



COUNCIL AGENDA ITEM MEMORANDUM

DEPT./DIVISION SUBMISSION & REVIEW:

Kathryn Davis, City Attorney
Kyle Nuttall, Assistant City Attorney

ITEM DESCRIPTION: Consider adopting a resolution 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 8-inch line to a 12-inch line, in a total not to exceed amount of \$6,046,590.13.

BACKGROUND: Shallowford Road, LLC ("Developer") is in the process of developing a subdivision that will be known as the Preserve at Lions Park. The City and Developer desire to enter into a Developer Participation Agreement as authorized under Texas Local Government Code § 212.071-212.074 for certain infrastructure improvements to be made during the construction of the subdivision. A developer participation agreement for this project previously came to Council on October 19, 2023, in resolution 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 by resolution 2023-0347-R. This new agreement is intended to replace what had been authorized in resolution 2023-0347-R and meet the new scope of the improvements the Developer and City desire to see constructed.

The City of Temple 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 of Temple 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.

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% 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.

The Developer is required to construct 150-feet of dedicated turn-lanes at each of the two entrances to their development at their own expense. The Developer is also required to construct an 8-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. 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 Developer upon presentation of paid invoices to the City showing funds expended towards the Project.

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 one 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" 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.

Pursuant to Texas Local Government Code Chapter 212, Developer understands that the City will pay for the cost of constructing the Project at a not to exceed amount of \$6,046,590.13, or 100% of the actual costs of the oversizing of improvements, whichever is less (referred to herein as the "Not to Exceed Amount"). The City shall contribute no more than the Not to Exceed Amount and Developer shall bear the cost, if any, of the Project construction which exceeds the City's contribution under Section 3 in the Developer Participation Agreement. 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 Developer for construction of the Project up to the Not to Exceed Amount.

City 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 of \$6,046,590.13, or 100% 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.
- Developer bears 100% 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 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.

ALIGNMENT WITH ADOPTED PLANS:

Plan	Comments
Strategic Plan	This item supports the City of Temple's Strategic Plan goals of "Beautiful Spaces and Unique Experiences" and "Infrastructure and Systems that Support Exceptional Services and Community Growth", as well as the Strategic Plan commitments of "Enhance and expand our infrastructure of parks, recreation centers, greenspaces, and trails to encourage active living and wellness" and "Develop a safe, connected, and well maintained mobility system that incorporates all modes of travel including vehicular, pedestrian, bicycle, transit, and air."

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

BOARDS & COMMISSIONS RECOMMENDATION: This item was not reviewed by any of the official boards and commissions.

FISCAL IMPACT: 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 103135, as follows:

	365-3400-531-6723	561-5200-535-6723	Total
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	\$ -	\$ -	\$ -

ATTACHMENTS:

Resolution
Budget Adjustment
Developer Participation Agreement