

RESOLUTION NO. {{item.sequential_number}}

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A DEVELOPER PARTICIPATION AGREEMENT WITH SHALLOWFORD ROAD, LLC FOR CONSTRUCTION OF IMPROVEMENTS TO SHALLOW FORD ROAD, BETWEEN ROBINHOOD DRIVE AND THE BRIDGE OVER BIRD CREEK, AND OVERSIZING OF A WATER LINE FROM AN EIGHT-INCH LINE TO A TWELVE-INCH LINE, IN A TOTAL NOT-TO-EXCEED AMOUNT OF \$6,046,590.13; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Shallowford Road, LLC (the “Developer”) is in the process of developing a subdivision that will be known as the Preserve at Lions Park - the City of Temple (the “City”) and the Developer desire to enter into a Developer Participation Agreement (the “Agreement”) as authorized under Sections 212.071-212.074 of the Texas Local Government Code for certain infrastructure improvements to be made during the construction of the subdivision;

Whereas, a developer participation agreement for this project was previously presented to City Council on October 19, 2023 (2023-0347-R) and was approved - however, before the agreement was executed, the scope of the project was further reviewed and determined by both the City and the Developer to need a substantial adjustment to what had been approved through 2023-0347-R;

Whereas, the new Agreement is intended to replace what was authorized in 2023-0347-R and meet the new scope of the improvements the Developer and the City desire to see constructed;

Whereas, the City worked with the Developer to create two planned development zoning areas, which are in the process of being platted into the Preserve at Lions Park subdivision - as part of this project, the City worked with the Developer to determine what additional/oversized road and utility improvements could be provided to ensure safe traffic flow on Shallow Ford Road and sufficient infrastructure for nearby properties to develop in the future;

Whereas, pursuant to Section 212.072 of the Texas Local Government Code, the City may participate in the cost of construction at a level not to exceed 100 percent of the total cost of any oversizing of public improvements required by a municipality, including, but not limited to, increased capacity of improvements to anticipate future development in the area - total public infrastructure costs for the oversizing of the improvements to anticipate future development in the area are estimated at \$6,046,590.13 (referred to herein as the “Not-to-Exceed Amount”);

Whereas, the Developer is required to construct 150 feet of dedicated turn lanes at each of the two entrances to its development at its own expense - the Developer is also required to construct an eight-inch-diameter water line, but has been requested to oversize this to a 12-inch-diameter water line in anticipation of future development in the area;

Whereas, all additional improvements are not directly part of the Developer's project but are desired by the City in anticipation of future development in the area - the City's total contribution to the project will not exceed \$6,046,590.13; this amount is reimbursable to the Developer upon presentation of paid invoices to the City showing funds expended towards the project;

Whereas, the Developer's obligations for the project are as follows:

- In two phases, improvements will be made to Shallowford Road from the intersection with Robinhood Drive south to the bridge over Bird Creek. Phase I will include approximately 3,338 feet of improvements to Shallowford Road, including the dedicated turn lanes mentioned above.
- An approximately 1,494-foot extension of a 12-inch watermain line shall be made along Shallowford Road from the bridge over Bird Creek to the Developer's property's southern entrance.
- An additional 1,220 feet of watermain line shall be upsized through the Developer's property, from the Developer's property's southern entrance to a tie-in at Valley View Drive.

Whereas, pursuant to Chapter 212 of the Texas Local Government Code, the Developer understands that the City will pay for the cost of constructing the project at the Not-to-Exceed Amount, or 100 percent of the actual costs of the oversizing of improvements, whichever is less - the City shall contribute no more than the Not-to-Exceed Amount and the Developer shall bear the cost, if any, of the project construction which exceeds the City's contribution under Section 3 in the Agreement;

Whereas, the Developer agrees to provide full documentation to the City of the actual amounts spent towards eligible costs. Subject to verification of such records by the City, the City agrees to reimburse the Developer for construction of the project up to the Not-to-Exceed Amount.

Whereas, the City's obligations for the project are as follows:

- The City agrees to reimburse the Developer for construction of the project up to the Not-to-Exceed Amount, or 100 percent of the actual costs of the oversizing of improvements, whichever is less, as outlined above. Final payment will be made to Developer once satisfactory documentation showing funds expended has been received and the City has accepted the improvements.
- The Developer bears 100 percent of the cost of the project over the Not-to-Exceed Amount. Eligible expenses to be reimbursed by the City include the cost of labor and materials for the project as outlined in the exhibits referenced in the Agreement, attached hereto and incorporated herein as Exhibit A, provided that the total reimbursement by the City cannot exceed the Not-to-Exceed Amount.
- After acceptance of the said improvements, the City shall maintain those improvements at its own expense, subject to any warranties by the contractors or maintenance bonds on said improvements.

Whereas, Staff recommends Council authorize a Developer Participation Agreement with Shallowford Road, LLC for construction of improvements to Shallow Ford Road, between Robinhood Drive and the bridge over Bird Creek, and oversizing of a water line from an eight-inch line to a 12-inch line, in a total Not-to-Exceed Amount of \$6,046,590.13; and

Whereas, a budget adjustment is being presented to Council for approval to appropriate funding for a Developer Participation Agreement with Shallowford Road, LLC for public infrastructure during the development of the Preserve at Lions Park subdivision - after approval of the budget adjustment, funding in a total Not-to-Exceed Amount of \$6,046,590.13 will be available in Project No. 103135, as follows:

	<u>365-3400-531-6723</u>	<u>561-5200-535-6723</u>	<u>Total</u>
Project Budget	\$ 4,635,942	\$ 155,997	\$ 4,791,939
Budget Amendment	709,431	545,220	1,254,651
Encumbered/Committed to Date	-	-	-
Shallowford Road, LLC	(5,345,373)	(701,217)	(6,046,590)
Remaining Project Funds	\$ -	\$ -	\$ -

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

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

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

Part 2: The City Council authorizes a Developer Participation Agreement with Shallowford Road, LLC for construction of improvements to Shallow Ford Road, between Robinhood Drive and the bridge over Bird Creek, and oversizing of a water line from an eight-inch line to a 12-inch line, in a total Not-to-Exceed Amount of \$6,046,590.13, and authorizes the City Manager, or her designee, after approval as to form by the City Attorney's Office, to execute any necessary documents.

Part 3: The City Council authorizes an adjustment to the Fiscal Year 2024 Budget, substantially in the form of the copy attached hereto as Exhibit B.

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 **5th** day of **September, 2024**.

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney