



**MEETING OF THE
TEMPLE CITY COUNCIL**

**TEMPLE PUBLIC LIBRARY
100 WEST ADAMS AVENUE
3rd FLOOR – McLANE ROOM**

THURSDAY, JULY 2, 2020

3:00 P.M.

AGENDA

For everyone's safety, we require the use of face protection while in common areas of City facilities, including during council meetings and work sessions. Thank you for your cooperation.

CITY COUNCIL WORKSHOP AGENDA:

I. WORK SESSION

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, July 2, 2020.
2. Receive a presentation on the United Way Small Business Program.
3. Receive a presentation on the proposed FY2021 Business Plan.
4. Receive a briefing from the City Attorney regarding eight properties situated in the Maximo Moreno Survey, Abstract #14, Bell County, Texas, that are necessary for the proposed expansion of Avenue C.
Pursuant to Texas Government Code secs. 551.071 and 551.072 – the City Council will meet in executive session to discuss, and receive advice regarding, a matter of attorney-client privilege, and to deliberate the purchase, exchange, lease, or value of real property. No final action will be taken.

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

5:00 P.M.

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

**TEMPLE CITY COUNCIL
REGULAR MEETING AGENDA**

For members of the public wishing to view the meeting, or participate in the public hearings, instructions will be available on the home page of the City of Temple website (www.templetx.gov) at least 24 hours before the meeting time.

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. AWARDS & SPECIAL RECOGNITION

3. Recognize Parks and Recreation Month July 2020

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.

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

Contracts, Leases, & Bids

- (A) [2020-0099-R](#): Consider adopting a resolution authorizing a contract with Patin Construction, LLC, of Taylor for construction of Phase 4A of the Bird Creek Interceptor Project, in the amount of \$1,556,749.
- (B) [2020-0100-R](#): Consider adopting a resolution authorizing a services agreement for the installation of a rake drive unit for Clarifier #3 at the Conventional Water Treatment Plant, from Environmental Improvements, Inc. of Houston, in the amount of \$125,681.25.
- (C) [2020-0101-R](#): Consider adopting a resolution authorizing an interlocal agreement with the Belton Independent School District to provide after school programming at five school locations.

- (D) [2020-0102-R](#): Consider adopting a resolution authorizing contract amendment #1 to the professional services agreement with Kasberg, Patrick & Associates, LP, for the Blackland Road Improvements Project, in the amount of \$316,880.
- (E) [2020-0103-R](#): Consider adopting a resolution authorizing contract amendment #2 with Kasberg, Patrick, & Associates, LP, for additional professional services required to complete final design of Task 3 at the City of Temple Water Treatment Plant, in the amount of \$148,390.
- (F) [2020-0104-R](#): Consider adopting a resolution authorizing contract amendment #20 to the professional services agreement with Jacobs Engineering Group, Inc., for construction phase services associated with the Bird Creek Interceptor Project, in the amount of \$185,000.
- (G) [2020-0105-R](#): Consider adopting a resolution accepting the donation of a 0.1279-acre right-of-way and a 0.1191-acre public utility easement from Frank Mayborn Enterprises, Inc., for the North 31st Street and Interstate Highway 35 Connection Project and authorizing the installation of two curb cuts and the extension of an eight-inch waterline to the Mayborn Enterprises property.
- (H) [2020-0106-R](#): Consider adopting a resolution authorizing the acquisition of a temporary construction easement and wastewater easement necessary for the construction of the Williamson Creek Trunk Sewer Improvement Project Phase 2 project, in an estimated amount of \$1,400.
- (I) [2020-0107-R](#): Consider adopting a resolution authorizing the acquisition of a temporary construction easement necessary for the construction of the Azalea Drive Realignment and Expansion Project, in an estimated amount of \$1,500.

Misc.

- (J) [2020-0108-R](#): Consider adopting a resolution amending, renewing, restating, and continuing the Declaration of Local State of Disaster Due to Public Health Emergency.
- (K) [2020-0109-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2019-2020.
- (L) [2020-0110-R](#): Consider adopting a resolution setting the date, time and place of public hearings on the proposed FY 2020-2021 Budget for July 16, 2020 at 5:00 p.m. and August 13, 2020 at 8:30 a.m. in the City Council Chambers.

Ordinances – Final Readings

- (M) [2020-5032](#): SECOND & FINAL READING – FY-20-21-ZC: Consider an ordinance adopting a site development plan and rezoning from Two-Family to Planned Development-Temple Medical Educational District T5-E Neighborhood Edge Zone for a restaurant parking lot expansion at 1216 South Main Street.

IV. REGULAR AGENDA

ORDINANCES – FINAL READINGS

5. **2020-5030:** THIRD & FINAL READING: Consider adopting an ordinance amending City Code of Ordinances, Chapter 12, Fire Prevention and Protection.

ORDINANCES – FIRST READINGS

6. **2020-5034:** FIRST READING – PUBLIC HEARING – FY-20-7-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 102.272 +/- acres of land situated in the G.W. LINDSEY SURVEY, ABSTRACT NO. 513 and J.J. SIMMONS SURVEY, ABSTRACT NO. 737, both in Bell County, Texas, generally located west of Orion Drive and approximately 1,200 feet north of the existing terminus of Clinite Grove Boulevard.
7. **2020-5035:** FIRST READING – PUBLIC HEARING – FY-20-22-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a site plan, with waivers for the maximum period of occupancy per resident and a limit on the number of residents, on 1.994 acres out of the Moses Shipman Survey, Abstract 782 in Bell County, Texas, located at 6565 Pegasus Drive.
8. **2020-5036:** FIRST READING – PUBLIC HEARING – FY-20-24-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural with CUP for veterinary clinic to General Retail for 4.62 +/- acres, addressed as 610 Hilliard Road.

RESOLUTIONS

9. **2020-0111-R:** Consider adopting a resolution pursuant to Chapter 2206, Government Code § 2206.053 finding that eight properties situated in the Maximo Moreno Survey, Abstract #14, Bell County, Texas, are necessary for the proposed expansion of Avenue C and authorizing the use of eminent domain to condemn the properties.

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

I hereby certify that a true and correct copy of this Notice of Meeting was published to the City of Temple's website at 1:30 PM, June 26, 2020.



Jana Lewellen
City Secretary

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



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20
Item #4(A)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Patin Construction, LLC, of Taylor for construction of Phase 4A of the Bird Creek Interceptor Project, in the amount of \$1,556,749.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

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

Phase 1, 2, 3 and 5 of this project have been completed. Phase 4 is the last phase and extends Wagon Trail Road north to Loop 363 at Bird Creek Terrace. Phase 4 will replace existing deteriorated collection interceptor lines, manholes, rehabilitate existing lines and significantly reduce current rain event inflow.

On February 20, 2020, Council authorized the rejection of Bird Creek Interceptor Phase 4 bids, as the two submitted bids were approximately six million dollars higher than the engineer's opinion of probable cost and consequently over budget. To facilitate more competitive bidding, Phase 4 was divided into four phases, 4A to 4D. (See project map) Phase 4B bid was selected by staff to bid first for budgeting and other considerations.

On May 21, 2020, Council authorized an award to D. Guerra for construction of Phase 4B with the low base bid plus Add Alternate #1, #3 and #4 in the amount of \$10,707,002.

On June 11, 2020, per the attached bid tabulation, two bids were opened with base bids of \$1,461,749 and \$1,734,011, with the low base bid being submitted by Patin Construction, LLC. The Base Bid included concrete manholes and fiberglass pipe. Add Alternates #1 and #2 compared pricing for centrifugally-cast fiberglass-reinforced polymer-mortar (CCFRP) manholes and polyvinyl chloride (PVC) pipe, respectively. Add alternate #3 provides additional post construction Closed Circuit Television (CCTV) inspection of new pipe. Patin Construction submitted the low Base Bid and all Base Bid plus Alternate combinations.

The Engineer recommends awarding the Base Bid plus Alternates #1 and #3. (See engineers' letter of recommendation). The fiberglass (CCFRP) manhole materials have demonstrated high performance, longer life, and are more chemically resistance in comparable environment. CCTV of new pipe will ensure pipe is installed correctly and with no obstructions. Therefore, staff supports the Engineer's recommendation of the construction award to Patin Construction, LLC for the low base bid plus Alternates #1 and #3, in the amount of \$1,556,749.

The Engineer's opinion of probable construction cost was \$1,800,000. Time allotted for construction is 365 calendar days.

FISCAL IMPACT: A budget adjustment is being presented to Council for approval to appropriate additional funding for a contract with Patin Construction, LLC, for the construction of Phase 4A of the Bird Creek Interceptor Project. The budget adjustment also includes funding for the contract administration contract amendment with Jacobs Engineering Group, Inc. After approval of the budget adjustment, funding in the amount of \$1,556,749 will be available in account 561-5400-535-6925, project 101933 as follows:

Project Budget	\$	12,181,492
Budget Adjustment {presented with construction agenda item}		1,778,325
Encumbered/Committed to Date		(12,160,700)
Construction Award - Patin Construction, LLC		(1,556,749)
Jacobs Engineering Group, Inc - CA #20		(185,000)
Remaining Project Funds Available	\$	57,368

ATTACHMENTS:

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



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www.jacobs.com

June 15, 2020

Attention: Ed Kolacki
City of Temple Public Works Department
3210 E. Ave. H, Bldg A
Temple, TX 76501

Project Name: Bird Creek Interceptor - Contract 4A
Project Number: WJXK5800

Subject: Phase 4A Bid Opening

Dear Mr. Kolacki,

Bids were received for the subject project on June 11th, 2020 at 2:00 PM and were subsequently opened at the Purchasing Department via Microsoft Teams virtual meeting. Enclosed is a copy of the bid tabulation form, which shows two (2) bids that were received. The low bidder is Patin Construction, LLC, at a base bid of \$1,461,749.00.

Jacobs Engineering has reviewed the Bird Creek Interceptor Phase 4A bids (Bid ITB #54-03-20). The following review notes of our analysis of the bids have been provided for reference:

- Review of the bids did not demonstrate any technical deficiencies.
- The bids received for this project were approximately \$400,000 below the engineer's opinion of probable construction cost (EOPCC). Evaluation of the line items demonstrated that the bid items were in-line with the EOPCC.
- Regarding Alternate Bid #1, Patin Construction included an additional cost of \$75,000 (5% of overall bid) for using fiberglass manholes over concrete manholes. With this cost adder, Jacobs is recommending the installation of fiberglass manholes as they will provide a longer life when compared to epoxy lined concrete. Fiberglass manholes are chemically resistant to corrosion. The details for the fiberglass manholes require concrete backing which will give it matching strength to concrete manholes and eliminate seams that may create future infiltration or epoxy coating de-lamination.
- Regarding Alternate Bid #2, Patin Construction included an additional cost of +\$156,000 (11% of overall bid) for using HOBAS pipe over PVC pipe. With this additional cost, Jacobs is recommending the installation of HOBAS pipe. HOBAS pipe's fiberglass structure provides better flexibility when embedded in soil.



June 15, 2020

Subject: Phase 4A Bid Opening

- Regarding Alternate Bid #3, CCTV records of the newly installed pipe is good insurance for warranty claims. Jacobs will leave it up to the City of Temple to determine if they would like this additional cost of \$20,000 included in Patin's bid.

It is of the opinion of the Jacobs engineers that the Patin Construction, LLC bid fulfills the requirements of the specifications and provides the most economical contract for the installation of the Bird Creek Interceptor Phase 4A project. We are recommending the Base Bid w/Alternate 1 & 3, for a total price of \$1,556,749.00 (Fiberglass manholes, HOBAS pipe, and CCTV) for the contract.

Jacobs appreciates the opportunity to provide this information to the City of Temple. If there are any questions or concerns regarding this recommendation letter, please contact us at your earliest convenience at (512) 314-3100.

Sincerely,

A handwritten signature in blue ink that reads "Jason Roberts".

Jason Roberts, P.E. – Project Principal

A handwritten signature in black ink that reads "Ricky Villalobos".

Ricky Villalobos, P.E. – Project Manager

Attachments:

- Bid Tabulation – June 15, 2020

Copies to: James Billeck, P.E.

FY 2020

BUDGET ADJUSTMENT FORM

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

Adjustments should be rounded to the nearest \$1.

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE
561-5400-535-69-25	101933	Bird Creek Interceptor, Phase IV (Part A & B)	1,778,325		
561-5200-535-69-39	100608	Charter Oak Waterline, Phase II			1,508,000
561-5100-535-69-59	101619	WTP Improvements, Task 4 (Dredging)			176,610
561-5100-535-69-59	101615	WTP Improvements, Raw Water Intake Recoating			93,715
TOTAL.....			\$ 1,778,325		\$ 1,778,325

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

Reallocate available bond proceeds from projects under delay (Charter Oak Waterline continues to experience delays due to right-of-way acquisition) and WTP plant projects that were previously funded, but will now fall within the scope of the Water Treatment Plant Expansion project currently under design.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

x	Yes
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☐ No

DATE OF COUNCIL MEETING	07/02/20
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WITH AGENDA ITEM?

x Yes

☐ No

Department Head/Division Director

Date _____

	Approved
	Disapproved

6/9/20 SMP

Finance

Date _____

	Approved
	Disapproved

City Manager

Date _____

	Approved
	Disapproved

Bird Creek Interceptor - Phase 4A
Bid Tabulation - 6/15/2020

D Guerra Construction LLC

Patin Construction LLC

Item No.	Reference	Item Description	Unit	Quantity	Unit Price	Total Amount	Unit Price	Total Amount
A. GENERAL								
1	SS700	Total Mobilization Payment	LS	1	\$ 60,000.00	\$ 60,000.00	\$ 72,000.00	\$ 72,000.00
2	105.4	Construction Staking, complete and in place	LS	1	\$ 10,000.00	\$ 10,000.00	\$ 5,000.00	\$ 5,000.00
3	SS107	Construction Photography	LS	1	\$ 8,000.00	\$ 8,000.00	\$ 1,500.00	\$ 1,500.00
<i>Subtotal A. GENERAL</i>						\$ 78,000.00		\$ 78,500.00
B. EROSION & SEDIMENT CONTROL								
4	107.28.3	Furnish and Maintain Stormwater Pollution Prevention Plan (SWPPP)	LS	1	\$ 1,000.00	\$ 1,000.00	\$ 3,000.00	\$ 3,000.00
5	203.1	Clearing and Grubbing	SY	3,241	\$ 2.00	\$ 6,482.00	\$ 5.00	\$ 16,205.00
6	202.5	Silt Fence, complete and in place	LF	960	\$ 2.50	\$ 2,400.00	\$ 2.50	\$ 2,400.00
7	202.9	Check Dam (Rock)	LF	85	\$ 25.00	\$ 2,125.00	\$ 50.00	\$ 4,250.00
8	202.11	Stabilized Construction Entrance, complete and in place	EA	2	\$ 2,500.00	\$ 5,000.00	\$ 1,500.00	\$ 3,000.00
9	201.1	Tree Protection, complete and in place	LF	720	\$ 4.00	\$ 2,880.00	\$ 3.50	\$ 2,520.00
10	204.5	Sodding, complete and in place	SY	592	\$ 6.00	\$ 3,552.00	\$ 7.00	\$ 4,144.00
11	204.6	Seeding Turfgrass, complete and in place	SY	2,649	\$ 3.00	\$ 7,947.00	\$ 1.00	\$ 2,649.00
<i>Subtotal B. EROSION & SEDIMENT CONTROL</i>						\$ 31,386.00		\$ 38,168.00
C. WASTEWATER INTERCEPTOR								
C.1 CUT & COVER CONSTRUCTION								
12	107.20.3	Trench Safety, complete and in place	LF	1,135	\$ 10.00	\$ 11,350.00	\$ 5.00	\$ 5,675.00
13	502.1.1.1	6' Diameter Standard Manhole - Precast concrete (6' depth) (includes the following manholes: MH-A2, MH-A3, MH-A4, MH-A5, MH-A6), complete and in place	EA	5	\$ 16,350.00	\$ 81,750.00	\$ 12,500.00	\$ 62,500.00
14	502.1.1.1	6' Manhole - Precast concrete - Extra Depth, complete and in place, (excluding MH's paid for by LS)	VF	37	\$ 1,000.00	\$ 37,000.00	\$ 500.00	\$ 18,500.00
15	502.1.1.1	Removal of MH J26-01824 and 6' Diameter Replacement with MH-A1 - Precast concrete, complete and in place (Including lateral materials and connection costs)	LS	1	\$ 20,225.00	\$ 20,225.00	\$ 20,000.00	\$ 20,000.00
16	502.1.1.1	Removal of MH J25-00979 and 8' Diameter Replacement with MH-A8 - Precast concrete, complete and in place (Including lateral materials and connection costs)	LS	1	\$ 26,050.00	\$ 26,050.00	\$ 30,000.00	\$ 30,000.00
17	502.1.1.1	6' Diameter MH-A7 - Precast concrete, complete and in place (Including lateral materials and connection costs)	LS	1	\$ 23,900.00	\$ 23,900.00	\$ 12,500.00	\$ 12,500.00
18	507	Buried Creek Crossing (Sta. 10+25), including creek bottom stabilization, complete and in place	LS	1	\$ 9,000.00	\$ 9,000.00	\$ 10,000.00	\$ 10,000.00
19	507	Buried Creek Crossing (Sta. 18+00), including creek bottom stabilization, complete and in place	LS	1	\$ 9,000.00	\$ 9,000.00	\$ 10,000.00	\$ 10,000.00
20	501.24	Pipe, 30" RTRP ASTM D3262/ASTM D4161 SN 46, 0'-12' Depth, including excavation and backfill, complete and in place	LF	585	\$ 530.00	\$ 310,050.00	\$ 265.00	\$ 155,025.00
21	501.24	Pipe, 30" RTRP ASTM D3262/ASTM D4161 SN 46, 12'-16' Depth, including excavation and backfill, complete and in place	LF	415	\$ 585.00	\$ 242,775.00	\$ 365.00	\$ 151,475.00
22	501.24	Pipe, 30" RTRP ASTM D3262/ASTM D4161 SN 46, 16'-20' Depth, including excavation and backfill, complete and in place	LF	135	\$ 735.00	\$ 99,225.00	\$ 465.00	\$ 62,775.00
23	SP504	CSSB #1, complete and in place, (Sta. 12+16 to 12+25)	CY	4	\$ 200.00	\$ 800.00	\$ 1,000.00	\$ 4,000.00
24	SP504	CSSB #2, complete and in place, (Sta. 17+06 to 17+21)	CY	6	\$ 200.00	\$ 1,200.00	\$ 1,000.00	\$ 6,000.00
<i>Subtotal C.1 CUT & COVER CONSTRUCTION</i>						\$ 872,325.00		\$ 548,450.00
C.3 SLIPLINING								
25	SS601.1	Preconditioning, Cleaning, and CCTV of 30" Sewer Pipe	LF	193	\$ 25.00	\$ 4,825.00	\$ 45.00	\$ 8,685.00
26	SS601.1	Heavy Cleaning and Root Removal of 30" Sewer Pipe	LF	96	\$ 50.00	\$ 4,800.00	\$ 60.00	\$ 5,760.00
27	SS601.2	Postconstruction CCTV Inspection - Slipline segments	LF	193	\$ 5.00	\$ 965.00	\$ 10.00	\$ 1,930.00
28	SS810	Slipline Existing 30" VCP w/12" PVC or HDPE	LF	193	\$ 205.00	\$ 39,565.00	\$ 260.00	\$ 50,180.00
29	502.1.1	Removal of existing manhole and replacement with 5' Diameter Replacement - pre-cast concrete, complete and in place (Including slipline & lateral materials and connection costs - all depths) - MH's J26-01823, J26-00643, J26-00643.5.	EA	3	\$ 16,000.00	\$ 48,000.00	\$ 15,000.00	\$ 45,000.00
30	SS810	Single Point Repair Allowance - 30" Pipe - excavation (all depths)	EA	1	\$ 8,000.00	\$ 8,000.00	\$ 15,000.00	\$ 15,000.00
<i>Subtotal C.3 SLIPLINING</i>						\$ 106,155.00		\$ 126,555.00
C.4 CURE-IN-PLACE-PIPE (CIPP) REHABILITATION								
31	SS601.1	Preconditioning, Cleaning, and CCTV of 30" Sewer Pipe	LF	747	\$ 15.00	\$ 11,205.00	\$ 45.00	\$ 33,615.00
32	SS601.1	Heavy Cleaning and Root Removal of 30" Sewer Pipe	LF	374	\$ 40.00	\$ 14,960.00	\$ 60.00	\$ 22,440.00
33	SS601.2	Postconstruction CCTV Inspection - CIPP Length	LF	747	\$ 5.00	\$ 3,735.00	\$ 10.00	\$ 7,470.00
34	SS810	Single Point Repair Allowance - 30" Pipe - excavation (all depths)	EA	4	\$ 8,000.00	\$ 32,000.00	\$ 15,000.00	\$ 60,000.00
35	SS601.3	Cured-In-Place-Pipe (CIPP) Existing 30" VCP Pipe with Enhanced Polyester Resin	LF	747	\$ 150.00	\$ 112,050.00	\$ 235.00	\$ 175,545.00
<i>Subtotal C.4 CURE-IN-PLACE-PIPE (CIPP) REHABILITATION</i>						\$ 173,950.00		\$ 299,070.00
C.5 BY-PASS PUMPING								
36	SS502	Bypass Pumping Plan #1, complete and in place	LS	1	\$ 80,800.00	\$ 80,800.00	\$ 30,000.00	\$ 30,000.00
37	SS502	Bypass Pumping Plan #2, complete and in place	LS	1	\$ 50,000.00	\$ 50,000.00	\$ 30,000.00	\$ 30,000.00
38	SS502	Bypass Pumping Plan #3, complete and in place	LS	1	\$ 50,000.00	\$ 50,000.00	\$ 30,000.00	\$ 30,000.00
39	SS502	Bypass Pumping Plan #4, complete and in place	LS	1	\$ 50,000.00	\$ 50,000.00	\$ 30,000.00	\$ 30,000.00
<i>Subtotal C.5 BY-PASS PUMPING</i>						\$ 230,800.00		\$ 120,000.00
C.6 ABANDONMENT / DEMOLITION								
40	SS500/504.2	Abandon Existing 6" Sewer Pipe w/CLSM	CY	1.5	\$ 250.00	\$ 375.00	\$ 1,000.00	\$ 1,500.00
41	SS500/504.2	Abandon Existing 27" Sewer Pipe w/CLSM	CY	106	\$ 250.00	\$ 26,500.00	\$ 500.00	\$ 53,000.00
42	504	Manhole Abandonment	EA	1	\$ 2,500.00	\$ 2,500.00	\$ 5,000.00	\$ 5,000.00
<i>Subtotal C.6 ABANDONMENT / DEMOLITION</i>						\$ 29,375.00		\$ 59,500.00
D. TRAFFIC CONTROL								
43	801.1	Traffic Control Plan and Traffic Control Devices, furnished, installed, maintained and removed, complete and in place	MO	18	\$ 2,500.00	\$ 45,000.00	\$ 1,500.00	\$ 27,000.00
<i>Subtotal D. TRAFFIC CONTROL</i>						\$ 45,000.00		\$ 27,000.00
E. PAVEMENT RESTORATION								
44	302	Wagon Trail / Melrose Lane - HMAc Pavement Repair - 2" Type D HMAc, with 4" Type A or B HMAc Sub-Base	SY	3,243	\$ 40.00	\$ 129,720.00	\$ 42.00	\$ 136,206.00
45	305.1	Remove and Replace Existing Concrete Curb & Gutter	LF	600	\$ 40.00	\$ 24,000.00	\$ 25.00	\$ 15,000.00
46	305.2	Remove and Replace Existing Concrete Driveway Apron	SY	133	\$ 100.00	\$ 13,300.00	\$ 100.00	\$ 13,300.00
<i>Subtotal E. PAVEMENT RESTORATION</i>						\$ 167,020.00		\$ 164,506.00

Bird Creek Interceptor - Phase 4A
 Bid Tabulation - 6/15/2020

D Guerra Construction LLC

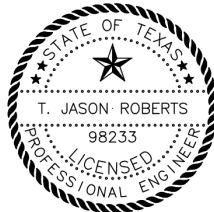
Patin Construction LLC

Item No.	Reference	Item Description	Unit	Quantity	Unit Price	Total Amount	Unit Price	Total Amount
ALTERNATE BID 1 - FIBERGLASS MANHOLES								
13-ALT	502.1.1.2	6' Diameter Standard Manhole - Fiberglass (6' depth) (includes the following manholes: MH-A2, MH-A3, MH-A4, MH-A5, MH-A6), complete and in place	EA	5	\$ 20,000.00	\$ 100,000.00	\$ 20,000.00	\$ 100,000.00
14-ALT	502.1.1.2	6' Manhole - Fiberglass - Extra Depth, complete and in place, (excluding MH's paid for by LS)	VF	37	\$ 600.00	\$ 22,200.00	\$ 500.00	\$ 18,500.00
15-ALT	502.1.1.2	Removal of MH J26-01824 and 6' Diameter Replacement with MH-A1 - Fiberglass, complete and in place (Including lateral materials and connection costs)	LS	1	\$ 20,000.00	\$ 20,000.00	\$ 25,000.00	\$ 25,000.00
16-ALT	502.1.1.2	Removal of MH J25-00979 and 6' Diameter Replacement with MH-A8 - Fiberglass, complete and in place (Including lateral materials and connection costs)	LS	1	\$ 34,200.00	\$ 34,200.00	\$ 40,000.00	\$ 40,000.00
17-ALT	502.1.1.2	6' Diameter MH-A7 - Fiberglass, complete and in place (Including lateral materials and connection costs)	LS	1	\$ 23,000.00	\$ 23,000.00	\$ 20,000.00	\$ 20,000.00
29-ALT	502.1.1.2	Removal of existing manhole and replacement with 5' Diameter Replacement - Fiberglass, complete and in place (Including slipline & lateral materials and connection costs - all depths) - MH's J26-01823, J26-00643, J26-00643.5	EA	3	\$ 20,000.00	\$ 60,000.00	\$ 20,000.00	\$ 60,000.00
<i>Subtotal ALTERNATE BID 1 - FIBERGLASS MANHOLES</i>						\$ 259,400.00		\$ 263,500.00
ALTERNATE BID 2 - PVC PIPE MATERIAL								
20-ALT	507	Pipe, 30" PVC Pipe per ASTM F679, DR 35, 0'-12' Depth, including excavation and backfill, complete and in place	LF	585	\$ 538.00	\$ 314,730.00	\$ 165.00	\$ 96,525.00
21-ALT	507	Pipe, 30" PVC Pipe per ASTM F679, DR 35, 12'-16' Depth, including excavation and backfill, complete and in place	LF	415	\$ 583.00	\$ 241,945.00	\$ 200.00	\$ 83,000.00
22-ALT	507	Pipe, 30" PVC Pipe per ASTM F679, DR 35, 16'-20' Depth, including excavation and backfill, complete and in place	LF	135	\$ 723.00	\$ 97,605.00	\$ 250.00	\$ 33,750.00
<i>Subtotal ALTERNATE BID 2 - PVC PIPE MATERIAL</i>						\$ 654,280.00		\$ 213,275.00
ALTERNATE BID 3 - CCTV OF NEW PIPE								
47	507.5.2	CCTV of New Interceptor post installation and prior to being put into service - executed in 4 segments including 4 mobilizations (excludes sliplining and rehabilitation via CIPP piping CCTV covered under separate bid items)	LS	1	\$ 6,000.00	\$ 6,000.00	\$ 20,000.00	\$ 20,000.00
<i>Subtotal ALTERNATE BID 3 - CCTV OF NEW PIPE</i>						\$ 6,000.00		\$ 20,000.00
Base Bid - concrete manholes - FRP pipe						\$ 1,734,011.00		\$ 1,461,749.00
Base Bid w/ Alt 1 (See Note 1 below) - FRP manholes - FRP pipe						\$ 1,756,486.00		\$ 1,536,749.00
Base Bid w/ Alt 2 (See Note 1 below) - concrete manholes - PVC pipe						\$ 1,736,241.00		\$ 1,305,749.00
Base Bid w/ Alt 1 & 2 (See Note 1 below) - FRP manholes - PVC pipe						\$ 1,758,716.00		\$ 1,380,749.00
Base Bid w/ Alt 1 & 3 (See Note 1 & 2 below) - FRP manholes - FRP pipe & CCTV						\$ 1,762,486.00		\$ 1,556,749.00
Base Bid w/ Alt 2 & 3 (See Note 1 & 2 below) - concrete manholes - PVC pipe & CCTV						\$ 1,742,241.00		\$ 1,325,749.00
Base Bid w/ Alt 1 & 2 & 3 (See Note 1 & 2 below) - FRP manholes - PVC pipe & CCTV						\$ 1,764,716.00		\$ 1,400,749.00

Bid Notes:

- 1) Alternate Bid 1 and Alternate Bid 2 replace items within the Base Bid. (e.g. bid item 15 is replaced with 15-ALT)
- 2) Alternate Bid 3 is an addition that may be added to the Base Bid.

' CERTIFY THAT THIS IS A TRUE RECORD OF BIDS RECEIVED OR CORRECTED



T. Jason Roberts
 T. JASON ROBERTS, PE

6/15/2020

RESOLUTION NO. 2020-0099-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH PATIN CONSTRUCTION, LLC, OF TAYLOR, TEXAS, IN THE AMOUNT OF \$1,556,749, FOR CONSTRUCTION PHASE SERVICES ASSOCIATED WITH THE BIRD CREEK INTERCEPTOR PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the existing Bird Creek Interceptor was built in the mid-1950's and provides wastewater service to many neighborhoods, restaurants and commercial developments, draining an area approximately 6,200 acres in size through the middle of Temple - over the years, the wastewater line has deteriorated, taking in additional flows during rain events and these excess flows and line conditions have led to unauthorized sanitary sewer discharges into Bird Creek;

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

Whereas, Phases 1, 2, 3, and 5 of the project have been completed - Phase 4 is the last phase and extends Wagon Trail Road north to Loop 363 at Birdcreek Terrace and will replace existing deteriorated collection interceptor lines, manholes, rehabilitate existing lines and significantly reduce current rain event inflow;

Whereas, on February 20, 2020, Council authorized the rejection of Bird Creek Interceptor Phase 4 bids as the submitted bids were approximately \$6,000,000 over budget – to facilitate more competitive bidding, Phase 4 was then divided into four phases, 4A to 4D with Phase 4B to bid first for budgeting and other considerations;

Whereas, on May 21, 2020, Council authorized an award to D. Guerra for construction of Phase 4B with the low base bid plus Add Alternate No. 1, No. 3 and No. 4 in the amount of \$10,707,002;

Whereas, on June 11, 2020, two bids for Phase 4A were opened with base bids of \$1,461,749.00 and \$1,734,011.00, with the low base bid being submitted by Patin Construction, LLC (Patin Construction) - Add Alternates No.1 and No. 2 compared pricing for centrifugally-cast fiberglass-reinforced polymer-mortar manholes and polyvinyl chloride pipe, respectively, while Add Alternate No. 3 provides additional post construction Closed Circuit Television inspection of new pipe;

Whereas, Patin Construction submitted the low Base Bid and all Base Bid plus Alternate combinations;

Whereas, Staff and the Engineer recommend Council award the Base Bid plus Add

Alternates No. 1 and No. 3 construction contract to Patin Construction, LLC of Taylor, Texas, in the amount of \$1,556,749, for construction of Phase 4A of the Bird Creek Interceptor Project;

Whereas, funding is available for this construction contract, but a budget amendment is being presented to Council for approval to appropriate funds to Account No. 561-5400-535-6925, Project No. 101933; 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's office, to execute a construction contract with Patin Construction, LLC of Taylor, Texas, in the amount of \$1,556,749, for construction of Phase 4A of the Bird Creek Interceptor Project.

Part 3: The City Council authorizes an amendment to the fiscal year 2020 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 2nd day of **July, 2020.**

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20
Item #4(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Don Bond, Public Works Director
Kenton Moffett, Assistant Public Works Director - Utilities

ITEM DESCRIPTION: Consider adopting a resolution authorizing a services agreement for the installation of a rake drive unit for Clarifier #3 at the Conventional Water Treatment Plant, from Environmental Improvements, Inc. of Houston, in the amount of \$125,681.25

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Authorization of this services agreement will provide for the replacement of the Conventional Water Treatment Plant's Clarifier #3 rake drive.

The water clarification process removes organic material from influent water. The organic material settles at the bottom of a clarifier where it becomes sludge. A large rake then draws the sludge into the center of the clarifier. The sludge is then diverted into the sludge lagoons. The rake drive is necessary to operate the clarifier and the conventional treatment plant.

The proposed replacement is part of planned rake replacements for all four clarifiers. Clarifier #3 had to be taken offline recently due to problems with the rake drive. Repairs were made and Clarifier #3 was brought back online. During the repairs it was evident that Clarifier #3 should be the first rake drive replaced.

The rake drive is a proprietary part of the clarifier system, which is Evoqua Water Technologies system. Evoqua has designated Environmental Improvements, Inc., as the sole Texas representative for their products. As such, the purchase is exempt from the competitive bidding process under Texas Local Government Code §252.022(a)(7)(D).

This purchase is in line with the City's strategic initiatives. The specific relevant initiative is: Ensure a high quality and sufficient water supply to sustain existing development and support future growth.

FISCAL IMPACT: Funding for the purchase and installation of a rake drive unit for Clarifier #3 at the Conventional Water Treatment Plant in the amount of \$125,681.25 is available in account 520-5100-535-6211, project 102052, as follows:

Project Budget	\$	126,000
Encumbered/Committed to Date		-
Clarifier #3 Rake Drive Unit		(125,681)
Remaining Project Funds Available	\$	<u>319</u>

ATTACHMENTS:
[Resolution](#)

RESOLUTION NO. 2020-0100-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A SERVICES AGREEMENT WITH ENVIRONMENTAL IMPROVEMENTS, INC. OF HOUSTON, TEXAS IN THE AMOUNT OF \$125,681.25 FOR THE INSTALLATION OF A RAKE DRIVE UNIT FOR CLARIFIER NO. 3 AT THE CONVENTIONAL WATER TREATMENT PLANT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, authorization of this services agreement will provide for the replacement of the Conventional Water Treatment Plant's Clarifier No. 3 rake drive which is necessary to operate the clarifier and the conventional treatment plant - the proposed replacement is part of planned rake replacements for all four clarifiers;

Whereas, the water clarification process removes organic material from influent water - the organic material settles at the bottom of a clarifier where it becomes sludge and a large rake then draws the sludge into the center of the clarifier and then diverts it into the sludge lagoons;

Whereas, Clarifier No. 3 had to be taken offline recently due to problems with the rake drive, repairs were made, and Clarifier No. 3 was brought back online - during the repairs it was evident that Clarifier No. 3 should be the first rake drive replaced;

Whereas, the rake drive is a proprietary part of the clarifier system, which is an Evoqua Water Technologies system - Evoqua has designated Environmental Improvements, Inc., as the sole Texas representative for their products and as such, the purchase is exempt from the competitive bidding process under Texas Local Government Code §252.022(a)(7)(D);

Whereas, funding for this agreement is available in Account No. 520-5100-535-6211, Project No. 102052; 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's office, to execute a services agreement with Environmental

Improvements, Inc. of Houston, Texas, in the amount of \$125,681.25, for the installation of a rake drive unit for Clarifier No. 3 at the Conventional Water Treatment Plant.

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

PASSED AND APPROVED this the **2nd** day of **July, 2020**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20
Item #4(C)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kevin Beavers, Director, Parks and Recreation

Mike Hemker, CPRP, Assistant Director of Parks and Recreation

ITEM DESCRIPTION: Consider adopting a resolution authorizing an interlocal agreement with the Belton Independent School District to provide after school programming at five school locations.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: We are requesting City Council approval to enter into an Interlocal Agreement with the Belton Independent School District (BISD). The agreement would allow the Parks and Recreation Department to continue to provide an after-school program, known as “The Zone” at five BISD schools that are located in the Temple city limits.

In 2009 Temple Parks and Recreation was awarded the contract to provide “Latch Key Program Management Services” (“The Zone”) at Tarver, Pirtle, and Lakewood Elementary Schools. In 2013 High Point Elementary and Charter Oak Elementary was added during the 2019-2020 school year to bring the total number of BISD schools served to five.

During the 2019-20 school year, Temple Parks and Recreation provided an after-school program for 315 children between the ages five to thirteen, Monday through Friday, from 3:00 pm to 6:00 pm.

If approved, the term of this agreement will be from July 1, 2020, through the last day of the 2020-2021 school year, at which time both parties may extend or renegotiate the agreement by mutual consent.

This agreement with BISD helps meet the City Council goal of jointly partnering with school districts to provide services and programs.

FISCAL IMPACT: Belton ISD has agreed to waive all facility usage fees during the time the program is being offered, thus allowing the program to be offered at an affordable rate for the participants.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2020-0101-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT WITH BELTON INDEPENDENT SCHOOL DISTRICT TO PROVIDE AFTER SCHOOL PROGRAMMING AT FIVE SCHOOL LOCATIONS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Temple Parks and Recreation Department provides an after-school program, known as “The Zone” at five Belton Independent School District (“BISD”) schools that are located within the Temple city limits;

Whereas, in 2009, the Temple Parks and Recreation Department was awarded the contract to provide “Latch Key Program Management Services” (The Zone) at Tarver, Pirtle, and Lakewood Elementary Schools - in 2013, High Point Elementary was added to the program and in 2019 Charter Oak Elementary was added bringing the total number of BISD schools served to five;

Whereas, during the 2019-2020 school year, the Temple Parks and Recreation Department provided an after-school program for 315 5-to-13-year olds, Monday through Friday, from 3 pm to 6 pm;

Whereas, if approved, the term of this Interlocal Agreement will run from July 1, 2020 through the last day of the 2020-2021 school year, at which time both parties may extend or renegotiate the agreement by mutual consent;

Whereas, this agreement with BISD assists in Council’s goal of jointly partnering with school districts to provide services and programs, and BISD has agreed to waive all facility usage fees during the time the program is being offered, allowing the program to be offered at an affordable rate to the participants; 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’s office, to execute an Interlocal Agreement with the Belton

Independent School District to provide school locations for after-school programming beginning July 1, 2020 through the last day of the 2020-2021 school year.

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

PASSED AND APPROVED this the **2nd** day of **July, 2020**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20
Item #4(D)
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 Kasberg, Patrick & Associates, LP, for the Blackland Road Improvements Project, in the amount of \$316,880.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The original contract to provide survey, design and bidding services to extend Blackland Road from Little River Road to State Highway 95 was authorized by City Council on November 11, 2019 in the amount of \$678,485.

As outlined in the engineer's proposal, contract amendment #1 will add survey, final design, and bidding services of Little River Road improvements from Barnhardt Road to Loop 363, a site grading plan for the TISD property located to the north of proposed Blackland Road, a Traffic Impact Analysis, and a Conditional Letter of Map Revision (CLOMR). See project map for location.

The recommended consultant services and associated costs include:

Roadway Final Design	\$ 230,830
Water Utility Design	24,600
Bidding	8,000
Site Grading Plan	13,200
Traffic Impact Analysis	17,000
CLOMR	<u>23,250</u>
Total	<u>\$ 316,880</u>

No additional design time will be necessary for this amendment.

The engineer's preliminary opinion of probable cost for construction of this addition is \$3,221,000.

FISCAL IMPACT: Funding for contract amendment #1 with Kasberg, Patrick, & Associates, LP in the amount of \$316,880 is available in project 102024 as follows:

	Road Improvements 365-3400-531-6998	Utility Improvements 561-5200-535-6998	Total
Project Budget	\$ 1,215,270	\$ 65,000	\$ 1,280,270
Encumbered/Committed to Date	(580,587)	(24,000)	(604,587)
Contract Amendment #1 - KPA	(292,280)	(24,600)	(316,880)
Remaining Project Funds	\$ 342,403	\$ 16,400	\$ 358,803

Remaining project funds will be available for right-of-way services and acquisitions.

The FY 2021 Proposed Business Plan includes funding for construction of the Canyon Creek/ Blackland Extension, which now includes improvements to Little River Road, in FY 2021.

ATTACHMENTS:

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



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

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

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

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

June 17, 2020

Mr. Jered Staton, EIT
3210 E. Avenue H
Building A
Temple, Texas 76501

Re: City of Temple
Blackland Road Extension and Utilities Improvements Contract Amendment #1

Dear Mr. Staton:

At the request of the City of Temple, we are submitting this Contract Amendment proposal for the above referenced project. This amendment will add final design of roadway, drainage, utility, pedestrian, and landscaping improvements as well as bidding, rights-of-way and easement documents for Little River Road Improvements from Barnhardt Road to Loop 363. This addition includes approximately 2,700 linear feet of roadway improvements with associated drainage, culvert crossing of Little River Road, 2,700 linear feet of 12" waterline, pedestrian facilities, traffic control and phasing. These improvements are shown on the attached Exhibit A. Our preliminary opinion of probable construction costs for this addition is \$3,221,000. This portion of the Contract Amendment includes final design, rights-of-way and easement documents, geotechnical bores for the roadway improvements and environmental, archeological and Waters of US assessments.

Also included in this Contract Amendment is off site grading from the adjacent TISD property in order to harvest material for the Blackland Road Project which is an import project and will advance the TISD site for future site grading for improvements. This will be a "win-win" scenario for both the City of Temple and TISD. The addition of a Traffic Impact Analysis (TIA) Study as required by TxDOT for improvements that will be required on State Highway 95 for connection with the proposed Blackland Road as well as landscaping and irrigation for the project are also included.

Another element inclusive of this Contract Amendment, at the request of the City, is a CLOMR for Knob Creek. A CLOMR will allow the Federal Emergency Management Agency (FEMA) to review potential changes to Flood Insurance Rate Maps (FIRM) prior to constructing improvements. Once a CLOMR is accepted and the project is constructed per approved construction plans, then the Letter of Map Revision (LOMR) process usually follows more quickly and more smoothly due to FEMA's prior review and acceptance of the CLOMR. The current scope of work for the executed contract includes the LOMR.

Once KPA is given a notice to proceed, we will prepare a CLOMR for City review in two months. After the City has reviewed and City comments are addressed, we will submit to FEMA for review.

Typically, FEMA will require 90 days for the first review. FEMA allows up to 90 days for response. Any subsequent FEMA reviews can take up to 90 days, but we have occasionally experienced shorter subsequent FEMA review times in the past. CLOMR and LOMR applications require an endangered species habitat determination and we have included this item in the proposed scope of work

The work to be performed by KPA under this contract amendment consists of modifying the current plans to add the improvements described above. KPA will keep the original timeframe for design of the roadway improvements to ensure the project is let on time, unless TxDOT requires a Two-way Left Turn Lane (TWLTL) on State Highway 95. Should TxDOT require the Two-way Left Turn Lane (TWLTL), we will develop a scope of services to include that design with the project.

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

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

In order for us to provide the services as described, the following not-to-exceed lump sum amounts will be applicable:

Blackland Road Extension and Utilities Improvements Contract Amendment #1

A. Design Surveys (Little River Road)	\$ 14,500.00
B. Final Design Roadway (Little River Road)	128,900.00
C. Final Design Drainage (Little River Road)	42,100.00
D. Final Design – Waterline (Little River Road)	24,600.00
E. Final Design Pedestrian and Landscaping (Little River Road)	11,900.00
F. Geotechnical Bores and Design for Roadway (Little River Road)	10,800.00
G. Environmental/Archeological/Waters of US (Little River Road)	12,530.00
H. Rights-of-Way / Easement Documents (Little River Road)	10,100.00
I. Bidding (Little River Road)	8,000.00
J. Blackland Road Improvements Plan Modifications	\$13,200.00
K. Traffic Impact Analysis Blackland Road Improvements	\$17,000.00
L. CLOMR Blackland Road Improvements	\$23,250.00
TOTAL	\$316,880.00

Exhibit B – Scope of Services

City of Temple
Blackland Road Extension and Utilities Improvements Contract Amendment #1
Kasberg, Patrick & Associates, LP
June 17, 2020

BASIC SERVICES

The basic services for the preparation of plans and specifications for the Project will include:

a. Design Surveys (Little River Road Improvements)

- i. Field Surveys for design purposes including horizontal and vertical control and any other field surveying services during final design.

b. Final Design (Little River Road Improvements)

- i. Prepare construction drawings and specifications showing the character and extent of the project. The construction plans will be drawn on 11-inch by 17-inch sheets (half-scale). The 11x17 prints will be used for bidding purposes and for field copies. The 11x17 prints will also be used for record drawings. This proposal includes ten (10) sets of 11x17 prints for bidding purposes.
- ii. Prepare plan and profile drawings of roadway improvements.
- iii. Prepare roadway typical sections.
- iv. Prepare roadway cross sections.
- v. Prepare driveway plan and profile with notation to roadway PGL.
- vi. Prepare plan and profile drawings of drainage improvements.
- vii. Prepare plan and profile drawings of waterline improvements.
- viii. Prepare plan sheets for pedestrian and landscaping improvements.
- ix. Prepare specifications for irrigation.
- x. Prepare signage and striping plan sheets.
- xi. Prepare traffic control and phasing sheets.
- xii. Prepare erosion control sheets.
- xiii. Coordinate all relocations for dry utilities.
- xiv. Basic documents related to construction contracts will be provided by the City. These will include contract agreement forms, general conditions and supplementary conditions, invitations to bid, instructions to bidders, insurance and bonding requirements and other contract-related documents. KPA will provide the technical specifications and bid schedule for the project documents.
- xv. Progress meetings with City Staff for status reports and plan reviews.
- xvi. Prepare a revised opinion of probable total project costs based on the final drawings and specifications.

c. Blackland Road Improvements Project Plan Modifications

- i. Offsite grading will be designed utilizing LIDAR and/or aerial data to develop a grading plan that will be beneficial to the TISD site and the Blackland Road Project by harvesting material adjacent to Blackland Road. Site grading sheets will be developed and incorporated into the plan set.
- ii. The Texas Department of Transportation (TxDOT) is requiring a Traffic Impact Analysis be performed for the traffic impact with future improvements on State Highway 95 to determine what roadway improvements will be required for traffic density. Traffic counts will be developed with this contract amendment at strategic locations. This could lead to additional design elements for State Highway 95 portion of the project.
- iii. The roadway section will incorporate eight (8) foot wide sidewalks on Blackland Road and on Little River Road (Old 95). Landscaping will be designed to enhance the pedestrian and streetscape for the project. Blackland Road will have sidewalks and Landscaping on both the north and south sides of the right-of-way. Little River Road (Old 95) will have sidewalks and landscaping on the east side of the right-of-way only.
- iv. Irrigation for all the landscaping elements will be included as well as the median for Blackland Road. This will be added to the project.

d. Bidding (Little River Road Improvements)

- i. Provide final opinion of probable construction cost, sealed by Project Engineer/Manager.
- ii. Assist in soliciting bidders.
- iii. Monitor status/number of bidders on plan holders list.
- iv. Answer potential bidders' questions.
- v. Conduct pre-bid conference.
- vi. Prepare addenda as required.
- vii. Attend bid opening.
- viii. Tabulate bids and recommend contract award.

SPECIAL SERVICES

a. Environmental/Archeological Services/Waters of US (Little River Road Improvements)

- i. KPA will perform the Phase I Environmental Investigation including a report to explain the findings and recommendations for further action, if any.
- ii. KPA will manage and oversee the Archeological Services. Archival research shall be performed in the electronic and mapping files of the Texas Historical Commission (THC) Atlas Sites database, the Texas Archeological Research Laboratory (TARL) and/or any other relevant archives for information on previous cultural resource investigations conducted and previously recorded sites and historic properties recorded in the vicinity of the project's Area of

Potential Effect (APE). The results of this research shall be presented in a final report.

- iii. The KPA Team will assess on-site water bodies, drainage ways and wetlands to determine jurisdiction from the USACE.
- iv. The KPA Team will perform investigations for endangered species.
- v. All elements for Archeological and Environmental investigations will clear the improvements of Little River Road as well as the required utility improvements.

b. Rights-of-Way and Easement Documents

- i. KPA will utilize All County Surveying to perform surveys and prepare rights-of-way and easement documents for each parcel.
- ii. Rights-of-way and easement Documents will include field note descriptions and sketches for each property.
- iii. Our services do not include obtaining right of entry and acquisition of easements from impacted property owners, therefore, the cost for these services are not included in our proposal.

c. CLOMR (Blackland Road Improvements)

- 1. KPA will coordinate and make payment for the CLOR fee in the amount of \$6,750.
- 2. KPA will perform an Endangered Species Habitat Determination.
- 3. KPA will prepare and coordinate the CLOMR with FEMA.

d. Geotechnical Investigation

- i. KPA will utilize Terracon to perform the investigation to include two bores at ten (10) feet deep and the remaining five (5) feet deep every 500 feet along the proposed roadway improvements with an associated design for the paving section.

The revisions to the Blackland Road Extension and Utilities Improvements Project can be completed for the lump sum price of \$316,880. We are pleased to submit this Contract Amendment proposal and look forward to the benefit it will bring the City of Temple.

Sincerely,



R. David Patrick, P.E., CFM

xc: File

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: Blackland Road Extension
OWNER: City of Temple
ARCHITECT/ENGINEER: Kasberg, Patrick & Associates, LP
AMENDMENT #: 1

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

Add professional services for final design and bidding of Little River Rd from Barnhardt Rd to Loop 363:

Design Surveys	\$ 14,500
Final Design Roadway/Drainage	\$ 171,000
Final Design Waterline	\$ 24,600
Pedestrian and Landscaping	\$ 11,900
Geotechnical Bores/Design	\$ 10,800
Env/Arch/WOUS	\$ 12,530
ROW/Easement Docs	\$ 10,100
Blackland Road Modifications	\$ 13,200
TIA Blackland Road Imp.	\$ 17,000
CLOMR Blackland Road	\$ 23,250
Bidding	\$ 8,000
TOTAL	\$ 316,880

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

Original Contract Amount:	\$ <u>678,485.00</u>
Previous Net Change in Contract Amount:	\$ <u>-0-</u>
Amount This Amendment:	\$ <u>316,880.00</u>
Revised Contract Amount:	\$ <u>995,365.00</u>
Original Contract Completion Date:	<u>August, 4, 2020</u>
Revised Contract Completion Date:	<u>N/A*</u>

Recommended by:

Agreed to:

Project Manager Date

Architect or Engineer Date

Approved by City of Temple:

Approved as to form:

Brynn Myers, City Manager Date

City Attorney's Office Date

Approved by Finance Department:

Finance Date

*Contract completion date is dependent upon receiving all Rights of Entry. This date will be revised once all Rights of Entries have been received.



0 250 500

HORIZONTAL SCALE IN FEET

LITTLE RIVER RD

EXPANDED SIDEWALK, LANDSCAPE AND IRRIGATION

LITTLE RIVER ROAD IMPROVEMENTS

SYCAMORE ST

CYPRESS ST

EXPANDED SIDEWALK, LANDSCAPE AND IRRIGATION

CLOMR

SITE GRADING FOR ONSITE USE
AT THE BLACKLAND ROAD PROJECT

BARNHARDT RD

FUTURE DRAINAGE CHANNEL

BLACKLAND RD

LOOP 363

SH 95

TRAFFIC IMPACT ANALYSIS FOR SH 95



LITTLE RIVER ROAD
IMPROVEMENTS
EXHIBIT A

KPA KASBERG, PATRICK & ASSOCIATES, L.P.
CONSULTING ENGINEERS
TEMPLE, TEXAS 76691
Firm Registration No. F-510

RESOLUTION NO. 2020-0102-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING CONTRACT AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK AND ASSOCIATES, LP OF TEMPLE, TEXAS IN THE AMOUNT OF \$316,880, FOR THE BLACKLAND ROAD IMPROVEMENTS PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the original contract to provide survey, design and bidding services to extend Blackland Road from Little River Road to State Highway 95 was authorized by City Council on November 7, 2019 in the amount of \$678,485;

Whereas, Contract Amendment No. 1 will add survey, final design, and bidding services of Little River Road improvements from Barnhardt Road to Loop 363, a site grading plan for the Temple Independent School District property located to the north of proposed Blackland Road, a Traffic Impact Analysis, and a Conditional Letter of Map Revision;

Whereas, the recommended consultant services and associated costs include:

Roadway Final Design	\$ 230,830.00
Water Utility Design	\$ 24,600.00
Bidding	\$ 8,000.00
Site Grading Plan	\$ 13,200.00
Traffic Impact Analysis	\$ 17,000.00
CLOMR	\$ <u>23,250.00</u>

Total	<u>\$ 316,880.00</u>
--------------	-----------------------------

Whereas, Staff recommends Council authorize Contract Amendment No. 1 to the professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas in the amount of \$316,880, for the Blackland Road Improvement Project;

Whereas, funding for Contract Amendment No. 1 is available in Account No. 365-3400-531-6998 and Account No. 561-5200-535-6998, Project No. 102024;

Whereas, the fiscal year 2021 proposed business plan includes funding for construction of the Canton Creek/Blackland Road Extension which now includes improvements to Little River Road; 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's office, to execute Contract Amendment No. 1 to the professional services agreement with Kasberg, Patrick and Associates, LP of Temple, Texas, in the amount of \$316,880, for the Blackland Road Improvement Project.

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

PASSED AND APPROVED this the 2nd day of **July, 2020.**

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20
Item #4(E)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing contract amendment #2 with Kasberg, Patrick, & Associates, LP, for additional professional services required to complete final design of Task 3 at the City of Temple Water Treatment Plant, in the amount of \$148,390.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

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

On December 17, 2015, Council authorized an agreement with KPA for preliminary engineering for Task 3 - CWTP Solids Handling and Lagoon Improvements (Task 3). On February 2, 2017, Council authorized an agreement with KPA for final design and bidding services for Task 3 in the amount of \$268,560. On May 3, 2018 contract amendment (CA) #1 was executed in the amount of \$10,037.10 for sludge sampling and geotechnical engineering services.

This contract amendment includes design revisions that include adding a belt filter press to reduce the amount of sludge disposal and removing two of the four proposed sedimentation basins. Please see the attached engineer's proposal and project map for more information. Staff recommends authorizing the following scope of services and costs under this contract:

Professional Services

Design Surveys	\$ 2,000
Geotechnical Engineering	2,500
Final Design (Civil, Structural, Electrical & Mechanical)	<u>143,890</u>

Subtotal **\$ 148,390**

Time required to complete the revised plans and specifications is 210 calendar days from notice to proceed. The engineer's opinion of probable construction cost is \$3,500,000.

FISCAL IMPACT: Funding for additional professional services required to complete final design of Task 3 at the City of Temple Water Treatment Plant (WTP) in the amount of \$148,390 is available in account 561-5100-535-6954, project 101641 as follows:

Project Budget	\$	426,987
Encumbered/Committed to Date		(278,597)
Contract Amendment #2 - KPA		(148,390)
Remaining Project Funds Available	\$	-

ATTACHMENTS:

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



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

Temple
19 North Main Street
Temple, Texas 76501
(254) 773-3731

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

Georgetown
800 South Austin Avenue
Georgetown, Texas 78626
(512) 819-9478

June 4, 2020

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

Re: City of Temple, Texas
Temple WTP Task 3B
CWTP Solids Handling and Lagoon Improvements
Contract Amendment No. 2

Dear Mr. Billeck:

Please accept this letter as our written proposal for Contract Amendment No. 2 of the Temple WTP Task 3B project. This proposal is in response to your request for additional professional services related to the addition of a Belt Filter Press at the Conventional Water Treatment Plant.

The original Task 3B project consisted of four (4) sedimentation basins and associated piping and pump modifications along with gravity sewer improvements from the Membrane WTP to the Leon River Interceptor. The existing project design is approximately 60% complete. The revised scope removes two (2) of the sedimentation basins, limits the gravity sewer improvements to the area around the proposed basins and adds the belt filter press along with its associated improvements. The revised Opinion of Probable Construction Cost is \$3,500,000, which includes approximately \$1,300,000 for the Belt Press additions.

The charges for services to incorporate the design of the Belt Filter Press improvements will be a lump sum amount of \$148,390. as detailed below.

Professional Services for addition of Belt Filter Press (CA2)

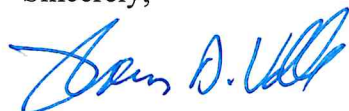
Design Surveys	\$ 2,000
Geotechnical	\$ 2,500
Final Design (Civil, Structural, Electrical & Mechanical)	\$ 143,890
Total	\$ 148,390

The Lump Sum Amount for the project will not be exceeded unless the scope of the project is changed and additional work is authorized in writing. We will invoice this work for percent complete on a monthly basis.

Mr. James Billeck, P.E.
June 4, 2020
Page Two

We anticipate our efforts can be completed within 210 calendar days from receipt of a notice to proceed. We are available to address any questions or comments that you may have about this proposal. As always, we look forward to working with you on this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas D. Valle". The signature is stylized with a large initial "T" and a cursive "D. Valle".

Thomas D. Valle, P.E.

TDV/

xc: 2017-116-23

City of Temple, Texas

Temple Water Treatment Plant

Task 3B -- CWTP Sedimentation Basins

PRELIMINARY OPINION of PROBABLE PROJECT COST

May 2020

Item No.	Description	Estimated Quantity	Unit Price	Extension Total
1	Mobilization, Bonds and Insurance	100% LS	\$ 135,000.00	\$ 135,000.00
2	Piping Modifications & Connections	100% LS	30,000.00	30,000.00
3	Sedimentation Basins No. 1 & 2	100% LS	972,300.00	972,300.00
	Concrete (Slab)	480 CY	600.00	288,000.00
	Concrete (Walls)	325 CY	750.00	243,750.00
	Concrete (Effluent Trough)	25 CY	1,000.00	25,000.00
	30" Ductile Iron Pipe & Fittings	275 LF	200.00	55,000.00
	12" Ductile Iron Pipe & Fittings	130 LF	85.00	11,050.00
	5' Diameter Manhole	3 EA	6,500.00	19,500.00
	30" Actuated Butterfly Valves	2 EA	50,000.00	100,000.00
	Sludge Removal System	2 EA	75,000.00	150,000.00
	Sludge Transfer Line	400 LF	75.00	30,000.00
	Installation of Mechanical Equipment	100% LS	50,000.00	50,000.00
4	Recycle Pump Station Modifications	100% LS	80,000.00	80,000.00
5	Misc. (Handrail, Grating, Stairs, Sidewalk, Surf Rest)	100% LS	75,000.00	75,000.00
6	Electrical	100% LS	100,000.00	100,000.00
7	12" Recycle Line Relocation to RWIS	100% LS	109,000.00	109,000.00
	12" PVC Recycle Line	1,200 LF	70.00	84,000.00
	Connect to Raw Water Line	100% LS	20,000.00	20,000.00
	12" Gate Valve	2 EA	2,500.00	5,000.00
8	Gravity Sewer (WTP Septic to Main Line)	100% LS	87,600.00	87,600.00
9	Belt Press Improvements	100% LS	1,000,000.00	1,000,000.00

Subtotal Construcion \$ 2,588,900.00

Contingency (30%) \$ 776,670.00

Total 30% Opinion of Probable Cost \$ 3,365,570.00

USE \$ 3,400,000.00



City of Temple, Texas
Temple Water Treatment Plant
Task 3B -- Belt Press Improvements
PRELIMINARY OPINION of PROBABLE PROJECT COST
May 2020

Item No.	Description	Estimated Quantity	Unit Price	Extension Total
1	Mobilization, Bonds and Insurance	100% LS	\$ -	\$ -
2	Site Work	100% LS	5,000.00	5,000.00
3	Building (25' x 40')	1,000 SF	60.00	60,000.00
4	Concrete Slab	75 CY	550.00	41,250.00
5	2.0 Meter Belt Press	100% LS	400,000.00	400,000.00
6	Polymer System, Sludge Pump , Conveyor, etc	100% LS	200,000.00	200,000.00
7	Grating, Sumps, Etc	100% LS	25,000.00	25,000.00
8	Interconnect Piping	100% LS	30,000.00	30,000.00
9	Electrical	100% LS	50,000.00	50,000.00
10	Equipment Installation	100% LS	180,000.00	180,000.00

Subtotal Construcion	\$ 991,250.00
Contingency (30%)	\$ 297,375.00
Total 30% Opinion of Probable Cost	\$ 1,288,625.00

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: Water Treatment Plant Task 3B – Conventional WTP Solids Handling and Lagoon Infrastructure Improvements – Final Design

OWNER: City of Temple

ARCHITECT/ENGINEER: Kasberg, Patrick & Associates, LP

AMENDMENT #: 2

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

Professional services required the inclusion of a Belt Filter Press to the project, including design surveys, geotechnical, structural, electrical and civil/mechanical final design services.

Additional Professional Services (Belt Filter Press / Building)	<u>\$ 148,390.00</u>
TOTAL	\$ 148,390.00

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

Original Contract Amount:	<u>\$ 268,560.00</u>
Previous Net Change in Contract Amount:	<u>\$ 10,037.10</u>
Amount This Amendment:	<u>\$ 148,390.00</u>
Revised Contract Amount:	<u>\$ 426,987.10</u>
Original Contract Completion Date:	<u>November 23, 2017</u>
Revised Contract Completion Date:	<u>February 15, 2021</u>

Recommended by:

Project Manager

Date

Agreed to:



Architect or Engineer

6-22-20

Date

Approved by City of Temple:

Brynn Myers, City Manager

Date

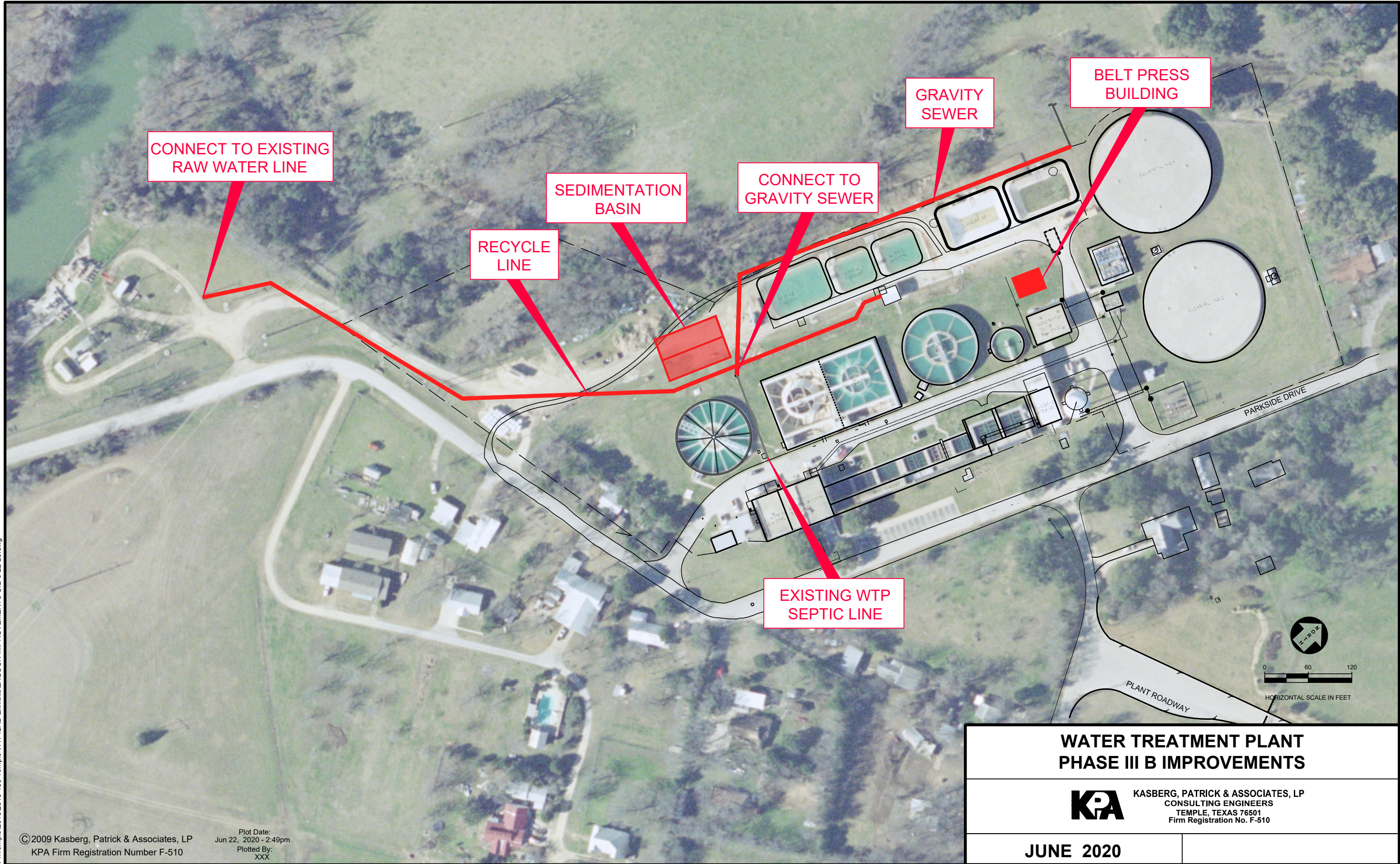
Approved as to form:

City Attorney's Office

Date

Approved by Finance Department:

Date



P:\Temple\2015\2015-153 Temple WTP\CAD Exhibits\LAGOON IMPROVEMENTS CIB 6-22-20.dwg

RESOLUTION NO. 2020-0103-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING CONTRACT AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK AND ASSOCIATES, LP, OF TEMPLE, TEXAS IN THE AMOUNT OF \$148,390 FOR ADDITIONAL SERVICES REQUIRED TO COMPLETE THE FINAL DESIGN OF TASK 3 FOR THE CITY OF TEMPLE WATER TREATMENT PLANT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

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

Whereas, on December 17, 2015, Council authorized an agreement with Kasberg, Patrick & Associates, LP (KPA) for preliminary engineering for Task 3 - CWTP Solids Handling and Lagoon Improvements (Task 3) - on February 2, 2017, Council authorized an agreement with KPA for final design and bidding services for Task 3;

Whereas, on May 3, 2018 Contract Amendment No. 1 was executed in the amount of \$10,037.10 for sludge sampling and geotechnical engineering services - this contract amendment (Contract Amendment No. 2) includes design revisions that include adding a belt filter press to reduce the amount of sludge disposal and removing two of the four proposed sedimentation basins;

Whereas, the scope of services and costs under this contract are as follows:

Professional Services

Design Surveys	\$ 2,000
Geotechnical Engineering	\$ 2,500
Final Design (Civil, Structural, Electrical & Mechanical)	<u>\$ 143,890</u>

Subtotal \$ 148,390

Whereas, Staff recommends Council authorize Contract Amendment No. 2 to the professional services agreement with Kasberg, Patrick and Associates, LP, of Temple, Texas in the amount of \$148,390, for additional services required to complete the final design of Task 3 of the City of Temple Water Treatment Plant;

Whereas, funding for Contract Amendment No. 2 is available in Account No. 561-5100-535-

6954, Project No. 101641; 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's office, to execute Contract Amendment No. 2 to the professional services agreement with Kasberg, Patrick and Associates, LP, of Temple, Texas in the amount of \$148,390, for additional services required to complete the final design of Task 3 of the City of Temple Water Treatment Plant.

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

PASSED AND APPROVED this the 2nd day of **July, 2020.**

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20
Item #4(F)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing contract amendment #20 to the professional services agreement with Jacobs Engineering Group, Inc., for construction phase services associated with the Bird Creek Interceptor Project, in the amount of \$185,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The existing Bird Creek Interceptor built in the mid-1950's provides wastewater service to many neighborhoods, restaurants and commercial developments, draining an area approximately 6,200 acres in size through the middle of Temple. Over the years, the wastewater line has deteriorated, taking in additional flows during rain events. These excess flows and line condition have led to unauthorized sanitary sewer discharges into Bird Creek.

In 2007, Council authorized a professional services agreement with Carter Burgess, Inc., now Jacobs Engineering Group, Inc. (Jacobs), for engineering services related to the Bird Creek Interceptor Project. This project, phased and implemented over several years, is targeted toward reducing overflows and rehabilitating infrastructure, ultimately providing for increased capacity within the wastewater collection system. Total authorized professional fees for Jacobs related to this project are currently \$4,291,153.40.

Phase 1, 2, 3 and 5 of this project have been completed. Phase 4 is the last phase and extends Wagon Trail Road north to Loop 363 at Bird Creek Terrace. Phase 4 will replace existing deteriorated collection interceptor lines, manholes, rehabilitate existing lines and significantly reduce current rain event inflow.

On February 20, 2020, Council authorized the rejection of Bird Creek Interceptor Phase 4 bids. On April 3, 2020, the City authorized CA #18 to repackage the bid documents of phase 4 in the amount not to exceed \$17,626. Phase 4 was subsequently divided into four parts, 4A to 4D, to facilitate more competitive bidding (See project map). Phase 4B, from Wagon Trail to Bird Creek Drive, isolates all tunneling construction and was bid first for budgeting and other considerations. On May 21, 2020, Council authorized CA #19 for construction phase services for phase 4B, in the amount not to exceed \$1,191,000.

Staff is prepared to proceed with construction on the Phase 4A (separate item on this agenda). Per the attached engineer's proposal, the following recommended professional services and associated costs are as follows:

Construction Phase Services

Bid Services	\$ 14,573
Project Management	16,296
Review Shop Drawings & Submittals	8,220
Information Requests	9,900
Construction Meetings/Site Visits	12,629
Site Visits	3,506
As-Built Preparation & Warranty Period Site Visit	14,866
Construction Observation	<u>105,010</u>

Total Professional Services \$ 185,000

The proposed timeline for construction is 365 calendar days from the Notice to Proceed.

FISCAL IMPACT: A budget adjustment is being presented to Council for approval to appropriate additional funding with the Bird Creek Interceptor Project construction contract agenda item. That budget adjustment includes funding for the construction phase services contract amendment with Jacobs Engineering Group, Inc. After approval of the budget adjustment, funding in the amount of \$185,000 is available in account 561-5400-535-6925, project 101933 as follows:

	Project Budget	\$ 12,181,492
Budget Adjustment {presented with construction agenda item}		1,778,325
	Encumbered/Committed to Date	(12,160,700)
Construction Award - Patin Construction, LLC		(1,556,749)
Jacobs Engineering Group, Inc - CA #20		(185,000)
Remaining Project Funds Available	\$	<u>57,368</u>

ATTACHMENTS:

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



2705 Bee Cave Road, Suite 300
Austin, Texas 78746-5688
United States
T +1.512.314.3100
F +1.512.314.3135
www.jacobs.com

June 19, 2020

Attention: Mr. Ed Kolacki
City of Temple Department of Public Works
3210 E. Avenue H
Building A, Suite 107
Temple, Texas 76501

Subject: Phase 4A Construction Phase Services

Dear Mr. Kolacki,

Jacobs Engineering Group Inc. (Jacobs) is pleased to submit this scope and fee proposal to provide additional engineering services related to the City of Temple's Bird Creek Interceptor Improvements project.

Engineering services include Bid Phase Services and Construction Administration by Jacobs Engineering staff and Construction Observation by MRB staff for the estimated twelve month construction duration.

We propose to complete the attached scope of work for a lump sum amount of \$185,000.

Thank you very much for allowing us to submit this proposal to you and please feel free to contact me should you have any questions or require additional information.

Yours sincerely

A handwritten signature in blue ink that reads "Jason Roberts".

Jason Roberts, PE
Water Infrastructure Group Leader
512.850.1910
jason.roberts@jacobs.com

ATTACHMENT A – SCOPE OF WORK

Amendment No. 20 Bird Creek Interceptor Improvements Construction Contract 4A – Bidding & Construction Phase Services Prepared By Jacobs Engineering Group Inc.

Project Description

The Bird Creek Interceptor is one of the primary wastewater collection lines through the City of Temple, traversing pastureland, park areas, neighborhoods, and golf courses. This interceptor, comprised of vitrified clay pipe and brick manholes, over the years has experienced numerous overflows due to excessive infiltration and inflow (I&I), lack of capacity and poor condition. The interceptor is approximately 5.3 miles long and about 50-years old.

Bids for Contract 4 were opened on January 21, 2020. The bids were significantly higher than the City's budget, therefore all bids were rejected and the project has been separated into a total of four (4) bid packages. Contract 4A contains the southernmost construction of Phase 4 for the Bird Creek project and includes open-cut, cured-in-place-pipe (CIPP), and slipline construction methods. It is anticipated that this construction project will be a 12-month project execution.

Additional tasks included in this Amendment No. 20 are summarized below in Sections A and B:

A. BID AND AWARD SERVICES (Construction Contract 4A) – 90 Day Duration

After acceptance by City of the Bidding Documents and the most recent opinion of probable construction cost as determined in the Final Design Phase, provide bid phase services as follows:

1. Attend a virtual pre-Bid Conference.
2. Answer questions during the bidding process.
3. Evaluate bids, prepare bid tabulation, and make a Recommendation of Award. Jacobs assumes the City staff will receive the bids and forward the bid tab to Jacobs for evaluation. Jacobs will attend a virtual bid opening.
4. Attend the City Council meeting for the award of the construction contract.

B. CONSTRUCTION PHASE SERVICES (Construction Contract 4A) – 12 Month Duration

1. Project Management. Manage scope, schedule and budget of construction management phase and coordinate with City and sub consultants.
2. Review Shop Drawings and Submittals – maintain a submittal log. Submittals will be reviewed and returned within 14 calendar days. Up to forty (40) submittals are included in the scope of services.
3. Requests for Information – answer RFI's and maintain an RFI log. Up to six (6) RFI's are included in the scope of services.
4. Construction Meetings – Conduct pre-construction and monthly construction meetings (10 maximum). Assume three (3) meetings are conducted in-person in the field and seven (7) meetings are held remotely via teleconference. Prepare field change orders, meeting minutes and issue field inspection reports weekly during construction. Process pay applications and issue pay recommendations to the City monthly.
5. Periodic Site visits – Conduct additional site visits to review and to evaluate construction progress and/or evaluate RFI resolution requirements in the field. Up to two (2) additional site visits included in scope.
6. Plan as-built preparation.
7. Warranty Period Site Visit – walk the alignment with the owner and recommendation of final acceptance letter.
8. Construction Observation - provide on-site field representation assuming twelve (12) months construction time with average observation of twenty (20) hours per week with an average of one (1) observer per week– by MRB Group, assuming multiple observers working at various work areas. Prepare progress and inspection reports, identify and rectify noncompliant work, prepare punch list of deficient items and conduct final walkthrough.
 - i. If Professional is called upon to observe the work of construction contractor(s) for the detection of defects or deficiencies in such work, Professional will not bear any responsibility or liability for such defects or deficiencies or for the failure to so detect. Professional shall have no influence over the construction means, methods, techniques, sequences or procedures. Construction safety shall remain the sole responsibility of the construction contractor(s).
 - ii. Professional shall not make inspections or reviews of the safety programs or procedures of the construction contractor(s), and shall not review their work for the purpose of ensuring their compliance with safety standards. Professional shall not assume any responsibility or liability for performance of the construction services, or for the safety of persons and property during construction, or for compliance with federal, state and local statutes, rules, regulations and codes applicable to the conduct of the construction services.
 - iii. If Professional is called upon to review submittals from construction contractors, Professional shall review and approve or take other appropriate action upon

construction contractor(s)' submittals such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the contract documents. The Professionals' action shall be taken with such reasonable promptness as to cause no delay in the work while allowing sufficient time in the Professionals' professional judgment to permit adequate review. Review of such submittals will not be conducted for the purpose of determining the accuracy and completeness of other details.

C. ASSUMPTION

1. Each task will be performed one time. Jacobs staff will monitor both Jacobs and MRB effort on a monthly basis to ensure the level of effort reflects the assumptions included in this scope of work. At periodic intervals throughout the project, if the project requires a higher level of effort than that included in this scope of work, the Jacobs project manager will discuss the clients desired level of effort to complete the project. A level of effort greater than that shown in the attached fee spreadsheet may result in additional services.



ATTACHMENT B - FEE SCHEDULE

Bird Creek Interceptor Improvements
Amendment No. 20 - Constrution Contract 4A Bidding & Construction Phase Services

Scope Item	Description	Project Principal	Project Manager	Senior Tunnel Engineer	Project Engineer	Tunnel Engineer	EIT	CADD Designer	Clerical	Total Jacobs	MRB Group	Total Sub Consultant	Expenses	Sub Consultant Markup	Total Services
Construction Phase Services (Construction Contract 4A)															
A. Bid and Contract Award															
1	Attend virtual pre-bid conference (no travel)		6		8					\$ 2,780.00		\$ -	\$ -	\$ -	\$ 2,780.00
2	Answer questions during bidding		4		20		12			\$ 5,292.00		\$ -	\$ -	\$ -	\$ 5,292.00
3	Prepare bid tab and Recommendation of award	2	2		8		16		4	\$ 4,086.00		\$ -	\$ -	\$ -	\$ 4,086.00
4	Attend City Council meeting to award contract		4		8					\$ 2,280.00		\$ -	\$ 135.00	\$ -	\$ 2,415.00
Subtotal		2	16		44		28		4	\$ 14,438.00	\$ -	\$ -	\$ 135.00	\$ -	\$ 14,573.00
B. Construction Phase Services (12 Month duration)															
1	Project Management	12	48						12	\$ 16,296.00		\$ -	\$ -	\$ -	\$ 16,296.00
2	Review Shop Drawings and Submittals (up to 40 max.)				40		20			\$ 8,220.00		\$ -	\$ -	\$ -	\$ 8,220.00
3	Requests for Information (up to 6 max.)		6		24		24	24		\$ 9,900.00		\$ -	\$ -	\$ -	\$ 9,900.00
4	Construction Meetings (10 Monthly Meetings, 3 in-person, 7 remote)		10		32		42		10	\$ 12,112.00		\$ -	\$ 517.00	\$ -	\$ 12,629.00
5	Site Visits (2 max.)		2		8		16			\$ 3,236.00		\$ -	\$ 270.00	\$ -	\$ 3,506.00
6	As-Built Preparation		12		20			40		\$ 10,160.00		\$ -	\$ -	\$ -	\$ 10,160.00
7	Warranty Period Site Visit		2		16		16			\$ 4,516.00		\$ -	\$ 190.00	\$ -	\$ 4,706.00
8	Construction Observation (12 Months)		12		28					\$ 7,480.00	\$ 92,885.00	\$ 92,885.00	\$ -	\$ 4,645.00	\$ 105,010.00
Subtotal		12	92		168		118	64	22	\$ 71,920.00	\$ 92,885.00	\$ 92,885.00	\$ 977.00	\$ 4,645.00	\$ 170,427.00
Total - Lump Sum		14	108		212		146	64	26	\$ 86,358.00	\$ 92,885.00	\$ 92,885.00	\$ 1,112.00	\$ 4,645.00	\$ 185,000.00

June 19, 2020

Mr. Jason Roberts, P.E., Manager
Water Infrastructure
Jacobs
2705 Bee Cave Road, # 300
Austin, TX 78746

**RE: REVISED PROPOSAL FOR PROFESSIONAL SERVICES
CONSTRUCTION OBSERVATION
CITY OF TEMPLE, BIRD CREEK WW INTERCEPTOR, CONTRACT 4A**

Dear Mr. Roberts:

This letter proposal describes our proposed scope of work and fee for providing construction observation services for the above referenced project.

I. Background

The City of Temple has retained Jacobs to perform design and construction phase engineering services for the above referenced project. Jacobs has requested that MRB Group, P.C. (MRB) provide full time construction observation services. Mr. Scott Donley of MRB will be assigned as the Construction Observers to provide these services.

Mr. Donley served as a construction observer on previous phases of construction of this interceptor. Mr. Donley will report directly to your staff and will coordinate as directed by Jacobs with the City, similar to the previous construction phase.

II. Scope of Services and Compensation

MRB will provide the following scope of services on a time and material basis, not to exceed the fee indicated:

A. Construction Observation:

1. Construction Phase: We have assumed that one (1) construction observer will be present on-site for approximately 20 hours per week (on average), over a twelve (12) month construction duration for a total of approximately 1,040 hours (52 weeks x 20 hours/week per observer x 1.00 observers). The construction observer will modify his on-site work

schedule to the extent possible to be present during critical aspects of the work and, to effectively coordinate with the City, Jacobs staff, and the construction contractor.

2. Work conducted by the construction observer will include the following:
 - Coordinate and communicate with City Staff, the Engineer, and the Contractor
 - Review and validate monthly schedules and pay requests submitted by Contractor;
 - Review construction workspace and procedures proposed by the contractor for compliance with project requirements;
 - Monitor contractor compliance with traffic control requirements, and other contract requirements including pipe material, pipe bedding, and pressure testing;
 - Monitor contractor compliance with SWPPP requirements, as applicable;
 - Monitor contractor compliance with vegetation/tree protection and restoration in accordance with contract requirements;
 - Coordinate and monitor material testing;
 - Prepare daily field reports as needed to document the character and progress of the work;
 - Develop punch lists for contract completion;
 - Assist in the preparation of the Certificate of Substantial Completion;
 - Assist in the preparation of Closeout Documents; and,
 - Assist in maintaining redlined Record Drawings for the project as changes occur in the field.

Current billing rates for this project are as follows:

Construction Observer..... \$85 per hour

Mileage will be billed at \$0.575 per mile (or current IRS rate).

Subtotal of A, Items 1-2\$92,885.00

Total Compensation\$92,885.00

The cost figures shown above represent our hourly not to exceed amount. Any additional work beyond this fee and outside the scope of this proposal would be reviewed with the Client. MRB Group shall submit monthly statements for services rendered during each invoicing period based on the efforts performed during that period. MRB Group standard rates are subject to annual adjustment.

III. Project Schedule

MRB is available to start work immediately upon your authorization to proceed.

IV. Additional Services

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

- A. Attendance at any Council, Committee, other public meetings or other project meetings not specifically defined in the scope of work.
- B. Additional time on-site required beyond the estimated hours. Note that we are required to pay our Observer time and a half for hours in excess of 40 hours per week. We have not assumed any work in excess of 40 hours per week in our cost proposal.

V. Assumptions

- A. MRB will not work any overtime (Nights or Weekends) hours without prior approval from the City. If requested, MRB would be compensated at a Time and a Half Rate.
- B. MRB will not attend any Public Meetings. Interaction with affected Property Owners during construction activities will be limited to representing the City and clearly communicating a Property Owner concerns for resolution by Jacobs and the City PM.
- C. When Contractor is granted additional contract time, MRB will be granted the same extension of time for construction observation services.

VI. Commencement of Work

Upon receipt of the signed contract, MRB will begin work on the project.

VII. Contract

This proposal will serve as an attachment to the Engineer – Sub-consultant Agreement between Jacobs and MRB.

If this proposal is acceptable to you, please include as an attachment to an Engineer – Sub-consultant Agreement and forward that Agreement to our office.

Thanks for the opportunity to work on this project with Jacobs, and we look forward to working with you.

Sincerely,


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


Gil Gregory
Project Manager

CONTRACT AMENDMENT (Professional Service Agreements)

PROJECT: Bird Creek Interceptor Improvements, Contract 4A

OWNER: City of Temple

ARCHITECT/ENGINEER: Jacobs Engineering Group, Inc.

AMENDMENT #: Twenty (20)

Make the following additions to the work described in the Contract Documents:

Design Services

Bid Phase Services	\$14,573.00
Project Management	\$16,296.00
Review Shop Drawings and Submittals	\$8,220.00
Requests for Information	\$9,900.00
Construction Meetings	\$12,629.00
Site Visits	\$3,506.00
As-Built Preparation & Warranty Period Site Visit	\$14,866.00
Construction Observation	<u>\$105,010.00</u>

Total Professional Services	<u>\$185,000.00</u>
------------------------------------	----------------------------

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

Original Contract Amount:	\$ <u>342,234.00</u>
Previous Change in Contract Amount:	\$ <u>3,948,919.40</u>
Amount This Amendment:	\$ <u>185,000.00</u>
Revised Contract Amount:	\$ <u>4,476,153.40</u>
Original Contract Completion Date:	<u>12/31/2007</u>
Revised Contract Completion Date:	<u>12/01/2024</u>

Recommended by:

Agreed to:

Project Manager Date

Project Engineer Date

Approved by City of Temple:

Approved as to form:

Interim City Manager Date

City Attorney's Office Date

Approved by Finance Department:

Date

RESOLUTION NO. 2020-0104-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING CONTRACT AMENDMENT NO. 20 TO THE PROFESSIONAL
SERVICES AGREEMENT WITH JACOBS ENGINEERING GROUP, INC. OF
WACO, TEXAS, IN THE AMOUNT OF \$185,000, FOR CONSTRUCTION PHASE
SERVICES ASSOCIATED WITH THE BIRD CREEK INTERCEPTOR PROJECT;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the existing Bird Creek Interceptor was built in the mid-1950's and provides wastewater service to many neighborhoods, restaurants and commercial developments, draining an area approximately 6,200 acres in size through the middle of Temple - over the years, the wastewater line has deteriorated, taking in additional flows during rain events and these excess flows and line conditions have led to unauthorized sanitary sewer discharges into Bird Creek;

Whereas, in 2007, Council authorized a professional services agreement with Carter Burgess, Inc., now Jacobs Engineering Group, Inc. ("Jacobs"), for engineering services related to the Bird Creek Interceptor Project - this project, phased and implemented over several years, is targeted toward reducing overflows and rehabilitating infrastructure, ultimately providing for increased capacity within the wastewater collection system;

Whereas, Phases 1, 2, 3, and 5 of the project have been completed - Phase 4 is the last phase and extends Wagon Trail Road north to Loop 363 at Birdcreek Terrace and will replace existing deteriorated collection interceptor lines, manholes, rehabilitate existing lines and significantly reduce current rain event inflow;

Whereas, on February 20, 2020, Council authorized the rejection of Bird Creek Interceptor Phase 4 bids - on April 3, 2020, the City authorized Contract Amendment No. 18 in an amount not to exceed \$17,626 to repackage the bid documents of phase 4, subsequently dividing Phase 4 into four parts, 4A to 4D, to facilitate more competitive bidding;

Whereas, Phase 4B, from Wagon Trail to Bird Creek Drive, isolates all tunneling construction and was selected by Staff to bid first for budgeting and other considerations - on May 21, 2020, Council authorized Contract Amendment No. 19 for construction phase services for phase 4B in the amount not to exceed \$1,191,000;

Whereas, Staff is prepared to proceed with construction on the Phase 4A (separate item on this Agenda) - the following recommended professional services and associated costs are as follows:

Construction Phase Services

Bid Services	\$ 14,573.00
Project Management	\$ 16,296.00
Review Shop Drawings & Submittals	\$ 8,220.00
Information Requests	\$ 9,900.00

Construction Meetings/Site Visits	\$ 12,629.00
Site Visits	\$ 3,506.00
As-Built Preparation& Warranty Period Site Visit	\$ 14,866.00
Construction Observation	\$ <u>105,010.00</u>

Total Professional Services \$ 185,000.00

Whereas, Staff recommends Council authorize an amendment to the professional services agreement with Jacobs Engineering Group, Inc. of Waco, Texas, in the amount of \$185,000, for construction phase services as outlined above associated with Phase 4 of the Bird Creek Interceptor Project;

Whereas, funding is available for Change Order No. 20, but a budget amendment is being presented to Council for approval to appropriate funds to Account No. 561-5400-535-6925, Project No. 101933; 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's office, to execute an amendment to the professional services agreement with Jacobs Engineering Group, Inc. of Waco, Texas, in the amount of \$185,000, for construction phase services associated with the Bird Creek Interceptor Project.

Part 3: The City Council authorizes an amendment to the fiscal year 2020 budget, substantially in the form of the copy attached hereto as Exhibit 'A.'

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

PASSED AND APPROVED this the **2nd** day of **July, 2020**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Kathryn Davis, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution accepting the donation of a 0.1279-acre right-of-way and a 0.1191-acre public utility easement from Frank Mayborn Enterprises, Inc., for the North 31st Street and Interstate Highway 35 Connection Project and authorizing the installation of two curb cuts and the extension of an eight-inch waterline to the Mayborn Enterprises property.

STAFF RECOMMENDATION: Adopt resolution presented in item description.

ITEM SUMMARY: The City is in the process of designing the North 31st Street and Interstate Highway 35 (IH-35) Connection Project. The project begins at Calhoun Avenue connecting to the IH-35 Frontage Road at Bray Street and includes a roundabout connection to North 31st Street and IH-35 Frontage Road at Temple High School. The planned improvements include drainage, water utilities, wastewater, landscaping, pedestrian facilities, roundabout with art feature, striping, and signage. The improvements will improve traffic flow in the area and enhance connectivity between North 31st and Interstate Highway 35.

The design requires right-of-way, drainage easements, and public utility easements from six property owners. The City needs a 0.1279-acre right-of-way and a 0.1191-acre public utility easement from Mayborn Enterprises. Mayborn Enterprises has agreed to donate the right-of-way and easement to the City. As part of the project, the City will install two concrete curb cuts with a 25-foot radius and bring an eight-inch waterline to the Mayborn Enterprises property.

The address and Bell CAD ID of the property is 1604 Calhoun Avenue, #25181.

FISCAL IMPACT: In exchange for accepting the donation of a 0.1279-acre right-of-way and a 0.1191-acre public utility easement from Frank Mayborn Enterprises, Inc. (Mayborn Enterprises) for the North 31st Street and Interstate Highway 35 Connection Project, the City has agreed to install two curb cuts and to extend an 8" waterline to the Mayborn Enterprises property. The cost for these improvements is \$27,892 and is available in the Reinvestment Zone No. 1 Financing and Project Plans, Line 601, account 795-9500-531-6571, project 101798.

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:

[Resolution](#)

RESOLUTION NO. 2020-0105-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE ACCEPTANCE OF THE DONATION OF AN APPROXIMATELY 0.1279-ACRE RIGHT OF WAY AND AN APPROXIMATELY 0.1191-ACRE PUBLIC UTILITY EASEMENT FROM FRANK MAYBORN ENTERPRISES, INC. FOR THE NORTH 31ST STREET AND INTERSTATE HIGHWAY 35 CONNECTION PROJECT AND AUTHORIZING THE INSTALLATION OF TWO CURBCUTS AND THE EXTENSION OF AN 8-INCH WATERLINE TO THE MAYBORN ENTERPRISES PROPERTY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is in the process of designing the North 31st Street and Interstate Highway 35 (IH-35) Connection Project that begins at Calhoun Avenue connecting to the IH-35 Frontage Road at Bray Street and includes a roundabout connection to North 31st Street and IH-35 Frontage Road at Temple High School - the planned improvements include drainage, water utilities, wastewater, landscaping, pedestrian facilities, roundabout with art feature, striping, and signage which will improve traffic flow in the area and enhance connectivity between North 31st and Interstate Highway 35;

Whereas, the design requires right of way, drainage easements, and public utility easements from six property owners - the City needs an approximately 0.1279-acre right of way and an approximately 0.1191-acre public utility easement from Frank Mayborn Enterprises, Inc. (Mayborn Enterprises);

Whereas, Mayborn Enterprises has agreed to donate the right of way and easement to the City and as part of the project, the City will install two concrete curb cuts with a 25-foot radius and bring an 8-inch waterline to the Mayborn Enterprises property;

Whereas, Staff recommends Council authorize the acceptance of the donation of an approximately 0.1279-acre right of way and an approximately 0.1191-acre public utility easement from Frank Mayborn Enterprises, Inc. for the North 31st Street and Interstate Highway 35 Connection Project and authorizing the installation of two curb cuts and the extension of an 8-inch waterline to the Mayborn Enterprises property;

Whereas, the address of this property is:

- 1604 Calhoun Avenue, Bell CAD ID No. 25181;

Whereas, in exchange for receiving the donation of a 0.1279-acre right of way and a 0.1191-acre public utility easement from Mayborn Enterprises for the North 31st Street and Interstate Highway 35 Connection Project, the City has agreed to install two curb cuts and to extend an 8-inch waterline to the Mayborn Enterprises property - the cost for these improvements is \$27,892 and is available in the Reinvestment Zone No. 1 Financing and Project Plans, Line 601, Account No. 795-9500-531-6571, Project No. 101798;

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 authorizes the acceptance of the donation of an approximately 0.1279-acre right of way and an approximately 0.1191-acre public utility easement from Frank Mayborn Enterprises, Inc. for the North 31st Street and Interstate Highway 35 Connection Project and authorizing the installation of two curb cuts and the extension of an 8-inch waterline to the Mayborn Enterprises property, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney's office, to execute any documents that may be necessary to accept this donation.

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

PASSED AND APPROVED this the 2nd day of **July, 2020.**

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20
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Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kathryn Davis, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the acquisition of a temporary construction easement and wastewater easement necessary for the construction of the Williamson Creek Trunk Sewer Improvement Project Phase 2 project, in an estimated amount of \$1,400.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple (City) is in the design process for the Williamson Creek Trunk Sewer Improvement Project, Phases 2 and 3. The project was necessitated as the result of a study on the impact of recent and anticipated growth to the existing trunk sewer line. It was determined the existing infrastructure needs to be upgraded and capacity increased to provide adequate service to the area served by the line.

The design for both phases requires eight permanent wastewater easements and fifteen temporary construction easements from fourteen property owners. Initial offers have been made to all property owners. One property owner has accepted the City's offer for a temporary construction easement and wastewater easement.

The location of this property is East Shell Avenue, Temple, Texas; Bell CAD ID 486787.

FISCAL IMPACT: Funding for the acquisition of a temporary construction easement and wastewater easement necessary for the construction of the Williamson Creek Trunk Sewer Improvement Project Phase 2 project in an estimated amount of \$1,400 is available in account 561-5400-535-6980, project 101628.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2020-0106-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE ACQUISITION OF A TEMPORARY CONSTRUCTION EASEMENT AND WASTEWATER EASEMENT NECESSARY FOR THE CONSTRUCTION OF THE WILLIAMSON CREEK TRUNK SEWER IMPROVEMENT PROJECT PHASE 2 IN AN ESTIMATED AMOUNT OF \$1,400; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is in the design process for the Williamson Creek Trunk Sewer Improvement Project, Phases 2 and 3, which is necessitated as the result of a study on the impact of recent and anticipated growth to the existing trunk sewer line - it was determined the existing infrastructure needs to be upgraded and capacity increased to provide adequate service to the area served by the line;

Whereas, the design for both phases require eight permanent wastewater easements and fifteen temporary construction easements from fourteen property owners - initial offers have been made to all property owners and one property owner has accepted the City's offer for a temporary construction easement and wastewater easement;

Whereas, Staff recommends Council authorize the acquisition of a temporary construction easement and wastewater easement necessary for the construction of the Williamson Creek Trunk Sewer Improvement Project Phase 2 in an estimated amount of \$1,400;

Whereas, the location and Bell County Appraisal District ID Number of the property is:
E. Shell Avenue, Temple, Texas (Bell CAD ID No. 486787);

Whereas, funding for the acquisition of a temporary construction easement and wastewater easement is available in Account No. 561-5400-535-6980, Project No. 101628; 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 authorize the acquisition of a temporary construction easement and wastewater easement necessary for the construction of the Williamson Creek Trunk Sewer Improvement Project Phase 2 in an estimated amount of \$1,400, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney's office, to execute any documents that

may be necessary for the purchase of this property.

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

PASSED AND APPROVED this the **2nd** day of **July, 2020**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Kathryn Davis, City Attorney
Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the acquisition of a temporary construction easement necessary for the construction of the Azalea Drive Realignment and Expansion Project, in an estimated amount of \$1,500.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple (City) is in the process of designing a realignment of Azalea Drive from 31st Street eastward to the existing roadway along the northside of Walmart. The project will also include improvements at the intersection of 31st Street and Azalea Drive. The proposed project also includes drainage improvements, striping, signage, utility relocations, landscaping, pedestrian facilities.

The design requires one right-of-way and three temporary construction easements from three property owners. Initial offers have been made to all property owners. The right-of-way was donated in May 2019. One property owner has accepted the City's offer for a temporary construction easement.

The address of the property is 3401 South 31st Street, Temple, Texas; Bell CAD ID 233542.

FISCAL IMPACT: Funding for the acquisition of a temporary construction easement necessary for the construction of the Azalea Drive Realignment and Expansion Project in an estimated amount of \$1,500 is available in account 365-3400-531-6715, project 101985.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2020-0107-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE ACQUISITION OF A TEMPORARY CONSTRUCTION EASEMENT NECESSARY FOR THE CONSTRUCTION OF THE AZALEA DRIVE REALIGNMENT AND EXPANSION PROJECT IN AN ESTIMATED AMOUNT OF \$1,500; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is in the process of designing a realignment of Azalea Drive from 31st Street eastward to the existing roadway along the northside of Walmart - the project will also include improvements at the intersection of 31st Street and Azalea Drive including drainage improvements, striping, signage, utility relocations, landscaping, pedestrian facilities;

Whereas, the design requires one right-of-way and three temporary construction easements from three property owners - initial offers have been made to all property owners;

Whereas, the right-of-way was donated in May 2019 and one property owner has accepted the City's offer for a temporary construction easement;

Whereas, Staff recommends Council authorize the acquisition of a temporary construction easement for the construction of the Azalea Drive Realignment and Expansion Project in an estimated amount of \$1,500;

Whereas, the address and Bell County Appraisal District ID Number of the property is:
3401 S. 31st Street, Temple, Texas (Bell CAD ID No. 233542);

Whereas, funding for the acquisition of a temporary construction easement is available in Account No. 365-3400-531-6715, Project No. 101985; 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 authorize the acquisition of a temporary construction easement for the construction of the Azalea Drive Realignment and Expansion Project in an estimated amount of \$1,500, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney's office, to execute any documents that may be necessary for the purchase of this easement.

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

PASSED AND APPROVED this the **2nd** day of **July, 2020**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Kathy Davis, City Attorney
Traci Barnard, Finance Director

ITEM DESCRIPTION: Consider adopting a resolution amending, renewing, restating, and continuing the Declaration of Local State of Disaster Due to Public Health Emergency.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Disaster Declaration adopted by Council on March 24, 2020, contained the following language: "That the halting of disconnections of water service because of payment delinquency is ratified and that accounts for water accounts that are currently delinquent and would typically be scheduled for disconnection, no additional late fees will be applied if payment arrangements are made while this Resolution is in place."

The purpose of this section was to assist those utility customers unable to pay their utility bill due to financial constraints caused by the COVID-19 pandemic, and to give them some assurance that their utility services would not be disconnected during an already difficult time. The intent was that utility customers taking advantage of this section enter into a payment arrangement and make payments in accordance with those arrangements. However, many customers have been granted an extension and have not made any type of payment plan or have entered into a payment plan but have failed to make scheduled payments.

Staff is recommending that the Declaration be amended by replacing the current language for Part 5 of the Declaration with: "That payment plans will be granted for utility customers who are unable to pay their account balance due to financial constraints caused by the COVID-19 pandemic. If a customer does not make payments in accordance with the payment plan, service will be disconnected, and the total balance will be due before service is restored."

Since this Declaration was initially adopted, additional community resources have been developed to help residents who have been financially affected by COVID-19 to pay their bills. One such resource is the Community Relief Fund, which provides the following assistance to individuals, families, and small businesses:

Individuals/Families:

- Assistance will be available for individuals/families who were actively employed at the time of the COVID-19 pandemic, and are now experiencing income loss as a direct result of the shutdown
- 80% low-moderate income requirement
- Funds available for rent, mortgage, and utility assistance from March 31st to June 30th
- Applications available online through United Way and submitted to covidrelief@uwct.org beginning June 5th

Small Businesses:

- Temple Chamber of Commerce is conducting a survey to determine needs for small businesses
- City staff will work with United Way and the Temple Chamber of Commerce to develop a Small Business Program to assist small businesses

This amended Declaration also specifically adopts and incorporates the Bell County Judge's, Bell County Commissioners Court's, and Governor's past, current, and future orders and proclamations related to COVID-19, establishes a penalty, and adds language that the Declaration will automatically expire when the State's order expires.

FISCAL IMPACT: As of June 18, 2020, over 1,000 extensions have been granted and 384 accounts are past the disconnection date with a total balance due of \$59,843. The City has not charged customers penalties for late payments or non-payment fees since March 24, 2020. Beginning on July 6, 2020, the City will resume charging penalties for late payments and non-payment fees. Customers that have been granted a payment plan and are in compliance with the terms of the plan, will not be charged a penalty or non-payment fee.

The minimum monthly billing cycle and fees for utility services are as follows:

- The bill date is the date that payment becomes due
- The penalty date, which shall never be less than 16 days from the date the invoice is issued, is the date that penalty for late payment becomes due – minimum fee is \$5.00 or 5% of the current bill, whichever is greater
- The disconnect date, which shall never be less than 10 days after the penalty date, is the date that utility service may be disconnected for non-payment – fee is \$30

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2020-0108-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, AMENDING, RENEWING, RESTATING AND CONTINUING THE
DECLARATION OF LOCAL STATE OF DISASTER DUE TO PUBLIC HEALTH
EMERGENCY; AND PROVIDING AN OPEN MEETINGS CLAUSE

Whereas, on March 19, 2020, Mayor Timothy A. Davis, acting in accordance with authority granted to him under Section 418.108(a) of the Texas Government Code, declared a local state of disaster for the City due to concerns related to the coronavirus disease 2019 (COVID-19) (the "disaster declaration");

Whereas, Section 418.108(b) of the Texas Government Code provides that such a declaration of disaster may not be continued for a period of more than seven days except with the consent of the governing body of the political subdivision;

Whereas, the conditions necessitating the disaster declaration will continue to exist for a period of more than seven days;

Whereas, on March 24, 2020, the City Council indefinitely extended the disaster declaration signed by Mayor Timothy A. Davis; and

Whereas, amendments to the Disaster Declaration are necessary to address the large number of utility accounts that are in the arrears and with no payments being made by the account holders;

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, renews, restates and continues the previously declared local state of disaster and public health emergency for the City of Temple, and consents to its continuation indefinitely, or until such time as it is terminated by order of the Council, or until Governor Abbott rescinds the COVID-19 Disaster Declaration for the State of Texas.

Part 3: That pursuant to sec. 418.109(d) of the Texas Government Code, this renewal, restatement, and continuance of the declaration of the local state of disaster continues in effect the City's emergency operation plan.

Part 4: That the City affirms and adopts all current requirements of the Governor's Executive Orders and Proclamations regarding the COVID-19 pandemic, including all future orders and proclamations.

Part 5: That the City affirms and adopts all current requirements of Bell County Judge David Blackburn and the Bell County Commissioners Court, and their Executive Orders and Proclamations regarding the COVID-19 pandemic, including all future orders and proclamations.

Part 6: That any City ordinance or regulation imposing a time requirement for payment, filing, or appealing a decision, may be extended by the Mayor without further confirmation by the City Council

Part 7: That the Mayor may suspend or modify any other ordinance or regulation of the City of Temple without further confirmation by the City Council.

Part 8: That payment plans will be granted for utility customers who are unable to pay their account balance due to financial constraints caused by the COVID-19 pandemic. If a customer does not make payments in accordance with the payment plan, service will be disconnected, and the total balance will be due before service is restored.

Part 9: That any fines or fees may be suspended or discontinued by the Mayor.

Part 10: That the City Manager or the designee of the City Manager is authorized, without further approval of the City Council, to:

- a. Make application for local, state, and federal assistance as necessary and/or applicable;
- b. Accept on behalf of the City services, gifts, grants, equipment, supplies, and/or materials whether from private, nonprofit, or government sources; and
- c. Increase the contracting and purchasing authority from \$50,000 to \$250,000 for each emergency expenditure.

Part 11: That although not required by law and out of an abundance of caution, the City Manager or the designee of the City Manager is authorized to (and any prior acts are ratified):

- a. Close any City offices, facilities, or properties, including a closure to the public; and
- b. Provide city services by means other than in person delivery, such as accepting permit applications online or by mail only, and/or to cease any city services that are not required by state or federal law.

Part 12: That any ordinances, rules, or regulations of the City of Temple, Texas, that conflict with this Resolution are hereby suspended, such suspension to remain in effect until

the state of disaster is terminated or until there is a subsequent resolution of this Council, whichever occurs first.

Part 13: That failure to comply with any of the provisions of this Order constitutes an imminent threat to public health.

Part 14: That a violation of this order, the Bell County Judge or Commissioners Court Orders, or the Governor's Orders shall be a Class C misdemeanor and the penalty for violating this resolution shall be a fine of not less than one dollar (\$1.00) and nor more than one thousand dollars (\$1,000), and each day a violation exists shall be a separate offense. This declaration also hereby authorizes the use of any other lawfully available enforcement tools.

Part 15: That all provisions of this resolution should be interpreted to effectuate this intent.

Part 16: That the terms and provisions of this resolution shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this resolution shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this resolution and the remainder of such resolution shall continue in full force and effect the same as if such invalid or unconstitutional provision had ever been a part hereof.

Part 17: It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 2nd day of **July**, 2020.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 2019-2020.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2019-2020 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$54,982.

ATTACHMENTS:

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

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2020 BUDGET
July 2, 2020

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-3500-552-6332	101637	Capital Buildings & Grounds / Park Fee Expenditures - Von Rosenberg Park	\$ 25,231	
110-0000-461-0830		Other / Other Revenues		\$ 25,231
To appropriate Park Escrow Fees from Hills of Westwood IX (\$9,031), Hills of Westwood XI (\$14,850), and Dr. Faith Subdivision (\$1,350) for irrigation, shade trees, topsoil, and hydro mulch for existing play area at Von Rosenberg Park.				
240-4620-551-6310	102258	Capital Buildings & Grounds / Visitor Center Awning & Flooring	\$ 15,000	
240-4400-551-6310	101389	Capital Buildings & Grounds / Exterior Master Plan, Phase I		\$ 15,000
To reallocate funding for the replacement of flooring and to add an awning at the Visitors Center.				
110-1200-515-6212	102259	Office Machines - Copier	\$ 2,551	
110-6700-519-6212	102259	Office Machines - Copier	\$ 2,551	
110-6600-519-6212	102259	Office Machines - Copier	\$ 2,550	
110-0000-490-1070		Lease Proceeds		\$ 7,652
110-5700-580-7122		Capital Lease - Principal	\$ 2,551	
110-5700-580-7224		Capital Lease - Interest	\$ 48	
110-1200-515-2514		Other Services / Travel & Training		\$ 867
110-6700-519-2514		Other Services / Travel & Training		\$ 866
110-6600-519-2514		Other Services / Travel & Training		\$ 866
To appropriate lease proceeds and the associated capital expenditure related to the copier lease for Finance (payroll), Marketing & Communications, and Performance Excellence. This BA will also reallocate funding for the lease payment for the copiers for the remainder of FY 2020.				
110-2031-521-6211	102260	Capital Equipment / Instruments/Special Equipment - K9 Replacement	\$ 4,500	
110-0000-461-0424		Sale of Fixed Assets / Sale of Assets		\$ 4,500
To appropriate trade-in value from Covenant K9 Detection Services for the replacement of an existing K9.				
TOTAL AMENDMENTS			\$ 54,982	\$ 54,982

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2020 BUDGET
July 2, 2020

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		GENERAL FUND		
		Beginning Contingency Balance	\$	-
		Added to Contingency Sweep Account		-
		Carry forward from Prior Year		-
		Taken From Contingency		-
		Net Balance of Contingency Account	\$	-
		Beginning Judgments & Damages Contingency	\$	-
		Added to Contingency Judgments & Damages from Council Contingency		-
		Taken From Judgments & Damages		-
		Net Balance of Judgments & Damages Contingency Account	\$	-
		Beginning Compensation Contingency	\$	506,197
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(506,197)
		Net Balance of Compensation Contingency Account	\$	-
		Net Balance Council Contingency	\$	-
		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	\$	100,000
		Added to Contingency Sweep Account		-
		Taken From Contingency		(68,867)
		Net Balance of Contingency Account	\$	31,133
		Beginning Compensation Contingency	\$	93,500
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(62,170)
		Net Balance of Compensation Contingency Account	\$	31,330
		Net Balance Water & Wastewater Fund Contingency	\$	62,463
		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	\$	19,500
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(15,533)
		Net Balance of Compensation Contingency Account	\$	3,967
		Net Balance Hotel/Motel Tax Fund Contingency	\$	3,967
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	488,446
		Added to Contingency Sweep Account		-
		Carry forward from Prior Year		-
		Taken From Contingency		(34,000)
		Net Balance of Contingency Account	\$	454,446
		Beginning Compensation Contingency	\$	10,500
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(8,759)
		Net Balance of Compensation Contingency Account	\$	1,741
		Net Balance Drainage Fund Contingency	\$	456,187

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2020 BUDGET
July 2, 2020

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
		FED/STATE GRANT FUND		
		Beginning Contingency Balance		\$ -
		Carry forward from Prior Year		-
		Added to Contingency Sweep Account		-
		Taken From Contingency		-
		Net Balance Fed/State Grant Fund Contingency		\$ -

RESOLUTION NO. 2020-0109-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2019-2020 CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on the 19th day of September, 2019, the City Council approved a budget for the 2019-2020 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2019-2020 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 2019-2020 City Budget by adopting the budget amendments which are more fully described in Exhibit 'A,' attached hereto and made a part hereof for all purposes.

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

PASSED AND APPROVED this the 2nd day of **July, 2020**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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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 2020-2021 Budget for July 16, 2020 at 5:00 p.m. and August 13, 2020 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 July 16, 2020 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 13, 2020 Special Council meeting, just prior to the scheduled adoption of the budget.

Additional public hearings for the FY 2020-2021 Proposed Budget may be scheduled relating to statutory requirements for adoption of a tax rate.

FISCAL IMPACT: The proposed Fiscal Year 2020-2021 Budget for the City totals \$169,457,211 for all funds.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2020-0110-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 2020-2021 BUDGET FOR JULY 16, 2020 AT 5:00 P.M. AND AUGUST 13, 2020, 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 July 16, 2020 (Regular Council Meeting) at 5:00 p.m., and August 13, 2020 (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 2020-2021 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 2020-2021 Proposed Budget be held at meetings of the City Council at 5:00 p.m. on July 16, 2020 (Regular Council Meeting), and at 8:30 a.m. on August 13, 2020 (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 2nd day of **July, 2020**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Tammy Lyerly, Senior Planner

ITEM DESCRIPTION: SECOND & FINAL READING – FY-20-21-ZC: Consider an ordinance adopting a site development plan and rezoning from Two-Family to Planned Development-Temple Medical Educational District T5-E Neighborhood Edge Zone for a restaurant parking lot expansion at 1216 South Main Street.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its May 18, 2020 meeting the Planning and Zoning Commission voted 5/0 to recommend approval of the site/development plan and requested rezoning Two-Family (2F) to Planned Development-Temple Medical Educational District T5-E Neighborhood Edge Zone (PD-TMED T5-E) for a restaurant parking lot expansion at 1216 South Main Street, per staff recommendation.

STAFF RECOMMENDATION: Staff recommends approval of the applicant's requested Planned Development-Temple Medical Education District T5-E Neighborhood Edge Zone (PD-TMED T5-E) 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

And with the following conditions:

1. Development will be subject to substantial compliance with the Planned Development site/development plan, including landscaping and sidewalk;
2. Parking for the adjacent restaurant will be paved and striped per the attached site/development Plan; and
3. The curb will be rebuilt to prevent egress onto South Main Street

PROPOSED CITY COUNCIL MEETING SCHEDULE: This rezoning request is scheduled for 1st Reading on June 18, 2020 and 2nd Reading on July 2, 2020.

ITEM SUMMARY: This rezoning request for 1216 South Main Street is to connect the gap between two existing Old Jody's restaurant parking lots located across the alley behind the Old Jody's restaurant at 1219 South First Street. The subject property was a residential lot when the two existing restaurant parking lots were approved by City Council in 2017 with Planned Development Ordinance 2017-4874.

The attached site/development plan shows the combination of the subject property with the adjacent parking lots to the north and south. The buffer fence between the two existing restaurant parking lots is no longer required since the subject property proposes connecting both existing parking lots. The site/development plan also shows the continuation of the existing sidewalks between the two existing parking lots. Access to the entire consolidated parking lot will remain from South Main Street and the alley adjacent to the Old Jody's Restaurant.

The applicant's proposed "base" zoning district T5-E is a Neighborhood Edge transect zone within the Temple Medical Education district (TMED), a special purpose district. The T5-E Neighborhood Edge Zone consists of mixed-use development with primarily commercial, retail, and office urban character. This TMED transect zone typically has a 'teaser row' of parking in front of a primary building with strong vehicular cross-connection among adjacent properties.

Planned Development: UDC Section 3.4.1 defines a Planned Development as:

"A flexible overlay zoning district designed to respond to unique development proposals, special design considerations and land use transitions by allowing evaluation of land use relationships to surrounding areas through development plan approval."

A development plan is subject to review and approval as part of the Planned Development rezoning. As opposed to a standard rezoning, conditions of approval can be included into the rezoning ordinance of a Planned Development. The applicants have provided the attached PD site/development plan with this rezoning request.

Per UDC Section 3.4.2C, the City Council may include additional conditions of approval into the rezoning ordinance. In approving a Planned Development, the City Council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, access and circulations, signs, parking, building design, location and height, light and air, orientation, building coverage, outdoor lighting, landscaping, homeowners or property owners associations, open space, topography and screening.

DEVELOPMENT REVIEW COMMITTEE (DRC): The DRC reviewed the PD site/development plan on May 4, 2020. There were no objections to the PD site/development plan.

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 *Choices '08* City of Temple Comprehensive Plan shows the subject property as Neighborhood Conservation. The alley separates the subject property from the Auto Urban Commercial designation of the FLUP. The *Choices '08* City of Temple Comprehensive Plan shows TMED as the FLUP designation on the south side of Avenue M.

Although the requested rezoning is not compliant with the FLUP, this request is compatible with the adjacent PD-MED T5-E zoning districts for the existing restaurant parking lots to the north and south.

As for compliance with the proposed Future Development Plan of the draft Comprehensive Plan, this property is designated as “Urban Residential,” which allows neighborhood serving retail as long as it:

- Takes access from a collector or greater street classification (ingress is from South 1st an Arterial or Avenue M a Collector with egress being limited to South Main Street
- Have an urban character that includes sidewalks and street trees

The request is compatible.

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

The subject property fronts South Main Street, a local street. The west property line borders the alley adjacent to the Old Jody’s Restaurant.

Availability of Public Facilities (CP Goal 4.1)

Water services are available to the subject property through existing water lines within South Main Street and West Avenue M rights-of-way. Sanitary sewer services are available to the subject property through an existing sanitary sewer line within the adjacent alley.

PUBLIC NOTICE: Twelve (12) 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 5, 2020, three notices have been returned in favor of the proposed rezoning and no notices have been returned in opposition to the proposed rezoning.

The newspaper printed the notice of the public hearing on May 6, 2020 in accordance with state law and local ordinance.


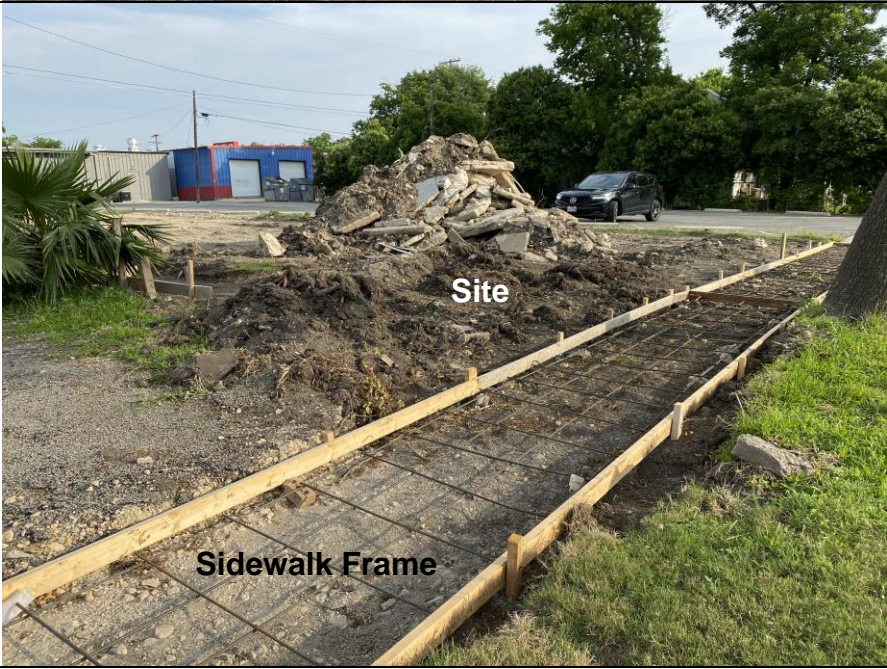
FISCAL IMPACT: Not Applicable



ATTACHMENTS:



[Site and Surrounding Property Photos](#)
[Maps](#)
[Development Regulations](#)
[Site/Development Plan](#)
[Notification Response Letters](#)
[P&Z Minutes Excerpt](#)
[Ordinance](#)

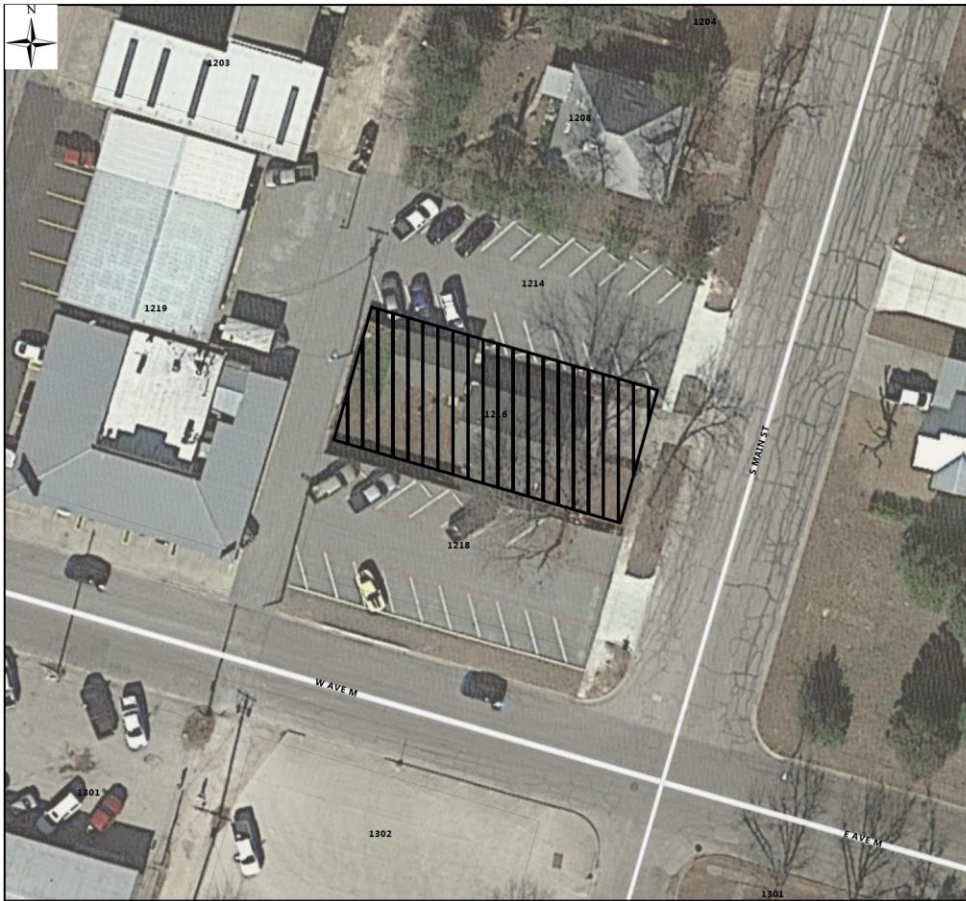
SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	2F	Vacant Land	 <p>S. Main St.</p> <p>Site</p>
			 <p>Sidewalk Frame</p> <p>Site</p>

Direction	Zoning	Current Land Use	Photo
East	2F	Residential	 <p>S. Main St.</p>
West	TMED T5-E	Restaurant	 <p>Old Jody's Restaurant Across Alley</p> <p>Site</p>

Direction	Zoning	Current Land Use	Photo
South	PD-TMED T5-E	South Restaurant Parking Lot	 <p>Site</p>
North	PD-TMED T5-E	North Restaurant Parking Lot	 <p>S. Main St.</p>



2F TO PD-T5-E

AERIAL MAP

Zoning Case :
FY-20-21-ZC

Address :
1216 S. Main St.

Transportation

Streets

COLLECTOR

LOCAL STREET

Temple Municipal Boundary

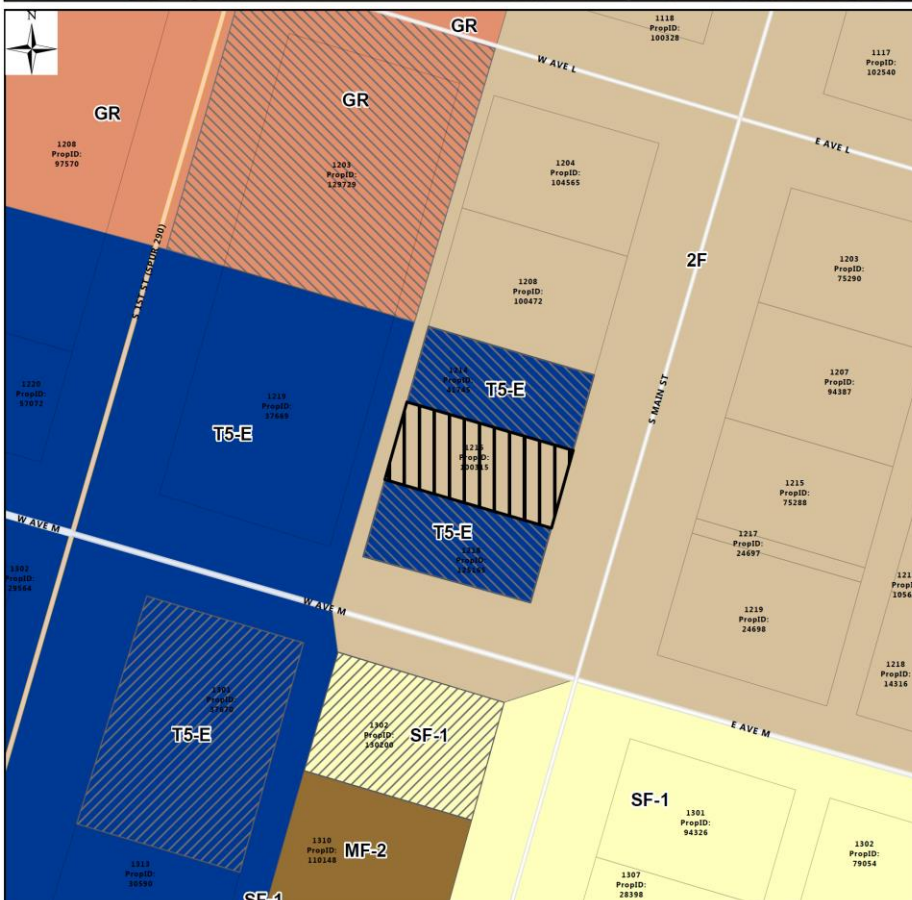
Parcel Features

Parcels

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.

TLYERLY

Date: 4/21/2020



2F TO PD-T5-E

Zoning Case :
FY-20-21-ZC

Address :
1216 S. Main St.

Current Zoning	2F TO PD-T5-E	HI - PD
HI - CUP	MF-3 - PD	HI - PD
UE	O-1	AG
UE - PD	O-1 - CUP	AG - CUP
SF-1	O-1 - PD	MH
SF-1 - CUP	O-2	MH - CUP
SF-1 - PD	O-2 - CUP	MH - PD
SF-2	O-2 - PD	MU
SF-2 - PD	NS	MU - CUP
SF-3	NS - CUP	SD-C
SF-3 - PD	NS - PD	SD-C - CUP
SF-3 - CUP, PD	GR - CUP	SD-H
SFA	GR - PD	SD-H - CUP
SFA-2	GR - CUP, PD	SD-T
SFA-3	CA	SD-V
SFA-3 - PD	CA - CUP	T4
SFA-3 - PD	CA - PD	T4 - PD
2F	C	T4 - CUP
2F - CUP	C - CUP	T5-C
2F - PD	C - PD	T5-C - CUP
MF-1	C - CUP, PD	T5-E
MF-1 - CUP	LI	T5-E - CUP
MF-1 - PD	LI - CUP	T5-E - PD
MF-2	LI - PD	NO BASE
MF-2 - PD	LI - CUP, PD	CUP
MF-2 - PD	HI	PD

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.

TLYERLY

Date: 4/21/2020





2F TO PD-T5-E

FUTURE LAND USE MAP

Zoning Case :
FY-20-21-ZC

Address :
1216 S. Main St.

Transportation

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP

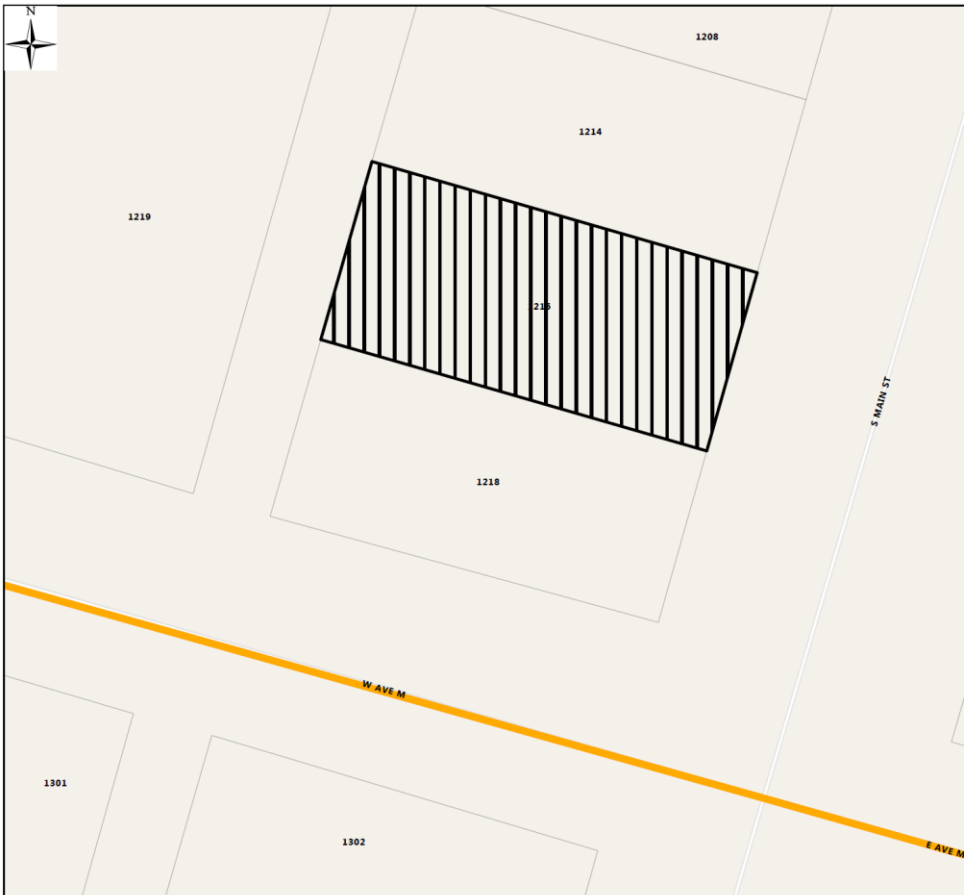
Parcel Features

- Parcels
- Future LUP
 - Agricultural/Rural
 - Auto-Urban Commercial
 - Auto-Urban Mixed Use
 - Auto-Urban Multi-Family
 - Auto-Urban Residential
 - Business Park
 - Estate Residential
 - Industrial
 - Neighborhood Conservation
 - Parks & Open Space
 - Public Institutional
 - Suburban Commercial
 - Suburban Residential
 - Temple Medical Education District
 - Urban Center

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.

TLYERLY

Date: 4/21/2020



2F TO PD-T5-E

THOROUGHFARE AND TRAILS MAP

Zoning Case :
FY-20-21-ZC

Address :
1216 S. Main St.

Parcel Features

- Parcels

Thoroughfare Plan

- Expressway
- Major Arterial
- Proposed Major Arterial
- Minor Arterial
- Proposed Minor Arterial
- Collector
- Proposed Collector

Trails Master Plan

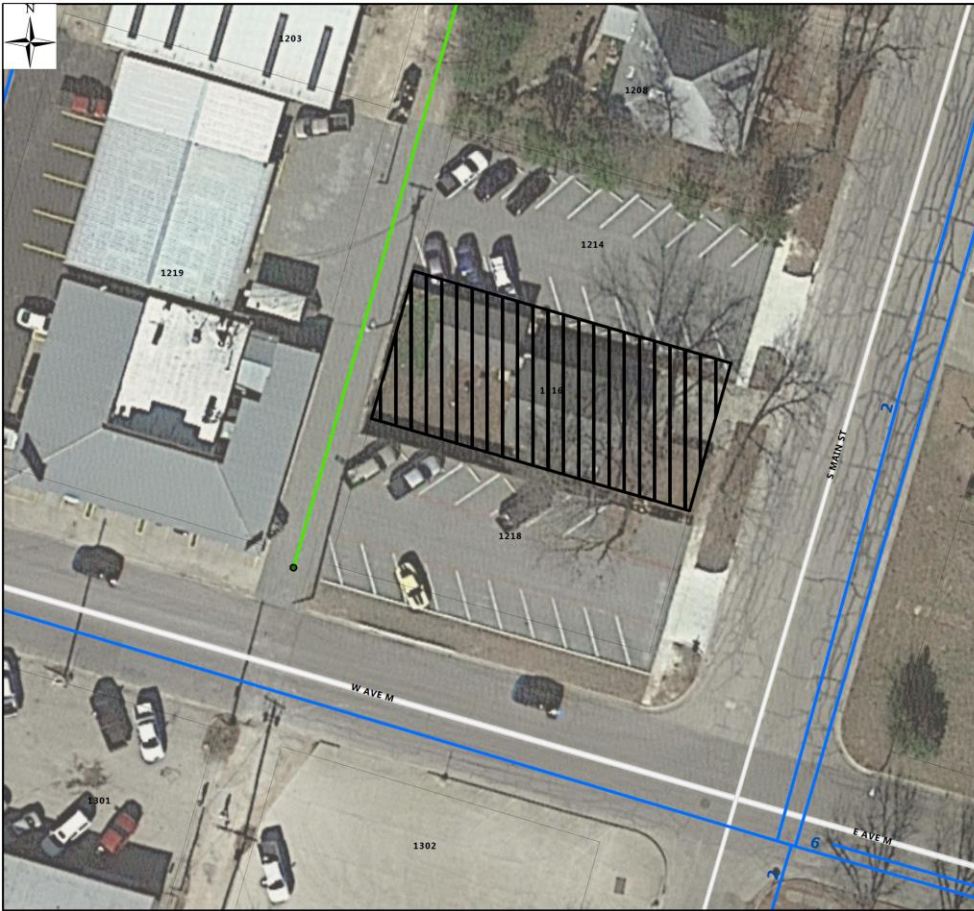
- X = EXISTING, CITY WIDE SPINE
- EXISTING, COMMUNITY WIDE CONNECTOR
- || = EXISTING, LOCAL CONNECTOR
- X = PROPOSED, CITY WIDE SPINE
- PROPOSED, COMMUNITY WIDE CONNECTOR
- || = PROPOSED, LOCAL CONNECTOR

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.

TLYERLY

Date: 4/21/2020





2F TO PD-T5-E

UTILITY MAP

Zoning Case :
FY-20-21-ZC

Address :
1216 S. Main St.
Sewer

● Manhole

— Gravity Main

WaterDistribution

● Hydrant

— Main

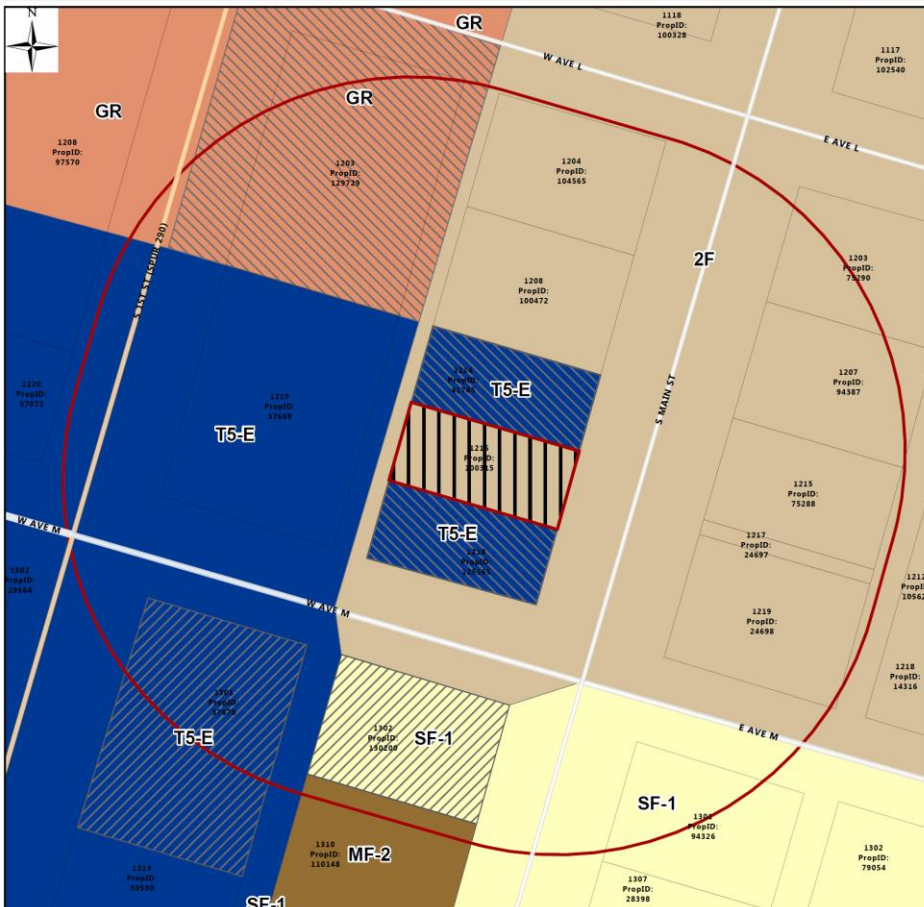
Parcel Features

□ Parcels

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TLYERLY

Date: 4/21/2020



2F TO PD-T5-E

200' NOTIFICATION MAP

Zoning Case :
FY-20-21-ZC

Address :
1216 S. Main St.

CurrentZoning	MF-3 - PD	HI - PD
HI - CUP	O-1	AG
UE	O-1 - CUP	AG - CUP
UE - PD	O-1 - PD	HH
SF-1	O-2	HH - CUP
SF-1 - CUP	O-2 - CUP	HH - PD
SF-1 - PD	O-2 - PD	MU
SF-2	NS	MU - CUP
SF-2 - PD	NS - CUP	SD-C
SF-3	NS - PD	SD-C - CUP
SF-3 - PD	GR	SD-H
SF-3 - CUP, PD	GR - CUP	SD-H - CUP
SFA	GR - PD	SD-T
SFA-2	GR - CUP, PD	SD-V
SFA-2 - PD	CA	T4
SFA-3	CA - CUP	T4 - PD
SFA-3 - PD	CA - PD	T4 - CUP
2F	C	T5-C
2F - CUP	C - CUP	T5-C - CUP
2F - PD	C - PD	T5-C - PD
MF-1	C - CUP, PD	T5-E
MF-1 - CUP	LI	T5-E - CUP
MF-1 - PD	LI - CUP	T5-E - PD
MF-2	LI - PD	NO BASE
MF-2 - CUP	LI - CUP, PD	CUP
MF-2 - PD	HI	PD

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.

TLYERLY

Date: 4/21/2020



DEVELOPMENT REGULATIONS: Dimensional standards for the TMED T5-E district are:

Sec. 6.3. TMED, Temple Medical and Educational

B. General Requirements

The tables below establish the general requirements for the TMED Transect Zones as they relate to lot dimensions, setbacks, structure configuration, and type permitted.

Lot Dimensional Standards	T4	T5-e	T5-c	T-South	SD-c; SD-t	SD-v; SD-h
Min. Lot Area	NA	NA	NA	NA	NA	NA
Min. Lot Width (ft.)	18	18	18	18 (50 for all detached single-family without alley access)	NA	NA
Max. Lot Width (ft.)	120	700	700	700	NA	NA
Min. Lot Depth (ft.)	NA	NA	NA	NA	NA	NA
Max. Lot Depth (ft.)	NA	NA	NA	NA	NA	NA
Max. Impervious Lot Coverage – Res. Uses (%)	70	70	80	80	NA	NA
Max. Impervious Lot Coverage – Nonres. Uses (%)	80	80	80	80	NA	NA

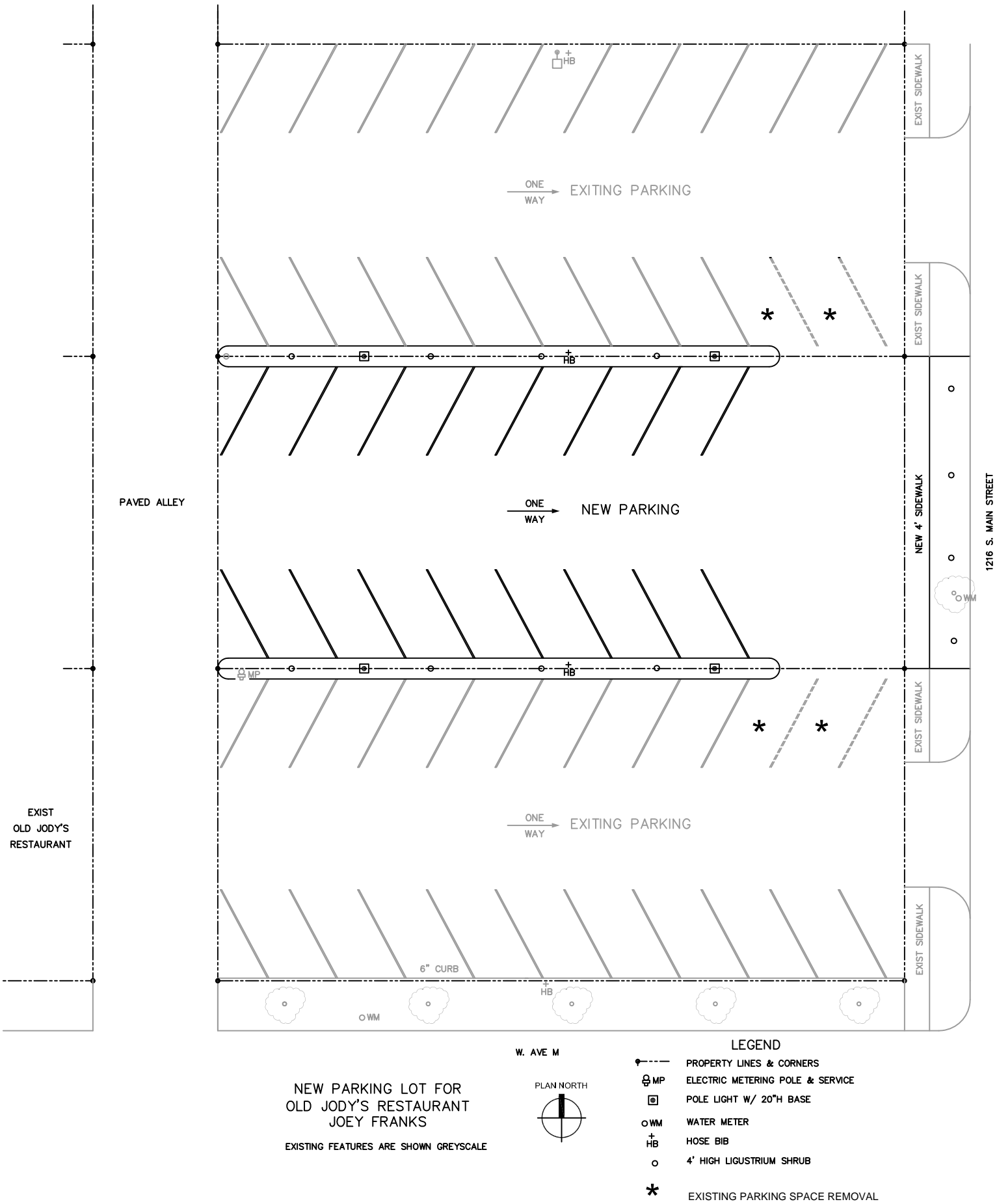
Surrounding Property & Uses			
Direction	Future Land Use Map	Zoning	Current Land Use
Site	Neighborhood Conservation	2F	Vacant Land
North	Neighborhood Conservation	PD-TMED T5-E	Parking Lot
South	Neighborhood Conservation	PD-TMED T5-E	Parking Lot
East	Neighborhood Conservation	2F	Residential
West	Auto-Urban Commercial	TMED T5-E	Restaurant

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	Yes
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	Yes

CP = Comprehensive Plan STP = Sidewalk and Trails Plan





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

Parcel ID # 130200
FRANKS, DOUGLAS
1301 S 1ST ST
TEMPLE, TX 76504-5762

Zoning Application Number: FY-20-21-ZC

Case Manager: Tammy Lyerly

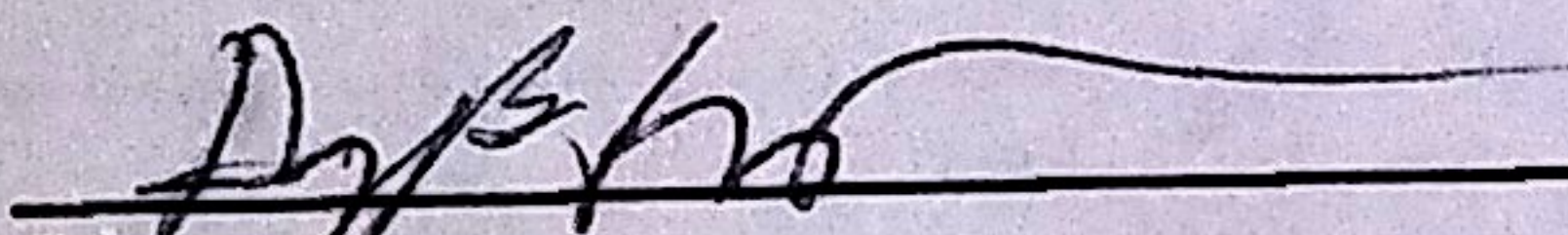
Location: 1216 South Main Street

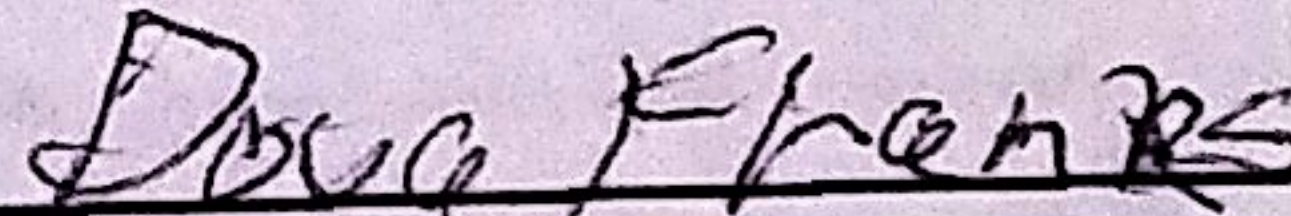
The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice,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

I ☒ agree

() disagree with this request

Comments:


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, tlyerly@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **May 18, 2020**.

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

Number of Notices Mailed: 13

Date Mailed: May 6, 2020

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**

Parcel ID # 125165
FRANKS, JOEY
3360 E HWY 190
TEMPLE, TX 76501

Zoning Application Number: FY-20-21-ZC

Case Manager: Tammy Lyerly

Location: 1216 South Main Street

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

I ☒ agree

() disagree with this request

Comments:

Joeey Franks
Signature

Joeey Franks
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, tllyerly@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **May 18, 2020**.

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

Number of Notices Mailed: 13

Date Mailed: May 6, 2020

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**

Parcel ID # 41745
FRANKS, JOEY
1219 S 1ST ST
TEMPLE, TX 76504-5786

Zoning Application Number: FY-20-21-ZC

Case Manager: Tammy Lyerly

Location: 1216 South Main Street

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

☒ agree

☐ disagree with this request

Comments:

Joey Franks
Signature

JOEY FRANKS
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, tllyerly@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than **May 18, 2020**.

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

Number of Notices Mailed: 13

Date Mailed: May 6, 2020

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 18, 2020**

ACTION ITEMS

Item 4: FY-20-21-ZC -- Hold a public hearing to discuss and recommend action on a rezoning with a site/development plan from Two-Family (2F) to Planned Development Temple Medical Educational District T5-E Neighborhood Edge Zone (PD-TMED T5-E) for a restaurant parking lot expansion at 1216 South Main Street.

Mr. Brian Chandler, Director of Planning and Development, stated this item is scheduled to go forward to City Council for first reading on June 18, 2020 and second reading on July 2, 2020.

The Development Review Committee reviewed the site and development plan on May 4, 2020 with no objections.

Consolidated parking lot has two access points along South Main Street and the alley access.

The removal of four parking spaces will allow middle traffic flow to South Main Street.

The zoning map is shown and found to be in compliance.

The Future Land Use Map is shown.

Neighborhood Conservation (Choice's '08) is characterized by established residential development.

Urban Residential allows neighborhood serving retail as long as it has:

- Access from a collector or great street classification;
 - Ingress is from South First Street, an arterial, or Avenue M, a collector with egress being limited to South Main Street
- Urban character that includes sidewalks and street trees;

This request is compatible.

Thoroughfare Map plan is shown and found to be in compliance.

Existing water and sewer map is shown and found to be in compliance.

Water is provided through existing lines within the rights-of-way of South Main Street and West Avenue M.

Sewer is provided through an existing line within the alley.

Surrounding and on-site photos are shown.

Compliance Summary chart is shown, and all areas are found to be in compliance.

Twelve public notices were mailed in accordance with all state and local regulations with four notices returned in agreement and zero responses returned in disagreement.

The newspaper notice was printed May 6, 2020 in accordance with state law and local ordinance.

Staff recommends approval of a rezoning from “2F” to “PD-TMED T5-E” and the Site/Development Plan with the following conditions:

1. Development will be subject to substantial compliance with the Planned Development Site/Development Plan, including landscaping and sidewalk;
2. Parking for the adjacent restaurant will be paved and striped per the attached Site/Development Plan; and
3. **Curb will be rebuilt to prevent egress onto South Main Street.**

This item does require a public hearing.

There being no speakers, the public hearing was closed.

Commissioner Fetting made a motion to approve Item 4, **FY-20-21-ZC**, per staff recommendation, and Commissioner Wright made a second.

Motion passed: (5:0)

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

ORDINANCE NO. 2020-5032
(FY-20-21-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING A REZONING FROM TWO-FAMILY TO PLANNED
DEVELOPMENT TEMPLE MEDICAL EDUCATIONAL DISTRICT T5-E
NEIGHBORHOOD EDGE ZONE WITH A DEVELOPMENT/SITE PLAN FOR A
RESTAURANT PARKING LOT EXPANSION AT 1216 SOUTH MAIN STREET;
PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this rezoning request for 1216 South Main Street is to connect the gap between two existing Old Jody's restaurant parking lots located across the alley behind the Old Jody's restaurant at 1219 South First Street - the subject property was a residential lot when the two existing restaurant parking lots were approved by City Council in 2017 by Planned Development Ordinance 2017-4874;

Whereas, the site/development plan shows the combination of the subject property with the adjacent parking lots to the north and south - the buffer fence between the two existing restaurant parking lots is no longer required since the plan proposes connecting both existing parking lots;

Whereas, the site/development plan also shows the continuation of the existing sidewalks between the two existing parking lots - access to the entire consolidated parking lot will remain from South Main Street and the alley adjacent to the Old Jody's Restaurant;

Whereas, the applicant's proposed "base" zoning district T5-E is a Neighborhood Edge transect zone within the Temple Medical Education District (TMED), a special purpose district - the T5-E Neighborhood Edge Zone consists of mixed-use development with primarily commercial, retail, and office urban character and this TMED transect zone typically has a 'teaser row' of parking in front of a primary building with strong vehicular cross-connection among adjacent properties;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, at its May 18, 2020 meeting, voted 5 to 0 to recommend Council approve of the rezoning, from Two-Family to Planned Development Temple Medical Educational District T5-E Neighborhood Edge Zone with a site/development plan for a restaurant parking lot expansion at 1216 South Main Street;

Whereas, Staff approval of the proposed Planned Development and development/site plan, attached hereto as Exhibit 'A,' and made a part hereof for all purposes, subject to the following conditions:

- Development will be subject to substantial compliance with the Planned Development site/development plan, including landscaping and sidewalk;
- Parking for the adjacent restaurant will be paved and striped per the attached site/development Plan; and

- The curb will be rebuilt to prevent egress onto South Main Street; 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 Two-Family to Planned Development Temple Medical Educational District T5-E Neighborhood Edge Zone with a site/development plan for a restaurant parking lot expansion at 1216 South Main Street, as shown here in 'Exhibit A' attached hereto and incorporated herein for all purposes, and subject to the following conditions:

- Development will be subject to substantial compliance with the Planned Development site/development plan, including landscaping and sidewalk;
- Parking for the adjacent restaurant will be paved and striped per the attached site/development Plan; and
- The curb will be rebuilt to prevent egress onto South Main Street.

Part 3: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 5: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **18th** day of **June**,
2020.

PASSED AND APPROVED on Second Reading on the **2nd** day of **July, 2020.**

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Hedrick
Interim City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20
Item #5
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION REVIEW:

Amanda Rice, Deputy City Attorney
Mitch Randles, Fire Chief

ITEM DESCRIPTION: THIRD & FINAL READING: Consider adopting an ordinance amending City Code of Ordinances, Chapter 12, Fire Prevention and Protection.

STAFF RECOMMENDATION: Adopt ordinance on third reading as described in the item description.

ITEM SUMMARY: As part of the City's continuing effort to update the City's Code of Ordinances and to bring the City's code up to date with current City policies and to better protect citizens against fire, City Staff recommends amending Chapter 12, Fire Prevention and Protection, of the City's Code of Ordinances.

This item was presented for first reading at the June 4, 2020 City Council Meeting for first reading and public hearing. After the public hearing and City Council discussion, this item was tabled by the City Council. City Staff revised the proposed amendments to Chapter 12 to incorporate the feedback that City Staff received from the City Council during the June 4th meeting. Paragraphs (i)-(l) summarize the proposed amendments that incorporate this feedback.

This item was presented for second reading at the June 18, 2020 City Council meeting. After discussion, City Council passed this item as described in the item description and presented with the amendment that the Chapter 12's maximum ground vibration limit for extraction operations blasting remain at 1" per second at the location of any dwelling rather than the proposed $\frac{3}{4}$ " per second.

The amended Chapter 12 draft for City Council consideration on third reading proposes a few additional amendments to the Chapter that were not part of either of the drafts considered by City Council on the 1st or 2nd reading. These amendments were made to address conflicts between the NFPA 495 blasting manual and extraction and blasting operations local amendments, remove obsolete sections of the ICC 2015 International Fire Code (ICC 2015 IFC), and address ICC 2015 IFC provisions that are preempted by state or federal law. Paragraphs (a), (c)(1), (d), (h), and (r) summarize these new proposed amendments.

The proposed amendments include:

- a) General housekeeping such as reformatting and renumbering the Chapter, updating City Staff titles, and removing obsolete sections, including the violations and outdoor sections of Chapter 1 of the ICC 2015 IFC;
- b) Adopting the ICC 2015 IFC;
- c) Revising the Appeals section of the Chapter to help deter frivolous appeals and ensure uniform application of fire safety regulations;
 - (1) Adding a subsection to the appeals section that allows a person to file an appeal if they believe that one of the Chapter's provisions was incorrectly applied due to state or federal law preemption;
- d) Removing the ICC 2015 IFC requirement that a one- and two- family dwelling must have a fire sprinkler system, in accordance with Sec. 1301.551(i) of the Texas Occupations Code;
- e) Requiring fire apparatus access road gates to be equipped with Knox gate and key switches or padlocks approved by the Fire Marshal to ensure access to private properties in cases of emergency;
- f) Updating the controlled burning section of the Chapter to comply with state law's requirements for outdoor burning and providing exceptions and regulations for allowed outdoor burning;
- g) Requiring private property owners to annually perform testing and maintenance on all private fire hydrants located upon their property;
- h) Adding a provision that allows local amendments for extraction and blasting operations to apply if there are conflicting provisions between the NFPA 495 manual and local amendments (such as maximum ground vibration limits);
- i) Amending the extraction operations regulations section to require an extraction blasting permittee to reapply for a permit if:
 - (1) An extraction site operator, blaster, or blasting company for the permitted extraction site changes,
 - (2) A blaster for the permitted extraction site has his/her state or federal license to blast expire or revoked,
 - (3) There is a change made to the extraction blasting permittee's required insurance policy,
 - (4) The extraction blasting permittee's required insurance policy is cancelled or expires;
- j) Amending the extraction operations section to require the extraction blasting permittee to notify the Fire Marshal in writing at least 24 hours prior to performing any blasting operation if there are any changes to the information provided by the permittee on the permittee's extraction blasting permit application other than the changes to the information specified under Paragraph (h), above;
- k) Providing that the City may suspend or revoke a permittee's extraction blasting permit or issue a stop work order for the extraction site if the permittee fails to comply with the requirements in Paragraphs (h) and (i), above;
- l) Requiring annual permit application and permit fee for extraction blasting permittees;
- m) Providing that a permittee with an existing, valid extraction blasting permit as of July 2, 2020 must either comply with: (1) this Ordinance's amendments to extraction operations regulations or (2) the extraction operations regulations as they existed as of July 1, 2020, until the permittee's permit expires or is revoked, whichever occurs first, and, after such a permit is expired or revoked, providing that the permittee must comply with all provisions of this Ordinance regulating extraction operations;

- n) Creating a new blasting regulation section to regulate blasting related to construction, tunneling, and demolition;
- o) Removing a section offering a reward for the arrest and conviction of arsonists;
- p) Creating new offenses for false alarms and burning without a permit;
- q) Updating the penalties section to require the pleading of a culpable mental state for offenses with a fine over \$500; and
- r) Adding a preemption section that provides that to the extent there is a irreconcilable conflict between any of the Chapter's regulations, including the ICC 2015 IFC, and state or federal law, state or federal law will control.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Current copy of Chapter 12](#)

[Clean copy of Chapter 12 with proposed amendments](#)

[Ordinance](#)



Chapter 12

FIRE PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

- Sec. 12-1. Appointment qualifications, general powers, and duties of the fire chief.**
- Sec. 12-2. Appointment qualification, general powers, and duties of the fire code official.**
- Sec. 12-3. Definitions.**

ARTICLE II. ADOPTION OF FIRE PREVENTION CODE

- Sec. 12-4. Adoption of fire prevention code.**

ARTICLE III. EXCLUSIONS OF INTERNATIONAL FIRE CODE 2009

ARTICLE IV. REVISIONS OF INTERNATIONAL FIRE CODE 2009

- Sec. 12-5. Adjustment to Chapter 1, “Administration.”**
- Sec. 12-6. Replace Table 906.3(1), “Fire Extinguishers for Class A Fire Hazards,”**
- Sec. 12-7. Replace Table 906.3(2), “Flammable or Combustible Liquids with Depths of Less than or Equal to 0.25- inch,”**
- Sec. 12-8. Adjustment to Chapter 33, “Explosives and Fireworks,” Section 3307 “Blasting,” Subsection 3307.1 “General,”**
- Sec. 12-9. Adjustment to Chapter 38, “Liquefied Petroleum Gases,” Section 3801, “General,” 3801.1 “Scope,”**
- Sec. 12-10. Adjustment to Appendix D, “Fire Apparatus Access Roads.”**

ARTICLE V. ADDITIONS TO INTERNATIONAL FIRE CODE 2009

- Sec. 12-11. Fireworks.**
- Sec. 12-12. Controlled Burning**
- Sec. 12-13. Private Fire Apparatus Access Road and Fire Lanes.**
- Sec. 12-14. Fire Hydrants**
- Sec. 12-15. Extraction Operations Regulations**
- Sec. 12-16. Business Registration.**

ARTICLE VI. MICELLANEOUS

- Sec. 12-17. Establishment of limits of the fire district.**
- Sec. 12-18. Unauthorized use of fire apparatus.**
- Sec. 12-19. Injuring or driving over fire hose.**
- Sec. 12-20. Reward for arrest and conviction of arsonists.**
- Sec. 12-21. New Materials, processes or occupancies which may require permits.**
- Sec. 12-22. Exemptions.**
- Sec. 12-23. Permit Fees.**
- Sec. 12-24. Enforcement.**

Chapter 12

Fire Prevention and Protection

Article I. In General

Sec. 12-1. Appointment qualifications, general powers, and duties of the fire chief.

- a) The fire chief of Temple Fire & Rescue shall be appointed by the city manager, with approval of the city council. The fire chief shall be skilled in the management of the department and in the conduct thereof, and in the fighting and control of fires and conflagrations, and shall devote his entire time to the services of the department under such rules and regulations as may be laid down by the city manager and/or city council from time to time.
- b) The chief, under the direction of the city manager, shall have control of all fire stations and apparatus in the city, shall direct the department and preside over same in its efforts to extinguish all fires and conflagrations, and shall at all times be ready with his department for all the services which are usually expected of an efficient department.
- c) Wherever fire chief appears in this chapter, it shall mean the fire chief or his designee.

Sec. 12-2. Appointment qualifications, general powers, and duties of the fire code official

- a) The fire prevention division is hereby created. Such division shall be in Temple Fire & Rescue with the fire code official being a member of that division and reporting directly to the chief.
- b) The fire code official shall be appointed by the fire chief. The fire code official shall be skilled in investigations, inspections, management and shall devote his time to educating the public in fire safety while enforcing federal, state, and local laws as they pertain to fire prevention. The fire code official must be a licensed peace officer, in accordance with 2.12 of the Code of Criminal Procedures, unless otherwise approved by the Fire Chief.
- c) Wherever fire code official appears in this chapter, it shall mean the fire code official or his designee.
- d) When, in the opinion of the fire code official, further investigation of a fire is necessary, he shall take or cause to be taken the testimony on oath of all persons

supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing.

- e) The fire code official shall have the power to summons witness before him to testify in relation to any matter which is, by the provisions of this chapter, a subject of inquiry and investigation, and may require the production of any book, paper, document, or information deemed pertinent thereto. The fire code official is hereby authorized and empowered to administer oaths and affirmation to any persons appearing as witnesses before him.
- f) All investigations held by or under the direction of the fire code official may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.
- g) Any witness who refuses to be sworn, or who refuses to appear to testify, or who disobeys any lawful order of the fire code official, or who fails or refuses to produce any book, paper, document or information touching any matter under examinations, or who commits any contemptuous conduct during an investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as provided in this article, may be charged with a misdemeanor, and it shall be the duty of the fire code official to cause all such offenders to be prosecuted.
- h) When the fire code official determines that the condition of any premises creates a serious fire hazard dangerous to human life, he may order the utility company or companies to disconnect the utility service until the hazardous condition is removed. In cases of emergency or in situations where a utility company does not respond to or comply with the order of the fire code official shall have the authority to immediately disconnect or cause the disconnection of utility service. Any person whose property is affected by the act or order of the fire code official shall have the right of direct appeal to the city manager.

Sec. 12-3. Definitions.

In this chapter:

Fire Lane shall mean an off-street area that is accessible to the public and is to remain free and clear of parked and standing vehicles in order to provide access to commercial buildings for emergency response purposes. This term includes specifically marked areas in public parking lots.

Private Fire Apparatus Access Road shall mean a road that extends from the property line of a private property to within 150 feet of all points on a commercial building located on

that property, to include private streets and access roadways.

The route that a fire hose would be laid shall mean the routing of fire hose from either a public or approved on-site fire hydrant to the fire apparatus along the length of the public roadway and/or approved private fire lanes.

Article II. Adoption of Fire Prevention Code

Sec. 12-4. Adoption of fire prevention code.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, that certain code known as the International Fire Code 2009, International Code Council, as well as Appendices B, D, E, F, G, H, I, and J as it now exists and as it may be revised from time to time, and the whole thereof, save and except:

- A.** Exclusions as noted in Article III of this chapter;
- B.** Revisions as noted in Article IV of this chapter;
- C.** Additions as noted in Article V of this chapter; and
- D.** Such portions as are hereinafter modified and amended, of which code not less than three (3) copies have been and now are filed in the Office of the Building Official and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date of which this article shall take effect, the provisions thereof shall be controlling within the limits of the City of Temple, Texas.

Article III. Exclusions of International Fire Code 2009

The following provisions of the International Fire Code 2009 are excluded:

- A.** Exclude Chapter 3, "General Precautions Against Fire," Section 307, "Open Burning and Recreation Fires," but see Section 12-14, "Controlled Burning," herein.
- B.** Exclude Chapter 5, "Fire Service Features," Section 505, "Premises Identification," Subsection 505.1, "Address Numbers," but see Chapter 32, "Streets and Sidewalks," Section 32-9, "Residence and Building Address Numbering," from the city code.
- C.** Exclude Chapter 33, "Explosives and Fireworks," in its entirety, but see Section 12-13, "Fireworks," herein.

- D.** Exclude Chapter 5, “Fire Service Features,” Section 507, “Fire Protection Water Supplies”, Subsection 507.5, “Fire Hydrant Systems,”, but see Section 12-16, “Fire Hydrants,” herein.
- E.** Exclude Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.6, “Required operational permits,” Part 105.6.35, “Private Fire Hydrant Exception,” but see Section 12-16, “Fire Hydrants,” herein.
- F.** Exclude Chapter 3, “General Requirements,” Section 308, “Open Flames,” Subsection 308.3, “Open Flames,” Subsection 308.3, “Open Flames,” Part 308.4, “Open-flame Cooking Devices Exception,” but see Section 12-14 b, “Recreational Fires and Outside Fires for Domestic Purposes,” herein.
- G.** Exclude Chapter 9, “Fire Protection Systems,” Section 906, “Portable Fire Extinguishers,” Subsection 906.1, “Where Required Exception,” but see Section 12-9, Table 906.3 (1), “Fire Extinguishers for Fire Hazards,” and Section 12-10, Table 906.3 (2) “Flammable or Combustible Liquids with Depths of less than or equal to 0.25-inch.”

Article IV. Revisions of International Fire Code 2009

Sec. 12-5. Adjustment to Chapter 1, “Administration.”

- a) Adjustment to Chapter 1, “Administration,” Section 101, “General,” Subsection 101.1, “Title,” amended to read as follows:
 - 1) In the title insert “The City of Temple.”
 - 2) Replace all references to “the ICC Electrical Code” with “the currently adopted edition of the City of Temple Electric Code.”
- b) Adjust Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.1, “General,” Part 105.1.1, “Permits Required,” amend to read as follows:

Permits required by this code shall be obtained from the construction safety division of the city. Permit fees, if any, shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.

- c) Adjustment to Chapter 1, “Administration,” Section 108, “Board of Appeals,” Subsection 108.1, “Board of Appeals Established,” amended to read as follows:

Refer to Chapter 7, “Buildings,” of the City of Temple Code of Ordinances.

Sec. 12-6. Replace Table 906.3(1), “Fire Extinguishers for Class A Fire Hazards,” with the following table:

Fire Extinguisher Requirement Based on Square Footage			
	LIGHT (LOW) HAZARD OCCUPANCY	ORDINARY (Moderate) HAZARD OCCUPANCY	EXTRA (High) HAZARD OCCUPANCY
Minimum Rated Single Extinguisher	5 lb. ABC	5 lb. ABC	5 lb. ABC
Maximum Floor Area Per Unit	3,000 square feet	1,500 square feet	1,000 square feet
Maximum Travel Distance to Extinguisher	75 feet	75 feet	75 feet

Sec. 12-7. Replace Table 906.3(2), “Flammable or Combustible Liquids with Depths of Less than or Equal to 0.25-inch,” with the following table:

TYPE OF HAZARD	BASIC MINIMUM EXTINGUISHER RATING	MAXIMUM TRAVEL DISTANCE TO EXTINGUISHERS (FEET)
Light (Low)	5 lb, ABC	75 feet
Ordinary (Moderate)	5 lb, ABC	75 feet
Extra (High)	5 lb, ABC	75 feet

Sec. 12-8. Adjustment to Chapter 33, “Explosives and Fireworks,” Section 3307, “Blasting,” Subsection 3307.1, “General,” amend to read as follows:

Blasting operations shall be conducted only by approved, competent operators familiar with the required safety precautions and the hazards involved and in accordance with the provisions of NFPA 495 and Section 12-23, “Extrication Operations Regulations.”

Sec. 12-9. Adjustment to Chapter 38, “Liquefied Petroleum Gases,” Section 3801, “General,” 3801.1 “Scope,” amend to read as follows:

Storage handling and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such use shall comply with this chapter, the

Texas Railroad Commission Rules governing LP-gas and NFPA 58. Properties of LP-gases shall be determined in accordance with Appendix B of NFPA 58.

Sec. 12-10. Adjustment to Appendix D, “Fire Apparatus Access Roads.”

a) Section D103, “Minimum Specifications,” amended as follows:

1) Exclude Table D103.4, “Requirements for Dead-end Fire Apparatus Roads.”

2) Subsection D103.4, “Dead-ends,” amend to read as follows:

Public Dead-end fire apparatus access roads in excess of 150 feet (45,720 mm) in length shall be designed in accordance with the City of Temple Design and Development Manual.

3) Subsection D103.5, “Fire apparatus road gates,” amended to read as follows

5. The minimum gate width shall be 20 feet for gates serving as entrance and exit. Gates that are paired and separated by an island are permitted to be a minimum of 16 feet each (one for exit and one for entrance). All electric gates shall be equipped with a device approved by the Fire Code Official to be operated by a designated emergency radio frequency and have a separate manual release. This release will be used by Temple Fire & Rescue personnel for emergency access in the event of a power failure. Any manual release devices used for emergency access to a property shall be approved by the fire code official. Gates that are manned 24 hours a day and 7 days a week are exempt from the radio frequency device, however must have a Fire Department emergency manual release. All existing gates not in compliance with this standard must meet the standard by May 2nd 2014 or be locked in the open position until such time as it can comply with the standard.

4) Adjustment to Section D103.6 Signs amended to read as follows:

Where required by the fire code official, private fire apparatus access roads shall be marked with permanent NO PARKING—FIRE LANE signs complying with Figure D103.6. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on both sides of the private fire apparatus road, where the width of the road surface is less than 28 feet. Obstructions to a fire access roadway such as traffic calming devices may be approved by the fire code official when; such traffic calming devices as lane separating

islands, boulevards, and roundabouts have a minimum back of curb to back of curb distance of 18 feet on each side of the obstruction with signs placed along the obstruction. When approved by the fire code official, fire apparatus access roads may be designated by painting the curb or roadway with a 6-inch red strip with white 4 inch lettering of NO PARKING FIRE LANE every 30 - 40 feet.

b) Section D106, “Multiple-Family Residential Developments,” amend to read as follows:

- 1) D106.1, “Projects having 1-75 dwelling units.” Multiple-family residential projects having 1-75 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the city’s Design & Development Standards Manual.
- 2) D106.2, “Projects having 75-150 dwelling units.” Multiple-family residential projects having more than 75-150 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual. The exception to this sub-section is excluded. See Article II of this chapter.
- 3) D106.3, “Projects having 151-300 dwelling units.” Multiple-family residential projects having more than 151-300 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.
- 4) D106.4, “Projects having 301 or more dwelling units.” Multiple-family residential projects having 301 or more dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.

c) Adjustment to Section D107, “One- or Two- Family Dwelling Residential Developments” amend to read as follows:

- 1) D107.1, “Developments having 1-75 dwelling units.” One- or Two-family dwelling residential development having 1-75 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.
- 2) D107.2, “Development having 76-150 dwelling units.” One- or Two- Family residential having 76-150 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City’s Design & Development Standards Manual. The exception to this subsection is excluded. See Article II of this chapter.

- 3) D107.3, “Developments having 151-300 dwelling units.” One- or Two- Family residential having more than 151-300 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City’s Design & Development Standards Manual.

Article V. Additions to International Fire Code 2009

Sec. 12-11. Fireworks

A. Definitions:

Distributor means a person who:

- a. imports fireworks into this state; or
- b. sells fireworks to:
 1. a jobber, retailer, or other distributor for resale; or
 2. a holder of a single public display permit, a multiple public display permit,
or another fireworks permit.

Fireworks means a composition or device:

1. designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation; and
2. defined by 49 C.F.R. Section 173.56(j)(1996).

Fireworks 1.3G means a large fireworks device:

1. primarily designed to produce visible or audible effects by combustion, deflagration, or detonation; and
2. classified as a 1.3G explosive by the department in 49 C.F.R. Part 173 (1996).

Fireworks 1.4G means a small fireworks device:

1. primarily designed to produce visible or audible effects by combustion,
deflagration, or detonation;
2. that complies with the construction, labeling, and chemical composition
requirements of the United States Consumer Product Safety Commission in
16 C.F.R. Part 1507 (1996), or the most recently adopted version of
that
rule; and

3. that is classified by the department in 49 C.F.R. Part 173 (1996).

Illegal fireworks means a fireworks device possessed, sold, manufactured, discharged, or transported in violation of this chapter.

Jobber means a person who purchases fireworks only for resale to retailers.

Manufacturer means a person, firm, corporation, or association who makes fireworks.

Person means an individual or entity, including an owner, manager, officer, employee, or occupant.

Public display means the igniting of Fireworks 1.3G for public or private amusement.

Pyrotechnic operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising public displays of Fireworks 1.3G or Fireworks 1.4G.

Pyrotechnic special effects operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising proximate displays of Fireworks 1.3G or Fireworks 1.4G.

Retailer means a person who purchases fireworks for resale only to the general public.

B. *Exemptions:*

This article does not apply to:

- a. a toy pistol, toy cane, toy gun, or other device that uses paper or plastic caps in sheets, strips, rolls, or individual caps that contain not more than an average of 25 hundredths of a grain of explosive composition per cap and that is packed and shipped under 49 C.F.R. Part 173 (1996).
- b. a model rocket or model rocket motor designed, sold, and used to propel recoverable aero models.
- c. the sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation, or highway use;
- d. the use of a fusee or a railway torpedo by a railroad;
- e. the sale of blank cartridges for:
 1. use in a radio, television, film or theater production;

2. a signal or ceremonial purpose in an athletic event; or
3. an industrial purpose; or

f. the use of a pyrotechnic device by a military organization.

- C. *General prohibition against possession, sale, manufacture, discharge, or transportation.* Except as otherwise specifically provided in this article, it shall be unlawful for any person to possess, sell, manufacture, discharge, transport, or otherwise assemble, store, receive, keep, offer or have in his possession with intent to possess, sell, manufacture, transport, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.
- D. *Permitted transportation.* It shall be lawful for any distributor, jobber, manufacturer, pyrotechnic operator, pyrotechnic special effects operator, or retailer to transport fireworks in accordance with the interstate commerce commission regulations regarding the transportation of explosives and other dangerous articles by motor, rail, and water.
- E. *Illegal fireworks as a nuisance; seizure and destruction, etc.* The presence of any fireworks within the jurisdiction of the city in violation of this section is hereby declared to be a common and public nuisance. The fire code official is directed and required to seize and cause to be safely destroyed any fireworks found in violation of this article and any member of the fire prevention division of the Temple Fire & Rescue Department or any police officer of the city or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the fire code official can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section. Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city or the fire code official, or both, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the jurisdiction of the city and to aid the fire code official in the discharge of his duties and to particularly prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.
- F. *Section provisions to apply within five thousand feet of the city limits.* This section shall also be applicable and in force within the area immediately adjacent and contiguous to the city limits of the City of Temple and extending for a distance outside the city limits for a total of five thousand (5,000) feet, and it shall be unlawful to do or perform any act in violation of this Article within such area of five thousand (5,000) feet outside the city limits; provided that this Article shall not apply within any portion of such five thousand-foot area which is contained within the territory of any other municipal corporation.

- G. *Right of entry to enforce section.* The fire code official is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks; but such authority does not include the right to enter a private dwelling or apartment.
- H. *Public displays; when permitted.* A public display of fireworks shall be-permitted when made in compliance of the terms and conditions of this article.
- I. *Application for permit.* Any adult person or any firm, co-partnership, corporation or association planning to make a public display of fireworks shall first make written application for a permit to the fire code official at least seventy-two (72) hours in advance of the date of the proposed display. No city permit shall be issued until a permit for said purposes has been issued by the State of Texas.
- J. *Issuance or denial and term of permit; permit non-transferable.* It shall be the duty of the fire code official or his designee to make an investigation as to whether the display as proposed by the applicant for a permit under this article shall be of such a character that it may be hazardous to property or dangerous to any person, and he shall, in the exercise of reasonable discretion, grant or deny the application, subject to the conditions prescribed in this section. In the event the application is approved, a permit shall be issued for the public display by the fire code official. The fire code official shall determine what fire protection safety measures will be required before, during and after the display and it is the responsibility of the permittee to make sure the fire protection measures are enforced, such permit shall be for a period of time designated on the permit but can be extended by the fire code official. The permit is non-transferable and shall only be good for one display. In the event the permit is denied by the fire code official, he shall notify the applicant of the denial, in writing.
- K. *Insurance or bond required.* The applicant for a display permit under this section shall, at the time of making application, furnish proof that he carries compensation insurance for his employees, as provided by the laws of this state, and he shall file with the fire code official a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than one million dollars (\$1,000,000) issued by an insurance carrier authorized to transact business in the state, for the benefit of the person named therein as assured, as evidence of ability to respond to damages in at least the amount of one million dollars (\$1,000,000), such policy to be approved by the City of Temple. In lieu of insurance, the applicant may file with the fire code official, a bond in the amount of one million dollars (\$1,000,000) issued by an authorized surety company approved by the City of Temple, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks, or any negligence on the part of the applicant or his agents, servants, employees, or subcontractors in the

presentation of the public display. The City of Temple shall also be designated as an insured by the insurance policy and bonded by the bond.

- L. *Only aerial displays permitted.* Any fireworks display authorized under this article shall be limited to an aerial display.
- M. *Storage of material prohibited in the city.* The material to be used for a public display authorized by this article shall not be stored within the city limits, but shall be brought in on the date of the public display and then shall be taken immediately to the place of display for further handling and storage; except that such materials may be stored within the city limits in a secured storage area designated by the fire code official.
- N. *Hazardous conditions prohibited.* Any persons overseeing a display of fireworks under this article shall be a competent, adult person, an experienced pyrotechnic operator, and approved by the fire code official. No person shall handle fireworks at a public display unless such person has been approved by to do so by the fire code official. The names of all experienced pyrotechnic operators shall be designated on the permit issued for the public display.
- O. *Firefighter to be present.* For each public display of fireworks under this section, not less than two (2) firefighters of the city shall be in attendance during the display. The expense of such firefighters at the display shall be borne by the applicant for the permit.

Sec. 12-12. Controlled Burning

- a) *Burning of debris and other inflammable materials, generally.*
 - 1) Permit. It shall be unlawful for any person to burn trash, brush, tree limbs, grass, trees, leaves, paper, boards, planks, lumber, or any other character of debris or inflammable materials whatsoever in the city, except in an incinerator or container which has been approved, in writing, by the fire code official or his designee. An exception shall be considered by the fire code official on an individual basis when and after the Texas Commission on Environmental Quality (T.C.E.Q.) has issued, in writing, a permit to so burn debris and other inflammable materials.
 - i. A copy of the T.C.E.Q. letter of determination or permission to conduct a controlled burning must be presented to the fire code official or his designee.
 - ii. The fire code official or his designee shall inspect the location of a controlled burn and shall determine if the burn can be safely conducted before any actual burning occurs.

- iii. The fire code official may require the following, depending on conditions found during the controlled burn site inspection:
 - a. A specified number of individuals be present with fire extinguishing devices and appliances;
 - b. Fire breaks to be cut around the area to be burned;
 - c. A trench to be dug and any burning be conducted in the trench; or
 - d. Any other requirements that the fire code official may deem necessary to safely conduct the controlled burn.
- 2) A controlled burn that the T.C.E.Q. has authorized and that has been approved by the fire code official must meet criteria as outlined in the remainder of this chapter.
- 3) Burning shall be commenced when the wind will carry smoke and other pollutants away from the city or any residential, recreational, commercial, or industrial area, navigable water, public road, or landing strip which may be affected by the smoke. Burning shall not be conducted when a shift in wind direction is predicted which could produce adverse effects to persons, animals, or property during the burning period. If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post a flag person on affected roads in accordance with the requirements of the Department of Public Safety.
- 4) Burning must be conducted downwind of or at least 300 feet from any structure located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control.
- 5) Burning shall be conducted in compliance with the following meteorological and timing considerations:
 - i. The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset, and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard conditions. In no case shall the extent of the burn area be allowed to increase after this time.
 - ii. Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period. This information can be obtained by contacting

the Draughon-Miller Central Texas Regional Airport or the National Weather Service.

- 6) Per T.C.E.Q. Rules & Regulations, heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any material which may produce an unreasonable amount of smoke must not be burned.
- 7) Incinerator or container for fire. An incinerator or container used for burning of any material mentioned in this section (12-20) shall be located so that smoke will not become a nuisance to occupants of surrounding building and such incinerator or container shall not create a hazard to surrounding property. All incinerators must meet any regulation set forth by the T.C.E.Q.
- 8) Any and all burning of debris and other inflammable materials will be extinguished immediately if determined by the fire code official to be unsafe or constituting a hazard to the environment or interferes with the reasonable use of any properties.
- 9) The fire code official is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.

b) *Recreational Fire and Outside fires for domestic purposes.*

- 1) Open burning in approved containers shall be allowed without a permit at single-family homes, duplexes, and town homes, subject to the regulations contained herein.
- 2) Fires shall be limited to a maximum 3 feet diameter and 2 feet in height, must be contained in a non-combustible chimenea, outdoor fireplace, fire pit, or other method approved by the fire code official.
- 3) All openings in the container or fire pit must be covered with wire mesh or other screening materials that will prevent the passage of sparks and ember.
- 4) Fires must be kept at least 10 feet from any structure or combustible exterior wall.
- 5) Fires must be constantly attended.
- 6) No such fire or container used for an open burning may be used on any porch, deck, balcony, or other portion of a building; within any room space; or under any building overhang.

- 7) The burning of yard waste, leaves, brush, vines, evergreen needles, branches smaller than 3 inches in diameter, untreated lumber, garbage, paper products, or anything other than firewood as set forth herein is prohibited.
 - 8) The fire code official, police officer, or code enforcement officer may order any open fire, or use of a chimenea, outdoor fireplace, or fire pit which creates a nuisance to be extinguished.
 - 9) All chimineas must be extinguished by 1:00 A.M.
- c) *Burning of garbage, petroleum products and motor vehicles prohibited.* The burning of garbage in any form, or petroleum products, or automobiles or other motor vehicles or any part thereof for wrecking or salvage purposes in or on any lot or other premises within the city limits is hereby prohibited.
- d) *Fire prohibited in streets, alleys and on or in public property.* It shall be unlawful for any person to light or have lighted any fire in or on any street, alley, thoroughfare, or public property.

Sec. 12-13. Private Fire Apparatus Access Road and Fire Lanes

a) Maintenance

- 1) A property owner shall at all times maintain and keep in good repair all private apparatus access roads and fire lanes on the premises.
- 2) The owner shall maintain all signs and/or markings in good condition and legible at all times.

b) Abandonment of Private Fire Apparatus Access Roads and Fire Lanes. No owner or person in charge of any premises served by a private fire apparatus access road shall abandon or close any such fire apparatus access road without complying with the following procedure:

- 1) A request to the fire code official shall be made in writing by the owner stating the reason for abandonment of the private fire apparatus access road;
- 2) The fire code official shall determine if said property is no longer subject to the requirements of this code;
- 3) The fire code official shall either approve or deny the request for abandonment and notify the owner in writing within 10 days of receiving the request; and
- 4) No private fire apparatus access road may be abandoned until the fire code official has approved the abandonment, in writing.

- c) *Authority to Determine Location.* The locations of fire lanes/private apparatus access roads shall be determined by the fire code official of the City of Temple or his designated representative, hereinafter called “the authority,” in conformity with the provisions of this article.
- d) *Location of Private Fire Apparatus Access Roads and Fire Lanes.* No building, other than single-family or two-family dwellings, shall be constructed so that any part of the perimeter of the building is greater than one hundred and fifty (150) feet from a public way or public place unless the owner or property manager constructs and maintains a private apparatus access road or fire lane having a minimum width of twenty (20) feet and a minimum overhead clearance throughout of no less than thirteen (13) feet six (6) inches and terminating within one hundred and fifty (150) feet from the furthestmost point of said building. The same being reflected on the first plat of the property.
- e) *Restrictions.*
 - 1) Private apparatus access road or fire lanes shall not be used as loading zones.
 - 2) There shall be no parking in any private apparatus access road or fire lane at any time.
- f) *Posting of Signage and Markings for Fire Lanes.*
 - 1) All required fire lanes shall be conspicuously marked and shall have signage posted that shall read “NO PARKING FIRE LANE,” and all required fire hydrants on private property shall be marked “Fire Hydrant—Do Not Block.”
 - 2) Signage can be either rectangular signs or red striping; this to be determined by fire code official.
 - i) Rectangular signs shall be a minimum of 12” width x 18” height. They will have a white background with red lettering and be made of reflective material.
 - ii) Striping will consist of a 6” wide red strip with 4” high white letters.
 - 3) Required fire lane signage shall be placed no less than thirty (30) feet and no greater than forty (40) feet apart.
 - 4) Required fire hydrant markings shall be placed on both sides of a hydrant and at a distance of no less than fifteen (15) feet from the hydrant.
- g) *Private Dead-end Fire Apparatus Access Roads.* Private dead-end fire apparatus access roads in excess of 150 feet (45 720mm) in length shall be provided with a 120 foot hammerhead, 60 foot “Y”, or 94 foot diameter cul-de-sac in accordance with figure D103.1 of the 2009 International Fire Code.

Sec. 12-14. Fire Hydrants

A. Authority to determine location. The fire chief or his designee, hereinafter called “the authority,” shall determine the location of fire hydrants in conformity with the provisions of this article.

B. Fire hydrants; location.

- (1) As residential zoned property is developed, fire hydrants shall be located at a maximum spacing of six hundred (600) feet as measured along the length of the roadway and no part of any structure shall be farther than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose would be laid.
- (2) As non-residential zoned property is developed, fire hydrants shall be located a maximum spacing of three hundred (300) feet as measured along the length of the roadway and no part of any structure shall be further than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose is laid.
- (3) Spacing of hydrants along roadways designated by the City of Temple as expressways and major arterials will be required on both sides of the roadway with the maximum distance of 600 feet for residential and 1200 feet for non-residential zoned properties, on each side of the roadway. No part of any structure shall be further than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose is laid.

C. Restrictions.

- (1) Type of fire hydrants. All required fire hydrants shall be of the national standard three-way breakaway type no less than five and one-fourth (5 ¼) inches in size and shall conform to the provisions of the latest American Water Works Association (A.W.W.A.) specifications C-502 and shall be placed upon approved water mains of no less than six (6) inches in size.
- (2) Valves shall be placed on all fire hydrant leads.
- (3) Required fire hydrants shall be installed in such a manner that the breakaway point will be more than three (3) inches, and not greater than five (5) inches, above the ground surface.
- (4) A spacing of no less than eighteen (18) inches shall be provided between center of the barrel of the large steamer connection and the finished grade surface.

- (5) No fire hydrant located on a six-inch (6 inch) dead-end water main shall be located more than 1,800 ft. from a six-inch (6 inch) or greater main.
- (6) No six-inch looped water main shall exceed three thousand five hundred (3,500) feet in length.
- (7) Fire hydrants shall be installed on a water main that is separate from the domestic water supply, except when it is determined by the fire code official that the required maximum one (1) hour demand plus the needed minimum fire flow of one thousand (1,000) gallons per minute will be met by alternate installation.
- (8) Fire hydrants located on public property shall be located a minimum of two (2) feet and a maximum of four (4) feet behind the curb line.
- (9) Protection of fire hydrants. All fire hydrants placed on private property shall be adequately protected by either curb stops or concrete posts or other methods, as approved by the fire code official. Such stops or posts shall be maintained by the property owner or manager
- (10) All fire hydrants shall be installed so that the steamer connection faces the fire lane or street.
- (11) Fire hydrants, when placed at intersections or access drives to parking lots, when practical, shall be placed so that no part of a fire truck connected to the hydrant will block the intersection or parking lot access.
- (12) Obstructions. Post, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrant from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.
- (13) Fire hydrants located on private property shall be accessible to the fire department at all times and free of any type of obstruction that would hinder their use (i.e. vegetation). A 3-foot clear space shall be maintained around the circumference of fire hydrants.
- (14) The fire code official shall have the authority to approve a variance of up to 10 percent of the footage requirements found at Sec. 12-23.B. parts (a) and (b).

D. Maintenance

(1) All fire hydrants shall be inspected, flushed and painted at least once annually and such inspections, flushing and painting shall be the responsibility of Temple Fire & Rescue. Fire hydrants shall be color coded as follows:

- i. Less than 500 gpm – Red Bonnet
- ii. 500-999 gpm – Yellow Bonnet
- iii. 1000-1499 gpm – Green Bonnet
- iv. Over 1500 gpm – Blue Bonnet

(2) Any maintenance or repairs required to keep a fire hydrant in proper working order, other than the maintenance found at a subsection above, shall be the responsibility of the property owner, or manager of the property on which the fire hydrant is located.

E. Use; opening and closing. The chief or his designee shall prescribe the manner in which all fire hydrants shall be opened or closed. No person shall open or close any fire hydrant unless authorized to do so by the chief or his designee.

Sec. 12-15. Extraction Operations Regulations

(a) Purpose.

- (1) In order to promote the health, safety, and welfare of those who work or reside near extraction operations, and to protect air quality and the water resources of the city, the regulations in this section are applicable to extraction operations.
- (2) This section shall apply to all extraction operations conducted within the territorial limits of the city and in the extraterritorial jurisdiction within 5000 feet of said territorial limits.

(b) Definitions.

In this section:

Blasting shall mean the practice or occupation of extracting heavy masses of rock, or other materials imbedded in the ground, by means of explosives or blasting agents.

Extraction operations shall mean the use of a lot or tract of land primarily for extraction of materials (including, but not limited to, limestone, rock, sand, gravel, or soil, but not oil or natural gas).

Extraction site shall mean the location of materials or rock removal or extraction operations as delineated by a site plan or a certificate of occupancy.

Regulatory authority shall mean The Temple Fire & Rescue Department

(c) *Blasting*. All blasting activity that falls within the scope of this Article shall comply with the following provisions;

(1) Permit required.

- i. An appropriate blasting or explosives permit must be acquired from the regulatory authority prior to any blasting activity or preparation for blasting activity at an extraction site.
- ii. A blasting or explosives permit will authorize blasting for the extraction of materials (e.g., rock or stone) only at the extraction site designated on the permit.
- iii. The extraction site operator, or designated representative, may apply for a blasting or explosives permit in accordance with the following procedures:
 1. The applicant shall submit a completed permit application form and fee, as required by the regulations contained in the 2009 International Fire Code, as adopted and amended by the City Council. The permit fee shall be in an amount set by resolution of the City Council.
 2. The fire code official shall have thirty (30) days in which to approve or deny a permit application.
 3. Any party aggrieved by the denial of a permit or inaction by the fire code official may appeal such decisions to the Building Board of Appeals, in writing. Upon receipt of an appeal notification, the Board shall take the actions required to review the appeal, in accordance with the 2009 International Fire Code.
 4. The application shall contain the following information:
 1. Name of the operator(s) conducting the blasting;
 2. Identification of extraction site;
 3. Description of conditions, if any, which may cause possible adverse blasting effects;
 4. Normal extraction operations schedule;
 5. Type of explosives or blasting agents to be used;
 6. Type of stemming;

7. Name(s) of licensed blasters on the job;
8. Copy of Mine Safety Health Administration (MSHA) Certificate of Training (Form 5000-23) for all personnel involved in the extraction operations.
9. Copy of Insurance Certificate of Blasting Liability Coverage

(2) Insurance required.

- i. Before a permit is issued, the applicant shall obtain and maintain general liability insurance having limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined with one million dollars (\$1,000,000) or greater annual aggregate throughout the permitted period for the purpose of the payment of all damages to persons or property which arise, or are caused by, the conduct of any act or omission authorized by the permit. The general liability insurance shall name the City of Temple as an additional insured with a waiver of subrogation in favor of the City of Temple. The policy shall contain a provision requiring the insurance company to furnish the City of Temple with written notification on any cancellation or nonrenewal of the policy thirty (30) days prior to the cancellation date or inception date, whichever ever the case may be.
- ii. Evidence of compliance with this requirement shall be considered as having been met when the policy, a copy thereof, or a certificate of insurance has been filed with, and approved by, the fire code official. Such policy shall include an endorsement that the fire code official shall be notified at least thirty (30) days in advance in the event the policy or policies are canceled. The City may cancel a permit for any violation of this section.

(3) Regulatory Compliance. All blasting operations located within an extraction site shall comply with the applicable provisions of the 2009 International Fire Code and with this section, as well as all applicable local, state, and federal regulations concerning industrial noise and dust levels and applicable drainage, water and air standards.

(4) Annual permit renewal required.

- i. In addition to compliance with local, state, or federal regulations, the operator shall be required to comply with the provisions of this section by renewing a permit annually before the anniversary date of the permit.

ii. Upon renewal, the extraction site operator shall:

1. certify in writing that the blasting activities at the permitted extraction site are anticipated to remain materially unchanged from the activities described on the permit application; or
2. provide all relevant information relating to material changes at the permitted extraction site to the fire code official for review;
3. pay the annual permit fee; and
4. file a current certificate of insurance which complies with this section.

iii. A blasting permit will remain in force and effect, provided that the blasting activities at the extraction site specified in the permit are anticipated to remain materially unchanged, the permittee has complied with the requirement of this section during the preceding permit year, and the annual renewal requirements have been met.

(5) Hours of operation. The hours during which extraction operations may take place by blasting shall be at any time during the hours between 8:00 a.m. and 5:00 p.m. Extraction by blasting shall be prohibited on Saturdays, Sundays, and legal holidays unless a variance is obtained from the fire code official based upon public safety concerns or extraordinary economic considerations.

(6) Monitoring of Blasting.

i. The extraction site operator shall monitor each blast to accumulate data with respect to seismographic and air blast effects of the blasting activity, as required by state and federal law. The extraction site operator shall conduct independent monitoring of blasting events, if directed, and to the extent and frequency reasonably required by the regulatory agency.

ii. Information generated in the form of reports or other data from this monitoring shall be submitted to the fire code official within seventy-two (72) hours of each blasting event.

iii. Monitoring information shall include:

1. actual date and time of the blast;
2. type of explosives or blasting agents used;
3. technical data and material safety data sheets for all explosives or blasting agents used;
4. total pounds of explosives used in each blast;
5. number, spacing, stemming and depth of holes;

6. maximum pounds per delay;
7. firing sequence, delay sequence, and typical hole load diagrams;
8. location and distance of extraction operation from seismographs;
9. weather conditions at time and location of blast;
10. seismograph data;
11. and ground vibrations or air blast records which shall include:
 1. Type of instrument, sensitivity and calibration signal of certification of annual calibration.
 2. Exact location of instrument and the date, time and distance from the blast;
 3. Name of person and firm taking the reading as well as the person analyzing the seismic record; and
 4. The vibration and air blast level recorded.

(7) Safety Standards. The extraction site operator is responsible and required to comply with all applicable provisions of any state or federal law or applicable regulations promulgated by the Occupational Safety Health Administration (OSHA), Mine Safety Health Administration (MSHA), Alcohol, Tobacco, and Firearms (ATF), or any other executive agency of the state or federal government relating to use, handling, transportation, storage, or detonation of explosives or blasting agents.

(8) Records and Inspections

- i. The holder of a blasting permit shall make the extraction operations site available to the fire code official for inspection at all times during regular business hours.
- ii. The permittee shall retain a record of all blasts and monitoring information for at least five (5) years past the to include date of a blast.
- iii. All records, including monitoring records referenced in subsection (f)(iii) above, relating to blasting activities shall be made available to the fire code official during normal business hours within seventy-two (72) hours of request.

(d) *Control of Adverse Effects.*

(1) Air Blast (Noise) Limits. For the purpose of this section, the air overpressure and related noise generated by the use of explosives or blasting agents in extraction operations shall be measured by the air blast created thereby. Air blast shall not exceed 134 dB peak (± 3 dB) at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area, except as provided in subsection (e) of this section.

- (2) Ground vibration. In all blasting operations, except as otherwise authorized in subsection (e) below, the maximum ground vibration shall not exceed one (1) inch per second at the location of any dwelling.
- (3) Monitoring Requirement. The operator shall conduct monitoring to ensure compliance with the air blast standards and ground vibration standards. Air blast and ground vibration measurements of blasts must be performed to the extent required this section.
- (4) Flyrock. Flyrock traveling in the air or along the ground shall not be cast from the blasting site beyond the area under the control of the operator.
- (5) Exception. The maximum air blast and ground-vibration standards of this section shall not apply at the following locations:
 - i. At structures owned by the permittee and not leased to another person;
 - ii. At structures owned by the permittee and leased to another person, if a written waiver by the lessee has been obtained.

Sec. 12-16. Business Registration.

- i. *Purpose.* Business registration is a procedure administered by Temple Fire & Rescue, in conjunction with the Utilities department, which assures that all businesses within the City of Temple are registered for 911 services, inspected and comply with all city codes.
- ii. *Registration prerequisite to doing business in the City of Temple.* All businesses shall comply with the registration requirements of this article as a precondition of initiating or continuing any business within the City of Temple. For the purpose of this article, the term “business” includes any commercial enterprise, school, church or governmental office located within the city limits. Each occupant of a building used by a business shall have responsibility for complying with the registration requirements of this section.
- iii. *Registration procedure.*
 - i. When a business owner applies for utilities he or she shall fill out a business registration form and return to Temple Fire & Rescue prior to the business receiving utilities or opening its doors for business.
 - ii. Registration or re-registration with the city is required prior to changing the name, ownership, operator, location, or use of an existing business.

Article VI. Miscellaneous

Sec. 12-17. Establishment of limits of the fire district.

Beginning at the point of intersection of the south line of Calhoun Avenue with the east line of North 5th Street; thence in southerly direction along the east line of North 5th Street to the south line of Barton Avenue; thence in a westerly direction along said south line of Barton Avenue to the point of intersection with the east right-of-way of the Gulf, Colorado and Santa Fe Railroad; thence in a southeasterly direction along the east line of South 9th Street, if extended; thence in a southerly direction with said line to the north line of Avenue D; thence in a easterly direction with said line to the east line of South 1st Street; thence in a southerly direction along said line to the north line of Avenue E; thence in an easterly direction along said line, if extended, to the west line of 6th Street, if extended; thence in a northerly direction along said west line of 6th Street, if extended, to the north line of Avenue A; thence in an easterly direction along said line to the west line of 8th Street; thence in a northerly direction with said line to the south line of Central Avenue; thence in a westerly direction with said line to the west line of 6th Street; thence in a northerly direction along said line to the south line of Adams Avenue; thence in a westerly direction along said line to the west line of 4th Street; thence in a northerly direction along said line to the south line of Barton Avenue; thence in a westerly direction along said line to the west line of 2nd Street; thence in a northerly direction along said line to the south line of Calhoun Avenue; thence in a westerly direction along said line to the point of beginning.

Sec. 12-18. Unauthorized use of fire apparatus.

It shall be unlawful for any person, under any pretext whatever, other than for the purposes for which they were intended in Temple Fire & Rescue, to take or use any engine, truck, ladder, fire axe, or other apparatus belonging to or in possession of the department, or any member or company thereof, or to break, deface, or injure the same.

Sec. 12-19. Injuring or driving over fire hose.

It shall be unlawful for any person to cut, deface, tear or otherwise injure, or drive any vehicle over any fire hose belonging to the City of Temple or any fire department that is providing mutual aid for the City of Temple.

Sec. 12-20. Reward for arrest and conviction of arsonists.

The city hereby offers a reward of five hundred dollars (\$500) for the arrest and conviction of any person for the crime of arson committed within the city limits of the City of Temple. The sum of five hundred (\$500) is hereby appropriated out of any funds belonging to the city not already appropriated for some other purpose for the payment of such reward.

Sec. 12-21. New materials, processes or occupancies which may require permits.

The fire chief or his designee shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those enumerated in this chapter. The fire chief or his designee shall post such lists in a conspicuous place in their offices, and distribute copies thereof to interested persons.

Sec. 12-22. Exemptions.

Nothing contained in this Ordinance shall be construed as applying to the regular military or naval forces of the United States, the duly authorized militia of the State, or the police and fire departments of the city in the proper performance of their duties.

Sec. 12-23. Permit Fees.

The city council shall, by resolution, set the amount of all permit fees required by this chapter. A copy of any resolution setting permit fees shall be maintained in the office of the fire code official.

Sec. 12-24. Enforcement.

This chapter shall be enforced by the fire chief or his designee.

Penalties

(a) *Criminal Offenses.* Any person or persons, firm or corporation which violates any of the provisions of this chapter may be deemed guilty of a misdemeanor and, upon conviction, shall be fined an amount not exceeding two thousand (\$2,000) dollars for each offense and each violation hereof shall be deemed a separate and distinct offense for each of said days and shall be punishable as such.

(b) The city attorney may seek remedies at law or in equity to prevent a violation of this chapter

~~(Ordinance No. 2011-4485, November 17, 2011)~~

(REVISED: Ordinance No. 2013-4586, May 16, 2013)

CHAPTER 12
FIRE PREVENTION AND PROTECTION

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Chapter 12

Fire Prevention and Protection

Article I. In General

Sec. 12-1. Definitions.

For the purposes of this Chapter, and as used herein, the following terms will have the meanings as given in this Section:

Air blast means an airborne pressure wave resulting from the detonation of explosives.

Blast means a detonation of explosive materials or blasting agents.

Blasting operations includes blasting and blasting related activities, including, but not limited to, blasting explosives and preparing for blasts, drilling holes for the loading of explosives, loading explosives, setting up of blasting monitoring equipment, posting signs and flags related to blasting, rerouting traffic, erecting barricades, and setting up safety equipment prior to blasting.

Blasting project means each blast requiring a separate Fire Marshal inspection. Fire Marshal inspections will be required as deemed necessary by the Fire Marshal to protect the public's health, safety, or welfare or for the protection of property.

City means the City of Temple, Texas, the City Council of Temple, Texas, or their representative, employee, agent, or designee.

City Attorney means the City's city attorney appointed by the City Council or the City Attorney's designee.

City Council means the governing body of the City.

City Manager means the City's city manager appointed by the City Council or the City Manager's designee.

City holidays means a holiday observed by the City.

Days mean calendar days.

Delay means a distinct pause of pre-determined time between detonations of single charges or groups of charges.

Distributor means a person who:

- (a) Imports fireworks into the State of Texas; or

(b) Sells fireworks to:

- (1) A jobber, retailer, or other distributor for resale; or
- (2) A holder of a single public display permit, a multiple public display permit, or any other type of fireworks permit.

Extraction operations means the use of a lot or tract of land primarily for extraction of materials (including, but not limited to, limestone, rock, sand, gravel, or soil, but not oil or natural gas).

Extraction site means the location of materials, rock removal, or extraction operations as delineated by a site plan or a certificate of occupancy.

False alarm means a fire alarm signal from a fire detection or fire alarm system that is not caused by fire, heat, or smoke.

Fire apparatus access road means a road that provides fire apparatus access from a fire station to a facility, building, or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane, and access roadway that may be used for access by a fire apparatus.

Fire Chief means the fire chief of Temple Fire & Rescue appointed by the City Manager and approved by the City Council or the Fire Chief's designee.

Fire Marshal means the Fire Marshal assigned by the Fire Chief or the Fire Marshal's designee.

Fire lane means a fire lane as defined by the International Code Council's (ICC) 2015 International Fire Code. This term includes specifically marked areas in public and private parking lots.

Fire protection personnel will be defined by Texas Government Code Section § 419.021, as amended.

Fireworks will be defined by 27 C.F.R. § 555.11, as amended.

Fireworks 1.3G means a large fireworks device:

- (a) Primarily designed to produce visible or audible effects by combustion, deflagration, or detonation; and
- (b) Classified as a 1.3G explosive by the United States Department of Transportation in 49 C.F.R. Part 173, as amended.

Fireworks 1.4G means a small fireworks device:

- (a) Primarily designed to produce visible or audible effects by combustion, deflagration, or detonation;
- (b) That complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 C.F.R. Part 1507, as amended; and
- (c) That is classified as a 1.4G explosive by the United States Department of Transportation in 49 C.F.R. Part 173, as amended.

Jobber means a person who purchases fireworks only for resale to retailers.

Manufacturer means a person who makes fireworks.

Maximum peak particle velocity or *maximum PPV* means the maximum peak particle velocity in any seismic trace at the dominant frequency to be allowed at a particular location.

Peak particle velocity or *PPV* means the maximum of the three ground vibration velocities measured in the vertical, longitudinal and transverse directions. Velocity units are expressed in inches per second (ips).

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other entity or their legal representatives, agents, or assigns.

Public display means the igniting of Fireworks 1.3G for public or private amusement.

Pyrotechnic operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising public displays of Fireworks 1.3G or Fireworks 1.4G.

Pyrotechnic special effects operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising proximate displays of Fireworks 1.3G or Fireworks 1.4G.

Retailer means a person who purchases fireworks for resale only to the general public.

Scaled distance means a factor describing relative vibration energy based on distance and charge-per-delay. For ground vibration control and prediction purposes, scaled distance (D_s) is obtained by dividing the distance of concern (D) by the square root of the charge-per-delay (W) : $D_s = D/(W)^{1/2}$.

Sub-drilling means the portion of the blasthole that is drilled below or beyond the desired excavation depth or limit. Sub-drilling is generally required to prevent the occurrence of high or tight areas of unfractured rock between blastholes.

Stemming means crushed stone, tamped clay or other inert earth material placed in the unloaded collar area of blastholes for the purpose of confining explosive charges and limiting rock movement and air overpressure.

TCEQ means the Texas Commission on Environmental Quality.

Temple Fire & Rescue or the fire department means the City's fire department.

The route that a fire hose would be laid means the routing of fire hose from either a public or approved on-site private fire hydrant to the fire apparatus along the length of the public roadway and approved fire apparatus access roads.

Sec. 12-2. Appointment, qualifications, general powers, and duties of the Fire Chief.

- (a) The Fire Chief of Temple Fire & Rescue will be appointed by the City Manager, with approval of the City Council. The Fire Chief must be skilled in the management of the fire department and in the conduct thereof and in the fighting and control of fires and conflagrations and must devote their entire time to the services of the fire department under such rules and regulations as may be promulgated by the City Manager and City Council from time to time.
- (b) The Fire Chief, under the direction of the City Manager, will have control of all fire personnel, stations, and apparatus in the City, will direct the fire department and preside over the same in its efforts to extinguish all fires and conflagrations and perform rescues, and must at all times be ready for all the services which are usually expected of an efficient fire department.

Sec. 12-3. Appointment, qualifications, general powers, and duties of the Fire Marshal.

- (a) The fire prevention and investigation division is hereby created. Such division will be in the Temple Fire & Rescue with the Fire Marshal being a member of that division and reporting directly to the Fire Chief.
- (b) The Fire Marshal will be appointed by the Fire Chief. The Fire Marshal must be skilled in investigations, inspections, and management and will devote their time to educating the public in fire safety while enforcing federal, state, and local laws, rules, and regulations as they pertain to fire prevention. Prior to being appointed to arson investigation duties, the Fire Marshal and any fire protection personnel must comply with all required state laws, rules, and regulations for arson investigators, including possessing a current peace officer license from the Texas Commission on Law Enforcement (TCOLE), if applicable.
- (c) When the Fire Chief or Fire Marshal determines that the condition of any premises creates a serious fire hazard dangerous to human life, either may order a utility company to disconnect the utility service until the hazardous condition is removed. In cases of emergency or in situations where a utility company does not respond to or comply with any such order, the Fire Chief or Fire Marshal has the authority to immediately disconnect or cause the disconnection of utility service. Any person whose property is affected by an act or an order by the Fire Chief or Fire

Marshal under this Section may appeal as provided by Sec. 12-6(c) (*Amendments to Chapter I, "Scope and Administration"*).

Article II. Adoption of the 2015 International Fire Code

Sec. 12-4. Adoption of the 2015 International Fire Code.

- (a) The 2015 International Fire Code, published by the International Code Council, as well as its Appendices B, D, E, F, G, H, I, and J, as this code and appendices now exist and as they may be revised from time to time, is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, save and except:
 - (1) Exclusions as noted in Article III of this Chapter;
 - (2) Amendments as noted in Article IV of this Chapter; and
 - (3) Additions as noted in Articles V and VI of this Chapter.
- (b) The provisions of the 2015 International Fire Code and its appendices B, D, E, F, G, H, I, and J, as modified and amended herein, are incorporated as fully as if set out at length herein from the date the adoption by City Council will take effect, and such provisions will be controlling within the limits of the City.
- (c) A copy of the adopted 2015 International Fire Code and its appendices will be kept on file in the office of the Building Official.

Article III. Exclusions from the 2015 International Fire Code

Sec. 12-5. Exclusions from the 2015 International Fire Code.

The following provisions of the 2015 International Fire Code are excluded:

- (a) Chapter 1, "Scope and Administration," Section 105, "Permits," Subsection 105.6.32, "Open burning," but see Sec. 12-13, "Outdoor Burning," herein.
- (b) Chapter 1, "Scope and Administration," Section 109, "Violations," Subsection 109.4, "Violation penalties," but see Sec. 12-30, "Penalties," herein.
- (c) Chapter 3, "General Requirements," Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces," but see Sec. 12-13, "Outdoor Burning," herein.
- (d) Chapter 5, "Fire Service Features," Section 507, "Fire Protection Water Supplies," Subsection 507.5, "Fire Hydrant Systems," but see Sec. 12-15, "Fire Hydrants," herein.
- (e) Chapter 9, "Fire Protection Systems," Section 906, "Portable Fire Extinguishers," Subsection

906.3, "Size and distribution," Table 906.3(1), "Fire Extinguishers for Class A Fire Hazards" and Table 906.3(2), "Flammable or Combustible Liquids with Depths of Less Than or Equal to .25-Inch," but see Sec. 12-7, replacing the 2015 International Fire Code, Table 906.3(1), "Fire Extinguishers for Class A Fire Hazards," and Sec. 12-8, replacing the 2015 International Fire Code, Table 906.3(2) "Flammable or Combustible Liquids with Depths of Less than or Equal to 0.25-inch," herein.

- (f) Chapter 56, "Explosives and Fireworks," Section 5607, "Blasting," Subsection 5607.4, "Restricted Hours," but see Sec. 12-16, "Extraction Operations Regulations," and Sec. 12-17, "Blasting Operations Regulations," herein.
- (g) Chapter 56, "Explosives and Fireworks," Section 5607, "Blasting," Subsection 5607.5, "Utility notification," but see Sec. 12-17, "Blasting Operations Regulations," herein.

Article IV. Amendments to the 2015 International Fire Code

Sec. 12-6. Amendments to Chapter 1, "Scope and Administration" and Chapter 2, "Definitions," and Chapter 9, "Fire Protection Systems."

- (a) Chapter 1, "Scope and Administration," Section 101, "Scope and General Requirements," Subsection 101.1, "Title," is amended to read as follows:

These regulations shall be known as "the Fire Code of The City of Temple," hereinafter referred to as "this code."

- (b) Chapter 1, "Scope and Administration," Section 105, "Permits," Subsection 105.1, "General," Part 105.1.1, "Permits Required," is amended to read as follows:

Permits required by this Chapter must be obtained from the department or division of the City designated to issue building permits or the fire department, as applicable. Permit fees, if any, must be paid prior to the issuance of the permit. Issued permits must be kept on the premises designated by the City and be readily available for inspection by the Fire Marshal.

- (c) Chapter 1, "Scope and Administration," Section 108, "Board of Appeals," is amended to read as follows:

The City of Temple Building Board of Appeals, as established by Section 7-2, Chapter 7, Buildings, of the City of Temple Code of Ordinances, has the authority and duty to hear appeals brought under this Chapter. Such appeals will be heard and decided as provided by, Chapter 7, Buildings, of the City of Temple's Code of Ordinances.

A person may appeal a decision of the Fire Department, Fire Chief, or Fire Marshal if:

1. The person believes that a provision of this Chapter, including a provision of the 2015 International Fire Code adopted under this Chapter, has been applied incorrectly, because

the provision is preempted by state or federal law;

2. The person believes that the intent of this Chapter or the 2015 International Fire Code or the policies or rules legally adopted hereunder have been incorrectly interpreted or the provisions of this Chapter or the 2015 International Fire Code do not fully apply to a situation or circumstance; or
3. The person is proposing an equivalent method of protection or safety that is not authorized by Fire Department, Fire Chief, or Fire Marshal.

The Building Board of Appeals does not have the authority to waive requirements of this Chapter or the 2015 International Fire Code unless the requirement is preempted by state or federal law.

- (d) Chapter 1, "Scope and Administration," Section 111, "Stop Work Order," Subsection 111.4, "Failure to Comply," is amended to read as follows:

Any person who continues any work after having been issued a stop work order commits an offense under this Chapter, unless the person is performing such work as the person is directed by the City to remove a violation or unsafe condition.

- (e) Chapter 2, "Definitions," Section 202, "General Definitions," definition of the word "Blaster," is amended to read as follows:

A person qualified in accordance with Section 5601.4 to be in charge of and responsible for the loading and firing of a blast.

- (f) Chapter 9, "Fire Protection Systems," Section 903, "Automatic Sprinkler Systems," Subsection 903.2.8, "Group R," is amended to read as follows:

An *automatic sprinkler system* installed in accordance with Section 903.3 must be provided throughout all buildings with a Group R *fire area*, including multi-family structures, *townhouses*, *tri-plex* and *quadplex (fourplex)* apartments, when they contain three or more dwelling units. This section does not apply to detached one- and two-family dwelling units or units separated by a fire wall when the design of the units and fire wall is approved by the building official in writing in response to submittal of complete construction plans.

Sec. 12-7. Amendments to Chapter 9, "Fire Protection Systems."

Replacement of Table 906.3(1), "Fire Extinguishers for Class A Fire Hazards."

Chapter 9, "Fire Protection Systems," Section 906, "Portable Fire Extinguishers," Section 906.3, "Size and Distribution," Table 906.3(1), "Fire Extinguishers for Class A Fire Hazards," is amended by replacing Table 906.3(1) with the following table:

TABLE 906.3(1)
FIRE EXTINGUISHERS FOR CLASS A FIRE HAZARDS

	LIGHT (LOW) HAZARD OCCUPANCY	ORDINARY (Moderate) HAZARD OCCUPANCY	EXTRA (High) HAZARD OCCUPANCY
Minimum Rated Single Extinguisher	5 lb. ABC	5 lb. ABC	5 lb. ABC
Maximum Floor Area Per Unit	3,000 square feet	1,500 square feet	1,000 square feet
Maximum Travel Distance to Extinguisher	75 feet	75 feet	75 feet

Sec. 12-8. Replacement of Table 906.3(2), “Flammable or Combustible Liquids with Depths of Less than or Equal to 0.25-inch.”

Chapter 9, “Fire Protection Systems,” Section 906, “Portable Fire Extinguishers,” Section 906.3, “Size and Distribution,” Table 906.3(2), "Flammable or Combustible Liquids with Depths of Less than or Equal to 0.25-Inch," is amended by replacing Table 906.3(2) with the following table:

TABLE 906.3(2)
**FLAMMABLE OR COMBUSTIBLE LIQUIDS WITH DEPTHS OF LESS THAN OR
EQUAL TO 0.25-INCH^a**

TYPE OF HAZARD	BASIC MINIMUM EXTINGUISHER RATING	MAXIMUM TRAVEL DISTANCE TO EXTINGUISHERS (FEET)
Light (Low)	5 lb. ABC	75 feet
Ordinary (Moderate)	5 lb. ABC	75 feet
Extra (High)	5 lb. ABC	75 feet

For SI: 1 inch = 25.4 mm, 1 foot = 304.8. m

^a For requirements on water-soluble flammable liquids and alternative sizing criteria, see Section 5.5 of NFPA 10.

Sec. 12-9. Amendments to Chapter 56, “Explosives and Fireworks,” Section 5607, “Blasting,” Subsection 5607.1, "General."

- (a) Chapter 56, “Explosives and Fireworks, Section 5607, “Blasting,” Subsection 5607.1, “General,” is amended to read as follows:

Blasting and extraction operations must only be conducted by approved, competent operators familiar with the required safety precautions and the hazards involved and in accordance with the most current provisions of NFPA 495, Sec. 12-16, “Extraction Operations Regulations,” and Sec. 12-17, “Blasting Operations Regulations.” If any of these provisions conflict, the City’s local amendments apply.

- (b) Chapter 56, “Explosives and Fireworks, Section 5607, “Blasting,” Subsection 5607.2, “Manufacturer’s instructions,” is amended to read as follows:

Blasting and extraction operations must be performed in accordance with the instructions of the manufacturer of the explosive materials being used.

Sec. 12-10. Amendment to Chapter 61, “Liquefied Petroleum Gases,” Section 6101, “General,” Subsection 6101.1, “Scope.”

Chapter 61, “Liquefied Petroleum Gases,” Section 6101, Subsection 6101.1, “Scope,” is amended to read as follows:

Storage handling and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such uses must comply with this Chapter, the Texas Railroad Commission’s rules and regulations governing LP-gas, and NFPA 58. Properties of LP-gases will be determined in accordance with Appendix B of NFPA 58.

Sec. 12-11. Amendments to Appendix D, “Fire Apparatus Access Roads.”

- (a) Appendix D, “Fire Apparatus Access Roads,” Section D103, “Minimum Specifications,” is amended as follows:

- (1) Subsection D103.4, “Dead ends,” is amended to read as follows:

Public dead-end fire apparatus access roads must be designed in accordance with the City’s design and development standards.

- (2) Table D103.4, “Requirements for Dead-end Fire Apparatus Roads” is deleted.

- (3) Subsection D103.5, “Fire apparatus access road gates,” Paragraph 1, is amended to read as follows:

1. The minimum gate width must be twenty (20) feet for gates serving as an entrance or exit. Gates that are paired and separated by an island are permitted to be a minimum of sixteen (16) feet each (one for exit and one for entrance).

(4) Subsection D103.5, “Fire apparatus access road gates,” Paragraph 5, is amended to read as follows:

5. All electric gates must be equipped with a device approved by the Fire Marshal to be operated by a designated emergency radio frequency and have a separate manual release and Knox Gate and Key Switch. All manual gates must be equipped with a Knox padlock. Any manual release devices, Knox Gate and Key Switches, and Knox padlocks used for emergency access to a property must be approved by the Fire Marshal. Gates that are manned twenty-four (24) hours a day and seven (7) days a week are exempt from the radio frequency device requirement but must have a separate manual release and Knox and Gate Key Switch or Knox padlock as provided by this Section. All existing gates not in compliance with this Section must meet the requirements of this Section by July 1, 2021 and if not in compliance after this date, be locked in the open position until they comply with this Section’s requirements.

(5) Section D103.6, “Signs,” is amended to read as follows:

- A. Where required by the Fire Marshal, fire apparatus access roads must be marked with signs, painted curbs, or striping. Any fire apparatus access road markings must be in accordance with the fire department's policy for such markings.
- B. Islands that separate lanes and boulevards and roundabouts that obstruct fire apparatus access roads may be approved by the Fire Marshal where there is a minimum back of curb to back of curb distance of eighteen (18) feet on each side of the obstruction with signs placed along the obstruction.

(b) Section D106, “Multiple-Family Residential Developments,” is amended to read as follows:

Multiple-family residential projects must have residential subdivision Entrance/Access roads designated as required by the City’s design and development standards.

(c) Section D107, “One- or Two- Family Residential Developments” is amended to read as follows:

One- or two-family dwelling residential developments must have residential subdivision Entrance/Access roads designated as required by the City’s design and development standards.

Article V. Additions to the 2015 International Fire Code

Sec. 12-12. Fireworks.

(a) This Section does not apply to:

- (1) A toy pistol, toy cane, toy gun, or other device that uses paper or plastic caps in sheets, strips, rolls, or individual caps that contain no more than an average of twenty-five hundredths (.0025) of a grain of explosive composition per cap and that is packed and shipped under 49

C.F.R. Part 173, as amended;

- (2) A model rocket or model rocket motor designed, sold, and used to propel recoverable aero models;
 - (3) The sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation, or highway use;
 - (4) The use of a fusee or a railway torpedo by a railroad;
 - (5) The sale of blank cartridges for:
 - A. Use in a radio, television, film, or theater production;
 - B. A signal or ceremonial purpose in an athletic event; or
 - C. An industrial purpose; or
 - (6) The use of a pyrotechnic device by a military organization;
- (b) Unless otherwise provided in this Section, it is unlawful for any person to possess, sell, manufacture, discharge, transport, or otherwise assemble, store, receive, keep, offer or have in their possession with intent to possess, sell, manufacture, transport, discharge, cause to be discharged, ignite, detonate, fire, or otherwise set in action any fireworks of any description.
- (1) It is an affirmative defense to Subsection (b), above, if a distributor, jobber, manufacturer, pyrotechnic operator, pyrotechnic special effects operator, or retailer transports fireworks in accordance with state and federal laws, rules, and regulations applicable to the transportation of explosives and other dangerous articles by motor, rail, or water.
- (c) Unlawful transportation and storage of fireworks.
- (1) The presence of any fireworks within the jurisdiction of the City in violation of this Section is hereby declared to be a nuisance and is unlawful. The Fire Marshal is directed and required to seize and cause to be safely destroyed fireworks found in violation of this Section, and any member of the fire prevention and investigation division of Temple Fire & Rescue and any licensed police officer is authorized to stop the transportation of and detain any fireworks found being transported illegally and to close any building where any fireworks are found stored illegally until the Fire Marshal can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this Section. All seizures and destruction of fireworks must be in compliance with all state and federal laws, rules, and regulations.
 - (2) Regardless of, and in addition to, any penal provision of this Chapter, the City Attorney is authorized to file suit on behalf of the City for such injunctive relief as may be necessary to

prevent unlawful storage, transportation, keeping, or use of fireworks within the jurisdiction of the City, aid the Fire Marshal in the discharge of their duties, and prevent any person from interfering with the seizure and destruction of such fireworks.

- (3) The remedies provided for in this Section are not exclusive. The City may take any, all, or any combination of these remedies against a person who violates this Section.
- (d) A public display of fireworks may only be permitted under the terms and conditions of this Chapter and state and federal laws, rules, and regulations.
- (e) Any person planning to make a public display of fireworks must first make a written application for a public display permit to the Fire Marshal at least seventy-two (72) hours in advance of the date of the proposed display. The City may not issue a public display permit without the applicant providing proof that they received a public display permit for the fireworks display from the state if required.
- (f) It is the duty of the Fire Marshal to make an investigation as to whether a public display of fireworks as proposed by the applicant for a permit under this Section will be of such a character that it may be hazardous to property or dangerous to any person. The Fire Marshal will, in the exercise of reasonable discretion, grant or deny a public display of fireworks application, subject to the conditions prescribed in this Section. In the event the application is approved by the Fire Marshal, the Fire Marshal will issue a permit to the applicant. Such permit will be valid for the period specified on the permit but may be extended by the Fire Marshal. A public display permit is non-transferable, non-renewable, and is only valid for one display. If a permit is granted, the Fire Marshal will determine what fire protection safety measures will be required before, during, and after the display. It is the responsibility of the permittee to ensure that all fire protection measures are taken. In the event the permit is denied by the Fire Marshal, the Fire Marshal will notify the applicant of the denial in writing.
- (g) The applicant for a display permit under this section must, at the time of making application, furnish proof that he carries workers' compensation insurance for his employees, as provided by the laws of the State of Texas, and he must file with the Fire Marshall a certificate of insurance evidencing the carrying of public liability insurance coverage in an amount not less than one million dollars (\$1,000,000) issued by an insurance carrier authorized to transact business in the State of Texas, for the benefit of the person named therein as assured, as evidence of ability to respond to damages in at least the amount of one million dollars (\$1,000,000), such policy to be approved by the City of Temple. In lieu of insurance, the applicant may file with the Fire Marshal, a bond in the amount of one million dollars (\$1,000,000) issued by an authorized surety company approved by the City of Temple, conditioned upon the applicant's payment of all damages to persons or property which will or may result from or be caused by such public display of fireworks, or any negligence on the part of the applicant or his agents, servants, employees, or subcontractors in the presentation of the public display. The City of Temple must also be designated as an insured by the insurance policy and bonded by the bond.
- (h) Any public fireworks display authorized under this Section is limited to an aerial display.

- (i) The material to be used for a public display authorized by this Section may not be stored within the City limits but must be brought in on the date of the public display and then must be taken immediately to the place of display for further handling and storage, unless such materials are stored within the City limits in a secured storage area designated by the Fire Marshal and only for the length of time approved by the same in writing.
- (j) Any persons supervising or conducting a public fireworks display under this Section must be a competent person twenty-one (21) years of age or older, licensed by the state as a pyrotechnic operator, experienced in pyrotechnics, and approved by the Fire Marshal. No person may handle fireworks at a public display unless such person has been approved to do so by the Fire Marshal. The names of all licensed pyrotechnic operators involved in a public display must be listed on the permit issued by the City for the public display.
- (k) For each public display of fireworks conducted under this Section, no less than two (2) firefighters of the City must be in attendance during the display. The expense of such firefighters at the public display must be borne by the permit holder.

Sec. 12-13. Outdoor burning.

- (a) General outdoor burning prohibition. Unless otherwise provided by this Section, it is unlawful for any person to burn outdoors any material, including trash, brush, tree limbs, grass, trees, leaves, paper, boards, planks, lumber, or any other type of debris or combustible materials of any kind within the territorial limits of the City.
- (b) Permitted outdoor burning.
 - (1) Fires used for Recreation, Ceremony, Cooking, or Warmth.
 - A. Outdoor burning is permitted when used solely for recreational or ceremonial purposes, or in the non-commercial preparation of food, or used exclusively for the purpose of supplying warmth.
 - B. A person conducting outdoor burning under this Subsection (b)(1) may not burn:
 - i. Yard waste, including, but not limited to, grass clippings, bushes, shrubs, or clippings from bushes and shrubs; however, a person may burn firewood, small branches and twigs, and wood chunks or chips; or
 - ii. Paper products; however, a person may burn a small amount of paper (less than a ream) to start such fire.
 - C. Fires used for recreation, ceremonial purposes, cooking, or warmth under this Subsection (b)(1):
 - i. Are limited to a maximum of three (3) feet diameter and two (2) feet in height and

must be contained in an outdoor burn container, such as a non-combustible chimenea, outdoor fireplace, grill, fire pit, or other similar non-combustible container;

- a. Outdoor burn containers placed on a combustible structure, including a porch, deck, or balcony, must be elevated at least three (3) feet off the structure while in use,
 - b. All openings in outdoor burn containers must be covered by wire mesh, grill grates, or other screening material that prevents the passage of sparks and ember while the container is in use, and
 - c. Outdoor burn containers may not be used indoors.
- ii. Must be kept at least twenty (20) feet from any structure or combustible exterior wall, fence, or overhang;
 - iii. Are prohibited on any porch, deck, balcony, or any other structure connected to a multi-family dwelling;
 - iv. Must be constantly attended by a competent person thirteen (13) years of age or older;
 - v. Must be extinguished by 12:00 A.M.; and
 - vi. Are not permitted when winds are over 20 mph.
- (2) On-site burning of plant growth. On-site burning of plant growth generated as a result of right-of-way maintenance, landclearing operations, or maintenance along water canals when no practical alternative to burning exists is permitted as provided by 30 Tex. Admin. Code § 111.209, as amended.
 - (3) Crop Residue. Crop residue burning is permitted for agricultural management purposes when no practical alternative exists as provided by 30 Tex. Admin. Code § 111.209, as amended.
 - (4) Fire training. Outdoor burning is permitted for fire training as provided by 30 Tex. Admin. Code § 111.205, as amended.
 - (5) City and County burning. The City or a Bell County employee or agent may burn brush, trees, or other plant growth that causes a detrimental public health and safety condition as provided by 30 Tex. Admin. Code § 111.209, as amended.
- (c) Requirements for outdoor burning.
- (1) All outdoor burns must comply with all applicable terms and conditions imposed by TCEQ and all other applicable local, state, and federal permits, laws, rules, and regulations, including 30 Tex. Admin. Code, Chapter 111, Subchapter B, Outdoor Burning, as amended. If any applicable provision conflicts with another, the stricter provision will control.

- (2) A person must obtain a permit from the Fire Marshal prior to burning under Subsections (b)(2)-(b)(5), unless otherwise provided below, and comply with the permit's terms and conditions.
 - A. A permit for outdoor burning for fire training or City or County burning is not required if the burn is authorized by the Fire Chief.
 - B. A permit is only valid for the time period specified upon the face of the permit. A person may not conduct a burn under an expired permit. The Fire Marshal may extend an issued permit at the Fire Marshal's discretion.
- (3) A copy of a TCEQ written authorization to burn, if required by state law, rules, or regulations, must be presented to the Fire Marshal prior to conducting any burn authorized by this Section. The Fire Marshal may not issue a permit for a burn if the applicant fails to provide a required TCEQ written authorization to the Fire Marshal nor may a person conduct any burn without a required TCEQ written authorization.
- (4) Regardless of whether an outdoor burn is authorized under this Section, a person may not burn electrical insulation, treated lumber (including lumber treated with paint, stain, varnish, clear coat, or any other kind of treatment), plastics, non-wood construction, renovation, or demolition materials, heavy oils, petroleum products, asphaltic materials, potentially explosive materials, chemical wastes, items containing natural or synthetic rubber, pine needles, trash, garbage, or other type of debris, or motor vehicles or any part thereof within the City unless authorized in writing by TCEQ.
- (5) No person may burn within the City when there is a burn ban in effect for the City or Bell County.
- (6) Any fire permitted under this Section must be extinguished immediately if it is determined by the Fire Marshal to be unsafe, constitute a hazard to the environment, people, or private or public property, cause or contribute to a nuisance or traffic hazard, violate any local, state, or federal law, rule, or regulation, or interfere with the reasonable use of any property. The Fire Marshal is authorized to order any person who received a permit under this Section, any person responsible for the burn, or the fire department to extinguish such burns or fires. Failure to obey any order issued under this Subsection is an offense under this Chapter.

Sec. 12-14. Fire apparatus access roads and fire lanes.

- (a) Location of fire apparatus access roads and fire lanes.
 - (1) The locations of fire lanes and fire apparatus access roads will be determined by the Fire Marshal in conformity with the provisions of this Section and any applicable local or state laws, policies, rules, or regulations.
 - (2) No building, other than single-family or two-family dwellings, may be constructed so that

any part of the perimeter of the building is greater than one hundred fifty (150) feet from a public way or public place unless the owner or property manager constructs and maintains a private fire apparatus access road or fire lane having a minimum width of twenty (20) feet and a minimum overhead clearance throughout of no less than thirteen (13) feet six (6) inches and terminating within one hundred fifty (150) feet from the furthestmost point of said building.

(b) Restrictions.

- (1) A person may not use fire apparatus access roads or fire lanes as loading or unloading zones.
- (2) A person may not park, stop, or stand a motor vehicle in a fire apparatus access road or fire lane at any time.

(c) Where required by the Fire Marshal, fire lanes and fire apparatus access roads must be marked with signs, painted curbs, or striping. Any fire lane and fire apparatus access road markings must be in accordance with the fire department's policy for such markings.

- (1) It is not a defense to prosecution under Subsection (b) if the fire lane or fire apparatus access road markings are not in accordance with the fire department's policy for such markings, if a reasonable person would find that the markings at the time the violation occurred were clearly marked and legible.

(d) Maintenance.

- (1) A private property owner must maintain and keep in good repair all private fire apparatus access roads and fire lanes on their property.
- (2) A private property owner must maintain all private fire lane and fire apparatus access road markings in good condition and keep such markings legible and in compliance with this Section.

(e) Abandonment of private fire apparatus access roads and fire lanes.

- (1) No private property owner or person in charge of any premises served by a private fire apparatus access road or fire lane may abandon, block, or close any fire apparatus access road or fire lane on their premises without complying with the following procedure:

- A. Requesting the Fire Marshal in writing to abandon, block, or close the fire apparatus access road or fire lane and providing the reasons for the request; and
- B. Receiving the Fire Marshal's written approval of such request.
 - i. The Fire Marshal must approve or deny a request for abandonment, blockage, or closure of a private fire apparatus access road or fire lane and notify the property

owner of their decision within ten (10) days of receiving a request. If the Fire Marshal does not approve or deny this request within this time period, the request is automatically denied.

- (f) Private dead-end fire apparatus access roads must comply with the requirements under the City's design and development standards.

Sec. 12-15. Fire hydrants.

- (a) Authority to determine location. The Fire Chief or Fire Marshal will determine the location of fire hydrants in conformity with the provisions of this Section.

- (b) Fire hydrants; location.

- (1) As residential zoned property is developed, fire hydrants must be located at a maximum spacing of six hundred (600) feet as measured along the length of the roadway, and no part of any structure may be farther than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose would be laid.
 - (2) As non-residential zoned property is developed, fire hydrants must be located a maximum spacing of three hundred (300) feet as measured along the length of the roadway, and no part of any structure may be further than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose would be laid.
 - (3) Spacing of hydrants along roadways designated by the City as expressways and major arterials will be required on both sides of the roadway with the maximum distance of six hundred (600) feet for residential and one thousand two hundred (1200) feet for non-residential zoned properties, on each side of the roadway. No part of any structure may be further than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose would be laid.

- (c) Restrictions.

- (1) Type of fire hydrants. All required fire hydrants must be of the national standard three-way breakaway type no less than five and a one-fourth (5 ¼) inches in size, must conform to the provisions of the latest American Water Works Association specifications C-502, and placed upon City approved water mains of no less than six (6) inches in size.
 - (2) Valves must be placed on all fire hydrant leads.
 - (3) Required fire hydrants must be installed in such a manner that the breakaway point is more than three (3) inches and no greater than five (5) inches above the ground surface.
 - (4) A spacing of no less than eighteen (18) inches must be provided between the center of the barrel of the large steamer connection and the finished grade surface.

- (5) No fire hydrant located on a six- (6-) inch dead-end water main may be located more than one thousand eight hundred (1,800) feet from a six- (6-) inch or greater main.
 - (6) No six- (6-) inch looped water main may exceed three thousand five hundred (3,500) feet in length.
 - (7) Fire hydrants must be installed on a water main that is separate from the domestic water supply, unless it is determined by the Fire Marshal that the required maximum one- (1-) hour demand plus the needed minimum fire flow of a thousand (1,000) gallons per minute will be met by an alternative installation.
 - (8) Fire hydrants located on public property must be located a minimum of two (2) feet and a maximum of four (4) feet behind the curb line.
 - (9) All fire hydrants placed on private property must be adequately protected by either curb stops or concrete posts or by other methods as approved by the Fire Marshal. Such stops or posts must be maintained by the property owner.
 - (10) All fire hydrants must be installed so that the steamer connection faces the fire lane or street.
 - (11) Where feasible, fire hydrants placed at intersections or access drives to parking lots must be placed so that no part of a fire truck connected to the hydrant will block the intersection or parking lot access.
 - (12) Post, fences, vehicles, vegetation, trash, storage, and other materials or objects may not be placed, maintained, or kept near fire hydrants, fire department inlet connections, or fire protection system control valves in a manner that would prevent such equipment or fire hydrant from being immediately discernible or accessible. A three- (3-) foot clear space must be maintained around the circumference of fire hydrants. The fire department may not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.
- (d) Maintenance.
- (1) All fire hydrants within the City must be inspected, flushed, and maintained at least once annually.
 - A. Annual inspections, flushing, and maintenance of public fire hydrants will be the responsibility of Temple Fire & Rescue.
 - B. Annual inspections, flushing, and maintenance of private fire hydrants will be responsibility of the property owner of the property on which the private fire hydrant is located.

- i. The property owner may complete the requirements of Subsection (d)(1)(B) themselves or through an employee or agent. The property owner must file a signed statement with Temple Fire & Rescue within one week of the time this work is completed providing what work was performed, the date the work was completed, and the name and contact information of the person who performed the work. Any inspection or flushing of a private fire hydrant performed by a property owner or their employee or agent must be performed by a person trained to perform such tasks.
 - ii. A property owner may request Temple Fire & Rescue to complete the requirements of Subsection (d)(1)(B). If this work is performed by Temple Fire & Rescue, the City may charge the property owner for this work.
- (2) The property owner of the property where a private fire hydrant is located is responsible for the maintenance and repairs required to keep the private fire hydrant in proper working order and properly painted.
- (3) The Fire Chief and Fire Marshal may inspect any private fire hydrant and review any maintenance records of a private fire hydrant to ensure that the requirements of this Section are being met.
- (4) If the Fire Chief or Fire Marshal determines that a private fire hydrant is not in proper working order or needs to be painted, flushed, or inspected, they may order the property owner to perform the work necessary to bring the private fire hydrant back into compliance with this Section or cause this work to be performed by Temple Fire & Rescue. If this work is completed by Temple Fire & Rescue, the City may charge the property owner for this work.
- (5) Fire hydrants must be painted as follows:
 - A. Less than 500 gallons per a minute (gpm) – Red Bonnet
 - B. 500-999 gpm – Yellow Bonnet
 - C. 1000-1499 gpm – Green Bonnet
 - D. Over 1500 gpm – Blue Bonnet
- (g) Use; opening and closing. No person may open or close any public fire hydrant within the City unless authorized to do so by the Fire Chief, Fire Marshal, or the Director of Public Works or their designee. A person authorized to open or close a fire hydrant must do so as prescribed by the City.

Sec. 12-16. Extraction operations regulations.

(a) Purpose; Applicability.

- (1) The purpose of this Section is to promote the health, safety, and welfare of those who work or reside near extraction operations and to protect air quality and the water resources of the City.
- (2) The regulations in this Section are applicable to extraction operations within the territorial limits of the City.

(b) Blasting.

All blasting activity that falls within the scope of this Section must comply with the following provisions:

(1) Permit required.

- A. An appropriate extraction blasting permit must be acquired from Temple Fire & Rescue prior to any blasting activity or preparation for blasting activity at an extraction site.
- B. An extraction blasting permit will authorize blasting for the extraction of materials (e.g., rock or stone) only at the extraction site designated on the permit.
- C. The extraction site operator, or designated representative, must apply for an extraction blasting permit in accordance with the following procedures:
 - i. The applicant must submit a completed permit application form and applicable permit fee to Temple Fire & Rescue.
 - ii. An extraction blasting permit application must contain the following information and documents:
 - a. The legal name, and trade name, if any, of the extraction site operator(s);
 - b. Names and copies of valid licenses for all blasters at an extraction site;
 - c. Copy of Insurance Certificate of Blasting Liability Coverage or the related insurance policy or copy of the insurance policy as required under Subsection (b)(2) (*Insurance Required*);
 - d. Identification of extraction site;
 - e. Description of conditions, if any, which may cause possible adverse blasting effects;

- f. Normal extraction operations schedule;
- g. Type of explosives or blasting agents to be used;
- h. Type of stemming;
- i. The name, title, and phone number of any individuals actively managing an extraction site and a direct contact phone number to contact them on-site;
- j. Direct contact phone number for all blasters at an extraction site; and
- k. Copy of Mine Safety and Health Administration (MSHA) Certificate of Training (Form 5000-23) for all personnel involved in the extraction operations.

D. New application required.

- i. A permittee or the permittee's designated representative must apply for a new extraction blasting permit, pay the applicable permit fee to Temple Fire & Rescue, and be issued a new permit by the Fire Marshal prior to performing any blasting operation at the extraction site if:
 - a. An extraction site operator, blaster, or blasting company for the permitted extraction site changes;
 - b. A blaster for the permitted extraction site has his/her state or federal license to blast expire or revoked;
 - c. There is a change made to an insurance policy filed with, and approved by, Temple Fire & Rescue under Subsection (b)(2) (*Insurance Required*); or
 - d. An insurance policy filed with, and approved by, Temple Fire & Rescue under Subsection (b)(2) (*Insurance Required*) is cancelled or expires.
 - ii. Failure to comply with Subsection (b)(1)D.i, above, may result in the City suspending or revoking the permittee's extraction blasting permit or issuing a stop work order for the extraction site.
- E. If any information or documents submitted in the permittee's blasting application change, other than the information and documents specified in Subsection (b)(1)D (*New Application Required*), the permittee or the permittee's designated representative must notify the Fire Marshal in writing at least twenty-four (24) hours prior to performing any blasting operation at the extraction site. Failure to do so may result in the City suspending or revoking the permittee's extraction blasting permit or issuing a stop work order for the extraction site.

- F. The Fire Marshal has thirty (30) days to approve or deny an extraction blasting permit application. If the Fire Marshal has not approved or denied a permit application under this Section within this thirty- (30-) day period, the permit is automatically denied.
- G. The Fire Marshal may deny an extraction blasting permit for any of the following reasons:
 - i. The submitted application is incomplete or contains incomplete, insufficient, false, or fraudulent documents or information;
 - ii. The information or documentation submitted in a permit application fails to comply with local, state, or federal laws, rules, or regulations;
 - iii. The City determines that issuing an extraction blasting permit will cause or may cause an imminent danger to property or public health, safety, or welfare; or
 - iv. For any other good cause determined by the City.
- H. An extraction blasting permit issued under this Section is non-transferable.

(2) Insurance required.

- A. Before a permit may be issued under this Section, the applicant must obtain and maintain general liability insurance having limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined with one million dollars (\$1,000,000) or greater annual aggregate throughout the permitted period for the purpose of the payment of all damages to persons or property which arise, or are caused by, the conduct of any act or omission authorized by the permit. The general liability insurance must name the City of Temple as an additional insured with a waiver of subrogation in favor of the City of Temple. The policy must contain a provision requiring the insurance company to furnish the City with written notification of any cancellation or non-renewal of this policy thirty (30) days prior to the cancellation or expiration date.
- B. Evidence of compliance with this requirement will be considered as having been met when the policy, a copy thereof, or a certificate of insurance has been filed with, and approved by, Temple Fire & Rescue. This policy must include an endorsement that the City will be notified in writing at least thirty (30) days in advance in the event the policy is canceled or expires.

(3) Regulatory compliance.

All blasting operations located within an extraction site must comply with the applicable provisions of the 2015 International Fire Code and with this Section, as well as all applicable local, state, and federal laws, rules, and regulations, including industrial noise, dust levels, applicable drainage, water, and air standards. If there is a conflict between provisions, the

stricter provision will control unless preempted by law.

(4) Expiration date of permit.

An extraction blasting permit expires one year after the date of issuance. If a permittee wishes to continue extraction operations after the permit's expiration date, the permittee must apply for a new permit as provided by Subsection (b)(1), above, at least thirty (30) days prior to the permit's expiration date. Failure to timely reapply for an extraction blasting permit as provided by this Subsection may result in the City denying the permit.

(5) Hours of operation.

- A. Blasting may only be performed during the hours of 8:00 AM and 5:00 PM, Central Standard Time, Monday through Friday; however, no blasting may be performed on City holidays.
- B. Regardless of Subsection (b)(5)A, above, blasting may occur outside of the above prescribed hours or days if authorized in writing by the Fire Marshal.

(6) Notification of blast.

An extraction site operator must notify the Fire Marshal a minimum of twenty-four (24) hours prior to a scheduled blast.

(7) Monitoring of blasting.

- A. An extraction site operator must monitor each blast to accumulate data with respect to seismographic and air blast effects of the blasting activity as required by state and federal law. The extraction site operator must conduct independent monitoring of blasting events to the extent and frequency reasonably required by Temple Fire & Rescue.
- B. Information generated in the form of reports or other data from the monitoring required above must be submitted to the Fire Marshal within seventy-two (72) hours of each blasting event.
- C. Monitoring information must include, but is not limited to:
 - i. Actual date and time of the blast;
 - ii. Type of explosives or blasting agents used;
 - iii. Technical data and material safety data sheets for all explosives or blasting agents used;
 - iv. Total pounds of explosives used in each blast;

- v. Number, spacing, stemming, and depth of holes;
- vi. Maximum pounds per delay;
- vii. Firing sequence, delay sequence, and typical hole load diagrams;
- viii. Location and distance of extraction operation from seismographs;
- ix. Weather conditions at time and location of blast; and
- x. Seismograph and air blast data.

D. Seismograph and air blast data must include the:

- i. Type of instrument, sensitivity, and calibration signal of certification of annual calibration;
- ii. Exact location of instrument and the date, time, and distance of the instrument from the blast;
- iii. Name of person and firm taking the reading as well as the person analyzing the seismic record; and
- iv. Ground vibration and air blast levels recorded.

(8) Safety standards.

An extraction site operator is responsible and required to comply with all applicable provisions of state and federal rules and regulations promulgated by the Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and any other executive agency of the state or federal government relating to use, handling, transportation, storage, or detonation of explosives or blasting agents.

(9) Records and inspections.

- A. An extraction blasting permittee must make the permitted extraction operation site available to the Fire Marshal for inspection at all times during regular business hours.
- B. The permittee must retain a record of all blasts and monitoring information for each blast for a period of five (5) years after the date of the blast.
- C. All records, including monitoring records referenced in Subsection 12-16(b)(7), above, relating to extraction operations must be made available to the Fire Marshal during normal business hours within seventy-two (72) hours of the Fire Marshal's request.

(c) Control of Adverse Effects.

(1) Air blast limit.

For this Section, the air overpressure and related noise generated by the use of explosives or blasting agents in extraction operations will be measured by the air blast created thereby. Air blast may not exceed one hundred thirty-four (134) dB peak (\pm three (3) dB) at the location of any dwelling, public building, hospital, school, church, or community or institutional building outside the permit area, unless otherwise provided in Subsection 12-16(c)(5), below.

(2) Ground vibration limit.

In all extraction operations, unless otherwise authorized in Subsection 12-16(c)(5), the maximum ground vibration may not exceed one inch (1") per second at the location of any dwelling.

(3) Monitoring requirement.

An extraction site operator must conduct monitoring to ensure compliance with the air blast standards and ground vibration standards. Air blast and ground vibration measurements of blasts must be performed to the extent required this Section. If determined necessary by the Fire Marshal, an additional air blast and vibration monitor must be installed and monitored by the extraction site operator and the Fire Marshal. This additional monitor must be paid for by the extraction site operator.

(4) Flyrock.

Flyrock traveling in the air or along the ground may not be cast from the blasting site beyond the area under the control of the extraction site operator.

(5) Non-applicability.

The maximum air blast and ground-vibration limits of this Subsection do not apply to the following:

- A. Structures located within the extraction site;
- B. Structures owned by the permittee and not leased to another person; or
- C. Structures owned by the permittee and leased to another person if a written waiver by the lessee has been obtained by the permittee.

(d) Suspensions, revocations, denial of re-certifications, and stop work orders.

(1) The City may suspend or revoke a permit, deny approval of a permit re-certification, or issue

a stop work order for any of the following reasons:

- A. The information or documentation submitted by the permittee in the permittee's extraction blasting permit application or permit re-certification is determined by the City to be incomplete, insufficient, false, or fraudulent;
 - B. The permittee does not comply with all provisions of this Section;
 - C. The permittee does not comply with all terms and conditions of the permit;
 - D. The City determines that the permittee's blasting or extraction operations will cause or may cause an imminent danger to property or public health, safety, or welfare;
 - E. The Fire Marshal finds that any work regulated by this Section is being performed in a manner contrary to the provisions of this Chapter, or in a dangerous or unsafe manner;
 - F. A local, state, or federal license, certificate, or permit required to conduct a blast or that is related to the blast has expired or is suspended or revoked;
 - G. The insurance required under this Section is cancelled or expires without the required thirty- (30-) day notification to the Fire Marshal;
 - H. The City discovers new information or new conditions that the City determines requires the issuance of the stop work order, denial of approval of a permit re-certification, or suspension or revocation of the permit;
 - I. As otherwise provided by this Section; or
 - J. For any other good cause determined by the City.
- (2) A stop work order and notification of denial of approval of a permit re-certification or a revocation or suspension of a permit must be in writing and be given to the owner of the property or to the owner's authorized agent, the permittee, or the person doing the work; however, where an emergency exists, the Fire Marshal is not required to give written notice prior to stopping the work.
- (3) Upon notification that a permit has been suspended or revoked, a permit re-certification has been denied, or a stop order has been issued, all blasting operations as specified by the City must immediately cease and all explosive materials must be removed from the permit area immediately; however a person may perform work to remove a violation or unsafe condition as directed by the City.
- (4) The City may reinstate a suspended extraction blasting permit, approve a permit re-certification, or rescind a stop work order if the conditions that caused the suspension, denial, or issuance of the stop work order have been corrected. If the conditions have not been

corrected within thirty (30) days of service of the notice of suspension or denial of approval of re-certification or issuance of the stop work order, the permit may be revoked.

- (5) A permit that is revoked may not be reinstated. The holder of a revoked permit must submit a new extraction blasting permit application to resume blasting or extraction operations on a site where a permit has been revoked.

(e) Appeal.

Any person aggrieved by an action or inaction of the Fire Department, Fire Chief, Fire Marshal, or City taken under this Section may appeal such decision to the Building Board of Appeals in writing. Upon receipt of an appeal notification, the Board will take the actions required to review the appeal in accordance with Sec. 12-6(c) (*Amendments to Chapter 1, "Scope and Administration"*).

- (f) Applicability of Ordinance No. 2020-5030's extraction operations regulations to existing extraction blasting permittees.

A person holding an existing and valid extraction blasting permit as of July 2, 2020 must comply with either: (1) the extraction operations regulations adopted under Ordinance No. 2020-5030, or (2) the extraction operations regulations imposed under this Chapter as these regulations existed on July 1, 2020, until such permit expires or is revoked, whichever occurs first. After such permit expires or is revoked, the permittee must apply for a permit as required by Ordinance No. 2020-5030 and comply with all other extraction operations regulations adopted under Ordinance No. 2020-5030.

Sec. 12-17. Blasting operations regulations.

(a) Purpose.

The purpose of this Section is to establish requirements for blasting operations, blast limitations, explosive materials, equipment, labor, and supervision for use of explosives, drilling, and charging of blast holes, protection of existing structures, facilities, and other property, and repair of damage due to blasting operations within the City.

(b) Applicability.

This Section does not apply to extraction operations, which will be governed by Sec. 12-16, (*Extraction Operations Regulations*).

(c) Definitions.

- (1) The following definitions apply to this Section:

- A. The definitions set forth in the 2015 ICC International Fire Code, Chapter 56, Explosives and Fireworks, Section 5602.

- B. The definitions set forth in most recent version of the National Fire Protection Association (NFPA) 495, Explosive Materials Code, and any amendments thereto, are adopted by reference.
 - C. *Permit area* means the area within the perimeter of the property on which a blast site is authorized by a permit under this Section.
- (2) Whenever any conflict exists between definitions, the most restrictive definition will apply, unless otherwise preempted under law.
- (d) Permit required.
- (1) No person may be in possession of explosive materials, transport explosive materials, or perform an activity involving explosive materials, including the loading and firing of explosive materials, in the City without a City blasting permit or as otherwise permitted under this Chapter or other law.
 - (2) A person may not sell, give, deliver, or transfer explosive materials within the City to a person not in possession of a City blasting permit or who is not otherwise permitted to buy, receive, accept, or possess explosive materials under this Chapter or other law.
 - (3) A City blasting permit does not take the place of any other license or permit required by other law.
 - (4) A City blasting permit is required for each blasting project.
- (e) Blasting permit application.
- (1) To apply for a blasting permit a person must submit to the City a completed City application form. The following documents and information must also be submitted to the City with the completed application form for the blasting permit application to be deemed complete:
 - A. A transportation plan as provided under Subsection (f) (*Transportation Plan*);
 - B. A traffic control plan as provided under Subsection (g) (*Traffic Control Plan*);
 - C. A blasting plan as provided under Subsection (h) (*Blasting Plan*);
 - D. A liability waiver and indemnification agreement executed by the applicant; and
 - E. Any other information deemed necessary by the City.

- (2) If any information or documentation required in Subsection (e)(1), above, changes, the applicant, or the permittee if the permit has been issued, must notify the City within three (3) days of the change. An applicant or permittee may not perform any blasting operations until the City is notified and approves the change.
- (3) All applicable departments will review completed blasting applications. After review, the City will approve or deny permits.

(f) Transportation plan.

- (1) Vehicles used to transport explosive materials, and the operation of such vehicles, must comply with all local, state, and federal laws, rules, and regulations for the transport of explosive materials.
- (2) A plan that addresses the transportation of explosive materials within the City must be included with blasting permit application as provided under Subsection (e) (*Blasting Permit Application*), above.
- (3) The City may require the below information to be included in the applicant's transportation plan:
 - A. Routes used for explosive material deliveries and returns;
 - B. Hours of explosive material transport;
 - C. Maximum quantities of explosive materials being transported, and the types of explosive materials being transported;
 - D. Types of vehicles to be used for transporting explosive materials; and
 - E. Any other information deemed necessary by the City.

(g) Traffic control plan.

- (1) A traffic control plan must be included with a blasting permit application as provided under Subsection (e) (*Blasting Permit Application*), above.
- (2) The City may require the below information related to blasting operations to be included in the applicant's traffic control plan:
 - A. Locations, type, and quantity of signs, flags, and barricades;
 - B. Road closures;

- C. Detour routes for traffic; and
 - D. Any other information deemed necessary by the City.
- (3) If any road closures are proposed, the traffic control plan must account for school bus schedules; blasting operations may not delay school buses on regularly scheduled routes.
- (h) Blasting plan.
- (1) A blasting plan must be included with a blasting permit application as provided under Subsection (e) (*Blasting Permit Application*), above. An applicant's blasting plan must include detailed plans for pre-blast notifications, pre-blast inspections, post-blast inspections, and blast monitoring that comply with the requirements of this Section.
 - (2) In addition to the information required under Subsection (h)(1), above, the City may require the applicant to provide the following information as part of the applicant's blasting plan:
 - A. The location where the blasting is to occur;
 - B. The approximate total volume of material to be blasted;
 - C. The incremental volumes, per blast, of material to be blasted;
 - D. The types and packaging of explosive materials to be used;
 - E. The drill hole diameters, depths, patterns, sub-drilling depths, and drill hole orientations to be used;
 - F. The initiation system, the incremental delay times, and the location of the primers in the explosive column;
 - G. The stemming depths and stemming material for the various estimated depths of drill holes to be blasted;
 - H. The approximate types and quantities of explosive materials anticipated to be used;
 - I. The fly-rock control procedures and equipment, if any, to be used;
 - J. The maximum number of blasts to be made in any one day;
 - K. The blast warning sound system and equipment to be used;
 - L. The scheduled start date and finish date of blasting operations; and

M. Any other information deemed necessary by the City.

(3) Applicable distances.

A. The distances from the blasting for which pre-blast notification, pre-blast structural inspection, and blast monitoring are required will be determined by the scaled distance formulas set forth below:

- i. Distance from the blast within which pre-blast notification to all property owners and homeowner and property owner associations is required: $D_a = 90W$.
- ii. Distance from the blast within which pre-blast inspection of all properties is required: $D_b = 75W$.
- iii. Distance from the blast within which monitoring of selected structures is required: $D_c = 60W$.

B. In the above scaled distance formulas:

- i. D_a , D_b , and D_c are the actual distances in feet from the closest point in the blast; and
- ii. “W” is the square root of the maximum weight of the explosives in pounds detonated with a minimum eight millisecond delay from another detonation event in a sequentially delayed blast.

(4) Pre-blast notifications to property owners and HOAs and POAs.

A. The permittee must mail pre-blast notifications to all property owners and homeowner and property owner associations within a specified distanced as provided under Subsection (h)(3), above, and a copy of the mailed notification provided to the City, no less than seven (7) days prior to the start of blasting and no more than thirty (30) days prior to the start of blasting.

B. The City may require the pre-blast notification to include the following information:

- i. General description of the blasting operations;
- ii. Why the blasting is necessary;
- iii. Name of the blasting company and blaster’s contact information;
- iv. Name of the applicant and the applicant’s contact information;
- v. The anticipated duration of blasting;

- vi. An anticipated schedule for blasts, including estimated dates and times of blasting;
 - vii. Measures to be taken for the control of ground vibrations, air blast, fly rock, fumes, and dust;
 - viii. Where the blasting will be conducted;
 - ix. A map showing the location of blasting;
 - x. Description of warning signals for blasting and all clear signal; and
 - xi. Any other information deemed necessary by the City.
- C. When no blasting occurs for a period of thirty (30) days or more, a new pre-blast notification must be mailed as provided by this Subsection.

(5) Pre-blast notification to utilities.

The permittee must call Texas811 at least seventy-two (72) hours prior to blasting and comply with all Texas811 instructions.

(6) Pre-Blast Inspections.

- A. The permittee must mail a notification to all property owners within a specified distanced as provided under Subsection (h)(3), above, that notifies the property owners of their right to request a pre-blast inspection and the procedure for requesting such inspection. This notification must be mailed to the required property owners, and a copy provided to the City, no less than seven (7) days prior to the start of blasting and no more than sixty (60) days prior to the start of blasting.
- B. All pre-blast inspections requested must be completed at least forty-eight (48) hours prior to the permittee's first blast.
- C. Pre-blast inspections must be performed by an independent Texas licensed Professional Real Estate Inspector or Texas licensed engineer, who is not an employee of the permittee, at the permittee's expense.
- D. The pre-blast inspector must determine the condition of the property and must document with scaled photographs and any supplemental sketches any pre-blasting damage and other physical factors that could reasonably be affected by the blasting. Documentation must include foundation and building construction details, other improvements, and landscape features.

- E. Written report of pre-blast inspections must be signed by the pre-blast inspector.
- F. The permittee must submit to the City a copy of the individual pre-blast inspection reports and a log of all photos taken during pre-blast inspections as well as any written owner refusals of pre-blast inspections at least forty-eight (48) hours prior to the permittee's first blast.
- G. Pre-blast inspections are valid for sixty (60) days. After sixty (60) days from the date an inspection is completed, if a permittee wishes to blast, the permittee must re-perform all the requirements of this Subsection (h)(6).

(7) Post-blast inspections.

- A. Property owners may request an inspection of their property, if following a blast, the property owners feel that the blasting caused damage to their property. This request may be made regardless of whether the property was outside of the pre-blast inspection specified distance provided under Subsection (h)(3), above.
- B. The property owner must request the permittee to perform a post-blast inspection in writing.
- C. The post-blast inspection must be performed by the permittee within ten (10) days of the property owner's request.
 - i. If a pre-blast inspection was performed, the post-blast inspection report must consist of scaled photographs of any alleged damages and a written report comparing the pre-blast photographs with the post-blast photographs. If a pre-blast inspection was not performed, the post-blast inspection report must consist of scaled photographs of any alleged damages and a written report describing the alleged damage.
 - ii. A copy of the post-blast inspection report must be timely provided to the property owner and to the City.
- D. If no agreement is arrived at between the permittee and the property owner after a post-blast inspection performed under Subsections (h)(7)A-C, above, the permittee must arrange for an independent Texas licensed Professional Real Estate Inspector or Texas licensed engineer, who is not an employee of the permittee, to perform a post-blast inspection and prepare a post-blast inspection report. The post-blast inspector must timely submit the post-blast inspection report to the permittee, the property owner, and the City.
 - i. The cost of this additional post-blast inspection and post-blast inspection report must be borne equally by the property owner and the permittee, unless the post-blast inspector finds that the sole cause of the damage was due to the blasting, in which

case the permittee must bear the full cost of the post-blast inspection and post-blast report.

(8) Monitoring.

- A. The permittee must monitor each blast to accumulate data with respect to the seismographic and air blast effects of the blasting operation and must conduct independent monitoring of blasting events as directed by the City and to the extent and frequency reasonably required by the City.
- B. Within seventy-two (72) hours of each blast, the permittee must submit seismograph and air blast data to the Fire Marshal.
- C. Seismograph or air blast data submitted to the Fire Marshal must include the:
 - i. Type of instrument, sensitivity, and calibration signal of certification of annual calibration;
 - ii. Exact location of instrument and the date, time, and distance of the instrument from the blast;
 - iii. Name of person and firm taking the reading as well as the person analyzing the seismic record; and
 - iv. Ground vibration and air blast levels recorded.
- D. Ground vibration and air blasts monitoring and limits.
 - i. Ground vibrations and air blasts must be monitored with blasting seismographs that conform to guidelines provided by the City.
 - ii. Blasting seismographs must be deployed in the field according to guidelines provided by the City.
 - iii. Permittees must place blasting seismographs at all locations specified by the Fire Marshal.
 - iv. The maximum charge-per-delay in all blasts must be sized to conform with the maximum PPV limits and minimum scaled distance limitations shown in Table 1, below. The most restrictive minimum scaled distance limitation must be used at all locations.

Table 1

Location	Maximum PPV (in/s)	Minimum Scaled Distance Limitation (ft/lb^{1/2})
Dwellings, Schools, and Hospitals	.75	60
Industrial Buildings	.75	40
Railroad Tracks	2.0	30
Buried Pipes and Utilities	4.0	15

- E. Air Blast Limit. For the purpose of this Section, the air overpressure and related noise generated by the use of explosives or blasting agents in blasting operations will be measured by the air blast created thereby. Air blast may not exceed one hundred thirty-four (134) dB peak (\pm three (3) dB) at the location of any dwelling, public building, hospital, school, church, or community or institutional building outside of the permit area.
- F. Within twenty-four (24) hours of each blast, the permittee must submit a shot report to the Fire Marshal containing the following information:
- i. Date, time, and location of the blast;
 - ii. Type of explosives or blasting agents used;
 - iii. Total pounds of each type of explosive used;
 - iv. Technical data and material safety data sheets for all explosives or blasting agents used;
 - v. Number, spacing, stemming, diameter, and depth of holes;
 - vi. Sub-drill depth;
 - vii. Amount and type of stemming material;
 - viii. Maximum pounds of explosives detonated in any eight-millisecond time interval;
 - ix. Firing sequence, delay sequence, and typical hole load diagrams;
 - x. Schematic showing drill hole pattern;
 - xi. Initiation delay sequence;
 - xii. Weather conditions at time and location of blast;
 - xiii. Type and size of any fly-rock protection devices used, if any; and

xiv. Any other information required by the Fire Marshal.

- (9) The City may waive property owner notification and inspection requirements and maximum air blast and ground vibration limits and standards required under this Section for property owned by the permittee or by the permit area property owner if requested in writing by the applicable party.

(i) Blasting permit denial.

- (1) The issuance of a blasting permit is a discretionary action on the part of the City and as such the City has the right to deny a blasting permit.
- (2) Blasting permit applications will be subject to review and approval by the Fire Chief and the City's public works department and any other person or department designated by the City Manager.
- (3) The City's denial of a blasting permit must be in writing and must state the reason for the denial.
- (4) The City may deny a blasting permit for any of the below reasons:
 - A. The applicant does not comply with Subsection (e) (*Blasting Permit Application*) or the submitted application information or documentation is incomplete, insufficient, false, or fraudulent;
 - B. The information or documentation submitted under Subsection (e) (*Blasting Permit Application*) fails to comply with applicable local, state, or federal laws, rules, and regulations;
 - C. The City determines that issuing a blasting permit will cause or may cause an imminent danger to property or public health, safety, or welfare;
 - D. The applicant does not provide proof of a valid local, state, or federal license, certificate, or permit required to conduct a blast or that is related to the blast; or
 - E. For any other good cause determined by the City.
- (5) A person may appeal a permit denial as provided by Sec. 12-6(c) (*Amendments to Chapter I, "Scope and Administration"*).

(j) Insurance required.

- (1) If the City approves a blasting permit, the City may not issue the permit to the applicant until

the applicant provides to the City proof of a commercial general liability insurance with a minimum limit of one million dollars (\$1,000,000) per occurrence. Such insurance must not exclude explosion, collapse, and underground (XCU) coverage. The City reserves the right upon review of a permit application, and in its sole discretion, to require higher minimum liability amounts and coverage endorsements (e.g. environmental liability) based on project specifics and potential hazards.

- (2) If the applicant does not provide the proof of insurance to the City within the time period prescribed by the City, the City may rescind the approval of the permit and deny the permit application.
- (3) A permittee must carry such insurance throughout the term of the permit. The permittee must not cancel or materially change such insurance coverage or allow such insurance coverage to expire or lapse without notification to and approval from the City.

(k) Non-transferable blasting permit.

- (1) Blasting permits are not transferable.
- (2) Any change of ownership of the permittee will require that a new permit be issued.

(l) Length of time a blasting permit is valid.

- (1) A blasting permit is valid for thirty (30) days; however, a blasting permit may be extended over thirty (30) days for extenuating circumstances at the discretion of the Fire Marshal. In no case may a blasting permit be extended more than thirty (30) days past the date the permit was originally issued.
- (2) A permittee wishing to extend a permit must submit a written request to the Fire Marshal and receive written approval from the Fire Marshal for the extended date.
- (3) After a permit expires, a person wishing to blast must apply for a new blasting permit as provided by Subsection (e) (*Blasting Permit Application*).

(m) Permittee requirements.

- (1) A permittee must comply with all:
 - A. Applicable federal, state, and local laws, rules, and regulations, including, but not limited to, all laws, rules, and regulations applicable to obtaining, owning, possessing, transporting, storing, handling, and using explosive materials;
 - B. Permit terms and conditions imposed by the City;

- C. City contract provisions; and
 - D. The permittee's plans submitted and approved under Subsection (e) (*Blasting Permit Application*).
- (2) If any of the provisions in Subsection (m)(1) conflict, the strictest provision will prevail, unless otherwise preempted by law.
 - (3) The City may impose additional requirements on the permittee, or supplement any existing permit term or condition, whenever, in the opinion of the City, later information or newly discovered conditions justify such actions.
- (n) Work hours.
- (1) Blasting operations may only be performed during the hours of 8:00 AM and 5:00 PM, Central Standard Time, Monday through Friday; however, no blasting operations may be performed on City holidays.
 - (2) Regardless of Subsection (n)(1), the permittee may perform blasting operations outside of above prescribed hours or days if authorized by the City in writing.
- (o) Storage and handling of explosives within the City.
- (1) Explosive materials may not be stored within the City limits, unless otherwise authorized by local, state, or federal law, rule, or regulation.
 - (2) Permittees under this Section must transport explosive materials into the City at the beginning of each workday. Unused explosive materials must be removed from the City at the end of the same workday.
 - (3) Explosive materials must remain in the vehicle that the explosive materials were transported in until the explosive materials are loaded or deployed.
 - (4) The permit area must be on standby during loading of explosive materials.
 - (5) Blast holes loaded with explosive materials must be shot on the day the holes are loaded.
- (p) Fire Marshal notification and inspections.
- (1) The permittee must notify the Fire Marshal at least twenty-four (24) hours prior to blasting. Notification must be made per the Fire Marshal's policy.
 - (2) The permittee must allow the Fire Marshal to conduct an inspection of the permit area for each blasting project prior to blasting.

- (3) Fire Marshal inspections may be required for every blast until the permittee can demonstrate an ability to safely blast in conformance to the blast plan and control the extraneous effects of blasting such as fly-rock, noise, and air blast and ground vibration. Additional inspections may be required for any blaster or permittee who is unable or does not comply with the approved blasting plan or control the extraneous effects of blasting.
 - (4) If more than two Fire Marshal inspections are required for a blasting project, an additional fee may be assessed against the permittee.
 - (5) No person may blast within the City without passing a Fire Marshal inspection and receiving approval from the Fire Marshal to blast.
 - (6) Permittees must allow the City access to the permit area during reasonable times to inspect for compliance with all applicable local, state, and federal laws, rules, and regulations.
- (q) Damage and complaints.
- (1) Upon completion of blasting, the permittee must perform a permit area inspection to determine if any damage or injury resulted from the blasting.
 - (2) The permittee must immediately notify the City in writing of any damage or injury resulting from the permittee's blasting operations.
 - (3) The permittee must notify the City in writing of any complaint reported to the permittee related to the permittee's blasting operations within twenty-four (24) hours of receiving a complaint.
- (r) Permit suspension and revocation; stop work order.
- (1) The City may suspend or revoke a blasting permit or issue a stop work order for any of the following reasons:
 - A. The information or documentation submitted by the permittee under Subsection (e) (*Blasting Permit Application*) is determined by the City to be incomplete, insufficient, false, or fraudulent;
 - B. The permittee fails to notify the City within three (3) days of a change to the information or documentation required under Subsection (e) (*Blasting Permit Application*) or blasting operations occur before the City is notified or approves such change;
 - C. The permittee does not comply with all provisions of this Section;

- D. The City determines that the permittee's blasting operations will cause or may cause an imminent danger property or public health, safety, or welfare;
 - E. The Fire Marshal finds that any work regulated by this Section is being performed in a manner contrary to the provisions of this Chapter, or in a dangerous or unsafe manner;
 - F. A local, state, or federal license, certificate, or permit required to conduct a blast or that is related to the blast has expired or is suspended or revoked;
 - G. The insurance required under Subsection (j) (*Insurance Required*) is cancelled, lapses, or expires or is materially changed without notification to or approval from the City;
 - H. A stop work order is issued for the site in which the blasting would occur;
 - I. The City discovers new information or new conditions that the City determines requires the issuance of the stop work order or suspension or revocation; or
 - J. For any other good cause determined by the City.
- (2) A stop work order and notification of a revocation or suspension of a blasting permit must be in writing and be given to the owner of the property or to the owner's authorized agent, the permittee, or the person doing the work; however, where an emergency exists, the Fire Marshal is not required to give written notice prior to stopping the work.
 - (3) Upon notification that a permit has been suspended or revoked or a stop order, all blasting operations as specified by the City must immediately cease and all explosive materials must be removed from the permit area immediately; however a person may perform work to remove a violation or unsafe condition as directed by the City.
 - (4) The City may reinstate a suspended blasting permit or rescind a stop work order if the conditions that caused the suspension or issuance of the stop work order have been corrected. If the conditions have not been corrected within thirty (30) days of service of the notice of suspension or stop work order, the permit may be revoked.
 - (5) A permit that is revoked may not be reinstated. The holder of a revoked permit must submit a new blasting permit application to resume blasting operations on a site where a permit has been revoked.
 - (6) Any person aggrieved by an action or inaction of the Fire Marshal or City taken under this Article may appeal such decision to the Building Board of Appeals in writing. Upon receipt of an appeal notification, the Board will take the actions required to review the appeal in accordance with Sec. 12-6(c) (*Amendments to Chapter 1, "Scope and Administration"*).
- (s) No assumption of liability to the City.

- (1) By the passage this Section or the issuance of any permit under this Section, the City assumes no responsibility for any damage caused by persons blasting within the City under this Section's provisions or under any permit issued under this Section.
- (2) This Section will be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.
- (3) It is the intent of this Section to place the obligation of complying with its requirements upon the permittee. No provision of or any term used in this Section is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action.

Sec. 12-18. Business registration.

- (a) Business registration is administered by Temple Fire & Rescue, in conjunction with the Utilities department, which assures that all businesses within the City of Temple are registered for 911 services, inspected, and comply with all City codes.
- (b) All businesses must comply with the registration requirements of this Section as a precondition of initiating or continuing any business within the City of Temple. For the purpose of this Section, the term "business" includes any commercial enterprise, school, church, or governmental office located within the City limits. Each occupant of a building used by a business is responsible for complying with the registration requirements of this Section.
- (c) Registration procedure.
 - (1) When a business owner applies for utilities, they must fill out a business registration form and return the form to Temple Fire & Rescue prior to the business receiving utilities or opening its doors for business.
 - (2) Registration or re-registration with the City is required prior to changing the name, ownership, operator, location, or use of an existing business.

Article VI. Miscellaneous Additions to the 2015 International Fire Code

Sec. 12-19. Reserved.

Sec. 12-20. Unauthorized use of fire apparatus.

It is unlawful for any person, unless authorized by the Fire Chief, to take or use or break, deface, damage, or destroy any engine, truck, ladder, fire axe, or other fire apparatus belonging to or in possession of Temple Fire & Rescue or any fire department that is providing mutual aid to the City of Temple.

Sec. 12-21. Injuring or driving over fire hose.

It is unlawful for any person, unless as authorized by the Fire Chief, to break, cut, deface, tear, damage, or destroy or drive any vehicle or machinery over any fire hose belonging to or in possession of Temple Fire & Rescue or any fire department that is providing mutual aid to the City of Temple.

Sec. 12-22. Failure to comply with orders.

It is unlawful for any person to fail to comply with the Fire Chief or Fire Marshal's orders made during the course of their official duties.

Sec. 12-23. New materials, processes, or occupancies which may require permits.

The Fire Chief has the authority to determine and specify, after giving the public an opportunity to be heard, any new materials, processes, activities, or occupancies that will require permits issued by Temple Fire & Rescue, in addition to those enumerated in this Chapter. The Fire Chief must post such permit lists in a conspicuous place in their offices and stations and distribute copies to interested persons.

Sec. 12-24. False alarms; duty to notify of testing and correct malfunctions.

- (a) Persons in charge of buildings or properties must:
 - (1) Notify the Fire Marshal prior to working on or testing sprinkler and fire alarm systems; and
 - (2) Promptly correct fire alarm malfunctions.
- (b) The Fire Marshal may issue a citation to the person in charge of a building or property for each false alarm after three (3) false alarms in a one-year period due to the person's failure to comply with Subsection (a), above.
- (c) Failure to comply with Subsection (a) is a Class C misdemeanor and is punishable by a fine of up to \$150 for each violation. Each occurrence of a violation per a day is a separate offense.
- (d) Proof of a culpable mental state is expressly waived for this offense.

Sec. 12-25. False alarms; Causing false alarms.

- (a) It is an offense for a person to intentionally, knowingly, or recklessly cause a false alarm.
- (b) A violation of Subsection (a) is a Class C misdemeanor and is punishable by a fine of up to \$1000 for each violation. Each occurrence of a violation per a day is a separate offense.

Sec. 12-26. Burning or hazardous activity without a permit.

- (a) It is an offense for a person to burn or perform any hazardous activity or operation without a

permit required under this Chapter that causes an emergency response.

- (b) A violation of Subsection (a) is a Class C misdemeanor and is punishable by a fine of up to \$500 for each violation. Each occurrence of a violation per a day is a separate offense.
- (c) Proof of a culpable mental state is expressly waived for this offense.

Sec. 12-27. Exemptions.

Nothing contained in this Chapter may be construed to apply to any local, state, or federal authority in the performance of their official duties, except as otherwise provided by this Chapter.

Sec. 12-28. Fees.

City Council will, by resolution, set the amount of all fees, including permit fees, imposed under this Chapter or related to fire prevention or rescue. A copy of any resolution setting fees will be maintained in the office or station of the Fire Marshal.

Sec. 12-29. Enforcement.

The Fire Chief, any licensed peace officer, City code enforcement officer, and any person designated by the City Manager has the authority to enforce this Chapter.

Sec. 12-30. Penalties.

- (a) Criminal Prosecution. Unless otherwise provided by this Chapter, a person who violates any provision of this Chapter or fails to comply with any of the requirements thereof commits a Class C misdemeanor and upon conviction will be fined an amount not exceeding \$500 unless proof of a culpable mental state is pled, in which case the fine upon conviction may not exceed \$2000. Proof a culpable mental state is expressly waived when a fine of \$500 or less is sought for the offense. Each occurrence of a violation per a day is a separate offense.
- (b) Civil remedies. The City may:
 - (1) Seek all available civil remedies in a court of competent jurisdiction for violations of this Chapter; and
 - s
 - (2) Suspend or revoke any City permit granted to a person who has committed a violation under this Chapter.
- (c) The remedies provided for in this Section are not exclusive. The City may take any, all, or any combination of these remedies against a person who violates this Chapter.

Sec. 12-31. Severability.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be unconstitutional or unlawful, such holding will not affect the validity of the remaining portions of this Chapter.

Sec. 12-32. Preemption of other law.

it is not the City's intent to conflict with the Texas Railroad Commission, the Texas Department of Transportation, or TCEQ regulations or any other state or federal law. To the extent there is an irreconcilable conflict with any of these regulations or other state or federal law and any provision of this Chapter, the applicable state or federal law will prevail.

ORDINANCE NO. 2020-5030

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES CHAPTER 12, "FIRE PREVENTION AND PROTECTION"; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, as part of the City's continuing effort to update the City's Code of Ordinances and to bring the City's code up to date with current City policies and to better protect citizens against fire, City Staff recommends amending Chapter 12, Fire Prevention and Protection, of the City's Code of Ordinances;

Whereas, this item was presented at the June 4, 2020 City Council Meeting for first reading and public hearing and after the public hearing and City Council discussion, this item was tabled - Staff revised the proposed amendments to Chapter 12 to incorporate the feedback that Staff received from the City Council during the June 4, 2020 meeting which are summarized in paragraphs (i)-(l);

Whereas, this item was presented at the June 18, 2020 City Council meeting for second reading and after discussion, Council passed this item as described in the item description and presented with the amendment that the Chapter 12's maximum ground vibration limit for extraction operations blasting remain at 1-inch per second at the location of any dwelling rather than the proposed ¾-inch per second;

Whereas, the amended Chapter 12 draft for Council consideration on third reading proposes a few additional amendments to the Chapter that were not part of either of the drafts considered by Council on the 1st or 2nd reading - these amendments were made to address conflicts between the NFPA 495 blasting manual and extraction and blasting operations local amendments, remove obsolete sections of the ICC 2015 International Fire Code (ICC 2015 IFC), and address ICC 2015 IFC provisions that are preempted by state or federal law, which are summarized in paragraphs (a), (c)(1), (d), (h), and (r);

Whereas, all proposed amendments include:

- General housekeeping such as reformatting and renumbering the Chapter, updating City Staff titles, and removing obsolete sections, including the violations and outdoor sections of Chapter 1 of the ICC 2015 IFC;
- Adopting the ICC 2015 IFC;
- Revising the Appeals section of the Chapter to help deter frivolous appeals and ensure uniform application of fire safety regulations;

- Adding a subsection to the appeals section that allows a person to file an appeal if they believe that one of the Chapter's provisions was incorrectly applied due to state or federal law preemption;
- Removing the ICC 2015 IFC requirement that a one- and two- family dwelling must have a fire sprinkler system, in accordance with Sec. 1301.551(i) of the Texas Occupations Code;
- Requiring fire apparatus access road gates to be equipped with Knox gate and key switches or padlocks approved by the Fire Marshal to ensure access to private properties in cases of emergency;
- Updating the controlled burning section of the Chapter to comply with state law's requirements for outdoor burning and providing exceptions and regulations for allowed outdoor burning;
- Requiring private property owners to annually perform testing and maintenance on all private fire hydrants located upon their property;
- Adding a provision that allows local amendments for extraction and blasting operations to apply if there are conflicting provisions between the NFPA 495 manual and local amendments (such as maximum ground vibration limits);
- Amending the extraction operations regulations section to require an extraction blasting permittee to reapply for a permit if:
 - An extraction site operator, blaster, or blasting company for the permitted extraction site changes,
 - A blaster for the permitted extraction site has his/her state or federal license to blast expire or revoked,
 - There is a change made to the extraction blasting permittee's required insurance policy,
 - The extraction blasting permittee's required insurance policy is cancelled or expires;
- Amending the extraction operations section to require the extraction blasting permittee to notify the Fire Marshal in writing at least 24 hours prior to performing any blasting operation if there are any changes to the information provided by the permittee on the permittee's extraction blasting permit application other than the changes to the information specified under Paragraph (h), above;
- Providing that the City may suspend or revoke a permittee's extraction blasting permit or issue a stop work order for the extraction site if the permittee fails to comply with the requirements in Paragraphs (h) and (i), above;
- Requiring annual permit application and permit fee for extraction blasting permittees;
- Providing that a permittee with an existing, valid extraction blasting permit as of July 2, 2020 must either comply with: (1) this Ordinance's amendments to extraction operations regulations or (2) the extraction operations regulations as they existed as of July 1, 2020, until the permittee's permit expires or is revoked, whichever occurs first, and, after such a permit is expired or revoked, providing that the permittee must comply with all provisions of this Ordinance regulating extraction operations;

- Creating a new blasting regulation section to regulate blasting related to construction, tunneling, and demolition;
- Removing a section offering a reward for the arrest and conviction of arsonists;
- Creating new offenses for false alarms and burning without a permit;
- Updating the penalties section to require the pleading of a culpable mental state for offenses with a fine over \$500; and
- Adding a preemption section that provides that to the extent there is an irreconcilable conflict between any of the Chapter's regulations, including the ICC 2015 IFC, and state or federal law, state or federal law will control;

Whereas, Staff recommends Council amend the Code of Ordinances Chapter 12, "Fire Prevention and Protection," 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 12, "Fire Prevention and Protection" 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: Nothing in this Ordinance may be construed to affect any suit or proceeding pending any court, any rights acquired or liability incurred, or any cause or causes of action acquired or existing, under any act or prior resolution or ordinance; nor may any legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

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.

TABLED on First Reading and Public Hearing on the **4th** day of **June, 2020.**

PASSED AND APPROVED on Second Reading on the **18th** day of **June, 2020.**

PASSED AND APPROVED on the Third and Final Reading on the **2nd** day of **July, 2020.**

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20

Item #6

Regular Agenda

Page 1 of 2

DEPT. / DIVISION SUBMISSION & REVIEW:

Mark Baker, Principal Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-20-7-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 102.272 +/- acres of land situated in the G.W. LINDSEY SURVEY, ABSTRACT NO. 513 and J.J. SIMMONS SURVEY, ABSTRACT NO. 737, both in Bell County, Texas, generally located west of Orion Drive and approximately 1,200 feet north of the existing terminus of Clinite Grove Boulevard.

STAFF RECOMMENDATION: Approve as presented and schedule second reading for July 16, 2020.

ITEM SUMMARY: Texas Local Government Code (LGC) Chapter 43 governs the annexation process. LGC Chapter 43 requires that land to be annexed must be in the municipality's extraterritorial jurisdiction (ETJ) and contiguous to the municipality. The subject property is within the City's north western ETJ.

LGC § 43.0671 allows a municipality to annex an area if each owner of land in the area requests the annexation. On February 20, 2020, property owner Kiella Land Development filed a written request seeking voluntary annexation of 102.272 +/- acres of land, being more particularly described as Exhibits "A" (Field Notes & Survey).

Prior to annexing an area of land, the City must offer the property owner a development agreement if the area would be eligible for an agreement under LGC Chapter 212, Subchapter G and appraised for ad valorem tax purposes as land for agricultural use, wildlife management use, or timber use pursuant to Texas Tax Code Chapter 23. The property owner was offered and rejected offers for a development agreement on February 20, 2020.

The City and property owner have entered into written agreement for the provision of municipal services in the area. Before offering the proposed municipal services agreement to the property owner, the proposed agreement was circulated to relevant City Departments to determine the services that would be provided on the effective date of the annexation, such as Fire, Police and solid waste disposal. The property owner accepted the proposed agreement. The City is not required to provide a service that is not included in the agreement.

LGC § 43.0673 requires that the City hold one public hearing prior to adopting an ordinance annexing an area on the written request of a landowner. The City's Charter requires a second reading to adopt the annexation ordinance. The second reading will be held on July 16, 2020.

LGC §§ 43.905 and 43.9051 requires a City to provide written notice regarding any financial impact caused by the proposed annexation to the affected school district as well as the political subdivisions and public entities that provide services in the area. The City notified the Belton Independent School District (BISD) and Bell County on June 15, 2020. While the City of Temple did notify all of the public entities required by State law about the potential fiscal impact on those organizations, a better understanding of that impact can be determined once the owner proposes rezoning and development in the future.

FISCAL IMPACT: If the property is annexed, the City's ad valorem tax base will increase and result in future property tax revenue for the City.

ATTACHMENTS:

[Vicinity Map](#)

[Annexation Request](#)

[Voluntary Petition for Annexation \(Feb 19, 2020\)](#)

[Municipal Services Agreement](#)

[Survey & Field Notes \(Exhibit A\)](#)

[Ordinance](#)

Annexation Map

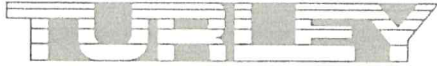
Legend:

- Annexation
- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP
- Railroad
- Temple Municipal Boundary
- Park Areas



DISCLAIMER:
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.





TURLEY ASSOCIATES, INC.

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

February 20, 2020

City of Temple
Attn: Brian Chandler, Planning Director
2 North Main Street
Temple, TX 76501

**RE: Voluntary Annexation Request
102.272 Acres, Bellcad ID 26121,26125,26126**

Dear Mr. Chandler,

On behalf of our client, Turley Associates, Inc. respectfully requests that the City Council consider the voluntary annexation of the 102.272 acres listed in the attached petition. This property is directly north of a 97.334-acre tract of land currently within the Temple city limits. Attached please find the boundary surveys, field notes and Voluntary Petition of Annexation.

We will not be requesting zoning on this property at the time of annexation and will come back with zoning at a later date.

If you have any questions or need any additional information, please contact our office.

Sincerely,
TURLEY ASSOCIATES, INC.

A handwritten signature in blue ink, appearing to read "B.J. Little", is written over the company name.

B.J. Little, Manager

Attachments

BJL/sb

VOLUNTARY PETITION FOR ANNEXATION

DATE: 2-19-20

To the City Council of the City of Temple:

Kiella Land Investments Ltd. is the sole owner of the tract of land containing approximately 102.272 acres ("the Tract"). The Tract is more particularly described by metes and bounds in Exhibit A to this petition.

The Tract is currently adjacent to the Kiella Land Investments Ltd. 97.334-acre property that currently sits within the Temple City Limits. The owner is petitioning the City Council to take the appropriate actions to annex the 102.272 -acre tract.

Texas Local Government Code ("LGC") § 43.016 requires a municipality to offer a property owner a development agreement under LGC § 212.172 prior to annexation that would guarantee the continuation of the extraterritorial status of the property and authorize the enforcement of all regulations and planning authority of the municipality that do not interfere with the use of the land for agriculture, wildlife management, or timber purposes. These development agreements are sometimes commonly referred to as "non-annexation" agreements. Local Government Code § 43.016 applies to properties appraised for ad valorem tax purposes and land for agricultural use, or wildlife management, or timber uses under the Texas Tax Code.

The City has determined that your property meets the requirements in LGC § 43.016; therefore, the City is offering to enter into a development agreement under LGC § 212.172 for your property.

Please indicate below whether you accept or reject the development agreement and would prefer to proceed with annexation.

 I accept the Development Agreement and request to retain my extraterritorial status.

✓ I reject the Development Agreement and request annexation by the City of Temple.

Kiella Land Investments Ltd.

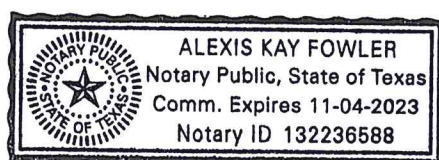
By: [Signature]
John R. Kiella, Manager
Kiella Land Investments Management, LLC, general partner

STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me by John R. Kiella, Manager of Kiella Land Investments Management, LLC, a Texas limited liability company, general partner, on behalf of Kiella Land Investments, Ltd., a Texas limited partnership.

Given under my hand and seal of office this 19 day of Feb, 2020.



[Signature]
Notary Public State of Texas

MUNICIPAL SERVICES AGREEMENT
BETWEEN THE CITY OF TEMPLE, TEXAS AND
KIELLA LAND INVESTMENTS, LTD.

This Municipal Services Agreement ("Agreement") is entered into on _____ day of _____, 2020, by and between the City of Temple, Texas, a home-rule municipality of the State of Texas, ("City") and Kiella Land Investments, LTD, a Texas limited partnership ("Owner").

RECITALS

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement.

WHEREAS, Section 43.0671 of the Local Government Code (LGC) permits the City to annex an area if each owner of land in an area requests the annexation;

WHEREAS, where the City elects to annex such an area, the City is required to enter into a written agreement with the property owner(s) that sets forth the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, Owner owns certain parcels of land situated in Bell County, Texas, which consists of approximately 102.272 acres of land in the City's extraterritorial jurisdiction, such property being more particularly described and set forth in Exhibit A attached and incorporated herein by reference ("Property");

WHEREAS, Owner has filed a written request with the City for full-purpose annexation of the Property, identified as Annexation Case No. FY-20-7-ANX ("Annexation Case");

WHEREAS, City and Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, the Annexation Case and execution of this Agreement are subject to approval by the Temple City Council; and

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

1. **PROPERTY.** This Agreement is only applicable to the Property, which is the subject of the Annexation Case.
2. **INTENT.** It is the intent of the City that this Agreement provide for the delivery of full, available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.

3. MUNICIPAL SERVICES.

- a. Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, “providing services” includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances, rules, regulations, and policies.
 - i. Fire – The City’s Fire Department will provide emergency and fire protection services.
 - ii. Police – The City’s Police Department will provide protection and law enforcement services.
 - iii. Emergency Medical Services - The City’s Fire Department and the City’s contracted emergency medical transport franchisee will provide emergency medical services. At the time of this agreement, the contracted emergency medical transport franchisee is American Medical Response operating as Temple EMS.
 - iv. Planning, Zoning, and Building – The City’s Planning and Development Department will provide comprehensive planning, land development, land use, and building review and inspection services in accordance with all applicable laws, rules, and regulations.
 - v. Publicly Owned Parks, Facilities, and Buildings
 - 1. Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities (including, community service facilities, libraries, swimming pools, etc.), and buildings throughout the City. Any private parks, facilities, and buildings will be unaffected by the annexation; provided, however, that the City will provide for maintenance and operation of the same upon acceptance of legal title thereto by the City and appropriations therefor.
 - 2. In the event the City acquires any other parks, facilities, or buildings necessary for City services within the Property, the appropriate City department will provide maintenance and operations of the same.
 - vi. Streets - The City’s Public Works Department will maintain the public streets over which the City has jurisdiction. The City will provide regulatory signage services in accordance with the City policies and procedures and applicable laws.
 - vii. Water and Wastewater
 - 1. Existing, occupied homes that are using water-well and on-site sewer facilities on the effective date of annexation may continue to use the same. If a property owner desires to connect to the City water and sewer system, then the owner may request a connection once those services are available. The connection will be at the owner’s expense in accordance with existing City ordinances and policies, Texas Commission on Environmental Quality (TCEQ) Rules and Regulations, and any applicable laws. Once connected to the City’s water and sanitary

sewer mains, the water and sanitary sewage service will be provided by the City at rates established by City ordinances for such service.

2. New homes will be required to connect to the City's water and sewer system at the owner's expense in accordance with existing City ordinances and policies, Texas Commission on Environmental Quality (TCEQ) Rules and Regulations, and any applicable laws.
 - viii. Solid Waste Services – The City will provide solid waste collection services in accordance with existing City ordinances and policies, except where prohibited by law.
 - ix. Code Compliance – The City's Code Compliance Department will provide education, enforcements, and abatement relating to code violations within the Property.
 - x. Animal Services – The City's Animal Services Department will provide services for animal cruelty, animal bites, stray animals, loose livestock or wildlife, animal pickup, and animal disturbances in accordance with the City policies and procedures and applicable laws.
 - b. It is understood and agreed that the City is not required to provide a service that is not included in this Agreement.
 - c. Owner understands and acknowledges that the City departments listed above may change names or be re-organized by the City Manager. Any reference to a specific department also includes any subsequent City department that will provide the same or similar services.
5. **AUTHORITY.** City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges that approval of the Annexation Case is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.
 6. **SEVERABILITY.** If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
 7. **INTERPRETATION.** The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.
 8. **GOVERNING LAW AND VENUE.** Venue shall be in the state courts located in Bell County, Texas or the United States District Court for the Western District of Texas, Waco Division and construed in conformity with the provisions of Texas Local Government Code Chapter 43.
 9. **NO WAIVER.** The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

10. **GOVERNMENTAL POWERS.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.
11. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
12. **CAPTIONS.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
13. **AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND.** This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owner.
14. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between said parties. This Agreement shall not be amended unless executed in writing by both parties.

Executed as of the day and year first above written to be effective on the effective date of annexation of the Property.

Signatures to follow.

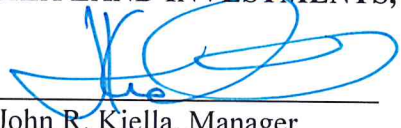
CITY OF TEMPLE

By: _____
Brynn Myers
City Manager
LLC

ATTEST:

City Secretary

KIELLA LAND INVESTMENTS, LTD

by: 
John R. Kiella, Manager
Kiella Land Investments Management,

APPROVED AS TO FORM:

City Attorney's Office

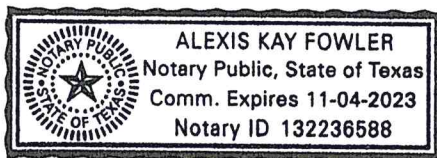
STATE OF TEXAS §
COUNTY OF BELL §

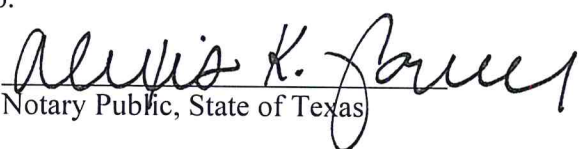
This instrument was acknowledged before me on the ____ day of _____, 20 ____,
by **Brynn Myers**, as City Manager of the City of Temple, a Texas home rule City.

Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF BELL §

This instrument was acknowledged before me on May 19, 2020 by **John R. Kiella**, Manager of Kiella
Land Investments Management, LLC, a Texas limited liability company general partner, on behalf of Kiella
Land Investments, Ltd., a Texas limited partnership.




Notary Public, State of Texas

[illegible]

Line #	Direction	Length	Line #	Direction	Length
L1	S16°04.05'W	280.82	L1	N16°02'23"E	201.40
L2	N16°01.31'E	180.47	L2		
L3	S74°22'20"E	318.22	L3	N74°14'10"W	318.31

[illegible]

TURLEY ASSOCIATES, INC.

301 N. 3rd St. 254.773.2401
TEMPLE, TEXAS 76501 www.turley-inc.com

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THEREON MAY NOT BE
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ASSOCIATES, INC.

SURVEY OF:
102.272 ACRES
H. KATTENHORN SURVEY, ABSTRACT No. 505 AND
J. J. SIMMONS SURVEY, ABSTRACT No. 737
BELL COUNTY, TEXAS

PREPARED FOR:
KIELLA DEVELOPMENT

REVISIONS		
DATE	DESCRIPTION	DATE

DATE	1/30/2020
COMPUTER FILE NAME:	19-2316_Kris-Cross Property-AMT.dwg
REFERENCE DRAWING NUMBERS	19-2316, Kato - Cross Property
	19-2316
DRAWING NUMBER	192316-D
PAGE #	01

BEING a 102.272 acre tract of land situated partly in the G. W. LINDSEY SURVEY, ABSTRACT No. 513, and partly in the J. J. SIMMONS SURVEY, ABSTRACT No. 737, both in Bell County, Texas and being a part or portion of that certain 50 acre tract of land described in a Warranty Deed dated July 28, 1987 from J. F. Cross, Individually and as Independent Executor of the Estate of Celestine J. Cross to Jerry Don Cross and being of record in Volume 2327, Page 549, Official Public Records of Bell County, Texas and being all of that certain 37.5 acre tract of land (TRACT A) described in a Warranty Deed dated January 30, 1991 from J. F. Cross, Individually and as Independent Executor of the Estate of Celestine J. Cross to Jerry Don Cross and being of record in Volume 2700, Page 437, Official Public Records of Bell County, Texas and being all of that certain 37.5 acre tract of land (TRACT A) described in a Warranty Deed dated January 30, 1991 from J. F. Cross, Individually and as Independent Executor of the Estate of Celestine J. Cross to James Dale Cross and being of record in Volume 2700, Page 435, Official Public Records of Bell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found being the northeast corner of the said 37.5 acre tract (TRACT A) (Volume 2700, Page 435) and being the most westerly southeast corner of that certain 100.28 acre tract described as Lot 1, Block 1, Lake Belton High School according to the map or plat of record in Year No. 2017, Plat No. 175, Plat Records of Bell County, Texas and being in the west boundary line of that certain tract of land described as Windmill Farms Phase III according to the map or plat of record in Cabinet D, Slide 243-A, Plat Records of Bell County, Texas for corner;

THENCE S. 17° 01' 04" W., 1606.54 feet departing the said Lot 1, Block 1, Lake Belton High School and with the east boundary line of the said 37.5 acre tract (TRACT A) (Volume 2700, Page 435) (calls N. 19° E., 283.5 varas) and continuing with the east boundary line of the said 37.5 acre tract (TRACT A) (Volume 2700, Page 437) (calls N. 19° E., 283.5 varas) and with the west boundary line of the said Windmill Farms Phase III (calls N. 17° 02' 11" E., 1472.33 feet) and continuing with the west boundary line of that certain tract of land described as Windmill Farms Phase II according to the map or plat of record in Cabinet D, Slides 243-B & C, Plat Records of Bell County, Texas (calls N. 17° 02' 11" E., 268.28 feet) to a 1/2" iron rod found being an exterior ell corner on the said west boundary line and being the southeast corner of the said 37.5 acre tract (TRACT A) (Volume 2700, Page 437) and being in the north boundary line of that certain 112.763 acre tract of land described in a Special Warranty Deed with Vendor's Lien dated October 1, 2012 from Clinite-Miller, Inc., a Texas corporation to Kiella Land Investments, Ltd., a Texas limited partnership for corner;

THENCE departing the said Windmill Farms Phase II and with the south boundary line of the said 37.5 acre tract (TRACT A) (Volume 2700, Page 437) and continuing with the south boundary line of the remainder of the said 50 acre tract (Volume 2327, Page 549) and with the north boundary line of the said 112.763 acre tract the following four (4) calls:

- 1) N. 73° 16' 52" W., 2085.92 feet (calls S. 73° 16' 22" E., 2085.93 feet) to a 1/2" iron rod found at a fence corner post for corner;
- 2) S. 16° 06' 03" W., 280.82 feet (calls N. 16° 02' 23" E., 281.40 feet) to a 1/2" iron rod found at a fence corner post for corner;
- 3) N. 72° 27' 21" W., 976.25 feet (calls S. 72° 22' 32" E., 976.99 feet) to a 1/2" iron rod with cap stamped "RPLS 2475" found being in the east boundary line of that certain tract of land described as The Campus at Lakewood Ranch, Phase IX according to the map or plat of record in Year 2014, Plat No. 144, Plat Records of Bell County, Texas for corner;
- 4) N. 22° 33' 12" E., 786.10 feet (calls S. 22° 32' 50" W., 786.30 feet) with the east boundary line of the said The Campus at Lakewood Ranch, Phase IX to a 1/2" iron rod with cap stamped "RPLS 2475" found at a 36" diameter oak tree being the most easterly northeast corner of the said The Campus at Lakewood Ranch, Phase IX for corner;

THENCE N. 62° 14' 54" E., 1249.36 feet departing the said The Campus at Lakewood Ranch, Phase IX and the said south boundary line and over and across the said remainder 50 acre tract to a point being in the east


boundary line of the said remainder 50 acre tract and being in the west boundary line of the said 37.50 acre tract (TRACT A)(Volume 27800, Page 435) for corner;

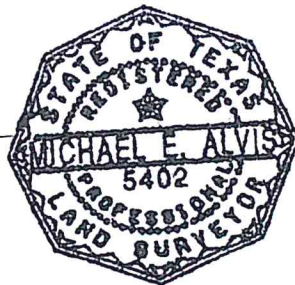
THENCE N. 16° 41' 51" E., 190.47 feet with the said west boundary line and with the said east boundary line and continuing with the east boundary line of that certain 45 acre tract of land described in a Warranty Deed dated July 28, 1987 from J. F. Cross, Individually and as Independent Executor of the Estate of Celestine J. Cross to James Dale Cross and being of record in Volume 2327, Page 555, Official Public Records of Bell County, Texas to a 1/2" iron rod with cap stamped "RPLS 2475" set being the northwest corner of the said 37.50 acre tract (TRACT A)(Volume 27800, Page 435) and being the southwest corner of that certain 3.00 acre tract of land described in a Warranty Deed dated September 24, 1992 from Doris Watts, Individually and as Independent Executrix of the Estate of C. G. Watts, Deceased to Tricia Watts and being of record in Volume 2888, Page 456, Official Public Records of Bell County, Texas for corner;

THENCE departing the said 45 acre tract (Volume 2327, Page 555) and with the north boundary line of the said 37.5 acre tract (Volume 2700, Page 435) (calls N. 71° W., 747 varas) the following four (4) calls:

- 1) S. 73° 50' 29" E., 494.10 feet with the south boundary line of the said 3.00 acre tract (Volume 2888, Page 456) (calls N. 72° 16' 36" W., 494.10 feet) to a 1/2" iron rod found being the southeast corner of the said 3.00 acre tract (Volume 2888, Page 456) and being the southwest corner of that certain 22.152 acre tract of land described in a Cash warranty Deed dated April 22, 1997 from Doris Watts to Tricia Ann Watts and being of record in Volume 3607, Page 800, Official Public Records of Bell County, Texas for corner;
- 2) S. 73° 38' 37" E., 665.23 feet departing the said 3.00 acre tract (Volume 2888, Page 456) and with the south boundary line of the said 22.152 acre tract (calls N. 71° 50' 34" W., 665.47 feet) to a 1/2" iron rod found being the southeast corner of the said 22.152 acre tract and being the southwest corner of the remainder of that certain 53.65 acre tract of land described in a Special Warranty Deed dated November 7, 2008 from Estherbell Ceasar to Jekab Acres, LP, a Texas limited partnership and being of record in Document No. 2009-00000237, Official Public Records of Bell County, Texas for corner;
- 3) S. 74° 14' 56" E., 620.67 feet departing the said 22.152 acre tract and with the south boundary line of the said remainder 53.85 acre tract (calls N. 74° 14' 19" W., 937.33 feet) to a 5/8 iron rod with cap stamped "ACS" found being the southwest corner of the aforementioned Lot 1, Block 1, Lake Belton High School for corner;
- 4) S. 74° 22' 20" E., 316.22 feet departing the said remainder 53.85 acre tract and with the south boundary line of the said Lot 1, Block 1, Lake Belton High School (calls N. 74° 14' 19" W., 316.31 feet) to the Point of BEGINNING and containing 102.272 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 30, 2020



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

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 195

THE THETA ANGLE AT SAID CITY MONUMENT IS $01^{\circ} 29' 35''$

THE COMBINED CORRECTION FACTOR (CCF) IS 0.999851

PUBLISHED CITY COORDINATES ARE $X = 3,203,350.90$ $Y = 10,392,013.38$

THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS

S. $51^{\circ} 02' 22''$ W., 4226.95 FEET.

GRID DISTANCE = SURFACE DISTANCE X CCF

GEODETIC NORTH = GRID NORTH + THETA ANGLE

ORDINANCE NO. 2020-5034
(FY-20-7-ANX)

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE VOLUNTARY ANNEXATION OF APPROXIMATELY 102.272 ACRES OF LAND SITUATED IN THE G.W. LINDSEY SURVEY, ABSTRACT NO. 513 AND J.J. SIMMONS SURVEY, ABSTRACT NO. 737, BOTH IN BELL COUNTY, TEXAS, GENERALLY LOCATED WEST OF ORION DRIVE AND APPROXIMATELY 1,200 FEET NORTH OF THE EXISTING TERMINUS OF CLINITE GROVE BLVD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Texas Local Government Code (LGC) Chapter 43 governs the annexation process and requires that land to be annexed must be in the municipality's extraterritorial jurisdiction (ETJ) and contiguous to the municipality - the subject property is within the City's north western ETJ;

Whereas, LGC § 43.0671 allows a municipality to annex an area if each owner of land in the area requests the annexation - on February 20, 2020, property owner Kiella Land Development filed a written request seeking voluntary annexation of approximately 102.272 acres of land being more particularly described as Exhibits "A" (Field Notes & Survey);

Whereas, prior to annexing an area of land, the City must offer the property owner a development agreement if the area would be eligible for an agreement under LGC Chapter 212, Subchapter G and appraised for ad valorem tax purposes as land for agricultural use, wildlife management use, or timber use pursuant to Texas Tax Code Chapter 23 - the property owner was offered and rejected a development agreement on February 20, 2020;

Whereas, the City and property owner have entered into written agreement for the provision of municipal services in the area however, before offering the proposed municipal services agreement to the property owner, the proposed agreement was circulated to affected City Departments to determine the services that would be provided on the effective date of the annexation - the property owner accepted the proposed agreement;

Whereas, the City is not required to provide a service that is not included in the agreement;

Whereas, LGC § 43.0673 requires that the City hold one public hearing prior to adopting an ordinance annexing an area on the written request of a landowner and the City's Charter requires a second reading to adopt the annexation ordinance;

Whereas, LGC § 43.905 and § 43.9051 requires a City to provide written notice regarding any financial impact caused by the proposed annexation to the affected school district as well as the political subdivisions and public entities that provide services in the area - the City notified Belton Independent School District and Bell County on June 15, 2020;

Whereas, while the City of Temple did notify all public entities required by State law about the potential fiscal impact on those organizations, a better understanding of that impact can be determined once the owner proposes rezoning and development in the future;

Whereas, if the property is annexed, the City's ad valorem tax base will increase and result in future property tax revenue for the City; 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 102.272 acres of land situated in the G.W. LINDSEY SURVEY, ABSTRACT NO. 513 and J.J. SIMMONS SURVEY, ABSTRACT NO. 737, both in Bell County, Texas, generally located west of Orion Drive and approximately 1,200 feet north of the existing terminus of Clinite Grove Blvd, as shown and 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 to include the annexed Property as part of the City of Temple.

Part 5: The annexed Property shall initially be zoned Agricultural (AG), and may be rezoned 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 4.

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 **2nd** day of **July, 2020**.

PASSED AND APPROVED on Second and Final Reading on the **16th** day of **July, 2020**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20

Item #7

Regular Agenda

Page 1 of 3

DEPT. / DIVISION SUBMISSION REVIEW:

Jason Deckman, Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-20-22-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a site plan, with waivers for the maximum period of occupancy per resident and a limit on the number of residents, on 1.994 acres out of the Moses Shipman Survey, Abstract 782 in Bell County, Texas, located at 6565 Pegasus Drive.

PLANNING & ZONING COMMISSION RECOMMENDATION: During its June 1, 2020 meeting, the Planning & Zoning Commission voted 8 to 0 to approve the request per staff's recommendation.

STAFF RECOMMENDATION: Staff recommends approval of the Conditional Use Permit, subject to the following conditions:

1. Substantial compliance with the site and floor plans
2. Submit a scaled site plan and architectural drawing of the proposed floor plan, subject to approval during the permitting process
3. Submit verification of adequate water and septic facilities during permitting process
4. Submit a detailed fire safety plan, subject to approval by the city fire marshal, to include the following:
 - a. Install a 13R residential sprinkler system
 - b. Install fire alarm system that is connected to the sprinkler system
 - c. Install emergency exit lights
 - d. Each bedroom will require a window and an escape ladder as a secondary means of egress
 - e. Posted evacuation routes and conduct regular fire drills
 - f. Maximum occupancy as determined by fire marshal
5. Construction of a privacy fence around the property
6. Construction of a paved parking area in accordance with UDC Section 7.5
7. Compliance with all state regulations applicable to a general residential shelter

ITEM SUMMARY: The applicant proposes to operate a social service shelter under the name "Peace of Mind Youth Shelter". This shelter would provide temporary residential care and specialized services for up to 40 children aged 6-17 that have been abandoned or removed from their homes by Child Protective Services. A Social Services Shelter may be allowed in the Agricultural zoning district, subject to a Conditional Use Permit and compliance with the locational criteria listed in Sec. 5.3.12 below. The

UDC defines a Social Services Shelter as follows:

A facility providing shelter, over a period of 30 days or less, for no more than 10 persons who are receiving therapy or counseling from support staff who are present at all times the residents are present, for one or more of the following purposes:

- a) To help residents recuperate from the effects of drugs or alcohol addiction;
- b) To help homeless persons or families achieve independence and obtain permanent housing; or
- c) To provide temporary shelter for persons who are victims of domestic abuse.

Section 5.3.12 requires that any transitional, emergency, or social service shelter must be a minimum of 1,000 feet from the following uses:

- a) Alcoholic beverage sales (on-premise or off-premise consumption);
- b) All residential uses or zoning districts as specified in the zoning district table in Sec. 4.1.1 and in the use table in Section 5.1.3;
- c) Childcare uses;
- d) Elementary or secondary schools (public or private); and
- e) Other transitional, emergency, or social service shelters.

The distance required above must be measured in a straight, direct line from the property line of a use listed above to the property line of the transitional, emergency, or social service shelter, and in a direct line across intersections.

Staff has examined the area surrounding the property at 6565 Pegasus and determined that it meets four of the five the distance requirements of UDC Sec. 5.3.12. A map of the following measurements is attached to this report.

- 1. Alcoholic beverage sales – none within 1,000 feet
- 2. Residential uses – a home directly north and a home across the road roughly 470 feet away
- 3. Childcare facilities – none within 1,000 feet
- 4. Elementary or secondary schools (public or private) – none within 1,000 feet
- 5. Other transitional, emergency, or social service shelters – none within 1,000 feet

BACKGROUND: This applicant previously requested a Conditional Use Permit at 307 West Avenue G, that was denied by City Council on March 19, 2020. During the process, members of the Planning & Zoning Commission remarked that there is a need for this type of shelter in Temple. However, the Unified Development Code does not provide a clear definition for a children's shelter. The use as proposed could qualify as a Social Service Shelter, with a key difference being the length of stay and number of residents allowed by the definition. In this case, the restrictions on number of persons and length of stay would have to be waived for a Social Service Shelter to be allowed in AG zoning. This location, a residential structure on nearly two acres would provide a better environment for children while also providing adequate separation and screening from neighboring uses.

State laws and licensing requirements would also apply to the proposed shelter under provisions of Chapter 748, Title 26, Health and Human Services “Minimum Standards for General Residential Operations”. The General Residential Operation category provides 24-hour care for seven or more children 17 or younger. Among the licensing requirements are random site inspections, proof of liability insurance, and employee background checks for any history of abuse or sex offender status. Depending on the age of the children and any special services they require, the operation may require a child/caregiver ratio from between 4:1 to 8:1.

SURROUNDING PROPERTY AND USES: The surrounding property is a mix of residential and commercial uses. An automotive business is located roughly 240 feet south the property line and separated from the shelter by a large field. The home itself is located roughly 340 feet west of North General Bruce Drive (I-35 frontage road). The property directly across the road is a large tract owned by the city for a drainage basin. There are two existing homes in close proximity – one immediately adjacent and one diagonally across Pegasus Drive, as well as other homes within 1,000 feet.

DEVELOPMENT REGULATIONS: DRC discussed the proposed development and reviewed a rough site plan on May 21, 2020. The applicant has been asked to provide a detailed site plan to clearly show the locations and dimensions of bedrooms, offices, activity areas, and parking areas. The Building Official outlined specific requirements for kitchen areas if food is to be prepared on-site. The Fire Marshall stated that a sprinkler system must be installed, and a separate fire safety plan would require approval prior to issuance of building permits. Staff has provided a detailed list of the requirements that would apply during review and approval of building permits.

PUBLIC NOTICE: Twelve notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the subject property. The newspaper printed the notice of the public hearing on May 20th, 2020 in accordance with state law and local ordinance. As of Thursday, May 28th, one notice in agreement and one in disagreement have been returned. Staff will provide an update as needed at the P&Z meeting.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Site Plan and floor plan](#)

[Distance Map](#)

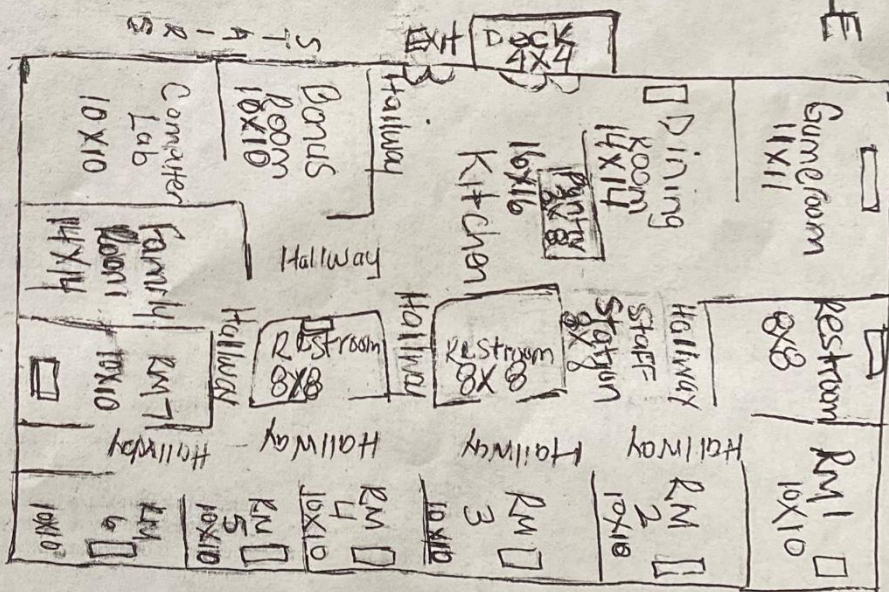
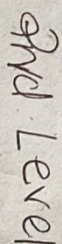
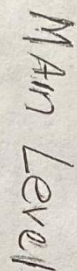
[Location and Aerial Map](#)

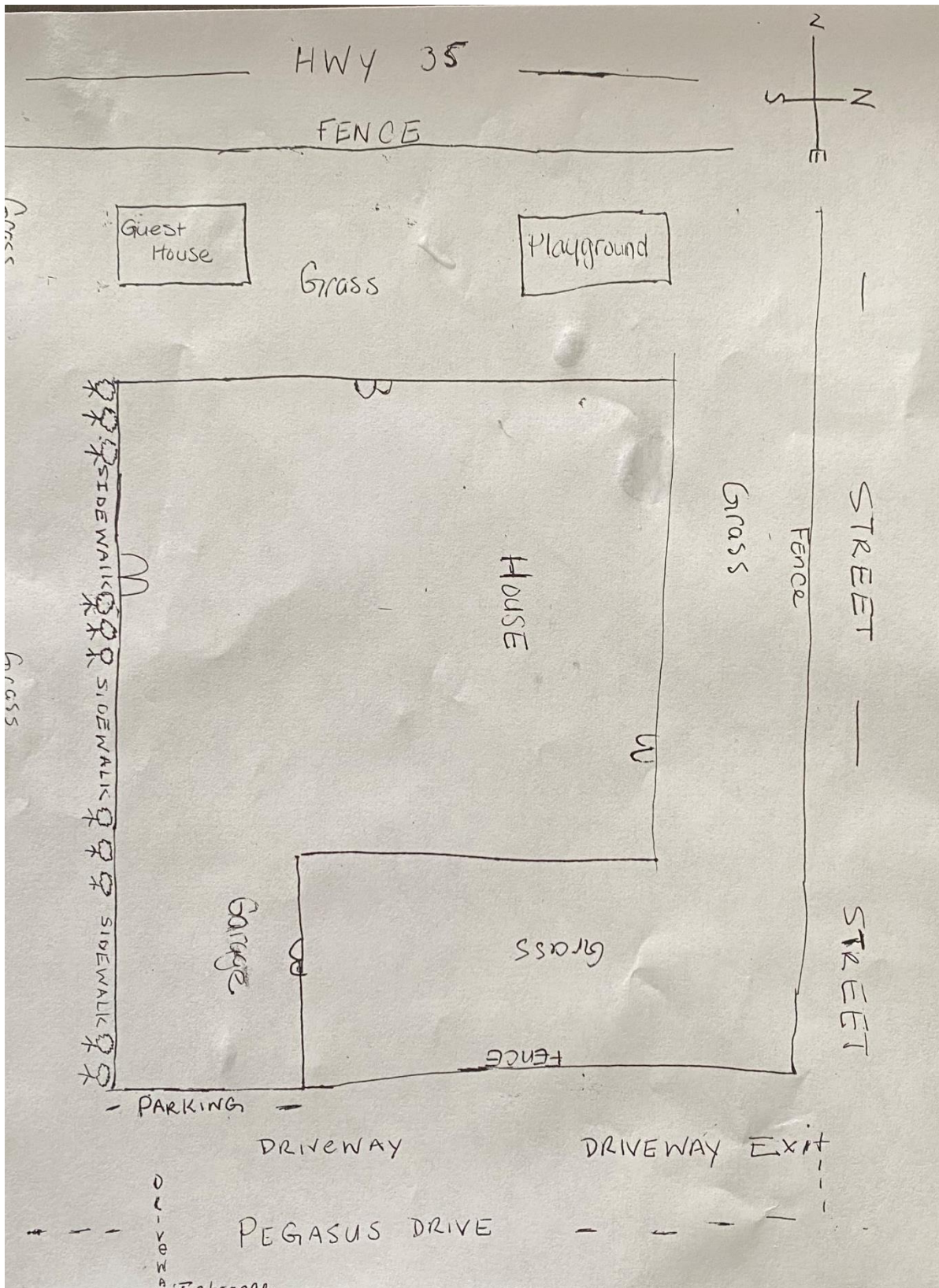
[Notification Map](#)

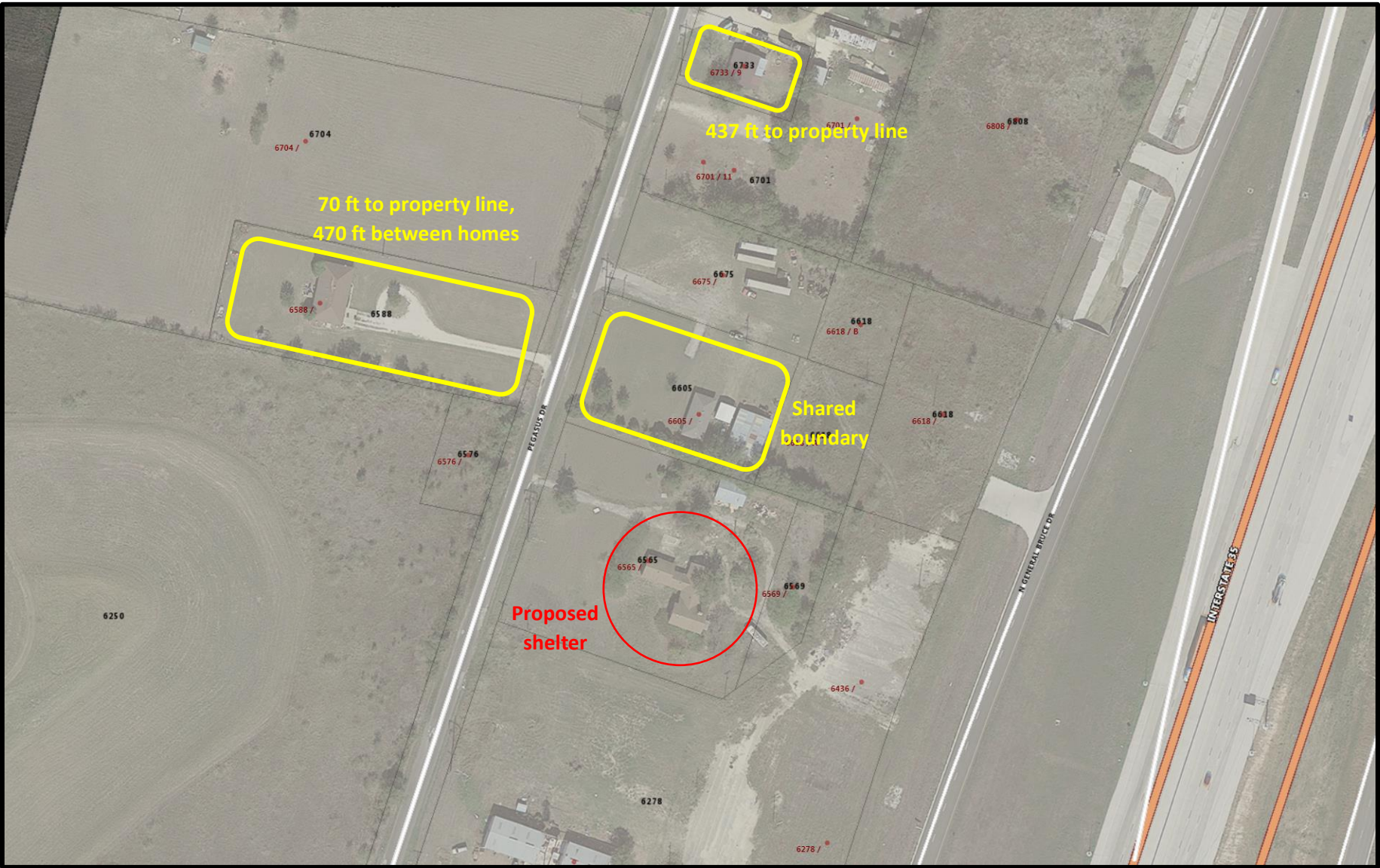
[Returned property notice\(s\)](#)

[Site Photos](#)

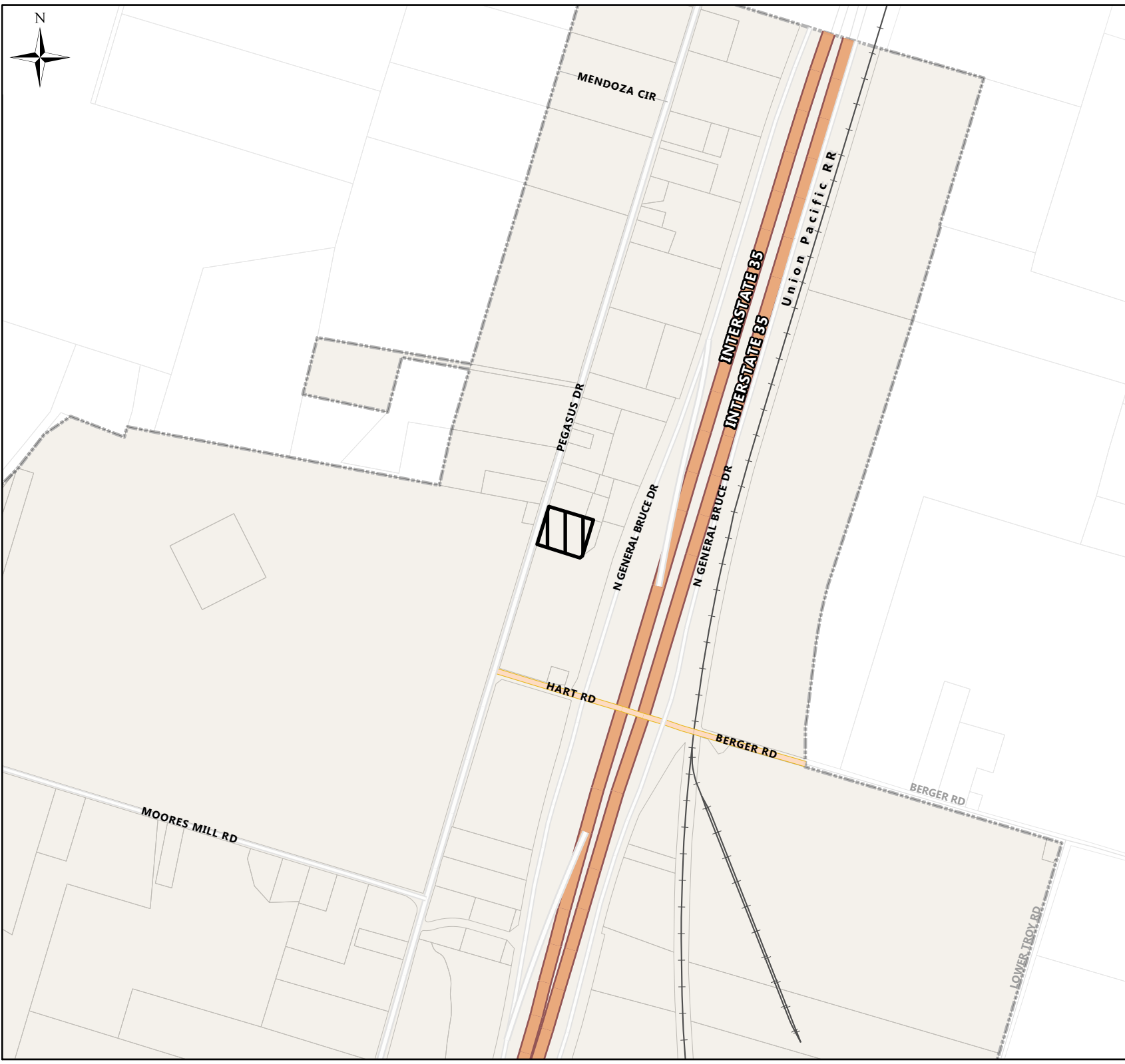
[Ordinance](#)







Adjacent residential uses to proposed shelter



Conditional
Use Permit









VICINITY MAP

Zoning Case:
FY-20-22-ZC



6565 Pegasus Dr

Transportation

Streets

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

Parcel Features

-  Parcels
-  ETJ Parcels

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: 5/15/2020





Conditional
Use Permit

AERIAL MAP

Zoning Case:
FY-20-22-ZC

6565 Pegasus Dr

Transportation

Streets

 COLLECTOR

 Temple Municipal Boundary

Parcel Features

 Parcels

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jdeckman
Date: 5/15/2020





Conditional
Use Permit

FUTURE LAND USE MAP

Zoning Case:
FY-20-22-ZC

6565 Pegasus Dr

Future LUP

- Agricultural/Rural
- Auto-Urban Commercial
- Auto-Urban Mixed Use
- Auto-Urban Multi-Family
- Auto-Urban Residential
- Business Park
- Estate Residential
- Industrial
- Neighborhood Conservation
- Parks & Open Space
- Public Institutional
- Suburban Commercial
- Suburban Residential
- Temple Medical Education District
- Urban Center

Parcel Features

- Parcels
- Easement

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jdeckman
Date: 5/15/2020





Conditional
Use Permit

**THOROUGHFARE
AND TRAILS MAP**

Zoning Case:
FY-20-22-ZC

6565 Pegasus Dr

- Parcel Features**
- Parcels
 - Easement
- Thoroughfare Plan**
- Expressway
 - Major Arterial
 - Proposed Major Arterial
 - Minor Arterial
 - Proposed Minor Arterial
 - Collector
 - Proposed Collector
- Trails Master Plan**
- EXISTING, CITY WIDE SPINE
 - EXISTING, COMMUNITY WIDE CONNECTOR
 - EXISTING, LOCAL CONNECTOR
 - PROPOSED, CITY WIDE SPINE
 - PROPOSED, COMMUNITY WIDE CONNECTOR
 - PROPOSED, LOCAL CONNECTOR

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jdeckman
Date: 5/15/2020





Conditional
Use Permit

UTILITY MAP

Zoning Case:
FY-20-22-ZC

6565 Pegasus Dr

WaterDistribution

⛶ Hydrant

— Main

Parcel Features

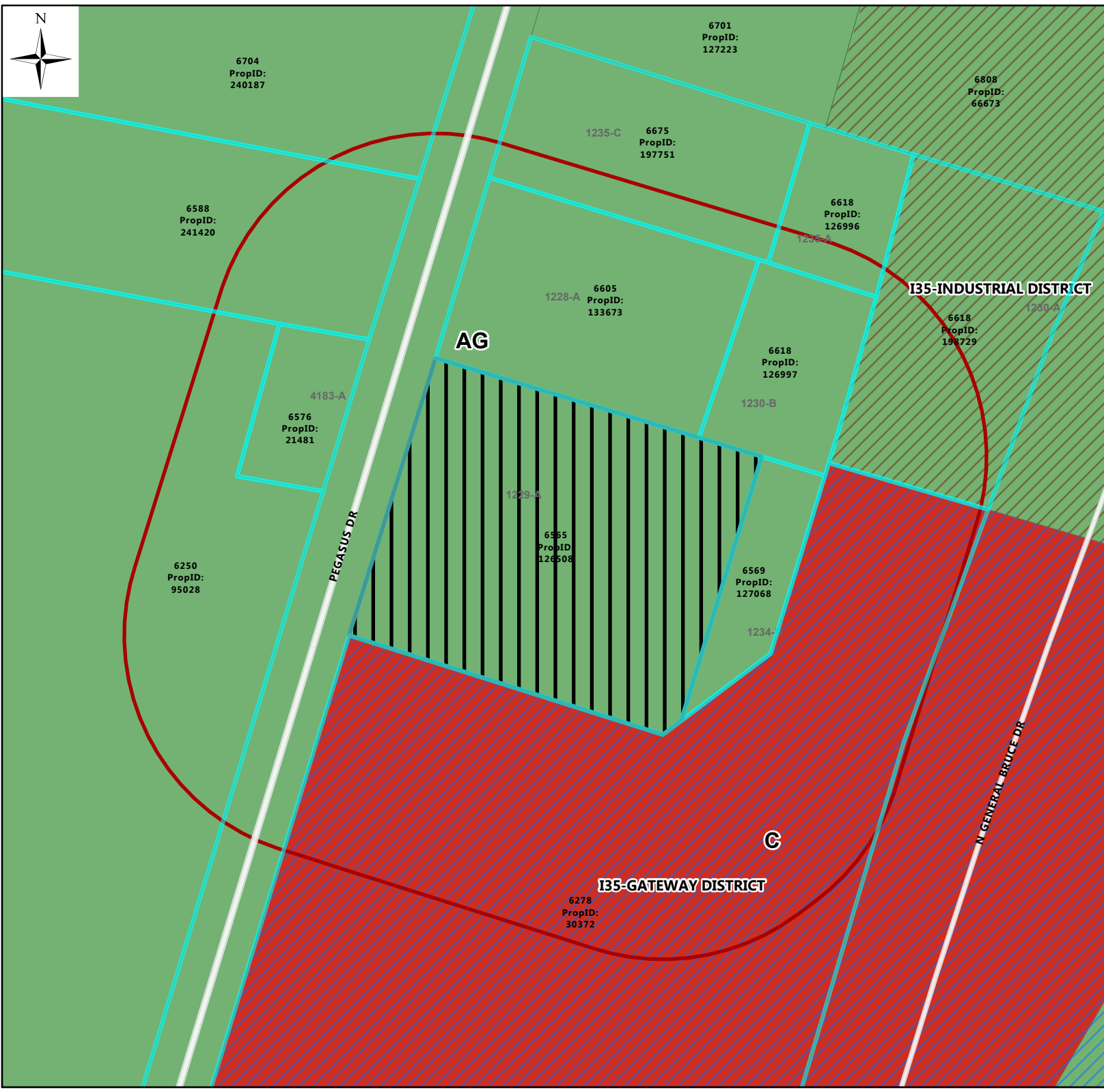
▭ Parcels

▭ Easement

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jdeckman
Date: 5/15/2020





Conditional
Use Permit

200' NOTIFICATION MAP

Zoning Case:
FY-20-22-ZC

6565 Pegasus Dr

Transportation		Parcel Features	
EXPRESSWAY	MAJOR ARTERIAL	COLLECTOR	LOCAL STREET
MINOR ARTERIAL	PRIVATE	RAMP	Railroad
2F - CUP	2F - PD	MF-1	MF-1 - CUP
MF-1 - PD	MF-1 - CUP	MF-2	MF-2 - CUP
MF-2 - PD	MF-2 - CUP	MF-3	MF-3 - CUP
O-1	O-1 - CUP	O-1 - PD	O-1 - CUP
O-2	O-2 - CUP	O-2 - PD	O-2 - CUP
NS	NS - CUP	NS - PD	NS - CUP
GR	GR - CUP	GR - PD	GR - CUP
GR - CUP, PD	CA	CA - CUP	CA - PD
C	C - CUP	C - PD	C - CUP, PD
LI	LI - CUP	LI - PD	LI - CUP, PD
HI	HI - CUP	HI - PD	HI - CUP, PD
AG	AG - CUP	MH	MH - CUP
MH - PD	MU	MU - CUP	SD-C
SD-C - CUP	SD-H	SD-H - CUP	SD-T
SD-V	T4	T4 - CUP	T5-C
T5-C - CUP	T5-C - PD	T5-E	T5-E - CUP
T5-E - PD	NO BASE	CUP	PD

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: 5/15/2020





View of subject property, facing northeast from Pegasus Drive



Facing into the subject property from Pegasus Drive



Neighboring residence, facing northwest across Pegasus Drive



Facing southeast along Pegasus Drive, showing adjacent business



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

May 20, 2020

Parcel ID# 241420
PITTS, LORINE BAUER
6588 PEGASUS DR
TEMPLE, TX 76501

Zoning Application Number: FY-20-22-ZC

Case Manager: Jason Deckman

Location: 6565 Pegasus

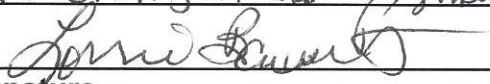
The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice,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

I ☐ agree

☒ disagree with this request

Comments:

We strongly disagree with this rezoning.
Our concern over this rezoning would affect
our children & grand children. Please reconsider this
rezoning in our neighborhood.


Signature

Lorine Bauer-Pitts
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, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **June 1, 2020**.

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

Number of Notices Mailed: 6

Date Mailed: May 20, 2020

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**

May 20, 2020

Parcel ID# 126508
MEHTA, JAGDISH
805 PAINT BRUSH LN
TEMPLE, TX 76502-7410

RECEIVED
MAY 28 2020
CITY OF TEMPLE
PLANNING & DEVELOPMENT

Zoning Application Number: FY-20-22-ZC

Case Manager: Jason Deckman

Location: 6565 Pegasus

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

Vijay mehta

(Optional)

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

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **June 1, 2020**.

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

Number of Notices Mailed: 6

Date Mailed: May 20, 2020

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

ORDINANCE NO. 2020-5035
(FY-20-22-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT WITH A SITE PLAN WITH WAIVERS FOR THE MAXIMUM PERIOD OF OCCUPANCY PER RESIDENT AND A LIMIT ON THE NUMBER OF RESIDENTS, ON APPROXIMATELY 1.994 ACRES OUT OF THE MOSES SHIPMAN SURVEY, ABSTRACT 782 IN BELL COUNTY, TEXAS, LOCATED AT 6565 PEGASUS DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant proposes to operate a social service shelter under the name “Peace of Mind Youth Shelter” that would provide temporary residential care and specialized services for up to 40 children aged 6-17 that have been abandoned or removed from their homes by Child Protective Services - a Social Services Shelter may be allowed in the Agricultural zoning district, subject to a Conditional Use Permit and compliance with the locational criteria listed in Sec. 5.3.12 of the Unified Development Code (UDC);

Whereas, the UDC defines a Social Services Shelter as follows:

A facility providing shelter, over a period of 30 days or less, for no more than 10 persons who are receiving therapy or counseling from support staff who are present at all times the residents are present, for one or more of the following purposes:

- To help residents recuperate from the effects of drugs or alcohol addiction;
- To help homeless persons or families achieve independence and obtain permanent housing; or
- To provide temporary shelter for persons who are victims of domestic abuse;

Whereas, UDC Section 5.3.12 requires that any transitional, emergency, or social service shelter must be a minimum of 1,000 feet from the following uses:

- Alcoholic beverage sales (on-premise or off-premise consumption);
- All residential uses or zoning districts as specified in the zoning district table in Section 4.1.1 and in the use table in Section 5.1.3;
- Childcare uses;
- Elementary or secondary schools (public or private); and
- Other transitional, emergency, or social service shelters;

Whereas, the distance required above must be measured in a straight, direct line from the property line of a use listed above to the property line of the transitional, emergency, or social service shelter, and in a direct line across intersections;

Whereas, Staff has examined the area surrounding the property at 6565 Pegasus and determined that it meets four of the five the distance requirements of UDC Sec. 5.3.12:

- Alcoholic beverage sales – none within 1000 feet;
- Residential uses – a home directly north and a home across the road roughly 470 feet away;
- Childcare facilities – none within 1000 feet;
- Elementary or secondary schools (public or private) – none within 1000 feet;
- Other transitional, emergency, or social service shelters – none within 1000 feet;

Whereas, at its June 1, 2020 meeting the Planning and Zoning Commission of the City of Temple, Texas, after due consideration to the planned development conditions, voted 8 to 0 to recommend Council approve the requested Conditional Use Permit, subject to the following conditions:

- Substantial compliance with the site and floor plans;
- Submit a scaled site plan and architectural drawing of the proposed floor plan, subject to approval during the permitting process;
- Submit verification of adequate water and septic facilities during permitting process;
- Submit a detailed fire safety plan, subject to approval by the city fire marshal, to include the following:
 - Install a 13R residential sprinkler system;
 - Install fire alarm system that is connected to the sprinkler system;
 - Install emergency exit lights;
 - Each bedroom will require a window and an escape ladder as a secondary means of egress;
 - Posted evacuation routes and conduct regular fire drills; and
 - Maximum occupancy as determined by fire marshal;
- Construction of a privacy fence around the property;
- Construction of a paved parking area in accordance with UDC Section 7.5; and
- Compliance with all state regulations applicable to a general residential shelter; 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 approves a Conditional Use Permit with a Site Plan with waivers for the maximum period of occupancy per resident and a limit on the number of residents, on 1.994 acres out of the Moses Shipman Survey, Abstract 782 in Bell County, Texas, located at 6565 Pegasus Drive and subject to the following conditions:

- Substantial compliance with the site and floor plans;
- Submit a scaled site plan and architectural drawing of the proposed floor plan, subject to approval during the permitting process;
- Submit verification of adequate water and septic facilities during permitting process;
- Submit a detailed fire safety plan, subject to approval by the city fire marshal, to include the following:
 - Install a 13R residential sprinkler system;
 - Install fire alarm system that is connected to the sprinkler system;
 - Install emergency exit lights;
 - Each bedroom will require a window and an escape ladder as a secondary means of egress;
 - Posted evacuation routes and conduct regular fire drills; and
 - Maximum occupancy as determined by fire marshal;
- Construction of a privacy fence around the property;
- Construction of a paved parking area in accordance with UDC Section 7.5; and
- Compliance with all state regulations applicable to a general residential shelter.

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 **2nd** day of **July, 2020.**

PASSED AND APPROVED on Second and Final Reading on the **16th** day of **July, 2020.**

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20
Item #8
Regular Agenda
Page 1 of 2

DEPT. / DIVISION SUBMISSION REVIEW:

Jason Deckman, Planner

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – FY-20-24-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural with CUP for veterinary clinic to General Retail for 4.62 +/- acres, addressed as 610 Hilliard Road.

PLANNING & ZONING COMMISSION RECOMMENDATION: At the June 1, 2020 meeting, the Planning & Zoning Commission voted 8 to 0 to recommend rezoning to General Retail (GR).

STAFF RECOMMENDATION: Staff recommends approval for a rezoning from Agricultural (AG) with CUP to General Retail (GR) district for the following reasons:

1. The proposed General Retail zoning is compatible with surrounding zoning, existing and anticipated uses;
2. The proposal is in compliance with the Thoroughfare Plan and Future Land Use Plan; and
3. Public facilities are available to serve the subject property.

ITEM SUMMARY: This rezoning is requested to allow for a veterinary hospital at 610 Hilliard Road and to allow for future development. The applicant, Dr. Suzanne Brown, was approved for a Conditional Use Permit in December 2019 to convert the existing residence into a veterinary hospital. Since that CUP was approved, Dr. Brown has formed a partnership with another veterinarian which will allow for a greater scope of services to be provided at this location. This will require more renovation than was originally proposed during the CUP. Furthermore, expanding the building footprint would not be permitted within the scope of the existing ordinance and site plan. This veterinary hospital will not encompass the entire 4.62 acres, and Dr. Brown has indicated that she anticipates developing some or all of the remaining acreage for uses allowed in the GR zoning.

COMPREHENSIVE PLAN (CP) COMPLIANCE: Compliance to goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan are summarized by the attached Comprehensive Plan Compliance table but further described below:

Future Land Use Map / Future Development Plan (CP Map 3.1)

The subject property is shown as 'Suburban Commercial' on the current Future Land Use Map. In comparison, the Future Development Plan (FDP) in the draft 2020 Comprehensive Plan shows it as 'Corridor Mixed Use'. This designation is intended to allow for higher density and intensity of both residential and business uses, to include retail, office, service, and restaurants. This request is **in compliance** with the Future Land Use Map and Future Development Plan.

Thoroughfare Plan (CP Map 5.2)

The subject property fronts along Hilliard Road, shown as a major arterial on both the current plan and draft Thoroughfare Map. Hilliard Road will form part of the western section of the Temple Outer Loop, a divided north-south corridor that will enhance traffic flow through west Temple and provide improved connectivity to and from I-35. Commercial and retail development along major arterials is preferred over residential neighborhoods. A sidewalk is required to be constructed along the major arterial in order to encourage pedestrian and/or bicycle travel. This request is **in compliance** with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

The existing home is served by an on-site septic system. Municipal sewer service is not currently available on the subject property, but a 12" line is located roughly 570' northwest of the existing structure. Water is available from an 8" line that along Hilliard Road.

SUBDIVISION PLAT: This property is not currently platted. A subdivision plat would be required prior to any proposed new development.

DEVELOPMENT REGULATIONS: The attached tables compare and contrast the uses allowed in the Agricultural and General Retail Zoning Districts.

PUBLIC NOTICE: Six notices, were sent to property owners within 200-feet of the subject property containing notice of the public hearing as required by State law and City Ordinance. As of Thursday May 28, 2020, at 12:00 PM, three responses have been returned in agreement. An update regarding late responses will be provided at the Planning & Zoning Commission meeting, if necessary.

The newspaper printed notice of the public hearing on May 20, 2020, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Site Plan \(Exhibit A\)](#)

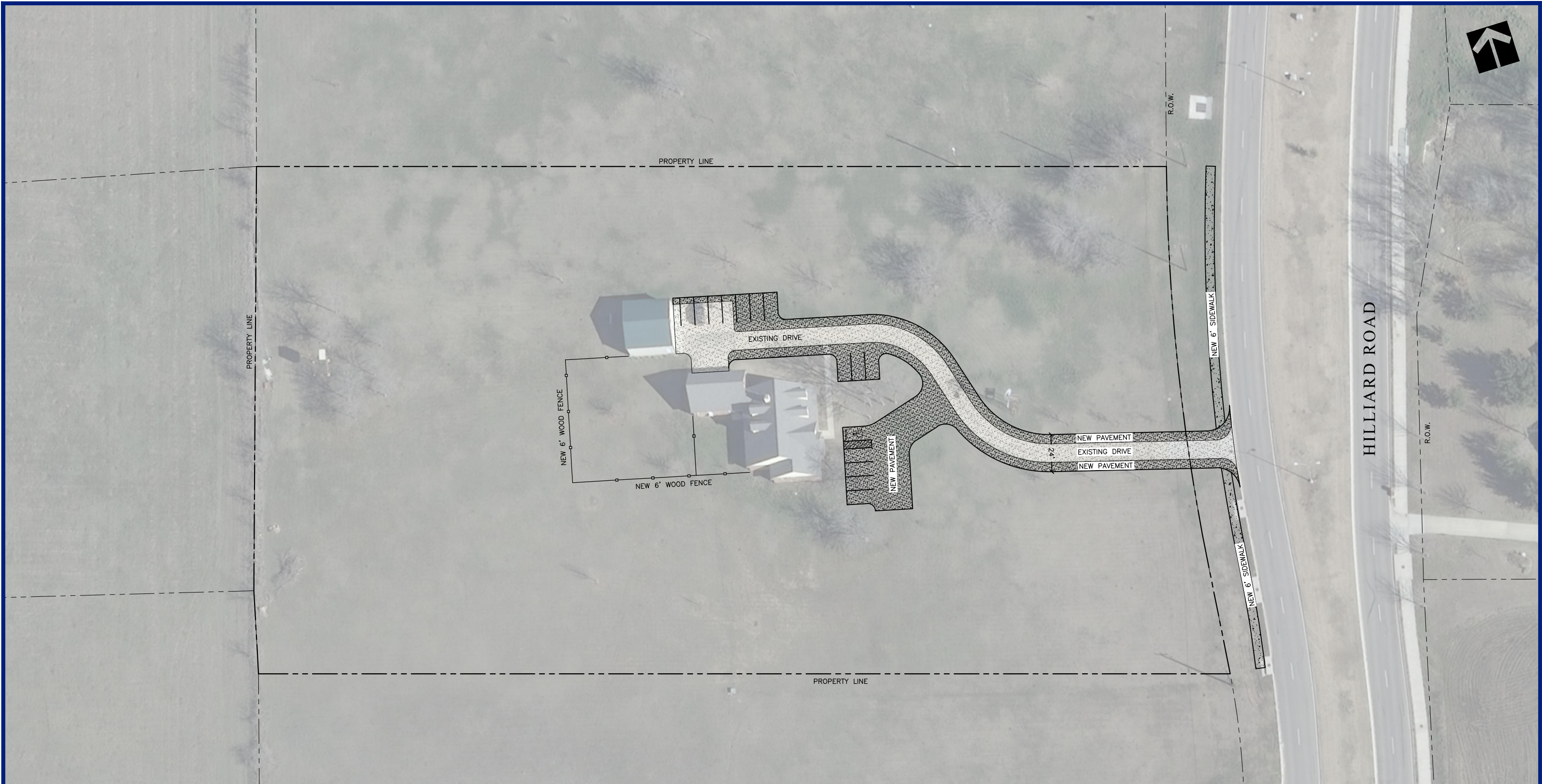
[Use Tables](#)

[Maps](#)

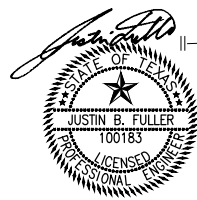
[Site Photos](#)

[Returned Property Notices](#)

[Ordinance](#)



HILLIARD VETERINARY HOSPITAL



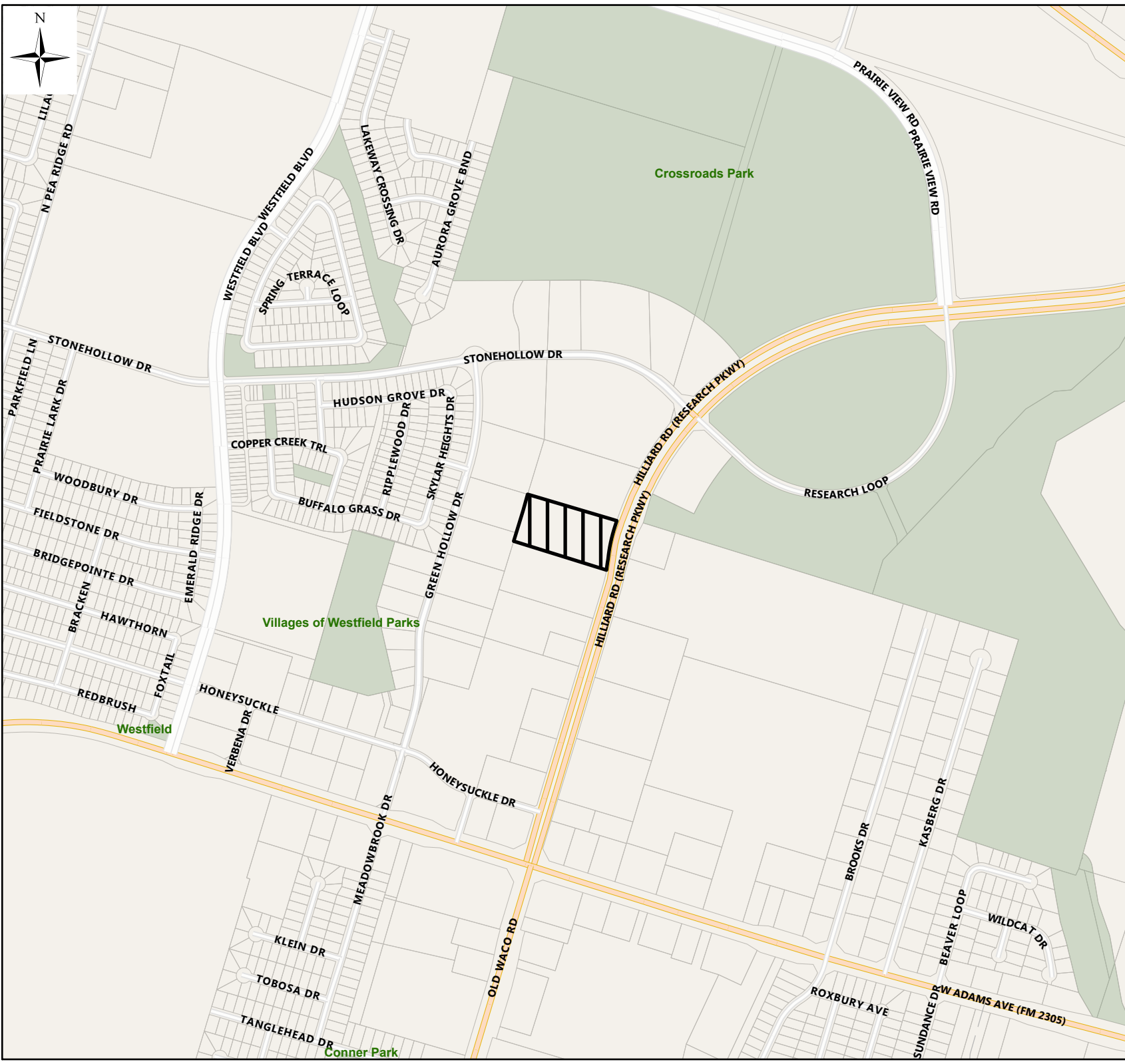
NOT FOR CONSTRUCTION

THIS DOCUMENT IS RELEASED FOR THE
PURPOSE OF INTERIM REVIEW UNDER THE
AUTHORITY OF JUSTIN B. FULLER, P.E. 100183
AS PER DATE ON DRAWING. IT IS NOT TO BE
USED FOR BIDDING OR CONSTRUCTION.

Tables

Permitted & Conditional Uses Table
Comparison between AG & GR

Use Type	Agricultural (AG)	General Retail (GR)
Residential Uses	<ul style="list-style-type: none"> • Single Family Residence (Detached) • Industrialized housing • Recreational Vehicle Park (CUP) 	<ul style="list-style-type: none"> • Single Family Residence (Detached or Attached) • Two-Family Dwelling • Family or Group Home (CUP) • Recreational Vehicle Park (CUP)
Agricultural Uses	<ul style="list-style-type: none"> • Animal Shelter • Farm, Orchard, Garden • Greenhouse / Nursery 	<ul style="list-style-type: none"> • Farm, Orchard, Garden • Kennel (w/o veterinary hospital) (CUP)
Retail & Service Uses	<ul style="list-style-type: none"> • Exercise Gym (CUP) 	<ul style="list-style-type: none"> • Veterinary Hospital • Most Retail & Service Uses • Alcoholic Beverage Sales, Off-premise (CUP)
Office Uses	None	<ul style="list-style-type: none"> • Office • Warehouse Office (CUP)
Commercial Uses	None	<ul style="list-style-type: none"> • Print shop • Plumbing shop • Upholstery shop
Industrial Uses	<ul style="list-style-type: none"> • Temporary Asphalt/Concrete Plant (CUP) • Laboratory – medical, scientific, or research (CUP) • Recycling Collection (CUP) 	<ul style="list-style-type: none"> • Laboratory (Medical or Research) • Recycling Collection (with Limitations)
Recreational Uses	<ul style="list-style-type: none"> • Day Camp for children • Park or playground • Rodeo Grounds (CUP) • Amusement, Commercial, outdoor (CUP) 	<ul style="list-style-type: none"> • Park or Playground • Amusement, Commercial (Indoor)
Vehicle Service Uses	None	<ul style="list-style-type: none"> • Auto Leasing, Rental • Car Wash • Minor Vehicle Servicing (w/ Limitations)
Restaurant Uses	None	<ul style="list-style-type: none"> • With & Without Drive-In
Overnight Accommodations	<ul style="list-style-type: none"> • Recreational Vehicle Park (CUP) 	<ul style="list-style-type: none"> • Hotel or Motel • RV Park (CUP)



AG to GR

VICINITY MAP

Zoning Case:
FY-20-24-ZC

610 Hilliard Rd

Transportation

- Streets
- MAJOR ARTERIAL
 - COLLECTOR
 - LOCAL STREET
 - MINOR ARTERIAL
 - PRIVATE
- Temple Municipal Boundary

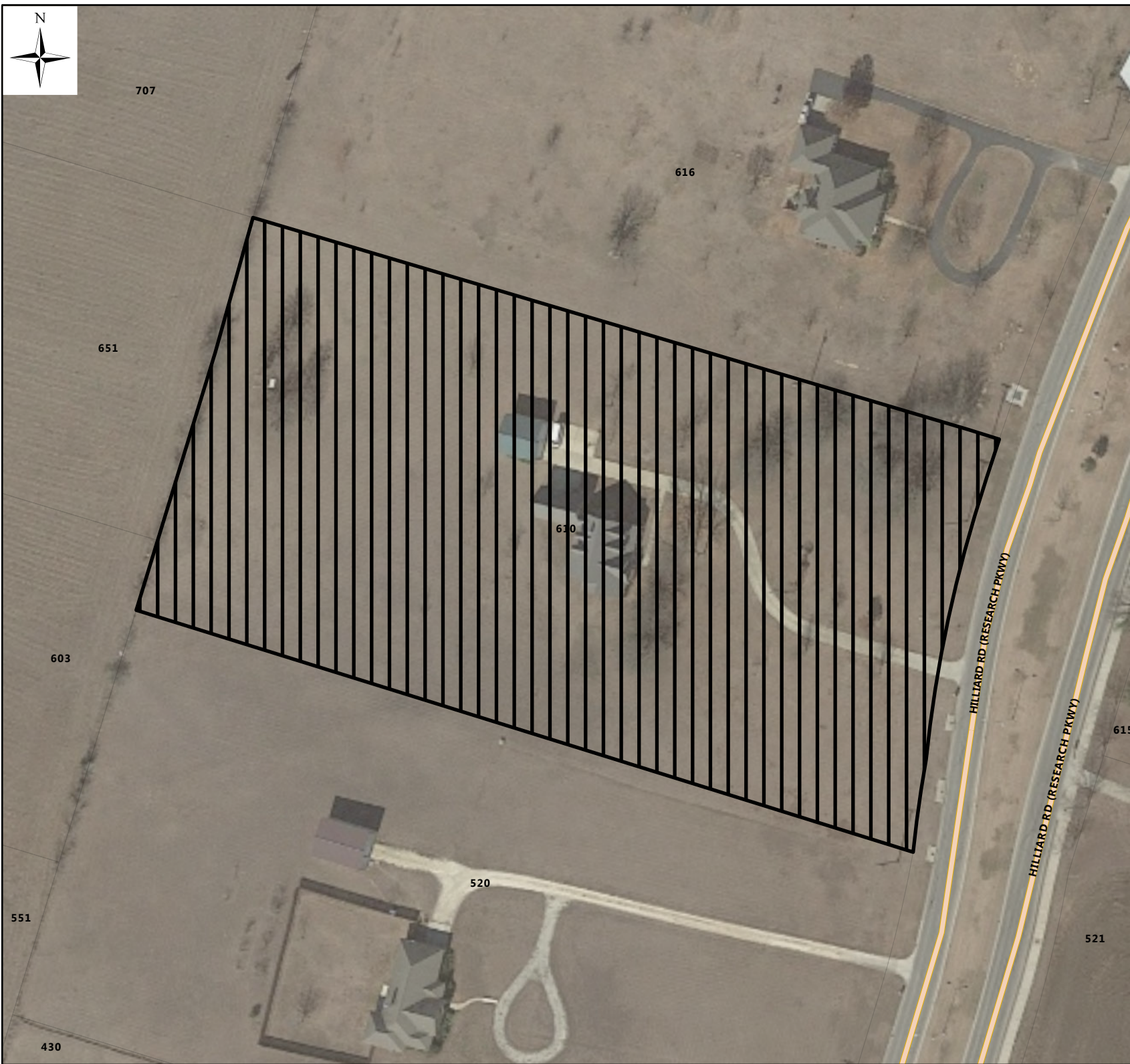
Parcel Features

- Parcels

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: 5/15/2020





AG to GR

AERIAL MAP

Zoning Case:
FY-20-24-ZC

610 Hilliard Rd

Transportation

Streets

 MAJOR ARTERIAL

 Temple Municipal Boundary

Parcel Features

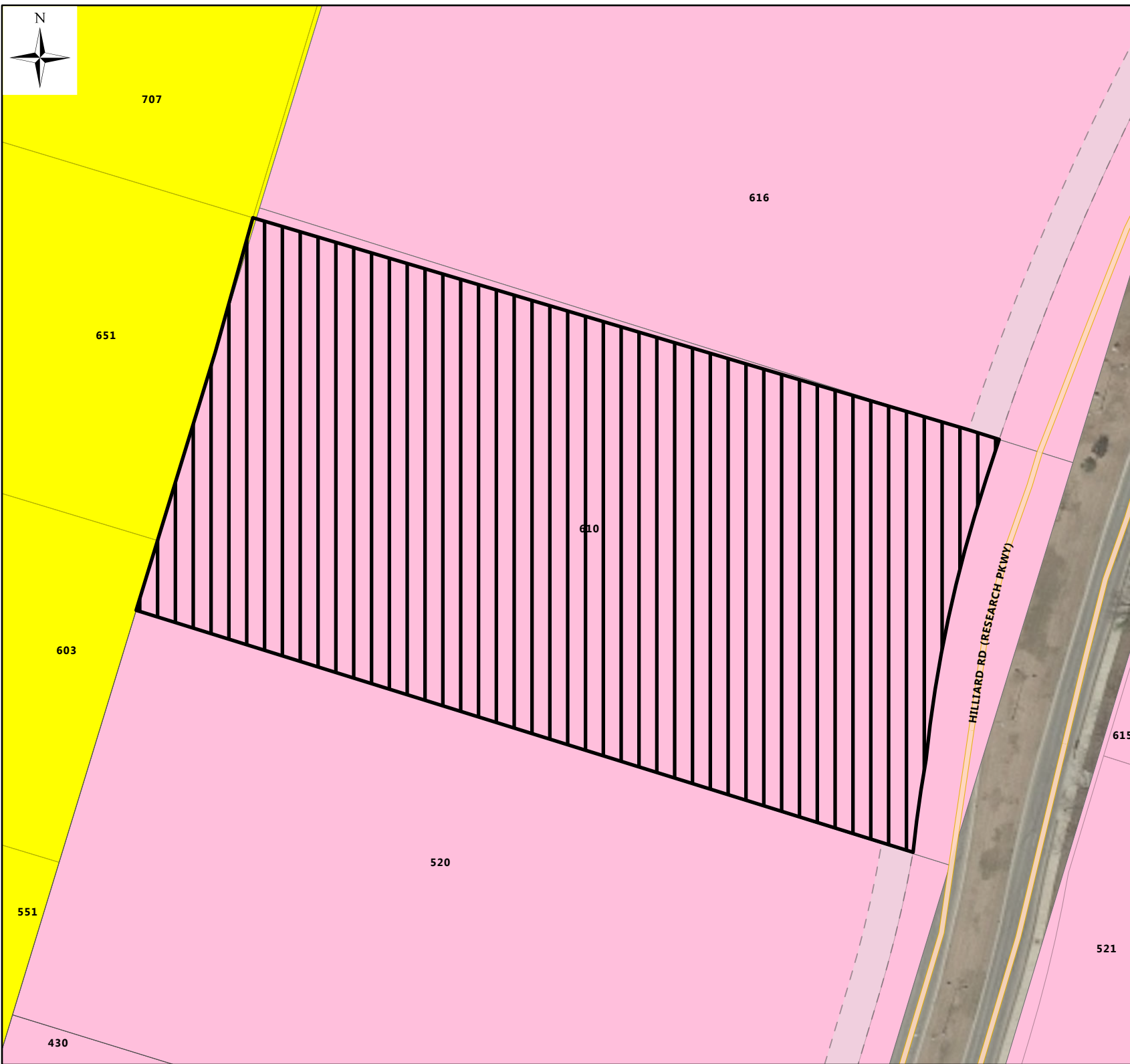
 Parcels

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jdeckman

Date: 5/15/2020





AG to GR

FUTURE LAND USE MAP

Zoning Case:
FY-20-24-ZC

610 Hilliard Rd

Future LUP

- Agricultural/Rural
- Auto-Urban Commercial
- Auto-Urban Mixed Use
- Auto-Urban Multi-Family
- Auto-Urban Residential
- Business Park
- Estate Residential
- Industrial
- Neighborhood Conservation
- Parks & Open Space
- Public Institutional
- Suburban Commercial
- Suburban Residential
- Temple Medical Education District
- Urban Center

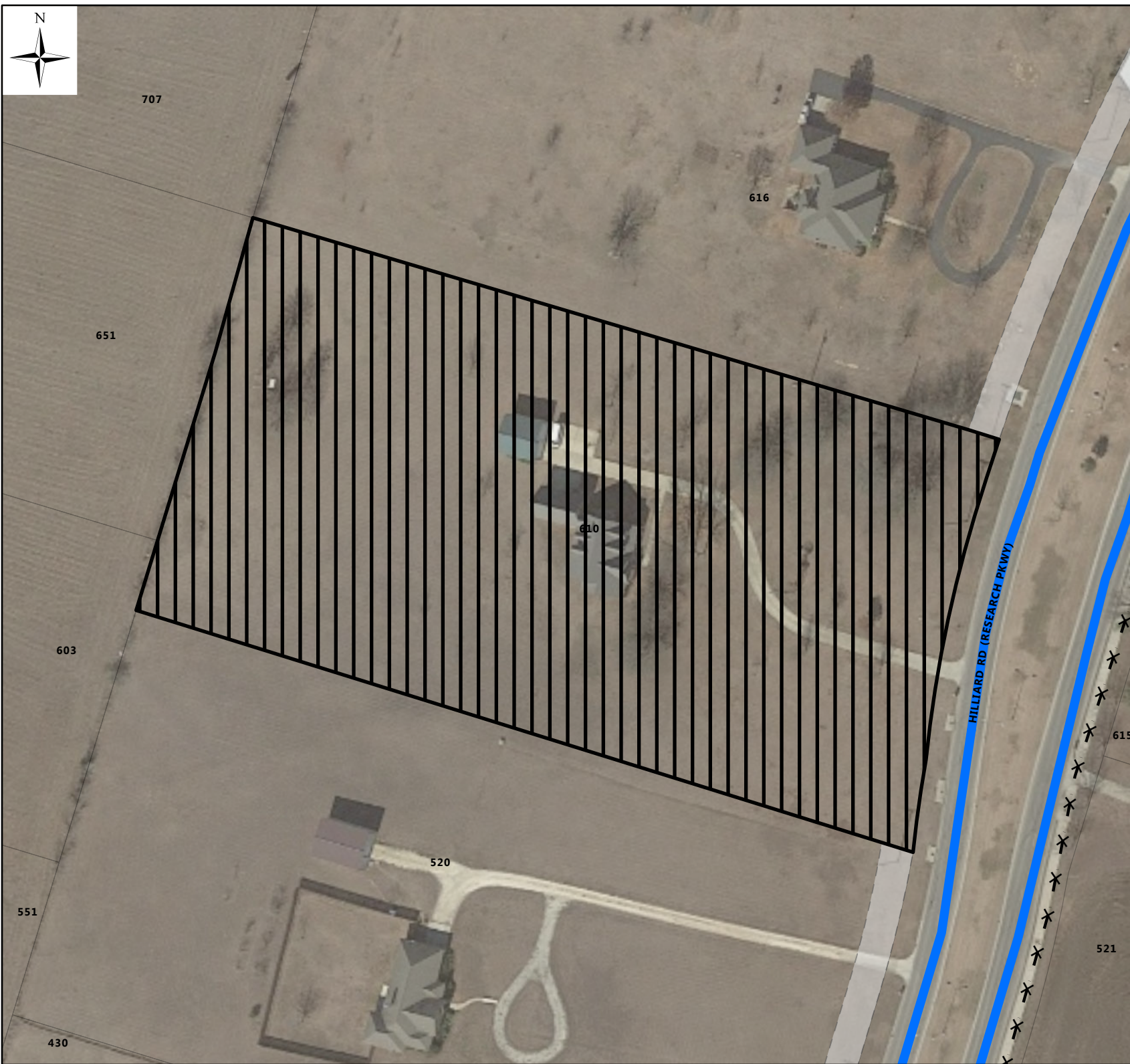
Parcel Features

- Parcels
- Easement

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jdeckman
Date: 5/15/2020





AG to GR

THOROUGHFARE AND TRAILS MAP

Zoning Case:
FY-20-24-ZC

610 Hilliard Rd

Parcel Features

- Parcels
- Easement

Thoroughfare Plan

- Expressway
- Major Arterial
- Proposed Major Arterial
- Minor Arterial
- Proposed Minor Arterial
- Collector
- Proposed Collector

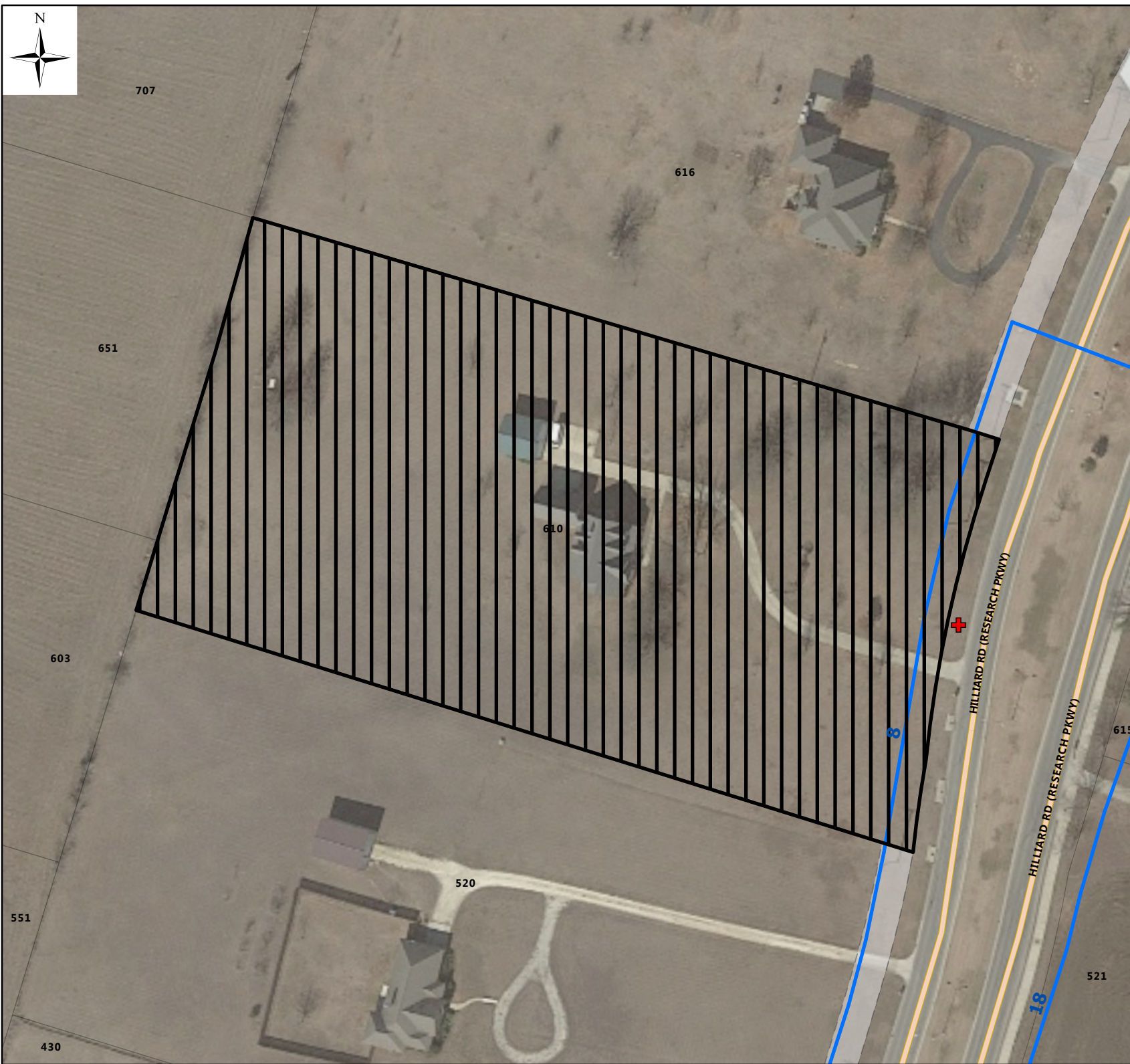
Trails Master Plan

- EXISTING, CITY WIDE SPINE
- EXISTING, COMMUNITY WIDE CONNECTOR
- EXISTING, LOCAL CONNECTOR
- PROPOSED, CITY WIDE SPINE
- PROPOSED, COMMUNITY WIDE CONNECTOR
- PROPOSED, LOCAL CONNECTOR

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jdeckman
Date: 5/15/2020





AG to GR

UTILITY MAP

Zoning Case:
FY-20-24-ZC

610 Hilliard Rd

WaterDistribution

⛶ Hydrant

— Main

Parcel Features

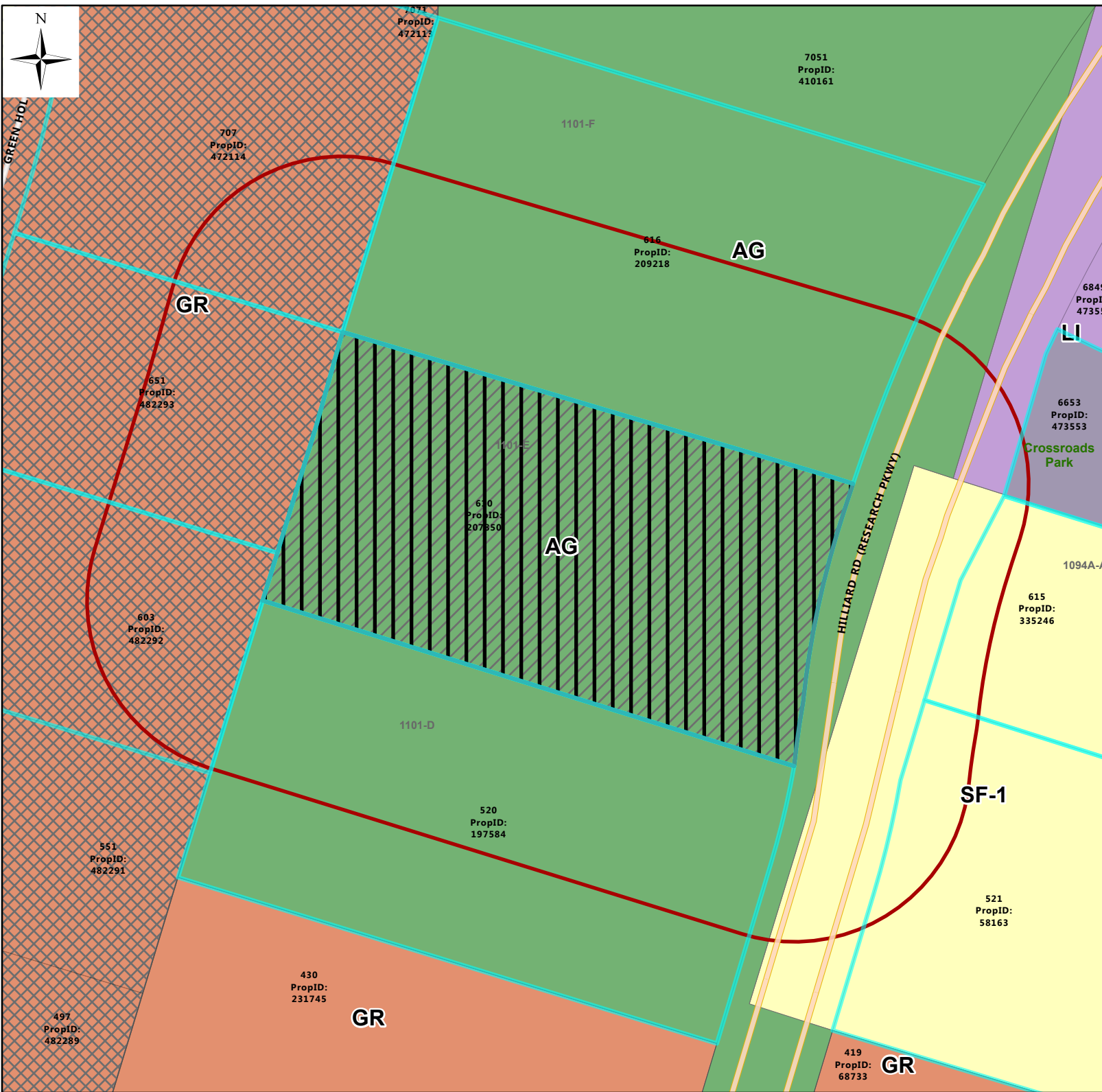
▭ Parcels

▭ Easement

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

jdeckman
Date: 5/15/2020





AG to GR

200'

NOTIFICATION MAP

Zoning Case:
FY-20-24-ZC

610 Hilliard Rd

Transportation		2F - CUP	LI - CUP
EXPRESSWAY		2F - PD	LI - PD
MAJOR ARTERIAL		MF-1	LI - CUP, PD
COLLECTOR		MF-1 - CUP	HI
LOCAL STREET		MF-1 - PD	HI - PD
MINOR ARTERIAL		MF-2	AG
PRIVATE		MF-2 - CUP	AG - CUP
RAMP		MF-2 - PD	MH
Railroad		MF-3 - PD	MH - CUP
		O-1	MH - PD
Parcel Features		O-1 - CUP	MU
Parcels		O-1 - PD	MU - CUP
CurrentZoning		O-2	SD-C
HI - CUP		O-2 - CUP	SD-C - CUP
UE		O-2 - PD	SD-H
UE - PD		NS	SD-H - CUP
SF-1		NS - CUP	SD-T
SF-1 - CUP		NS - PD	SD-V
SF-1 - PD		GR	T4
SF-2		GR - CUP	T4 - PD
SF-2 - PD		GR - PD	T4 - CUP
SF-3		GR - CUP, PD	T5-C
SF-3 - PD		CA	T5-C - CUP
SFA		CA - CUP	T5-C - PD
SFA-2		CA - PD	T5-E
SFA-2 - PD		C	T5-E - CUP
SFA-3		C - CUP	T5-E - PD
SFA-3 - PD		C - PD	NO BASE
2F		C - CUP, PD	CUP
		LI	PD

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: 5/15/2020





Facing north along Hilliard Road



Facing south along Hilliard Road



Facing the neighboring home to the north



Facing the neighboring home to the south



Facing west into the subject property



Facing east from the subject property across Hilliard Road



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

May 20, 2020

Parcel ID# 209218
SCHLIEKER, ROBERT H
616 HILLIARD RD
TEMPLE, TX 76502-4701

Zoning Application Number: FY-20-24-ZC

Case Manager: Jason Deckman

Location: 610 Hilliard

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:

Robert H. Schlieker
Signature

Robert H. Schlieker
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, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **June 1, 2020**.

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

Number of Notices Mailed: 6

Date Mailed: May 20, 2020

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**

May 20, 2020

Parcel ID# 58163
KASBERG, ROBERT
2103 N WHEAT RD UNIT 250
BELTON, TX 76513

Zoning Application Number: FY-20-24-ZC

Case Manager: Jason Deckman

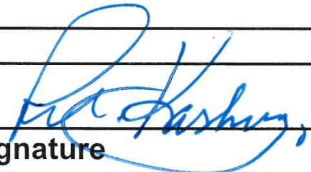
Location: 610 Hilliard

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

Rick N. Kasberg, PE.
Print Name

(Optional)

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

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **June 1, 2020**.

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

Number of Notices Mailed: 6

Date Mailed: May 20, 2020

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**

May 20, 2020

Parcel ID# 482293
KIELLA DEVELOPMENT INC
PO BOX 1344
TEMPLE, TX 76503-1344

Zoning Application Number: FY-20-24-ZC

Case Manager: Jason Deckman

Location: 610 Hilliard

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, jdeckman@templetx.gov or mail or hand-deliver this comment form to the address below, no later than **June 1, 2020**.

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

Number of Notices Mailed: 6

Date Mailed: May 20, 2020

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

ORDINANCE NO. 2020-5036
(FY-20-24-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING A REZONING FROM AGRICULTURAL WITH CONDITIONAL
USE PERMIT FOR A VETERINARY CLINIC TO GENERAL RETAIL OF
APPROXIMATELY 4.62 ACRES, ADDRESSED AS 610 HILLIARD ROAD;
PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant, Dr. Suzanne Brown, was approved for a Conditional Use Permit (CUP) in December 2019 to convert the existing residence into a veterinary hospital – and since that time Dr. Brown has formed a partnership with another veterinarian which will allow for a greater scope of services to be provided at this location;

Whereas, this will require more renovation than was originally proposed during the CUP and furthermore, expanding the building footprint would not be permitted within the scope of the existing ordinance and site plan - this veterinary hospital will not encompass the entire 4.62 acres, and Dr. Brown has indicated that she anticipates developing some or all of the remaining acreage for uses allowed in the General Retail zoning;

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, at its June 1, 2020 meeting, voted 8 to 0 to recommend Council approve of the rezoning, from Agricultural with CUP for a veterinary clinic to General Retail of approximately 4.62 acres, addressed as 610 Hilliard Road; 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 with CUP for a veterinary clinic to General Retail of approximately 4.62 acres, addressed as 610 Hilliard Road.

Part 3: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or

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

Part 5: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **2nd** day of **July, 2020.**

PASSED AND APPROVED on Second and Final Reading on the **16th** day of **July, 2020.**

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/02/20

Item #9

Regular Agenda

Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Kathryn Davis, City Attorney

Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution pursuant to Chapter 2206, Government Code § 2206.053 finding that eight properties situated in the Maximo Moreno Survey, Abstract #14, Bell County, Texas, are necessary for the proposed expansion of Avenue C and authorizing the use of eminent domain to condemn the properties.

STAFF RECOMMENDATION: Adopt resolution presented in item description.

ITEM SUMMARY: The City is in the design phase for the Avenue C Expansion Project from Main Street to South 24th Street. The design requires the acquisition of right-of-way from 28 properties, including 12 residential and business relocations. Appraisals have been conducted on all the properties and offers have been made to those property owners based on the appraisals. For those properties that require relocation, Stateside Right of Way Services, Inc. (Stateside) has prepared and presented the necessary relocation studies. The City has acquired 14 rights-of-way.

Staff, with the assistance of Stateside, is actively negotiating with each of the remaining property owners and hopes to reach an agreement with each of them in the coming weeks. However, the City and five property owners have been unable to reach an agreement despite good faith negotiations. Moreover, three properties have outstanding title issues that the current owner cannot cure to the satisfaction of the title company. Therefore, court action is necessary to acquire clean title.

The properties needed are as follows:

Property 1: Being 0.0909-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract known as Lots 1 and 2, Block 45, of Roach Addition, a non-dedicated subdivision in the City of Temple, Bell County, Texas, being the same tract of land conveyed to Wayne Dawson and Wendell Dawson in Vol. 5592, Pg. 207, Official Public Records of Real Property, Bell County, Texas.

The property is located at 301 South Martin Luther King Jr. Drive, Temple, Texas (Bell CAD ID #34234).

- Initial offer made on February 6, 2020.
- Owners nonresponsive.
- Final offer letter sent on June 18, 2020
- Owners began to negotiate after receiving final offer letter; however, parties are too far apart at this time to reach an agreement.

Property 2: Being 0.0332-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract known as the West Forty Feet (W40') of Lot Eleven (11) and the North Twenty-Five Feet (N 25') of the West Forty Feet (W40') of Lot Twelve (12) of Block A, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas. The property is located at 407 East Avenue C, Temple, Texas (Bell CAD ID #53202).

- Initial offer made on February 19, 2020.
- Packet unclaimed; resent via USPS Priority and delivered on March 6, 2020.
- Countered for three times whole property value with no supporting documentation; City sent a counter response; Owner did not accept and only reduced original counter by \$4,000; parties are too far apart at this time to reach an agreement.
- Final offer sent June 18, 2020

Property 3: Being 0.0584-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of Lots 11 and 12, Block A, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas, embracing a portion of tract of land conveyed to Wayne Dawson in Vol. 4867, Pg. 455, Official Public Records of Real Property, Bell County, Texas. The property is located at 302 South 10th Street, Temple, Texas (Bell CAD ID #129092).

- Initial offer made on February 6, 2020.
- Owners nonresponsive.
- Final offer letter sent on June 18, 2020
- Owners began to negotiate after receiving final offer letter; however, parties are too far apart at this time to reach an agreement.

Property 4: Being 0.0929-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, being all of Lot 1 and a portion of Lot 2, Block B, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas. The property is located at 303 South 10th Street, Temple, Texas (Bell CAD ID #70580).

- Initial offer made on February 6, 2020.
- Reached an agreement on April 22, 2020.
- Set for closing on May 18, 2020; owner has refused to sign closing paperwork.
- Final offer letter sent on June 18, 2020

Property 5: Being 0.0985-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of Lot 6, Block F, Bentley's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 71, Page 50, Deed Records of Bell County, Texas. The property is located at 713 East Avenue C, Temple, Texas (Bell CAD ID #35215).

- Initial offer made on February 6, 2020.
- Owners and City made several overs back and forth; however, parties are too far apart at this time to reach an agreement.
- Final offer letter sent on June 18, 2020

Property 6: Being 0.0770-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of Lot 5, Block 1, Roy Campbell Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 165, Page 638, Deed Records of Bell County, Texas. The property is located at 306 South 18th Street, Temple, Texas (Bell CAD ID #36457).

- Initial offer made on February 7, 2020.
- Owner accepted City's offer; however, unable to clear title with court action.
- Final offer letter sent on May 18, 2020

Property 7: Being 0.0468-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract known as the West Forty-Four Feet (W44') of Lot 1, Block B, Nathan's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 81, Page 1, Deed Records of Bell County, Texas. The property is located at 1015 East Avenue C, Temple, Texas (Bell CAD ID #27756).

- Initial offer made on March 4, 2020.
- Owner accepted City's offer; however, unable to clear title with court action.
- Final offer letter sent on May 20, 2020

Property 8: Being 0.0811-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract conveyed as the East Ninety-Six Feet (E96') of Lot 1, Block B, Nathan's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 181, Page 1, Deed Records of Bell County, Texas. The property is located at 302 South 10th Street, Temple, Texas (Bell CAD ID #27755).

- Initial offer made on March 4, 2020.
- Owner accepted City's offer; however, unable to clear title with court action.
- Final offer letter sent on May 22, 2020

Staff is asking pursuant to Chapter 2206, Government Code § 2206.053, for the City Council to authorize the use of eminent domain to acquire the properties described above.

FISCAL IMPACT: Funding for the eight properties necessary for the proposed expansion of Avenue C is available in account 795-9600-531-6892, project 101841.

ATTACHMENTS:

[Surveys](#)
[Resolution](#)

AVENUE C PROJECT - ROW PARCEL - TRACT 6

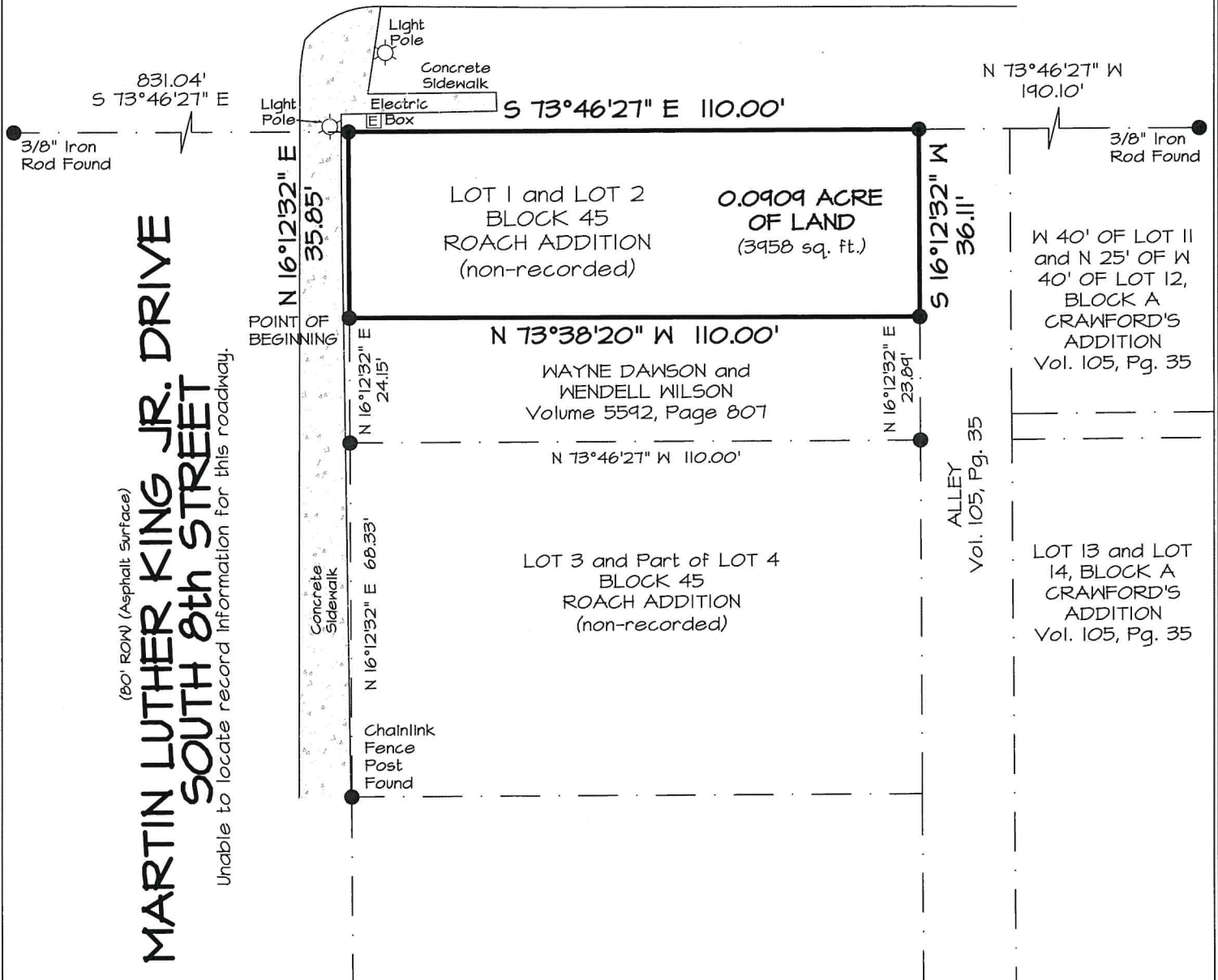
Survey showing 0.0909 ACRE OF LAND, situated in the MAXIMO MORENO SURVEY, ABSTRACT 14, Bell County, Texas, embracing a portion of a tract known as LOTS 1 and 2, BLOCK 45, of ROACH ADDITION, a non-dedicated subdivision in the City of Temple, Bell County, Texas.

This sketch is to accompany a metes and bounds description of the herein shown 0.0909 acre tract.



(80' ROW) (Asphalt Surface)
EAST AVENUE C
 Unable to locate record information for this roadway.

- - Denoted 5/8" Iron Rod w/cap Stamped "ACS" Set (Unless Otherwise Noted)

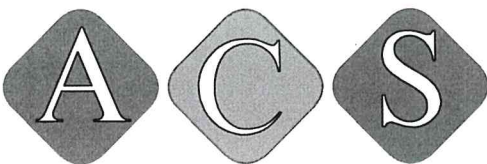


Survey performed in coordination with that title commitment provided by MONTEITH ABSTRACT & TITLE COMPANY, G.F. No. 18-5394, EFFECTIVE DATE: AUGUST 12, 2019.

Bearings cited hereon are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

This surveyor and All County Surveying, Inc. do not warrant any statement with reference to floodplain.

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. The location of visual structural improvements with respect to the boundary lines are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.



ALL COUNTY SURVEYING, INC.
 Tx. Firm No. 10023600
 4330 South 5th Street
 Temple, Texas 76502
 254-778-2272 Killeen 254-634-4636
 Fax 254-774-7608
 www.allcountysurveying.com



Survey completed: 09-25-2019
 Scale: 1" = 30'
 Job No.: 192023.1
 Dwg No.: 192023.1-6 ROW
 Drawn by: SLW
 Surveyor: CCL # 4636
 Copyright 2019 All County Surveying, Inc.

Plot Date: 10-23-2019

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

October 24, 2019

Surveyor's Field Notes for:

0.0909 ACRE OF LAND, situated in the **MAXIMO MORENO SURVEY, ABSTRACT 14**, Bell County, Texas, embracing a portion of a tract known as Lots 1 and 2, Block 45, of Roach Addition, a non-dedicated subdivision in the City of Temple, Bell County, Texas, being the same tract of land conveyed to Wayne Dawson and Wendell Wilson in Volume 5592, Page 807, 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" set on the west line of said Lot 2, , which said iron rod set bears N 16° 12' 32" E – 92.48' from a chain-link fence corner post found, and being on the east line of Martin Luther King Jr. Drive, also known as South 8th Street, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said Martin Luther King Jr. Drive, **N 16° 12' 32" E – 35.85'** to a 5/8" iron rod with cap stamped "ACS" set on the south line of East Avenue C, which said iron rod set bears S 73° 46' 27" E – 831.04' from a 3/8" iron rod found, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said East Avenue C, **S 73° 46' 27" E – 110.00'**, to a 5/8" iron rod with cap stamped "ACS" set on the west line of an alley as shown on the plat of Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas, which said iron rod set bears N 73° 46' 27" W – 190.10' from a 3/8" iron rod found, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said alley, **S 16° 12' 32" W – 36.11'**, to a 5/8" iron rod with cap stamped "ACS" set, for the southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said Lot 2, **N 73° 38' 20" W – 110.00'**, to the **POINT OF BEGINNING** and containing 0.0909 Acre of Land.

Bearing cited herein are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

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 0.0909 Acre tract.

Surveyed September 25, 2019

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

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

This sketch is to accompany a metes and bounds description of the herein shown 0.0332 acre tract.

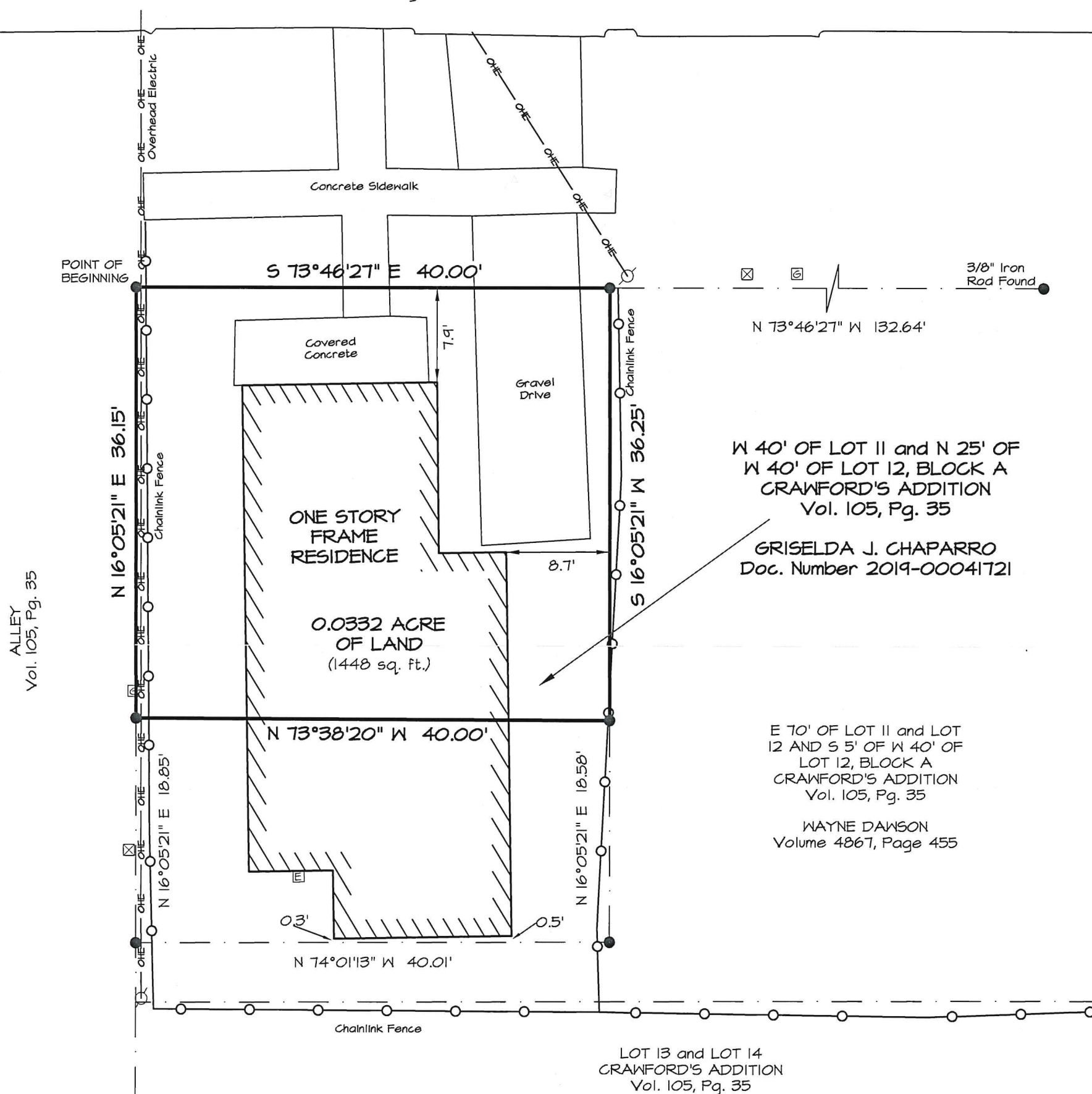


- ☐ Gas Meter
- ☐ Electric Meter
- ☒ Power Pole
- ☐ Water Meter

- - Denoted 5/8" Iron Rod w/cap Stamped "ACS" Set (Unless Otherwise Noted)

(80' ROW) (Asphalt Surface)
EAST AVENUE C

Vol. 105, Pg. 35

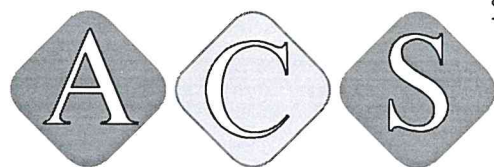


Survey performed in coordination with that title commitment provided by MONTEITH ABSTRACT & TITLE COMPANY, G.F. No. 18-5395, EFFECTIVE DATE: AUGUST 12, 2019.

Bearings cited hereon are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

This surveyor and All County Surveying, Inc. do not warrant any statement with reference to floodplain.

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. The location of visual structural improvements with respect to the boundary lines are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.



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Temple, Texas 76502
254-778-2272 Killeen 254-634-4636
Fax 254-774-7608
www.allcountysurveying.com



Survey
completed: 09-25-2019
Scale: 1" = 10'
Job No.: 192023.1
Dwg No.: 192023.1-7 ROW
Drawn by: SLW
Surveyor: CCL #4636

Copyright 2019 All County Surveying, Inc.

Plot Date: 10-23-2019

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

October 24, 2019

Surveyor's Field Notes for:

0.0332 ACRE OF LAND, situated in the **MAXIMO MORENO SURVEY, ABSTRACT 14**, Bell County, Texas, embracing a portion of a tract known as the West 40' of Lot 11 and the West 40' of the North 25' of Lot 12, Block A, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas, being a tract of land conveyed to Griselda J. Chaparro in Document No. 2019-00041721, 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" set at the northwest corner of said Lot 11, Block A, being on the south line of East Avenue C and the east line of an alley, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said East Avenue C, **S 73° 46' 27" E – 40.00'**, to a 5/8" iron rod with cap stamped "ACS" set at the northeast corner of said Chaparro tract, being the northernmost northwest corner of a tract conveyed to Wayne Dawson in Volume 4867, Page 455, Official Public Records of Real Property, Bell County, Texas, which bears N 73° 46' 27" W – 132.64' from a 3/8" iron rod found on the east line of South 10th Street, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, **S 16° 05' 21" W – 36.25'**, to a 5/8" iron rod with cap stamped "ACS" set, for the southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said Chaparro tract, **N 73° 38' 20" W – 40.00'**, to a 5/8" iron rod with cap stamped "ACS" set on the east line of said alley, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said alley, **N 16° 05' 21" E – 36.15'**, to the **POINT OF BEGINNING** and containing 0.0332 Acre of Land.

Bearing cited herein are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

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 0.0332 Acre tract.

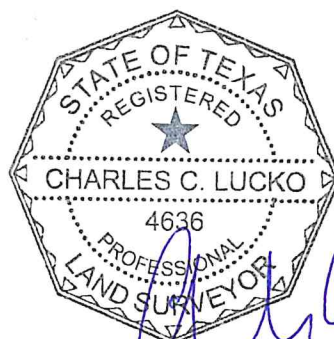
Surveyed September 25, 2019

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

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

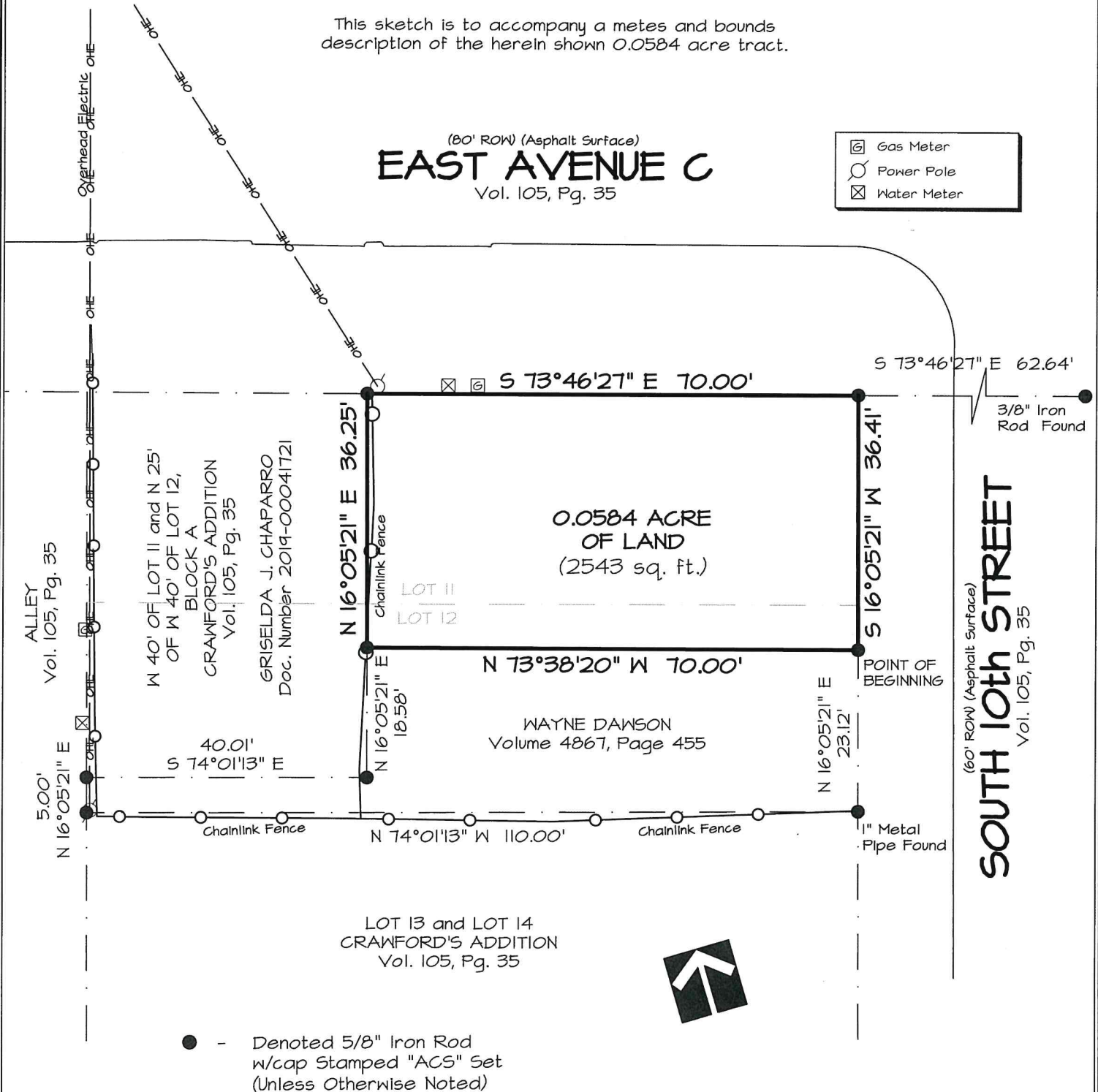
AVENUE C PROJECT - ROW PARCEL - TRACT 8

Survey showing 0.0584 ACRE, situated in the MAXIMO MORENO SURVEY, ABSTRACT 14, Bell County, Texas, embracing a portion of LOTS ELEVEN (11) and TWELVE (12), BLOCK A, CRAWFORD'S ADDITION, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas.

This sketch is to accompany a metes and bounds description of the herein shown 0.0584 acre tract.

(80' ROW) (Asphalt Surface)
EAST AVENUE C
 Vol. 105, Pg. 35

- ☒ Gas Meter
- ☒ Power Pole
- ☒ Water Meter

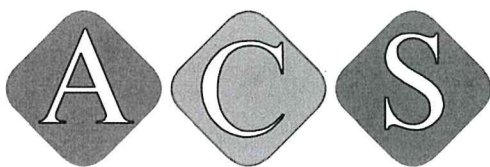


Bearings cited hereon are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

Survey performed for: CITY OF TEMPLE as per that title commitment provided by MONTEITH ABSTRACT & TITLE COMPANY, G.F. No. 18-5396, EFFECTIVE DATE: AUGUST 12, 2019.

This surveyor and All County Surveying, Inc. do not warrant any statement with reference to floodplain.

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. The location of visual structural improvements with respect to the boundary lines are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.



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 Temple, Texas 76502
 254-778-2212 Killeen 254-634-4636
 Fax 254-774-7608
www.allcountysurveying.com



Survey completed: 09-25-2019
 Scale: 1" = 20'
 Job No.: 192023.1
 Dwg No.: 192023.1-8 ROW
 Drawn by: SLW
 Surveyor: CCL # 4636
 Copyright 2019 All County Surveying, Inc.

Plot Date: 10-23-2019

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

October 24, 2019

Surveyor's Field Notes for:

0.0584 ACRE OF LAND, situated in the **MAXIMO MORENO SURVEY, ABSTRACT 14**, Bell County, Texas, embracing a portion of Lots 11 and 12, Block A, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas, embracing a portion of a tract of land conveyed to Wayne Dawson in Volume 4867, Page 455, 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" set on the east line of said Lot 12, which bears N 16° 05' 21" E – 23.12' from a 1" iron pipe found at the southeast corner of said Lot 12, same being the northeast corner of Lot 13, being on the west line of South 10th Street, for the southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said Lot 12, **N 73° 38' 20" W – 70.00'**, to a 5/8" iron rod with cap stamped "ACS" set on the east line of a tract conveyed to Griselda J. Chaparro in Document No. 2019-00041721, Official Public Records of Real Property, Bell County, Texas, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said Chaparro tract, **N 16° 05' 21" E – 36.25'**, to a 5/8" iron rod with cap stamped "ACS" set on the south line of East Avenue C, for the northernmost northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said East Avenue C, **S 73° 46' 27" E – 70.00'**, to a 5/8" iron rod with cap stamped "ACS" set on the west line of said South 10th Street, which bears N 73° 46' 27" W – 62.64' from a 3/8" iron rod found, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said South 10th Street, **S 16° 05' 21" W – 36.41'**, to the **POINT OF BEGINNING** and containing 0.0584 Acre of Land.

Bearing cited herein are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

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 0.0584 Acre tract.

Surveyed September 25, 2019

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

server/projects/pro190000/192000/192023/192023.1-8 ROW.doc



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

AVENUE C PROJECT - ROW PARCEL - TRACT 9

Survey showing 0.0929 ACRE, situated in the MAXIMO MORENO SURVEY, ABSTRACT 14, Bell County, Texas, embracing all of LOT ONE (1) and a portion of LOT TWO (2), BLOCK B, of CRAWFORD'S ADDITION, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas.

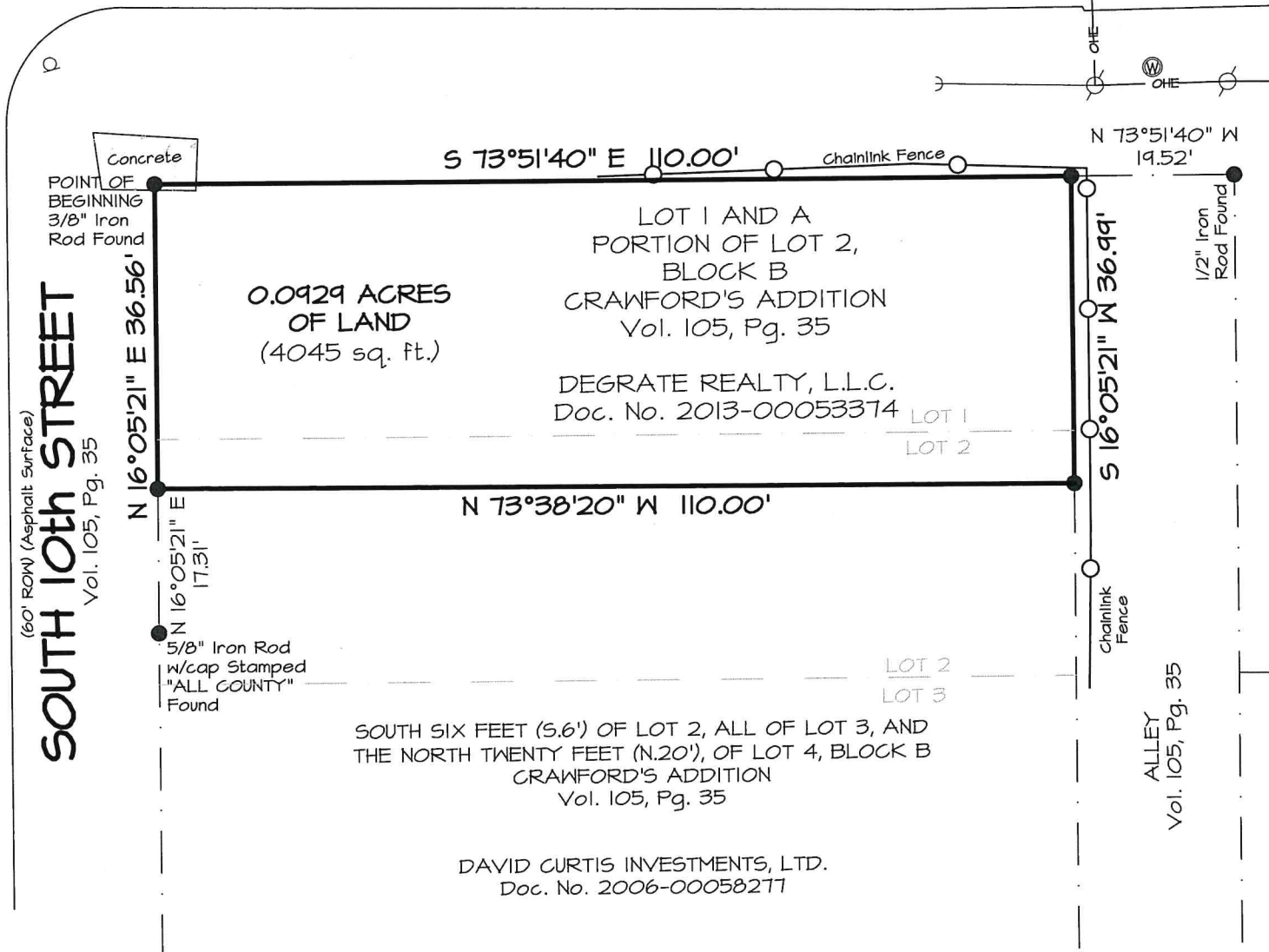
This sketch is to accompany a metes and bounds description of the herein shown 0.0929 acre tract.



LEGEND

- Guy Wire
- ⊙ Manhole Wastewater
- ⊙ Cleanout
- ⊙ Stop Sign

(80' ROW) (Asphalt Surface)
EAST AVENUE C
Vol. 105, Pg. 35



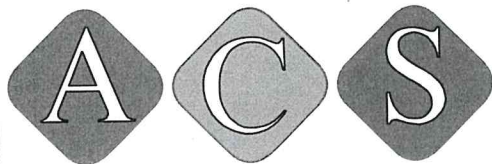
- - Denoted 5/8" Iron Rod w/cap Stamped "ACS" Set (Unless Otherwise Noted)

Bearings cited hereon are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

Survey performed in coordination with that title commitment provided title commitment provided by MONTEITH ABSTRACT & TITLE COMPANY, G.F. No. 18-5604, EFFECTIVE DATE: AUGUST 12, 2019.

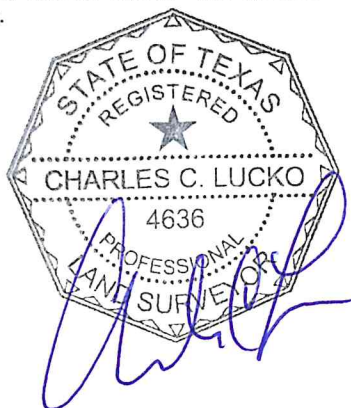
This surveyor and All County Surveying, Inc. do not warrant any statement with reference to Floodplain.

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. The location of visual structural improvements with respect to the boundary lines are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.



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4330 South 5th Street
Temple, Texas 76502
254-778-2272 Killeen 254-634-4636
Fax 254-774-7608
www.allcountysurveying.com



Survey completed: 09-25-2019
Scale: 1" = 20'
Job No.: 192023.1
Dwg No.: 192023.1-9 ROW
Drawn by: SLW/JSM
Surveyor: CCL # 4636
Copyright 2019 All County Surveying, Inc.

Plot Date: 10-23-2019

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

October 24, 2019

Surveyor's Field Notes for:

0.0929 ACRE OF LAND, situated in the **MAXIMO MORENO SURVEY, ABSTRACT 14**, Bell County, Texas, being all of Lot 1 and a portion of Lot 2, Block B, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas, and being more particularly described as follows:

BEGINNING at a 3/8" iron rod found at the northwest corner of said Lot 1, being on the east line of South 10th Street, and the south line of East Avenue C, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said East Avenue C, **S 73° 51' 40" E – 110.00'**, to a 5/8" iron rod with cap stamped "ACS" set at the northeast corner of said Lot 1, being on the west line of an alley, which said iron rod set bears N 73° 51' 40" W – 19.52' from a 1/2" iron rod found, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said alley, **S 16° 05' 21" W – 36.99'**, to a 5/8" iron rod with cap stamped "ACS" set, for the southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said Lot 2, **N 73° 38' 20" W – 110.00'**, to a 5/8" iron rod with cap stamped "ACS" set on the east line of said South 10th Street, which bears N 16° 05' 21" E – 17.31' from a 5/8" iron rod with cap stamped "ALL COUNTY" found, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said South 10th Street, **N 16° 05' 21" E – 36.56'**, to the **POINT OF BEGINNING** and containing 0.0929 Acre of Land.

Bearing cited herein are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

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 0.0929 Acre tract.

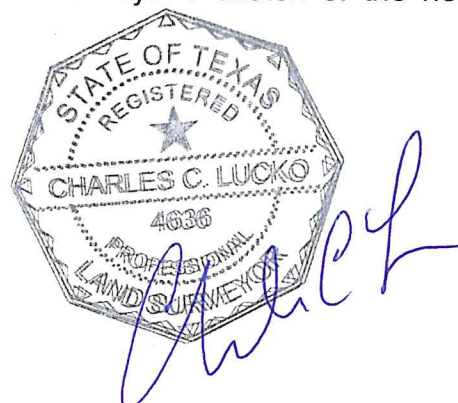
Surveyed September 25, 2019

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

server/projects/pro190000/192000/192023/192023.1 – 9.doc



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

AVENUE C PROJECT - ROW PARCEL - TRACT 28

Survey showing 0.0985 ACRE, embracing a portion of LOT SIX (6), BLOCK F, BENTLEY'S ADDITION, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 71, Page 50, Deed Records of Bell County, Texas.

This sketch is to accompany a metes and bounds description of the herein shown 0.0985 acre tract.

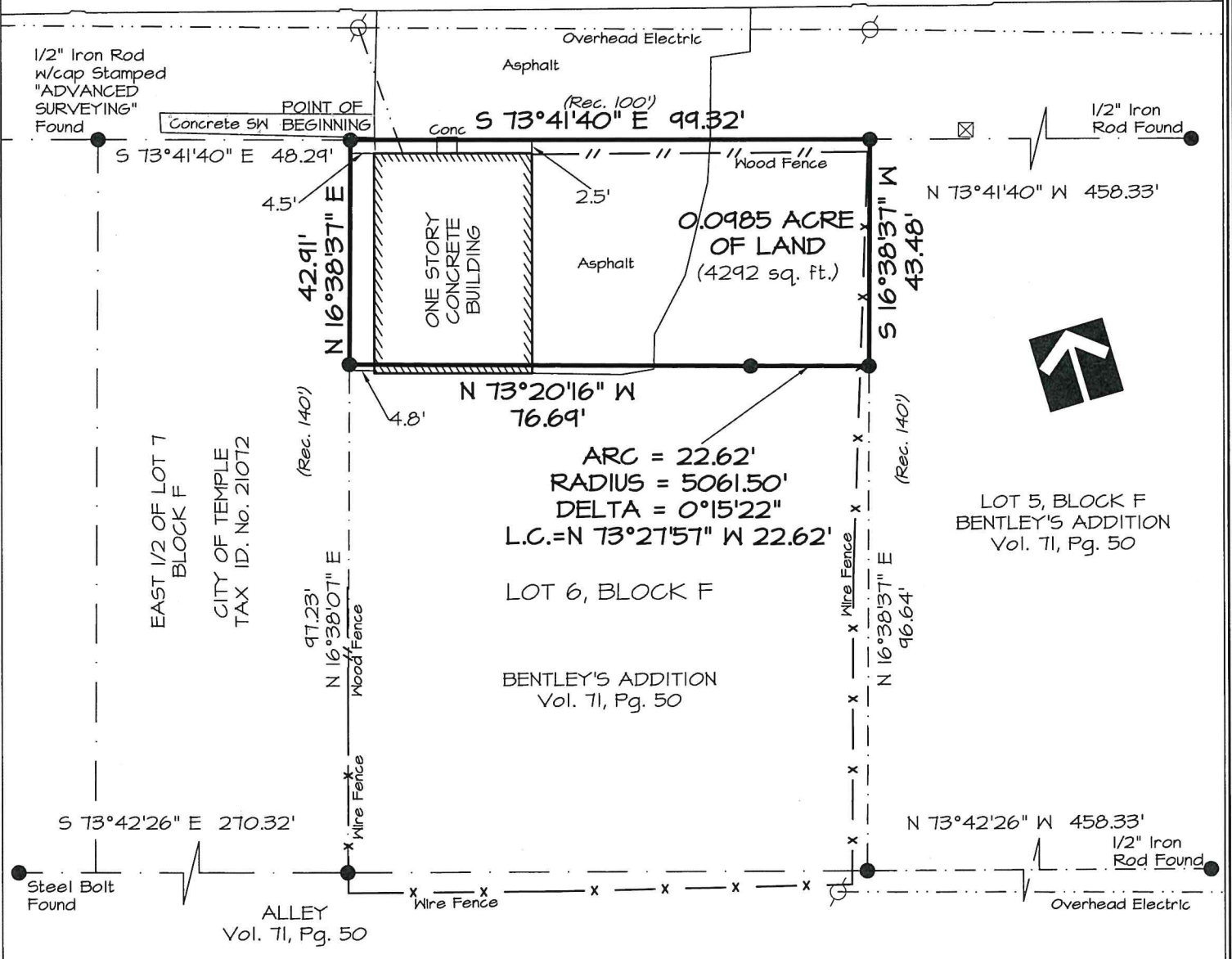
(80' ROW) (Asphalt Surface)

EAST AVENUE C

Vol. 71, Pg. 50

LEGEND

- Light pole
- Power Pole
- Water Meter



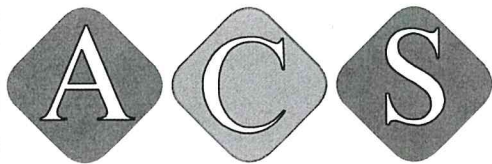
- - 5/8" Iron Rod w/cap stamped "ACS" Set (unless otherwise noted)

Survey performed in coordination with that title commitment provided by MONTEITH ABSTRACT & TITLE COMPANY, G.F. No. 18-5636, EFFECTIVE DATE: AUGUST 12, 2019.

Bearings cited hereon are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

This surveyor and All County Surveying, Inc. do not warrant any statement with reference to floodplain.

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. The location of visual structural improvements with respect to the boundary lines are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.



ALL COUNTY SURVEYING, INC.

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



Survey completed: 09-25-2019
Scale: 1" = 30'
Job No.: 192023.1
Dwg No.: 192023.1-28 ROW
Drawn by: SLW/JSM
Surveyor: CCL # 4636
Copyright 2019 All County Surveying, Inc.

Plot Date: 10-23-2019

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

October 24, 2019

Surveyor's Field Notes for:

0.0985 ACRE OF LAND, situated in the **MAXIMO MORENO SURVEY, ABSTRACT 14**, Bell County, Texas, embracing a portion of Lot 6, Block F, Bentley's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 71, Page 50, Deed Records of Bell County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod with cap stamped "ACS" set at the northwest corner of said Lot 6, being on the south line of East Avenue C, which said iron rod set bears S 73° 41' 40" E – 48.29' from a 1/2" iron rod with cap stamped "ADVANCED SURVEYING" found, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said East Avenue C, **S 73° 41' 40" E – 99.32'** (Rec. 100'), to a 5/8" iron rod with cap stamped "ACS" set at the northeast corner of said Lot 6, same being the northwest corner of Lot 5, said Block F, which said iron rod set bears N 73° 41' 40" W – 458.33' from a 1/2" iron rod found, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said Lot 5, (Rec. 140'), **S 16° 38' 37" W – 43.48'**, to a 5/8" iron rod with cap stamped "ACS" set, for the southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said Lot 6, with a curve to the right, over and across said Lot 6, an arc distance of **22.62'**, a radius of **5061.50'**, a delta angle of **0° 15' 22"**, and a long chord which bears **N 73° 27' 57" W – 22.62'**, to a 5/8" iron rod with cap stamped "ACS" set and **N 73° 20' 16" W – 76.69'**, to a 5/8" iron rod with cap stamped "ACS" set, on the east line of Lot 7, said Block F, for the southwest corner of the herein described tract;

THENCE, in a northerly direction with the east line of said Lot 7, (Rec. 140'), **N 16° 38' 37" E – 42.91'**, to the **POINT OF BEGINNING** and containing 0.0985 Acre of Land.

Bearing cited herein are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

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 0.0985 Acre tract.

Surveyed September 25, 2019

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

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

AVENUE C PROJECT - ROW PARCEL - TRACT 49

Survey showing 0.770 ACRE, embracing a portion of LOT FIVE (5), BLOCK ONE (1), ROY CAMPBELL ADDITION, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 165, Page 638, Deed Records of Bell County, Texas.

This sketch is to accompany a metes and bounds description of the herein shown 0.0770 acre tract.

LEGEND

- ⊕ - Fire Hydrant
- ⊞ - Electric Box/Transformer
- - Power Pole
- - Guy Wire
- Ⓜ - Mail Box

(60' ROW) (Asphalt Surface)
EAST AVENUE C
Vol. 165, Pg. 638

5/8" Iron Rod
w/cap stamped
"2181" Found



(Rec. 70')
S 74°03'42" E 69.76'

0.0770 ACRE
OF LAND
(3355 sq. ft.)

N 74°04'12" W 69.80'
LOT 5, BLOCK 1
ROY CAMPBELL ADDITION
Vol. 165, Pg. 638

Overhead Electric
5/8" Iron Rod
w/cap stamped
"2181" Found

N 74°03'42" W 97.13'

S 16°31'22" W 48.05'

(Rec. 150')

BLOCK B
NATHANS ADDITION
Vol. 81, Pg. 1

LOT 3, BLOCK 1
ROY CAMPBELL ADDITION
Vol. 165, Pg. 638

● - 5/8" Iron Rod w/cap
stamped "ACS" Set
(unless otherwise noted)

(Rec. 150')

100.62'

N 16°33'59" E

101.06'

N 16°31'22" E

Overhead Electric

(27' ROW) (Asphalt Surface)

SOUTH 18th STREET
Vol. 81, Pg. 1

S 73°42'26" E 198.78'

1/2" Iron Rod Found

Overhead Electric

N 73°42'26" W 69.87'
(Rec. 70')

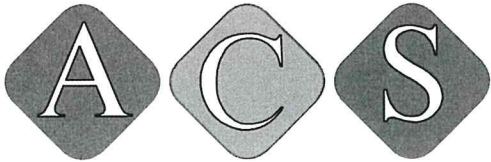
ALLEY
Vol. 165, Pg. 638

Survey performed in coordination with that title commitment provided by MONTEITH ABSTRACT & TITLE COMPANY, G.F. No. 19-4929, EFFECTIVE DATE: AUGUST 19, 2019.

Bearings cited hereon are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

This surveyor and All County Surveying, Inc. do not warrant any statement with reference to floodplain.

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. The location of visual structural improvements with respect to the boundary lines are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.



ALL COUNTY SURVEYING, INC.
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www.allcountysurveying.com



Survey completed: 09-25-2019
Scale: 1" = 30'
Job No.: 192023.1
Dwg No.: 192023.1-49 ROW
Drawn by: SLW/JSM
Surveyor: CCL # 4636
Copyright 2019 All County Surveying, Inc.

Plot Date: 10-24-2019

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

October 24, 2019

Surveyor's Field Notes for:

0.0770 ACRE OF LAND, situated in the **MAXIMO MORENO SURVEY, ABSTRACT 14**, Bell County, Texas, embracing a portion of Lot 5, Block 1, Roy Campbell Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 165, Page 638, Deed Records of Bell County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod with cap stamped "ACS" set at the northeast corner of said Lot 5, being on the south line of East Avenue C, which said iron rod set bears N 74° 03' 42" W – 97.13', from a 5/8" iron rod with cap stamped "2181" found, and bears S 16° 31' 22" W – 60.51', from a 5/8" iron rod with cap stamped "2181" found, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said Lot 5, (Rec. 150'), same being the west line of South 18th Street, **S 16° 31' 22" W – 48.05'**, to a 5/8" iron rod with cap stamped "ACS" set, for the southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said Lot 5, **N 74° 04' 12" W – 69.80'**, to a 5/8" iron rod with cap stamped "ACS" set, on the east line of Lot 3, said Block 1, which bears S 73° 42' 26" E – 198.78' and N 16° 33' 59" E – 100.62', from a 1/2" iron rod found, at the southwest corner of Lot 5, Block F, Bentley's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 71, Page 50, Deed Records of Bell County, Texas, for the southwest corner of the herein described tract;

THENCE, in a northerly direction with the east line of said Lot 3, (Rec. 150'), **N 16° 33' 59" E - 48.07'** to a 5/8" iron rod with cap stamped "ACS" set, at the northwest corner of said Lot 5, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said East Avenue C, **S 74° 03' 42" E – 69.76'**, (Rec. 70'), to the **POINT OF BEGINNING** containing 0.0770 Acre of Land.

Bearing cited herein are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

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 0.0770 Acre tract.

Surveyed September 25, 2019

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

server/projects/pro190000/192000/192023/192023.1-49 ROW.doc



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

AVENUE C PROJECT - ROW PARCEL - TRACT 52

Survey showing 0.0468 ACRE, embracing a portion of the WEST FORTY-FOUR FEET (W 44') of LOT ONE (1), BLOCK B, NATHAN'S ADDITION, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 81, Page 1, Deed Records of Bell County, Texas.

This sketch is to accompany a metes and bounds description of the herein shown 0.0468 acre tract.

LEGEND

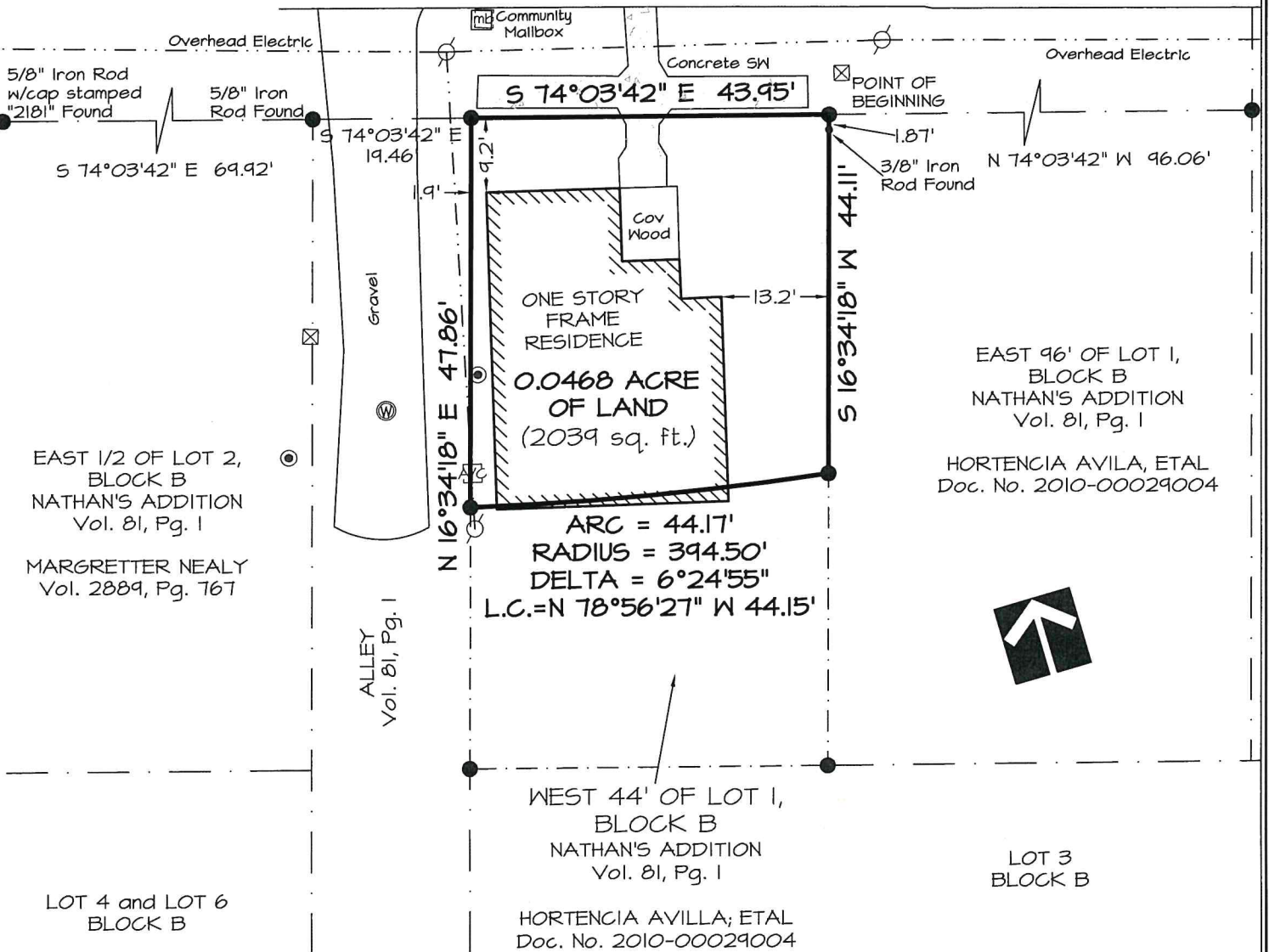
- ☒ - Water Meter
- ⊙ - Waste Water Manhole
- - Clean Out
- - Power Pole
- AC - Air Conditioner Unit

● - 5/8" Iron Rod w/cap stamped "ACS" Set (unless otherwise noted)

5/8" Iron Rod Found

(60' ROW) (Asphalt Surface)
EAST AVENUE C
Vol. 81, Pg. 1

S 16°34'18" W
60.00'

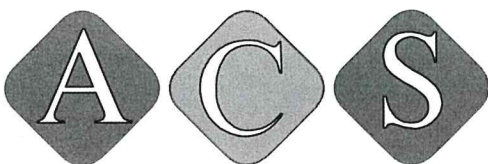


Survey performed in coordination with that title commitment provided by MONTEITH ABSTRACT & TITLE COMPANY, G.F. No. 19-0637, EFFECTIVE DATE: AUGUST 12, 2019.

Bearings cited hereon are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

This surveyor and All County Surveying, Inc. do not warrant any statement with reference to floodplain.

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. The location of visual structural improvements with respect to the boundary lines are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.



ALL COUNTY SURVEYING, INC.

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www.allcountysurveying.com



Survey completed: 09-25-2019
Scale: 1" = 20'
Job No.: 192023.1
Dwg No.: 192023.1-52 ROW
Drawn by: SLW/JSM
Surveyor: CCL # 4636
Copyright 2019 All County Surveying, Inc.

Plot Date: 10-24-2019

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

October 24, 2019

Surveyor's Field Notes for:

0.0468 ACRE OF LAND, situated in the **MAXIMO MORENO SURVEY, ABSTRACT 14**, Bell County, Texas, embracing a portion of a tract known as the West 44' of Lot 1, Block B, Nathan's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 181, Page 1, Deed Records of Bell County, Texas, being a tract of land conveyed to Horctencia Avilla; ETAL in Document No. 2010-00029004, 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" set at the northeast corner of said Avilla tract, being on the south line of East Avenue C, which bears S 16° 34' 18" W – 60.00' and N 74° 03' 42" W – 96.06', from a 5/8" iron rod found, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the east line of said Avilla tract, **S 16° 34' 18" W – 44.11'**, to a 5/8" iron rod with cap stamped "ACS" set, for the southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said Avilla tract, with a curve to the right, an arc distance of **44.17'**, a radius of **394.50'**, a delta angle of **6° 24' 55"**, and a long chord which bears **N 78° 56' 27" W – 44.15'**, to a 5/8" iron rod with cap stamped "ACS" set, on the east line of an alley, for the southwest corner of the herein described tract;

THENCE, in a northerly direction with the east line of said alley, **N 16° 34' 18" E – 47.86'** to a 5/8" iron rod with cap stamped "ACS" set, at the northwest corner of said Lot 1, which bears S 74° 03' 42" E – 69.92' and S 74° 03' 42" E – 19.46', from a 5/8" iron rod with cap stamped "2181" found, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said East Avenue C, **S 74° 03' 42" E – 43.95'**, to the **POINT OF BEGINNING** containing 0.0468 Acre of Land.

Bearing cited herein are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

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 0.0468 Acre tract.

Surveyed September 25, 2019

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

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

AVENUE C PROJECT - ROW PARCEL - TRACT 53

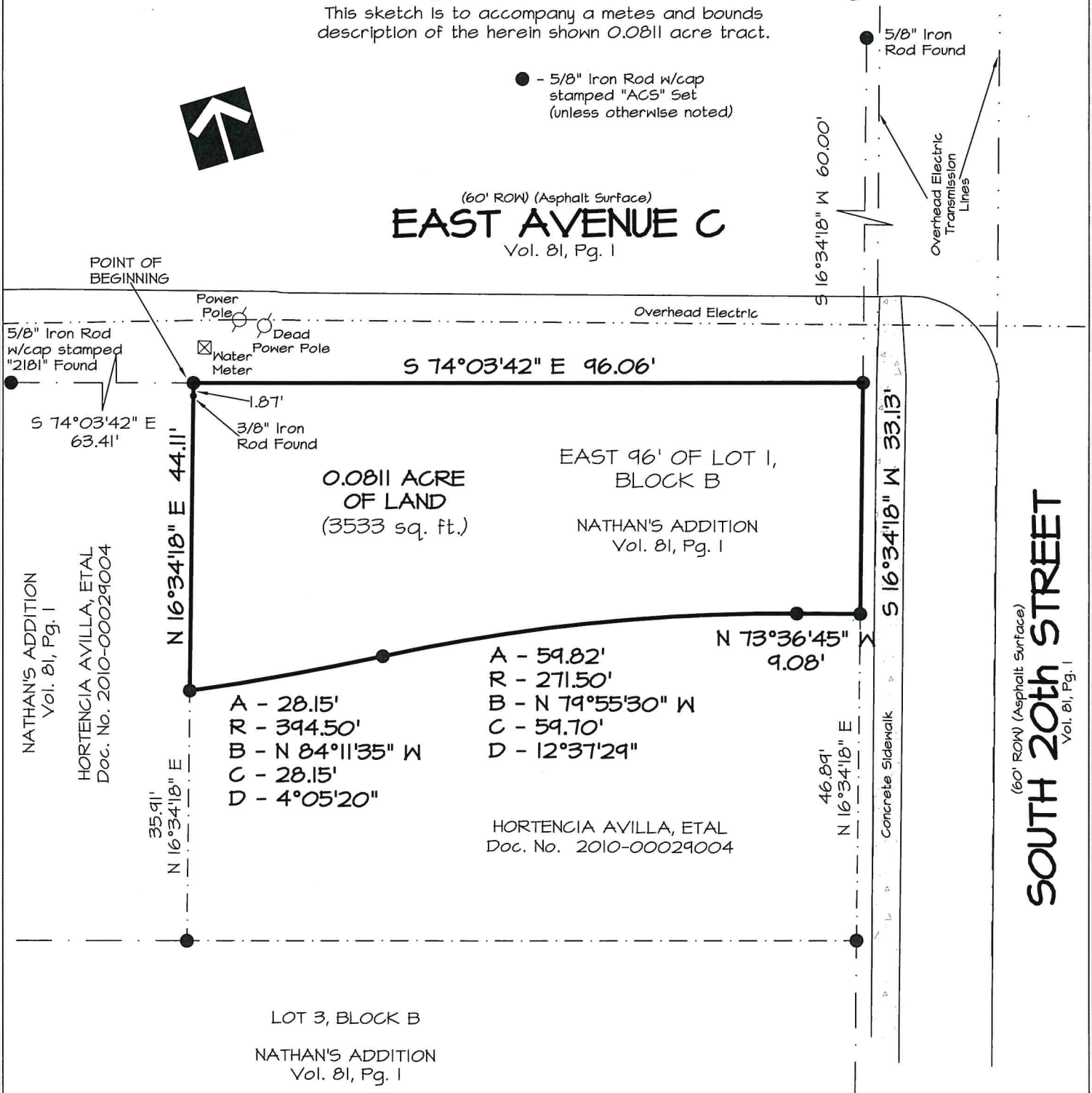
Survey showing the 0.0811 ACRE, embracing a portion of the EAST NINETY-SIX FEET (E 96') of LOT ONE (1), BLOCK B, NATHAN'S ADDITION, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 81, Page 1, Deed Records of Bell County, Texas.

This sketch is to accompany a metes and bounds description of the herein shown 0.0811 acre tract.

● - 5/8" Iron Rod w/cap stamped "ACS" Set (unless otherwise noted)



(60' ROW) (Asphalt Surface)
EAST AVENUE C
Vol. 81, Pg. 1

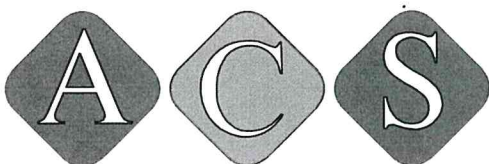


Survey performed in coordination with that title commitment provided by MONTEITH ABSTRACT & TITLE COMPANY, G.F. No. 19-0651, EFFECTIVE DATE: AUGUST 12, 2019.

Bearings cited hereon are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

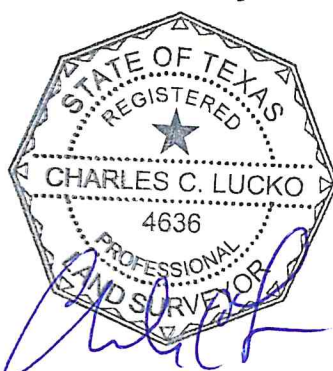
This surveyor and All County Surveying, Inc. do not warrant any statement with reference to floodplain.

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. The location of visual structural improvements with respect to the boundary lines are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.



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Survey completed: 09-25-2019
Scale: 1" = 20'
Job No.: 192023.1
Dwg No.: 192023.1-53 ROW
Drawn by: SLW/JSM
Surveyor: CCL # 4636
Copyright 2019 All County Surveying, Inc.

Plot Date: 10-24-2019

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

October 24, 2019

Surveyor's Field Notes for:

0.0811 ACRE OF LAND, situated in the **MAXIMO MORENO SURVEY, ABSTRACT 14**, Bell County, Texas, embracing a portion of a tract conveyed as the East 96' of Lot 1, Block B, Nathan's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 81, Page 1, Deed Records of Bell County, Texas, to Hortencia Avilla, etal in Document No. 2010-00029004, 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" set at the northwest corner of said Avilla tract, same being the northeast corner of a tract conveyed as the West 44' of said Lot 1, Block B to said Hortencia Avilla, etal in Document No. 2010-000029004, Official Public Records of Real Property, Bell County, Texas, and being on the south line of East Avenue C, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of said East Avenue C, **S 74° 03' 42" E – 96.06'**, to a 5/8" iron rod with cap stamped "ACS" set on the west line of South 20th Street, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said South 20th Street, **S 16° 34' 18" W – 33.13'**, to a 5/8" iron rod with cap stamped "ACS" set, for the southeast corner of the herein described tract;

THENCE, in a westerly direction, severing said Avilla tract, **N 73° 36' 45" W – 9.08'**, to a 5/8" iron rod with cap stamped "ACS" set at the beginning of a curve to the left;

THENCE, continuing in said westerly direction, with said curve to the left; having a radius of **271.50'**, a delta angle of **12° 37' 29"**, and a long chord which bears **N 79° 55' 30" W – 59.70'**, to a 5/8" iron rod with cap stamped "ACS" set at the beginning of a curve to the right;

THENCE, continuing in said westerly direction, with said curve to the right; having a radius of **394.50'**, a delta angle of **04° 05' 20"**, and a long chord which bears **N 84° 11' 35" W – 28.15'**; an arc length of **28.15'**, to a 5/8" iron rod with cap stamped "ACS" set on the east line of said Avilla (W 44') tract, for the southwest corner of the herein described tract;

THENCE, in a northerly direction, with the east line of said Avilla (W 44') tract, **N 16° 34' 18" E – 44.11'**, to the **POINT OF BEGINNING** and containing 0.0811 Acre of Land.

Bearing cited herein are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, as per GPS observations.

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 0.0811 Acre tract.

Surveyed September 25, 2019

ALL COUNTY SURVEYING, INC.

1-800-749-PLAT

Tx. Firm Lic. No. 10023600

server/projects/pro190000/192000/192023/192023.1-53 ROW.doc



[Handwritten signature of Charles C. Lucko]

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

RESOLUTION NO. 2020-0111-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, PURSUANT TO CHAPTER 2206, GOVERNMENT CODE § 2206.053 FINDING THAT EIGHT PROPERTIES SITUATED IN THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, BELL COUNTY, TEXAS, ARE NECESSARY FOR THE PROPOSED EXPANSION OF AVENUE C AND AUTHORIZING THE USE OF EMINENT DOMAIN TO CONDEMN THE PROPERTIES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is in the design phase for the Avenue C Expansion Project from Main Street to South 24th Street - the design requires the acquisition of right-of-way from twenty-eight properties, including twelve residential and business relocations;

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

Whereas, the City has acquired fourteen rights of way and with the assistance of Stateside, is actively negotiating with each of the remaining property owners and hopes to reach an agreement with each of them in the coming weeks;

Whereas, the City and five property owners have been unable to reach an agreement despite good faith negotiations - three properties have outstanding title issues that the current owner cannot cure to the satisfaction of the title company, therefore, court action is necessary to acquire clean title;

Whereas, the properties needed are as follows:

- Property 1: Being 0.0909-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract known as Lots 1 and 2, Block 45, of Roach Addition, a non-dedicated subdivision in the City of Temple, Bell County, Texas, being the same tract of land conveyed to Wayne Dawson and Wendell Dawson in Vol. 5592, Pg. 207, Official Public Records of Real Property, Bell County, Texas. The property is located at 301 S. Martin Luther King Jr. Dr., Temple, Texas (Bell CAD ID No. 34234).
 - Initial offer made on February 6, 2020.
 - Owners nonresponsive.
 - Final offer letter sent on June 18, 2020
 - Owners began to negotiate after receiving final offer letter; however, parties are too far apart at this time to reach an agreement;

- Property 2: Being 0.0332-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract known as the West Forty Feet (W40') of Lot Eleven (11) and the North Twenty-Five Feet (N 25') of the West Forty Feet (W40') of Lot Twelve (12) of Block A, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas. The property is located at 407 E. Ave. C, Temple, Texas (Bell CAD ID No. 53202).
 - Initial offer made on February 19, 2020.
 - Packet unclaimed; resent via USPS Priority and delivered on March 6, 2020.
 - Countered for three times whole property value with no supporting documentation; City sent a counter response; Owner did not accept and only reduced original counter by \$4,000; parties are too far apart at this time to reach an agreement.
 - Final offer sent June 18, 2020;
- Property 3: Being 0.0584-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of Lots 11 and 12, Block A, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas, embracing a portion of tract of land conveyed to Wayne Dawson in Vol. 4867, Pg. 455, Official Public Records of Real Property, Bell County, Texas. The property is located at 302 S. 10th Street, Temple, Texas (Bell CAD ID No. 129092).
 - Initial offer made on February 6, 2020.
 - Owners nonresponsive.
 - Final offer letter sent on June 18, 2020
 - Owners began to negotiate after receiving final offer letter; however, parties are too far apart at this time to reach an agreement;
- Property 4: Being 0.0929-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, being all of Lot 1 and a portion of Lot 2, Block B, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas. The property is located at 303 S. 10th Street, Temple, Texas (Bell CAD ID No. 70580).
 - Initial offer made on February 6, 2020.
 - Reached an agreement on April 22, 2020.
 - Set for closing on May 18, 2020; owner has refused to sign closing paperwork.
 - Final offer letter sent on June 18, 2020;

- Property 5: Being 0.0985-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of Lot 6, Block F, Bentley's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 71, Page 50, Deed Records of Bell County, Texas. The property is located at 713 E. Ave. C, Temple, Texas (Bell CAD ID No. 35215).
 - Initial offer made on February 6, 2020.
 - Owners and City made several offers back and forth; however, parties are too far apart at this time to reach an agreement.
 - Final offer letter sent on June 18, 2020;
- Property 6: Being 0.0770-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of Lot 5, Block 1, Roy Campbell Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 165, Page 638, Deed Records of Bell County, Texas. The property is located at 306 S. 18th Street, Temple, Texas (Bell CAD ID No. 36457).
 - Initial offer made on February 7, 2020.
 - Owner accepted City's offer; however, unable to clear title with court action.
 - Final offer letter sent on May 18, 2020;
- Property 7: Being 0.0468-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract known as the West Forty-Four Feet (W44') of Lot 1, Block B, Nathan's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 81, Page 1, Deed Records of Bell County, Texas. The property is located at 1015 E. Ave C, Temple, Texas (Bell CAD ID No. 27756).
 - Initial offer made on March 4, 2020.
 - Owner accepted City's offer; however, unable to clear title with court action.
 - Final offer letter sent on May 20, 2020; and
- Property 8: Being 0.0811-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract conveyed as the East Ninety-Six Feet (E96') of Lot 1, Block B, Nathan's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 181, Page 1, Deed Records of Bell County, Texas. The property is located at 302 S. 10th Street, Temple, Texas (Bell CAD ID No. 27755).
 - Initial offer made on March 4, 2020.
 - Owner accepted City's offer; however, unable to clear title with court action.

- Final offer letter sent on May 22, 2020;

Whereas, Staff requests, pursuant to Government Code § 2206.053, that Council authorize the use of the power of eminent domain to acquire the eight properties legally described above;

Whereas, funding for the purchase of the eight properties is appropriated in Account No. 795-9600-531-6892, Project No. 101841; and

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

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

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

Part 2: The City Council hereby finds and determines that the necessity exists for acquiring, by eminent domain, the properties listed as:

- **Property 1:** Being 0.0909-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract known as Lots 1 and 2, Block 45, of Roach Addition, a non-dedicated subdivision in the City of Temple, Bell County, Texas, being the same tract of land conveyed to Wayne Dawson and Wendell Dawson in Vol. 5592, Pg. 207, Official Public Records of Real Property, Bell County, Texas. The property is located at 301 S. Martin Luther King Jr. Dr., Temple, Texas (Bell CAD ID No. 34234).
- **Property 2:** Being 0.0332-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract known as the West Forty Feet (W40') of Lot Eleven (11) and the North Twenty-Five Feet (N 25') of the West Forty Feet (W40') of Lot Twelve (12) of Block A, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas. The property is located at 407 E. Ave. C, Temple, Texas (Bell CAD ID No. 53202).
- **Property 3:** Being 0.0584-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of Lots 11 and 12, Block A, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas, embracing a portion of tract of land conveyed to Wayne Dawson in Vol. 4867, Pg. 455, Official Public Records of Real Property, Bell County, Texas. The property is located at 302 S. 10th Street, Temple, Texas (Bell CAD ID No. 129092).
- **Property 4:** Being 0.0929-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, being all of Lot 1 and a portion of Lot 2,

Block B, Crawford's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 105, Page 35, Deed Records of Bell County, Texas. The property is located at 303 S. 10th Street, Temple, Texas (Bell CAD ID No. 70580).

- Property 5: Being 0.0985-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of Lot 6, Block F, Bentley's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 71, Page 50, Deed Records of Bell County, Texas. The property is located at 713 E. Ave. C, Temple, Texas (Bell CAD ID No. 35215).
- Property 6: Being 0.0770-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of Lot 5, Block 1, Roy Campbell Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 165, Page 638, Deed Records of Bell County, Texas. The property is located at 306 S. 18th Street, Temple, Texas (Bell CAD ID No. 36457).
- Property 7: Being 0.0468-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract known as the West Forty-Four Feet (W44') of Lot 1, Block B, Nathan's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 81, Page 1, Deed Records of Bell County, Texas. The property is located at 1015 E. Ave C, Temple, Texas (Bell CAD ID No. 27756).
- Property 8: Being 0.0811-acre of land, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, embracing a portion of a tract conveyed as the East Ninety-Six Feet (E96') of Lot 1, Block B, Nathan's Addition, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Volume 181, Page 1, Deed Records of Bell County, Texas. The property is located at 302 S. 10th Street, Temple, Texas (Bell CAD ID No. 27755).

Part 3: The City Council hereby finds and determines that the expansion of Avenue C is a public use under Chapter 251, Local Government Code § 251.001(a)(1).

Part 4: The City Council authorizes the use of the City's eminent domain authority under Article 3, Section 3.6, of the Charter of the City of Temple and the initiation of condemnation proceedings of said property interests.

Part 5: It is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act and the Truth in Condemnation Act, Chapter 2206, Government Code § 2206.053.

PASSED AND APPROVED this the 2nd day of **July, 2020**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney