

ORDINANCE NO. {{item.sequential_number}}
(FY-22-3-ANX)

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE ANNEXATION OF APPROXIMATELY 103.24 ACRES CONSISTING OF THE VOLUNTARY ANNEXATION OF A CALLED APPROXIMATELY 95.27-ACRE TRACT, SITUATED IN THE MAXIMO MORENO 11- LEAGUE GRANT, ABSTRACT NO. 14 AND THE ANNEXATION OF APPROXIMATELY 7.97 ACRES, BEING A PORTION OF RIGHT-OF-WAY OUT OF MISSOURI, KANSAS AND TEXAS RAILROAD, NOW KNOWN AS UNION PACIFIC RAILROAD, LOCATED ON THE NORTH SIDE OF E. FM 93 APPROXIMATELY 2700 FEET EAST OF ITS INTERSECTION WITH S. 5TH STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this petition was originally before the City Council on March 17, 2022 meeting but was pulled prior to 2nd reading of April 7, 2022 - the annexation needed to be re-noticed in order to include approximately 7.9 acres of railroad right-of-way that is necessary in order to establish a contiguous boundary with the City;

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 south east ETJ;

Whereas, LGC § 43.0671 allows a municipality to annex an area if each owner of land in the area requests the annexation and on October 19, 2021, property owner WBW Land Development filed a written request initially seeking voluntary annexation of approximately 103.24 acres of land, which included approximately 7.9 acres of railroad right-of-way, as shown by Exhibit A and being more particularly described in Exhibit B of the attached municipal services agreement;

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 owners was offered and rejected offers for a development agreement on October 19, 2021;

Whereas, 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;

Whereas, the City is not required to provide a service that is not included in the agreement - the property owner accepted the proposed agreement;

Whereas, the signed Municipal Service Agreement was received by the City on January 7, 2022;

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 - the City's Charter requires a second reading to adopt the annexation ordinance, which will be held on June 16, 2022;

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 - notice of the public hearing was published in the newspaper on May 22, 2022 and the City notified the Temple Independent School District (TISD) and as well as required public entities on May 18, 2022;

Whereas, the City of Temple did notify all of the public entities required by State law about the potential fiscal impact on those organizations;

Whereas, under Texas law, the City may annex an area if each owner of land in the area requests the annexation and after following certain notice and public hearing procedures contained in Texas Local Government Code §§ 43.0671 et seq - moreover, as provided for by Texas Local Government Code Section § 43.1056(a) & (1), a municipality may also annex with the area the right of way of a railway line, spur, or roadbed, that is contiguous and runs parallel to the municipality's boundaries and is contiguous to the area being annexed;

Whereas, the railroad was re-noticed by certified mail on March 30, 2022 and to date, Staff has received no additional communications from the railroad with regard to the annexation of approximately 7.9 acres of railroad right-of-way;

Whereas, the property is anticipated to be developed with detached single family uses and a counterpart rezoning from Agricultural to Single Family-2 (FY-22-15-ZC) for the 95.27 acres has been requested by the owner - the rezoning is anticipated to be consistent with the adjacent Alta Vista subdivision which was also developed by WBW Land Development;

Whereas, the rezoning is anticipated to be scheduled for consideration at the June 20, 2022 Planning & Zoning Commission meeting - the rezoning would be anticipated to be scheduled for a 1st reading of the rezoning ordinance at the July 21, 2022 City Council meeting; 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 annexation of approximately 103.24 acres consisting of the voluntary annexation of a called approximately 95.27-acre tract, situated in the Maximo Moreno 11- League Grant, Abstract No. 14 and the annexation of approximately 7.97 acres, being a portion of right-of-way out of Missouri, Kansas and Texas Railroad, now known as Union Pacific Railroad, located on the north side of E. FM 93 approximately 2700 feet east of its intersection with S. 5th Street.

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 "A."

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 be zoned at a future date, in compliance with the Zoning Ordinance of the City of Temple.

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

Part 7: If the taking of any territory annexed by this Ordinance is declared by a court of competent jurisdiction to be invalid and/or illegal, it shall not affect the balance of the property annexed and attempted to be annexed, and that property shall remain as part of the City of Temple, Texas. It is the intent of this Ordinance that any territory that is not lawful for the City to incorporate be excluded from this annexation and that such exclusion be documented by having a qualified surveyor correct the property description of the annexed area to conform to the Council's intention and to ensure that the boundary description closes.

Part 8: Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 9: Effective Date. This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 10: Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings.

PASSED AND APPROVED on First Reading and Public Hearing on the **2nd** day of **June, 2022.**

PASSED AND APPROVED on Second and Final Reading on the **16th** day of **June, 2022.**

THE CITY OF TEMPLE, TEXAS

TIMOTHY A. DAVIS, Mayor

APPROVED AS TO FORM:

ATTEST:

Jana Lewellen
City Secretary

Kathryn H. Davis
City Attorney