

NOTICE OF REGULAR MEETING

March 12, 2019

MONTGOMERY CITY COUNCIL

STATE OF TEXAS

AGENDA

COUNTY OF MONTGOMERY

CITY OF MONTGOMERY

NOTICE IS HEREBY GIVEN that a Regular Meeting of the Montgomery City Council will be held on Tuesday, March 12, 2019 at 6:00 p.m. at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas for the purpose of considering the following:

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. Council may not discuss or take any action on an item, but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

CONSENT AGENDA:

1. Matters related to the approval of minutes of the Regular Meeting held on February 26, 2019 and Special Meeting held on March 2, 2019.
2. Consideration and possible action regarding Certificate of Acceptance of the Buffalo Springs Drive Waterline Bridge Crossing project.

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action regarding adoption of the following Resolution:
A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS AFFIRMING ITS ANNUAL REVIEW OF THE POLICY FOR INVESTMENT OF MUNICIPAL FUNDS AND THE INVESTMENT STRATEGIES CONTAINED THEREIN HAS BEEN CONDUCTED AS REQUIRED BY SECTION 2256.005(e) OF THE TEXAS GOVERNMENT CODE.
4. Consideration and possible action regarding a Utility and Economic Feasibility Study for 1983 Land Investments, LLC. (The Woods at Town Creek Development - Dev. No. 1815).

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

5. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
 - a) Section 551.087 (deliberation regarding economic development negotiations)
6. Reconvene into Open Session.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

7. Consideration and possible action(s) if necessary on matter(s) deliberated in Closed Executive Session.

COUNCIL INQUIRY:

Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

ADJOURNMENT



A handwritten signature in blue ink, which appears to read "Susan Hensley". The signature is written in a cursive style and is positioned above a horizontal line.

Susan Hensley, City Secretary

I certify that the attached notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on the 8th day of March, 2019 at 5:15 o'clock p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodations.

MINUTES OF REGULAR MEETING

February 26, 2019

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:01 p.m.

Present: Sara Countryman Mayor
Jon Bickford City Council Place # 1
John Champagne, Jr. City Council Place # 2
T.J. Wilkerson City Council Place # 3
Rebecca Huss City Council Place # 4
Tom Cronin City Council Place # 5

Absent:

Also Present: Jack Yates City Administrator
Larry Foerster City Attorney
Susan Hensley City Secretary
Chris Roznovsky City Engineer

INVOCATION

T.J. Wilkerson gave the Invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

VISITOR/CITIZENS FORUM:

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Mr. Emanuel Gloksin and Mr. Larry Jacobs, who had both requested to speak stated they wanted to speak on their related Agenda Items when they come before City Council.

CONSENT AGENDA:

1. Matters related to the approval of minutes of the Public Hearings and Regular Meeting held on February 12, 2019.
2. Consideration and possible action regarding Certificate of Acceptance of the 18" Gravity Sanitary Sewer Extension -- Phase I Project.

Rebecca Huss stated she had a comment regarding the minutes, that was not a problem with the content, it was related to a factual item. Rebecca Huss said there is a comment about the budgeted item for the streets, and said in the minutes Mr. Yates stated that it was \$200,000 and looking at the financial report it is closer to \$100,000. John Champagne asked if that was correct. Mr. Yates said it was originally \$129,000. Rebecca Huss said that was the amount in the budget as reported to City Council. John Champagne said he remembered reading that it was \$200,000. Mr. Yates said that was correct. Rebecca Huss said that it was a matter of factuality of something that was stated at the last City Council Meeting, which might stick in their minds about the amount of funds that they have to spend on that line item. Rebecca Huss said \$200,000 is a big difference from \$129,000.

Mayor Countryman asked if they needed to make a change to the information. Rebecca Huss said no, it was just an editorial comment for the record. Ms. Hensley advised the information would be reflected in these minutes.

Rebecca Huss moved to accept the Consent Agenda as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

3. Consideration and possible action on Department Reports.
 - A. Administrator's Report
 - ❖ Presentation regarding the State of the Community Report and Comprehensive Plan Community Meeting scheduled to be held on Thursday, February 28, 2019 at 6:00 p.m. at City Hall by Walter Peacock.

Mr. Yates introduced Walter Peacock, with Texas A&M University, who is working on the City of Montgomery Comprehensive Land Use Plan. Mr. Peacock advised that he was present to remind everyone that they would be having a meeting on Thursday,

February 28, 2019 and to make sure that the public knows they are invited to attend the meeting because they need public input. Mr. Peacock said they will start out with the State of the Community that will have a lot of facts about the City of Montgomery, from population to projections, very factual. Mr. Peacock advised when they complete the State of the Community report they will have a participation section for the community to complete that will go through different things that they are wanting to have in the City and the deficits of the City they have to go elsewhere to obtain. Mr. Peacock said the good and bad will be a way of getting the overall idea of how the community feels about the City that they live in. Mr. Peacock said he will take that information and use that to help with the visioning process for the Comprehensive Plan. Mr. Peacock said this is a kickoff meeting and will be the first part to get the community involved and recognize the importance of the Comprehensive Plan and what it will mean to the City.

Rebecca Huss asked about the timeline for the rest of the project following the meeting. Mr. Peacock said that he will have to talk to Mr. Yates following this meeting because they will need to set up the rest of the meetings to get community input to go through the visioning and to talk about how they want to structure the downtown area. Mr. Peacock said from this point it is usually about a year to get the whole project completed.

Mr. Yates then presented his report to City Council detailing the meetings and activities for the month, including the Planning and Zoning Commission, Montgomery EDC and the Chamber of Commerce. Mr. Yates said that he also met with FEMA, State Department of Emergency Management where all funds were received except for \$25,000 from FEMA funds that were loaned from the General Fund to the Capital Projects Fund. Rebecca Huss said that Mrs. Cathy Branco, Financial Consultant, advised that amount was actually \$64,000 that the City was still waiting for. Mr. Yates said that he would clarify that information with Mrs. Branco in the morning.

Mr. Yates said he worked on Atkins Creek. Mr. Yates then advised that he had made the payment to Kroger for the 380 Agreement for last year. Mr. Yates said he met with the Dobbin-Plantersville Water District, and participated in a GLO phone conference where it was confirmed that the City would be receiving a contract for a \$2.1 million dollar project before the end of February. Mr. Yates said he was also working on the Escrow Accounts.

Mr. Yates said he met with several developers during the month regarding property at FM 149 and SH 105, and worked with The Shoppes in Montgomery, and the donut shop property. Mr. Yates said he met with the owner of the Exxon Station regarding the right hand turn lane. Mr. Yates said he worked on coordinating the Police Chief and City Administrator applications process. Mr. Yates advised that he had two meetings regarding a prospective film project in the City; coordinated with the building inspector on demolition by neglect property, assigned/coordinated review of grease trap issues, assisted in the performance of the audit and coordinated the revised billing date of City utility bills to reduce "out-of-sequence" lack of billings. Mr. Yates said he continues to work on the staff-engineer question, and met twice with the TORC Committee to continue with determining the cost of sewer system infiltration. Mr. Yates said the TORC Committee will meet again next week.

Rebecca Huss asked Mr. Yates to elaborate on the Dobbin-Plantersville Water District meeting, regarding the point of the meeting and where they are going from here. Mr. Yates said they discussed the plans for the water lines and the boundary lines on the west side of the City. Mr. Yates said what they learned from the meeting was that Dobbin-Plantersville already have 12-inch lines very close to the City, and they are going to be adding more 12-inch lines within the next year. Mr. Yates said Dobbin-Plantersville was adding 12-inch lines and the purpose of that is for fire protection, because to provide adequate service, you have to have adequate fire protection. Mr. Yates said he is waiting on a map of the waterlines from Dobbin-Plantersville. Rebecca Huss asked that Mr. Yates forward City Council a copy of the map when it is received. Mr. Yates said he would do that. Mr. Yates said overall the meeting was very productive, and he was very pleased that they were running as many lines up and down Lone Star Parkway and over to the northwest part of the City, which will open that area up for development. Mr. Yates said something that they did discuss was that Dobbin-Plantersville was about to put in a 12-inch line that would get to the old sawmill, which would put them roughly 200 feet away from a connection to the City's line that serves Town Creek. Mr. Yates said that was great news because that is 200 feet the City could probably put in themselves to allow for an emergency connection between the two entities, which is something that has been discussed for several years. Mr. Yates said during their discussion, Dobbin-Plantersville said they lacked a half mile of 12-inch lines from where they are now to where they are going to be, which is in front of the Lone Star Parkway and SH 105 intersection. Rebecca Huss asked where they are getting all the funds to lay those lines, because the City does not lay lines until it looks like

somebody is going to connect to the system and have the revenue to pay for the pipes and use the system. Mr. Yates said he did not think anyone asked that question, so he did not know. Jon Bickford asked if they put in their own well. Mr. Yates and the Mayor stated yes, they had their own well. Mayor Countryman said we want to make sure we have a good relationship with our neighbor, which is nice.

John Champagne asked whether the Kroger 380 Agreement payment was up to date. Mr. Yates said yes, and commented the payment was less than what was budgeted. John Champagne asked about the cost of infiltration, and whether they were working on that information. Mr. Yates said that was correct and said he had met with Mr. Randy Burleigh a couple hours ago and they are going to have another meeting. Mr. Yates said they have the cost down to about \$4.00 per 1,000 gallons, but they do not have the precise figures yet. John Champagne asked for the name of the Committee that Mr. Burleigh serves on. Mr. Yates said it was the TORC Committee. John Champagne asked what the chances are that the TORC Committee will be able to present their top three issues or things that they have reviewed over the past few months at the next Council Meeting, and asked if that could be put on the Agenda. Mr. Yates said they could do that.

John Champagne asked about the proposed right lane turn at the property that was just mentioned, and asked how far away they are to getting that going. Mr. Yates said they sent a request to TxDOT a month ago, and he has not heard back yet. Mr. Yates said he knows that he sent the letter to the right person, so it has started the process. John Champagne asked if Dave McCorquodale would assist with this information. Mr. Yates said he advised Dave McCorquodale what he wanted in the letter to TxDOT and then Dave McCorquodale wrote the letter. John Champagne asked if Dave McCorquodale would be following up on the information. Mr. Yates said he had not specifically assigned that duty to Dave McCorquodale. John Champagne said every time he hears of something being followed up on it is being done by Mr. Yates, and he was just wondering.

Mayor Countryman asked about the Samdana property because it seems that they get weekly complaints from residents about the eyesore that it is, and asked if there was a way the City can start writing letters to the owner because it is right on a major thoroughfare. Mr. Yates said the owner will take care of it when someone calls him, and that is something that he could assign Dave McCorquodale. John Champagne asked if the Mayor was talking about the property the City just bought. Mayor Countryman said no, she was talking about

the property across the street where the donut shop is going in. Mr. Yates said when he called the owner before, he took care of the problem. Mayor Countryman asked that they make that phone call because it comes up every week, especially now that festival season is coming up and there will be a lot of visitors.

Mr. Yates commented on the water sewer billing out of sequence, stating that they have been missing a lot of people that turn off their water between the second and fourth week of the month, because when they do that the City has what they called an out of sequence issue with the water billing program. Mr. Yates said other cities have the same sort of issue, but the way other cities have solved it and the way we are going to solve it is to bill one week earlier than what we are currently, which will mean a due date in the middle of the month. Mr. Yates said they will also bill earlier, so it will allow the same amount of time, four or five weeks for people to pay their bills. Mr. Yates said by making that billing change they will close that loop of people that had a week or two of water service that was not getting billed because of the way the program was set up. Mr. Yates said they called other cities and asked them what they were doing, because this has been an issue for quite a while. Jon Bickford asked if anybody had called the software company. Mayor Countryman said they did and they spent two hours on the phone with them. Rebecca Huss said they also have the automatic meter reading, which has changed the need to have such a long period between when they should be reading meters and when the bills are mailed, because, in theory, they can press a button and read everyone's meters and then send the bill out the next day. Rebecca Huss said shortening the cycle makes a lot of sense considering the technological upgrades that have been made. Mr. Yates said it will reduce the cut off period to two to three days at the end of the month rather than two weeks.

- B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works presented his report to City Council. Mr. Muckleroy advised they made several repairs at the Water Plants resulting from the Water Plant Inspection conducted by Jones and Carter. Mr. Muckleroy advised the list has been passed on to Gulf Utility Services for the remainder of the repairs. Mr. Muckleroy said he attended the final walk through for the CVS utilities. Mr. Muckleroy advised they replaced a damaged water main on FM 1097 and Atkins Creek. Mr. Muckleroy stated for the month they had nine water taps, seven sewer taps, one water leak and one sewer stoppage. Mr. Muckleroy reported that Fernland docents reported 588 visitors for the month and they provided 44 tours.

John Champagne asked how they derived at the number of visitors to Fernland. Mr. Muckleroy stated that docents provide that information from their tally sheets. John Champagne said he is still wondering how or why the City has not implemented a donation of \$1.00 per person that comes to Fernland, and said it is going to be the City's responsibility to implement that fee. Mr. Muckleroy stated there are donation boxes at Fernland. Jon Bickford said the donations go to a different place. John Champagne asked where the donations go. Mayor Countryman stated they go to Fernland Park Board. John Champagne said they need to change that to non-donations and make it a payment to the City in the amount of \$1.00 per person or whatever fee, but it needs to happen. Jon Bickford said people who attend Fernland put donations in the donation box, the issue is not whether people are donating, but the box is being emptied by the 501C(3), so all they have to do is have the donations come to the City if that is your inclination. John Champagne said yes. Rebecca Huss said she thought that people are more likely to donate if the funds go to a nonprofit organization. Jon Bickford said people like Fernland Park; it is nice and they want to donate to keep it nice. Jon Bickford said the City is paying docents to provide tours at Fernland, and when the tours are done people put money in a box that goes somewhere else. Jon Bickford said he struggles with why the City is paying the docents to provide tours when the donations are going somewhere else. John Champagne said \$6,000 is not a lot money, but it is \$6,000 more than we have now. John Champagne said they have been talking about this for two or three years, and he does not understand why the City can't implement this because it has always been an issue. Mayor Countryman asked if the Historical Society can help take care of Fernland.

John Champagne asked about Mason Street and where the City is regarding paving that street. Mr. Yates said they have a meeting with Commissioner Meador this Friday. John Champagne asked if they were going to pave Caroline Street and Mason Street at the same time. Mr. Yates said he was going to ask City Council if they still wanted to include paving Wade Street, which would be the third street that will cost about \$14,000. John Champagne asked what the criteria was in listing the importance of which streets are getting paved. Mr. Yates said it was the condition of the street. John Champagne asked who was assessing the streets and what criteria are they using. Mr. Muckleroy stated that Mason Street has been on the list for a long time, Wade Street being paved was promised as part of the deal with Mr. Washington, and Caroline Street is just one of the streets when they did their original assessment with a simple 1, 2 and 3 numbering system when they were evaluating during the crack sealing project. Mr. Muckleroy said the area of Caroline Street exceeded

what needed to be done with crack sealing and was beyond repair. John Champagne said that was the answer. Rebecca Huss said Caroline Street has a lot of volume and visibility. Mr. Yates said he was going to ask City Council if they want him to keep all three streets on the list. John Champagne said that was what cities do and said he thought they had established that last week. City Council concurred that they would proceed with all three streets.

- C. Police Department Report – Lieutenant Joe Belmares presented the Police Report to City Council. Lt. Belmares said they had a motor vehicle accident that resulted in a fatality and advised that he has been in constant contact with the family. Lt. Belmares said one of the victims was released from the hospital today, and will have an extensive amount of time in rehab, so they are still working with the District Attorney’s Office and Department of Public Safety to finalize the case report so it can be submitted to the District Attorney’s Office. Jon Bickford asked if two local people were involved in the accident. Lt. Belmares said three of the victims were out of Grimes County and the defendant was from Montgomery County. Rebecca Huss asked if there was anything that the City could do to structurally mitigate circumstances that led to the accident. Lt. Belmares said he has reached out to the family to give them the information for the Attorney General’s Office for victim services that will help them with insurance and medical needs, and helps with cost of living and losses. Rebecca Huss said she was thinking about traffic lights, speed bumps, or ask TxDOT for changes. Lt. Belmares said the City has recently lowered the speed limits that should help, and they have been working with TxDOT on grants and they can do a traffic study and he can ask them about the particulars to get a study done. John Champagne asked what the traffic study would be done on. Lt. Belmares said it would deal with speed and crashes, and information that they provide them throughout the year. John Champagne asked what that would get the City. Lt. Belmares said it would help with the hot spots and help them focus on the areas. John Champagne asked if the Lt. was telling him that he needed TxDOT to tell us where the hot spots are in the City. Lt. Belmares said no, but it would help with the grant funding the City is receiving now. Lt. Belmares said it would show the number of cars coming through the City. John Champagne said they had assessed that at 27,000 the last time, which is a lot of cars and bad things are going to happen.

Lt. Belmares said he has completed the UCR Reports for 2018 and everything checked out well, and he will complete the Racial Profiling Stats by the end of this week, and he is

currently working with DPS Auditors for CJIS Report that he should have completed in a week or so.

Tom Cronin asked if the police patrol Old Plantersville Road on a regular basis out by the high school. Lt. Belmares said they do patrol and they write a lot of citations out there as well. Tom Cronin said he walks that area and he sees speeders every day going at least 60-70 miles per hour and not the posted 25 miles per hour. Tom Cronin asked if there was a possibility of getting signage regarding littering, and said the reason he was asking was because he picked up three bags of trash in the past two days on Old Plantersville Road going toward Perfection Drive. Tom Cronin said he felt if people were reminded there is a \$500 fine for littering and he was curious what could be done. Lt. Belmares said he could report that information to them and advised they had a recent incident at one of the sites on Old Plantersville Road and one of the officers was able to locate the culprit and the issue was handled outside of criminal charges. Lt. Belmares said definitely call if they find a bag of trash and it belongs to someone. Tom Cronin advised that he had picked up the three bags of trash along his walk route, and he wanted to see if there was a way to remind people, and said the matter the Lt. mentioned was more a private matter. Lt. Belmares said it was a dumpster but it was a criminal offense. Lt. Belmares said he could meet with MISD Chief of Police Runnels and maybe they can put it on their social media about littering and get the information out there.

T.J. Wilkerson asked the Lt. if his department worked with Conroe when they were here with SWAT. Lt. Belmares said Conroe contacted them and let us know that they were going to be in the area, they gave an estimated time and what would be taking place. Lt. Belmares said since it was a SWAT related incident, they work with their team and we will assist if they need us. Jon Bickford asked if that was a drill. Lt. Belmares said it was a real SWAT case. T.J. Wilkerson advised he drove up on them and they shut everything down.

John Champagne said there were 10 days of sessions, seminars and courses, and asked if this was typical. Lt. Belmares said yes it was. John Champagne said his only concern is are we at full force. Lt. Belmares said no, they are still looking for two officers. John Champagne said all he was saying is be a neophyte in terms of police work, and if he was running the Police Department his priority would be people on the street. Lt. Belmares said that is the priority, and said the individuals that went to class, attended them on their days off and a lot of the training was free.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator presented her report to City Council. Mrs. Duckett reported in January 2019 the Court went to \$36,756.35; citations collected were 197 for the month.

Rebecca Huss asked how the Court collected that much revenue for the month with that many citations. Mrs. Duckett stated their revenue is not collected only on the citations, there are warrants. Mrs. Duckett said the collection agency has sent out post cards about the pending warrant roundup. Mrs. Duckett said they have sent out notices and they are making phone calls for collections. Rebecca Huss said the warrant numbers are not in the report so they could not tell. Mrs. Duckett said the warrant officer just started a week ago and just compiled his spreadsheet over the past three days and has collected almost \$2,000. John Champagne asked if the City has a warrant officer. Mrs. Duckett advised they do, Officer Trent Lozano who is the part-time warrant officer and will work 20 hours per week and when he is here it is solely phone calls and conducting collections. Rebecca Huss said Officer Lozano worked with the City before as a full-time officer and a reserve officer. Mrs. Duckett said that was correct and said he was very familiar with the system and was learning InCode. Mayor Countryman asked if they were going to have a separate warrant report to show what the Warrant Officer brings in. Mrs. Duckett said yes and he is keeping a tally of the warrants. John Champagne asked who manages Officer Lozano. Mrs. Duckett said she did.

- E. Utility/Development Report – Mr. Yates presented the report to City Council, advising last month they collected \$128,872 in utilities, \$30,706 for 89 permits of which 13 were residential. Rebecca Huss said she liked the more in depth breakdown detailing the type of permits being issued and felt it was interesting. Mr. Yates said the Community Building brought in \$645. Mr. Yates said they have 729 active water accounts, which is 15 more than the previous month. Mr. Yates said the arrears is shown on the report and is less than one percent of the monthly billing. Mr. Yates said if you do not pay one time you are almost guaranteed to get on the 60 days category. John Champagne asked if he was reading the arrears correctly on the 120+ days. Mr. Yates said that was correct it goes from 2007 through September 1, 2018. Rebecca Huss asked why they are carrying this on our books. Mr. Yates said he brought this information up the last time they talked about it, and most cities once a year write off their debts, and he would say that they should do it through at least 2016 or 2017. Rebecca Huss said she thought they should at least look at people that

do not live here anymore. John Champagne said he would keep 2018. Mr. Yates said he will try to bring that back for the next City Council Meeting. Jon Bickford said if the Warrant Officer gets time they could get him on this. Mr. Yates said they do need to tighten up their collection process in general.

Rebecca Huss said they fixed the problem on when the account is closed, but they use the deposit to pay for the outstanding balance and then when you pay to reopen your account, they don't put the deposit back in and they have a lot of accounts that do not have actual deposits and asked if they have fixed that problem. Rebecca Huss said to her that is a source for actual potential loss. Rebecca Huss said when they have a cut off and the water deposit is used to pay the outstanding bill, then when they turn the account back on the system does not require a new deposit, which is a problem. Autumn Redman, Utility Billing Clerk advised the issue has been resolved. John Champagne asked when the cutoff date occurs. Mr. Yates said cutoff is at 45 days.

Mr. Yates said under the City's water consumption the only high user is Memory Park. Jon Bickford said this is in some form of gallons. Mr. Yates said yes, it is in thousand gallons. Jon Bickford asked if they could get something that says thousands of gallons. Jon Bickford said he did not understand in January they had so much rain, how they used twice as much water in January than they did in December, and the water consumption at Memory Park is more at 23,000 gallons than everything else on the list combined. Mr. Muckleroy advised the irrigation has been turned off at Memory Park since late October – early November. Jon Bickford asked how they used 23,000 gallons of water. Mr. Muckleroy said the number shown is what is going through the meter, and is not necessarily what has gone through the irrigation system. John Champagne asked where it is going. Mr. Muckleroy said they had a pretty good lead there, and the whole system might have taken a lighting strike because it is all messed up. Mr. Muckleroy said they got two sections of the system fixed to get it operational, and they have also been doing some checking on the system to check the efficiency of the system, which could be some of the usage. Mr. Muckleroy said the irrigation system itself has been turned off and that has not changed other than the checking of the system. Mr. Muckleroy said they paid an irrigation company to come in and help us figure out what was going on since they could not get any zones working. Jon Bickford asked if they are running sprinklers at the Community Building. Mr. Muckleroy advised the Community Center irrigation actually includes the restrooms in the back of the building. Mr. Muckleroy said there are two meters at the Community

Center, one feeds the old building, and the other meter feeds the restrooms out back and the irrigation system. John Champagne asked to confirm that lightning might have shorted out the electrical system and it is causing an increase in the reported usage. Mr. Muckleroy said no, checking the system by running it to find out what is going on with the system, along with a leak caused an increase in usage at Memory Park. Mr. Muckleroy advised the Rotary Club has done some work at the Park with new plantings and they ran the water hose to get the plants established. Mr. Muckleroy said the system itself has not been running other than what they manually made it run a couple of days to check the system out. Jon Bickford said that was a lot of water and is about three times the usage by an average household in a month, so that is a big leak.

- F. Water Report – Mr. Michael Williams, with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams reviewed the system alerts, stating there were a number of alters with all but one being weather related. Mr. Williams advised on December 27, 2018, one of the alerts was for low system pressure at Water Plant #3, was one that was not due to weather, it was a contractor that hit a line near Water Plant #3. Mr. Williams said Mr. Muckleroy was able to get it isolated and repaired.

Mr. Williams advised the Waste Water Plant flow detail showed the flow for the month of December through January was 5,610,000 gallons, with the daily peak flow on January 3, 2019 at 568,000 gallons that was 142% of the permitted value. Rebecca Huss said for the record that she has been arguing with Michael and Anthony regarding this number, that only reads two inches, although it shows zero on that day and it rained more than that on December 27, 2018, which showed about 100,000 gallons less, so there is another data point later in the presentation. Rebecca Huss said she does not agree with this number being correct, she still thinks there is something wrong with our measurement, which she has been saying every month, but these numbers are not making sense. John Champagne said they were not consistent. Rebecca Huss said they are getting even more inconsistent than they were, which again is important because A) 142% of the permitted value asks questions about what we are discharging and B) if we are using too much capacity at our sewage treatment plant, it means that we need to build a new one that will cost \$12 million dollars. Rebecca Huss said if we don't actually have enough people flushing A) we will be spending \$12 million dollars we don't have and B) we won't have people actually flushing to pay for it. Rebecca Huss said this is a really important number for the City.

John Champagne asked Mr. Williams to explain the action plan. Mr. Williams said they are meeting with all their infiltration specialists at the Plant on Friday and they are going to go through a number of options to make sure all the equipment is running properly. Mr. Williams said they already do a daily check on it, and from all the data they pulled, it is running properly, but they are going to check some items on the system. Mr. Williams said they will check the temperature controller, which would fluctuate with the different temperatures to help it read better, so they are going to check that out. Mr. Williams said they have discussed alternative metering options, whether it be a recorder that records the accuracy of the meter day and night for a period of time, or manhole flow meters where they can record the flow coming into the Plant. John Champagne asked if Mr. Williams can see the inconsistency in terms of correlation between rain, effluent and measurements or is it just a couple of people on City Council. Mr. Williams said being that they do get to see this across the whole City, that day alone they correlated a peak flow for a number of systems across the City on January 3, 2019 and every single one hit the peak flow that day. Mr. Williams said there are so many factors like duration and intensity of rainfall, and where the infiltration is. Mr. Williams said they actually analyze the rainfall numbers as far as the flow peaking out two to three days after it rained, which tells him there is a soaking factor, where it is soaking into the ground and it is coming back into the system after it has rained. Mr. Williams said on January 3, 2019 they had the peak of January 2, 2019 along with a high wet well call out as well for Lift Station #2, and they stayed out there for a number of hours waiting for the flow to go down so they could reset the system.

Tom Cronin asked Mr. Williams who calibrates his meters. Mr. Williams advised they have an independent contractor that calibrates them and gives them a certification. Tom Cronin asked how they are calibrated, asking if they are meter to meter. Mr. Williams said it is an ultrasonic meter that has a transducer that reads the level of the water. Mr. Williams said when they get their reading they will adjust it, should it not come back exactly in line. Tom Cronin asked if Mr. Williams was confident that the numbers are pretty good. Mr. Williams said yes, he was. Mr. Williams said they are meeting with the contractor on Friday to look at their options to either verify or just prove the liability of this piece of equipment.

John Champagne said they have an ongoing effort trying to find the infusion or incursion into the system. Mr. Williams said yes, the City is conducting ongoing smoke testing. John Champagne asked if they are finding anything. Mr. Muckleroy advised they are

trying to get the true cost of I&I to find out what makes sense as far as how much money they throw at this. Mr. Muckleroy said they were almost at the number, the TORC Committee is working on the actual cost per 1,000 gallons it would cost to treat I&I. John Champagne said if they would just use the percent of capacity of the Sewer Plant, would that not be motivation enough to spend money to find the incursion. Mr. Muckleroy said spending some money, he would agree, but they made a collective agreement to get a true number to see what we really need to spend. John Champagne said in the meantime the clock is ticking. Jon Bickford said it might be helpful to see some different options, such as, 1) they can hire someone to come in and do this all in one day, or 2) they contract out and do some of the work ourselves and that takes two weeks, or 3) we try to do it all ourselves and that takes six months or 4) this is good enough. Jon Bickford said the question is maybe it is time for City Council to look at the options and decide what to do.

John Champagne said he still can't believe we do not have a cost to process sewer in the City and said that was beyond him. John Champagne asked how you can run a business and not know your baseline cost. Rebecca Huss said they do have the cost, using Jones and Carter's numbers it was \$9.73. John Champagne said then that is the cost, so you take that number and multiply it times the incursion of the fluid and that is the City's cost. John Champagne then asked how much they want to spend at that cost. Mr. Muckleroy said he respected what John Champagne was saying, but in his opinion that was not the true cost of I&I. John Champagne asked Mr. Muckleroy what his opinion was based on. Mr. Muckleroy said it was based on several constants that do not change, the operations cost of running the City for a year, which does not change depending on how much rain we get. John Champagne said he understood. Mr. Muckleroy said they are trying to figure out how many constants and variables and I&I. Mr. Muckleroy said they are running about \$4.00 per 1,000 gallons for I&I, not for treating sewer, but for treating the I&I. Mr. Muckleroy said both numbers are going to come out of this, but the number he is talking about is the I&I figure. Jon Bickford said if they look at the daily trend they can calculate the area under the peaks above that and see how much they are getting above and beyond the daily trend, then that is the number they can multiply times the number they come up with to show on average how much extra it is costing per month. Mr. Muckleroy said he attended a free seminar put on by an engineering firm that all they do is I&I and they offered to evaluate the pump lift times, run times, and give a free quick analysis, not anything in depth. Mr. Muckleroy said he understood they are trying to get the City's business, and what they come up with is it looks like the Lift Station #8 area is going to be low hanging

fruit. Mr. Muckleroy said for them to come in and smoke test, manhole inspections and make the necessary recommendations they are looking at \$40,000 for one lift station, which is why this number is important because you don't want to spend \$40,000 on one little area if it is costing us \$20,000 per year. John Champagne said there was another cost and that is exceeding the limit of this sewer plant. Mr. Roznovsky said the number that matters is the average number, not the peak number. Rebecca Huss said the longer the peak number stays high that drives up the average. Mr. Roznovsky said when you have three months at 75% you have to be planning for expansion, and three months at 90% you have to be initiating construction. John Champagne said they are raising the average. Jon Bickford asked to confirm that the three months had to be consecutive. Mr. Roznovsky said that was correct, it has to be three consecutive months. Jon Bickford said there is another thing they need to watch and that is the weather. Rebecca Huss said it kind of depends on what is driving it, because if you start looking at the next couple pages of the report, which are pages 57 of the pack, showing August until now, the return numbers go from 28%, which is abnormally low, to 109%, which is ridiculously high, so they start defying logic sometime between 65% and 85%. Rebecca Huss said you have three months in a row at 85%, 87% and 109% and you already have three months in a row and the rain was not heavy during those months, it was 5.6 inches in December. Jon Bickford said that would depend on when the rain comes, if it comes all at once or was it over a period of time. Rebecca Huss said if the meter itself is deteriorating for whatever reason, it does not really matter how much it is raining, because the rain is not actually causing the problem, it is the meter that is causing the problem. Jon Bickford said he would be surprised if it is the meter, and asked if the meter had a spinner in it. Mr. Williams said no, it is completely digital. Mr. Williams said months like this January where they pumped 6.12 million gallons and they had 8.75 inches, that percentage can climb very fast compared to the summer where they pumped 9 million gallons and they had 7 inches of rain, and said some things off set each other to make the percentage jump up really high really fast. Mr. Williams said he has seen on average from their systems across the Houston metropolitan area, they are averaging about 85% during the winter, and they are looking at 40-50% during the summer, which are the typical return numbers that they get. Mr. Williams said each system is different, so they do differ, and he would be glad to supply material. Jon Bickford said that made sense because after October every inch of rain they get saturates the ground and just sits there, and in the summer time it is gone in days. Jon Bickford said they just need to make sure they get their arms around what the peaks are so they don't have three months in a row and get into a problem. Mr. Williams said they will have a

better idea of the direction they want to go to after the meeting this week and see what they can do to double check this meter. Mr. Muckleroy said they talked about getting some rental equipment in. Mr. Williams said it would be good to spend some time and money to double check the numbers before \$10-\$12 million dollars has to be spent.

Mr. Williams said the daily average flow was 181,000 gallons at 45% of the permitted value. Mr. Williams stated all the effluent samples were in compliance for the month of January. Mr. Williams said they did have a number of days when the rain gauge was malfunctioning so it did not record all the rain, but they had a manual rain gauge that they were able to back up the information and they have an accurate 8.75 inches of rain for the month.

Mr. Williams advised they sourced a total of 6.12 million gallons of water, with a flushing number of 607,000 gallons and they sold 5.148 million gallons of water, bringing them to a 94% accountability. Jon Bickford asked if the accountability dropped or did it go up. Mr. Williams said this month it did go up some and said they had a number of leaks that they tried to account for, but that might just be under accounting for some of the leaks. Mr. Williams said they had 607,000 gallons between the normal monthly flushing and one of the district alerts where the contractor hit a line. Mr. Williams said they tried to calculate as best as they could as far as pumpages go to make sure they get as close to that number as possible. Rebecca Huss said the accountability history is on page 56 of the pack. Mr. Williams said the accountability is a little bit higher, they are averaging about 97% so about 3% lower than what they are averaging now, but it should come back up. Mr. Williams said the water sold versus water treated is at 109% water returned to the plant.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky advised the waterline across the Buffalo Springs Bridge will be on the agenda for acceptance at the next City Council Meeting. Mr. Roznovsky stated that Lift Station No. 1 replacement will be moving forward to construction, with the goal to have the old Lift Station demolished and everything out of the way by June of this year.

Mr. Roznovsky advised the Baja Road Water and Drainage Improvement project contractor has moved off site because the contractor determined he did not want to be waiting for the weather for the last two weeks so he moved off site and they have a meeting with the contractor tomorrow to discuss his plans to finish the project. Mr. Roznovsky said

when the contractor left the site, he left about 30 feet of ditch on Baja Road full of dirt, since the contractor did not address it Public Works did and we are sending him a bill for that. Mr. Roznovsky said the contractor has had continual issues and that will be discussed at the meeting tomorrow as to how he is going to finish the job and if they are going to finish, and if not, what is the next step. Mayor Countryman asked if the contractor could get out of the contract and can we get someone else. Mr. Roznovsky said he has a bonding company, and he can go that route, he has a performance bond and he is defaulting on that bond, so the bond will cover the contractor coming into place. Mayor Countryman asked whether the City had worked with this contractor in the past. Mr. Roznovsky said they have not worked with him; he had worked in Conroe and the surrounding areas, his references were okay. John Champagne asked about the process, and if they got three bids. Mr. Roznovsky said this project was publicly bid and there were two bids submitted, with a big disparity \$180,000 versus \$320,000. John Champagne said after they put in all the costs, the other bid that seemed out of sight is getting closer and closer. Mr. Roznovsky said it won't get all the way there, but yes. John Champagne said there is a trend here. Mr. Roznovsky said the other contractor's price was high, but it was a contractor that they knew and had worked with before, and the issues that they are having with this one he did not think they would be the same. Rebecca Huss asked what the bonding covers and would it cover the gap between choice one and choice two. Mr. Roznovsky said it does, it covers 100%, and said he would have to go back and see what the 100% covered. Mr. Roznovsky said typically the first step is they will send in a manager to try and work with the existing crew that is out there and if that does not work, then the bonding company will get a crew out there. Rebecca Huss said the bonding company gets the job done, as opposed to just giving the City the money back. Mr. Roznovsky said he thought there were multiple ways, and with this being a grant project it is will be making sure the State is happy and the federal money and how that process goes will be a little different. Mr. Roznovsky said tomorrow will be the tail tell on what is going to be in the next call to the grant administrator to go over what the next step is. Rebecca Huss said they could actually get the project done by a better company for a lower price. Mr. Roznovsky said without knowing that company, it is hard to say, but the project will get done. Mayor Countryman said the bonding company will designate who the City goes with or are they going to suggest and then the City does their own vetting, or how does that work. Mr. Roznovsky said he did not know, and the reason is with the grant piece everything is a little bit different. Mr. Roznovsky said once they get through tomorrow and the contractor says he is not coming back, then the first phone call will be to the grant administrator. Rebecca Huss asked if they have to

use a bonding company then presumably the contractor will be knocked out of any grant process in the future. Mr. Roznovsky said he would hope so. Mr. Roznovsky said it is not just this project, he is having issues with other projects, so it is kind of a universal problem, not just with the City of Montgomery.

Mr. Roznovsky said they have a change order that is on the agenda, and stated that this contract does have liquidated damages in the amount of \$250 per day and those started on January 29, 2019.

Mr. Roznovsky reported that they are still working with FEMA regarding Atkins Creek, and we have a meeting scheduled for Thursday, with the last update being the project is in the environmental review stage since February 7, 2019. Mr. Roznovsky said FEMA had advised that this would all be done by the first of February and the City would have the funding. Mr. Roznovsky said he expects to get the GLO contract this week from the State.

Mr. Roznovsky said they received the plan review for Heritage Seniors yesterday for Phase III, Heritage Apartments. John Champagne said he was going from memory and said he thought there were 160 units with 80 units on the ground floor, and they plan on having 80 units by the end of summer.

Mr. Roznovsky said the public lines next to CVS are complete and they are just waiting for the final paperwork, and at the next meeting they will have them officially accepted. Mr. Roznovsky stated that Lake Creek Village is still outstanding for the culverts because they are waiting for the weather to clear up to complete those.

Mr. Roznovsky advised the Lone Star Groundwater Conservation District recently reached a settlement with the City of Conroe and other large volume groundwater users. Mr. Roznovsky said the final outcome is still to be determined but it appears that the 30% reduction rule for 2009 demand is going away. Mr. Roznovsky said they have not officially published new rules and adopted new rules, but it appears the 30% reduction they took from the City's 2009 usage will be coming back to the City. Mr. Roznovsky said as they know more they will keep the City updated.

Rebecca Huss said from a practical standpoint the City should operate as if they are under the same 30% reduction rule, since they made it last year, they should try and make it again

this year. Mr. Roznovsky said they got additional permit on the Catahoula so they could have that capacity and this just helps to give a little more cushion and flexibility with the wells. Rebecca Huss said it will be nice to have cooler water for the summer.

- H. Financial Report – Mr. Yates presented the Financial Report to City Council. Mr. Yates advised the following balances: General Fund \$1,304,868, Construction Fund \$2,967,087, Debt Service Fund has \$60,000, even though the report shows \$640,000, they just made the semi-annual payments, the Utility Fund has \$754,987 for a total cash reserve of \$6,417,562. Mr. Yates said the General Fund has a surplus of revenues over expenditures of \$282,504, and there was a \$104,000 payment to Kroger this past month. Mr. Yates said there was also the quarterly sales tax return of \$289,000. Mr. Yates said the Montgomery EDC has a surplus of revenues over expenditures of \$118,000, and the Utility Fund has a negative \$7,307, but they are making two total annual transfer payments this past month so that should go back up pretty quickly. Mr. Yates said he met with Mrs. Branco, Financial Consultant, today and they are going to change and invest our funds more in TexPool rather than the checking accounts because on the report on the investments it shows \$0.00, but said they are getting interest on those accounts it is just the third decimal point, and TexPool is paying about 2.3% interest now. Rebecca Huss said they are money market accounts so Ms. Branco can move it back and forth with five minutes notice. Jon Bickford said they need to get going on that interest.

Rebecca Huss asked about the General Fund, the sales tax in lieu of the ad valorem tax, just looking at that number she was noticing that they don't have anything in that account and it has been a big drag in our year-to-date numbers. Rebecca Huss said it was just about the Sales Tax – Other line, which she assumed was the regular sales tax. Mr. Yates said Mrs. Branco has not been placing the sales tax into the in lieu of ad valorem tax line item, she has been putting everything into the sales tax other and nothing into the ad valorem tax, and that is the ½ of a percent that needs to go into that column, which they need to take out of the 14600-sales tax and then 14600.1 is the Sales Tax ILO Ad Valorem. Mr. Yates said there is that split that needs to happen that she is probably not doing either. Rebecca Huss said instead of \$105,000 the intake would be roughly \$30,000 in the 14600.1 for January 2019. Mr. Yates said it would be more like \$40,000. Rebecca Huss said she was trying to figure out if we were above or below our year-to-date estimates, because the whole year-to-date is not tracking and it is just a lump sum, and shows that we are \$655,000 under budget year-to-date on sales tax. Mr. Yates said it is not that much, the expected amount

for this period is \$584,000 and our total for the year is \$2.2 million so we are \$600,000 or \$700,000 under our projection.

Jon Bickford moved to accept the Departmental Reports as presented. John Champagne seconded the motion, the motion carried unanimously. (5-0)

4. Consideration and possible action regarding and Encroachment and Maintenance Agreement between the City and Samdana Investments, L.P. regarding placing a dumpster within a storm drainage easement.

Mr. Roznovsky advised this is for the proposed donut shop, which has an existing storm sewer line that crosses their tract of land that drains from Butler Street to SH 105. Mr. Roznovsky said the property owner is relocating and proposing an easement, so it is allowed to be there and drain, and part of that is the need to encroach the easement with a dumpster enclosure in the back and also pavement on top as shown. Mr. Roznovsky said this is not in conflict and the agreement covers what happens should the City have to make repairs to the line. Jon Bickford asked if this would be permanent and not just for construction purposes. Mr. Roznovsky said that was correct, it would be permanent and their plat includes a permanent storm sewer easement, and with that they want to encroach the easement they are platting.

Rebecca Huss said Butler Street is higher than SH 105. Mr. Roznovsky said that was correct. Rebecca Huss asked if he was sure. Mr. Roznovsky said he was pretty certain that is draining from Butler Street and goes into the underground storm sewer at SH 105 then goes out by Brookshire Bros. Rebecca Huss said this was not just an easement for the dumpster, this is an easement for pavement. Mr. Roznovsky said the encroachment is for the dumpster, so historically the pavement has not been included with all the previous encroachment agreements. Rebecca Huss said she thought they were doing a drive through, and asked if they were going to have to concrete over the top. Mr. Roznovsky said the paving is being proposed along with the dumpster.

Jon Bickford asked who was responsible if the City has to tear up the concrete to do repair work; do they understand the owner will be responsible for the repair of the concrete. Mr. Foerster said they understand that and said it should be in the document that he wrote a month or so ago. Rebecca Huss asked if they also have to do a variance in terms of vegetation and asked if this was getting right up to the property line. Mr. Roznovsky said it was getting up to the property line and with the property being in the Historic District, they will need to go through that process. Rebecca Huss said this action seems highly premature. Mr. Roznovsky said he thinks it is a piece of the process.

Mr. Roznovsky said they don't have the vegetative buffer since it is commercial abutting commercial and they have the 10-foot building line. Rebecca Huss asked to confirm that they would not need a variance. Mr. Roznovsky said they received a variance to have the 10-foot building line to begin with, but he did not recall the variance for the dumpster itself. Mr. Roznovsky said they are not ready for plan approval at this time, they still need to go before the Planning and Zoning Commission since they are in the Historic District. Mr. Roznovsky said the last time they reviewed plans for them was back in November 2018. Mr. Roznovsky said they will have to go through a second step to get the placement of the building line.

Jon Bickford said it looks like the inlets are draining most of the parking lot onto Butler Street. Mr. Roznovsky said it was his understanding that all the drainage would be going to SH 105. Rebecca Huss said it looks like it outlets onto Butler Street. Jon Bickford said it looks like it all dumps onto Butler Street and the question is whether all that water will cause a problem, but he guessed that someone has looked at that. Mr. Roznovsky said yes there are proposed inlets onto that line, but his recollection was that it was not going onto Butler Street, but he will double check the flow lines. Rebecca Huss said Jon Bickford is correct, the red lines show the flow going to Butler Street. Mr. Roznovsky said he sees what they are describing, and said there is a line that is existing that is not highlighted, so between where the redline ends there is an existing 18-inch storm sewer connecting those two at SH 105. Mr. Roznovsky said the reason it is not highlighted in red is because it is not proposed. Mr. Roznovsky said the existing line is underneath the red dash lines. Jon Bickford said it looks like it is draining in two places.

John Champagne asked Mr. Roznovsky if his recommendation was to approve the encroachment agreement. Mr. Roznovsky said that was correct. John Champagne asked if Mr. Yates was also a part of the recommendation. Mr. Roznovsky said that was correct.

John Champagne moved to approve the Encroachment Agreement to allow the construction of a dumpster and pavement within the proposed changed easement as presented. Jon Bickford seconded the motion.

Discussion: Jon Bickford asked if "EX 18-inch STM" means existing storm sewer line. Jon Bickford stated that what it looks like is that there is an existing pipe coming across Butler Street and hooking into the red line and then goes over to SH 105, so there is no dumping of water onto SH 105. Rebecca Huss said there is not a pipe on Butler Street so it must be an open ditch. Mr. Roznovsky said it is an open ditch on Butler Street, but there is an existing line close to where the

little bridge was located that is headed toward SH 105, and that will be relocated where it is shown with the red line.

The motion carried unanimously. (5-0)

5. Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE CITY CODE OF ORDINANCES BY AMENDING CHAPTER 98, "ZONING," FOR THE ZONING CLASSIFICATION OF A 2.186 ACRE TRACT OF PROPERTY AND A .0475 ACRE TRACT OF PROPERTY, LOCATED AT 1062 CLEPPER STREET IN MONTGOMERY FROM A "R-1" SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT TO A "B" COMMERCIAL ZONING DISTRICT; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE. (Ward Property - Tabled at the February 12, 2019 Meeting)

Mr. Yates advised the only information he had to add was they received a letter today from Tony and Rebecca Noreiga stating the potential to purchase the Clepper Street property for use as an eclectic, relaxing, unique style Treasure & Art business. Jon Bickford asked if there were any photos received. Jon Bickford said at the last meeting they said they would like to get an idea of what is going to be there not just that there is interest in the property.

John Champagne asked Mr. Foerster if a letter of intent was appropriate. Mr. Foerster said the letter of intent would be appropriate, but his is not what we have here because it is very vague. John Champagne said he was not referring to this letter, he was referring to the legality of acquiring a letter of intent or any other assurance from the potential buyer that what they say they are going to do, and they would do it. Mr. Foerster responded to the question regarding City Council's approval of the change in zoning being predicated on written intent of use, and said he did not see a problem with doing that. John Champagne said this request, as far as he was concerned, there is no commitment in the letter.

Rebecca Huss said she felt the only way forward is either for someone to come with a very specific drawing, which she knows is difficult if they do not own the property, and it would be difficult to purchase the property without the confidence that City Council would change the zoning, or they look at putting the property in a light commercial as basically establishing a different zoning designation to give a lower commercial impact that would be consistent with our goals for the

Historic District so there is less risk in rezoning something. Jon Bickford said he thought the time to not do something is before you commit yourself and you can't undo it. Rebecca Huss said the question is do they take affirmative action to move forward and establish another category of zoning.

Mr. Ward said he had two people back out of a deal because they said they did not want to get pre-committed to the City with a design and everything and then later have to change it and the City give them a problem. Mr. Ward said he had two others backed out because the process is taking way too long.

John Champagne said he has done letters of intent in the past and he does not propose that the proposed buyers invest a lot of money in design or anything like that, it would just be that they would give an idea of what they plan on doing, the scope, and whatever commitment they could be legally bound to do that exact proposal. Mr. Foerster said they have got to be very careful, and said he would feel more comfortable if this was a request to include this property into the Historic District because you have some additional qualifiers. Mr. Foerster said with the Historic District you have certain protections, the type of construction that is going to be placed in there, and you can have more assurance of what is going to be placed there, and the appearance and function. Mr. Yates said he would not include the function, but he would say the appearance. Mr. Yates said once you rezone the property, you are zoning it for particular types of businesses. John Champagne said he could make a chop shop appear there. Jon Bickford said once you change it to commercial that is it. Rebecca Huss said they used to have a light industrial use, and she is saying they establish another category. Jon Bickford said they can't do that tonight. Rebecca Huss said she was talking about going forward they take action to establish a new type of land use called historic commercial and say the permitted uses would be specific things that would not include a chop shop, but would have art galleries, antique shops, restaurants, libraries, etc., then someone could purchase the property knowing those uses were permitted.

John Champagne asked if there was latitude in the historic zoning that would allow us to do some of the things that are being mentioned. Mr. Foerster said he would have to go back and look at the information to answer that question. Mr. Yates said we do not have the historic zoning at this time, but if you wanted to prepare an ordinance it could be done.

John Champagne moved to deny the ordinance presented tonight regarding the Ward property rezoning as presented. Jon Bickford seconded the motion.

Discussion: Jon Bickford said he did not think they had any options because they don't have another thing they can change the property to. John Champagne said they are stuck and they have to unstick.

Rebecca Huss asked if Mr. Yates could put into motion the idea of asking the Planning and Zoning Commission to look at adding another category to our Zoning Land Uses. Mr. Yates said yes, especially if he can get approval from City Council do that. John Champagne said he could make it part of his motion. Mr. Yates said City Council could just give him direction after the motion. Mr. Yates said it will take quite a bit of time for the process, so he just wanted to make sure. Mr. Foerster said he concurred with what City Council was doing and said he was thinking that with the Comprehensive Plan Meeting scheduled for Thursday night, this might be something to get feedback from our consultant and members of the audience. John Champagne said as usual, that is a good idea. Mr. Yates said there is also neighborhood zoning where they only allow office buildings or something light in traffic and noise, and maybe could be used on Lone Star Parkway in the future, where commercial abuts a large residential area, such as across the street or the corner of Lone Star Parkway and SH 105 west, which is an area that is zoned commercial and could have a store, dentist office or an accountant office is another option.

Mr. Foerster advised as City Council moves forward with zoning and changes in zoning, and said he was really pleased to see City Council doing this, the Comprehensive Plan is really the dictating factor that helps you arrive at what is the proper use of various pieces of property in the City. Mr. Foerster said that proposal was passed about 20 years ago, and the City has changed from a little country town they had 20 years ago to what it has become today. Mr. Foerster said these are questions that he thinks are very important to ask and get public input on as they go forward with the Comprehensive Plan and the future development of the City. Mayor Countryman said she agreed with Mr. Foerster.

The motion carried with 4-aye votes and 1-nay vote by T.J. Wilkerson. (4-1)

6. Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE CITY CODE OF ORDINANCES BY AMENDING CHAPTER 98, "ZONING," FOR THE ZONING CLASSIFICATION OF AN APPROXIMATELY 2.00 ACRE TRACT OF PROPERTY LOCATED AT 2560 LONE STAR PARKWAY IN MONTGOMERY

FROM AN "ID" INDUSTRIAL ZONING DISTRICT TO "B" COMMERCIAL ZONING DISTRICT, AND AN APPROXIMATELY 5.00 ACRE TRACT OF PROPERTY LOCATED AT 2580 LONE STAR PARKWAY IN MONTGOMERY FROM AN "ID" INDUSTRIAL ZONING DISTRICT TO A "R-2" MULTI-FAMILY RESIDENTIAL ZONING DISTRICT; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE. (Jacobs Property)

Mr. Jacobs presented additional handouts with a summary of his property that he had discussed with City Council a couple weeks ago, and the his process of getting in touch with his neighbors. Mr. Jacobs included letters from various property owners supporting his rezone effort. Mr. Jacobs included the location of the R2 area in the back and shows the distance from Lone Star Parkway; he said they can envision the location being a very private and secure area for their tenants. Mr. Jacobs said the second map shows the ownership of various tracts in the area they had contacted.

Rebecca Huss asked what Mr. Jacobs envisioned the commercial reserve area looking like when it is built out and the timing. Mr. Jacobs said it is one of the original areas of the corridor enhancement zone, so whatever is going to be located there will have some décor to it. Mr. Jacobs said the uses out there have a lot of potential for businesses, retail and maybe a nursery house, like the Antique Rose Emporium. Mr. Jacobs said he expected they would probably have some business orientation in that area and some different ideas that he would bring back in the near future. Mr. Jacobs said he spoke to someone this week that wants to create his personal store with high dollar automobiles with a store front on it, and then a long building in the back. Mr. Jacobs said with the list of permitted uses that are in place in the industrial zone, he would submit it might be easier to identify the things that they don't want there, rather than having a constant amended list. Mr. Jacobs said hardly anything on that list is anything that he envisioned being what he would want out there.

Rebecca Huss said once you sell property it is out of your hands, so while they have good stewards and people who care about Montgomery, once it is sold you do not necessarily have control over where it goes after that. Rebecca Huss asked if the residences were going to be single story or two story. Mr. Jacobs said it would be a combination and said Mr. Glockzin is here and is the one that will be doing the apartments. Mr. Glockzin said this would be a housing development; about 1/3 of it will be two story and 2/3 would be single story. Rebecca Huss asked if there would be 96 parking spots, because she thought that when they were looking at the Blazer development they had to come in for a variance because it has two parking spots per unit. Mr. Glockzin said they

have enough parking spots. Rebecca Huss asked if they would have covered parking. Mr. Glockzin said no, they would not be covered.

Jon Bickford said to the best of his knowledge, we have roughly 625 homes in the City right now; within a few months they will have 312 apartments, so basically 50% of the dwellings in the City will be apartments. Jon Bickford said personally he is not getting it, and he is not sure that the people that have bought homes in Montgomery want to fill the City with apartments. Jon Bickford said there is commercial property here already that he can't stop, but personally he does not want any more of it. Jon Bickford said he does not feel it makes sense to create more commercial property for more apartments. Mr. Jacobs said during 2016-2018 the number of apartments that have been built in Montgomery County is 4,676 individual units. Jon Bickford said the City of Montgomery would have 10%. Mr. Jacobs said the affordable apartments, income limited, which Mr. Glockzin is doing, is not subsidized rent; you have to have a job, and go through the background checks. Mr. Jacobs said in Montgomery County during the last three years, out of the 4,676 apartment units, only 80 of them were approved as income restricted projects, which is where your working people have got to live. Mr. Jacobs said Mr. Glockzin has a history of doing projects all through Texas, and if you look at the dates of them, almost every town where he has built he has been invited back to build a second phase of the project. Mr. Jacobs said he has no intention of selling a second phase in Montgomery because he hopes they can work together and do a lot of different things out there. Mr. Jacobs said regarding this particular project, the distance from the street makes it private and close to shopping on Lone Star Parkway; they are all employed and have vehicles so they can get to where they need to go.

Tom Cronin said he understood where Jon Bickford was coming from, but there is a shortage of places for people that work downtown, in restaurants, service industries and things like that, so it sounds like they vet the residents well. Tom Cronin said he really sees a need for something like this, because if you drive to Conroe that costs money, and apartments there are expensive. Jon Bickford said he was not saying no to apartments, what he is saying is there is a lot of commercial property available in the City today, and to make more commercial property, where people can put in apartments, so they can still have all that other commercial property to build more apartments. Rebecca Huss said they can only put apartments in R2 zoned areas since they did away with the cumulative zoning. Jon Bickford said his point is we are adding more and we are not taking away, so where does that stop. Jon Bickford said the property was purchased in the zoning that it was in when it was purchased. Mr. Jacobs said at the time he purchased his property it was cumulative zoning. Rebecca Huss said, as Tom Cronin stated, the demand for workers is high so there is

definitely a need for the City to look at ways to provide options for people to live affordably, close to work.

Mayor Countryman said she had a call from a business owner last night at 9:30 p.m. to discuss the lack of help that they have here, and now with the new CVS Store, Bubble King and the other places coming in he is now competing for what was a small workforce to an even smaller workforce. Mayor Countryman said the caller advised it would be advantageous to have more affordable housing and in his opinion, the high school kids do not want to work, so he has to go to the adult level and they are not going to come from Conroe. Jon Bickford said they need to work that out in their head, because if they go down that path, where will they be in 20 years. Mayor Countryman said she understood, she felt they had to take these individually, and just because we say yes to this it does not mean we will say yes to the next one. Jon Bickford said you can't deny a development in R2 that wants to build apartments, because it is zoned that way. Mr. Jacobs said City Council approved the second phase of Heritage last year and turned him down. Jon Bickford said their property did not need to be rezoned.

Rebecca Huss said when you are looking at what the City looks like and Lone Star Parkway is eventually going to become SH 105, and in order to divert heavy truck traffic onto that road it has to become a TxDOT road or an official road, and do we want it to be like driving through an industrial zone or do we want it to be a commercial zone, built to the corridor enhancement standards. Rebecca Huss said she would rather have the City represented by something that has a potential of being attractively commercial rather than industrial. John Champagne said the area does not have to stay industrial and said he would be very receptive to a residential designation. John Champagne said all these apartments are beautiful for the first 5, 10, 15 years, and he will challenge anyone to tell him that the level of crime, abuse of anything that is not conducive to good society takes place more in an apartment complex than it does in a residential area. John Champagne said he does not know how long Mr. Glockzin is going to stay around to manage the property. John Champagne said the reason that Heritage got another 80 units is because it is over there and not spread out all over the City. John Champagne said Jon Bickford made the point that almost half the residents in this City live in apartments. John Champagne asked how much is enough? John Champagne said if they think a Burger King or McDonald's employee or any of the low end employees are going to rent an apartment, think again, maybe two or three of them together will rent an apartment, which is a whole other topic. John Champagne stated the workforce is not a function of where they live and rather a function of not wanting to work. Mayor Countryman said the businesses in the City are all struggling. John Champagne said everyone in this City if

they don't drive an hour to work they are in the minority. Mayor Countryman said the people that are driving an hour to work are not coming in to the City to work. Jon Bickford said if they do build out the industrial area and there were some high wage paying jobs, those people would move here and buy homes.

John Champagne asked what percentage of apartments would be acceptable. Mayor Countryman said she did not have a percentage in mind, but stated what she did see and what she hears, because she talks to a lot of business owners here, is there is a lack of people to work. Mayor Countryman said we have business owners killing themselves to make up for the lack of labor force. Jon Bickford said if they got in a software development business, he would go to work selling for them in heartbeat, but if you are going to build a Burger King they are not going to come because they can't get staff to work. Mayor Countryman said they seem to be getting a lot of fast food places because those are easy, and the software companies are not banging down the door.

T.J. Wilkerson moved to adopt the ordinance as presented and rezone the property located at 2560 Lone Star Parkway from "ID" Industrial "B" Commercial, and the property at 2580 Lone Star Parkway from "ID" Industrial to "R-2" Multi-Family. Tom Cronin seconded the motion, the motion passed with the following vote: 3-Ayes and 2-Nays (3-2)

Aye – T.J. Wilkerson

Nay – John Champagne

Aye – Tom Cronin

Nay – Jon Bickford

Aye – Rebecca Huss

7. Consideration and possible action regarding adoption of the following Resolution:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS REGARDING STAR OF TEXAS HOUSING LTD AT LONE STAR PARKWAY FOR SUPPORT AND LOCAL POLITICAL SUBDIVISION FUNDING.

Mr. Yates advised this was a request to place an unknown number of senior housing units on the property adjacent to the existing Montgomery County housing project behind the Lone Star Community Center off Lone Star Parkway. Mr. Yates said the Resolution provides extra points for the very competitive tax credit granting. Mr. Yates said the Star of Texas owner has requested \$2,000 worth of credit for water taps, in order to help with their application. Mr. Yates said in previous years MEDC has provided the \$2,000 payment on the water taps.

Mr. Foerster said the way the Resolution is written, it is saying the City is committed to spend some amount of money. Mr. Yates said the way that he understood it, whether it was \$250 or \$2,000 it is financial support for the project, which gets them extra points. Mr. Foerster asked if there was a precedent for the City paying this, or is it a precedent for MEDC Mr. Foerster said as a City they have to be careful that they are not making gifts for which there is no public benefit, or for which the City Council has not declared there is a public benefit for making that donation. Mr. Foerster said while he is not opposed to giving money for what this City Council believes to be a definite public benefit, the question that you have to ask yourself, with this Resolution, is whether there is a public benefit, which he was not saying there is or is not, and if so, that needs to be reflected in the minutes.

Rebecca Huss asked if the housing units are exempt from State or Local property taxes. Mr. Glockzin said no. Rebecca Huss asked what the estimated taxable value would be after construction is completed. Mr. Glockzin said it would be about \$5 million dollars. Rebecca Huss said \$5 million dollars would be about \$20,000 per year in operation and maintenance (O&M) taxes. Mr. Foerster said, if the City Council chooses to, it could be a benefit or incentive. Rebecca Huss said that could be the quantitative benefit to the City from the project. Rebecca Huss said that if this project should be built out per Mr. Glockzin's expectations, the City would receive approximately \$20,000 per year in O&M tax revenue.

Jon Bickford asked if Mr. Glockzin has a plan for this project, and said he did not understand the wording in the agenda item "unknown" number of housing units. Mr. Glockzin said there will be 48 units. Rebecca Huss said anytime they go to Texas Department of Housing and Community Affairs to get the tax credits they need a Resolution of support from the City, which they did last year. T.J. Wilkerson asked how many of those apartments are behind Lone Star Community Center. Mr. Jacobs said there were less than 20 units.

Rebecca Huss moved to approve the Resolution, as presented, pending the changes to include the 48 units, with the City providing a \$2,000 credits toward the tap fees. T.J. Wilkerson seconded the motion, the motion carried with the following vote: 3-Ayes and 2-Nays (3-2)

Aye – T.J. Wilkerson

Nay – John Champagne

Aye – Tom Cronin

Nay – Jon Bickford

Aye – Rebecca Huss

Mr. Glockzin asked if he could get the Resolution executed this evening. Mr. Foerster advised that he would make the amendments, and possibly have the Resolution prepared in the morning. Mr. Glockzin will forward the Resolution document to the City Secretary, who will forward to the City Attorney for revision, and then it will be executed in the morning.

8. Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS CONSOLIDATING INTO ONE CITY ORDINANCE THE NFPA 70® 2017 NATIONAL ELECTRIC CODE AND THE 2018 INTERNATIONAL BUILDING CODES, AS AMNEDED, RELATED TO ALL RESIDENTIAL AND COMMERCIAL BUILDINGS; AMENDING SPECIFIC SECTIONS OF THE INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL PLUMBING CODE AND NATIONAL ELECTRIC CODE; DESIGNATING A CITY BUILDING OFFICIAL; PROVIDING FOR INSPECTION ACTIVITIES BY THE BUILDING OFFICIAL; PROVIDING A PENALTY NOT TO EXCEED \$500 FOR VIOLATION THEREOF; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A CLAUSE REPEALING THE CITY CODE REGARDING CITY BUILDING AND ELECTRIC CODES AS AMENDED; PROVIDING A TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE ON OR AFTER PUBLICATION AS PROVIDED BY LAW.

Mr. Rick Hanna, City Building Inspector, advised this is to request updating the new version of the Codes. Mr. Hanna said he works for a couple other cities and they have already adopted these Codes. Mr. Hanna said basically what happens is new technology and methods come along, the Codes are modified, and the problem they are having now is the State agencies that license plumbers and electricians, H-VAC technicians adopt a newer version of the Codes that sometimes causes a conflict when they have an older version versus what the licensees have to follow.

Rebecca Huss asked if this would make it easier for the trades instead of harder. Mr. Hanna said they have to take continuing education classes where they are briefed on the changes in the Codes. Mr. Hanna said one item they have had problems with is that wiring for garages and exterior circuits all have to be on the same circuit, where they used to be separate, so there are major changes. Mr. Hanna said one of the items that is included is the issue of tiny houses, which he is not saying that they want to have those here, but with the current Code they don't have anything to refer to. Rebecca Huss said they have offices downtown that are tiny houses. Mr. Hanna said those were built as residential homes and moved in to be commercial properties and they don't meet some of

the requirements, so they had a lot of work to get them up to commercial standards, egress and fire signs, etc. Tom Cronin asked if the tiny homes would be considered portable buildings. Mr. Hanna said they can move them around. Tom Cronin said he was asking because he used to sell portable buildings, and he was wondering when those went in. Mr. Hanna said the owner came to City Council and got approved to put some buildings on the property and moved them in without any inspections, so they had to inspect them after the fact and get them upgraded to meet commercial requirements.

Mr. Yates said the Building Committee reviewed the information. Mr. Hanna advised the Building Review Committee is made up with a plumber, developer, electrician and himself.

Mr. Foerster said this project was worked on by Mr. Hanna and Dave McCorquodale, and this ordinance was drafted by Dave McCorquodale. Mr. Foerster said he has reviewed the ordinance and he is happy to sign off on it. Mr. Foerster said Dave McCorquodale did a good job on the ordinance. Mr. Hanna said in the past they required everything in the service panel to be copper wiring for safety, and what this will allow is if they are running a sub-feed from the main panel in a residence to a garage, that can be done underground with aluminum service.

Jon Bickford moved to accept the newest changes as presented to the City Codes and adopt the ordinance. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

9. Consideration and possible action regarding Change Order No. 1 for the Water and Drainage Improvements on Dr. Martin Luther King Jr. Drive and Baja Road Project.

Mr. Roznovsky presented the information to City Council advising the total for Change Order No. 1 for the project is \$9,056.84, which also includes 10 additional days to the contract for impact from rain from December 1, 2018 through February 9, 2019. Mr. Roznovsky said the approval of the new amount is \$188,000 for the contract and the end date is February 8, 2019.

Rebecca Huss said she was confused as to why they are giving them more money when they are not even on the job and it looks like we are going after their bonding company. Mr. Roznovsky said there are still legitimate items that they should get paid for when they are completed, for example the traffic control, if they do not complete the project they don't get paid for the full \$2,800 in traffic control. Mayor Countryman said it was her understanding there was not much traffic control, and asked if they have validation that there was actually traffic control. Mayor Countryman

said she has had several telephone calls stating there was no traffic control, and said she thought she had called Mr. Roznovsky regarding that, as well. Mr. Roznovsky said that was correct, and said they have to prove that they are actually using traffic control and if they do not use, they do not get paid for it. Mayor Countryman said if they are not on site, she guessed they were not using it. Mr. Roznovsky said after this is approved it also has to go to the State and get approved. Mr. Roznovsky said they are not authorizing to pay for these items, but if the contractor completes these items then he is paid.

Jon Bickford asked if we are having to approve this in order to get funding from the State. Mr. Roznovsky said part of the process of getting this approved is the engineer signs, City signs and the State signs, and then the contractor signs, then after all that approval has gone through those items can be paid upon completion. Jon Bickford asked who is paying the funds. Mr. Roznovsky said it is paid by the State and is all from the grant. Jon Bickford said they are just making provisions to have budget available to pay the contractor, so they should take this action.

John Champagne moved to approve the Change Order No. 1 for the Baja Water and Drainage Project. Jon Bickford seconded the motion.

Discussion: T.J. Wilkerson asked if this was the same contractor working on MLK and Baja. Mr. Roznovsky said that was correct. Rebecca Huss said to make it clear that 1) the traffic control will not be paid in any case unless there is proof that they are actually controlling traffic. Jon Bickford stated that nothing will get paid for unless the work is done. Mayor Countryman said they just have to approve the funds now.

The motion carried unanimously. (5-0)

10. Consideration and possible action regarding Amendment No. 1 to Engineering Services Agreement with Jones and Carter regarding Buffalo Springs Drive Bridge Embankment Rehabilitation Project. (Tabled at the February 12, 2019 Meeting)

Mr. Yates advised this item was regarding the increase of engineering fees requested by Jones and Carter. Mr. Yates said the total contract increase is \$39,500 of which \$7,255.69 is the City's share after you deduct the FEMA payment. John Champagne asked if the contract increase was in line with the contract between the City of Montgomery and Jones and Carter. Mr. Yates said that was correct. John Champagne asked if there was a stipulation if, for whatever reason, an increase in

engineering costs is absorbed by Jones and Carter and can pass along to the City of Montgomery. Mr. Yates said if they request that, yes. Rebecca Huss said it was really a fixed price contract, based on the value of the bridge. Mr. Yates said that was correct.

John Champagne asked for the reason for the increase. Mr. Roznovsky said they were correct, Jones and Carter's contract is a lump sum contract for the Bridge Project, and this was a request due to the additional time that the contractor was on the job, which was 180 percent of the original time. Rebecca Huss said the liquidated damages were only for 25 days, so they are asking for \$39,000 for 25 extra days. Mr. Roznovsky said it was \$21,000 for 100 days. Rebecca Huss said that was what they paid the contractor the extra days for, and said Jones and Carter are asking for more than \$1,000 per day. Mr. Roznovsky said there were multiple things that were in here being requested, it included the construction administration and inspection, pass through costs of testing expenses that were incurred and paid for by Jones and Carter to perform material testing on site. Mr. Roznovsky said the City did hold liquidated damages from the contractor, and when you assume that those liquidated damages were taken out of the City's share of the increase, it is a \$1,800 difference. Rebecca Huss said the liquidated damages belong to the tax payers not to Jones and Carter, and Jones and Carter did act on the City's behalf, but that was when they were acting as the City's Engineer, not as Jones and Carter the Contract Engineer who produced the Bridge. Rebecca Huss said this is where it gets to the question of which side of the wall Jones and Carter is working on, so when they are working for the City as the City's Engineer, that is when you negotiated on our behalf with the contractor for the liquidated damages, so you can't say you earned those liquidated damages dollars and put those against the dollars that you are asking for now. Mr. Roznovsky said he would disagree because all the time that was spent on the Bridge was billed to the Bridge Project on behalf of administering the contract for the Bridge. Mr. Roznovsky said part of the justification for liquidated damages is in showing the true impact to the City, which additional engineering is an impact to the City. Mr. Roznovsky said this is a request, and the reason for the request is because of the extended time they had to be out there to inspect the project.

John Champagne asked whether that was a result of weather. Mr. Roznovsky said it was due to the contractor and his faults. John Champagne asked who chose that contractor. Mr. Roznovsky said it was a recommendation by Jones and Carter.

Rebecca Huss said this is a fixed price contract and she is sorry that it came in over budget, but it has been three months and stated this is the taxpayer's money. John Champagne said he thinks we need to do a much better job of choosing contractors, personally. Mr. Roznovsky said this was

another grant, and as far as the timing, saying that it is three months, this is not a new item that is coming up, this is something that he has been discussing with City staff, and he had provided the initial numbers on November 30, 2018. Mr. Roznovsky said the attached memo details the reasons for that request and what was assumed approval for that change, which is then produced into an invoice and was then sent out to the State and FEMA, based on the approval of that. John Champagne said Mr. Roznovsky keeps bringing up FEMA, and asked if the contract was tied to FEMA, and were they bound to choose that contractor because of the FEMA participation. Mr. Roznovsky said this was another FEMA and Department of Agriculture Grant. John Champagne said he was trying to connect why the contractor was tied to these grants, and if choosing the contractor had anything to do with the fact that they were using Grants. Mr. Roznovsky said the fact that there was not enough reason to roll them and go to the next contractor, because of the grants. Rebecca Huss said out of the 481.5 hours of inspections, there was a comment at the last meeting about some of the inspections were done when they were not necessarily needing to be done, so she was wondering how much of that is on here, which is something they can't go back and audit. Rebecca Huss said her other question is what their profit margin is on this project. Mr. Roznovsky said it was nothing, this is covering our costs. Rebecca Huss asked if that included all of the engineering. Mr. Roznovsky said that was correct. Rebecca Huss asked how much of his bosses' overhead is included, extra hours, etc. Mr. Roznovsky said there was an hourly breakdown that shows what was spent based on the hourly rate versus what was compensated, and said this is not a grab at the end to try and make profit on a project, it is just trying to cover the costs. Mr. Roznovsky said he believes the cost is substantiated just due to the amount of time that was spent out at the project, and he thought everyone understands the frustrations with the FEMA project and the contractor and we experienced the same, and we are paying with the costs. Mr. Roznovsky said he understands with the contract the City is not obligated to pay the additional fund, which he is not trying to say that, it is a request for payment and a justification as to why they feel warranted to receive it. John Champagne said he knows Mr. Roznovsky and Jones and Carter well enough in general, and he would never think this is an unethical grab at the end of the project, which is not what this is about, in his mind.

Mr. Yates asked if there was any additional charges for redesigning work and work with FEMA on the changes. Mr. Roznovsky said that was within the contract amount and hourly portion with FEMA coordination and they are not requesting an increase in that budget, which is why the \$39,500 increase is \$10,000 less because of hourly expenses incurred, so the total increase is \$29,022.38.

Tom Cronin said he feels like there is a contracted price, and it would be a tough sell to go to the taxpayer or constituency and say we just spent an extra \$40,000 of your money because it was not anticipated that things would come up.

Tom Cronin moved to deny the request for the additional funds by Jones and Carter.

Mr. Roznovsky clarified that it was not \$40,000 from the City. Rebecca Huss said it was taxpayer money either way, whether it is FEMA or CDBG money, or from the City of Montgomery, it is still taxpayer money and is coming from somebody's taxes.

Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

11. Consideration and possible action amending Contract with Jones and Carter regarding hourly rates for work performed.

Mr. Roznovsky advised he had sent out an email today with additional information regarding the rates. Mr. Yates stated this is an annual adjustment that is considered in the contract with Jones and Carter. Mr. Foerster said the contract that was executed back in October 2014 calls for hourly rates to be subject to an annual revision in January of each year that the agreement is in force.

Jon Bickford asked if they were tied to a CPI or a percent, whichever less is. Mr. Foerster said it does not state that in the contract. Rebecca Huss asked if that was a unilateral increase not subject to an agreement. Mr. Foerster said it is always subject to an agreement because if City Council or Jones and Carter wants to terminate the contract they can, with seven days' notice, with or without cause. Mr. Foerster said that Mr. Roznovsky can advise the justification as to why the rates need to increase, one of which has to do with the recent promotion of Katherine Vu, who just passed her P.E. examination. City Council congratulated Katherine Vu.

John Champagne asked when was the last time the rate increase was done since the contract was adopted in 2014. Mr. Roznovsky said they do an annual revision, with the last time being 2017, for a 3% increase. Mr. Roznovsky said in 2018 the rates did not change, but the format and structure of the rates changed, adding additional categories, but this year there is a substantial change in the compensation and makeup that was detailed in the email. John Champagne said he has the utmost respect for Katherine Vu, and said that Mrs. Vu getting her professional classification, what value that brings to the City. Mr. Roznovsky said the reason the younger engineers are having more of

an increase on the list is because of the rule changes that allows engineers to get their tests passed and licenses quicker. Mr. Roznovsky said the benefit to the City is the more experience, the more professional she is, and she will be able to sign and seal documents in two years, but she is working her way to that position. John Champagne said technically this could increase Jones and Carter's production and overall lower the City's overall cost. Mr. Roznovsky said that it correct. Mrs. Vu said ideally the value is with the more experience that she has, the more efficient she is at her job and the more responsibility she is able to take on so there is less need for conversation necessarily between she and Mr. Roznovsky and she is able to handle things more on her own. Mrs. Vu said as she gets more experience it will lower the cost to the City on the salary that is charged.

Mr. Roznovsky said the increase for inspectors is zero percent, and Mr. Yates had stated \$85, the construction manager is at 4 percent increase and Katherine Vu is 12 percent and his increase was 5.5 percent. Rebecca Huss said the GIS operator is at 23 percent increase. Mr. Roznovsky said yes, but a lot of that is limited to billing, when he is producing a map, but all updates are done at the lump sum basis per the contract, which does not have as big an impact to the City. Mr. Roznovsky said what is built into the contract is three hours a month or so as they start filling all the private plans at the hourly rate, but everything else, maintenance and updates are at the flat fee of \$600.

Rebecca Huss asked if it costs the City \$2,500 for the preparation for a City Council Meeting report. Mr. Roznovsky said between the two meetings and both he and Katherine Vu going through all the agenda items, all the associated memos for each item, and the actual report, it varies per month. Rebecca Huss said that would be \$30,000 per year, equal to the value of a Lift Station pump. Mr. Roznovsky said they are more than willing to sit down and figure out how they can adjust their scope to fit whatever the goal is of the City and they are open to different types of models.

John Champagne asked if our rates are competitive with surrounding municipalities in terms of some of the problems Mr. LeFevre had evaluating the process and progression of developments. John Champagne said the City is taking a charge from Jones and Carter and passing it through to the customer, and the customer is saying they pay taxes and they feel this was something the City should provide, or maybe the City should absorb some of the costs. John Champagne asked how we are competing with surrounding municipalities. Mr. Yates said most cities these days are passing the costs through, and he felt that we are competitive with other cities.

Jon Bickford said in the world of engineering he did feel that a six percent increase, with not having one last year, was not unreasonable.

Jon Bickford moved to accept Jones and Carter's Annual Adjustment to their firm rates, effective as of today. T.J. Wilkerson seconded the motion.

Discussion: Mr. Roznovsky said as a note, their contract states it does not require separate approval so the rate went into effect January 1, 2019. Mr. Yates said he did not agree with that. Mr. Foerster said it was his understanding, according to the contract, every year in the past the City Administrator has reviewed and blessed any increases, but this year since City Council has raised the question, Mr. Yates would prefer that City Council bless the rates. Jon Bickford said he had a motion on the table.

The motion carried with 4-Ayes and 1-Nay by Tom Cronin. (4-1)

Rebecca Huss said she would like to look into John Champagne's comments that they do some management of the expenses, so the hourly rate is fine but perhaps not the hours themselves. Jon Bickford said the other thing they have to look at is whether the engineers have to be at every City Council meeting, and asked if they could come once a month instead of twice, which would save a ton of money.

12. Consideration and possible action regarding a Request for Verification of Exemption Information (Homestead, Over 65 and Disability Exemptions) for Use on the 2019 Notices of Appraised Value and 2019 Assessment Rolls.

Mr. Yates presented the information to City Council, advising the City currently has the following exemptions:

- Homestead – Zero
- Over 65 years of age - \$20,000
- Disabled - \$35,000

Rebecca Huss stated that last year she had recused herself from voting because her household gets the disabled veteran exemption. Mr. Foerster said what they could do is have the City Council vote on that one separately, so Rebecca Huss can vote on the others.

Jon Bickford said they already have the 65 years and disabled nearly maxed. Rebecca Huss said she thought that was just on the spreadsheet. Mayor Countryman said there was no cap on the exemption. Jon Bickford asked about some of the jurisdictions that show 0+1% or 0+2%. Mr. Yates said he did not know what that was regarding. T.J. Wilkerson said he was good with the exemptions the way they are. Rebecca Huss said the sum total for over 65 and disabled are very small amounts.

John Champagne said the exemptions effect 97 people and comes out to about \$70 per person for over 65 and \$100 for disability.

Jon Bickford moved to set the over 65 years of age to \$50,000 and disability at \$70,000, which would double them both. John Champagne seconded the motion.

Discussion: Mr. Foerster said he wanted to check the Tax Code to see if they have the flexibility to bump the rate that high. John Champagne said everyone else is doing it. Mr. Yates said the City of Conroe is at \$75,000. Jon Bickford said the median home price here is \$250,000. Mr. Foerster asked that City Council break out the motion into two motions, and separate disability for purposes of Rebecca Huss being able to recuse herself from voting.

Jon Bickford moved to set the Homestead Exemption at zero and over 65 years of age exemption at \$50,000. John Champagne seconded the motion, the motion carried with 4-Ayes and 1-Abstention by T.J. Wilkerson. (4-0-1)

Jon Bickford moved to set the disability exemption at \$70,000 from the \$35,000 it is today. Tom Cronin seconded the motion, the motion carried with 4-Ayes and 1-Abstention by Rebecca Huss. (4-0-1)

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property),551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

13. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
- a) Section 551.087 (deliberation regarding economic development negotiations)

Mayor Countryman adjourned into Closed Executive Session at 8:53 p.m.

Jon Bickford left the meeting at 9:47 p.m.

14. Reconvene into Open Session.

Mayor Countryman reconvened the meeting at 10:00 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

15. Consideration and possible action(s) if necessary on matter(s) deliberated in Closed Executive Session.

John Champagne moved to move forward to consider MUD 179 pending specific points yet to be negotiated and considered at another time. T.J. Wilkerson seconded the motion, the motion carried with 3-Aye Votes and 1-Nay Vote by Rebecca Huss. (3-1)

COUNCIL INQUIRY:

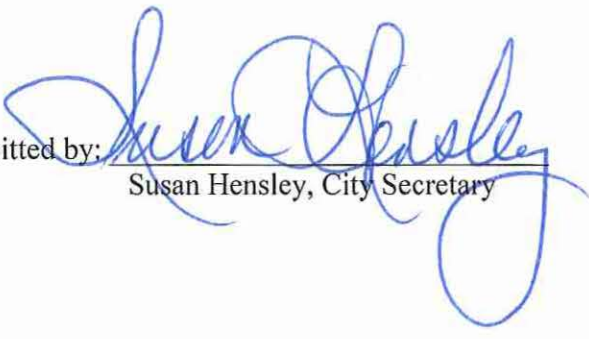
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

There were no comments.

ADJOURNMENT

Rebecca Huss moved to adjourn the meeting at 10:01 p.m. Tom Cronin seconded the motion, the motion carried unanimously. (4-0)

Submitted by:



Susan Hensley, City Secretary

Date Approved: _____

Mayor Sara Countryman

MINUTES OF SPECIAL MEETING

March 2, 2019

MONTGOMERY CITY COUNCIL

CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 9:00 a.m.

Present: Sara Countryman Mayor
Jon Bickford City Council Place # 1
John Champagne, Jr. City Council Place # 2
T.J. Wilkerson City Council Place # 3
Rebecca Huss City Council Place # 4
Tom Cronin City Council Place # 5

Absent:

Also Present: Jack Yates City Administrator
Susan Hensley City Secretary

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property),551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

1. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
 - a) Section 551.074 (personnel matters) related to interviewing candidates for the position of Police Chief.

Mayor Countryman adjourned into Closed Executive Session at 9:02 a.m.

City Council took a lunch break from 12:01 p.m. to 12:45 p.m. and then went back into Closed Executive Session.

2. Reconvene into Open Session.

Mayor Countryman reconvened the Open Session at 2:04 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

3. Consideration and possible action(s) if necessary on matter(s) deliberated in Closed Executive Session.

Jon Bickford stated that after a very long and productive day talking to the four Police Chief candidates that City Council was provided, he moved to authorize the City Administrator, Jack Yates, to move forward getting background checks on the two candidates selected and report back to City Council in Executive Session as soon as possible on the results. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

COUNCIL INQUIRY:

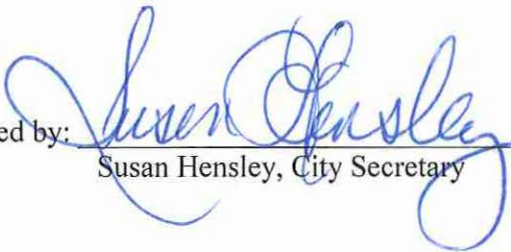
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

There were no comments.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 2:05 p.m. John Champagne seconded the motion, the motion carried unanimously. (5-0)

Submitted by:



Susan Hensley, City Secretary

Date Approved: _____

Mayor Sara Countryman

Montgomery City Council
AGENDA REPORT

Meeting Date: March 12, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: The Engineer memo, Certificate of substantial completion, Maintenance bond, Certificate of acceptance
Date Prepared: March 7, 2019	

Subject

This is to consider the approval and acceptance of the Buffalo Springs Drive Water line Bridge Crossing placement.

Description

Attached is the engineer's memo regarding his recommendation for the city to accept the project and to begin the one-year warranty.

The project was to connect two existing water lines, on each side of the Buffalo Springs Bridge with a connecting line.

There are no outstanding punch list items.

Also attached is the Certificate of Acceptance which serves as the approval of the work to begin the one-year guarantee (Maintenance Bond attached) of the work on the project which will end on February 25, 2019

Recommendation

Motion to accept the Buffalo Springs Drive Water line project and the Certificate of Acceptance --- as part of the consent item agenda

Approved By

City Administrator	Jack Yates	Date: March 7, 2019
--------------------	------------	---------------------



1575 Sawdust Road, Suite 400
The Woodlands, TX 77380-3795
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

March 6, 2019

The Honorable Mayor and City Council
City of Montgomery
101 Old Plantersville Road
Montgomery, TX 77316

Re: Construction of Buffalo Springs Drive Waterline Bridge Crossing
City of Montgomery
TIN No. 74-2063592

Dear Mayor and Council:

Enclosed is Progress Payment Request No. 2 & Final from Spartan Direct Solutions, LLC for the referenced project. The estimate is in order and we recommend payment in the amount of \$9,237.82 to Spartan Direct Solutions, LLC.

Also enclosed is Construction Progress Report No. 2 & Final, which is submitted in accordance with Texas Commission on Environmental Quality Rule No. 293.62. This report covers construction activities for the referenced project during the period November 14, 2018 to February 25, 2019.

You will also find your copies of the Contractor's Affidavits of Bills paid and Affidavit of Guarantee, and our Certificate of Substantial Completion. Copies of the Certificate of Acceptance will be forwarded to you under separate cover, and we will distribute copies for your records after approval and execution.

Sincerely,

A handwritten signature in blue ink that reads 'Chris Roznovsky'.

Chris Roznovsky, PE
Engineer for the City

CVR:kmv/jmr

K:\W5841\W5841-0021-00 Town Creek Bridge Waterline\3 Construction Phase\Contract Documents\Pay Estimates\W5841-0021-00 EST LETTER.docx

Enclosure

cc: Spartan Direct Solutions, LLC
Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler and Creighton, LLP, City Attorney



1575 Sawdust Road, Suite 400
 The Woodlands, TX 77380-3795
 Tel: 281.363.4039
 Fax: 281.363.3459
www.jonescarter.com

March 6, 2019

Construction Progress Report No. 2 & Final
 Period November 14, 2018 to February 25, 2019

Construction of Buffalo Springs Drive Waterline Bridge Crossing
 City of Montgomery
 TIN No. 74-2063592

Contract:

- A. Contractor: Spartan Direct Solutions, LLC
- B. Contract Date: January 4, 2018
- C. Authorization to Proceed: January 4, 2018 (225 Calendar Days)
- D. Completion Date: August 16, 2018
- E. Contract Time Used: 419 Calendar Days (186%)

I. General

The project is complete.

II. Change Orders

None Issued this Report.

III. Completion Report

A. Estimated Cost as of this Report Period

1.	Contract Bid Price	\$	86,412.25
2.	Final Quantity Adjustments	\$	5,965.90
3.	Total Estimated Contract Price	\$	92,378.15

B. Actual cost as of this Report \$ 92,378.15

C. Amount Retained (0% of B) \$ 0.00

D. Total Paid Contractor \$ 92,378.15

E. Estimated Cost Remaining (A.3 - B) \$ 0.00

F. Construction Complete (B/A.3) 100%

IV. Frequency of Observation – Periodically

V. Problems

No Problems This Report.



OWNER: City of Montgomery		PROGRESS PAYMENT No. 2 & Final								CONTRACT DATES		REMARKS	
PROJECT: Construction of Buffalo Springs Drive Waterline Bridge Crossing										FROM	TO		
JOB NO. : W5841-0021-00										ORIGINAL	04-Jan-18	03-May-18	
CONTRACTOR: Spartan Direct Solutions, LLC										REVISED	04-Jan-18	16-Aug-18	
										THIS EST.	14-Nov-18	25-Feb-19	
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	THIS ESTIMATE		PREVIOUS ESTIMATE		TOTAL TO DATE		REMARKS		
					QUANTITY	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT			
1	Move-in and start-up, including performance and payment bonds for 100 percent (100%) of the contract amount.	L.S.	1.0	\$10,000.00	0.0%	\$0.00	100.0%	\$10,000.00	100.0%	\$10,000.00	100.0%		
2	12-inch C-900 AWWA (DR18) Class 150, waterline (including valves, fittings, bedding, backfill and testing), complete in place.	L.F.	500.0	\$62.75	0	\$0.00	633.0	\$39,720.75	633.0	\$39,720.75	126.6%		
3	12-inch AWWA C-151 Ductile Iron Pipe with restrained push-on joint waterline, including bends necessary to route pipe under bridge deck and around bridge abutment (including fittings, bedding, backfill, and testing), complete in place.	L.F.	165.0	\$75.45	0	\$0.00	122.0	\$9,204.90	122.0	\$9,204.90	73.9%		
4	Connect proposed 12-inch waterline to existing 12-inch waterline via wet connect, including removal of existing blow-off, plug, and clamp complete in place.	EA.	2.0	\$2,567.00	0	\$0.00	2.0	\$5,134.00	2.0	\$5,134.00	100.0%		
5	Trench safety system for Waterline Construction, all depths.	L.F.	500.0	\$6.50	0	\$0.00	633.0	\$4,114.50	633.0	\$4,114.50	126.6%		
6	Fire Hydrant, bury as shown, (including lead, gate valve, and blue reflector applied to road), complete in place.	EA.	2.0	\$4,895.00	0	\$0.00	2.0	\$9,790.00	2.0	\$9,790.00	100.0%		
7	Final adjustment of all fire hydrant, as directed by the Engineer.	EA.	2.0	\$1,400.00	0	\$0.00	2.0	\$2,800.00	2.0	\$2,800.00	100.0%		
8	Air/Vacuum Release Valve (A.R.I. Model D-040-C or Approved Equal) with two-inch (2") valve, complete in place.	EA.	1.0	\$2,975.00	0	\$0.00	1.0	\$2,975.00	1.0	\$2,975.00	100.0%		
9	Clevis Hangers, per Sheet 4, complete in place and operated per detail on Sheet 6, as directed by Engineer.	EA.	18.0	\$295.00	0	\$0.00	18.0	\$5,310.00	18.0	\$5,310.00	100.0%		
10	Epoxy anchor system, per Sheet 4, complete in place and operated per detail on Sheet 6, as directed by Engineer.	EA.	18.0	\$48.50	0	\$0.00	18.0	\$873.00	18.0	\$873.00	100.0%		
11	Bracket, per Sheet 4, complete in place and operated per detail on Sheet 6, as directed by Engineer.	EA.	2.0	\$1,228.00	0	\$0.00	2.0	\$2,456.00	2.0	\$2,456.00	100.0%		



OWNER: City of Montgomery				PROGRESS PAYMENT No. 2 & Final				CONTRACT DATES		REMARKS	
PROJECT: Construction of Buffalo Springs Drive Waterline Bridge Crossing							FROM	TO			
JOB NO. : W5841-0021-00							ORIGINAL	04-Jan-18	03-May-18		
CONTRACTOR: Spartan Direct Solutions, LLC							REVISED	04-Jan-18	16-Aug-18		
							THIS EST.	14-Nov-18	25-Feb-19		
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	THIS ESTIMATE		PREVIOUS ESTIMATE		TOTAL TO DATE		REMARKS
					QUANTITY	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT	
MATERIALS ON HAND											
					\$0.00	\$0.00			\$0.00		
TOTAL MATERIALS ON HAND											
			CHANGE ORDER PLUS/MINUS	VALUE	DAYS						
			Change Order No. 001	\$0.00	105					\$0.00	
			Final Quantity Adjustment	\$5,965.90						\$5,965.90	
			Change Order No. 003	\$0.00						\$0.00	
			Change Order No. 004	\$0.00						\$0.00	
TOTAL CONTRACT MODIFICATIONS										\$5,965.90	
Subtotal (Line Items)					\$0.00	\$92,378.15			\$92,378.15		
Materials on Hand					\$0.00	\$0.00			\$0.00		
Subtotal (Materials on Hand/Line Items)					\$0.00	\$92,378.15			\$92,378.15		
0 Impact Days Requested this Pay Period			Less Retainage (0%)	\$0.00		\$9,237.82			\$0.00		
0 Impact Days Approved this Pay Period			Total	\$0.00		\$83,140.33			\$92,378.15		
0 Impact Days Approved to Date			Less Previous Estimates						\$83,140.33		
105 Change Order Days			Due this Estimate						\$9,237.82		
186% Complete by Time			Orig. Contract Amount	\$86,412.25							
100% Complete by Value			Contract Modifications	\$5,965.90							
Total Contract Amount					\$92,378.15						
Construction Remaining					\$0.00						
Amount Approved					\$9,237.82						

APPROVED BY JONES|CARTER

Chris Roznovsky
 BY: Chris Roznovsky, PE

CERTIFICATE OF SUBSTANTIAL COMPLETION FOR
CONSTRUCTION OF BUFFALO SPRINGS DRIVE WATERLINE BRIDGE CROSSING
CITY OF MONTGOMERY

March 6, 2019

OWNER: The Honorable Mayor and City Council
City of Montgomery
101 Old Plantersville Road
Montgomery, TX 77316

CONTRACTOR: Spartan Direct Solutions, LLC
3400 Churchill Dr.
Nacogdoches, TX 75965

CONTRACT: Construction of Buffalo Springs Drive Waterline Bridge Crossing
City of Montgomery
TIN No. 74-2063592

We have observed the subject project constructed by the **CONTRACTOR** and find it to be substantially complete in accordance with the approved plans and specifications. The project was periodically observed during construction by our field project representative.

We recommend that the **OWNER** issue the **CONTRACTOR** a Certificate of Acceptance of the Work. We also recommend that the Contractor's guarantee period of 1 year begin March 12, 2019.



Sincerely,

Chris Roznovsky, PE
Engineer for the City

CVR:kmv/jmr

K:\W5841\W5841-0021-00 Town Creek Bridge Waterline\3 Construction Phase\Contract Documents\FINAL LETTER City of Montgomery.doc

cc: Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Mike Muckleroy – City of Montgomery, Public Works Director
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP, City Attorney
Spartan Direct Solutions, LLC – Contractor



AFFIDAVIT
OF
GUARANTEE

STATE OF TEXAS §
COUNTY OF MONTGOMERY §

Before me, a Notary Public in and for the State of Texas, on this day personally appeared _____ of **SPARTAN DIRECT SOLUTIONS, LLC** well known to me to be the person making this affidavit, who, being by me first duly sworn and deposed did say:

I am _____ of **SPARTAN DIRECT SOLUTIONS, LLC** and have personal knowledge of the matter stated in this affidavit. **SPARTAN DIRECT SOLUTIONS, LLC** does hereby give notice to the Owner, **CITY OF MONTGOMERY** that work for the Owner, known as JC Job No. W5841-0021-00 Construction of Buffalo Springs Drive Waterline Bridge Crossing, has been substantially completed. In accordance with the provisions of paragraph 5.07 Guarantee, of the General Conditions of Agreements, **SPARTAN DIRECT SOLUTIONS, LLC** does hereby guarantee all of the work under the contract to be free from faulty materials and improper workmanship in every particular, and against injury from proper and usual wear; and agrees to replace or re-execute without cost to the Owner such work as may be found to be improper or imperfect, and to make good all damage caused to other work or materials due to such required replacement or recompletion of all work under this contract, as evidenced by the Engineer's Certificate of Substantial Completion.

This affidavit is made in connection with the final payment under the contract between **CITY OF MONTGOMERY** and **SPARTAN DIRECT SOLUTIONS, LLC** and with the knowledge that it will be relied upon in making such payment and that such payment would not be made except upon the truth of the matter contained in this affidavit.

DATE: _____

STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public, in and for the State of Texas, on this day personally appeared, _____ known to me to be the person whose name subscribed to the foregoing instrument, and acknowledge to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, A.D., 2019.

Notary Public Signature

(Notary Seal)

AFFIDAVIT
OF
BILLS PAID

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

Before me, a Notary Public in and for the State of Texas, on this day personally appeared _____ of **SPARTAN DIRECT SOLUTIONS, LLC** well known to me to be the person making this affidavit, who, being by me first duly sworn and deposed did say:

I am _____ of **SPARTAN DIRECT SOLUTIONS, LLC** and have personal knowledge of the matter stated in this affidavit. **SPARTAN DIRECT SOLUTIONS, LLC** has paid all of the labor and material costs in connection with construction for **CITY OF MONTGOMERY** known as JC Job No. W5841-0021-00 Construction of Buffalo Springs Drive Waterline Bridge Crossing, and as of this date, there are no unpaid bills for labor performed upon, or materials or supplies delivered to or used in connection with such job.

This affidavit is made in connection with the final payment under the contract between **CITY OF MONTGOMERY** and **SPARTAN DIRECT SOLUTIONS, LLC** and with the knowledge that it will be relied upon in making such payment and that such payment would not be made except upon the truth of the matter contained in this affidavit.

DATE: _____

STATE OF TEXAS §

COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public, in and for the State of Texas, on this day personally appeared, _____ known to me to be the person whose name subscribed to the foregoing instrument, and acknowledged to me that the executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, A.D., 2019.

Notary Public Signature

(Notary Seal)

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CERTIFICATE OF ACCEPTANCE

Spartan Direct Solutions, LLC
3400 Churchill Dr.
Nacogdoches, Tx 75965

Re: Construction of Buffalo Springs Drive Waterline Bridge Crossing
City of Montgomery
TIN No. 74-2063S92

Gentlemen:

This is to certify that City of Montgomery accepts the subject project on the basis of the Certificate of Substantial Completion issued by our engineers, Jones|Carter, and understands that a guarantee shall cover a period of one (1) year, beginning March 12, 2019.

By: _____

Mr. Jack Yates
City Administrator, City of Montgomery

Approved by City Council on: _____

K:\W5841\W5841-0021-00 Town Creek Bridge Waterline\3 Construction Phase\Contract Documents\FINAL LETTER City of Montgomery.doc

cc: Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Mike Muckleroy – City of Montgomery, Public Works Director
Mr. Larry Foerster – Darden, Fowler and Creighton, LLP, City Attorney

Montgomery City Council
AGENDA REPORT

Meeting Date: March 12, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Resolution adopting Policy, Proposed Investment Policy
Date Prepared: March 8, 2019	

Subject

This is in annually required action of the Council. These are the instructions to our investment bankers on how to invest in what collateral to acquire for the city's investments.

Description

Attached is the formal resolution adopting the policy and the policy document. Changes from the previous adoption is highlighted in yellow.

The policy appoints the investment officer's of the city you are Mark Burton and Katherine Turner of Municipal Accounts and Consulting, the city's bookkeeping company. Each of these investment officer's acts in a fiduciary role while making the investments for the city and confirming the collateralization (collateralization means the amount of collateral financial instruments that are reserved by the bank holding the city's investment for each dollar of the city's investments).

The Policy direct city investment funds can only be deposited based upon the investment policies of 1) preservation and safety of principal, 2) liquidity and 3) yield. Policy fund shall be placed pursuant to a Public Funds Depository Collateral Security Agreement. Only State Government Code authorized collateral is allowed to be collateral for these city deposits. The authorized collateral are; obligations of the United States or its agencies, direct obligations of the state of Texas or its agencies, full faith and credit obligations of the state of Texas, obligations of states agencies County cities and other political subdivision, certificates of deposits is by a state or national Bank domiciled in the state of Texas, guaranteed or insured by the FDIC instruments, (Section 6 G. of the Policy) .

Montgomery City Council
AGENDA REPORT

Section 7 of the policy is specific investment strategies for each of the major three funds of the city—being the General Fund, the Debt Service Fund and the Capital Projects Fund.

Recommendation

Motion to adopt the Resolution adopting the City Investment Policy.

Approved By

City Administrator

Jack Yates

Date: March 8, 2019

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS AFFIRMING ITS ANNUAL REVIEW OF THE POLICY FOR INVESTMENT OF MUNICIPAL FUNDS AND THE INVESTMENT STRATEGIES CONTAINED THEREIN HAS BEEN CONDUCTED AS REQUIRED BY SECTION 2256.005(e) OF THE TEXAS GOVERNMENT CODE.

WHEREAS, Chapter 226 of the Texas Government Code, commonly known as the Public Funds Investment Act (“Act”), requires the City Council of the City of Montgomery (“City”) to adopt a written policy governing the investment of its funds and funds under its control; and

WHEREAS, the Act requires the City to adopt written investment strategies (“Strategies”) for each fund group or group of funds under its control; and

WHEREAS, the City adopted a written investment policy (“Policy”) on October 25, 2005 that complies with the requirements of the Act; and

WHEREAS, the City’s Policy includes investment Strategies for each fund or group of funds under the City’s control; and

WHEREAS, the Act requires the City to review the Policy and Strategies on at least an annual basis and affirm through a Resolution that such review has occurred; and

WHEREAS, any changes to the Policy of the Strategies are required by the Act to be included in this Resolution.

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

Section 1. The City Council hereby affirms that it has reviewed the Policy and the Strategies attached as Exhibit “A”;

Section 2. The List of Authorized Brokers is attached as Exhibit “B”; and

Section 3. The Resolution shall take effect immediately from and after its adoption.

PASSED AND ADOPTED by the City Council of the City of Montgomery, Texas on this the 12th day of March, 2019.

APPROVED:

By: _____
Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

EXHIBIT "A"

**AMENDED ORDER ESTABLISHING POLICY FOR
INVESTMENT OF MUNICIPAL FUNDS
AND APPOINTING INVESTMENT OFFICER**

WHEREAS, the City of Montgomery, Texas (the "City") is a body politic and a type A general law municipality of the state of Texas; and

WHEREAS, Chapter 2256, Texas Government Code (sometimes referred to herein as the "Public Funds Investment Act"), requires that the governing body of the City adopt rules, regulations and policies governing the investment of Municipal funds and designate one or more of its officers or employees to be responsible for the investment of such funds;

NOW, THEREFORE, IT IS ORDERED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, THAT the policies, procedures and provisions set forth herein be and are hereby ADOPTED, and that any order, and every amendment thereto, heretofore adopted by the City Council establishing policies for the investment of City funds and appointing an investment officer shall be and are hereby revoked and superseded effective as of March 12,2019 the effective date of this Order.

Section 1. Purpose. The purpose of this Order Establishing Policy for Investment of Municipal Funds and Appointing Investment Officer (the "Investment Policy") is to adopt rules and regulations which set forth the City's policies with regard to the investment and security of City funds or funds under the City's control. It is further the purpose of this Investment Policy to ensure that purchases and sales of City investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved, and to provide for the periodic review of City investments to evaluate investment performance and security, all as required by applicable law.

Section 2. Appointment of Investment Officer; Standard of Care. Mr. Mark M. Burton and Katherine Turner of Municipal Accounts and Consulting, L.P., the City's Bookkeeper, shall be and is hereby individually designated the Investment Officer of the City, responsible for the supervision of investment of City funds pursuant to this Investment Policy. In the administration of his or her duties hereunder, the City's Investment Officer shall exercise the judgment and care, under prevailing circumstances, that a person of prudence, discretion and intelligence would exercise in the management of his or her own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived; however, the City Council of the City shall retain ultimate responsibility as fiduciaries of the City's assets. The City Council, Tax Assessor-Collector, Financial Advisor and other consultants shall be authorized to assist the Investment Officer in the carrying out of the duties of Investment Officer.

Section 3. Appointment of Investment Officer and Tax Assessor-Collector for Investment of City Funds. The City Council hereby designates the City's Investment Officer as

the authorized representative of the City to (a) invest and reinvest the funds of the City; (b) withdraw City funds from appropriate accounts of the City for the investment of same in accordance with the terms of this Investment Policy; and (c) arrange for adequate security for uninsured deposits or funds of the City pursuant to and in compliance with a Public Funds Depositor Collateral Security Agreement which shall be substantially in the form attached hereto as Exhibit "B," and to execute said Agreement(s) and any documentation required in connection therewith on behalf of the City. To the extent that the City's Tax Assessor- Collector is required to perform any of the functions set forth in (a), (b) or (c) above, the Tax Assessor-Collector shall do so in accordance with the provisions of the Public Funds Investment Act and this Investment Policy, and under the supervision of and in consultation with the City's Investment Officer.

Section 4. Authority and Duties of Investment Officer. The following rules shall apply to the City's Investment Officer:

- A. The City Council hereby instructs the Investment Officer for the City to maintain the investments of the City in a manner consistent with the rules and regulations set forth in this Investment Policy and the Public Funds Investment Act, as amended.
- B. No persons, other than those designated in Section 3 above, may deposit, invest, transfer, withdraw or otherwise manage City funds without express written authority of the City Council.
- C. The Investment Officer for the City shall invest and reinvest City funds only in those investments authorized under this Investment Policy or by the City Council, and only in the name of and solely for the account of "City of Montgomery, Texas". The Investment Officer for the City shall be authorized to wire transfer funds of the City only (1) for the purchase of investments solely in the name of "City of Montgomery, Texas", (2) for the transfer of all or any portion of the principal of or interest earnings or profits or gains on any investment of the City to one or more previously authorized and established accounts of "City of Montgomery, Texas", (3) for the transfer of City funds to any paying agent of the City for the payment of principal and semiannual interest payments on any outstanding bonds of the City and for the payment of paying agent fees relative to same, or (4) for other purposes, such as the payment of City bills, pursuant to a resolution or other express written instructions of the City Council.
- D. The Investment Officer for the City shall, not later than the first anniversary of the date the Investment Officer takes office or assumes such duties, attend a training session of at least should this not be 10 hours of instruction relating to the Investment Officer's responsibilities under the Public Funds Investment Act, as amended, from an independent source approved by the City Council and thereafter shall attend at least ten hours within each two year period after the first year. Such investment training must include education in investment controls, security risks, diversification of investment portfolio, strategy risks, market risks, and compliance with the provisions of the Public Funds Investment Act, as amended.
- E. Not less frequently than each fiscal quarter, the City's Investment Officer shall prepare and submit to the City Council a written report of investment transactions for all invested funds of the City for the preceding reporting period. Such report must (I)

describe in detail the investment position of the City on the date of the report; (2) be prepared by the Investment Officer for the City; (3) be signed by the Investment Officer of the City; (4) contain a summary statement, prepared in compliance with generally accepted accounting principles, of each pooled fund group, if any has been created by the City, that states the beginning market value for the reporting period, additions and changes to the market value during the period, and ending market value for the period, and fully accrued interest for the reporting period; (5) state the book value and market value of each separately invested asset of the City at the beginning and at the end of the reporting period by the type of asset and fund type invested; (6) state the maturity date of each separately invested asset that has a maturity date; 7) state the account or fund or pooled group fund, if the City has any, for which each individual investment was acquired; and (8) state the compliance of the City's investment portfolio as it relates to the investment strategy for each account of the City as set forth in this Investment Policy and relevant provisions of the Public Funds Investment Act, as amended. Such report must be presented to the City Council within a reasonable period of time after the end of each fiscal quarter. If the City invests in other than (i) money market mutual funds, (ii) investment pools or (iii) accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, all of the type authorized under Section 6 of this Investment Policy, the reports prepared under this Section 4.E. shall be formally reviewed at least annually by an independent auditor, and the result of such review shall be reported to the City Council by that auditor.

- F. In the event City funds are invested or reinvested in Certificates of Deposit, the Bookkeeper or Tax Assessor-Collector, as applicable, shall solicit bids from at least two (2) bidders, either orally, in writing, electronically or in any combination of those methods, for each such investment.
- G. All purchases of investments, except investments in investment pools or in mutual funds, shall be made on a delivery versus payment basis.
- H. Not less frequently than each fiscal quarter, and as close as practicable to the end of such reporting period, the City's Investment Officer shall determine the market value of each City investment. Such market values shall be included in the written reports submitted to the City Council pursuant to Section 4.E hereinabove. The following methods shall be used:
 - (1) Certificates of deposit shall be valued at their face value plus any accrued but unpaid interest.
 - (2) Shares in money market mutual funds and investment pools, if any, shall be valued at par plus any accrued but unpaid interest.
 - (3) Other investment securities may be valued in any of the following ways:
 - (a) The lower of two bids for such security obtained from qualified securities brokers/dealers with whom the City may engage in investment transactions;

- (b) The average of the bid and asked prices for such security as published in The Wall Street Journal or The New York Times;
- (c) The bid price for such security published by any nationally recognized security pricing service; or
- (d) The market value quoted by the seller of the security.

I. A written copy of the City's Investment Policy must be presented to any person offering to engage in an investment transaction with the City and to any investment management firm under contract with the City for the investment and management of its funds. The "qualified representative" of the business organization offering to engage in an investment transaction with the City or an investment management firm shall execute a written instrument in a form acceptable to the City substantially to the effect that the business organization or firm has received and reviewed the Investment Policy of the City and acknowledges that such business organization or firm has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the City and such organization or firm that are not authorized by the City's Investment Policy, except to the extent that such authorization is dependent on an analysis of the makeup of the City's entire investment portfolio or requires an interpretation of subjective investment standards. The City's Investment Officer may not acquire or otherwise obtain any authorized investment described in Section 6 hereof from a person who has not delivered to the City the written statement acknowledging receipt of this Investment Policy in a form substantially similar to that attached hereto as Exhibit "A" (the "Certificate of Compliance"). For purposes of this Section 4.1., the "qualified representative" of a business organization offering to engage in an investment transaction with the City means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

- (1) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;
 - (2) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;
- or
- (3) for an investment pool, the person authorized to sign the written instrument on behalf of the investment pool by the elected official or board with authority to administer the activities of the investment pool.

The "qualified representative" of an investment management firm under contract with the City for the investment and management of its public funds is a person who is an officer or principal of such firm.

J. The Investment Officer for the City shall disclose in writing to the City Council any (i) "personal business relationship" that they may have with a business organization offering to engage in an investment transaction with the City, or (ii) any relationship within the second degree by affinity or consanguinity, as determined by Chapter 573, Texas Government Code, as amended, to any individual seeking to sell an investment to the City. Any written disclosure statement filed with the City Council by the Investment Officer pursuant to this section must also be filed with the Texas Ethics Commission. For purposes of this Section 4.J., the Investment Officer has a "personal business relationship" with a business organization if:

- (1) the Investment Officer owns ten percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
- (2) funds received by the Investment Officer from the business organization exceed ten percent of the Investment Officer's gross income for the previous year; or
- (3) the Investment Officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for their personal account.

K. In conjunction with the City's annual financial audit, a compliance audit of management controls on investments and adherence to this Investment Policy must be performed. In connection with said compliance audit, the City Council shall review on an annual basis this Investment Policy and its investment strategies. In connection with said annual review, the City Council shall adopt a written resolution stating that it has reviewed this Investment Policy and the investment strategies set forth herein, and shall indicate in said resolution either the continuance of this Investment Policy without amendment or the changes made to the Investment Policy and/or the investment strategies herein.

Section 5. General Investment Principles and Objectives. All investments of City funds or funds under the City's control shall be made in accordance with the following general rules, regulations and policies:

A. Any moneys in any fund of the City or in any fund established by the City Council in connection with the authorization of the City's bonds, including, but not limited to, proceeds from the sale of such bonds, which funds are not required for the payment of obligations due or to become due immediately, shall be invested and reinvested, from time to time, only in the authorized investments specified in Section 6 hereunder; provided, however, that all such investments shall be secured in the manner provided for the security of the funds of municipalities of the State of Texas (The Public Funds Collateral Act, Chapter 2257, Texas Government Code, as amended) or in such other manner as may be authorized by law from time to time and otherwise suitable for the City's needs.

- B. The policy of the City is to invest City funds only in instruments which further the following investment objectives of the City stated in order of importance: (1) preservation and safety of principal; (2) liquidity; and (3) yield. The City will continuously attempt to diversify its portfolio to reduce risks. The type, conditions and maturity date of City investments shall be consistent with the cash flow needs and operating requirements of the City, as determined from time to time by the City Council, and consistent with the investment strategy for each City account as set forth in Section 7 hereunder; provided, however, that in no event shall the maximum allowable stated maturity of any individual investment owned by the City exceed two (2) years, unless otherwise specifically set forth in this Investment Policy.
- C. If invested in certificates of deposits, the City's funds shall be secured, to the extent that such funds are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, by the pledge to the City of certain types of securities, as determined in the sole discretion of the City, which under the laws of the State of Texas may be used to secure the deposits of municipalities, pursuant to and in compliance with a Public Funds Depositor Collateral Security Agreement which shall be substantially in the form attached hereto as Exhibit "B", the terms and conditions of which are incorporated herein by reference (the "Public Funds Depositor Collateral Security Agreement").
- D. Securities pledged to the City shall be pledged pursuant to and in compliance with a Public Funds Depositor Collateral Security Agreement to be entered into by and between the City and the institution(s) pledging such securities. Securities pledged to the City shall either be deposited and held in safekeeping at the trust or safekeeping department of a commercial banking institution located in the State of Texas not affiliated with the pledging institution(s) or a federal home loan bank, or shall be held in a restricted securities account, joint safekeeping account or other similar account in a branch of the Federal Reserve Bank pursuant to any and all applicable regulations, operating circulars, bulletins and policies of the Federal Reserve Bank, including the terms and conditions of any applicable forms or agreements, as may exist now or hereafter be enacted, promulgated or issued by the Federal Reserve Bank. The City's Investment Officer and Tax Assessor-Collector shall, within the limits of business practicality and consistent with the Federal Deposit Insurance Corporation Statement of Policy dated March 23, 1993, (or any subsequent applicable Statement of Policy issued by the FDIC) relative to the securing of public funds, ensure that the City's uninsured funds are at all times secured as required by the Public Funds Collateral Act (Chapter 2257, Texas Government Code, as amended) and in the manner set forth in the Public Funds Depositor Collateral Security Agreement. The City's Investment Officer and Tax Assessor-Collector are hereby authorized to execute Public Funds Depositor Collateral Security Agreements and any agreements, documents or forms required by the Federal Reserve Bank on behalf of the City, as and when required, and to approve the substitution of securities pledged to the City as collateral pursuant to and in the manner set forth in any Public Funds Depositor Collateral Security Agreement entered into by the City.

- E. The City Council recognizes that, within the framework of the above rules, decisions must be made concerning the type and duration of each investment transaction, and that such decisions are best made by the person responsible for implementing the transaction, based upon the facts and circumstances prevailing at the time. As a guide to making such decisions, it is hereby declared the policy of the City Council that priority should be given to proper security of the City's funds over maximizing the yield on investments. Furthermore, in cases where the rate of return on an investment security offered by competing banking institutions are substantially equivalent, the City's Investment Officer shall give preference to those investments and investment institutions offering the greatest degree of administrative convenience and proximity, flexibility of investment arrangements and/or similar intangible benefits and community goodwill.
- F. Except as herein provided, nothing herein shall be deemed or construed to authorize the withdrawal, expenditure or appropriation of funds of the City except by check or draft signed by three (3) members of the City Council, or as otherwise provided by applicable statutes or the resolutions, rules, regulations, policies, orders or proceedings of the City Council. Furthermore, the City Council shall retain sole responsibility for establishing and implementing, from time to time, this Investment Policy, and all investment transactions to be undertaken by the City's Investment Officer pursuant to the Investment Policy shall be subject to the further or more specific directions, instructions, orders, resolutions or actions of the City Council.

Section 6. Authorized Investments. The following categories of investment are authorized for investment of City funds:

- A. Obligations, including letters of credit, of the United States or its agencies and instrumentalities;
- B. Direct obligations of the State of Texas or its agencies and instrumentalities;
- C. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas, or the United States or obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States, Issued, assumed or guaranteed by the State of Israel or any of their respective agencies and instrumentalities
- D. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;
- E. Certificates of deposit issued by a state or national bank domiciled in the State of Texas, a savings bank domiciled in the State of Texas, or a state or federal credit union domiciled in the State of Texas that are:

- (1) Guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;
 - (2) Secured by obligations of the type described in Section 2256.010(2), Texas Government Code, as amended, or
 - (3) secured in any other manner and amount provided by law for deposits of the City pursuant to a Public Funds Depositor Collateral Security Agreement approved and executed by the City;
- F. Commercial paper with a stated maturity of 270 days or fewer from the date of issuance which meets the requirements set forth in Section 2256.013, Texas Government Code, as amended;
- G. No-load money market mutual funds that:
- (1) are registered with and regulated by the Securities and Exchange Commission;
 - (2) provide the City with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);
 - (3) have a dollar-weighted average stated maturity of 90 days or fewer; and
 - (4) include in their investment objectives the maintenance of a stable net asset value of \$1.00 for each share;
- H. Investment pools which meet the requirements set forth in Section and Section 2256.019, Texas Government Code, as amended; and
- I. Fully collateralized repurchase agreements meeting the requirements set forth in Section 2256.011, Texas Government Code, as amended, provided that the maximum maturity of same shall not exceed seven (7) days.

Section 7. Investment Strategies. City investments shall be made upon the evaluation of the specific investment objectives and strategies of each account of the City, with the primary objective for the selection of any City investment being the understanding of the suitability of such investment to the financial requirements of the City. The City's investment strategy for each of its accounts is as follows:

- A. Operating/General Account: The operating/general account is used for all operations and maintenance needs of the City and funds therein shall be invested to meet the operating and cash flow requirements of the City as determined by the City Council. The highest priorities for this account are the liquidity and marketability of an investment if the need arises to liquidate the investment before its maturity. Of equal importance is the preservation and safety of the principal of investments in the operating account. When these priorities are met, the yield on investments held in the operating/general account will next be considered.

- B. **Debt Service/Bond Fund Account;** The City's debt service/bond fund account is used to pay the City's debt service on its outstanding bonds. The highest priority for this account is the preservation and safety of principal. Since the City knows the amount of its debt service requirements and when it becomes due, investments for the debt service/bond fund account should be structured to coincide with the amount and timing of the debt service requirements. When the preservation and safety of principal and liquidity considerations for debt service purposes are assured, including the marketability of debt service/bond fund account investments in the event the need arises to liquidate an investment before its maturity, the yield on debt service/bond fund account investments should be considered. Since the amount of City funds in the debt service/bond fund account can be significant, diversification of the debt service/bond fund account investment portfolio may be necessary. The City may easily liquidate investments in an investment pool and therefore such investments may be appropriate in combination with longer term investments in the debt service/bond fund account.
- C. **Capital Projects/Construction Fund Account:** The capital projects/construction fund account is used to pay for capital improvements of the City. The highest priority for this account is the preservation and safety of principal. In the event that funds held in the capital projects/construction fund account are for particular improvement projects that have been previously identified by the City Council, the City Council will have an idea of the approximate time when disbursements will be required to be made from this account. In this situation, investments in the capital projects/construction fund account should be structured so that they mature or can be liquidated on or about the dates that disbursements are expected to be made. Once the safety of principal and liquidity and marketability of capital projects/construction fund account investments which are to match certain disbursement dates are assured, the yield on such investments may be considered. Since City funds in the capital projects/construction fund account may not be needed for a year or more, longer term instruments should be considered to increase yield. However, if funds available in the City's capital projects/construction fund account are surplus construction funds from prior bond issues or interest earnings on such funds and are not earmarked for specific improvement projects, but rather viewed by the City Council as an emergency reserve fund for major repairs or rehabilitation projects, investments in the capital projects/construction fund account, at least to the extent that they are for emergency reserve purposes, should be kept in relatively short term investments that can be easily marketed and liquidated if necessary, such as investment pools. Alternatively, bond proceeds that may be deposited in the City's capital projects/construction fund account for reimbursement to a developer and which may be in the capital projects/construction fund account for only one or two days, should be kept in the most liquid investment available. Investment diversification for large amounts of City funds that may be deposited into the capital projects/construction fund account for only one or two days may be achieved through the use of an investment pool. Since investment pools are short term in nature, they would normally be used for City funds in this account only if the City knows that it will be dispersing funds in a relative short period of time. However, on some occasions the yield on investment pools is higher than on longer

term investments, so their use may be optimal for funds in the capital projects/construction fund account.

Section 8. Miscellaneous.

- A. In the event of any conflict or inconsistency between the terms of this Investment Policy and applicable requirements of law, such conflict or inconsistency will be resolved in favor of the more restrictive of this Investment Policy or the applicable requirements of law. In the event of any ambiguity or uncertainty as to the intent and application of any part, section/ paragraph or provision hereof, a written request for clarification or approval of a proposed action describing such circumstances shall be submitted to the City Council for a decision as to a proper course of action.
- B. Investments which are prohibited by Government Code chapter 2270 Prohibition on Investing Public Money in Certain Investments and SB 253 (85th Legislature Regular Session). That chapter deals primarily with entities conducting business with Sudan, Iran or Foreign Terrorist Organizations. Such "Listed Companies" are prohibited Investments. The Texas Comptroller will regularly update the list of Listed Companies. The Investment Officer will review the updated list when made available by the Comptroller and will follow the requirements of SB 253 with respect to any existing investments in Listed Companies.
- B. The rules, regulations and policies set forth herein shall be and remain in full force and effect unless and until amended, revised, rescinded or repealed by action of the City Council. The City Council specifically reserves the right to change, alter or amend any provision of this Investment Policy at any time.
- C. The provisions of this Investment Policy are severable, and if any provision or part of this Investment Policy or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Investment Policy and the application of such provision or part of this Investment Policy shall not be affected thereby.

The Mayor is authorized to execute and the Secretary to attest this Investment Policy on behalf of the City Council.

PASSED and ADOPTED this the 12 day of March, 2019.

CITY OF MONTGOMERY, TEXAS

By: _____
Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

EXHIBIT "B"

LIST OF AUTHORIZED BROKERS

ABC Bank	New First National Bank
Allegiance Bank	North Star Bank of Texas
Amegy Bank of Texas, N.A.	Omni Bank N.A.
BB & T	Pioneer Bank
Bank of America N.A.	Plains Capital Bank
Bank of New York- Mellon	Plains State Bank
Bank of Texas N.A.	Post Oak Bank
BBVA Compass Bank	Preferred Bank
Business Bank of Texas	Prosperity Bank
Cadence Bank	R Bank
Capital Bank of Texas	Regions Bank
Capital Markets Group	Southwest Securities
Capital One	Sovereign Bank
Central Bank	Spirit of Texas Bank
Chasewood Bank	State Bank of Texas
Citibank N.A.	State Street Bank & Trust Co.
Comerica Bank	Stifel Nicholas
Comerica Securities	Tex Star Investment Pool
Commercial State Bank	Texan Bank
Community Bank of Texas	Texas Capital Bank N.A.
Community Trust Bank	Texas Class
Coastal Securities	Texas Citizens Bank
First Bank of Texas	Texas Exchange Bank
First Citizens Bank	Texas First Bank
First Financial Bank, N.A.	Texas Gulf Bank
First National Bank of Texas	Texas Regional Bank
First State Bank of Central Texas	The Independent Bankers Bank
First Texas Bank	Texas Savings Bank
Frontier Bank of Texas	Texpool/Texpool Prime
Frost National Bank	The Bank of River Oaks
Green Bank	The Right Bank for Texas
Herring Bank	Third Coast Bank
Hometown Bank, N.A.	Trustmark National Bank
Icon Bank	United Bank of el Paso Del Norte
Independent Bank	United Texas Bank
Integrity Bank	Unity National Bank
International Bank of Commerce	U. S. Bank
Inter National Bank	Wells Fargo Bank, N.A.
JP Morgan Chase	Wells Fargo Brokerage Services, LLC
Legacy Texas Bank	Wells Fargo Trust
Lone Star Bank	Westbound Bank
Lone Star Investment Pool	West Star Bank
Metro Bank, N.A.	Whitney Bank
Moody National Bank	Woodforest National Bank

Notes: New Additions/Amendments

Montgomery City Council
AGENDA REPORT

Meeting Date: March 12, 2019	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: The Feasibility Study
Date Prepared: March 7, 2019	

Subject

This is to consider the Feasibility Study for The Woods of Town Creek 67.839 acre development in the City.

Description

Attached is the Engineer's feasibility study for The Woods of Town Creek. The 67.839 acre development proposed by Chris Cheatham. The land is located north of the intersection of SH 105 and Westway Drive approximately 44 acres fall within the city limits while the remainder is located in the City's current ETJ.

The proposed development is a residential community with public utilities, public streets, and public drainage consisting of approximately 200 – 220 single-family homes sit with lots 50 feet in width and 120 – feet deep. According to the City's future land use plan this property is planned to be high – density residential. The development is expected to be built in multiple phases over the next approximate five years.

Water –the city has existing daily average flow capacity of 598,000 gallons per day with a current use of 300,000 gallons per day. This is city has committed approximate 673 gallons per day or hundred and 13% of existing capacity through approval of already platted developments. This development capacity requirement is approximately 53,000 gallons per day. The City has approved the design of water plan improvements to increase the daily capacity 735,000 gallons per day. Therefore, the city is projected to have sufficient water capacity to meet the ultimate demand of the existing platted development of the City and the proposed development.

Sewer – The current capacity of sewage treatment plant is 400,000 gallons per day. City has to is approximate four 27,000 gallons per day for already approved platted developments. The development is expected to require 42,000 gallons per

day. Lift station number five is currently serve the tract the engineer is proposing the construction of a new lift station five which will serve the existing and new developments.

Drainage –an on-site storm sure will be to design and dedicated and accepted by the City. The proposed detention ponds will be private it will require maintenance and upkeep by a Property Owners Association. All drainage improvements must be designed per the City’s code of ordinances, including the floodplain regulations and Drainage Criteria Manual Standards.

Paving and traffic –the development is expected to generate approximately 2000 trips per day with 160 trips a three covering 220 trips at p.m. PR. Given these estimates we recommend the city require the developer to perform and submit a full traffic impact analysis showing the developer’s impact on the surrounding roadways, prior to approval of construction plans. Per the city’s major thoroughfare plan there is a proposed major thoroughfare that runs north and south across the tract. The developer has proposed two options for the laminate thoroughfare through the tract as shown in Appendix A of this report and in Appendix B. The City will need to work with the developer and TxDOT to assess the options.

Financial feasibility –In full buildout there will be approximately \$37 million of assessed value generating \$60,261 to debt service revenue and \$72,338 to maintenance/operation in the City’s General Fund. The developer is expected to pay impact fees and amounts of \$771,004 and \$68

Recommendation

Motion to accept the Feasibility Report as presented for The Woods of Town Creek development.

Approved By

City Administrator

Jack Yates

Date: March 7, 2019

**ANALYSIS OF FEASIBILITY FOR
THE CITY OF MONTGOMERY
TO PROVIDE WATER AND SANITARY SEWER SERVICE
TO A PROPOSED 67.839-ACRE DEVELOPMENT
“THE WOODS OF TOWN CREEK”**

March 2019



JONES | CARTER

Texas Board of Professional Engineers Registration No. F-439



1575 Sawdust Road, Suite 400
The Woodlands, Texas 77380
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

March 6, 2019

The Honorable Mayor and City Council
City of Montgomery
101 Old Plantersville Road
Montgomery, Texas 77356

Re: Proposed 67.839-Acre Single-Family Development Feasibility Study
The Woods of Town Creek (Dev. No. 1815)
City of Montgomery ETJ

Dear Mayor and Council:

On December 14, 2018, Stylecraft Builders, Inc. (the “Developer”) submitted an application for utility service of lands situated in the western portion of the City of Montgomery (the “City”). On January 8, 2019, the City Council authorized the preparation of a Utility and Economic Feasibility Study. We are pleased to present this analysis of the feasibility for the City to provide water and sanitary sewer service to the referenced 67.839-acre tract (the “Tract”). The purpose of the feasibility is to determine whether water system and sanitary sewer system capacity is available, to determine how the existing public utilities will need to be upgraded or extended to serve the Tract, to examine the development’s impact on drainage and traffic, and to offer clarity on the potential financial impact of the development.

General

This undeveloped Tract is located north of the intersection of SH-105 and Westway Drive. Approximately 44 acres fall within the City Limits, while the remainder is located within the City’s current Extraterritorial Jurisdiction (“ETJ”). The portion of the Tract located within the City’s ETJ will require annexation prior to receiving service. An exhibit displaying the Tract boundary is enclosed as Appendix A. The portion of the Tract within the City is currently zoned R-1, single-family residential, and is proposed to remain R-1. Upon annexation, the portion of the Tract located outside the current City limits will need to be initially zoned R-1.

Two potential options for the preliminary land plan are enclosed as Appendix B and indicate the Developer intends to construct a residential community with public utilities, public streets, and public drainage consisting of approximately 200-220 single-family homes situated on lots 50-feet in width. All lots are planned to be 120-feet deep. The development will require a variance from the minimum lot width requirement of 75 feet (Code of Ordinances Sec. 78-88c). It is important to note that according to the City’s Future Land Use Plan, the Tract is planned to be high-density residential, which means lots less than the 9,000 square foot requirement. The Developer estimates the average home sale price to be approximately \$220,000 each. Construction and build out of the development is planned to occur in multiple phases over approximately 5 years. The estimates included in this feasibility are based on the



City of Montgomery
67.839-Acre Woods of Town Creek Feasibility
Page 2
March 6, 2019

anticipated land use provided by the Developer. The final land plan may affect the estimated costs and revenues associated with the development.

Water Production and Distribution

The City has three active water wells and two existing water plants with an average daily flow capacity of 598,000 gallons per day (“gpd”). The current ADF in the City is approximately 300,000 gpd. Inclusive of existing connections, ultimate future projected connections within current platted developments, and developments that are currently in design or feasibility, the City has committed approximately 673,000 gpd or 113% of existing ADF capacity. A current summary of Development Acreages & Service Demands is enclosed as Appendix C.

Based upon the information provided by the Developer, the Tract’s water capacity requirement is approximately 72,000 gpd (2,160,000 gallons per month). However, annual average flows for the City indicate that the Tract’s requirement will be below the amount requested by the Developer. The estimated water capacity requirement is 53,000 gpd (1,590,000 gallons per month) based upon the City’s historical usage.

The City has authorized the design of a water plant improvements project to increase the ADF capacity of the City’s water system to approximately 735,000 gpd. Upon completion of the proposed improvements and based on the projected ADF, including this Tract, the City is projected to have sufficient water production capacity to meet the ultimate demand of the existing platted development within the City but not all potential future development. As the projects shown in “Potential Future Development” sections of Appendix C develop, the City should be prepared to initiate planning for additional water production capacity.

The Tract will be served by an existing 12-inch public waterline which runs along the northern right-of-way (“ROW”) of SH 105, as shown in Appendix D. Based on the preliminary land plan, an extension of the existing public line will not be required to reach the Tract boundary.

The ultimate alignment of waterlines interior to the Tract will depend on the final land plan of the proposed development. These waterlines will need to be placed in public utility easements located within or along public right-of-way interior to the development and constructed according to all applicable City and TCEQ design criteria. The Developer will be responsible for all costs associated with easement acquisitions and recordation. We recommend the City require a 12-inch waterline be extended through the development and stubbed out to the northern boundary of the Tract in order to facilitate a future looped system to Lone Star Parkway.

The Developer is responsible for providing engineered plans and specifications for the water distribution system interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits. The Developer will need to contact the City for water taps to serve the lots within the Tract. The cost to tap the interior waterlines will be calculated by the City's Utility Operator in accordance with the City's Code of Ordinances.

Sanitary Sewer Collection and Treatment

The City's existing wastewater facilities consist of 14 public lift stations, four semi-public lift stations, and two wastewater treatment plants (one of which is currently decommissioned). The Stewart Creek wastewater treatment plant (TPDES Permit No. WQ0011521001) has a permitted capacity of 400,000 gpd. The current ADF at the Stewart Creek Wastewater Treatment Plant is approximately 149,000 gpd.

Inclusive of existing connections and platted developments which are in design or under construction, the City has committed approximately 427,000 gpd or 107% of existing permitted capacity. A current summary of Development Acreages & Service Demands is enclosed in Appendix C.

Based upon the information provided by the Developer, the Tract's sanitary sewer capacity requirement is approximately 60,000 gpd (1,800,000 gallons per month). Based upon the City's historical usage, the estimated sanitary sewer capacity requirement is 42,400 gpd (1,272,000 gallons per month).

The TCEQ requires the City to initiate design of a wastewater treatment capacity expansion when the ADF exceeds 75% of the City's 400,000 gpd permitted capacity for 3 consecutive months. The ADF for the City, including this Tract and other tracts under design/feasibility, is not expected to exceed 75% of the permitted capacity (300,000 gpd) until 2023. Additionally, the TCEQ requires the commencement of the construction phase of the expansion after 3 consecutive months of ADF exceeding 90% of the permitted capacity (360,000 gpd). This is not expected to occur within the next 5 years. As the projects shown in Appendix C achieve full development, the City should be prepared to initiate planning for additional treatment capacity.

We evaluated multiple options for providing sanitary sewer service to the Tract including strictly gravity sanitary sewer extensions, construction of a new lift station to serve the Tract only, and the relocation/enlargement of Lift Station No. 5 to serve the Tract and the surrounding area. We determined the most beneficial option is to relocate Lift Station No. 5 to allow the entirety of the Tract to be served by the lift station. The lift station is also proposed to be deepened and sized to serve the Tract, the existing flow to Lift Station No. 5, and a large portion of undeveloped property extending north to Lone Star Parkway and south to the railroad track on the south side of SH-105. This will allow the City to serve the area without the need for multiple additional sanitary sewer lift stations. The developer will be responsible for dedicating the necessary lift station site and easements to the City.

The Tract will be served by extending a gravity sanitary sewer line to the relocated Lift Station No. 5. Additionally, a gravity sanitary sewer extension will be required to convey the existing flow to its new location along with a reroute/extension of a sanitary sewer force main from the relocated lift station. A preliminary layout of the improvements can be found in Appendix D, and a construction cost estimate for the lift station relocation can be found in Appendix E. The alignment and cost of the improvements are subject to change based on the final land plan of the proposed development. The developer will be responsible for all costs associated with the improvements required to serve the Tract and all required easements.

The ultimate alignment of sanitary sewer lines interior to the Tract will depend on the final land plan of the development. The Developer will also be required to stub out a gravity sanitary sewer line at the northern boundary of the tract for future extension to neighboring properties. These sanitary sewer lines will need to be placed in public utility easements located along public ROW or placed within public ROW interior to the development and constructed per all applicable City and TCEQ design criteria. The Developer will be responsible for all costs associated with easement acquisitions and recordation.

The estimated cost for the lift station relocation, not including the sanitary sewer force main or gravity line extension, is \$791,000 including contingencies and engineering. The Tract's share of the proposed pumping capacity of the lift station is approximately 30%. It is also important to note that as part of the Sanitary Sewer Master Plan, Lift Station No. 5 was determined to require significant repairs and rehabilitation to improve its reliability and functionality. The cost of the identified repairs and improvements was approximately \$450,000 including contingencies and engineering. The City and Developer should consider entering into a development agreement to explore the sharing of the cost of the relocated lift station, along with the cost of upsizing certain public water and sanitary sewer lines within the development.

The Developer is responsible for providing engineered plans and specifications for the sanitary sewer conveyance system interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

Drainage

The onsite storm sewer system will be designated public and accepted by the City upon completion of the development. The proposed detention ponds will be private and will require maintenance and upkeep by a Property Owners Association or similar entity. All drainage and detention improvements must be designed per the City's Code of Ordinances requiring compliance with the City's floodplain regulations and all applicable Montgomery County Drainage Criteria Manual Standards. Failure to design and construct the drainage and detention facilities per Montgomery County criteria may jeopardize eligibility for acceptance by the City.

The Developer is responsible for providing engineered plans and specifications for the drainage and detention system interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits. The Developer will also be required to perform and submit a drainage study showing the development's impact on the drainage downstream of the Tract and on adjacent properties. The drainage study must be submitted to the City for review and approval prior to approval of construction plans.

The Tract is located adjacent to a major tributary of Town Creek with an upstream drainage area of approximately 500 acres of primarily undeveloped land. Due to the drainage issues downstream on Town Creek, it may be advantageous to consider regional or inline detention to not only mitigate the increased runoff from the Tract but improve upon the existing drainage issues downstream. The City and Developer may wish to partner to evaluate a regional detention solution.

Paving and Traffic

Based on the number of single-family lots proposed, we estimate the development will generate approximately 2,000 total trips per day, in and out combined, with 160 trips at AM peak hour traffic and 220 trips at PM peak hour traffic. Given these estimates, we recommend the City require the Developer to perform and submit a full traffic impact analysis showing the development's impact on the surrounding roadways. The traffic analysis must be submitted to the City for review and approval prior to approval of construction plans.

Per the City's Major Thoroughfare Plan, there is a proposed major thoroughfare that runs north/south across the Tract as shown on Appendix A. The thoroughfare would be required to have a 100 foot wide right-of-way. However, only 2 lanes will need to be constructed at this time, leaving room for expansion in the future. The developer has proposed 2 options for the alignment of the thoroughfare through the Tract as shown on Appendix A and on the preliminary land plan options included as Appendix B. Though either route would be acceptable, each has particular advantages and disadvantages.

Option 1, corresponding with the Developer's 205-lot land plan, involves an extension through the Tract along its eastern boundary. This would involve replacing Westway Drive at its intersection with SH 105. While Option 1 would impact fewer property owners, it also conflicts with TxDOT's plan to install a raised median at the Westway Drive intersection. According to TxDOT, the project is schedule to let for construction in the next 5-10 years. Furthermore, this option would have two major, ultimately signalized, intersections located within 1,000 feet of each other.

Option 2, corresponding with the Developer's 212-lot land plan, proposes the thoroughfare be shifted to the east with only a portion going through the Tract. This would align its intersection with SH-105 at the

western driveway of the Lone Star Cowboy Church. While Option 2 would avoid the proposed raised median and would allow more distance between intersections, it would affect a greater number of property owners which are not all planning to develop at this time. Additionally, the major thoroughfare is not proposed to be constructed outside of the boundaries of the Tract at this time. In the interim period until the roadway is completed, all traffic would route through Westway Drive, which would require improvement. Furthermore, since TxDOT is proposing a future raised median, Westway would be a right turn in and right turn out only street.

The City will need to work with the Developer and TxDOT to assess the potential for accommodating the new thoroughfare within the proposed land plan. Additionally, the Developer will need to obtain TxDOT's approval for the connection to SH-105 prior to approval of construction plans by the City.

Any paving improvements must be designed per the City's design criteria. The Developer is responsible for providing engineered plans and specifications for the paving design to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

Development Costs

The Developer will need to engineer and construct on-site and off-site water, sanitary sewer, paving, drainage, and detention facilities to serve the proposed Tract.

The Developer will also need to pay water and wastewater impact fees to the City. The impact fees will be assessed at the time of recordation of the final plat and collected prior to receiving water and sanitary sewer taps. Enclosed as Appendix F is Table 1.1 of the 2017 Revisions to the Montgomery Impact Fee Analysis Report. The estimated ADF provided by the Developer requires the equivalent use of two-hundred and twelve 5/8-inch water meters per the table.

An escrow agreement has been entered into between the Developer and the City and funds have been deposited to cover the cost of this feasibility study and some coordination with the Developer. Due to the size and potential phasing of the full development, providing a definitive estimate of the total escrow amount required is difficult. If the development was to all be constructed in one phase, with a construction period of performance of approximately 8 months, an estimated additional \$92,000 will be required to cover the City's preliminary estimated expenses for the development, which include administrative costs, legal fees, plan reviews, developer and construction coordination, and construction inspection. We recommend that the fees be recalculated and phased after a decision is made on the phasing of the project. The City will require that there be a positive balance in the account to continue work on the development until a phasing decision is made.

Below is a summary of the estimated cost associated with the development:



City of Montgomery
 67.839-Acre Woods of Town Creek Feasibility
 Page 7
 March 6, 2019

Estimated Costs:

• Lift Station No. 5 Relocation	\$ 791,000
• Escrow Account	\$ 92,000
• Water Impact Fee	\$ 238,712
• Wastewater Impact Fee	<u>\$ 532,756</u>
Subtotal	<u>\$1,654,468</u>

The estimate is based on the projected water and wastewater usage provided by the developer. The actual costs will depend on the final land plan, final design, and actual construction costs. The estimated cost for the Lift Station No. 5 relocation is the total project cost and does not assume the terms of any cost sharing agreement entered into with the City.

Financial Feasibility

The Developer projects the home sales prices to be approximately \$220,000. The Developer estimates the total assessed value (A.V.) at full development to be approximately \$37,000,000. Based on the estimated total A.V. and assuming 95% collection, the development would generate approximately \$68,261.30 per year in debt service revenue based on the City’s \$0.1942/\$100 valuation debt service tax rate, and approximately \$72,338.70 per year in operations and maintenance revenue based on the City’s \$0.2058/\$100 valuation Operations & Maintenance (O&M) tax rate.

This report is our engineering evaluation of the funds required to complete the anticipated future capital improvements for this Tract and of the potential increase in tax revenue to the City. This report is not intended to be used for issuance of municipal financial products or the issuance of municipal securities. The City’s Financial Advisor(s) can address potential recommendations related to the issuance of municipal financial products or issuance of municipal securities.

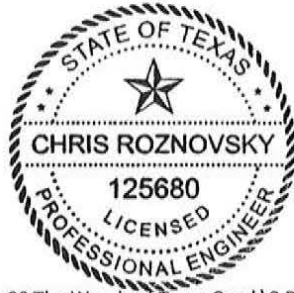
Summary

- The 67.839-acre tract lies partially inside of the current City limits and partially within the City’s ETJ. Annexation will be required to provide service to the Tract.
- The Tract is comprised of approximately two-hundred and twelve homes with an estimated sales price per home of \$220,000.
- Extension of public utilities and relocation of Lift Station No. 5 are required to serve the Tract.
- The City currently has water production capacity and wastewater treatment capacity to serve the Tract, but needs to continue to aggressively plan for expansion of City facilities to meet projected future demands.

City of Montgomery
67.839-Acre Woods of Town Creek Feasibility
Page 8
March 6, 2019

- The additional escrow amount to be deposited by the Developer will be determined at a later time once a decision on phasing of the development is reached.
- The Developer will be responsible for the cost of the public and private utility extensions necessary to serve the Tract.
- The Developer will need to pay water and wastewater system impact fees in the amounts of \$238,712 and \$532,756, respectively, for a total estimated amount of \$771,468.
- The development results in an increase in assessed valuation of \$37,000,000 and additional tax revenue to the City of approximately \$140,600 annually.

Thank you for the opportunity to complete this feasibility and offer our recommendations. Please contact Ms. Katherine Vu or myself, should you have any questions.



Sincerely,

A handwritten signature in blue ink that reads "Chris Roznovsky".

Chris Roznovsky, PE

CVR\ab

K:\W5841\W5841-1815-00 The Woods of Town Creek\2 Design Phase\Reports\The Woods of Town Creek Feasibility Report.doc

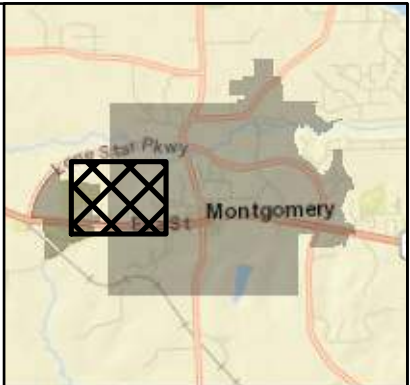
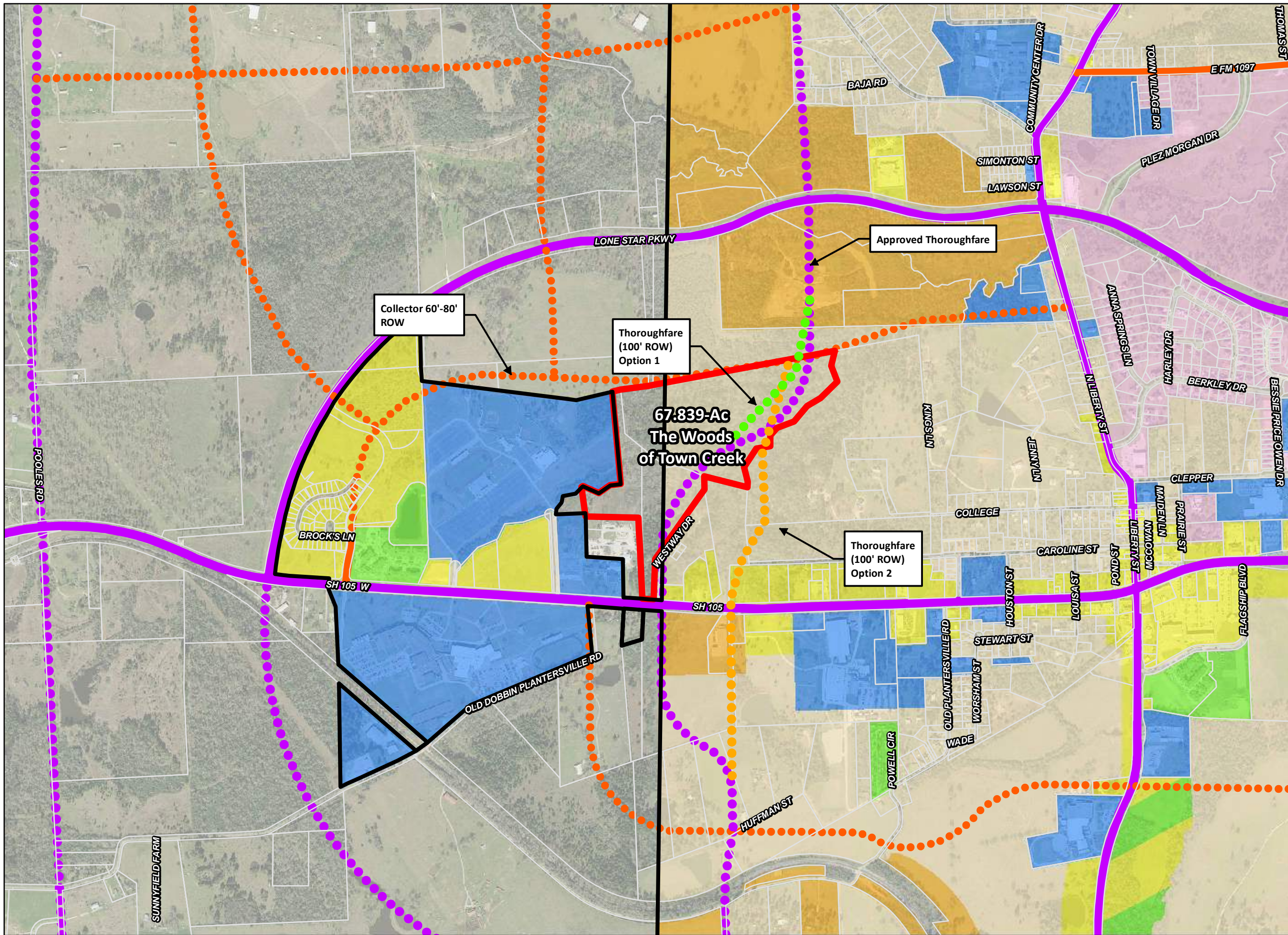
Attachments

Appendix A-F

cc: The Planning and Zoning Commission – City of Montgomery
Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP
Mr. Jonathan White, PE – L² Engineering
Mr. Stephen Grove – Developer
Mr. Chris Cheatham - Owner

Appendix A
Proposed 67.839-Acre The Woods of Town Creek Development
Boundary, Zoning, & Thoroughfare Map





VICINITY MAP
Scale: 1 inch equals 2 miles

LEGEND

- City of Montgomery City Limits
- 67.839-Ac Tract Boundary
- MCAD Parcel
- Existing Thoroughfare
- Proposed Thoroughfare*
- Existing Collector
- Proposed Collector*
- Thoroughfare Option 1
- Thoroughfare Option 2

Zoning

- Commercial
- Industrial
- Institutional
- Multi-Family
- Planned Development
- Residential

**67.839-AC
WOODS OF
TOWN CREEK TRACT**
CITY OF MONTGOMERY
MONTGOMERY COUNTY, TEXAS

1 inch equals 1,000 feet

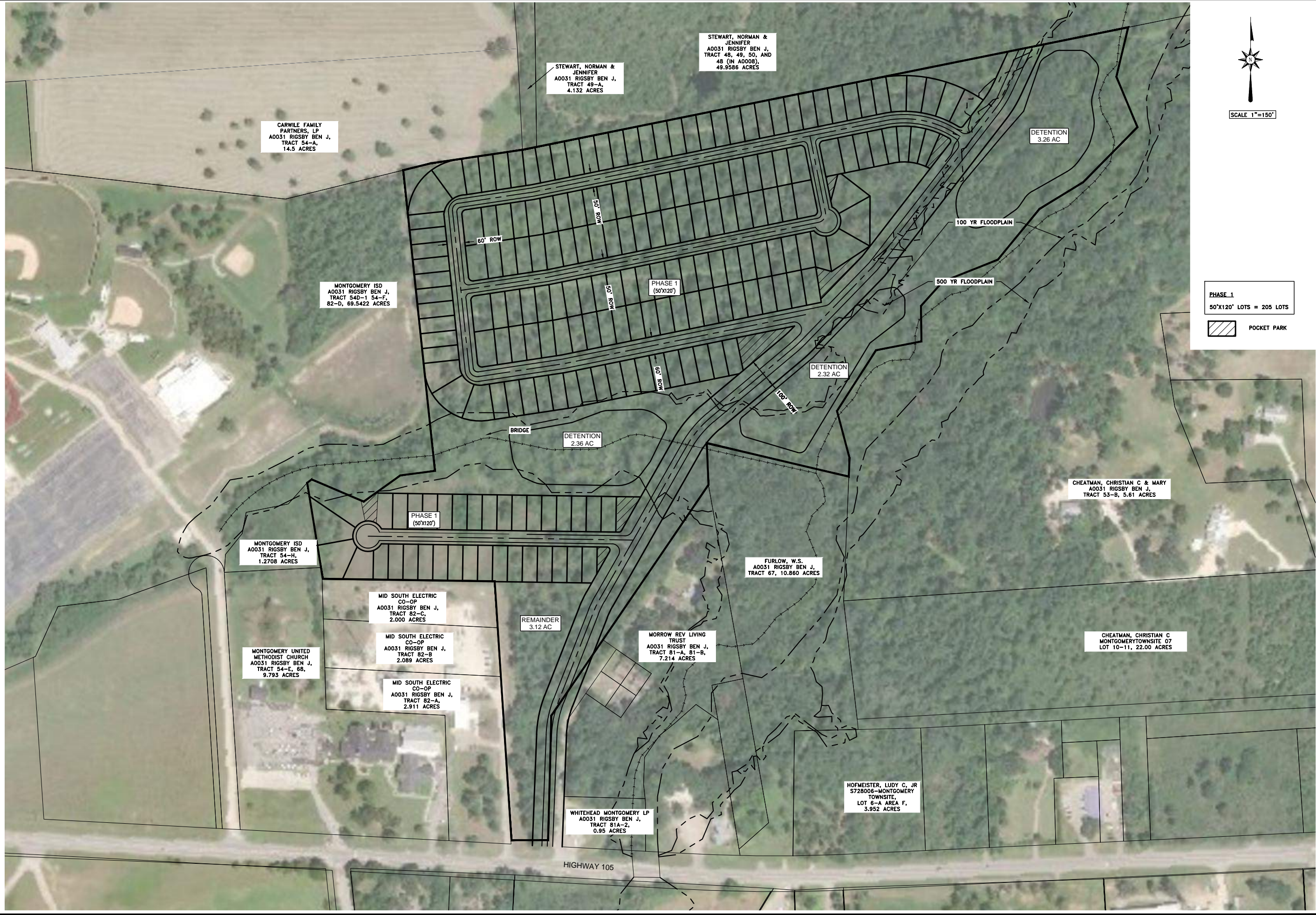
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Appendix B
Proposed 67.839-Acre The Woods of Town Creek Development
Preliminary Site Plans



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PHASE 1
50'X120' LOTS = 205 LOTS
POCKET PARK

L SQUARED ENGINEERING
MUNICIPAL COMMERCIAL RESIDENTIAL
WWW.L2ENGINEERING.COM
REGISTRATION NUMBER 1155
21123 EVA STREET #200
MONTGOMERY, TEXAS 77306
OFFICE: 508-647-9420

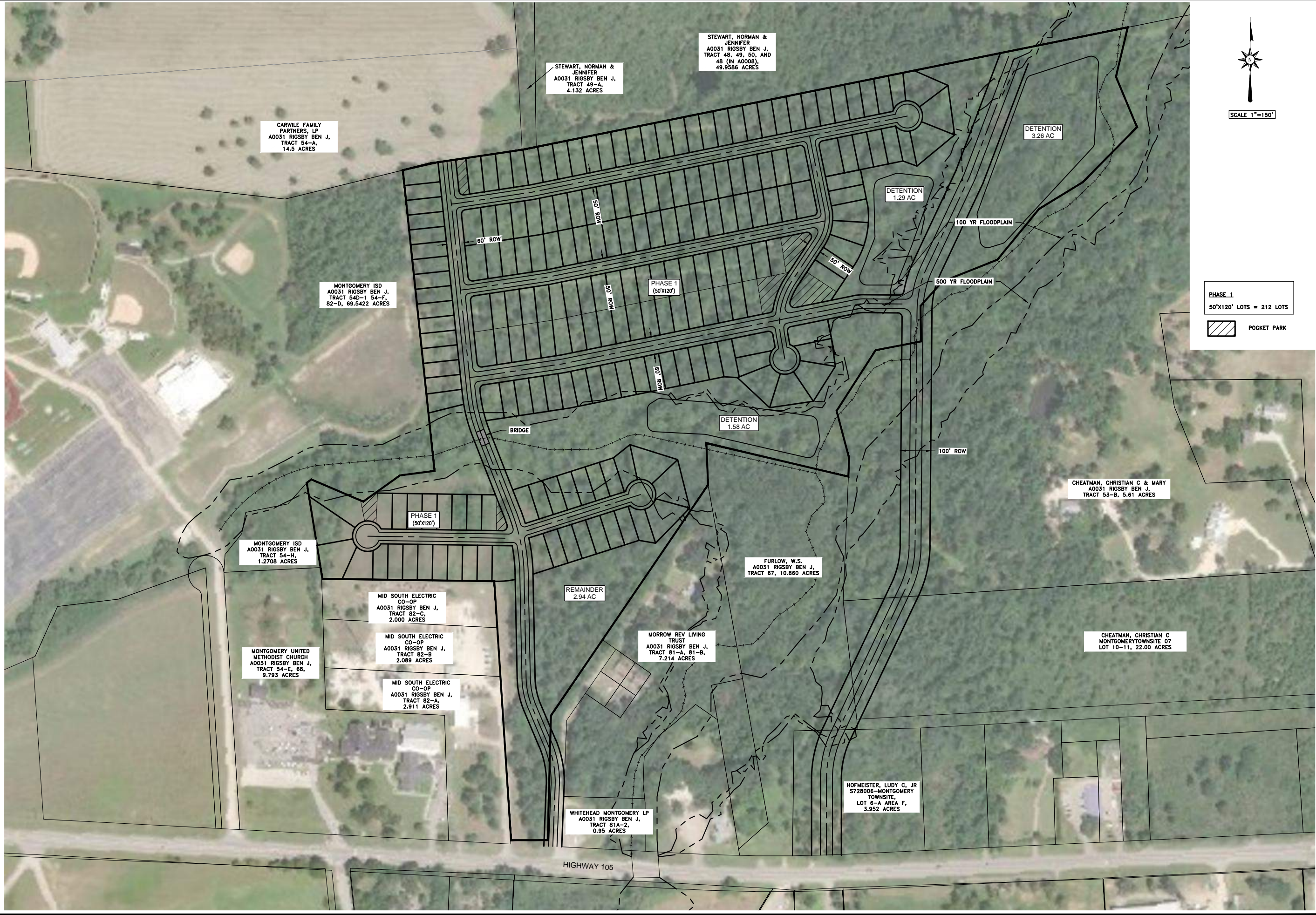
THE WOODS OF TOWN CREEK

PRELIMINARY LANDPLAN OPTION 1

DRAWING INFORMATION			
PROJECT	10487	TDLR	**
DRAWN	GLH	CHECKED	JW
SCALE	SHEET		01
1" = 150' (24x36) 1" = 300' (11x17)			

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OR
JONATHAN WHITE, PE #127058
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S:\ENGINEERING PROJECTS\10487 - THE WOODS OF TOWN CREEK - 67 ACRES\03 CAD\DESIGN SET\X-BASE_10443 OP-2.DWG Dec. 17, 2018-10:18 AM



SCALE 1"=150'

PHASE 1
50'x120' LOTS = 212 LOTS



L SQUARED ENGINEERING
MUNICIPAL COMMERCIAL RESIDENTIAL
WWW.L2ENGINEERING.COM
REGISTRATION NUMBER 1253
21123 EVA STREET #200
MONTGOMERY, TEXAS 77156
OFFICE: 508-647-9400

THE WOODS OF TOWN CREEK

PRELIMINARY LANDPLAN

DRAWING INFORMATION			
PROJECT	10487	TDLR	**
DRAWN	GLH	CHECKED	JW
SCALE	SHEET		
1" = 150' (24x36)	01		
1" = 300' (11x17)			

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Appendix C

Proposed 67.839-Acre The Woods of Town Creek Development Updated Development Acreages & Service Demands

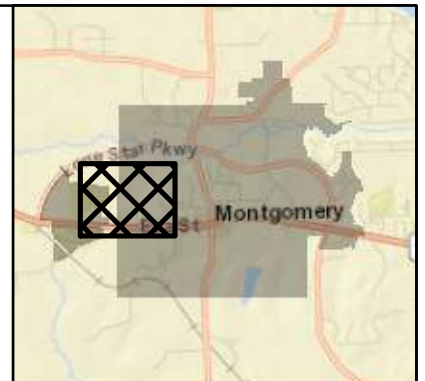
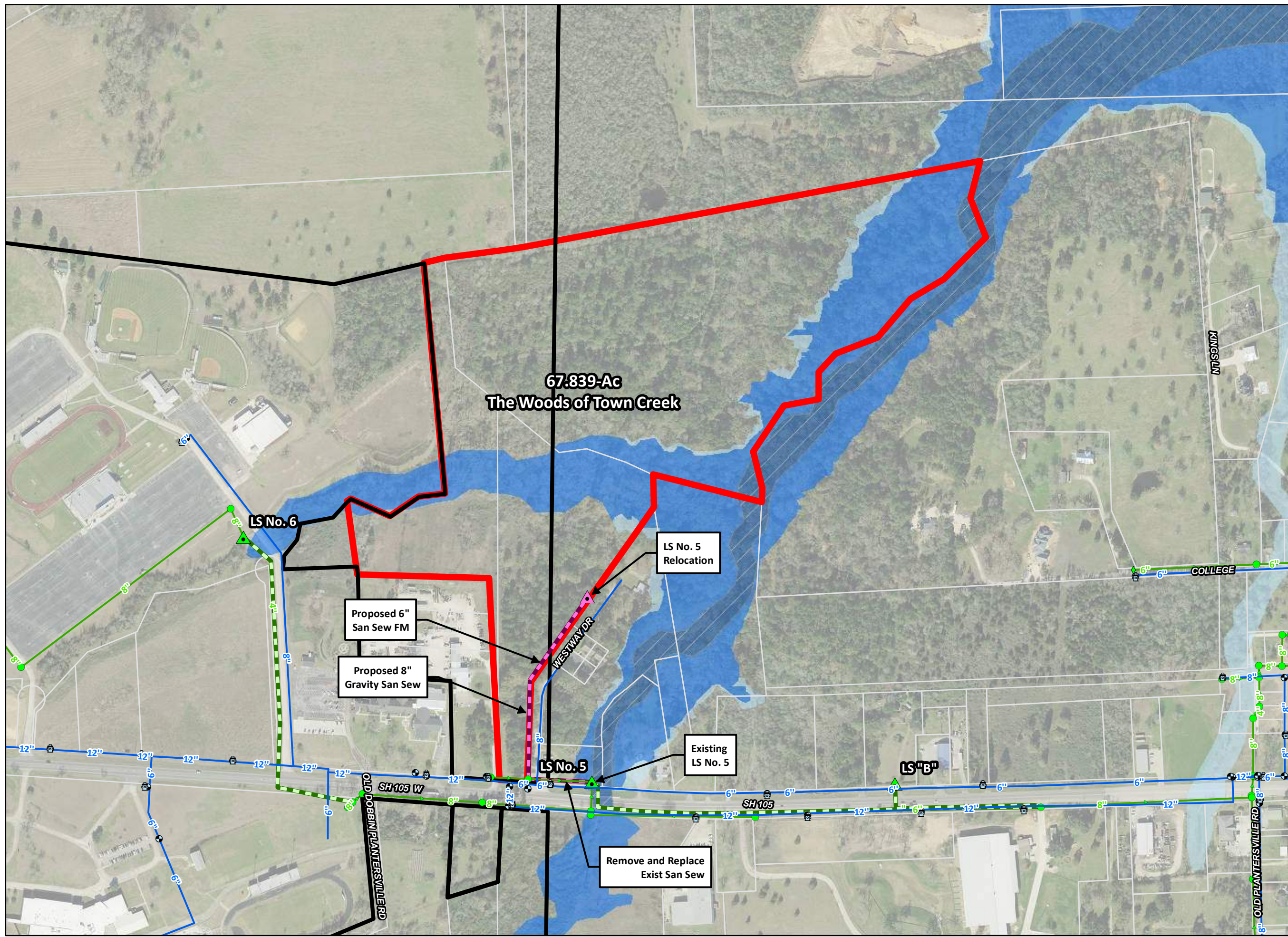


	Development Info & Capacities						Projected Additional Connections and Flow														
	Current Connections	Ultimate Connections	Water		Wastewater		2019			2020			2021			2022			2023		
Current Actual			Ultimate	Current	Ultimate	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	
Single Family			225	250	150	200															
Commercial Platted and Existing (cont.)																					
Waterstone Commercial Reserve B	1	1	360	4,300	234	2,795															
Waterstone Commercial Reserve C (State Farm)	1	1	405	405	263	263															
Waterstone Commercial Reserve D	-	1	-	4,000	-	2,600															
The Montgomery Shoppes	-	15	-	30,000	-	19,500	2	4,000	2,600	2	4,000	2,600	2	4,000	2,600	2	4,000	2,600	2	4,000	3,000
Burger Fresh	1	1	400	400	260	260															
Churches	12	12	3,000	3,000	1,950	1,950															
Miscellaneous Commercial	78	78	28,000	28,000	18,200	18,200															
Subtotal	124	178	68,570	230,100	44,571	149,565	11	22,932	14,906	9	30,356	19,731	10	34,822	22,634	5	17,956	11,671	7	25,900	21,000
Multi Family																					
Heritage Plaza (Units)	80	160	8,800	17,600	5,720	11,440	20	2,200	1,100	20	2,200	1,100	20	2,200	1,100	20	2,200	1,100			
Town Creek Village, Phase I (Units)	152	152	24,000	26,500	12,000	13,250															
Montgomery Supported Housing	14	14	2,300	2,300	1,150	1,150															
Live Oak Assisted Living	1	1	2,300	2,300	1,150	1,150															
Subtotal	247	327	37,400	48,700	20,020	26,990	20	2,200	1,100	20	2,200	1,100	20	2,200	1,100	20	2,200	1,100	-	-	-
Institutional (Schools, City, Church)																					
MISD Athletic Complex	2	2	6,800	6,800	3,400	3,400															
MISD High School Complex	2	2	29,000	29,000	14,500	14,500															
MISD Warehouse (105/Clepper)	1	1	360	1,500	250	750															
Bus Barn	1	1	530	530	265	265															
MISD School (MLK)	2	2	1,600	1,600	800	800															
MISD School (149)	1	1	2,800	2,800	1,400	1,400															
Subtotal	9	9	41,090	42,230	20,615	21,115	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Irrigation																					
Single Family Residential	61	100	16,165	26,500	-	-	5	1,325	-	5	1,325	-	5	1,325	-	5	1,325	-	5	1,325	-
Commercial Irrigaion	31	70	9,300	21,000	-	-	5	1,325	-	5	1,325	-	5	1,325	-	5	1,325	-	5	1,325	-
Church	2	2	530	530	-	-															
City	9	9	4,500	4,500	-	-															
Subtotal	103	181	30,495	52,530	-	-	10	2,650	-	10	2,650	-	10	2,650	-	10	2,650	-	10	2,650	-
Committed	1,053	1,639	307,935	610,790	170,546	378,910	102	41,507	25,006	108	50,731	30,881	99	52,947	32,134	84	33,831	19,671	49	35,750	25,350
							2019			2020			2021			2022			2023		
							Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary
			Total Projected Committed Volumes:				1,155	349,442	195,551	1,263	400,173	226,433	1,362	453,120	258,567	1,446	486,951	278,238	1,495	522,701	303,588
Future Development in Feasibility/Design																					
Louisa Lane Development	-	18	-	4,500	-	2,925	3	750	488	5	1,250	813	5	1,250	813	5	1,250	813			
Peter Hill 5.7 Acre Feasibility	-	5	-	5,000	-	3,250	2	2,000	1,300	3	3,000	1,950		-							
The Woods of Town Creek	-	212	-	53,000	-	42,400				42	10,500	8,400	42	10,500	8,400	42	10,500	8,400	42	10,500	8,400
Subtotal	-	235	-	62,500	-	48,575	5	2,750	1,788	8	4,250	2,763	5	1,250	813	5	1,250	813	-	-	-
Committed Plus Feasibility	1,053	1,874	307,935	673,290	170,546	427,485	2019			2020			2021			2022			2023		
							Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary
			Total Projected Committed Volumes Plus Feasibility				1,160	352,192	197,339	1,276	407,173	230,983	1,380	461,370	263,930	1,469	496,451	284,413	1,518	532,201	309,763

Single Family	Development Info & Capacities						Projected Additional Connections and Flow																	
	Current Connections	Ultimate Connections	Water		Wastewater		2019			2020			2021			2022			2023					
			Current Actual	Ultimate	Current	Ultimate	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary			
			225	250	150	200																		
Potential Future Development (Within Current City Limits)																								
HEB Tract (HEB store only)	-	1	-	10,000	-	6,500	-	-	-	-	-	1	10,000	6,500	-	-	-	-	-	-	-	-		
HEB Tract (pad sites only)	-	5	-	15,000	-	9,750	-	-	-	-	-	1	3,000	1,950	1	3,000	1,950	1	3,000	1,950	1	3,000	2,100	
Montgomery Forest	-	195	-	48,750	-	31,688	-	-	-	-	-	10	2,500	1,625	10	2,500	1,625	10	2,500	1,625	10	2,500	2,000	
Summit Business Park, Phase 2	-	6	-	4,400	-	2,860	2	1,467	953	2	1,467	953	2	1,467	953	-	-	-	-	-	-	-	-	
Town Creek Village, Phase 2	-	2	-	20,000	-	13,000	-	-	-	-	-	2	20,000	13,000	-	-	-	-	-	-	-	-	-	
J. Allen Kent	-	400	-	100,000	-	65,000	-	-	-	10	2,500	1,625	10	2,500	1,625	10	2,500	1,625	10	2,500	1,625	10	2,500	2,000
Waterstone, Section 3	-	36	-	9,000	-	5,850	-	-	-	-	-	5	1,250	813	10	2,500	1,625	10	2,500	1,625	10	2,500	2,000	
Waterstone, Section 4	-	80	-	20,000	-	13,000	-	-	-	-	-	10	2,500	1,625	10	2,500	1,625	10	2,500	1,625	10	2,500	2,000	
Plez Morgan Commercial	-	7	-	10,500	-	6,825	1	1,500	975	1	1,500	975	1	1,500	975	1	1,500	975	1	1,500	975	1	1,500	1,250
1097 Misc. Commercial	-	10	-	15,000	-	9,750	1	1,500	975	1	1,500	975	1	1,500	975	1	1,500	975	1	1,500	975	1	1,500	1,250
Misc. Undeveloped (Commercial)	-	1,354	-	487,440	-	316,836	2	720	468	2	720	468	2	720	468	2	720	468	2	720	468	2	3,000	2,500
Misc. Undeveloped (Single Family)	-	1,641	-	410,250	-	266,663	-	-	-	10	2,500	1,625	10	2,500	1,625	10	2,500	1,625	10	2,500	1,625	10	2,500	2,000
Misc. Undeveloped (Industrial)	-	1	-	5,000	-	3,250	-	-	-	1	5,000	3,250	-	-	-	-	-	-	-	-	-	-	-	
Subtotal	-	3,738	-	1,155,340	-	750,971	6	5,187	3,371	27	15,187	9,871	45	46,937	30,509	55	19,220	12,493	55	21,500	17,100			
Potential Future Development (ETJ)																								
80-Ac Mabry Single Family	-	368	-	92,000	-	59,800	-	-	-	-	-	10	2,500	1,625	10	2,500	1,625	10	2,250	1,500	10	2,250	1,500	
Stewart Landing	-	50	-	18,000	-	11,700	-	-	-	10	3,600	2,340	10	3,600	2,340	10	3,600	2,340	10	2,250	1,500	10	2,250	1,500
90-AC Lone Star Parkway	-	225	-	56,250	-	36,563	-	-	-	10	2,500	1,625	10	2,500	1,625	10	2,500	1,625	10	3,600	2,500	10	3,600	2,500
Misc. Undeveloped (Single Family)	-	6,370	-	1,592,500	-	1,035,125	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Misc. Undeveloped (Commercial)	-	1,100	-	396,000	-	257,400	5	1,800	1,170	5	1,800	1,170	5	1,800	1,170	5	1,800	1,170	5	7,500	6,250	5	7,500	6,250
Subtotal	-	8,113	-	2,154,750	-	1,400,588	5	1,800	1,170	25	7,900	5,135	35	10,400	6,760	35	10,400	6,760	35	15,600	11,750			
Potential Ultimate Totals	1,053	13,725	307,935	3,983,380	170,546	2,579,044	2019			2020			2021			2022			2023					
							Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary			
			1,171	359,179	201,880	1,339	437,246	250,530	1,523	548,780	320,746	1,702	613,481	360,483	1,841	686,331	414,683							
					Total Potential Ultimate																			

Appendix D
Proposed 67.839-Acre The Woods of Town Creek Development
Proposed Public Utilities



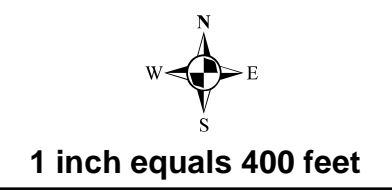


VICINITY MAP
Scale: 1 inch equals 2 miles

LEGEND

Water Facilities	
	Flush Valve
	Main Valve
	Waterline
Wastewater Facilities	
	Cleanout
	Manhole
	Lift Station
	Lift Station Relocation
	Force Main
	Gravity Main
	Proposed Force Main
	City of Montgomery City Limits
	67.839-Ac Tract Boundary
	MCAD Parcel
	Floodway
	100-Year
	500-year

**67.839-AC
WOODS OF
TOWN CREEK TRACT**
CITY OF MONTGOMERY
MONTGOMERY COUNTY, TEXAS



Disclaimer: This product is offered for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property, governmental and/or political boundaries or related facilities to said boundary. No express warranties are made by Jones|Carter, Inc. concerning the accuracy, completeness, reliability, or usability of the information included within this exhibit.



Appendix E
Proposed 67.839-Acre The Woods of Town Creek Development
Cost Estimate



**CLASS 3 ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST
FOR CONSTRUCTION OF
LIFT STATION NO. 5 RELOCATION
CITY OF MONTGOMERY**

February 15, 2019

Item			Unit		
<u>No.</u> <u>Description</u>	<u>Unit</u>	<u>Qty.</u>	<u>Price</u>	<u>Total</u>	
1. Mobilization, Bonds & Insurance	L.S.	1	\$ 50,000	\$ 50,000	
2. Lift Station	L.S.	1	210,000	210,000	(2)
3. Electrical & Diesel Generator	L.S.	1	160,000	160,000	(3)
4. Site Work	L.S.	1	110,000	110,000	
5. Existing Lift Station Site Demolition	L.S.	1	50,000	50,000	
6. Bypass Pumping	L.S.	1	25,000	25,000	
7. SWPPP	L.S.	1	5,000	5,000	
		SUBTOTAL		\$ 610,000	
		Contingencies (10%)		\$ 61,000	
		Engineering		\$ 120,000	
		TOTAL		\$ 791,000	

Notes:

- (1) This estimate represents my best judgment as a design professional familiar with the construction industry. Jones|Carter has no control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding or market conditions. Accordingly, we cannot and do not guarantee that bids will not vary from this cost estimate.
- (2) This cost includes a 10' diameter precast concrete wet well with 100% solids epoxy coating, no valve vault, assumes the depth of the proposed lift station finished floor will not exceed 35-feet (35') from finished grade elevation and is not located in any flood hazard areas. This estimate assumes two (2) pumps with a single firm capacity of 400 gpm. The wet well is sized for the ultimate phase of 769 gpm firm capacity.
- (3) This cost includes all on-site electrical, NEMA 4X utility service rack designed to utility company standards; NEMA 4X stainless steel control panel, transducer and float backup controls, and cellular auto dialer, and 75-kW diesel generator and automatic transfer switch. This cost also includes all duct bank, conduit and wire. This cost also includes an assumed \$10,000 for utility provider costs for extending 3-phase power availability to the site. This cost does not include SCADA.



Amy W. Stonaker
2/15/19

AW5/bmm

V:\Practice Workspace\Water\Facilities & Treatment Division\Cost Estimates\Class 3 EPOCC City of Montgomery LS No. 5 Relocation.xlsx



Appendix F
Proposed 67.839-Acre The Woods of Town Creek Development
Excerpt from Impact Fee Analysis



Table 1.1 September 2017 ESFC Table for Commonly Used Meters

Meter Size	Maximum Continuous Operating Capacity (GPM)	Equivalent Single Family Home (ESFC)	Maximum Assessable Water Fee (\$)	Maximum Assessable Waste Water Fee (\$)	Maximum Assessable Fee (\$)
5/8"	15	1.00	1,126	\$2,513	\$3,639
3/4"	25	1.67	1,881	\$4,198	\$6,079
1"	40	2.67	3,001	\$6,711	\$9,712
1 1/2"	120	8.00	9,006	\$20,103	\$29,112
2"	170	11.33	12,755	\$28,471	\$41,226
3"	350	23.33	26,264	\$58,626	\$84,890
4"	600	40.00	44,942	\$100,517	\$145,429
6"	1,200	80.00	90,064	\$201,035	\$291,099
8"	1,800	120.00	135,096	\$301,552	\$436,648