

ORDINANCE NO. {{ITEM.SEQUENTIAL\_NUMBER}}  
(FY-24-3-ANX)

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE VOLUNTARY PETITIONS OF THE FOLLOWING: (1) THE INCORPORATION OF APPROXIMATELY 79.17 ACRES OF LAND SITUATED IN THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14 INTO THE CITY OF TEMPLE'S EAST EXTRATERRITORIAL JURISDICTION, AND (2) THE ANNEXATION OF APPROXIMATELY 100.113 COMBINED ACRES OF LAND SITUATED IN THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14 INTO THE CITY OF TEMPLE, LOCATED ON THE EAST SIDE OF OLD HIGHWAY 95, APPROXIMATELY 2.1 MILES SOUTH OF ITS INTERSECTION WITH EAST FM 93, GENERALLY COMMENCING 2,890 FEET EAST OF THE SOUTHWEST CORNER OF THE COTTON BOTTOM PHASE I SUBDIVISION, BELL COUNTY TAX APPRAISAL DISTRICT IDENTIFICATION NUMBER 43877, AND ADDRESSED AS 9563 OLD HIGHWAY 95; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, Chapter 43 of the Texas Local Government Code (LGC) 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 partially within the City's east ETJ;

**Whereas**, prior to requesting annexation into the City of Temple, approximately 79.17 acres of land were in the Little River Academy ETJ - at the October 12, 2023 City Council Regular Meeting, the vote died due to the lack of a second for the release of the ETJ petition and, after 30 days, the ETJ was released by operation of law (Tex. Loc. Gov't Code Ann. § 42.105);

**Whereas**, per LGC § 42.105(e), an area released from a municipality's ETJ may not be included in the ETJ of any municipality unless the owner of the area subsequently requests that the area be included in the municipality's ETJ or corporate boundaries - here, the owner has requested annexation into City limits, as discussed below, and can therefore be included into the City's ETJ to allow the requested annexation to proceed;

**Whereas**, LGC § 43.0671 allows a municipality to annex an area if each owner of land in the area requests the annexation - on February 27, 2024, property owner New American Dream, Ltd. filed a written request seeking voluntary annexation of approximately 100.113 acres of land, as shown and being more particularly described in Exhibit A;

**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 Chapter 212, Subchapter G of the LGC and appraised for ad valorem tax purposes as land for agricultural use, wildlife management use, or timber use pursuant to Chapter 23 of the Texas Tax Code - the property owner was offered and rejected offers for a development agreement on May 29, 2024;

**Whereas,** the City and property owner have entered into a 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 all relevant City departments to determine the services that would be provided on the effective date of the annexation, such as fire, police, solid waste disposal, and code enforcement;

**Whereas,** no issues were identified by any of the reviewing departments and the property owner accepted the proposed Agreement, which was offered on June 21, 2024 - 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 - the second reading will be held on September 19, 2024;

**Whereas,** LGC §§ 43.905 and 43.9051 require 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 political subdivision as well as the Academy Independent School District were notified by the City on August 22, 2024;

**Whereas,** while the City of Temple will 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 develops the property in the future;

**Whereas,** the annexation is required for anticipated development of Phase II and Phase III of the Cotton Bottom subdivision for single-family residential development consistent with Phase I - a rezoning to Planned Development Urban Estates (PD-UE) is anticipated after the annexation of the approximate 100.113 acres, and a subdivision plat will be required prior to the expected development;

**Whereas,** the annexation, along with the acceptance of the Municipal Services Agreement, does not contain any proposal to extend water or wastewater services to the area, or any other new physical facilities to serve the approximate 100.113-acre tract of land;

**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 - the City will provide municipal services in accordance with the Municipal Services Agreement; 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 following: (1) the incorporation of approximately 79.17 acres of land situated in the Maximo Moreno Survey, Abstract No. 14 into the City of Temple's east extraterritorial jurisdiction, and (2) the annexation of approximately 100.113 combined acres of land situated in the Maximo Moreno Survey, Abstract No. 14 into the City of Temple, located on the east side of Old Highway 95, approximately 2.1 miles south of its intersection with East FM 93, generally commencing 2,890 feet east of the southwest corner of the Cotton Bottom Phase I subdivision, Bell County Tax Appraisal District Identification Number 43877, and addressed as 9563 Old Highway 95, further described by the \_survey and field notes, attached hereto and incorporated herein as Exhibit A.

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

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

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

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

**Part 7:** If the taking of any territory annexed by this Ordinance is declared by a court of competent jurisdiction to be invalid and/or illegal, it shall not affect the balance of the Property annexed and attempted to be annexed, and that Property shall remain as part of the City of Temple, Texas. It is the intent of this Ordinance that any territory that is not lawful for the City to incorporate shall 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 City 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 section, paragraph, sentence, clause, or phrase 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 sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid section, paragraph, sentence, clause, or phrase.

**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:** 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 **5<sup>th</sup>** day of **September, 2024.**

PASSED AND APPROVED on Second and Final Reading on the **19<sup>th</sup>** day of **September, 2024.**

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

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Jana Lewellen  
City Secretary

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Kathryn H. Davis  
City Attorney