence, excluding the residence of the animal's owner, provided the following conditions are met:

(A) the hens are only kept in a back yard;

(B) the pen, coop, or other enclosure in which the hens are kept is clean, secure, ventilated, large enough for the hens to move freely, and meets any applicable City standards or permit requirements;

(C) all locations in which the hens are kept are maintained in a clean and sanitary condition; and

(D) the hens do not pose a health hazard.

- (3) The exception to the distance requirements required in Subsection (c)(1) for the keeping of hens under Subsection (c)(2) does not apply to roosters.

(d) Bees. A person may not maintain or keep any beehives in any pen, yard, enclosure, barn, building, structure, or other location that is located less than three hundred (300) feet of the residence of any person other than the person maintaining or keeping the beehives.

- (1) A person maintaining or keeping any beehives must provide a source of water to a colony to prevent the bees from congregating at a water source used by a human, bird, or domestic pet.
- (e) Subsections (a)-(d), above, do not apply if the person meets any of the exceptions provided in Sec. 6-52(b) or any of the of the following exceptions:
 - (1) the animals are being kept, harbored, or used in the course of medical, educational, or scientific research and such research complies with all applicable local, state, and federal laws and regulations;
 - (2) circuses, traveling shows, zoos, and auctions operating under a permit or sanction of the City and complying with all applicable local, state, and federal laws and regulations;
 - (3) the animals, because of injury or age, require temporary care, provided that the animal is kept for not more than thirty (30) days and is not kept or raised for sale, barter, or consumption and is not a prohibited animal; or
 - (4) the animals are domesticated and marketable for human consumption, such as baby chickens, rabbits, pigeons, and ducks, and are kept at an established place of business dealing in farm and ranch supplies and such business complies with all applicable local, state, and federal laws and regulations.
- (f) A person may not keep or harbor any animal, including fowl, in a pen, cage, or enclosure in, near, or on a public body of water, including a creek, stream, or lake, within the City and permit drainage of fecal matter or urine from such pen, cage, or enclosure into the body of water.
- (g) It is unlawful to violate any provision of this Section.

Sec. 6-55. Prohibited animals.

It is unlawful for a person to sell, offer for sale, trade, keep, own, harbor, use, or have in a person's possession or on property under such person's control any prohibited animal unless that person is exempted by Section 822.102, Subchapter E, Dangerous Wild Animals, Texas Health and Safety Code, as amended.

Sec. 6-56. Injury and destruction of wild birds.

Any person who kills or injures any wild bird, removes the eggs or young from the nest of a wild bird, or in any manner destroys the eggs or young of a wild bird, except as authorized under local, state, and federal law, commits an offense.

Sec. 6-57. Humane traps.

- (a) A person may set up or allow or cause to be set up humane traps used to capture dogs, cats, and other animals alive on their own property.
- (b) A person may not set up or cause to be set up a humane trap outside of their own property without the consent of the owner of the property on which trap is set.
- (c) A person setting up or allowing humane traps to be set up on his property must check the traps at least once every eight (8) hours during the hours of 8 a.m. to 10 p.m. Such person must provide humane care to any trapped animals including the provision of food, water, and protection from extremes of the environment including heat, cold, and precipitation.
- (d) A person who has set up or caused to be set up a humane trap must notify Animal Services as soon as they become aware that an animal is caught in the trap.
- (e) It is unlawful for a person not to comply with this Section.

Sec. 6-58. Tampering with traps.

- (a) It is unlawful for any person to tamper with, destroy, damage, spring, or cause to malfunction any trap set by the City or to release any animal from any such trap.
- (b) The City may assess a fee against a person who damages or destroys a trap owned by the City.

Sec. 6-59. Dangerous traps.

- (a) No person may set up or allow to be set up on their property within the City limits steel jaw traps, spring traps with teeth or perforated edges on the holding mechanism, snares, or any type of trap with a holding mechanism designed in such a fashion as to reasonably ensure the cutting, slicing, tearing, or otherwise traumatizing of the entrapped prey, unless the use of such trap is specifically deemed necessary by Animal Services. This Section is not to be construed to include those traps designed to kill common rodents, e.g., rats, mice, gophers and groundhogs; except that the owner is responsible for taking care that any of the above said "rodent" traps are not placed or used on or about their property in such a manner as to reasonably ensure the trapping of any other domesticated or wild animal, or of a human.
- (b) It is unlawful for a person to fail to comply with this Section.
- (c) It will be a rebuttable presumption that the person owning, leasing, occupying, or controlling the property on which a trap prohibited under Subsection (a), above, was located set up the trap.

Sec. 6-60. Limitation on number of dogs and cats.

- (a) A person may own up to three (3) dogs and three (3) cats, plus a litter of puppies and a litter of kittens, if the litters are younger than three (3) months.

(b) A person may keep or harbor more dogs and cats than allowed under Subsection (a), if the person:

- (1) meets any of the exceptions provided in Subsections 6-52(b) or 6-54(e); or
- (2) has a valid multi-pet permit issued to them under Sec. 6-61 and is compliant with its terms.

Sec. 6-61. Multi-pet permit.

- (a) A person must make a written request to Animal Services to own on any one property within the City limits, and over which a person has control, more dogs or cats than allowed under Sec. 6-60.
- (b) In a written request for a multi-pet permit, the requestor must provide to the City the requestor's name, address, telephone numbers, the number, gender (including sterilization status), size, and species of dogs and cats currently housed on the property, the number of dogs and cats the requestor is asking to keep at the property, information on the type and size of the property and any residence on the property where the animals will be kept, the area the animals will be kept, and the distance that area is from abutting residences.
- (c) The requestor must allow Animal Services to inspect the area in which the animals will be kept and, for animals currently owned, the animals themselves.
- (d) The requestor must demonstrate that they are able to properly care for the number of the animals requested without the animals creating noise or odor nuisances or otherwise creating a public nuisance and that they can properly provide and care for the dogs or cats, including providing clean water, adequate shelter, species-specific food, and proper veterinary care.
- (e) Animal Services may deny a person's request for a multi-pet permit if the requestor:
 - (1) has not met the requirements of Subsections (a)-(d) above;
 - (2) has been convicted of animal cruelty or dogfighting or convicted for violating any provision of this Chapter;
 - (3) does not currently have all dogs and cats currently on the property vaccinated and all requested animals to be kept on the property vaccinated in accordance with this Chapter.
- (f) If Animal Services determines that an applicant is not able to properly care for the number of dogs or cats requested without the creation of a noise or odor nuisance or without being detrimental to the health, welfare, or safety of the requestor, the public, or the animals, Animal Services may modify the request and approve the keeping of more than the number of dogs and cats allowed under Sec. 6-60, but fewer than the number requested, or may deny the request for a multi-pet permit.

(g) A person issued a multi-pet permit must comply with any conditions deemed necessary by Animal Services, which may include, but are not limited to:

- (1) notifying Animal Services in writing prior to changing addresses, moving permitted animals to new locations, or transferring ownership of the permitted animals;
- (2) complying with this Chapter and all other local and state laws, rules, and regulations related to animals;
- (3) allowing Animal Services to inspect the property, residence, structure, or other location in which the permitted animals are kept or harbored;
- (4) sterilizing all permitted dogs and cats unless the dog or cat qualifies for a certified medical exemption by a veterinarian or is under six (6) months old;
- (5) not owning any more than the number of animals allowed under their multi-pet permit; and
- (6) complying with all other reasonable conditions placed upon the permittee by Animal Services.

(h) Permit term.

- (1) A permit issued under this Section is valid for one year but may be revoked for violating any condition of the permit or state or local law related to animals or becoming convicted of a crime as provided in Subsection (e)(2). If Animal Services determines that any of the permittee's dogs are dangerous or aggressive, the permit may also be revoked.
- (2) A person wishing to renew a multi-pet permit must reapply at least thirty (30) days prior to the date of the permit's expiration. Failure to timely reapply may result in the permit renewal being denied.

(i) The fee for the multi-pet permit will be established by City Council by resolution.

(j) If Animal Services revokes a multi-pet permit, Animal Services must notify the permittee by mailing or serving in person a written permit revocation notice that provides the following information:

- (1) the permittee's multi-pet permit was revoked;
- (2) the permittee has fifteen (15) days from the date the revocation notice is issued to come into compliance with the number of dogs or cats allowed under Sec. 6-60 unless the permittee timely appeals the permit revocation; and
- (3) that the permittee has the right to appeal the permit revocation.

- (k) If Animal Services revokes the permittee's multi-pet permit, the permittee will have fifteen (15) days from the date the revocation notice is issued to come into compliance with the number of dogs or cats allowed under Sec. 6-60, unless the permittee timely appeals Animal Services' permit revocation. Failure of a permittee to come into compliance with Sec. 6-60 within this period as provided by this Subsection is unlawful.
- (l) If the permittee wishes to appeal their permit revocation, they must file a written appeal of the permit revocation with Animal Services on or before the fifteenth (15th) day after the revocation notice is issued. If no timely appeal is received by Animal Services within this period, the permit revocation will be final.
- (m) If the permittee files a timely appeal, Animal Services' designee will set an administrative hearing date.
 - (1) Animal Services' designee must set a hearing date no more than thirty (30) days from the date Animal Services receives the permittee's written appeal.
- (n) Animal Services' designee must serve on the permittee in person or by mail a written hearing notice that specifies the date, time, and place of the hearing, as well as the reason for the permit revocation.
- (o) If the permittee fails to appear at the permit revocation hearing, the permit revocation will be final.
- (p) After the hearing, the hearing officer must make a written determination to sustain the multi-pet permit revocation, rescind the multi-pet permit revocation, or rescind the permit revocation and modify the conditions of the multi-pet permit.
- (q) The burden of proof in an appeal will be upon the permittee as to why the multi-pet permit should not be revoked. This burden may be met by a preponderance of evidence.
- (r) At the hearing, the hearing officer is not restricted to the rules of evidence applicable in a court but may rely upon the evidence which a reasonable person would rely upon in reaching a decision. Any person having knowledge of relevant or material facts will be allowed to appear and testify.
- (s) If the hearing officer sustains the multi-pet permit revocation or modifies the conditions of the multi-pet permit, the appellant must into compliance with the number of cats and dogs allowed under Sec. 6-60 or the modified conditions of the multi-pet permit ordered by the hearing officer, as applicable, within the period specified by the hearing officer. Failure to do so is an offense.
- (t) A hearing officer's decision is final and non-appealable.
- (u) Revocation of a permit will not result in the refund of any multi-pet permit fee.

Sec. 6-62. Guard dogs; warning signs required.

It is unlawful for any person to leave any guard dog unattended in any place inside any building unless a warning sign has been placed in a clearly visible location on the property, located so that it can be seen by any person before entering the place to which the dog has access, warning that a guard dog is present. It is unlawful for any person to leave any guard dog unattended in any place outside a building except in a fenced yard, with a fence adequate to prevent the dog from leaving the property, and with a warning sign placed in a clearly visible location on the property, located so that it can be seen by any person before entering the area to which the dog has access, warning that a guard dog is present.

Secs. 6-63 - 6-75. Reserved.

ARTICLE VII. DANGEROUS DOGS

Sec. 6-76. State law; authority.

- (a) The provisions of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, are incorporated into this Article, and a violation of any provision of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, is an offense under this Article.
- (b) Animal Services will serve as the animal control authority for the City for purposes of administering and enforcing this Article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended.
- (c) Seizure, impoundment, and humane destruction of a dog that has caused death or serious bodily injury to a person is governed by Subchapter A, Chapter 822 of the Texas Health and Safety Code, as amended.
- (d) The City hereby elects to be governed by Section 822.0422 of the Texas Health and Safety Code, as amended.

Sec. 6-77. Owner notification of dangerous dog determination.

- (a) An owner is deemed to have been notified by the animal control authority of a dangerous dog determination:
 - (1) for personal service, the date that the determination was served on the owner; and
 - (2) for mail, three (3) days after the date the determination was deposited in the mail or given to the carrier.

Sec. 6-78. Impounded dangerous dogs.

- (a) An impounded dog determined by Animal Services to be dangerous must remain impounded, or confined at a location approved by Animal Services and may not be released to the owner until the owner pays all costs and fees related to seizure, quarantine, and impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this Article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended.
- (b) Animal Services may extend the thirty- (30-) day compliance period by written request of the owner if documentation of the need for an extension is provided (e.g. building permits, building plans, building contracts, correspondence from insurance company, veterinary letters). During the extension period the dog must remain in the custody of Animal Services and fees related to impoundment will continue to accrue.

Sec. 6-79. Requirements for ownership of a dangerous dog.

- (a) In addition to complying with the requirements of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, a dog owner must no later than the thirtieth (30th) day after the date the dog owner learns that they are the owner of a dangerous dog:
 - (1) have an unsterilized dangerous dog spayed or neutered;
 - (2) register the dangerous dog with the City and pay to the City an annual dangerous dog registration fee;
 - (3) keep their dangerous dog under restraint in a manner approved by Animal Services at all times;
 - (4) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority for the area in which the dog is kept;
 - (5) when taken outside its enclosure, securely muzzle the dangerous dog in a manner that will not cause injury to the dog nor interfere with its vision or respiration. The muzzle must prevent the dangerous dog from biting any person or animal;
 - (6) place and maintain on the dangerous dog a collar or harness with a current dangerous dog registration tag securely attached to it;
 - (7) have the dangerous dog injected with a microchip implant and registered with a national registry for dogs;
 - (8) post a legible "Dangerous Dog" sign on all sides of the secure enclosure where the dog is kept that must be purchased from Animal Services; and
 - (9) comply with all other requirements of this Chapter.

Sec. 6-80. Annual registration of dangerous dog.

A dangerous dog owner must annually register a dangerous dog with Animal Services as provided under Section 822.043, Texas Health and Safety Code, as amended.

Sec. 6-81. Registration.

- (a) Registration by new owner. If a person becomes the new owner of a dog determined to be dangerous and keeps or harbors a dog determined to be dangerous within the City limits, the new owner must register the dangerous dog with Animal Services within fourteen (14) calendar days after the date the new owner assumes custody or control over the dangerous dog.
- (b) Validation of re-registration. A re-registration by a new owner or an owner moving from another jurisdiction will be valid only for the time remaining on the prior registration.

Sec. 6-82. Dangerous dog notifications.

- (a) The owner of a dangerous dog must notify Animal Services within twenty-four (24) hours if the dangerous dog is at large, unconfined, has attacked a human being or another domestic animal, has died, or has been sold or given away.
- (b) An owner of a dangerous dog must comply with all requirements of Section 822.043(c), Texas Health and Safety Code, as amended, if the owner sells, gives away, or moves the dog to a new address. Upon selling, giving away, or moving the registered dangerous dog to a new address, that owner must notify the new owner(s) of the dog, if any, that the dog has been determined dangerous.

Sec. 6-83. Violations.

- (a) A person who owns a dangerous dog commits an offense if the person fails to comply with any section of this Article or any state law related to dangerous dogs.
- (b) It is a violation of this Article for any person to refuse or fail to deliver a dog subject to this Article to Animal Services or harbor, hide or secrete, or transport or secure the transport of a dog subject to this Article to prevent its impoundment.

Secs. 6-84 - 6-91. Reserved.**ARTICLE VIII. AGGRESSIVE DOGS****Sec. 6-92. Aggressive dog determination.**

- (a) Animal Services has the authority to determine whether any dog is an aggressive dog, as defined by this Chapter. This determination must be based upon an investigation that includes observation and testimony about the dog's behavior on the date of the incident, including the owner's control of the dog, and any other relevant evidence as determined by Animal Services. Observations and testimony can be provided by an animal services officer or by other witnesses who personally observed the dog's actions on the date of the incident. Animal services officers and other witnesses must sign an affidavit attesting to the observed actions on the date of the incident and agree to provide testimony regarding the dog's actions on the date of the incident if necessary.
- (b) Animal Services has the discretionary authority to refrain from determining a dog is an aggressive dog, even if the dog meets the definition of an aggressive dog, based upon relevant circumstances.
- (c) Animal Services may seize and impound the dog at the owner's expense pending investigation and determination of whether the dog is an aggressive dog. If the owner of the dog has not been located before the fifteenth (15th) day after seizure and impoundment, the dog will become the sole property of the City and is subject to disposition as Animal Services deems appropriate.
- (d) At the conclusion of the investigation required by this Section, Animal Services must:
 - (1) determine that the dog is not aggressive and, if the dog was impounded, release the dog to its owner and may waive the costs and fees related to seizure, quarantine, and impoundment; or
 - (2) determine that the dog is aggressive and order the owner to comply with the requirements of ownership of an aggressive dog set forth in Sec. 6-94 of this Article, and if the dog is impounded, release the dog to its owner after compliance with all the applicable requirements of Subsection (g) of this Section.
- (e) If a dog is determined to be an aggressive dog, Animal Services must notify the dog owner in person in writing or by mail sent through the United State Postal Service:
 - (1) that the dog has been determined to be an aggressive dog;
 - (2) what the owner must do to comply with the requirements for ownership of an aggressive dog and to reclaim the dog, if impounded; and
 - (3) that the owner has the right to appeal the determination of aggressiveness.
- (f) An owner is deemed to have been notified by Animal Services of an aggressive dog determination:
 - (1) for personal service, the date that the determination was served on the owner; and
 - (2) for mail, three (3) days after the date the determination was deposited in the mail or given to the carrier.

- (g) An impounded dog determined by Animal Services to be aggressive must remain impounded or confined at a location approved by Animal Services and may not be released to the owner until the owner pays all costs and fees related to seizure, quarantine, and impoundment of the dog and complies with all requirements for ownership of an aggressive dog set forth in this Article.
- (h) If the owner of an impounded dog has not complied with Subsection (g) of this Section within thirty (30) days after the dog is determined to be aggressive and no appeal of the determination is timely filed, the dog will become the sole property of the City and is subject to disposition as Animal Services deems appropriate.

Sec. 6-93. Appeals.

- (a) If under Sec. 6-92, Animal Services determines that a dog is aggressive, the determination is final unless the dog owner files a written appeal with the municipal court within fifteen (15) days after the date of being notified that a dog owned by the owner was determined to be an aggressive dog.
- (b) The owner of a dog determined to be aggressive must, during the course of an appeal if the dog is not impounded, keep the dog on a leash in the direct physical control of a person or in a secure enclosure approved by Animal Services. Failure to comply with this Subsection is an offense.
- (c) To file an appeal under Subsection (a), the owner must:
 - (1) file a notice of appeal of Animal Services' determination with the City's municipal court;
 - (2) attach a copy of the determination from Animal Services; and
 - (3) serve a copy of the notice of appeal on Animal Services by mailing notice through the United States Postal Service.
- (d) This hearing is a civil proceeding. The City's municipal court may only reverse Animal Services' determination if the court finds the decision arbitrary or capricious or characterized by an abuse of discretion.
- (e) If the municipal court reverses Animal Services' determination that the dog is an aggressive dog and the dog is impounded, the Court will order Animal Services to release the dog to its owner.
- (f) If the municipal court affirms Animal Services' determination that the dog is an aggressive dog, the court must order Animal Services to seize and impound the dog and issue a warrant authorizing this seizure, or if the dog is already impounded, order the dog to remain impounded. The court may not order the release of the dog from impoundment until the owner complies with Sec. 6-94 and additional requirements as deemed appropriate by the court within a period determined by the court. Failure to comply with the court's additional requirements, if any, and Sec. 6-94 within the period determined by the court will result in the aggressive dog becoming the sole property of the City and being subject to disposition as Animal Services deems appropriate.

(g) The owner of a dog must pay any costs assessed by the City related to the seizure, impoundment, or destruction of the dog, unless these costs are waived by the court.

(h) The decision of the municipal court will be final and non-appealable.

Sec. 6-94. Requirements for ownership of an aggressive dog.

(a) An owner of an aggressive dog must no later thirty (30) days after the dog is determined to be aggressive:

- (1) have an unsterilized aggressive dog spayed or neutered;
- (2) register the aggressive dog with Animal Services and pay to Animal Services an aggressive dog registration fee;
- (3) keep their aggressive dog under restraint in a manner approved by Animal Services at all times;
- (4) when taken outside the enclosure, securely muzzle the dog in a manner that will not cause injury to the dog nor interfere with its vision or respiration. The muzzle must prevent the aggressive dog from biting any person or animal;
- (5) place and maintain on the aggressive dog a collar or harness with a current aggressive dog registration tag securely attached to it;
- (6) have the aggressive dog injected with a microchip implant and registered with a national registry for dogs;
- (7) post a legible "Aggressive Dog" sign on all sides of the secure enclosure where the dog is kept that must be purchased from Animal Services; and
- (8) comply with all other requirements of this Chapter.

(b) The owner of the aggressive dog must renew the registration of the aggressive dog with Animal Services annually and pay an annual aggressive dog registration fee at renewal.

(c) A person commits an offense if they fail to comply with any requirement of this Section.

Sec. 6-95. New owner registration; new dog in City jurisdiction registration.

(a) Registration by New Owner. If a person becomes the new owner of an aggressive dog and keeps or harbors the dog within the City limits, the owner must register the aggressive dog with Animal Services within fourteen (14) calendar days after the date the new owner assumes custody or control over the aggressive dog.

- (b) Re-registration. When the owner of an animal who has registered a dog as aggressive or vicious in another jurisdiction moves into the City limits, they must register the dog with Animal Services within fourteen (14) days of living within the City's jurisdiction.
- (c) Validation of Re-registration. A re-registration by a new owner or an owner moving from another jurisdiction will be valid only for the time remaining on the prior registration.

Sec. 6-96. Attack by an aggressive dog; non-compliance with requirements; hearing.

- (a) If a previously determined aggressive dog makes an unprovoked attack on a domestic animal outside of the dog's enclosure and injures or kills the domestic animal, Animal Services may seize and impound the aggressive dog at the owner's expense pending a hearing before the municipal court in accordance with this Section.
- (b) Upon receipt of a report by any person, including Animal Services, of an attack described in Subsection (a) or on the application to the court by a person that an owner of an aggressive dog has failed to comply with Sec. 6-94, the municipal court will conduct a hearing to determine whether the aggressive dog committed such an attack or if the owner of the aggressive dog failed to comply with Sec. 6-94. The hearing must be conducted within thirty (30) days after receipt of the report or application, but if the dog is already impounded, not later than ten (10) days after the date on which the dog was seized. The municipal court will provide, by mail, written notice of the date, time, and location of the hearing to the owner of the aggressive dog and the complainant. Any interested party may present evidence at the hearing.
- (c) At the conclusion of the hearing, the court may:
 - (1) find that the aggressive dog did commit an attack described in Subsection (a), and order, if the dog is not already impounded, Animal Services to seize and impound the dog; if so ordered, the aggressive dog will become the sole property of the City and will be subject to disposition as Animal Services deems appropriate;
 - (2) find that the aggressive dog did not commit an attack described in Subsection (a), and, if the dog is impounded, order Animal Services to release the dog to its owner;
 - (3) find that the aggressive dog owner failed to comply with Sec. 6-94 and order the dog to be seized and impounded by Animal Services and:
 - (A) order the dog to remain impounded until the owner complies with Sec. 6-94 and additional requirements as deemed appropriate by the court within a period determined by the court; or
 - (i) failure to comply with the requirements of Sec. 6-94 and by the court within the period determined by the court will result in the aggressive dog becoming the sole property of the City and being subject to disposition as Animal Services deems appropriate;

(B) order, if the dog is not already impounded, Animal Services to seize and impound the dog, and the aggressive dog will become the sole property of the City and will be subject to disposition as Animal Services deems appropriate; or

(4) find that the aggressive dog owner did not fail to comply with requirements of Sec. 6-94, and if the dog is impounded, order Animal Services to release the dog to its owner.

(d) The owner of a dog must pay any costs assessed by the City related to the seizure, impoundment, or destruction of the dog, unless these costs are waived by the court.

(e) The decision of the municipal court will be final and non-appealable.

(f) If a dog commits an act by a dangerous dog under the dangerous dog definition of this Chapter, the dangerous dog determination process outlined in Article VII of this Chapter applies.

Sec. 6-97. Aggressive dog owner notifications.

(a) The owner of an aggressive dog must notify Animal Services within twenty-four (24) hours if the aggressive dog is at large, unconfined, has attacked a human being or another domestic animal, has died, or has been sold or given away.

(b) If an owner of an aggressive dog sells, gives away, or moves the dog to a new address, the owner, no later than the fourteen (14th) day after the date of the sale, gift, or move, must notify Animal Services. Upon selling, giving away, or moving the registered aggressive dog to a new address, that owner must notify the new owner(s) of the dog, if any, that the dog has been determined aggressive.

Sec. 6-98. Attack by an aggressive dog; criminal penalty.

(a) A person commits an offense if the person is the owner of an aggressive dog, and the dog makes an unprovoked attack on a person or domestic animal outside of the animal's enclosure and causes bodily injury to the person or domestic animal.

(b) If a person is found guilty of an offense under this Section, the court may order the owner of an aggressive dog to comply with additional requirements as deemed appropriate by the court.

Sec. 6-99. Violations.

(a) A person who owns an aggressive dog commits an offense if the person fails to comply with Sec. 6-94.

(b) It is a violation of this Article for any person to refuse or fail to deliver a dog subject to this Article to Animal Services or harbor, hide or secrete, or transport or secure the transport of a dog subject to this Article to prevent its impoundment.

Sec. 6-100. Defenses; aggressive dogs.

- (a) It is a defense to prosecution under this Article that the person is a veterinarian, a licensed police officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position; provided, however, that for any person to claim a defense under this Section, such person must be acting within the course and scope of their official duties with regard to the aggressive dog.
- (b) It is a defense to prosecution under this Article that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; provided, however, that for any person to claim a defense under this section, such person must be acting within the course and scope of their official duties with regard to the aggressive dog.
- (c) It is a defense to prosecution under this Chapter that the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Occupations Code.
- (d) It is a defense to prosecution under this Article that the dog at issue is a trained guard dog in the performance of official duties while confined or under the control of its handler.

ARTICLE IX. ENFORCEMENT

Sec. 6-101. Criminal prosecution.

- (a) It is unlawful for any person to intentionally, knowingly, recklessly, or with criminal negligence commit a prohibited act or fail to perform a required act as required by this Chapter or violate any provision of this Chapter. Each day a violation under this Chapter exists and each separate animal or condition in violation of any provision of this Chapter will constitute a separate offense.
- (b) Upon conviction of a violation committed under this Chapter, the maximum amount a person may be fined per a violation is two thousand dollars (\$2000.00). A person may be fined no less than one hundred dollars (\$100.00) for their first conviction under this Chapter. In the event a defendant has once previously been convicted under this Chapter, the defendant may be fined an amount no less than two hundred dollars (\$200.00) and no less than three hundred dollars (\$300.00) for a third conviction and for each conviction thereafter.

Sec. 6-102. Civil Remedies.

- (a) The City may seek a warrant or order from a court of competent jurisdiction to enforce this Chapter, pursuant to all applicable local, state, and federal laws.

- (b) Prosecution for an offense under Sec. 6-101 does not prevent the use of civil enforcement remedies or procedures applicable to a person charged with or a conduct involved in a violation of this Chapter.

ORDINANCE NO. 2019-4978

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES CHAPTER 6, "ANIMALS AND FOWL" TO BRING THIS CHAPTER INTO COMPLIANCE WITH STATE REGULATIONS, SIMPLIFY AND CLARIFY LANGUAGE AND TERMS, AND PROVIDE MORE EFFECTIVE ENFORCEMENT TOOLS; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in a continuing effort to review and update the City's Code of Ordinances, Staff recommends amendments to Chapter 6, "Animals and Fowl" that include general language clean-up and changes to formatting - Staff suggests changing the formatting section of titles and the numbering of subsections to conform with that of other City Code Chapters and correcting minor spelling errors;

Whereas, other proposed amendments to Chapter 6 include:

- An amended definition of "at-large." Currently, Chapter 6 includes conflicting definitions of the term "at-large." In an effort to clarify this important definition, the draft amendments define "at-large" as any animal not under restraint. "Restraint" is further defined as an animal either (a) kept in a secure enclosure; or (b) kept under the direct physical control of a responsible person by a leash, cord, or other type of lead and obedient to the person's commands. The proposed amendments include several exceptions to the restraint requirement. For example, animals do not have to be restrained in the following instances:

- The animal is on its owner's property under the immediate supervision and control of a responsible person and obedient to their commands (does not apply to cats);
- The animal is wearing a functional electronic collar;
- If the dog is in a designated dog park;
- The animal is accompanied by its owner and is at an animal show;
- The animal is a service animal; or
- The animal is being used for law enforcement purposes;

- An updated definition of "dangerous dog" that is in line with state regulations found in Chapter 822 of the Texas Health and Safety Code. The proposed amendments clearly incorporate the provisions of Subchapter D, Chapter 822 of the Texas Health and Safety Code and include regulations related to the ownership of dangerous dogs, impoundment of dangerous dogs, and registration of dangerous dogs. These amendments also elect the City to be governed by Section 822.0422 of the Texas Health and Safety Code, which requires dogs reported to have committed dangerous dog acts to be impounded with Animal Services until a dangerous dog hearing can be held;

- A definition of "aggressive dog," as well as regulations related to the ownership of aggressive dogs, impoundment of aggressive dogs, and registration of aggressive dogs;

- A process for the Animal Services Division to issue orders to animal owners, which includes certain remedial requirements an animal owner must complete to protect other citizens and animals against public nuisances caused by the owner's animal. Public nuisances caused by animals include animals that destroy or damage property, cause noise that unreasonably disturbs others, are in heat, chase, attack or otherwise interfere with pedestrians or vehicles, are staked or tied within 15 feet of any street, sidewalk, park or other public place, or are repeatedly at-large. Under the proposed amendments, Animal Services may issue an order with certain remedial requirements, which may include the following:

- Requiring that a dog be on a 4-foot leash when not in a secure enclosure;
- Muzzling a dog in public to prevent biting;
- Repairing a broken fence to prevent the animal's escape;
- Keeping an animal in a different area to prevent noise disturbances;
- Paying restitution for damages or injury caused by an animal;
- Taking the animal to training classes; or
- Sterilizing the animal.

- Limitations on tethering including conditions that must be met for a dog to be legally tethered;

- The creation of an offense for owners who allow animals to ride loose in open vehicles. Animals would need to be secured by a multi-point tether or inside a secure enclosure while riding in the vehicle;

- Clarifications to the multi-pet permit process;

- The creation of an offense for distracted driving due to a loose animal in the vehicle;

- Updates to the rabies article to comply with the Texas Health and Safety Code and Texas Administrative Code requirements;

- Updates to reflect the new structure of the Animal Services Division as a division of the Police Department; and

- Updates to regulations related to animal cruelty, the impoundment, adoption, and disposal of animals, and prohibited animals;

Whereas, the proposed amendments include and re-adopt certain fees that Animals Services charges such as fees for reclamation, adoption, spay and neuter vouchers, euthanasia, and surrender - the amendments also propose the adoption of additional fees such as veterinary costs for impounded animals, higher impoundment fees for seized animals, a multi-pet permit fee, a quarantine fee, a dangerous dog registration fee, and an aggressive dog registration fee;

Whereas, if Council approves the proposed amendments, Staff will bring forward a separate item asking Council to consider adopting a resolution which establishes the applicable fees;

Whereas, for the above reasons, Staff recommends Council amend the Code of Ordinances Chapter 6, “Animals and Fowl,” as outlined in Exhibit ‘A,’ attached hereto and incorporated herein for all purposes; and

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

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

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

Part 2: The City Council amends the Code of Ordinances Chapter 6, “Animals and Fowl” as outlined in Exhibit ‘A,’ attached hereto and incorporated herein for all purposes.

Part 3: All Ordinances or parts of Ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 5: This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **11th** day of **July**, 2019.

PASSED AND APPROVED on Second Reading on the **18th** 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

07/11/19
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing proceeding with the issuance of City of Temple, Texas Combination Tax and Revenue Certificates of Obligation, Series 2019 and further directing the Publication of Notice of intention to issue Certificates of Obligation in an amount not to exceed \$19,500,000 and other matters related to the issuance.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Prior to the issuance of the Certificates, the City is required under the Certificate of Obligation Act of 1971, Section 271.041 et seq., Local Government Code (the "Act") the Act to publish notice of its intention to issue the Certificates in a newspaper of general circulation in the City, the notice stating: (i) the time and place tentatively set for the passage of the ordinance authorizing the issuance of the Certificates, (ii) the maximum amount and purpose of the Certificates to be authorized, and (iii) the manner in which the Certificates will be paid.

The notice of intent begins the process to issue Certificates of Obligations (CO's) for the following:

- Constructing, improving, extending, expanding, upgrading and/or developing streets, roads, bridges, trails, sidewalks, intersections, traffic signalization and other transportation improvement projects including related water, wastewater and drainage improvements, signage, landscaping, irrigation, purchasing any necessary rights-of-way and other related transportation costs including Poison Oak Road Improvements and Kegley Road Improvements,
- Acquisition of land for City purposes and buildings located at 1701 North General Bruce Drive including any construction, renovation, demolition and equipment costs related to such land and buildings; and
- Professional services including fiscal, engineering, architectural and legal fees and other such costs incurred in connection therewith including the costs of issuing the Certificates.

The Bonds are scheduled for Council consideration and award to underwriters on Thursday, August 15, 2019.

FISCAL IMPACT: The FY 2019 Adopted Budget includes the seventh year of a multi-year Transportation Capital Improvement Program (TCIP) totaling \$140,258,343. The project areas identified in the TCIP are intended to address both the need to improve our existing transportation infrastructure and provide new capacity and connectivity.

The implementation and financing plan recommended for the TCIP is a phased approach which groups projects in packages with design and right-of-way acquisition funded first and, in most cases, construction funded in the following package. The phased approach allows for the allocation of construction funds only when projects are ready, minimizes and stabilize the tax rate impact, maximizes opportunity for tax base growth; and allows for the balancing of debt amortization. This approach allowed for the addition of the funding for the purchase of the property located at 1701 North General Bruce Drive.

The current interest and sinking tax rate will support the debt service for the proposed issue of CO's. The phasing of projects and associated financing enables evaluation of the program from year to year and allows us to pause or adjust the program as needed.

***The issue size is preliminary and will be sized at the time of pricing.**

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2019-9720-R

**RESOLUTION AUTHORIZING PROCEEDING WITH ISSUANCE OF THE CITY OF
TEMPLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF
OBLIGATION, SERIES 2019 AND FURTHER DIRECTING THE PUBLICATION OF
NOTICE OF INTENTION TO ISSUE SUCH CERTIFICATES OF OBLIGATION; AND
OTHER MATTERS RELATED THERETO**

THE STATE OF TEXAS '
COUNTY OF BELL '
CITY OF TEMPLE '

WHEREAS, the City Council of the City of Temple, Texas (the "City") finds that the payment in whole or in part of contract obligations incurred or to be incurred for the purposes set forth in the form of the Notice of Intention to issue the Certificates attached hereto as Exhibit "A" (the "Contractual Obligations") would be beneficial to the inhabitants of the City and are needed to perform essential City functions; and

WHEREAS, the Council has deemed it advisable to give notice of intention to issue certificates of obligation in a maximum principal amount not to exceed \$18,450,000 (the "Certificates") pursuant to the provisions of the Certificate of Obligation Act of 1971, Section 271.041 et seq., Local Government Code (the "Act") for the purpose of financing the Contractual Obligations; and

WHEREAS, prior to the issuance of the Certificates, the City is required under the Act to publish notice of its intention to issue the Certificates in a newspaper of general circulation in the City, the notice stating: (i) the time and place tentatively set for the passage of the ordinance authorizing the issuance of the Certificates, (ii) the maximum amount and purpose of the Certificates to be authorized, and (iii) the manner in which the Certificates will be paid; and

WHEREAS, the meeting at which this Resolution is adopted was open to the public and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Texas Government Code, as amended.

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

1. Attached hereto as Exhibit "A" is a form of the Notice of Intention to issue the Certificates, the form and substance of which is hereby adopted and approved.
2. Bond Counsel to the City shall cause the notice to be published in substantially the form attached hereto, in a newspaper of general circulation in the City, for two consecutive weeks,

the date of the first publication to be at least 31 days prior to the time set for the final passage of the ordinance authorizing issuance of the Certificates as shown in the notice.

3. The Director of Finance, Financial Advisor and Bond Counsel to the City are authorized to proceed with preparing the necessary bond and offering documents to effectuate the sale of the Certificates, including making application to appropriate rating agencies and bond insurers, if applicable.

4. This Resolution shall become effective immediately upon adoption. The Mayor and City Secretary are hereby authorized and directed to execute the certificate to which this Resolution is attached on behalf of the City and the Mayor, City Secretary and City Manager are further authorized to do any and all things proper and necessary to carry out the intent of this Resolution.

5. The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of each series of the Certificates being issued or (ii) \$9,500 per series, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The appropriate member of the City's staff is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Certificates.

RESOLVED this ____ day of _____, 2019.

ATTEST:

CITY OF TEMPLE, TEXAS

Lacy Borgeson, City Secretary

Tim Davis, Mayor

APPROVED AS TO FORM:

Kayla Landeros, City Attorney

SigPg

EXHIBIT "A"

NOTICE OF INTENTION REGARDING THE ISSUANCE OF THE CITY OF TEMPLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019

NOTICE IS HEREBY GIVEN that it is the intention of the City Council of the City of Temple, Texas, to issue interest bearing certificates of obligation of the City entitled "City of Temple, Texas Combination Tax and Revenue Certificates of Obligation, Series 2019" (the "Certificates") for the purpose of paying contractual obligations incurred or to be incurred by the City for: (1) constructing, improving, extending, expanding, upgrading and/or developing streets, roads, bridges, trails, sidewalks, intersections, traffic signalization and other transportation improvement projects including related water, wastewater and drainage improvements, signage, landscaping, irrigation, purchasing any necessary rights-of-way and other related transportation costs including Poison Oak Road Improvements and Kegley Road Improvements; (2) acquisition of land for City purposes and buildings located at 1701 North General Bruce Drive including any construction, renovation, demolition and equipment costs related to such land and buildings; and (3) professional services including fiscal, engineering, architectural and legal fees and other such costs incurred in connection therewith including the costs of issuing the Certificates. The City Council tentatively proposes to consider for first and final reading at a meeting to commence at 5:00 p.m. on the 15th day of August, 2019 at Council Chambers, 2 North Main Street, Temple, Texas, 76501, the passage of an ordinance authorizing the issuance of the Certificates. The maximum amount of the Certificates that may be authorized for such purpose is \$19,500,000. The City Council presently proposes to provide for the payment of such Certificates from the levy and collection of ad valorem taxes in the City as provided by law and from the surplus revenues of the City's utility system in an amount not to exceed \$10,000, remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve and other requirements in connection with all of the City's revenue bonds or other obligations (now or hereafter outstanding) which are payable from all or any part of the net revenues of the City's utility system.

CITY OF TEMPLE, TEXAS