

NOTICE OF REGULAR MEETING

January 8, 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, January 8, 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 for the Public Hearing and Regular Meeting held on December 11, 2018.
2. Consideration and possible action regarding completion of a one-year warranty period and release of maintenance bond for the Public Water and Sanitary Sewer Facilities for Buffalo Springs Shopping Center Phase II.
3. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery and 1983 Land Investments, LLC regarding The Woods at Town Creek tract (Dev. No. 1815).
4. Consideration and possible action regarding authorizing Jones|Carter to prepare a Utility and Economic Feasibility Study for 1983 Land Investments, LLC regarding The Woods at Town Creek Development (Dev No. 1815).

CONSIDERATION AND POSSIBLE ACTION:

5. Consideration and possible action regarding scheduling a Public Hearing for rezoning of property located at 2580 Lone Star Parkway, Montgomery from "ID – Industrial" to "R – 2 Multifamily" and the property located at 2560 Lone Star Parkway from "ID- Industrial" to "B – Commercial" be held on February 12 at 6:00 p.m., as requested by Larry Jacobs (*both properties are located on one tract of land*).

6. Consideration and possible action regarding appointment or reappointment of MEDC Board Members to fill the positions currently held by Rebecca Huss, Bob Kerr, Amy Brown, Randy Moravec and John Champagne.
7. Consideration and possible action regarding an Alcohol Beverage Permit Application for CVS Pharmacy #11097 located at 20125 Eva Street, Montgomery, Texas.
8. Consideration and possible action regarding adoption of the following Ordinance:
AN ORDINANCE OF THE CITY COUNCIL OF MONTGOMERY, TEXAS, AUTHORIZING PARTICIPATION WITH OTHER ENTERGY SERVICE AREA CITIES IN MATTERS CONCERNING ENTERGY TEXAS, INC. AT THE PUBLIC UTILITY COMMISSION OF TEXAS IN 2019; AUTHORIZING THE HIRING OF LAWYERS AND RATE EXPERTS; AUTHORIZING THE CITY'S PARTICIPATION TO THE FULL EXTENT PERMITTED BY LAW AT THE PUBLIC UTILITY COMMISSION OF TEXAS; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND DECLARING AN EFFECTIVE DATE.
9. Consideration and possible action regarding rescinding the Animal Control Ordinance.
10. Report regarding Atkins Creek Water and Sewer Line Repair.
11. Consideration and possible action regarding approval of the Certificate of Acceptance for the Buffalo Springs Drive Bridge Project.
12. Report regarding City Staff Issues:
 - a) Current procedure for hiring for all positions;
 - b) Number of employees per department;
 - c) Status of applications for Police Chief; and
 - d) Process of hiring assistant to the current City Administrator and Succession Plan for that position.

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. *(There are no items at this time.)*

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



Susan Hensley
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 4th day of January 2019 at 4:15 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 PUBLIC HEARING and REGULAR MEETING

December 11, 2018

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

Absent: Vacant City Council Place # 5

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

INVOCATION

John Champagne gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

PUBLIC HEARING:

Convene into Public Hearing

1. **Public Hearing** to receive citizen input regarding a Petition by Area Landowners Requesting Expansion of the Extraterritorial Jurisdiction of City of Montgomery, Texas from Bethyl Laboratories and members of the Carwile family, regarding fourteen contiguous 637.646 acre tracts of land situated in the BENJAMIN RIGBY SURVEY.

Mayor Countryman convened into Public Hearing at 6:03 p.m.

There were no comments made during the Public Hearing.

Adjourn Public Hearing

Mayor Countryman adjourned the Public Hearing at 6:03 p.m.

Reconvene into Regular Session

Mayor Countryman reconvened into Regular Session at 6:03 p.m.

Mayor Countryman noted that there was a full quorum of City Council present, and the City Attorney was not present at this time, but should arrive shortly.

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.

Mr. Scott Howard advised that he resided on Worsham Street and said that he was present to comment on the Animal Ordinance and said that the situation regarding his neighbor has gotten better. Mr. Howard said he had installed a \$1,600 privacy fence. Mr. Howard said the noise has gotten a little better and the smell comes and goes with the rain and weather.

Mr. Howard said he wanted to comment on the animal ordinance and said just because things are getting better he did not want them to stop what they are doing. Mr. Howard said the City needs a common sense animal ordinance that they all know and are aware of so this does not happen to the next guy. Mr. Howard said he did not want the next guy to spend nine months trying to get his life cleaned up. Mr. Howard asked the City to get serious and get something written down. Mr. Howard thanked City Council for their time and wished them a Merry Christmas.

CONSENT AGENDA:

2. Matters related to the approval of minutes for the Budget Workshop held on July 31, 2018, Budget Workshop held on August 7, 2018, Budget Workshop held on September 4, 2018, and Regular Meeting held on November 13, 2018.
3. Consideration and possible action regarding renewal of Cedar Crest Mobile Home Park.

4. Consideration and possible action regarding adoption of an ENCROACHMENT AND MAINTENANCE AGREEMENT, between the CITY OF MONTGOMERY, TEXAS (CITY) and STYLECRAFT BUILDERS, INC., a Texas corporation (OWNER). Regarding certain property (“Property”) located in the City of Montgomery, Texas on Emma’s Way, proposing to place a small retaining wall on the CITY’s street right-of-way on Scenic Hills Court with the Subdivision’s home owners’ association, the STYLECRAFT’S’s successor and assignee, to maintain the small retaining wall at no cost to City.
5. Consideration and possible action regarding completion of a one-year warranty period and release of maintenance bond for the Gardner Drive Public Road, Public Waterline, Public Sanitary Sewer, and Public Storm Sewer project.
6. Consideration and possible action regarding completion of a one-year warranty period and release of maintenance bond for the Flagship Boulevard Pavement Repairs project.
7. Consideration and possible action regarding completion of a one-year warranty period and release of maintenance bond for the Heritage Place Medical Center 12” Waterline project.
8. Consideration and possible action regarding approval of Assignment of Economic Development Agreement between Milestone Properties, Inc., Kroger, Texas L.P. the City of Montgomery and the Montgomery Economic Development Corporation.

Rebecca Huss stated that she had a comment regarding information in the minutes regarding the cell phone costs that were part of the budget process, which also brought up something that was discussed two meetings ago about phone bills. Mayor Countryman said she felt they should discuss them at the time of the departmental reports so they can get answers from Lt. Belmares. Rebecca Huss said she was fine with waiting for the departmental reports.

Mr. Larry Foerster, City Attorney arrived at the meeting at 6:10 p.m.

Jon Bickford said regarding Agenda Item 4, his question was this is a Stylecraft wall and the wording “the Stylecraft successor and its assignee is to maintain the small retaining wall at no cost to the City” and asked if anyone checked to see if that was written into the Homeowner Association dues or rights so that the homeowners know they are responsible for this. Mr. Roznovsky, City Engineer, advised that he did not check that information. Jon Bickford said he felt they need to make sure that they do that or that they get that done before they agree to

this action. Jon Bickford said they need to get confirmation from Stylecraft in writing that they are taking that on, because if it is not written in the Homeowner Association Bylaws that they are responsible for that action, then somebody might argue that they are not responsible for it. Jon Bickford said they could strike Agenda Item 4 until that was done.

Mr. Yates said under the recitals, it states as a condition to the City's approval the owner is agreeing that the subdivision Homeowners Association and assignee will maintain the small retaining wall at no cost to the City. Jon Bickford said that is between the City and Stylecraft, but when you get into a subdivision like that there is a Homeowners Association document that states what you are responsible for, and he is just saying that should be in that document. Jon Bickford asked how someone is moving into that neighborhood going to know they are responsible for that wall. Rebecca Huss asked if they could verify that information is in the HOA documents before they execute the contract. Mr. Foerster said a suggestion might be if they want to approve this action tonight subject to that verification they could do that. Jon Bickford said he was good with doing that. Mr. Foerster said if they don't have the information verified, then the action is not passed.

John Champagne asked Mr. Yates about Agenda Item 8, stating that they have a 380 Agreement. Mr. Yates said that Agreement is with Milestone, and in that agreement it calls for payments to be made to Milestone based upon sales tax and property tax and not to Kroger. Mr. Yates said this assigns the Agreement to Kroger. Rebecca Huss said to further John Champagne's comments she would like to make sure that any further 380 Agreements include some sort of payment to be made to the City for administrative, legal and possible investigative work if they end up doing more of these assignments. Rebecca Huss said the City should not engage in financial arrangements with partners that they can't verify the ownership of and the legality of, and if that costs the City money the City should not have to pay to do the counter party a favor by reassigning interests. John Champagne said Rebecca Huss just voiced her opinion, which he respects, but that will be dealt with on a case-by-case basis. Rebecca Huss said that was correct, but she was just saying that this brings up exactly why future language needs to include this, because what they thought they had in the agreement almost a year later no longer stands. John Champagne said it was his understanding we don't have to approve this agreement. John Champagne said if Kroger cut a deal with Milestone, and we cut a deal with Milestone, the City is not incumbent to circumvent Milestone to direct to Kroger, so he guessed

what they are doing is cleaning it up. Rebecca Huss said the City is doing them a favor. John Champagne said in a sense yes, but there is nothing incumbent upon the City to change this agreement.

Jon Bickford asked if Milestone or Kroger requested this action or both. Mr. Yates said both requested this action. Jon Bickford said they want the City to just pay Kroger instead of Milestone. Mr. Yates said yes. Rebecca Huss said the City has not paid anyone anything at this time. Jon Bickford said he did not see this as a big deal. Rebecca Huss said it is not because Kroger is a U.S. based company that is a household name, but should it be a multi-national or international company whose ownership we are not aware of, then that would change things completely, so it is a learning experience. Rebecca Huss said that was a correct statement, this is her opinion.

Jon Bickford moved to accept the Consent Agenda with the provision that Agenda Item 4 is pending inclusion of some form of language that dictates responsibility for that retaining wall to Stylecraft, its successor or assignee and confirmation of that language. Mr. Foerster said that there will be confirmation the Homeowner Association will and knows they are going to be assuming this responsibility. Jon Bickford said that was what he wanted included in his motion. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

CONSIDERATION AND POSSIBLE ACTION:

9. Consideration and possible action on Department Reports.

- A. Administrator's Report – Mr. Yates presented his November and December reports to City Council detailing his activities for the two months.

Mr. Yates said that he had met with the Board of Adjustment for three meetings to set up a Public Hearing regarding a height variance for an 80-foot flag pole at Dusty's Car Wash, which was approved.

Mr. Yates said he met with several developers during the month, including Kenroc, Pizza Shack, Living Savior Church, The Shoppes of Montgomery, Rischer Randall and Travis Mabry, Fellowship Church and other development possibilities.

Mr. Yates said he has also attached a draft of a letter to Commissioner Mike Meador regarding pavement requests for this fiscal year. Mr. Yates said the proposed first street would be Caroline Street from Liberty Street, FM 149 east to Prairie Street. Mr. Yates said he felt that could be an overlay type of job. Mr. Yates said the second street would be Mason Street, which is between Maiden Street and Prairie Street. Mr. Yates said they are requesting the equipment and labor to pave the street that can be best accomplished by mill and overlay with asphalt, with some possible addition to base material. Mr. Yates said the total of both of these projects for just the materials is probably \$17,000 to \$20,000 that would be paid for out of contract labor streets budget. Rebecca Huss asked if Mason Street was the one that goes through the Brosch property. Mr. Yates said it was the street by prescription that the City has, which goes between Maiden and Prairie with the Brosch property on the north and south side.

Rebecca Huss said she thought that they had not decided what to do with that, so it seems premature to be asking for this. Mayor Countryman said at her first City Council Meeting we had agreed to let Mr. Yates make that decision, because City Council did not want to have anything to do with it.

John Champagne said Mason Street is the street behind the Church. Mr. Yates said no, it was between the Brosch property where the donkeys are located and the white house on the south side. John Champagne asked what they are going to do with the property. Mr. Yates said they were going to repave the road. Mr. Yates said City Council entered into a negotiations with Mr. Brosch and that did not work out, so City Council left it as a City street, which is probably the worst street in the City. John Champagne said the street is not traveled and is a non-issue. Mayor Countryman said the street is travelled with all the festivals that they are having next year in town, and she walks that street every morning and it has large pot holes. Mayor Countryman said she was not saying it is a major thoroughfare, but said it would not have potholes if it were not heavily travelled. Rebecca Huss said during festivals they put a street closure on that street, so it is not travelled during festivals.

John Champagne advised Mr. Yates the last time he spoke with Mr. Brosch he was still open to talking about giving up a portion of his property for parking and the City

trading that street to him. Mr. Yates said if there were new terms, he thought he would be. John Champagne said all that Mr. Brosch doesn't want to do is kill those oak trees. Mayor Countryman said she was told the opposite, and said she was told that they did not want to negotiate anything. Mayor Countryman said she asked about additional parking, which the City could use, and they were not inclined. Mayor Countryman asked John Champagne when he spoke to Mr. Brosch. John Champagne said he spoke to him four months ago. Mayor Countryman said she spoke to him two or three months ago, but maybe we could ask Mr. Brosch to come in, and she felt they were getting different sources or answers, so maybe they need to get his final answer so they know what direction they need to go.

Rebecca Huss asked to hold up on the letter to Commissioner Meador until they get the matter straightened out because it does not make sense to pave something they are giving away. Mayor Countryman said she agreed. John Champagne said he would like to place that asphalt someplace else because there are many other streets that could use it. Rebecca Huss said she agreed with John Champagne. Mr. Yates said he would open it back up for negotiation with Mr. Brosch if that is what City Council wants. City Council concurred. Mr. Yates said one of the first items they talked about was Mr. Borsch insisted that he be paid before the trade. John Champagne said he remembered Mr. Borsch's major concern was the oak trees. Mr. Yates said he did not think it was the main concern, but he thought the major concern was trying to get paid before the trade. John Champagne said he would be open to taking the asphalt out. Mr. Yates said that might be a possibility. Rebecca Huss said maybe Mayor Countryman, Mr. Yates and John Champagne can work with Mr. Brosch to see if that is a possibility. Mayor Countryman said she wanted to have all stakeholders in the room; it would be helpful to confirm the information. Mr. Yates said he would hold up on the letter.

Jon Bickford said he had a question about the 80-foot flag pole at Dusty's Car Wash, and asked how many 80-foot flag poles they need on SH 105. Rebecca Huss, who also serves on the Board of Adjustment, advised Dusty's Car Wash building is 40-feet tall and the power lines there are a little bit taller. Jon Bickford asked what was wrong with 20-feet. Rebecca Huss said the flag would not really show up at 20-feet, and the Board of Adjustment felt that it was a proper and fitting size given the position of the

building relative to the lay of the land. John Champagne asked what the Board of Adjustment was. Mr. Yates said the Board of Adjustment hears zoning issues, and is made up of five citizens and two alternates. John Champagne asked if they can unilaterally make decisions within the City. Mr. Yates said yes, it is set up by the State and is a requirement that the City have a Board of Adjustment. Mr. Foerster said the Statute and our ordinance has provided for the Board of Adjustment. Jon Bickford asked whether City Council has any say in the decision. Mr. Yates said no. Rebecca Huss said City Council appoints the members of the Board. Jon Bickford said he felt it was a real bad idea, but he can't do anything about it. Rebecca Huss said she did not think it will look that big in person. Jon Bickford said he did not know how 80-foot would not look that big to anybody.

Jon Bickford said if they keep letting the signs go 50-80 feet in the air and flags going 80 feet in the air, SH 105 is going to look like FM 1960 before you say what happened. Jon Bickford said this is very frustrating to him and said we are going to lose the charm of this town if we keep this up. Rebecca Huss said given the lack of attendance of two of the permanent members of the Board of Adjustment and their need to rely on the alternates, she was going to suggest that in January they put on the Agenda a replacement of those two members, and she would be totally fine with all of them. John Champagne asked if this City Council appointed all of the members of the Board of Adjustment. Rebecca Huss said that was correct.

- B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works presented his report to City Council for the month of October; November and December will be presented next month. Mr. Muckleroy said they had a very busy month with repairs to the ditch on Old Plantersville Road, set up and clean up for National Night Out, attended the Jones and Carter GIS Lunch and Learn event, repaired a manhole on Plez Morgan which was damaged in a motor vehicle accident, repaired asphalt sections on Buffalo Springs and Harley Drives, completed the meter box assessment of the entire City and started repairs, disconnected water and sewer service for the Auction Building and moved them to the property line in preparation of the demolition. Mr. Muckleroy said they repaired several manhole lids throughout Lone Star Estates in preparation of smoke testing. Mr. Muckleroy said they had three water taps and three sewer taps for

the month, with eight water leaks and two sewer stoppages. Mr. Muckleroy said on the park side, they removed grass and debris from Memory Park pond outflow so that the water would flow out faster, repaired the blinds in the Community Center and removed all light pole electric covers ahead of Solomon Electric when they were installing the receptacles in them for the Christmas lights. Mr. Muckleroy said the docents reported 514 visitors for the month and provided 45 tours.

Rebecca Huss asked about the bird bathing. Mr. Muckleroy advised the bird bathing is on the side of the street when it rains they have low lying spots that hold water, so they went through and flooded the streets on a final walk through to try and catch those spots so they don't have to repair them later. Rebecca Huss asked if the spots that hold water damage the road base. Mr. Muckleroy said it could have not been poured correctly. Mr. Muckleroy said if they want to repair them you either have to rip them out and start over or you can sometimes plane it or drill holes and do injection lifting methods with material that brings the concrete up to level.

John Champagne asked about the new bank and if their hydrant meter was operational. Mr. Muckleroy asked if it was the hydrant on the CVS side. Mr. Muckleroy said there is a brand new meter on the Spirit of Texas Bank side but it is not hooked up yet, but the one on the other side is metered. Mr. Muckleroy said there is a meter set in place.

John Champagne asked about the ditch that was repaired at 779 Old Plantersville Road and asked what they did. Mr. Muckleroy said when it rained the ditch was flowing to the point where it was running out into the street, so they excavated and at the driveway they had to do some rock repair because it was deadheading into his driveway and starting to undermine it. John Champagne asked if they considered using any stabilization. Mr. Muckleroy said he did not on this one because that was not the problem, it was just flow.

John Champagne then asked about the lunch and learn by Jones and Carter. Mr. Muckleroy said Jones and Carter held the lunch at City Hall for anyone that wanted to attend the new GIS Software training, showing everyone how to use the different

features and said it was very helpful. Mayor Countryman said everyone was invited. Mayor Countryman agreed that the information was very helpful.

- C. Police Department Report – Lt. Joe Belmares presented his report to City Council for the months of October and November 2018. Lt. Belmares said he was waiting for one of the Sergeants to arrive so he can present the newly promoted officers. Lt. Belmares said he would answer any questions that City Council might have regarding stats in the monthly report and the additional stats that were emailed to City Council yesterday.

John Champagne asked if there was anything of notoriety that the stats represent, anything worthwhile, and anything that would give them some indication of a trend. Lt. Belmares said the trend is going to show that the activity on patrol is going down due to the number of calls that they are taking regarding investigations. Lt. Belmares said from fatalities to sexual assault cases, aggravated assault cases, with the filing of the paperwork, warrants, seizure paperwork for vehicles that are being seized due to arrests, it is taking a lot of the officer's time off the street and they are currently still understaffed. Lt. Belmares said they just recently hired a new officer. Lt. Belmares said with all this information that they are trying to get out to City Council with the stats, he is having to rely on the Sergeants to help him.

John Champagne asked where in the priority chain is this data reporting in regards to the Lt.'s and officers function. John Champagne said he would put it another way, how much time is all this data keeping them from being on the street, and said he just wants a percentage of time. Sergeant Bracht said he would say probably 10 percent of time because he is doing most of the data collection at home. John Champagne asked if Sergeant Bracht was getting paid to do that. Sergeant Bracht said he was not. Mayor Countryman thanked Sergeant Bracht for his additional service. John Champagne asked how many officers they have right now. Lt. Belmares said they have eight officers and four reserves. John Champagne asked what an optimum number was for them to have on staff. Lt. Belmares said the optimum number would be two officers on patrol at night with a supervisor on duty with the officers. John Champagne said to give him a number. Lt. Belmares said that would be three officers on nights, two officers on days with an administrative supervisor and possibly a detective. John

Champagne asked if 11 officers would be optimum. Lt. Belmares said that would be enough to get the City by right now. John Champagne asked how that fit into the budget. Lt. Belmares said he would have to work the numbers and see what they have to work with. John Champagne said that was fair enough.

John Champagne asked if they had a plan for the Christmas Parade and did they have officers on duty. Lt. Belmares said yes they did. John Champagne asked where they were. Lt. Belmares said they had all the patrol officers, including all the reserves on duty. John Champagne asked if they had a plan, because he has been getting complaints about parking haphazardly around the City and there was no real area designated for parking, but he did not see that as our responsibility. Lt. Belmares said no sir, it is not.

Mayor Countryman asked to confirm that Lt. Belmares has been acting in this position for two months. Lt. Belmares said that was correct. Mayor Countryman asked how the transition was going. Lt. Belmares said the officer's morale is very good and they are actually coming in to fill in with the shift that is short right now. Mayor Countryman asked about the transition, and asked about the number of unread emails and business that was not being done that Lt. Belmares had come into, and asked if he has been able to work through the emails and get business conducted. Lt. Belmares said he is currently still going through the emails, but a lot of it is through the search engine to find some of the information. Mayor Countryman said there was about 24,000 unread emails in the predecessor's email inbox. Mayor Countryman said in those emails she is assuming that is where those phone bills were located. Mayor Countryman said it is her understanding that we have been paying two carriers now, because in one meeting it was told that the previous carrier was turned off, but yet she signed a large check last month and said Lt. Belmares has said that was to catch up on the new carrier. Lt. Belmares said that was for the new carrier and the previous carrier. Mayor Countryman said it was for one carrier at the time because that carrier had not been paid yet, and then the previous carrier, it was her understanding, also had not been paid since May. Lt. Belmares said that was correct. Mayor Countryman said there were two outstanding bills from two different carriers for multiple months. Lt. Belmares said that was correct. Mayor Countryman asked if those bills were sent via

email to an inbox. Lt. Belmares said that was correct. Mayor Countryman said that in order for them to get paid she asked how they are processed. Lt. Belmares said he has to print them out and walk them over to the accounting department.

Mayor Countryman asked if there was anything else that Lt. Belmares has had to clean up. Lt. Belmares said they are in the process of getting most of the administrative rights over to himself and the supervisors so they can get the bodycams in play. Mayor Countryman asked if they had Bodycams. Lt. Belmares said yes they do. Mayor Countryman asked when they got those. Lt. Belmares said they have had them for quite a few months. Mayor Countryman asked if they were implemented. Lt. Belmares said no they have not. Lt. Belmares said it has taken some phone calls to get the administrator rights for multiple issues within the Police Department. Mayor Countryman asked if there was a master list that had the contact names and login information. Lt. Belmares said no there was not. John Champagne said it sounded like some administrative duties need to be taken care of. Mayor Countryman said his basic job function. John Champagne said as in administrative duties.

John Champagne said in regard to his last question about the officers, how many officers has Lt. Belmares hired in the last two months. Lt. Belmares said they just recently got a new officer, Justin Ravari. John Champagne said his one question was regarding the process, which he wanted put on the record, for hiring a police officer, and asked who are the people involved and what is the process in which an officer is chosen. Lt. Belmares said the application or the requirements for the job title are posted on the TECOLE website, and it instructs the applicant to reach out to himself or one of the Sergeants via email. Lt. Belmares said they then send them a response with the process to fill out the application, which includes a personal history statement and the job application that includes a waiver or release of information. Lt. Belmares said once the applicant has completed the packet they reach out to one of the Sergeants and/or himself to set up a meeting with them to go over the packet to make sure that everything is signed, notarized and all the documents are there. Lt. Belmares said they ask for the originals and they make copies of the birth certificates, and identification. Lt. Belmares said once they review the application they set up an interview date for the applicant. Lt. Belmares said the interview is done with himself, the two Sergeants and Ms.

Hensley, who has been sitting in as another set of eyes. John Champagne asked about the interview process, confirming that they have two Sergeants, a Lieutenant and an HR representative. Lt. Belmares said that is correct. Lt. Belmares said they will ask a series of questions, which will be based on scenarios. John Champagne said he was not interested in the criteria. Lt. Belmares said after they conduct the background check they will follow up with the application to make sure that it is true and correct, including their previous employers. John Champagne asked if that was all done at home. Lt. Belmares said no sir, he has to use one of the Sergeants to go and do visits at the Police Departments or their current employers.

John Champagne said just to recap, right now 90 percent of the duties that are performed by this Department is police work and 10 percent is administration, which is what he just heard. Lt. Belmares stated that there was a lot of administrative work. John Champagne asked again, what is the percentage. Lt. Belmares asked if the percentage was for him alone or the department. John Champagne said he wanted to know for the Department. Lt. Belmares said for the Department, the newly promoted Sergeants he would probably say 25 percent. John Champagne said that would mean one out of every four officers is missing in action doing administrative work right now. Lt. Belmares said that was just their time, he was not talking about the patrol officers, because their job is to patrol. John Champagne said Lt. Belmares was talking about three people of eight people.

Rebecca Huss asked about the hiring procedures, and said those are the procedures as of today and not necessarily the procedure as of three months ago. Lt. Belmares said they have always had supervisors sit in on the interviews, and it has always been conducted the same, and they might change up the questions that they ask the applicants based off of their experience in law enforcement. Rebecca Huss asked about the verification of paperwork. Lt. Belmares said that was done by one of them. Lt. Belmares said the verification of the paperwork had been done by him a majority of the time until he recently promoted the two Sergeants, so now they are helping with the case load. Lt. Belmares said as administrator, he is still doing the Uniform Crime Reports, Grant Reports, dealing with CJIS and TLETS, Sex Offenders who have to come and register with him that takes 2-3 hours for each sitting. John Champagne said

they are the professionals and only you guys can determine what is considered busy work which could be given to a \$9 - \$10 an hour clerk. John Champagne said how Lt. Belmares' time would be better spent is his call, and said the results and performance, service that the community receives is what the Department will be evaluated on.

Lt. Belmares said at one time they had a secretary, but she took a lot of his time because he was having to train her, which kept him from doing a lot of things that he needed to do. Lt. Belmares said now that they have Sergeants. John Champagne asked who hired the secretary. Lt. Belmares said he was not sure because he was not part of it. Lt. Belmares said what would work is an administrative Sergeant or Lieutenant that would have the abilities to also assist with calls and make supervisory decisions. Mayor Countryman asked the City Secretary who hired the secretary. Mr. Yates said it was a combination of the Chief of Police and himself.

Lt. Belmares said at the end of December they have started the Impaired Driving Mobilization Program, which is a fully funded State Grant that they have been awarded, where the officers will be paid to come in and patrol from Stewart Creek to Lone Star Parkway focusing on distracted and impaired drivers. Lt. Belmares said they have to make 2.5 traffic stops and hour, which is not a lot, and the key is delivering information to the violators that even just five miles over the posted speed limit is too fast to be driving. Lt. Belmares said they are not looking to write citations, although that is an option at the discretion of the officer, it is to inform the community to drive slower, the speed limit, and stay off phones, to minimize crashes in the City. Lt. Belmares said this will go from Christmas to New Year's Eve, and then there will be three more sessions in 2019 where the officers can come in on their days off and work this as extra overtime, which is all paid for by the State Grant. Lt. Belmares said he asked for the lowest amount of funding for this first time.

Lt. Belmares said regarding the new hire, Officer Ravari, he comes to us from Katy ISD Police Department, he has a Masters in Information Systems Management, served two tours in Operation Iraqi Freedom, served in the Army. Mayor Countryman asked if all of his credentials checked out. Lt. Belmares said yes they did.

Lt. Belmares said some of the officers have facial hair, which is because they are doing the No Shave November, and the officers that participated wished to donate money to the Cancer Society. Lt. Belmares said it is not a lot, but the guys wanted to do this along with other officers in the County.

Lt. Belmares said he would like to introduce you to the newly promoted Sergeant James Bracht and Sergeant George Hernandez. Lt. Belmares said Sergeant Bracht has a Master's Degree in Criminal Justice and is also a statistical data collector, with 15 years of law enforcement and comes from Denton Police Department. Lt. Belmares said Sergeant Hernandez comes from Harris County and has 12 years of law enforcement. Lt. Belmares said these Sergeants are going to help this agency and help him to represent the City. Mayor Countryman said both Sergeants get kudos and atta-boys a lot from the community, so good job in that and we appreciate you.

Lt. Belmares said back in October Officers Bauer and Thompson were involved in a pursuit and the pursuit ended on FM 149 where the suspect exited the vehicle and fired a couple of rounds at the officers. Lt. Belmares said the suspect was apprehended the following day and is currently still sitting in the County Jail. Lt. Belmares said with the City of Montgomery cases alone, they filed three felony warrants on him for aggravated assault times two for our officers, felony evading and felony possession of fire arm, which is four charges. Lt. Belmares said Montgomery County Sheriff's Office came out and visited with us last week and picked up some shell casings that they were going to compare to the gun that was picked up the night he was arrested. Lt. Belmares said the Sheriff's Department was filing two warrants for aggravated assault so the suspect is looking at six charges. Lt. Belmares said that is all the information he has on that particular case.

Mayor Countryman said she understood that Lt. Belmares was able to meet with Chief Runnels with Montgomery ISD. Lt. Belmares said that he did meet with Chief Runnels. Mayor Countryman said that has not been able to be accomplished before so good job. Lt. Belmares said Chief Runnels gave him a temporary template of the emergency response regarding the campuses in the area, and he is almost finished with it at which time he will distribute it to all agencies that respond to the School District. Mayor Countryman asked what that consisted of. Lt. Belmares said it would have a

layout of all the buildings and each campus will have particular markers on the map that say this is where the entities, such as the Fire Department, Police Department, etc., will be staged and if they evacuate the students, where they will be located. Lt. Belmares said the buildings now have numbers on the exterior so that if you have to locate an area the officers can locate that area on the map. Jon Bickford asked if the GIS has a mobile application. Mr. Roznovsky said yes. Jon Bickford said if they had tablets they could probably put the maps in the GIS System. Lt. Belmares said they would have to work with the CopSync program since it is CJIS secure for criminal justice information that comes out of their MDT's and they are very particular about who has access to the information. Rebecca Huss said thank you for working on the relationship because some of us have kids in school so that is nice to have.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator, presented her report to City Council. Mrs. Duckett said for the month of October, there were 144 citations and the collections were \$37,954.40, and in November 202 citations and since the Police Department has been a little busy doing other things, collections have gone down just a little bit, with a difference of \$12,492 between the two months. Mrs. Duckett said the total collected for November was \$25,461.47. Mrs. Duckett advised that she did do the fiscal year report as requested by Jon Bickford, breaking it down from 2016-2017 and 2017-2018, and the difference between the fiscal years was \$21,215.78.

Rebecca Huss said she thought the comment was made last meeting that our Police are not out, but it looks like at least if you are looking at citations collected from October to November, that is actually a 41% jump. Mrs. Duckett said they are out there working more cases and working the streets. Mrs. Duckett said it is illegal to put a quota on the Police Department to bring in citations, so she thinks they are doing a fantastic job. Rebecca Huss said she agreed, and said there is hardly any speeding at FM 149 and Lone Star Parkway during the school zone times, which is hard to do because the speed limit changes right there. Jon Bickford thanked Mrs. Duckett and said the information was very helpful.

- E. Utility/Development Report – Mr. Yates advised the utilities for the month were \$143,639, which is down slightly because of all the rain, he supposed. Mr. Yates said permits were \$10,359, with 43 permits. Mr. Yates said the Community Building brought in \$1,335. Mr. Yates said there were 27 new water accounts this month, which gets them up to 718 active accounts, which means they are adding about 7-8 new accounts each month.

Mr. Yates said the water consumption at Memory Park was down quite a bit this month. Rebecca Huss said she thought Mr. Muckleroy had said he turned off the system altogether at Memory Park.

- F. Water Report – Mr. Michael Williams, with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams said they had a number of district alerts this month, and all but one are pretty much due to the wet weather and power failures in the City. Rebecca Huss said that means there is a lot of I&I. Mr. Williams said that is correct. Mr. Williams said the only alter that is not related to those two is the very last one, which was on October 17 that was high chlorine residual. Mr. Williams said this was brought up at the last meeting, but they found a solenoid valve that feeds the chlorine automatically when the well comes on and off did not turn off when the well turned off, causing elevated residuals. Mr. Williams said they drained the tank and flushed the system until the residual was removed. Rebecca Huss asked if when they did that, did they keep track of how much water you drained and count that as flushing so that is not unaccounted water, it is still in the water accountability number. Mr. Williams said yes, that is in the water accountability number and you will see the higher flushing number.

Mr. Williams said the effluent flow for the month of September and October was 4,789,000 gallons and the daily peak flow was October 16 at 390,000 gallons, which is 98 percent of the permitted value and daily average flow was 154,500 gallons at 39 percent. Rebecca Huss asked if that was double what last month average daily flow was. Mr. Williams said last month it was 116,200 average per day and the only difference there was about six more inches of rain. Jon Bickford said that would imply leakage into the sewer pipes. Rebecca Huss said it would be a lot of leakage. Mr.

Williams said there are a lot of leaks into the sewer pipes. Mr. Williams said all the effluent samples were in compliance for the month of October, and they reported 12.75 inches of rain.

Mr. Williams said they sourced a total of 7.836 million gallons, flushed a total of 341,300 gallons, and sold 7.418 million for an estimate of 99 percent accountability this month. Mr. Williams said last month the accountability was a little bit lower than normal and they did find the error on the reading and so they adjusted the well and last month's accountability was actually 95 percent.

Rebecca Huss said that Mr. Williams was doing a great job of managing the remaining permit numbers.

Mr. Williams said the City sold a total of 7.418 million gallons this month and they treated 4.79 million gallons, with 12.75 inches of rain brought them to 65 percent return to the sewer plant from water sold. Rebecca Huss said she thought they did the math on this a couple of months ago and it is about \$10,000 in actual cash of extra cost of treating the effluent. Mr. Williams said at the time that the rainfall comes through, they do see higher power consumption and disinfection, and the blowers are constant so they are not using an extra power there so he would have to look at the information. Rebecca Huss said Jones and Carter did calculate it because there is depreciation, but there is an actual cash cost.

John Champagne asked if Rebecca Huss was saying it is not a one to one correlation when there is an infusion of rain water into the system in terms of cost. Mr. Williams said not completely, because whenever they have high flows, generally the pumps do generate more flow out of the pump due to the head pressure than it would on a normal level, so it just depends on how heavy of a flow they have. Mr. Williams said there is obviously an increased cost when they have rainfalls. John Champagne asked what was that cost. Mr. Williams said he did not have that cost. John Champagne asked if that would not be some value that he could bring to the City by identifying that cost and it would also allow us to make a decision of whether they should do more testing, smoke, video to find where these intrusion points may be. Mr. Williams said yes, the

City is already handling that. John Champagne asked who was handling that, and asked if Mr. Williams was part of that. Mr. Williams said he was not part of that. John Champagne asked if he should be part of that. Mr. Williams said he has given all the lift station run times to the City and they are working with Jones and Carter. John Champagne said his question is the City hired a third party contractor to take ownership of a certain scope of work, so now he is hearing that Jones and Carter is involved and someone in the City is involved, and they don't know who that is. John Champagne asked who owns this. Mr. Williams said it is not one person that owns it. John Champagne said it is always one person that owns it. John Champagne said they have no idea what our cost is, so we can't make an informed decision of whether they should do more testing, more work to alleviate this mystical cost. John Champagne said that is not the way a business is run in his world, so you guys discuss it, but this is an issue, when we get to 98 percent of permitted value, 390,000 gallons and we have no idea where it is coming from, other than it is rain. Rebecca Huss asked if they could get a number for the next meeting on the actual cash cost and then what the total cost in terms of depreciation, based on the Jones and Carter numbers that were put together three years ago. Mr. Roznovsky said he would look at the information. Rebecca Huss said they should be able to, because you know what the cost per 1,000 gallons is so they just have to plug that number into the extra 1,000 between the average gallons produced versus no rain, so they should be able to come up with a number of what rain costs per inch. John Champagne asked if he was asking the wrong person in regards to this information; is it Jones and Carter. Mr. Roznovsky said the two groups that are working on I&I the most are Public Works and Jones and Carter. John Champagne said Public Works would be Mr. Muckleroy. Mr. Roznovsky said that was correct, and said Public Works is doing the smoke testing, the cleaning and televising that has been done, but as far as your answer on the cost analysis he would have to go back and look because that was before his time. John Champagne asked if that would not be a logical thing to do when they see 390,000 gallons and we say there is a cost here, but we don't know what it is, but he can bet it is a bunch. John Champagne said if it is not Mr. William's baily wick he apologizes for asking, but it is somebodies. John Champagne said this happens all the time and he would like to know who owns this thing. Mr. Muckleroy said if any one person owns it, it is him. Mr. Muckleroy said they are currently working at it, they did a first round of smoke testing last week. John

Champagne asked what they got from it. Mr. Muckleroy said they found a couple of minor issues. John Champagne asked if it was nothing that would indicate 390,000 gallons. Mr. Muckleroy said no, not at this point, so it is on to phase two.

Jon Bickford said drastic increases are due to rainwater influx, and then he wonders if there is a certain level of rain where they see the effect. Rebecca Huss said part of the problem is the data that they should be getting from their pumps, they don't get hourly data or even daily data, so it is really hard to be super exact on what rainfall is happening and where to pinpoint everything. Jon Bickford said people that have sensors can tell how much rain they have in a day, and he needs to know if they get six inches of rain and he is pumping 200,000 gallons as a result, that is different than getting three inches of rain and only pump 10,000 gallons. Jon Bickford said that would tell him that he has a hole somewhere and when the water gets high enough it is pouring in so he would not need pump data to tell him that. Jon Bickford said it might be something to look at. Rebecca Huss said one of the investments that they should look at is a pump dialer or something where they are getting the same data that they are getting from the water meter and telling us what is happening really close to real time, so they are getting hourly readings. Rebecca Huss said those are expensive, so the question is what the cost benefit is. Rebecca Huss said the answer to John Champagne's question is absolutely critical in finding out how much they need to invest or should invest to find out the answer. John Champagne said right now it is an accepted cost of doing business. Jon Bickford said they need to get it unaccepted. Mr. Roznovsky said he would work with Mr. Muckleroy.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky stated the Buffalo Springs Bridge has a separate item. Mr. Roznovsky said they received and approved Pay Estimate 10, which is the second to last and the only thing remaining is retainage and some additional quantities that are included in the change order. Mr. Roznovsky said they had Change Order No. 3 for additional asphalt. Mr. Roznovsky said there were a total of 99 days from their July 24, 2018 completion to when the bridge was complete; of those days there were 13 days lost that the City can account for as rain days, so that was taken out of the liquidated damages, which

comes to about \$3,200. Mr. Roznovsky said the total liquidated damages that will be assessed to the contractor is for a total of 86 days for \$21,500.

Rebecca Huss asked Mr. Yates where they stand with FEMA's reimbursement to the City. Mr. Yates said they are at \$390,000 that FEMA has advanced to the State. Mr. Roznovsky said they are waiting for the final Change Order to come back from approval by the State and issue the Final Pay Estimate, and they can be closed out.

Mr. Roznovsky said the waterline across the bridge is also complete and in service, so Kroger and everything on that side of town is looped around with the rest of the City. Mr. Roznovsky said Pay Estimate No. 1 for \$83,140 that came through and they are working on addressing all the final punch list items, so they should be ready to accept at the next meeting.

Mr. Roznovsky said, regarding the Baja Road CDBG Project, the contractor was issued the Notice to Proceed on November 30th and has mobilized onsite and is beginning to slowly start work. Mr. Roznovsky said this project will end on January 29, 2019. Mr. Roznovsky said this project is taking the water line from FM 149 up to Baja Road and Baja Road and also putting in more culverts, upsizing culverts and redoing the ditches from Baja Road all the way down. Mr. Roznovsky said this is Phase I for Baja Road, and the prices came in really good so there is additional money for Phase II, so they are working with the City Administrator on getting the scope worked out to try and get some more work done in that area.

Mr. Roznovsky said that Baja Road paving project, which is separate, has a separate item on the agenda.

Mr. Roznovsky spoke about Atkins Creek, a FEMA Project, advising on December 4, 2018 FEMA advised they only thought the project was worth \$68,000 and that was it. Mr. Roznovsky said their cost estimate to put it back pre-disaster, which is not a feasible option that they have discussed before, is around \$290,000, and to mitigate the project is about \$400,000. Mr. Roznovsky said FEMA has now changed their tone saying that they realize that what they gave was not feasible options, and they are re-

evaluating to see how they can make the project work. Mr. Roznovsky said they wanted us to fill back in a 40 foot section of a 1,600 foot channel that has eroded that will last until the next rain.

Mr. Roznovsky said they received the last request for information on the GLO Project on October 25, 2018, provided the response in November, so they are in the waiting period and according to Grantworks the State has started to release some of the contracts to the cities. Mr. Roznovsky said in the next few weeks they should hear something.

Mr. Roznovsky said they had a final inspection for the Hills of Town Creek, Section 3, and a follow up inspection for Emma's Way. Mr. Roznovsky said they are both addressing punch list items and should be complete. Mr. Roznovsky said Lake Creek Village Section 3 are still addressing punch list items and the remainder is primarily addressing the culverts.

Mr. Roznovsky said they had a meeting with TxDOT regarding the Lone Star Parkway Transportation Plan (TIP) to discuss options and the process.

Mr. Roznovsky said they also completed the Annual Water Plant Inspections last month and will have that report for City Council at the January 8, 2019 Meeting. Mr. Roznovsky said in general, this was also the interior inspection that they did this time, and they looked at the interior of the ground storage tank at the older Water Plant and it was in good shape. Rebecca Huss said she saw the follow up from that information.

Mr. Roznovsky said the FM 149 turn lanes is being worked on now that the building has been demolished. Mr. Roznovsky said they are going to be meeting with the property owner regarding the other turn lanes at the Exxon Station.

Mayor Countryman asked if the Samdana donut shop developer was back on. Mr. Roznovsky said they are and he received an email from them this evening asking about an encroachment agreement and the process to obtain it. Mayor Countryman said she was glad to hear that because the property is looking sad.

John Champagne said he had a question about the Buffalo Springs Bridge, and asked if they have a down spout with a concrete bulk head. Mr. Roznovsky said yes. John Champagne asked if the exit point was below the waterline. Mr. Roznovsky said it is below the waterline. John Champagne asked if it was collecting silt. Mr. Roznovsky said they have looked at that at every rain and you see where it blows it out, because the silt is so fine. Mr. Roznovsky said when you look down you will see a cavity right at those points where the pipes come out, so it has been pushing out as it flows. John Champagne asked how much water this is handling. Mr. Roznovsky said the size of the pipes is 54-inch on each side of the Bridge, with a 3 x 2 box and 36-inch pipe on each side collecting and going into the 54-inch pipe. John Champagne asked if that was an ideal engineering design in terms of being below the waterline. Mr. Roznovsky said there is no issue with the design because it keeps it submerged and it is not using up capacity since it is still pushing it out, they are not trying to store it in there, so there is not an issue.

T.J. Wilkerson asked about the waterline and whether they were running the waterline from FM 149 to Baja Road. Mr. Roznovsky said that was correct, and then a little bit past, and it will stop between McGinnis and Baja Road. Mr. Roznovsky said the potential Phase II would take it up to close to the City limit line. T.J. Wilkerson asked if when they work on MLK they will redo those ditches too. Mr. Roznovsky said they would not on the school side of the street. Mr. Roznovsky said the Phase III project with the GLO funds has in there, one of the projects is the sanitary sewer system in that area, to inspect and rehab all that, also to redo the ditches on the opposite side of the street. Mr. Roznovsky said the big project that is in there is addressing Anders Branch, either improving the crossings at Plez Morgan at FM 149, in or a combination of Martin Luther King Jr. Drive, to help the water flow through there.

H. Financial Report and Quarterly Investment Report

Mr. Yates said the General Fund has \$744,049, but it has \$390,000 to and from the Capital Projects Fund, where they have been transferring the money for the advance payments for the bridge contractor. Mr. Yates said he expects to receive the \$390,000 funds in the next three to four weeks. Mr. Yates said the Utility Fund has \$701,000.

Mr. Yates said General Fund has a negative balance for the month of October, which is primarily due to the purchase of the property at FM 149 that was \$80,000. Mr. Yates said they don't have any taxes yet this year, and also when Mrs. Branco writes the Utility Fund checks, she writes payroll out of the General Fund and then transfers the money over, so there is probably \$10,000-\$15,000 there. Rebecca Huss said the first month of the year does not show how the rest of the year is going to go. Mr. Yates said the work that he has been doing with Kroger on their rebate is within a couple thousand of what his estimate was for the budget, so they have funds set aside for that. Mr. Yates said even after you approve the transfer agreement from Milestone to Kroger, there is still a question of how much sales tax the fuel center brought in because the fuel center is not part of the 380 Agreement. Mr. Yates said the sales tax consultant got a form for him to send to Kroger that allows the State Comptroller to break that amount out, so until that amount gets broken out, he will not know the precise amount, so he can't make a payment. Mr. Yates said they are ready to make a payment as soon as they get that information back. Rebecca Huss said it was interesting that they keep trying to put the fuel center back in because they did that during negotiations. Mr. Yates said he estimated that it would be about \$5,000 - \$6,000 for fuel center tax.

Rebecca Huss moved to accept the Departmental Reports as presented. Jon Bickford seconded the motion.

Discussion: Mr. Yates stated that he did have one other item, which is the listing of the City's Investments in the Quarterly Investment Report for the Period Ending September 30, 2018. Mayor Countryman confirmed that they did receive the Quarterly Investment Report.

The motion carried unanimously. (4-0)

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

AN ORDINANCE BY THE CITY COUNCIL OF MONTGOMERY, TEXAS APPROVING A PETITION FOR EXPANSION OF A TOTAL OF 637.646 ACRES OF LAND, MORE OR LESS, IN THE BENJAMIN RIGSBY SURVEY INTO THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF MONTGOMERY, TEXAS; DECLARING SAID PROPERTY TO BE IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF MONTGOMERY, TEXAS; PROVIDING A SEVERABILITY CLAUSE AND A TEXAS

OPEN MEETINGS ACT CLAUSE; AND DECLARING AN EFFECTIVE DATE UPON PUBLICATION AS PROVIDED BY LAW.

Mr. Yates stated that this is to expand the City's ETJ to the northwest as requested by the Carwile family and Bethyl Laboratories, Inc. Mr. Yates said by accepting this into the City's ETJ it creates a larger area that can be extended and/or annexed by the City of Montgomery in the future rather than the City of Conroe.

Jon Bickford asked if this would create any obligation for the City, or does it just make sure that if the City and owners wanted to annex later on they could. Mr. Yates said yes. John Champagne asked if it had to be a bi-lateral agreement, where the owners have to agree to it. Mr. Yates said that is correct.

Jon Bickford moved to approve the Ordinance that approves the expansion of the 637.646 acres into the City's ETJ into the City of Montgomery. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

11. Consideration and possible action regarding an Animal Control Ordinance.

Jon Bickford asked what feedback they got back from the people and did we incorporate it into the ordinance. Mr. Yates advised they received two emails. Rebecca Huss asked if one was from Scott Love because she thought that he had sent it to all of City Council. Mr. Yates said that was correct. Mr. Yates said that the other email was from a resident of Lake Creek Village that owns a pit bull. Mayor Countryman advised she had that information. Rebecca Huss said that resident was present tonight.

Jon Bickford asked if any of the feedback had been incorporated into the ordinance, or does Mr. Yates want to bring up the information to incorporate it into the ordinance. Jon Bickford said he would like to take the feedback they got, make a decision on whether or not to incorporate it into the ordinance to get it done.

Mr. Yates said Mr. Love said he was fine with the ordinance as prepared, and the other person said they had one or two pit bulls that they would not want to get into the list of dangerous

dogs, because they were well mannered and were very important to the family. Rebecca Huss said the content of the ordinance states it is the behavior of the dog rather than the breed of the dog that makes it dangerous, and the behavior of the dog is not an isolation to the circumstances in which the behavior happens. Rebecca Huss said there is a hearing at which the circumstances are considered, so she did not think it gets much fairer than that in terms of the dog getting a fair shake.

John Champagne asked if that same analogy would be made with a gorilla and a spider monkey. Rebecca Huss said those were definitely banned as wild animals. John Champagne asked if they did not ban them, would that analogy still hold true. Rebecca Huss said she was not really sure. John Champagne said he was trying to see the logic in a breed that is known to be overly aggressive being compared with a Chihuahua. Rebecca Huss said Chihuahuas bite more people than most other breeds. John Champagne said they don't kill a bunch though, so his question is they are basing it on subjectivity of the attitude and behavior of a dog compared to other dogs, as opposed to a breed that is given to be a certain instinctive propensity for aggression and you are comparing that dog to a Chihuahua. Rebecca Huss said most municipalities that have breed bans have not actually seen reduction in dog bites. John Champagne said he was not proposing that. Rebecca Huss said if John Champagne's goal was to reduce dog biting or dangerous dog behaviors, then a blanket ban on the breeds would not get you very far. John Champagne said he was not proposing that, he was just pointing out the flaw in the criteria. Jon Bickford asked if it was because it does not ban specific types of dogs. John Champagne said no, it was because the ordinance is subjective. John Champagne asked who determines what a bad acting dog is. Jon Bickford said the only other option they have is to take that language out completely. Rebecca Huss said the ordinance states "the dog may be deemed dangerous by an act against a person or livestock." John Champagne asked if it would be determined after the fact. Rebecca Huss said yes.

Jon Bickford asked if they changed the section that addressed animals on a leash or lead. Mr. Yates said no, he did not. John Champagne asked if there was no leash law included in this ordinance. Mr. Yates said there was a leash law; the question was about tethering an animal. Mr. Yates said tethering of an animal is still in the ordinance. Rebecca Huss said it was on page 6, Section 14-7.

John Champagne asked about the 1.5 acres for the first animal, 1 acre for additional animals, with exceptions for 4H and FFA Projects, and asked if their animals were somehow a higher, more acceptable form of animal. Jon Bickford said typically they are temporary. John Champagne asked what that was based on, and what subjective criteria were they using that determines that animal is better than say some other animal. Rebecca Huss said usually the goal of the FFA and 4H student is to raise the animal and have it sold for an amount of money that the student then can put toward college or other projects. John Champagne asked if that made it nobler. Rebecca Huss said no, it was just the idea like Jon Bickford said, it is a temporary situation. John Champagne asked if someone else could do a temporary situation; raise the animal, feed it and slaughter it, and asked if that would be okay. Jon Bickford said you can't slaughter the animal in your yard. John Champagne said he was just reading the ordinance. Jon Bickford asked John Champagne to offer suggestions. John Champagne said he would suggest taking that out of the ordinance. Rebecca Huss said it was the idea that the FFA and the 4H is an important part of our community. John Champagne said he understood that, but that is saying that someone else is not as important. Mayor Countryman said she did not see it that way. John Champagne said if he got the same number of animals that 4H has, same breed, he feeds them the same and it is temporary, so does he get the same allowances that they get. Rebecca Huss said in this case no, because obviously the ordinance requires a note.

Rebecca Huss said we find ourselves at this point because the logic and the middle road that they relied on to live next to each other in harmony does not seem to work anymore. Rebecca Huss said we have been required by circumstances to get to this point and write things down, and in doing so they don't want to knock out the things that are an important part of our community. John Champagne said they are important according to who. Jon Bickford said it was according to those that have voiced their opinion about it. John Champagne asked if the subjective opinion of this City Council is that FFA and 4H preminent position in regards to raising an animal. Rebecca Huss said she thought they could look at MISD as well, because they have an AG Department and an AG Barn that our taxes dollars are going to support so the School District as well feels that it is an important component of the education that our children receive. John Champagne said again he said "so." John Champagne said there is going to be unintended consequences to this ordinance. Rebecca Huss said she agreed, but in this case they know of something that they want to try and protect, and if they have to amend the

ordinance later, because of unintended consequences, then knowing what the unintended consequences are or the consequence is then they can more effectively amend. John Champagne said he was not questioning the motivation, he was sure that everyone here wants to do what is right. Jon Bickford said there are some rules around this, and asked specifically what was raising John Champagne's concerns. John Champagne said there were a number of them and he was just picking out the most obvious one for him. John Champagne asked how many acres does FFA and 4H get and what is the limit.

Jon Bickford said the ordinance provides that 4H and FFA may receive a temporary exemption provided there are City residents whose members are of the household and they have filed with the City Secretary a levy from the 4H adult leader/teacher certifying the project and no neighbor within 50 feet of the animal's pen files a written complaint with the City. Jon Bickford said that question is taken care of in Section 14A. John Champagne said the summary does not read correctly. Rebecca Huss said they need to double up and put it on the second line. Jon Bickford said absolutely in all the cases with 4H and FFA. John Champagne said he appreciated Jon Bickford, but asked what the exception was for 4H and FFA. Jon Bickford said if they get the teacher's note and the animal is not objectionable to a resident within 50 feet of the pen, then they can keep it. John Champagne asked what the exception was, because there is an exception clause. Jon Bickford said that is the exception that you get, you can keep the animal if you meet the criteria. John Champagne said then it is not really an exemption; anybody can do it. Jon Bickford said you need a note from your 4H teacher or FFA teacher, so if you can get that from your 4H or FFA advisor, then yes you can have one at your place if you meet the criteria. John Champagne said but no one else can. Jon Bickford said they can if they get a letter from their teacher. Mayor Countryman said they have not currently had this as an issue, so she does not foresee it. John Champagne asked why it was in the ordinance then. Mayor Countryman said it was language that most ordinances have and they have to cover it at some point, because we are in a rural area. Rebecca Huss said that Mr. Love specifically brought it up as a concern of his. Mayor Countryman said that was correct because he had 350 chickens behind him, at one point. Jon Bickford said there could be some unplanned consequences, this is an ordinance, so he was pretty sure they could change the ordinance. Mr. Yates said they could modify the ordinance. Jon Bickford asked why this seems to be such a hard problem; this ordinance would allow them to move forward and solve the problem that they have to solve, which they were not able to resolve.

Rebecca Huss said there were a couple of items that she wanted to address, on page 7 it has both 1-acre versus 1.5 acres for cows and asked if they wanted to pick one or the other rather than having both. Jon Bickford said they need to be consistent. John Champagne asked where they plagiarized the ordinance. Rebecca Huss said it came from a bunch of different things. Mr. Yates said he got it from an example that was written about two years ago. John Champagne asked where Mr. Yates obtained the ordinance. Mr. Yates said it was a combination of several people including Rebecca Huss.

Mayor Countryman said they have been talking about this matter for months so everyone has had ample time to throw in their two cents or give ideas because they asked for ideas and options. John Champagne said his option was File 13.

Rebecca Huss asked if they make horses 1 to 1 ½ half acres for the first animal and said they need to pick one. Jon Bickford said he would pick 1 ½ acres to be consistent, and if that causes a problem for anybody let the City know because they can fix it. Rebecca Huss said just so they know, the director that is listed in the ordinance is the Director of Public Works, so that is Mr. Muckleroy, who is the one that does a lot of this stuff, which is fine with her. Mr. Yates said that should be animal control. Rebecca Huss said that is what it states, Director of Public Works or designee. Rebecca Huss said if they use animal control, they are off of SH 242, which means all of this is useless, so it either needs to be in the City if they want it to be any use at all. Rebecca Huss said the Director of all this needs to be an employee of the City, because if they are using animal control, except for things related to rabies, which is properly the County, then none of this is of use at all, because they will be relying on the County to enforce things that they are not interested in doing. Rebecca Huss said the reason they are here doing this is because the County does not come out here. Rebecca Huss said she was fine with it being Mr. Muckleroy, but she just wanted to make sure that everyone was aware of that.

John Champagne asked T.J. Wilkerson how many animals he has at his house. T.J. Wilkerson said he had six or seven animals. John Champagne asked how many animals Rebecca Huss had. Rebecca Huss said she has one dog and five outdoor cats. Jon Bickford said he had six or seven animals. John Champagne said he had two animals. Mayor Countryman said she has one animal.

Rebecca Huss said the other thing that she wanted to ask about was there is only one section that has anything to do with fines, and said there is no consistency regarding enforcement leverage and she felt there needed to be something to do with what the fine was for going against the ordinance. Rebecca Huss said there was only something on page five for the nuisance. Mr. Yates said they could add a penalty clause.

John Champagne moved that they vote on the ordinance as presented, as acceptable or not acceptable.

Rebecca Huss said she thought there are some flaws so they could make it contingent to the things that they have already discussed. John Champagne said no, his motion is straight up.

T.J. Wilkerson seconded the motion.

Discussion: Jon Bickford asked if John Champagne would accept. John Champagne said the motion was as stated and he was done, he has no amendments, no nothing. Jon Bickford said okay. Rebecca Huss asked if they were voting yes or are we just voting to vote. John Champagne said they are voting "YAY" OR "NAY" on the ordinance that has been presented to this City Council tonight. Jon Bickford asked one more question on whether they got any specific feedback from anybody that said there was anything in this ordinance that they wanted to take out. Mr. Yates said no, just the comment about the pit bull and dangerous dogs, but again the dangerous dogs is not by breed. Jon Bickford said that as he had stated before, the ordinance can always be changed. Mayor Countryman said the motion was not to reject the ordinance. Jon Bickford said he would rather have it active and change it than have it inactive. John Champagne said Jon Bickford could always make that motion.

Mayor Countryman said on the table is a motion to accept the ordinance as presented.

The motion failed with the following vote:

Aye: Rebecca Huss and Jon Bickford

Nay: John Champagne and T.J. Wilkerson

Mayor Countryman voted Aye to break the tie to accept the Animal Ordinance as presented.
(3-Ayes to 2-Nays)

12. Consideration and possible action regarding advertising for Chief of Police position.

Mr. Yates advised that the hiring of a Police Chief can be a very involved process or as simple as taking applications, reviewing them, interviewing people and checking references before hiring. Mr. Yates said the position of Police Chief for the City should be of interest to the highest quality of law enforcement personnel due to our growth, location and the City's future.

Mr. Yates commented that the City's Personnel Policy rules regarding Recruitment, Selection and Hiring Practices states in Section 2.02 Promotion. The City will attempt to provide promotional opportunities to existing Employees, when possible. A selection process may be limited to qualified City Employees or such employees may be given preference in application or consideration. Opportunities for promotion across organizational lines shall also be possible, contingent on business necessities at the time. All promoted Employees shall serve a 90 day Orientation Period in the new position.

Mr. Yates said if they were not to promote and go through the application process, what he has outlined is the three different types of processes:

- Internal Process – which involves advertising the position and collecting resumes for City Council to narrow the applicants down to about six candidates who are interviewed by a select committee that could involve City Council members, the City Administrator, possibly a neighboring Police Chief, and possibly members of the community.
- Assessment Center Process – which would involve the hiring of an Assessment Company that would involve testing and screening by an outside service. Mr. Yates said he has not researched the availability or cost of such a service. Mr. Yates said a modification of this could be to hire a company such as Strategic Government Resources (SRG) to perform the solicitation of applicants and perform testing and screening for an approximate cost of \$15,000.
- Public Process – which would involve the positioning of a committee made up of City Council members and to hold public forums for the “type” of Police Chief the

community needs. Mr. Yates said a select group of the public could also sit in on the interviews, and there could also be an interview conducted by an expert panel of law enforcement.

- Hybrid Process – which would be a combination of the above three processes. Mr. Yates said they would advertise with Texas Municipal League and on the SRG job listing to get as much coverage and notification to the public for the applicants. Mr. Yates said they would form a committee made up of two City Council members, the Mayor, City Administrator, two members of the public, the Human Resources Director, which is Susan Hensley, and one area Police Chief to narrow down the applicants down to approximately six applicants. Mr. Yates said the committee would interview the applicants and narrow them down to the top three applicants, who are then given personality and leadership screening tests by SGR. Mr. Yates said then the City Council will interview the top three candidates and make a selection.

Mr. Yates said it will be up to City Council on what they want to do. Mr. Yates said nothing states that they have to go out for applications, you could do an internal search as provided by the City Personnel Policy regulations, for an internal promotion. John Champagne said the internal process would be part of this process either way. John Champagne said whoever wants to apply internally has that opportunity. Mr. Yates said if they wanted to promote within, you would not have to go outside for applications.

John Champagne said the last time that they did this process, the full City Council was involved, which he is a proponent of and resumes were evaluated. John Champagne asked Mr. Foerster if the resumes could be evaluated privately and are not required to be in a public setting. Mr. Foerster said they could do that in a Closed Executive Session. John Champagne said they came up with a final three candidates and they interviewed the three candidates and made a decision. John Champagne said it was pretty simple to him.

Rebecca Huss said she liked the idea of having input from the expert panel of a local agency such as Conroe Police Department, Montgomery County Sheriff's Department, or Montgomery School District to provide input on the skills and qualifications, because obviously there is a benefit to be had. Rebecca Huss said she was a little bit nervous going out to somebody like SRG to pay for something where they might get somebody that looks at Montgomery like a stepping stone rather than looking at what Montgomery needs all by itself.

John Champagne said small does not always equate to low crime, and said he feels that is a false correlation. John Champagne said he thought this City Council did a fairly good job and the City has been pretty safe over the past five years albeit not perfect. John Champagne asked if they got Texas Municipal League involved with the search and advertise with them the last time. Mr. Yates said he did not know about last time. Jon Bickford said he did not think they used an agency for the search. John Champagne said they did not use one, it was just a police group they used. John Champagne said they got resumes, they evaluated the resumes as a group, came up with the final three candidates and interviewed the final three and made a decision. John Champagne said that was how they hired Mr. Yates. Rebecca Huss said they used a head hunter for Mr. Yates. John Champagne said they all interviewed Mr. Yates. Rebecca Huss said that he had gone through a screening process of some sort.

Jon Bickford said the question is not how they are going to do it, but are they going to do it. Jon Bickford said they need to open the door and see what is available and let the best person win, and his question is do they have to make a motion. Mr. Yates said no they could direct him on what they want done. Jon Bickford said they need to open it up the hiring process and see who applies. Jon Bickford said over the next four weeks they will see what comes in.

Mayor Countryman asked if there was a time period on how long the advertisement should go out. Mr. Yates said three weeks to a month. Jon Bickford asked if they need to make a motion. Mr. Foerster said he would like to have a motion and said he felt it would be appropriate to have some sort of frame work by which you are going to make a selection. Rebecca Huss said she would really like to see them include outside agencies since we do depend on the concurrent jurisdictions for a lot of our resources and additional support, so it would be nice to include their judgement. John Champagne asked specifically who they would include. Rebecca Huss said the Montgomery County Sheriff's Department and Department of Public Safety. John Champagne said he was not impressed with either one of those organizations. Mayor Countryman said it would be good to have an expert in police work to make the determination. John Champagne said if they bring in another group they will bring in their own biases, and said he had no problem bringing in an individual within the City that has a vested interest, because they have some officers in the City such as Joel Gordon, and said he would have no problem with him being involved. Rebecca Huss said they do pay more taxes to the County

than they do to the City and they buy a lot of stuff with those funds, and they should get services for that so a good relationship is an important part. Jon Bickford said someone like Joel Gordon could give a good opinion on the best candidate. Jon Bickford said he felt if they get mired down with the process tonight we could stay here an hour to figure it out.

Jon Bickford moved that they a) formally open the position for Police Chief, advertise the position so they can pick a permanent Police Chief for the City and b) they leave the application time open for four weeks, and c) ask the City Administrator to put together the process that he would like to follow, with the following guidance: 1) we would prefer not to go to an outside agency if they can help it, and if they do they would like to see if they can get some feedback from folks in the City that can help us pick someone rather than pay somebody, 2) and make sure that City Council gets involved in the final decision process.

Rebecca Huss said then maybe bring the process back at the first January Meeting if that is what the City Attorney wants them to do. Jon Bickford said he wanted to open it now. Jon Bickford said they can determine the process by email. Mr. Foerster asked what he meant by email. Jon Bickford asked if they want them to vote on the process or just the position being opened. Mr. Foerster said if the City Council is going to take some action moving forward with opening the process, he just wants something on the record that authorizes Mr. Yates to move forward. Mr. Foerster said that does not keep them from modifying the process as they go forward, but at least the first step would be if they want to go out and reach out to possible qualified candidates; let's get the advertisement done.

John Champagne seconded the motion, the motion carried unanimously. (4-0)

13. Report regarding completion of the Buffalo Springs Bridge.

Mr. Roznovsky said that he did not have any additional information to add unless there were questions by City Council. There were no other questions submitted.

14. Report regarding City initiated rezoning of parcel of property inside the City.

Mr. McCorquodale presented the information to City Council stating that this was basically a cleaning up of the City's Zoning Map. Mr. Yates said the main point that they were looking for was the Planning and Zoning Commission has been working on this for several months and their intention is to start the City initiated process on this. Mr. Yates said he wanted to make sure that City Council was good with the proposed parcels.

Jon Bickford asked if this was the same Planning and Zoning Commission that approved the 80 foot flag pole. Mayor Countryman said that was the Board of Adjustment. John Champagne asked if they were talking about an estimated cost of \$4,200.

John Champagne made a motion to accept this recommendation. Mr. Foerster said this is a Report with no action. Mr. McCorquodale said they wanted to make sure that City Council was okay with rezoning some properties.

Jon Bickford asked if the property owner can say they don't want to be rezoned. Mr. McCorquodale said the owner has some input, but ultimately it is the City's pleasure of the land use. Jon Bickford asked if the City would have to be able to cause their property value to go down by rezoning. Mr. Yates said they are not pushing the subject on the homeowner, these are cleanup items. Jon Bickford said this is probably parcels that the owner wants rezoned anyway. Jon Bickford asked if there were any properties that were residential and going to commercial or industrial. Mr. McCorquodale said these are going the other way, they are zoned industrial to residential. Jon Bickford said he was good with the information. Rebecca Huss asked if they have talked with any of the owners yet. Mr. McCorquodale said it is very early in the process and they will be talking to the owners.

15. Consideration and possible action regarding rebidding the Baja Street Paving Project.

Mr. Roznovsky advised they received bids for the Baja Street Paving Project on November 29, 2018, which came in very high, with the low bid being \$89,530 that is about \$34,000 over the estimate and there were only two bidders on the project.

Mr. Roznovsky said what they did was talk to the people that had pulled plans but did not bid on the project and asked the reason why they did not bid; they also spoke to some local

contractors and asked why they were not interested and did not submit a bid to figure what the reason was for the lack of bids. Mr. Roznovsky said a couple of things came back; a couple forgot to bid, and since it was a small project some were not that interested. Mr. Roznovsky said what also brought the price of the bids up was the requirement that they could only do half the road at a time to allow traffic.

Mr. Roznovsky said their recommendation is to not award the project tonight; go back at calling out that phasing differently to do the road and have it open up by that night and then the next day come back, so people still have access in the morning and evenings to their homes to help bring that price down, as well as giving the contractors more time.

John Champagne asked if the rebids for this project would be on fast track. Mr. Roznovsky said he thought that they would wait until the first of the year, and his reason was because of the holidays. Mr. Roznovsky said the waterline, is complete. Mr. Roznovsky said just with the Holiday Season they could go ahead and put it in the paper sooner and then extend the time out so they don't receive bids until the first of the year so they continue to move forward with the project.

John Champagne said he has lost count, and asked if these people have been waiting over two years. Mayor Countryman said it has been almost three years. Rebecca Huss asked if Mr. Roznovsky was working that contract time around the school day also. Mr. Roznovsky said no, he was not. Rebecca Huss advised the car rider lines run right through that area on Baja Street and goes around the school. Mr. Roznovsky said that was Community Center Drive; this is Baja Street, which is the dead end street north past the school.

Mr. Yates said he agreed with John Champagne in the sense that they go ahead and advertise as soon as possible, even if they extend the days out to the 8th or 9th of January, 2019.

John Champagne moved to rebid the Baja Street Paving Project and extend the days out to January 8th or 9th, 2019. Rebecca Huss seconded the motion, the motion carried unanimously.

(4-0)

16. Consideration and possible action regarding appointment to fill the vacant Place #5 on City Council for the term expiring in May 2019.

Mr. Yates said that the City Council was not under any constraint as to the selection method they choose to appoint their replacement, including the option to not appoint a replacement.

John Champagne said he had made a motion that they fill that position, and then it was voted on that they fill the position. John Champagne said that he and Rebecca Huss had a bit of a discussion because she did not want to fill the position for whatever reason, so this ambiguous wording is inappropriate and does not fall in line with the motion. Mr. Yates said he would have to look back at the minutes. John Champagne asked if Mr. Yates wrote this item. Mr. Yates said yes he did. John Champagne asked if he had to remake the motion to fill this position. Mr. Yates said no. John Champagne asked what this was that they are to consider, the applications and make a decision to appoint or to choose not to make an appointment. John Champagne said not to make an appointment is not even an issue.

Mr. Yates said he has attached a series of emails between the City Attorney and Jon Bickford concerning a possible selection and interview process. Mr. Yates said there were three applications. Jon Bickford said he understood that one of the applicants had withdrawn their name. Mayor Countryman said that was correct. Jon Bickford said he has proposed a process for selection.

Mr. Foerster said the way that he read the agenda item, Consideration and possible action regarding appointment to fill the vacant Place #5 on City Council for the term expiring May 2019, he would think that puts people on notice that you have the right tonight to make that selection if you wish. John Champagne asked if they could nominate people. Mr. Foerster and Mayor Countryman said yes. Mayor Countryman asked if they wanted them to state why they are running and be able to ask questions. John Champagne said he did not; he has a resume that he looked at. Mayor Countryman said she felt there should be a question and answer. John Champagne said he would leave it up to City Council. Mayor Countryman said she was just suggesting.

Jon Bickford asked if City Council was going to invoke what he had proposed to offer three to four minutes, no more than that for each interested party to stand up and state their qualifications and why they are interested and then sit back down with no discussion. John Champagne said he was all in for that. John Champagne said they have two people, and he does not see a line behind them and he says they nominate one of them and vote on them and put them in the chair. Mayor Countryman said either way.

Jon Bickford asked if they should get the candidates up here. Mr. Foerster said he would suggest that they get that in the form of a motion.

Jon Bickford moved to give each candidate four minutes to speak to give us some background on why they are interested in the position so they can get that in public. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

Jon Bickford said that Jenny Stewart and Tom Cronin have put their application in and Jenny Stewart spoke first.

Jenny Stewart - read her application, advising that she graduated Cum Laude in 1981 from Texas A&M. Her experience was three terms elected to Montgomery City Council, Planning and Zoning Committee Chairman, and said she was the one that was responsible for Planning and Zoning being in this town. Mrs. Stewart said she spearheaded the Cedar Brake Park Project and got the first half million dollar grant the City ever had received. Mrs. Stewart said she negotiated the purchase of land for the current City Hall site for \$1 from the County. Mrs. Stewart said her areas of interest are all areas that need to be improved, and said she has a lot of contacts that would be of benefit to the City. Mrs. Stewart said she was active in the MISD for 16 years, participated on the MISD District Advisory Board and she fought hard and changed the MISD Honor Roll Society eligibility rule, PTO Board member and founding member of the National Charity League, Montgomery Monarch Chapter, Bear backers, past President of Montgomery Junior Cotillion, past President of Lake Conroe Area Republican Women, first Vice President two years, Legislative Chairman for two years, campaign activity, State Republican Delegate to Senate District 3, Councilwoman State Convention, Board Member of the Houston Equine Research Organization (HERO) at Sam Houston Race Park for ten years. Mrs. Stewart said she believed her experience will benefit the citizens greatly

until the next election. Mrs. Stewart said in the last couple of months she has been able to shine some light on some problems in the City and help solve them. Mrs. Stewart said she was good at win-win situations for the City as her past track record reflects. Mrs. Stewart said she has been on the Variance Board and they have had three meetings and she has missed two because she was out of town. Mrs. Stewart said there are a lot of things that she could benefit the City, and one of the things would be bringing in outside people, experts to avoid problems. Mrs. Stewart said some of the people that she has brought in the past they did not use, and they would not have the problems that they are having right now if they had. Mrs. Stewart said she always believe in looking to outside people who are smarter, wiser and more educated that we are because we are a small town and we are growing. Mrs. Stewart said one of the big problems we have coming toward us and we have no plan for, as far as she is aware of, is the drainage. Mrs. Stewart said she has hotel contacts that she has called the City about, with the man that is the President of the Hilton Hyatt is a high school friend of hers and he is welcome to have a conference call with us about ways to get boutique for certain hotels in the County, or in the City. Mrs. Stewart said she has a lot of contacts and she actually has some good ideas on how to pick a Police Chief, and she has a lot of experience because of her many times in the City. Mrs. Stewart said she thought that she was retired, but she thinks the City could use some help from someone that has been around. Mrs. Stewart said she has seen a lot happen in this town, which she has lived in since 1991.

Tom Cronin – introduced himself stating that he has lived in town about 10 years and operates a restaurant that he has had for six and a half years. Mr. Cronin said he firmly believes that he could, if considered and given the opportunity, bring a lot of perspective from an operator of a business in downtown Montgomery in the Historic District. Mr. Cronin said he sees a lot and talks to a lot of different people, and unfortunately those people do not realize they might operate a business in downtown, but they don't have a lot of say so because they do not live here and they can't vote. Mr. Cronin said those people say you can't do this or that, but you can't do something unless you have somebody to represent your interests. Mr. Cronin said he would not just represent the interests of downtown, but again he has been here six and a half years and he has seen a lot of changes in this City. Mr. Cronin said he has lived in the area 15 years, he has a degree in law enforcement administration from the University of Oklahoma. Mr. Cronin said he is a small town business man, he has worked for very large companies, he has held senior management positions with different size companies, he has worked in the

corporate world, but he really enjoys being semi-retired. Mr. Cronin said he was going to run for a position about a year ago, but he had some health issues, but his health is good now according to his cardiologist, so he has some free time. Mr. Cronin said he operates a business, but it is very successful and takes good care of itself and he would love to be able to provide input that City Council might value and appreciate.

John Champagne said that Mr. Cronin said he had a degree from Oklahoma, which was what. Mr. Cronin said it was law enforcement administration. Mayor Countryman said she also had a question. Jon Bickford said they were not supposed to ask questions. John Champagne said he was just asking for clarification as to what Mr. Cronin said. Mayor Countryman said she did have a question that she felt would be helpful. Jon Bickford said he did not think that was what they agreed to, so if the Mayor is going to ask questions, they will have to bring everyone back up. Mayor Countryman asked if she could make a statement. Jon Bickford said he did not think it would be appropriate at this point.

Jon Bickford said he perused the resumes, so as far as he was concerned, they have a couple of good candidates for a couple of different reasons. Jon Bickford said his personal specific concern for the City is what they have got coming, specifically along the lines concerns he has about the build out of FM 149 and the business impact on FM 149, getting a plan together with the businesses there to make sure that they can get that work by TxDOT done and not have another slip like they did; he would love to see somebody from the business community there in the Historic District that has a business on FM 149 be part of the City Council, certainly until May at least to help us to continue to push that and make it go forward. Jon Bickford said based on that, he would like to recommend Tom Cronin for the position.

Jon Bickford moved to appoint Tom Cronin to City Council, Place #5.

Rebecca Huss asked if they had to open the floor for nominations. Mayor Countryman asked if they needed to open the floor for nominations. Mr. Foerster said his suggestion to the City Council in previous correspondence was they could make a nomination, there is a second, if it dies because you do not get three votes, and if it is a two to two vote then the Mayor breaks the tie. Mr. Foerster said if that person does not get the necessary votes then there is a second nomination, and the second nominee may or may not get the votes as well, and at that point

you have a stale mate and you don't have anybody selected tonight. Mr. Foerster said he understand that what Jon Bickford is doing is making a motion to nominate Mr. Cronin, which would require a second.

T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

Mayor Countryman congratulated Mr. Tom Cronin on being appointed to City Council, Place #5.

17. Possible swearing-in of the new City Council Place #5 appointee.

Mayor Countryman administered the Statement of Appointed Office prior to Mr. Cronin taking the Oath of Office.

Mayor Countryman then administered the Oath of Office to Mr. Cronin as City Council, Place #5.

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.

18. Adjourn into Closed Executive Session to consider real property matters involving certain properties in the city under Section 551.072 of the Texas Government Code and consultation with attorney on confidential legal matters under Section 551.071 of the Texas Government Code.

Mayor Countryman adjourned into Closed Executive Session at 8:31 p.m.

19. Reconvene into Open Session.

Mayor Countryman reconvened into Open Session at 9:19 p.m.

POSSIBLE ACTION FROM EXECUTIVE SESSION:

20. Consideration and possible action if necessary on matters deliberated in Closed Executive Session.

No action was taken.

COUNCIL INQUIRY:

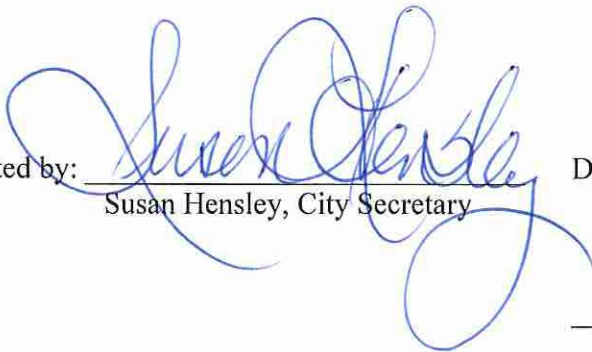
Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or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

No comments were made.

ADJOURNMENT

Jon Bickford moved to adjourn the meeting at 9:19 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: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Engineer memo
Date Prepared: January 3, 2019	

Subject

This is to approve the one – year warranty completion of public water and sanitary sewer facilities for Buffalo Springs Shopping Center Phase II

Description

The Engineer’s memo states that an inspection on the one – year warranty. Was held on November 6, 2018 and that all punch list items were sufficiently addressed in the work is in compliance with all city ordinances and standards.

The Engineer recommends release of warranty and maintenance bonds issued for the project.

Recommendation

Motion to accept the one year warranty completion as successful and to release all warranty and maintenance bonds— as part of the consent item agenda.

Approved By

City Administrator	Jack Yates	Date: January 3, 2019
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January 2, 2019

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

Re: Public Water and Sanitary Sewer Facilities for Buffalo Springs Shopping Center Phase II One Year
Warranty Completion
City of Montgomery

Dear Mayor and Council:

We completed the one-year warranty inspection of the work completed for Public Water and Sanitary Sewer Facilities for Buffalo Springs Shopping Center Phase II on November 6, 2018 in the presence of Mr. Michael Carpenter – Jones|Carter, Mr. Jim Gregg – Jones|Carter, Mr. Eric Standifer – City of Montgomery, and Mr. Colton Shaw – Brandt Construction. All punch list items identified at the inspection were sufficiently addressed on December 18, 2018, and the work completed is in compliance with all City ordinances and standards, unless previously authorized by variance.

This letter also certifies that we are not aware of any liens currently placed against the project, and we recommend the release of all warranty and maintenance bonds issued for the project.

Should you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,

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

Chris Roznovsky, PE
Engineer for the City

CVR/kmv

P:\PROJECTS\W5841 - City of Montgomery\W5841-1003-00 Milestone Development-Private\Punch List\One Year Warranty Letter.docx

Enc: Punchlist

Cc (via email): Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP, City Attorney
Mr. Chad Brandt – Brandt Construction, LLC

ONE YEAR WARRANTY - PUNCH LIST

Project: Buffalo Springs
 Inspection Date: 11/6/2018

J & C Job No.: W5841-1003-00

Contractor: <u>Brandt Construction</u>	Construction Manager: <u>Michael D. Carpenter</u>
Owner: <u>City of Montgomery</u>	Field Project Representative: <u>Jim Gregg</u>
	Design Engineer: <u>LJA Engineering</u>

An Inspection was conducted at the above project by Jones & Carter, Inc. at 10:00 am on the above date.
 The following items are to be corrected or completed to comply with the Contract Documents:

Item No.	Description	Date Comp.	FPR	Sign Off
1	Replace ring and reset top on manhole 3	<u>12/18-18</u>		<u>MDC</u>

Attendees: Michael Carpenter - Jones and Carter, Inc.
Jim Gregg - Jones and Carter, Inc.
Eric Standifer - City of Montgomery
Colton Shaw - Brandt Construction

Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Escrow Agreement
Date Prepared: January 3, 2019	

Subject

This is to approve the escrow agreement between the Land Investments, LLC and the City for The Woods at Montgomery development. \$10,000 has been paid in anticipation of this approval

Description

This is the standard escrow agreement form, with the Israeli agreement and the 1295 form attached.

Recommendation

Motion to approve the Escrow Agreement as presented -- as part of the consent item agenda

Approved By

City Administrator	Jack Yates	Date: January 3, 2019
--------------------	------------	-----------------------

ESCROW AGREEMENT
BY AND BETWEEN
THE CITY OF MONTGOMERY, TEXAS,
AND
1983 Land Investments, LLC

Dev. No. 1815

THE STATE OF TEXAS ⓓ

COUNTY OF MONTGOMERY ⓓ

This Escrow Agreement, is made and entered into as of the 2 day
January, 2019 by and between the CITY OF MONTGOMERY, TEXAS, a body
politic, and a municipal corporation created and operating under the general laws of the State of
Texas (hereinafter called the "City"), and 1983 Land Investments, LLC, a Texas
Corporation, (hereinafter called the "Developer").

RECITALS

WHEREAS, the Developer desires to acquire and develop all or part of a 67.839-acre tract
of land out of the Benjamin Rigsby Survey, A-31, Montgomery County, Texas, sometimes referred
to as The Woods of Town Creek Tract, and being more particularly described in Exhibit "A"
attached hereto and incorporated herein by reference for all purposes.

WHEREAS, the City policy requires the Developer to establish an Escrow Fund with the
City to reimburse the City for engineering costs, legal fees, consulting fees and administrative
expenses incurred for feasibility study, plan reviews, developer coordination, construction
management, inspection services to be provided for during the construction phase, and one-year

warranty services.

AGREEMENT

ARTICLE I

SERVICES REQUIRED

Section 1.01 The development of The Woods of Town Creek Tract will require the City to utilize its own personnel, its professionals and consultants; and the Escrow Fund will be used to reimburse the City its costs associated with these services.

Section 1.02 In the event other contract services are required related to the development from third parties, payment for such services will be made by the City and reimbursed by the Developer or paid directly by the Developer as the parties may agree.

ARTICLE II

FINANCING AND SERVICES

Section 2.01 All estimated costs and professional fees needed by City shall be financed by Developer. Developer agrees to advance funds to City for the purpose of funding the required Utility and Economic Feasibility Study ("Study") in the amount of \$10,000.

Section 2.02 Developer agrees to submit payment of the funds for the Utility and Economic Feasibility Study to City no later than ten (10) days after the execution of this Escrow Agreement. No work will begin on the Study until funds have been received and the Study has been authorized by City Council.

Section 2.03 As part of the Study, the estimated additional Escrow Amount will be determined for plan reviews, developer coordination, construction coordination, construction

inspection, warranty services, legal expenses, and administrative costs. Developer agrees to submit payment of the Escrow Amount to City no later than thirty (30) days after the acceptance of the Study by City Council. No work outside of the Study will be performed by or on behalf of the City until the Escrow Amount has been deposited.

Section 2.04 The total amount shown above for the Utility and Economic Feasibility Study and the Escrow Amount determined in the Study is intended to be a "Not to Exceed" amount unless extenuating, unexpected fees are needed. Examples of extenuating circumstances created by the developer that may cause additional fees include, but are not limited to, greater than three plan reviews or drainage analysis reviews; revisions to approved plans; extraordinary number of comments on plans; additional meetings at the request of the developer; variance requests; encroachment agreement requests; construction delays and/or issues; failure to coordinate construction with City; failed testing during construction; failing to address punch list items; and/or excessive warranty repair items. If extenuating circumstances arise, the Developer will be informed, in writing by the City, of the additional deposit amount and explanation of extenuating circumstance. The Developer agrees to tender additional sums within 10 days of receipt of request to cover such costs and expenses. If additional funds are not deposited within 10 days all work by or on behalf of the City will stop until funds are deposited. Any funds which may remain after the completion of the development described in this Escrow Agreement will be refunded to Developer.

ARTICLE III,

MISCELLANEOUS

Section 3.01 City reserves the right to enter into additional contracts with other persons, corporations, or political subdivisions of the State of Texas; provided, however, that City covenants and agrees that it will not so contract with others to an extent as to impair City's ability to perform fully and punctually its obligations under this Escrow Agreement.

Section 3.02 If either party is rendered unable, wholly or in part, by *force majeure* to carry out any of its obligations under this Escrow Agreement, then the obligations of such party, to the extent affected by such *force majeure* and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the *force majeure* relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such *force majeure* relied upon to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "*force majeure*," as used herein, shall include without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage, or accidents to machinery, which are not within the control of the party claiming such inability, which such party could not have avoided by the exercise of due diligence and care.

Section 3.03 This Escrow Agreement is subject to all rules, regulations and laws which may be applicable by the United States, the State of Texas or any regulatory agency having jurisdiction.

Section 3.04 No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 3.05 Any notice, communication, request, reply or advice (hereafter referred to as "notice") herein provided or permitted to be given, made, or accepted by either party to the other (except bills) must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party. Notice deposited in the mail in the manner herein above described shall be conclusively deemed to be effective, unless otherwise stated in this Escrow Agreement, from and after the expiration of seven (7) days after it is so deposited. Notice given in any other manner shall be effective only when received by the party to be notified. For the purpose of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to City, to: City Administrator
City of Montgomery
101 Old Plantersville Rd.
Montgomery, Texas 77356

If to Developer, to: Doug French
1983 Land Investments, LLC
4090 State Highway 6 S College
Station, Texas 77845

The parties shall have the right from time to time and at any time to change their respective addresses, and each shall have the right to specify as its address any other address by at least fifteen (15) days written notice to the other party.

Section 3.06 This Escrow Agreement shall be subject to change or modification only in writing and with the mutual consent of the governing body of City and the management of Developer.

Section 3.07 This Escrow Agreement shall bind and benefit City and its legal successors and Developer and its legal successors but shall not otherwise be assignable, in whole or in part, by either party except as specifically provided herein between the parties or by supplemental agreement.

Section 3.08 This Escrow Agreement shall be for the sole and exclusive benefit of City and Developer and is not for the benefit of any third party. Nothing herein shall be construed to confer standing to sue upon any party who did not otherwise have such standing.

Section 3.09 The provisions of this Escrow Agreement are severable, and if any provision or part of this Escrow Agreement 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 Escrow Agreement and the application of such provision or part of this Escrow Agreement to other person circumstances shall not be affected thereby.

Section 3.10 This Escrow Agreement and any amendments thereto, constitute all the agreements between the parties relative to the subject matter thereof, and may be executed in multiple counterparts, each of which when so executed shall be deemed to be an original.

Section 3.11 This Agreement shall be governed by, construed and enforced in accordance with, and subject to, the laws of the State of Texas without regard to the principles of conflict of laws. This Agreement is performable in Montgomery County, Texas.

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement in three (3) copies, each of which shall be deemed to be an original, as of the date and year first written in this Escrow Agreement.

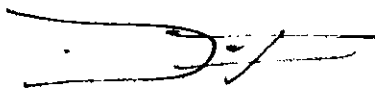
CITY OF MONTGOMERY, TEXAS

By: _____
Sara Countryman, Mayor

ATTEST:

By: _____
Susan Hensley, City Secretary

1983 Land Investments, LLC
Developer

By:  _____
Signature

Title: CEO

STATE OF TEXAS {

COUNTY OF MONTGOMERY {

BEFORE ME, the undersigned authority, on this day personally appeared Sara Countryman, Mayor of the City of Montgomery, Texas, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ____ day of _____, _____.

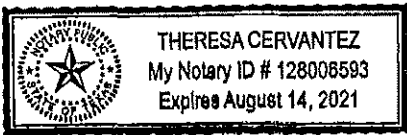
Notary Public, State of Texas

THE STATE OF TEXAS {

COUNTY OF _____ {

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Doug French manager of 1983 Land Investments, LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed and in the capacity therein stated and as the act and deed of said organization.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 2 day of January, 2019



[Signature]

Notary Public, State of Texas

Prohibition on Boycotting Israel Verification

This Verification is hereby incorporated into the terms of the contract by and between City of Montgomery and 1983 Land Investments, LLC entered into this the 2 day of January, 2019.

1. 1983 Land Investments, LLC, in conjunction with the execution of the above referenced contract and in accordance with Chapter 2270 of the Texas Government Code, effective September 1, 2017, does hereby agree, confirm, and verify that it:
 - A. Does not Boycott Israel; and
 - B. Will not Boycott Israel during the term of the contract.

"Boycott Israel" has the meaning given to it in Chapter 808 of Subtitle A, Title 8 of the Texas Government Code. As of the effective date of the statute, the term means "refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action make for ordinary business purposes."

2. Contractor hereby acknowledges and agrees that this verification is a material term of the contract and Owner is expressly relying on this verification in agreeing to enter into the contract with Contractor.
3. **TO THE MAXIMUM EXTENT PERMITTED BY LAW, CONTRACTOR AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS OWNER FROM ALL CLAIMS, CAUSES OF ACTION, LEGAL PROCEEDINGS, DAMAGES, COSTS, FEES AND EXPENSES ARISING OUT OF OR RELATED TO AN ACTUAL OR ALLEGED MISREPRESENTATION BY CONTRACTOR PROVIDED HEREUNDER.**

[Signatures on Following Page]

Prohibition on Boycotting Israel Verification[Continued]



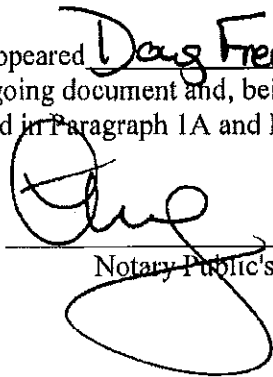
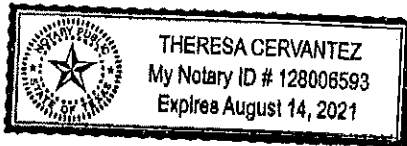
Contractor

State of Texas

County of Brazos

Before me, a notary public, on this day personally appeared Day French known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained in Paragraph 1A and B are true and correct.

(Personalized Seal)



Notary Public's Signature

Receipt and incorporation into the above referenced contract hereby agreed to and acknowledged by:

Owner

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
1983 Land Investments, LLC
College Station, TX United States

Certificate Number:
2019-437382

Date Filed:
01/03/2019

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
City of Montgomery, Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
1815
Escrow Agreement between the City of Montgomery, Texas and 1983 Land Investments, LLC.

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
1983 Land Investments, LLC	College Station, TX United States	X	

5 Check only if there is NO Interested Party.

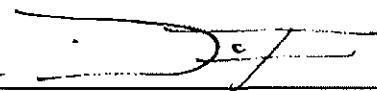
6 UNSWORN DECLARATION

My name is Doug French and my date of birth is X 5-12-83

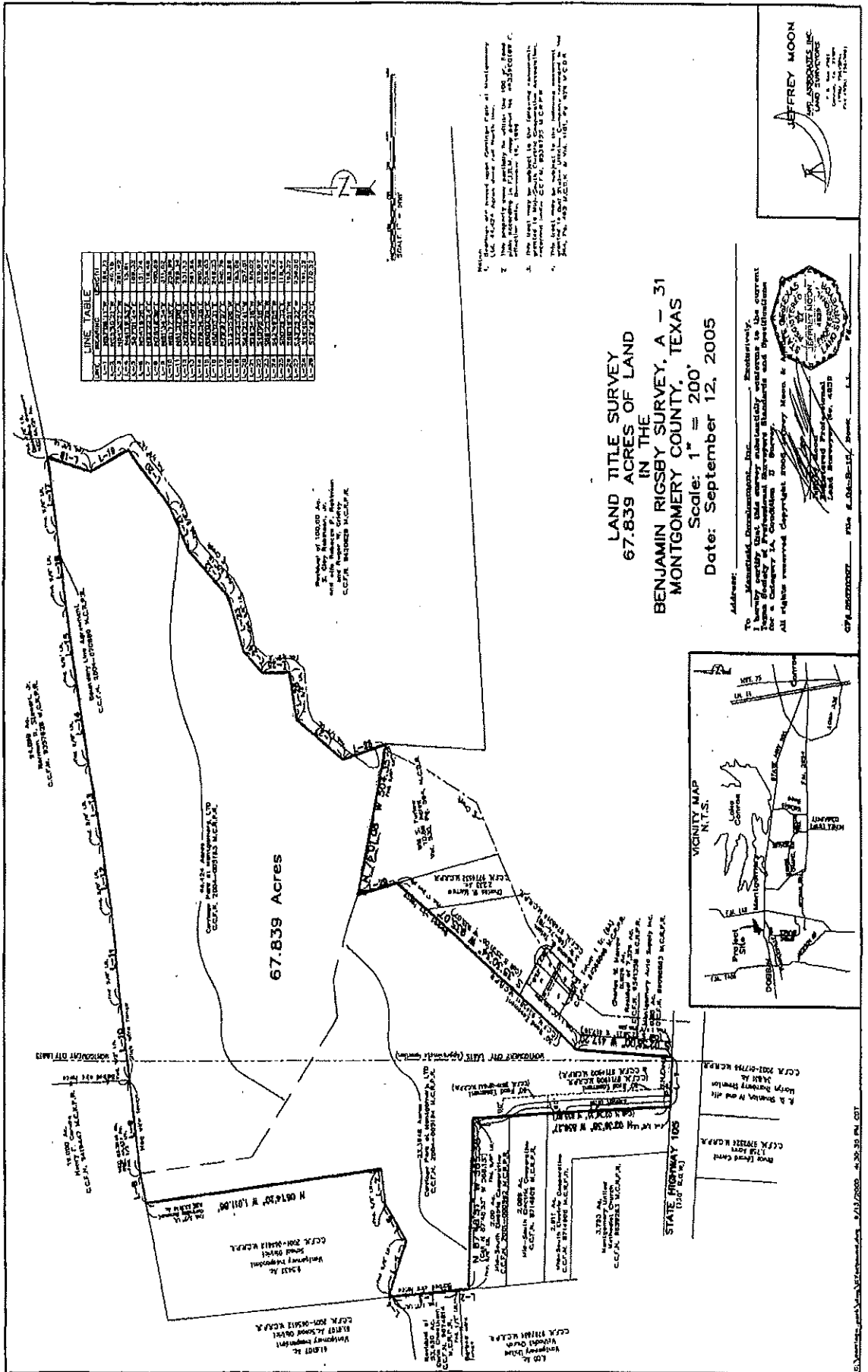
My address is 4090 St. Hwy 6 South, College Station, TX, 77845, USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Brazos County, State of TX, on the 3 day of January, 2019.
(month) (year)

X 

Signature of authorized agent of contracting business entity
(Declarant)

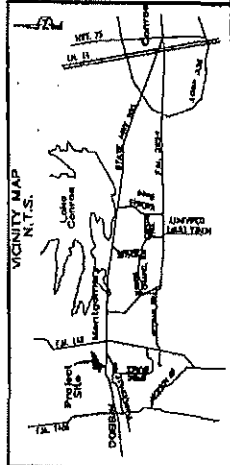


LINE	BEARING	DISTANCE	AREA
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96	S 00° 00' 00" W	100.00	100.00
97	N 89° 15' 00" E	100.00	100.00
98	S 89° 15' 00" W	100.00	100.00
99	S 00° 00' 00" W	100.00	100.00
100	N 89° 15' 00" E	100.00	100.00

67.839 Acres
 Survey of 67.839 Acres
 in the Benjamin Rigby Survey, A-31
 Montgomery County, Texas
 Surveyed by Jeffrey Moon, L.S. No. 4829
 September 12, 2005

LAND TITLE SURVEY
 67.839 ACRES OF LAND
 IN THE
 BENJAMIN RIGSBY SURVEY, A - 31
 MONTGOMERY COUNTY, TEXAS
 Scale: 1" = 200'
 Date: September 12, 2005

Address: _____
 TO: Mansfield Development, Inc. - Enclosed.
 I hereby certify that this survey was conducted in accordance with the current laws and regulations of the State of Texas and that I am a duly Licensed Professional Land Surveyor in the State of Texas.
 All rights reserved Copyright 2005 Jeffrey Moon & Associates, Inc.
 Jeffrey Moon & Associates, Inc.
 1100 N. Loop West, Suite 1000
 Houston, Texas 77028
 Phone: 713.865.1111
 Fax: 713.865.1112
 E-mail: jmoon@jeffreymoon.com
 License No. 4829



Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits:
Date Prepared: January 3, 2019	

Subject

This is to approve the preparation of a feasibility and utility analysis of the Land Investments, LLC for The Woods at Montgomery development. \$10,000 has been paid in anticipation of this approval

Description

This involves the tract of land immediately west of NAPA auto supply on SH 105. This tract is been looked at by two or three developers in the past two years. It's issue is a narrow access "panhandle" into a fairly large tract of land to the north.

Recommendation

Motion to approve the Utility and Feasibility study preparation as presented -- as part of the consent item agenda.

Approved By

City Administrator	Jack Yates	Date: January 3, 2019
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Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Letter of Request, Survey plat showing the two parcels, Aerial showing the two parcels
Date Prepared: January 2, 2019	

Subject

This item this to call public hearing regarding the Larry Jacobs request to rezone 2580 Lone Star Pkwy. from ID – industrial to R-2 multifamily and 2560 Lone Star Pkwy. from ID – industrial to B- commercial. The public hearing date would be February 12th.

Description

The Planning Commission acted on this at its November 26, 2018 meeting. You will receive their report at the time of this public hearing.
This is not the time to discuss the pros and cons of the request – you are being asked to simply call the public hearing.

Recommendation

Motion to call public hearing regarding the rezoning of 2580 Lone Star Pkwy. from ID – industrial to R-2 multifamily and 2560 Lone Star Pkwy. from ID – industrial to B- commercial to be held at 6:00 p.m. February 12th at City Hall, 101 Old Plantersville Rd. in Montgomery.

Approved By

City Administrator	Jack Yates	Date: January 2, 2019
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City of Montgomery
Jack Yates
Montgomery, TX 77356
August 20, 2018

Dear Mr. Yates,

I am the owner of the attached described property. I request that the approximate 5 acres to the north, marked on the map as "R-2", be re-zoned from "I-D-Industrial" to R-2 Multi-family. I also request that the approximate 2 acres on the southern portion, marked "B" be re-zoned from "I-D-Industrial" to "B-Commercial".

I look forward to discussing my property with Planning and Zoning members at the next meeting. In the meantime, if you have any questions, please feel free to contact me.

Sincerely,


Larry Jacobs
Owner

Attached:

Check
Property maps - 2

RECEIVED BY:
AUG 20 2008
AUTUMN REDMAN
City of Montgomery

936.597.3301

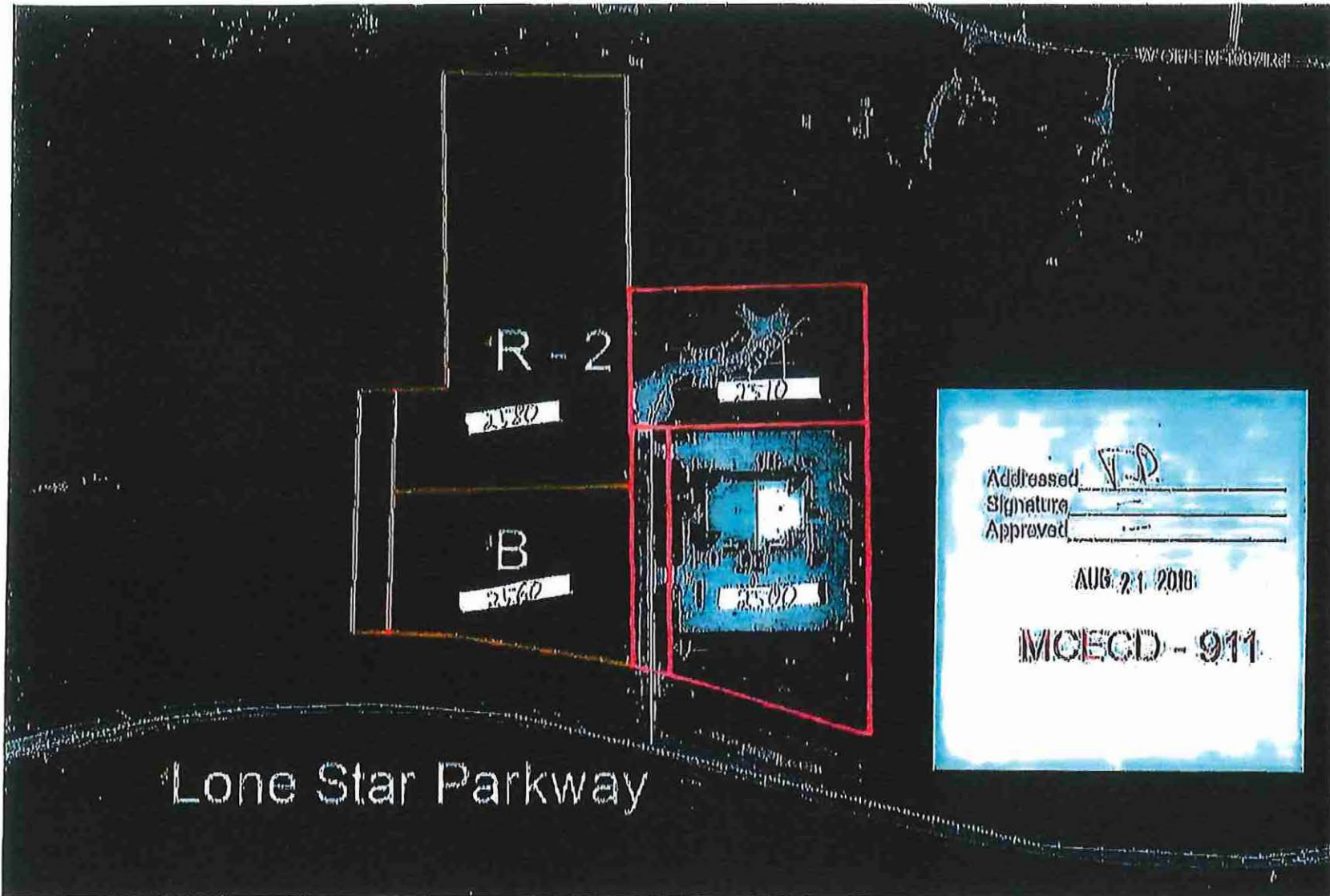
txland.com

larrytxland@gmail.com



Farms * Ranches * Homesites * Investment * Commercial Services
P.O. Box 1370 14372 Liberty Street Montgomery, TX 77356

2560 & 2580 Lone Star Parkway, Montgomery, Tx, 77356



Lone Star Parkway

Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Information regarding Board positions openings, Applications of prospective members, MEDC By-laws regarding membership
Date Prepared: January 2, 2019	

Subject

This item is to consider appointment of Montgomery Economic Development Corporation Board members.

Description

There are five positions open – two from the Council and three appointees. As you can see from the By-laws two members of the governing body are needed to be appointed to the Board. Beyond that, with Cheryl Fox (who does live in the city) and Bill Hanover (who does not live inside the city) that means that two of the three appointees can reside outside the city (but you are not required to appoint an outside member).

Recommendation

Consider and Motion to appoint _____, and _____ as Council members to the MEDC Board and _____, _____ and _____ as MEDC Board members.

Approved By

City Administrator	Jack Yates	Date: January 2, 2019
--------------------	------------	-----------------------

MEDC BOARD POSITIONS

The City of Montgomery City Council announces an opportunity for those interested in economic development activities in Montgomery to apply for five seats that need appointment to the Montgomery Economic Development Corporation (MEDC) Board of Directors. Applicants are not required to live in the City limits. All members of the Board shall be residents of Montgomery County, with the majority being residents of the City. The positions up for reappointment are now held by: Rebecca Huss, Randy Moravec, Bob Kerr, Amy Brown and John Champagne. The Board has a total of seven members.

The Board members act on behalf of the MEDC by administering economic development efforts of the City, including financial supervision of the one-half cent sales tax dedicated to the Corporation. The Board makes decisions on appropriations to local civic groups for promotional costs of various festivals, contributions to support infrastructure to businesses locating and expanding in the area and approval of improvement grants for downtown historic business.

The MEDC Board meets monthly, on the third Monday of the month at 6:00 p.m. at City Hall in Montgomery. Service on the Board is an unpaid position. Applications can be found on the montgomerytexas.gov website, click city government, then click Boards and Commissions then click "Membership Application" and forward the application to the City Secretary, Susan Hensley at shensley@ci.montgomery.tx.us or bring the completed application to City Hall at 101 Old Plantersville Road. Applications are due by 4:00 p.m. on January 3, 2019.

Note to Council:	<u>City Resident</u>	<u>Not City Resident</u>
Rebecca Huss	x	
John Champagne	x	
Cheryl Fox	x	
Bill Hanover		x
Randy Moravec		x
Bob Kerr	x	
Amy Brown	x	

Champagne, John

Wed, Jan 2,
12:53 PM (20
hours ago)

to me

Jack,

Since my position is one of two that has to be filled by a council member, I will not apply and allow council to choose my replacement.

Thanks,

jc

Management of the Corporation

3.1 The affairs of the Corporation shall be managed by the Board of Directors.

Number, Qualifications and Tenure of Directors

3.2 The Board of Directors shall consist of seven members appointed by the City Council of the City of Montgomery, Texas, for staggered two year terms of office. At least three (3) directors shall be persons who are not employees, officers or members of the governing body of the City of Montgomery, Texas. Two (2) directors shall be members of the governing body of the City. The terms of four (4) directors shall begin on January 1 of each odd numbered year and expire on December 31 of the next following odd numbered year. The terms of three (3) directors shall begin on January 1 of each even numbered year and expire on December 31 of the next following even numbered year. All directors of the Corporation shall be residents of the County of Montgomery with the majority being residents of the City of Montgomery.

1/2/19 12:30pm SA

City of Montgomery Application for Consideration of Appointment

Name of Board/Commission/Committee: Montgomery Economic Development Corporation

Name: Huss, Rebecca Kirstin
(Last) (First) (Middle)

Home Address: 602 Worsham St Montgomery TX 77316 619.962.7737
(Street) (Home Phone No.)

Email Address: rhuss@ci.montgomery.tx.us

Mailing Address: 602 Worsham St Montgomery TX 77316
(Business Phone /Fax)

Employer: Self Employed
(Name/Address)

Occupation: Entrepreneur, Volunteer

Do you live inside the city limits of Montgomery?* Yes No If So, How Long? 7.5 years

Are you a business owner/operator/employee in the City of Montgomery?* Yes No

If So, How Long? _____ Name of Business _____

So the council may know more about you, please complete the following:

Education: Bachelor of Science, International Affairs, Georgia Tech Master of Engineering, Mining Engineering, University of Missouri
Chartered Financial Analyst

Related Experience/Community Service: City Council - City of Montgomery 4.5 years, Planning & Zoning Commission
approx 1 year, Montgomery Economic Development Corporation approx 0.5 years, Montgomery Board of Adjustments 5.5 years, Cub Scout Pack 907

Den Leader and Committee Chairman, Kleberg County Child Welfare Board, La Posada de Kingsville Board Member, Animal Rescue Kleberg Board
Member. Previous work history in private infrastructure finance, equity real estate, and institutional mutual funds investing.

Areas of Interests Related to this Committee: I would like to continue to participate in the Board's efforts to maximize its
return on the funds that it spends on activities and investments in Montgomery. The Board has also begun an effort to more proactively engage in the City's
growth efforts which requires more engaged Board Members with backgrounds in investing, research, marketing, and finance.

Please specify membership on any other governmental board/commission/committee:

Current City Council, MEDC, Board of Adjustments. Previous P&Z.

Please provide a brief narrative outlining your reasons for seeking appointment to this board/ commission.

I currently serve on this Board and have supported the changes that it has made over the last 6 months to establish more formal guidelines under which
to operate as well as 1, 3 & 5 year goals. I believe that I can continue to contribute to the positive changes that have been make and that my enegyry
and enthusiasm for the goals will help the MEDC be an effective partner in the City's goals of making Montgomery grow and be a great place for it's residents to live.

RK Huss
Signature

1-2-19
Date

*Some (not all) boards/commissions/committees require members to reside within the city limits. Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months. NOTE: When filed at city hall, this will become a public document that may be disclosed per the Texas Public Information Act. NOTE: The city council will receive only this page of information; no attachments will be retained or forwarded.

Rowe 12/19/18

City of Montgomery Application for Consideration of Appointment

Name of Board/Commission/Committee: Economic Development Corporation

Name: Brown Amy
(Last) (First) (Middle)

Home Address: 647 Old Plantersville Road, Montgomery TX 77316
(Street) (Home Phone No.)

Email Address: _____

Mailing Address: 647 Old Plantersville Road, Montgomery TX 77316

Employer: Montgomery Quilt Company, 301 Prairie St, Montgomery, TX 77356
(Name/Address) (Business Phone /Fax)

Occupation: owner

Do you live inside the city limits of Montgomery?* Yes X No ___ If So, How Long? 6 Years

Are you a business owner/operator/employee in the City of Montgomery?* Yes X No ___

If So, How Long? 4 Years Name of Business Montgomery Quilt Company

So the council may know more about you, please complete the following:

Education: Some College

Related Experience/Community Service: MEDC Board member for two years. Current MEDC Secretary.

Areas of Interests Related to this Committee: _____

Please specify membership on any other governmental board/commission/committee:
City Website Committee

Please provide a brief narrative outlining your reasons for seeking appointment to this board/ commission.

It is very important to me to give of my time for the benefit of this city. Montgomery is my home and as it grows, decisions made now are very important to how this city will look and feel in the future. I want to be a part of the care and preservation of this city.

Amy Brown
Signature

12/19/2018
Date

*Some (not all) boards/commissions/committees require members to reside within the city limits. Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months. NOTE: When filed at city hall, this will become a public document that may be disclosed per the Texas Public Information Act. NOTE: The city council will receive only this page of information; no attachments will be retained or forwarded.

1/1/19 3:40
RC

City of Montgomery Application for Consideration of Appointment

Name of Board/Commission/Committee: Economic Development Corporation Board

Name: Moravec Randolph (Randy) Charles
(Last) (First) (Middle)

Home Address: 11710 Edgewater Ct., Montgomery TX 77356
(Street) (Home Phone No.)

Email Address: _____

Mailing Address: 11710 Edgewater Ct., Montgomery TX 77356 Not Applicable
(Business Phone /Fax)

Employer: Lone Star College / 3232 College Park Dr. The Woodlands TX 77384
(Name/Address)

Occupation: Adjunct Professor

Do you live inside the city limits of Montgomery?* Yes ___ No X If So, How Long? _____

Are you a business owner/operator/employee in the City of Montgomery?* Yes ___ No X

If So, How Long? _____ Name of Business _____

So the council may know more about you, please complete the following:

Education: BA & MPA, Southern Methodist University, PhD in Public Affairs UT Dallas

Related Experience/Community Service: 35 years in municipal finance including finance director with the City of Kingsville and chief financial officer with the Town of Addison; also executive director for the Texas Coalition for Affordable Power, an electric power aggregation power group serving cities; please see attached resume for more details if desired.

Areas of Interests Related to this Committee: economics, government finance, long-term planning policy development, capital and community improvements.

Please specify membership on any other governmental board/commission/committee: Currently board member of Montgomery County Municipal Utility District #8

Formerly Board Director of Government Finance Officer Assoc.

Please provide a brief narrative outlining your reasons for seeking appointment to this board/commission. I have enjoyed serving with the MEDC board the past three years and

would like to continue to work to accomplish the city's goals in making Montgomery a great community to live, work and visit.

[Signature]
Signature

01/01/2019
Date

*Some (not all) boards/commissions/committees require members to reside within the city limits. Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months. NOTE: When filed at city hall, this will become a public document that may be disclosed per the Texas Public Information Act. NOTE: The city council will receive only this page of information; no attachments will be retained or forwarded.

12/2019
SK

City of Montgomery
Application for Consideration of Appointment

Name of Board/Commission/Committee: MEDC

Name: KERR ROBERT D
(Last) (First) (Middle)

Home Address: 21451 EVA ST, MONT, 77356 936-597-4000
(Street) (Home Phone No.)

Email Address: KERRS@CONSOLIDATED.NET

Mailing Address: PO BOX 443, MONTGOMERY TX 936-597-4000
(Business Phone /Fax)

Employer: KERR'S HOME, INC
(Name/Address)

Occupation: RETAIL

Do you live inside the city limits of Montgomery?* Yes No If So, How Long? _____

Are you a business owner/operator/employee in the City of Montgomery?* Yes No

If So, How Long? 18 YEARS Name of Business KERR'S HOME INC

So the council may know more about you, please complete the following:

Education: SOME COLLEGE SFA AND SAM HOUSTON

Related Experience/Community Service: CURRENT MEDC MEMBER

Areas of Interests Related to this Committee: _____

Please specify membership on any other governmental board/commission/committee:

N/A

Please provide a brief narrative outlining your reasons for seeking appointment to this board/ commission.

GOOD PROGRESS HAS BEEN MADE BY THE BOARD THIS YEAR AND WOULD LIKE TO SEE IT CONTINUE

ROBERT KERR 12/30/2018
Signature Date

*Some (not all) boards/commissions/committees require members to reside within the city limits. Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months. NOTE: When filed at city hall, this will become a public document that may be disclosed per the Texas Public Information Act. NOTE: The city council will receive only this page of information; no attachments will be retained or forwarded.

4/3/19
8:39 AM
JK

City of Montgomery
Application for Consideration of Appointment

Name of Board/Commission/Committee: Montgomery Economic Development Corp. Board

Name: Cabets Kandice E
(Last) (First) (Middle)

Home Address: 3302 Lake Island Drive
(Street) (Home Phone No.)

Email Address: Kandice.c.@quadvest.com

Mailing Address: 3302 Lake Island Dr. Montgomery, TX 77308 281-356-5347
(Business Phone /Fax)

Employer: Quadvest
(Name/Address)

Occupation: Public Relations, F.A. *Real Estate Agent w/ Keller Williams.

Do you live inside the city limits of Montgomery? * Yes ___ No If So, How Long? ___

Are you a business owner/operator/employee in the City of Montgomery? * Yes ___ No

If So, How Long? ___ Name of Business ___

So the council may know more about you, please complete the following:

Education: LSC - Tomball, UH Downtown - business Admin (not complete)

Related Experience/Community Service: Ande Leach, MCD Food Bank, yes to youth, Water/Sewer Industry for 12 years.

Rotary Magnolia Past President, Magnolia Repub. Women - Past-treasure, Texas Alliance of Water providers - treasury/secretary, LMC Graduate 2018

Areas of Interests Related to this Committee: infrastructure to new and old business, approval of grants, appropriations to local clubs and events.

Please specify membership on any other governmental board/commission/committee:

Montgomery County Community Development - board member (BETA grants)

Please provide a brief narrative outlining your reasons for seeking appointment to this board/commission.

Montgomery is "booming"! I'm excited to focus on the needs and concerns of City businesses and to identify, encourage, and assist in the implementation of programs and activities that will contribute to Montgomery's economy.

JK
Signature

1-3-2019
Date

*Some (not all) boards/commissions/committees require members to reside within the city limits. Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months. NOTE: When filed at city hall, this will become a public document that may be disclosed per the Texas Public Information Act. NOTE: The city council will receive only this page of information; no attachments will be retained or forwarded.

1/3/2019

10:15 AM
JK

City of Montgomery Application for Consideration of Appointment

Name of Board/Commission/Committee: Economic Development

Name: MARTIN CINDY S.
(Last) (First) (Middle)

Home Address: 12279 F.M. 149
(Street) (Home Phone No.)

Email Address: _____

Mailing Address: P.O. Box 311 MONTGOMERY, TX 77316
(Business Phone /Fax)

Employer: NONE
(Name/Address)

Occupation: Retired

Do you live inside the city limits of Montgomery?* Yes ___ No If So, How Long? _____

Are you a business owner/operator/employee in the City of Montgomery?* Yes ___ No

If So, How Long? _____ Name of Business _____

So the council may know more about you, please complete the following:

Education: Bachelor of Science - Social Services - SAM Houston State - 1978

Related Experience/Community Service: Worked For Montgomery County - 1978 to 1992
Business Owner - 1992 - 1999 (Environmental Services)
Spouse of Business owner - 1990 to Present (A+H Electric - Conroe)

Areas of Interests Related to this Committee: Heartwood Master Naturalist
would like to guide development with eye on
preserving existing trees etc...

Please specify membership on any other governmental board/commission/committee:

GULF COAST ON-SITE WASTE WATER Assoc. 1988-2002
INDEPENDENT ELECTRICAL CONTRACTORS Assoc. 1990 - Present
HEARTWOOD MASTER NATURALIST member 2016

Please provide a brief narrative outlining your reasons for seeking appointment to this board/ commission.

OUR Family HAS BEEN PART OF MONTGOMERY SINCE 1837
PROPERTY HAS ALWAYS BEEN OUTSIDE CITY LIMITS
WANT TO GIVE BACK TO MY HOME TOWN

Cindy Martin January 3, 2019
Signature Date

*Some (not all) boards/commissions/committees require members to reside within the city limits.
Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months.
NOTE: When filed at city hall, this will become a public document that may be disclosed per the Texas Public Information Act.
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1/3/19 JY
E. J. 42
pm

City of Montgomery
Application for Consideration of Appointment

Name of Board/Commission/Committee: Economic Development Corporation

Name: Gibson Catherine Anne
(Last) (First) (Middle)

Home Address: 20001 Peel Road _____
(Street) (Home Phone No.)

Email Address: _____

Mailing Address: _____
(Business Phone /Fax)

Employer: Retired - Conroe ISD as of 12.18.15
(Name/Address)

Occupation: Assistant Superintendent

Do you live inside the city limits of Montgomery?* Yes ___ No X If So, How Long? _____

Are you a business owner/operator/employee in the City of Montgomery?* Yes ___ No X

If So, How Long? _____ Name of Business _____

So the council may know more about you, please complete the following:

Education: University of Houston Ed.D., M.Ed. Fitchburg State College B.S. in Ed.

Related Experience/Community Service: Working in a fast growth school district at an administrative level provided daily work relating to growth trends, budgeting, funding, bond elections, zoning processes, facility planning, growth projections, and facility design.

Areas of Interests Related to this Committee: I'm interested in the various aspects of short and long term planning, interrelatedness of economic growth and business/industry, meeting the needs of the Montgomery community, and retaining the natural heritage of Montgomery.

Please specify membership on any other governmental board/commission/committee:

St. Mary's Catholic Church, Plantersville, Texas - Hospitality Ministry

Project Mentor Program - Conroe ISD

Please provide a brief narrative outlining your reasons for seeking appointment to this board/commission.

I'm intereseted in being part of the study, discussion, and planning for economic growth and

and progress in relation to the current and future needs of Montgomery. I'd like to support future infrastructures that will be necessary for the future economic development of Montgomery.


Signature

1.3.19
Date

*Some (not all) boards/commissions/committees require members to reside within the city limits.
Please return completed form to the City Secretary's office for processing, P.O. Box 708 (mailing); 101 Old Plantersville Rd. (physical), Montgomery, TX 77356. Your application will be kept on file for 12 months.
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Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2019	Budgeted Amount:
Department: Administrative	
Prepared By: Susan Hensley, City Secretary	Exhibits: Alcohol Beverage License Permit Application Pack
Date Prepared: January 3, 2019	

Subject

Application by CVS for a Wine and Beer Retailer's Off-Premise Permit.

Recommendation

Approval of the Wine and Beer Retailer's Off-Premise Permit.

Discussion

The City of Montgomery is longer required to call a public hearing for approval of beverage permits applications, per Ordinance 2018-01 adopted in January of . . . year, states the following:



City Code - Sec. 6-33. – Approval of license application by City Council. After all the requirements for a license application under the provisions of this article have been met as determined by the City Administrator, the application shall be presented to the City Council for approval at a public meeting.

City Code - Sec. 6-34. - Conversion to different use. Uses permitted under any of the categories designated in this article may be converted to another use only with the approval of City Council.

Also attached is a letter stating that there are no churches, schools or hospitals within 1,000 feet of the CVS Store.

last

Approved By

City Secretary	Susan Hensley, City Secretary 	Date: January 4, 2019
City Administrator	Jack Yates, City Administrator 	Date: January 4, 2019

December 17, 2018

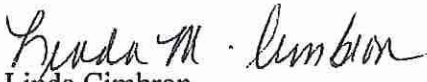
Susan Hensley
City of Montgomery
101 Old Plantersville Road
Montgomery, TX 77316

Dear Ms. Hensley,

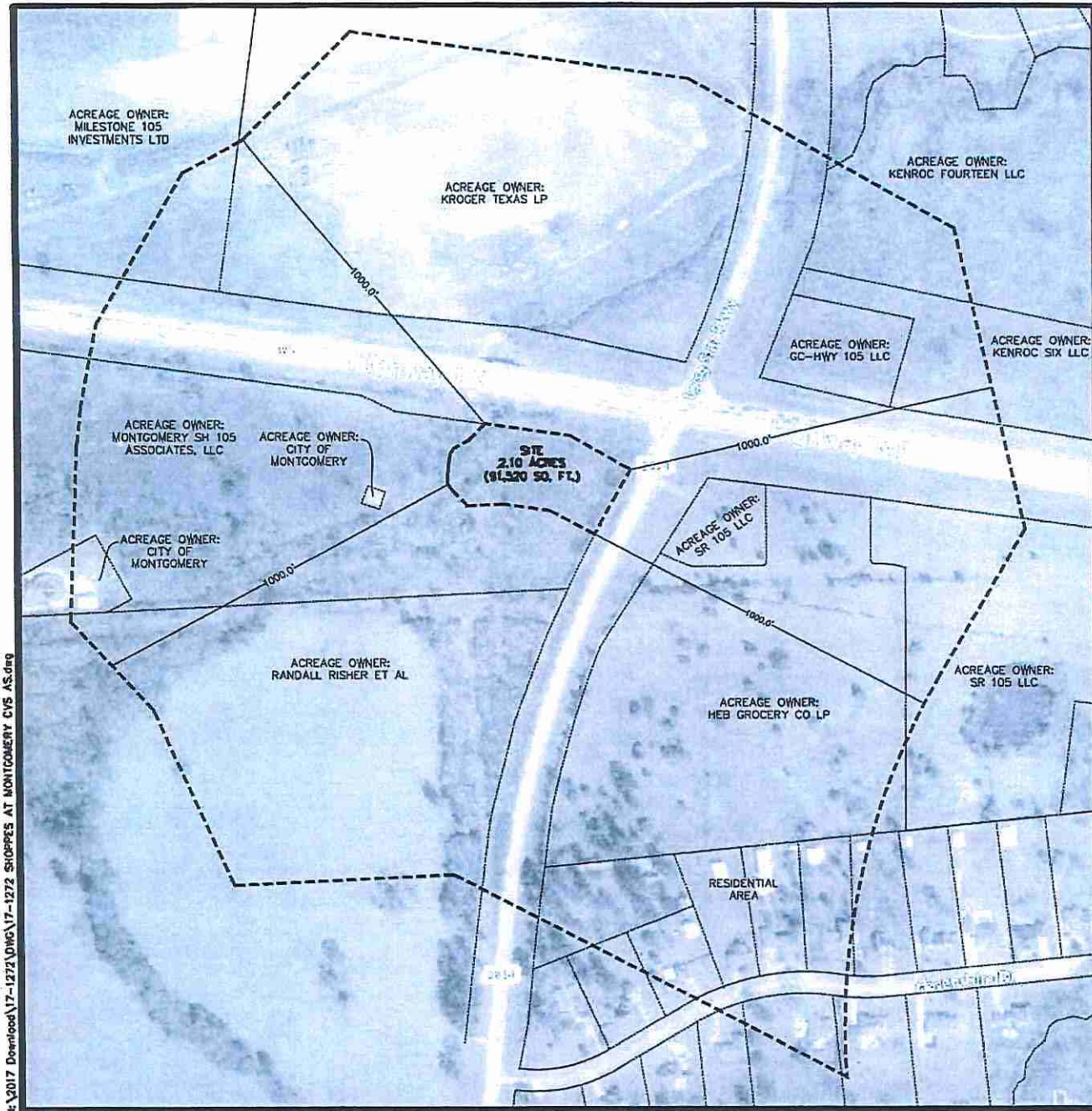
Enclosed please find the alcohol survey for CVS/pharmacy #11097, located at 20125 Eva Street, Montgomery TX, showing that there are no churches, schools or hospitals within 1,000 feet of the property.

If you have any questions, please contact me at 401-770-5119 or via email at Linda.Cimbron@CVSHealth.com

Respectfully Submitted,


Linda Cimbron
Assistant Secretary

/lc
Enclosures



F:\2017 Download\17-1272\DWG\17-1272 SHOPPES AT MONTGOMERY CVS AS.dwg

GRAPHIC SCALE



1 INCH = 400 FT.

NOTES:

1. Ownership Information shown per Montgomery Central Appraisal District.
2. No evidence of a Church, School or Hospital as prescribed by V.I.C.A. Alcoholic Beverage Code, 109.33(b).
3. No evidence of a Church, School or Hospital within the 1,000 feet walking path.



JDC

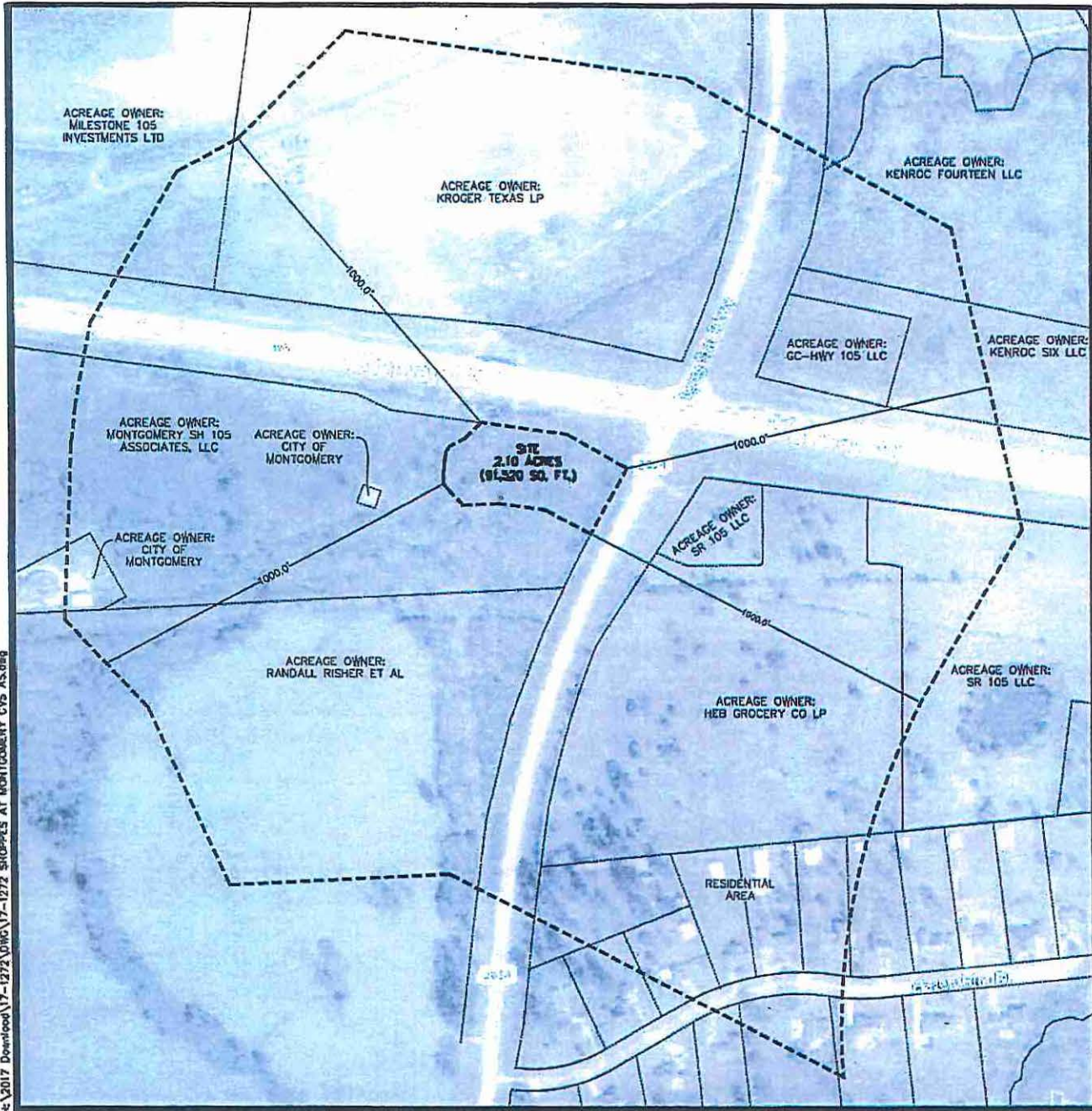
Jay Dean Canine
Registered Professional Land Surveyor
Texas Registration No. 4345
Date: September 6, 2017

**EXHIBIT OF
2.10 ACRES (91,520 SQ. FT.)
LOCATED IN THE
JOHN CORNER SURVEY, ABSTRACT 8
MONTGOMERY COUNTY, TEXAS**



TOWN AND COUNTRY SURVEYORS
A LANDPOINT COMPANY
2210 BAUBURY ROAD, STE. 2003
THE WOODLANDS, TX 77380
(281)486-6730
www.landpoint.net
TSPS REG. NO. 10184172

17-1272.DWG V7-1272 SHOPPES AT MONTGOMERY CVS AS.dwg



GRAPHIC SCALE



1 INCH = 400 FT.

NOTES:

1. Ownership information shown per Montgomery Central Appraisal District.
2. No evidence of a Church, School or Hospital as prescribed by V.I.C.A. Alcoholic Beverage Code, 109.33(b).
3. No evidence of a Church, School or Hospital within the 1,000 feet walking path.



JDC

Jay Dean Canine
 Registered Professional Land Surveyor
 Texas Registration No. 4345
 Date: September 6, 2017

EXHIBIT OF
2.10 ACRES (91,520 SQ. FT.)
LOCATED IN THE
JOHN CORNER SURVEY, ABSTRACT 8
MONTGOMERY COUNTY, TEXAS



TOWN AND COUNTRY SURVEYORS

A LANDPOINT COMPANY
 2210 SANDUST ROAD, STE. 2003
 THE WOODLANDS, TX 77380
 (281) 465-5730
 www.landpoint.net

TEXAS REG. NO. 10184172

JOB NO. 17-1272



City of Montgomery
Alcohol Beverage
License Application

City of Montgomery, Texas
P.O. Box 708
Montgomery, Texas 77356
936-597-3288
www.montgomerytexas.gov

APPLICATION FOR THE SALE OF ALCOHOLIC BEVERAGE LICENSE

Date Received by the City: 12/13/18

1. Type of Alcoholic Beverage License: (attach completed TABC Application Form)

- (1) Category A - Off Premises Consumption Sale of All Alcoholic Beverages - Package Store
XX (2) Category B - Off Premises Consumption Sale of Wine, Beer or Ale.
(3) Category C - Off Premises Consumption Sale of Beer.
(4) Category D - On Premises Consumption Sale of Beer, Wine and Mixed beverages - Restaurant or Cafe, where the sale of beer, wine and mixed beverage on the premises would be incidental to the restaurant or cafe.
(5) Category E - On Premises Consumption Sale of Beer, Wine and Mixed beverages - Tavern, Lounge, or Bar. The sale of Beer, Wine and Mixed beverages for On-Premises Consumption being the principal business line.
(6) Category F - Warehouse storage of Beer, Wine or Liquor for Distributors - No sale of Beer for on or Off-Premises Consumption permitted on the Premises.

2. Legal Description of the property for which License is sought. (Either by Lot and Block number or by a Metes and Bounds Description: (see attached))

3. Exact Nature of the Business to be operated. (Must be fully described in cover letter on company letterhead). Drug Store

4. Attach a Plat of the property to the Application showing the improvements, parking areas, location of signage and other structures on the property and within three hundred (300) feet to scale.

5. Description of signs and the hours they will be operated to be attached as a separate document. M-F 8 AM to 10 PM Sat. - Sun 8 AM - 10:00 PM

6. Attach floor plan of the building in which the business is to be conducted (showing fixtures, furniture, restrooms, kitchen and other equipment).

7. Attach a verified statement stating that the building is not within three hundred (300) feet of a church, school or hospital and that the building is in compliance with the requirements of this chapter for separate and adequate toilet facilities for men and women if used for on-premises consumption of beer, liquor or wine. This can be included in cover letter.

8. Business Owner: E.T.B., Inc. Phone: 401-770-3575
Address: P.O. Box 131098 ; Houston TX 77219-1098

Home Address: Phone:

Check if you are leasing property: []
9. Land Owner: CVS Pharmacy Inc. Phone: 401-770-3575

Address: One CVS Dr.; Woonsocket, RI 02895

10. Business Partners: Phone:

Address:

Home Address: Phone:

This is to certify that I, Melanie Luker, Assistant Secretary of E.T.B., Inc. have complied with all State, County, Codes and Regulations of the City of Montgomery, Texas.

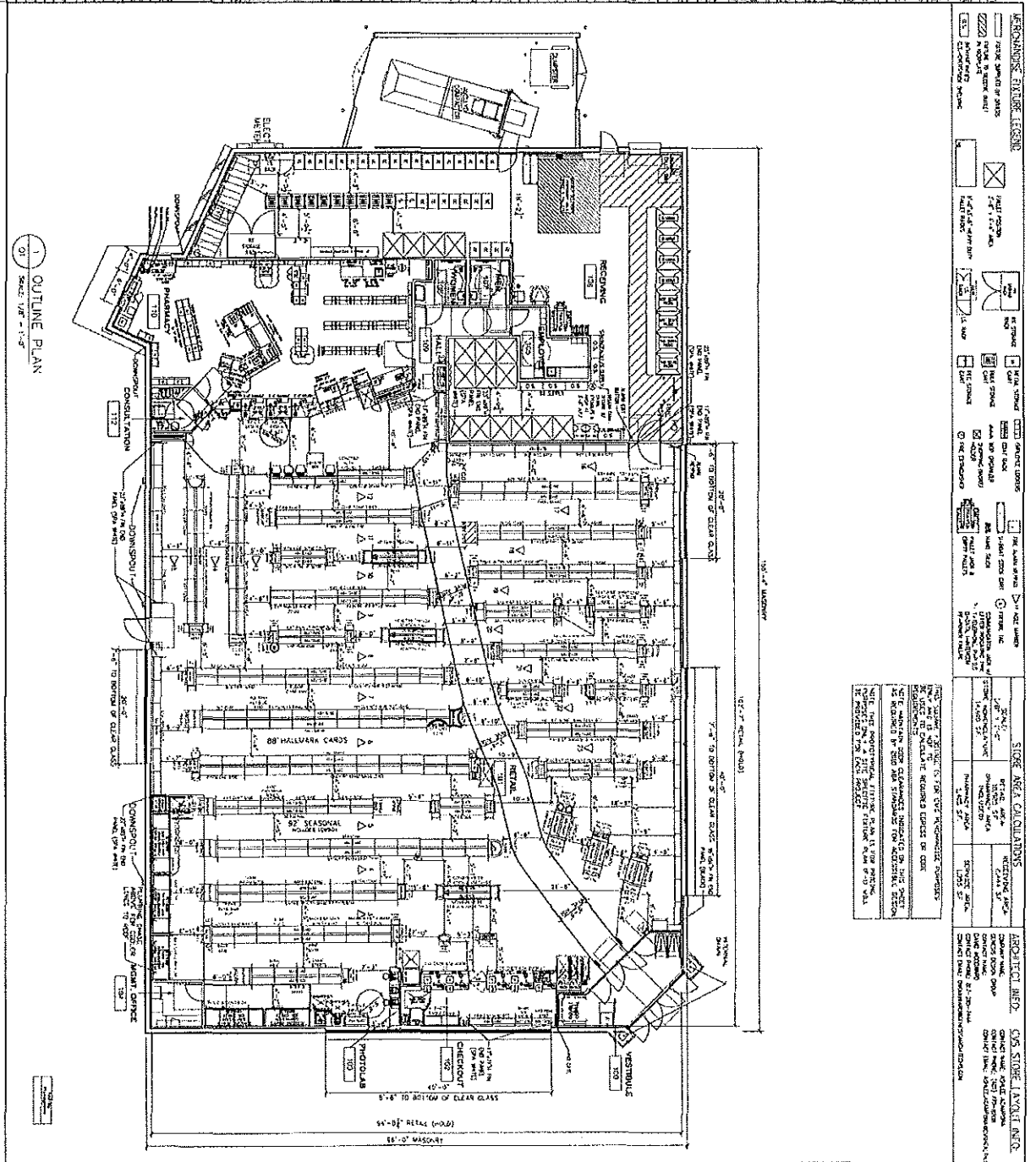
Melanie Luker
Business Owner and/or Lessee or Partner if Applicable

EXHIBIT "A"

PROPERTY

A 2.0795 acre tract of land, being Reserve A, the Shoppes at Montgomery, a subdivision of 27.6806 acres in the John Corner Survey, A-8, per Document No. 2018032723, Cabinet Z, Sheet 5053, Plat Records of Montgomery County, Texas.

REVISIONS	DATE	BY	DESCRIPTION
1	11/11/11
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50	11/11/11



<p>1 OUTLINE PLAN</p> <p>Scale: 1/8" = 1'-0"</p>	<p>LEGEND</p> <p>REVISIONS</p> <p>DATE</p> <p>BY</p> <p>DESCRIPTION</p>	<p>GENERAL NOTES</p> <p>1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.</p> <p>2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.</p> <p>3. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.</p> <p>4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.</p> <p>5. ALL UTILITIES SHALL BE PROTECTED AND MARKED PRIOR TO CONSTRUCTION.</p> <p>6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.</p> <p>7. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.</p> <p>8. THE CONTRACTOR SHALL MAINTAIN A NEAT AND ORDERLY WORK SITE AT ALL TIMES.</p> <p>9. ALL MATERIALS AND EQUIPMENT SHALL BE STORED PROPERLY ON THE SITE.</p> <p>10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE.</p> <p>11. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.</p> <p>12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.</p> <p>13. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.</p> <p>14. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.</p> <p>15. ALL UTILITIES SHALL BE PROTECTED AND MARKED PRIOR TO CONSTRUCTION.</p> <p>16. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.</p> <p>17. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.</p> <p>18. THE CONTRACTOR SHALL MAINTAIN A NEAT AND ORDERLY WORK SITE AT ALL TIMES.</p> <p>19. ALL MATERIALS AND EQUIPMENT SHALL BE STORED PROPERLY ON THE SITE.</p> <p>20. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE.</p> <p>21. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.</p> <p>22. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.</p> <p>23. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.</p> <p>24. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.</p> <p>25. ALL UTILITIES SHALL BE PROTECTED AND MARKED PRIOR TO CONSTRUCTION.</p> <p>26. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.</p> <p>27. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.</p> <p>28. THE CONTRACTOR SHALL MAINTAIN A NEAT AND ORDERLY WORK SITE AT ALL TIMES.</p> <p>29. ALL MATERIALS AND EQUIPMENT SHALL BE STORED PROPERLY ON THE SITE.</p> <p>30. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE.</p> <p>31. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.</p> <p>32. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.</p> <p>33. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.</p> <p>34. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.</p> <p>35. ALL UTILITIES SHALL BE PROTECTED AND MARKED PRIOR TO CONSTRUCTION.</p> <p>36. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.</p> <p>37. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.</p> <p>38. THE CONTRACTOR SHALL MAINTAIN A NEAT AND ORDERLY WORK SITE AT ALL TIMES.</p> <p>39. ALL MATERIALS AND EQUIPMENT SHALL BE STORED PROPERLY ON THE SITE.</p> <p>40. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE.</p> <p>41. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.</p> <p>42. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.</p> <p>43. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.</p> <p>44. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.</p> <p>45. ALL UTILITIES SHALL BE PROTECTED AND MARKED PRIOR TO CONSTRUCTION.</p> <p>46. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.</p> <p>47. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.</p> <p>48. THE CONTRACTOR SHALL MAINTAIN A NEAT AND ORDERLY WORK SITE AT ALL TIMES.</p> <p>49. ALL MATERIALS AND EQUIPMENT SHALL BE STORED PROPERLY ON THE SITE.</p> <p>50. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE.</p>	<p>CONTRACT INFORMATION</p> <p>PROJECT: ...</p> <p>CLIENT: ...</p> <p>ARCHITECT: ...</p> <p>DATE: ...</p> <p>SCALE: ...</p>
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CONTRACT INFORMATION

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CONTRACT INFORMATION

PROJECT: ...

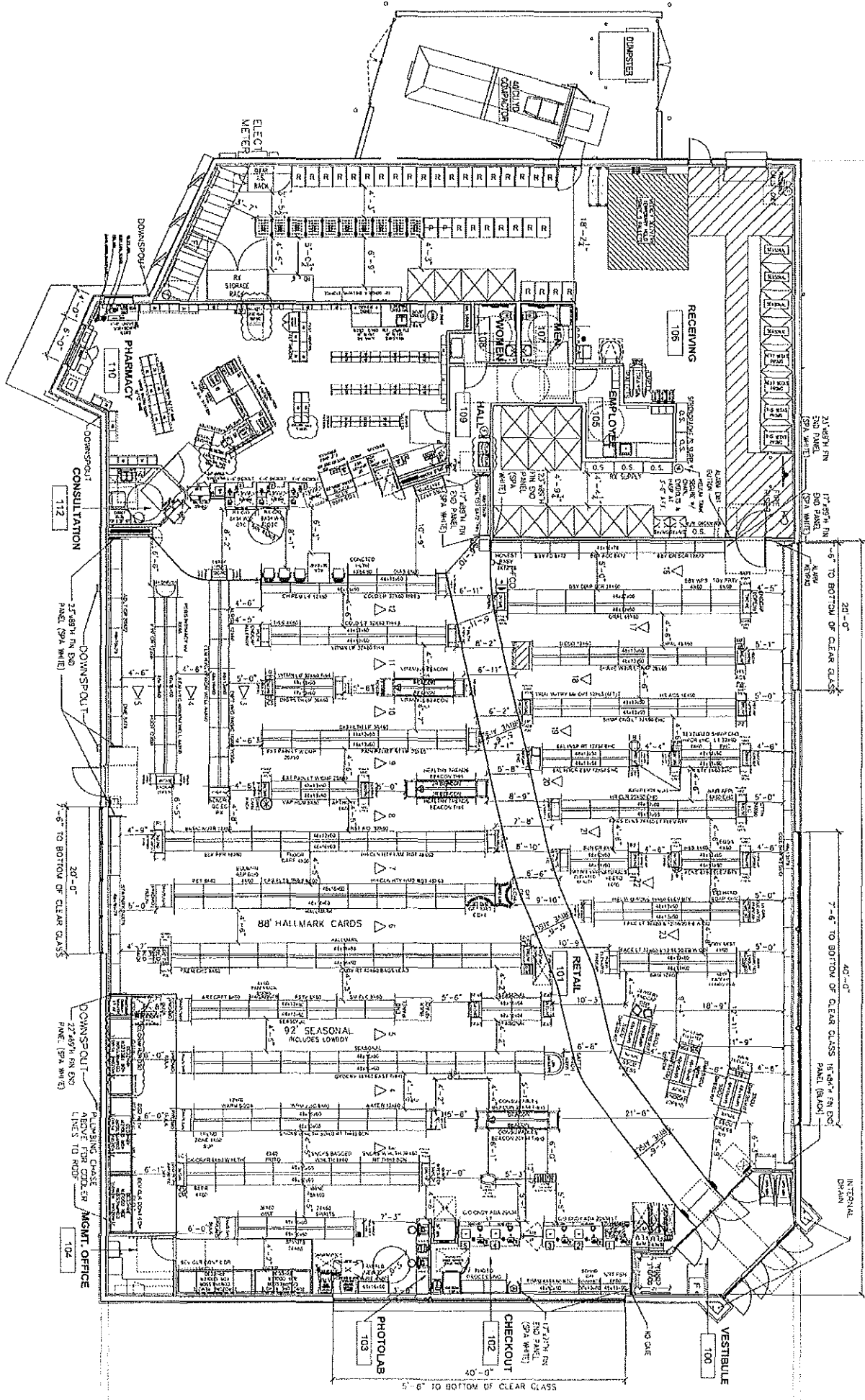
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ARCHITECT: ...

DATE: ...

SCALE: ...

OUTLINE PLAN



102'-7" RETAIL (H.O.D.)

21'-0" TO BOTTOM OF CLEAR GLASS

7'-6" TO BOTTOM OF CLEAR GLASS 18" x 7" FIN. END PANEL (SQA WHITE)

INTERNAL DRAIN

5'-6" TO BOTTOM OF CLEAR GLASS

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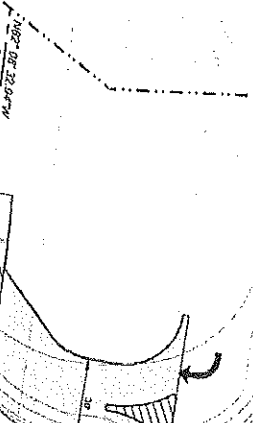
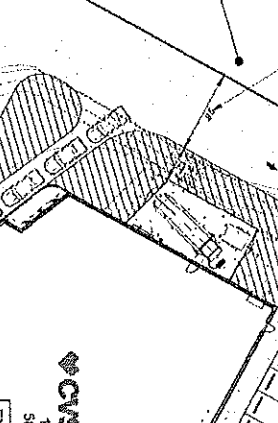
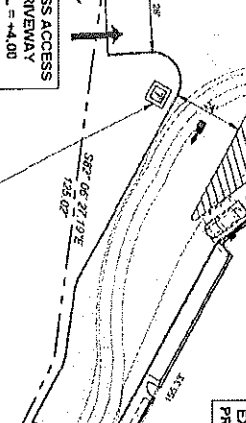
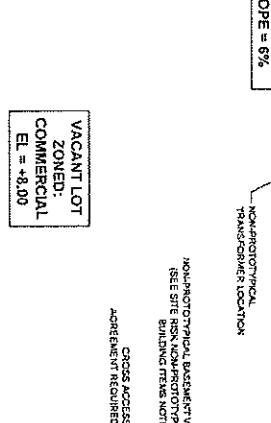
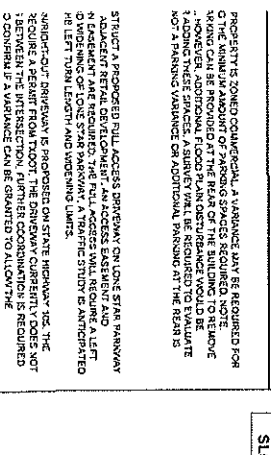
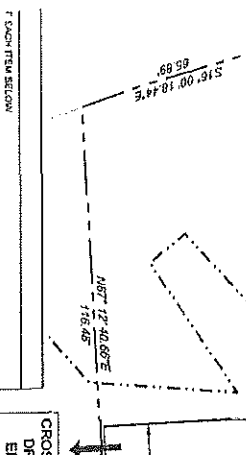
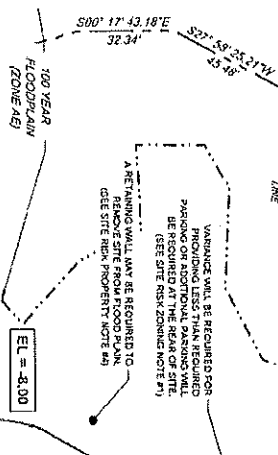
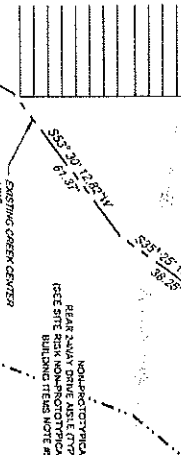
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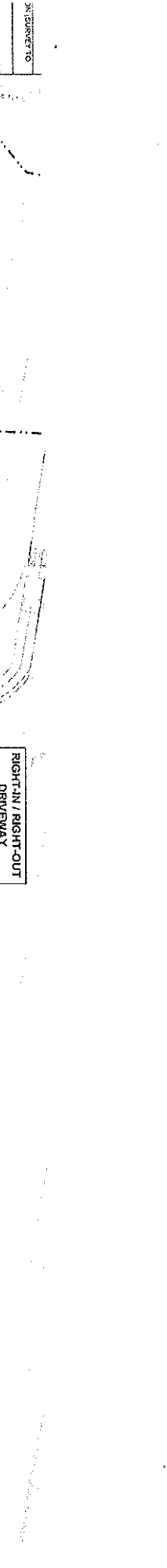
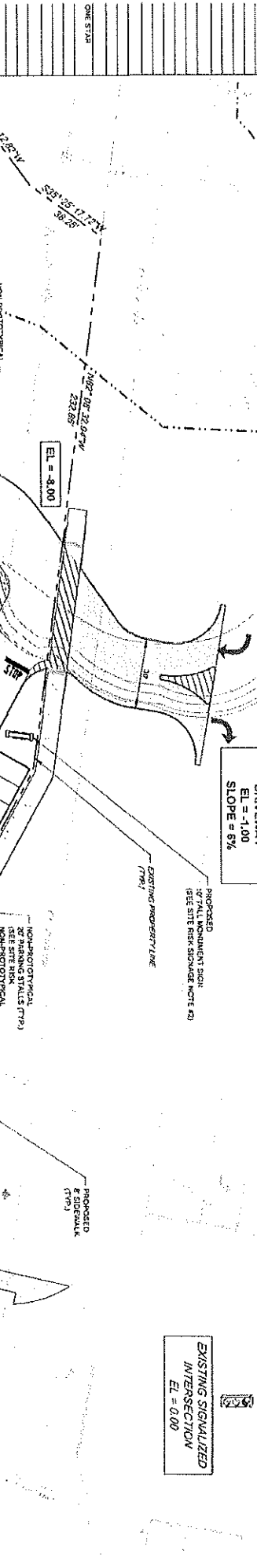
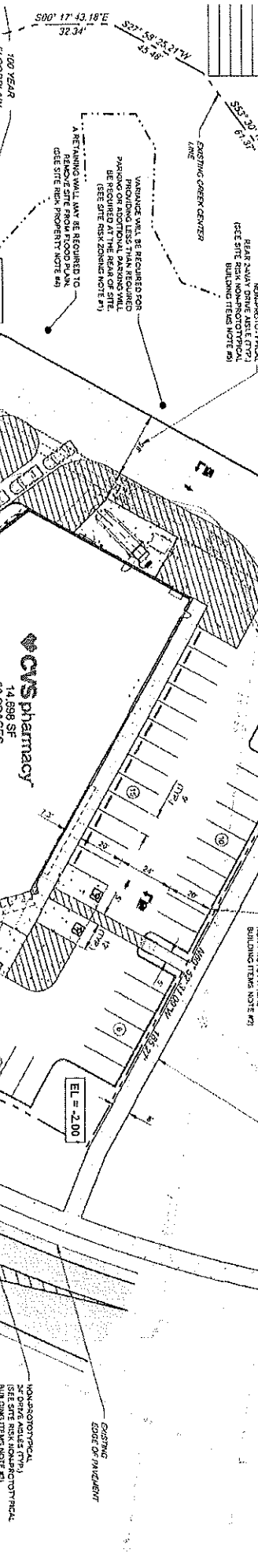
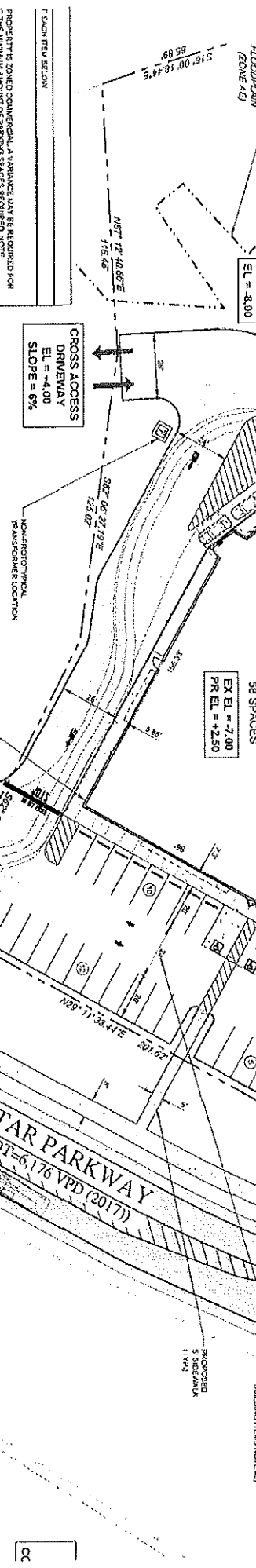
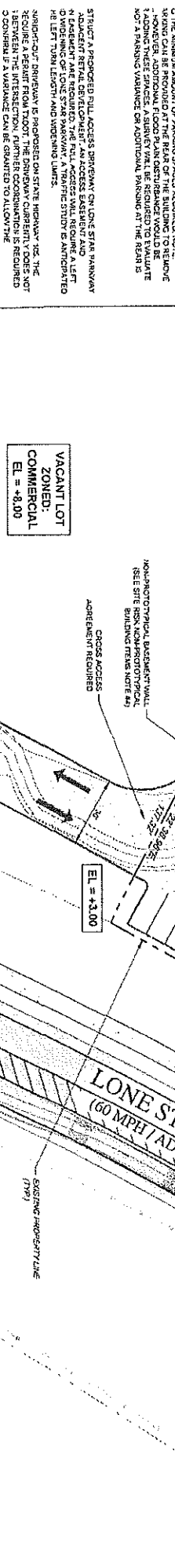
CONCRETE TO ONE STAR



PROPERTY IS ZONED COMMERCIAL. A VARIANCE MAY BE REQUIRED FOR THE MINIMUM AMOUNT OF PARKING SPACES REQUIRED. NOTE: PARKING CAN BE PROVIDED AT THE REAR OF THE BUILDING TO BE MORE CONVENIENT TO THE CUSTOMER. THE VARIANCE WILL BE REQUIRED TO EVALUATE THE PARKING ARRANGEMENTS. A TRAFFIC STUDY IS ANTICIPATED TO BE LEFT TO THE ENGINEER AND ARCHITECT.

RIGHT-OUT DRIVEWAY IS PROPOSED ON STATE HIGHWAY 162. THE DRIVEWAY CURRENTLY DOES NOT HAVE A PERMIT FROM TxDOT. THE DRIVEWAY CURRENTLY DOES NOT HAVE A PERMIT FROM TxDOT. THE DRIVEWAY CURRENTLY DOES NOT HAVE A PERMIT FROM TxDOT. THE DRIVEWAY CURRENTLY DOES NOT HAVE A PERMIT FROM TxDOT. THE DRIVEWAY CURRENTLY DOES NOT HAVE A PERMIT FROM TxDOT.

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PROPOSED FULL MOUNTAIN SIGN (SEE SITE RISK SIGNAGE NOTE #2)

EXISTING SIGNALIZED INTERSECTION EL = 0.00

EXISTING SIGNALIZED INTERSECTION EL = 0.00

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EXISTING SIGNALIZED INTERSECTION EL = 0.00



OFF-PREMISE PREQUALIFICATION PACKET

L-OFF
(12/2017)

Submit this packet to the proper governmental entities to obtain certification for the type of license/permit for which you are applying as required by Sections 11.37, 11.39, 11.46(b), 61.37, 61.38, 61.42 and Rule §33.13

All statutory and rule references mentioned in this application refer to and can be found in the Texas Alcoholic Beverage Code or Rules located on our website. www.tabc.texas.gov/laws/code_and_rules.asp

LOCATION INFORMATION

1. Application for: Original
 Reinstatement License/Permit Number
 Change of Licensed Location License/Permit Number

2. Type of Off-Premise License/Permit
 BQ Wine and Beer Retailer's Off-Premise Permit LP Local Distributor's Permit
 BF Beer Retail Dealer's Off-Premise License E Local Cartage Permit
 P Package Store Permit ET Local Cartage Transfer Permit
 Q Wine Only Package Store Permit PS Package Store Tasting Permit

3. Indicate Primary Business at this Location
 Grocery/Market Convenience Store without Gas
 Liquor Store Miscellaneous Drug Store
 Convenience Store with Gas

4. Trade Name of Location
 CVS/Pharmacy #11097

5. Location Address
 20125 Eva Street

City Montgomery	County Montgomery	State TX	Zip Code 77356
6. Mailing Address P.O. Box 131098	City Houston	State TX	Zip Code 77219-1098

7. Business Phone No. Pending Alternate Phone No. 401-770-3575 E-mail Address Maria.Semedo@CVSHealth.com

OWNER INFORMATION

8. Type of Owner
 Individual Corporation City/County/University
 Partnership Limited Liability Company Other
 Limited Partnership Joint Venture
 Limited Liability Partnership Trust

9. Business Owner/Applicant
 E.T.B., Inc.

10. Are you, the applicant a veteran-owned business? Yes No

11. Are you, the applicant a Historically Underutilized Business (HUB)? Yes No

12. As indicated on the chart, enter the individuals that pertain to your business type:
(For additional space, use Form L-OIC)

Individual/Individual Owner		Limited Liability Company/All Officers or Managers	
Partnership/All Partners		Joint Venture/Venturers	
Limited Partnership/All General Partners		Trust/Trustee(s)	
Corporation/All Officers		City, County, University/Official	
Last Name	First Name	MI	Title
Neason,	Jeffrey	C	Secretary
Last Name	First Name	MI	Title
Moffatt,	Thomas	S	Pres/Dir.
Last Name	First Name	MI	Title
DeNale,	Carol	A	Sr. VP/Treas/Dir.
Last Name	First Name	MI	Title
Luker,	Melanie	K	Assistant Secy.

MEASUREMENT INFORMATION

Section 109.31 et. seq.

13. Will your business be located within 300 feet of a church or public hospital? Yes No

NOTE: For churches or public hospitals measure from front door to front door, along the property lines of the street fronts and in a direct line across intersections.

14. Will your business be located within 300 feet of any private/public school? Yes No

NOTE: For private/public schools measure in a direct line from the nearest property line of the school to the nearest property line of the place of business, and in a direct line across intersections.

NOTE: If located on or above the fifth story of a multistory building: measure in a direct line from the property line of the private/public school to property line of your place of business in a direct line across intersections vertically up the building at the property line to the base of the floor on which your business is located.

15. Will your business be located within 1,000 feet of a private school? Yes No

16. Will your business be located within 1,000 feet of a public school? Yes No

ALL APPLICANTS

17. CHECK HERE IF NOT IN CITY LIMITS

I, the applicant, have confirmed I am not located in the city limits of any city and therefore all city certificates are not required.



OWNERSHIP INFORMATION
Continued for Prequalification Packet

L-OIC
(01/2016)

LOCATION INFORMATION

1. Trade Name of Location CVS/Pharmacy #11097			
2. Location Address 20124 Eva Street			
City Montgomery	County Montgomery	State TX	Zip Code 77356

OWNER INFORMATION

3. Type of Owner

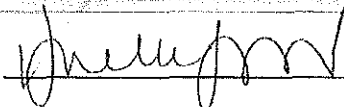
<input type="checkbox"/> Individual	<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> City/County/University
<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Other
<input type="checkbox"/> Limited Partnership	<input type="checkbox"/> Joint Venture	
<input type="checkbox"/> Limited Liability Partnership	<input type="checkbox"/> Trust	

Last Name	First Name	MI	Title
Clark,	Jeffrey	E	Assistant Treas.
Cimbron,	Linda	M	Assistant Secy.
Beaulieu,	Sheelagh	M	Assistant Treas.
DeSousa,	Kimberley	M	Assistant Secy.
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
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Last Name	First Name	MI	Title

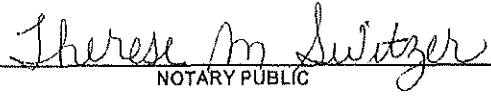
WARNING AND SIGNATURE	If Applicant Is/Must Sign	
	Individual/Individual Owner	Corporation/Officer
	Partnership/Partner	Limited Liability Company/ Officer or Manager
	Limited Partnership/General Partner	

WARNING: Section 101.69 of the Texas Alcoholic Beverage Code states: "... a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable by imprisonment in the Texas Department of Criminal Justice for not less than 2 nor more than 10 years."

BY SIGNING YOU ARE SWEARING TO ALL INFORMATION AND ATTACHMENTS TO THIS PACKET.

PRINT NAME Melanie K. Luker SIGN HERE 
 TITLE Assistant Secretary

Before me, the undersigned authority, on this 10th day of December, 2018, the person whose name is signed to the foregoing application personally appeared and, duly sworn by me, states under oath that he or she has read the said application and that all the facts therein set forth are true and correct.

SIGN HERE 
 NOTARY PUBLIC
 Therese M. Switzer
 Notary Public
 State of Rhode Island
 Comm. Exp. 09/05/2021

SEAL

CERTIFICATE OF CITY SECRETARY (FOR P, Q, BF & BQ)

Sections 11.37 & 61.37

I hereby certify on this _____ day of _____, 2018, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

SIGN HERE _____ Montgomery, TEXAS
 City Secretary/Clerk City

SEAL

CERTIFICATE OF COUNTY CLERK (FOR P, Q & BF)

Sections 11.37 & 61.37

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is in a "wet" area for such license/permit, and is not prohibited by any valid order of the Commissioner's Court.

SIGN HERE _____ COUNTY
 County Clerk

SEAL

CERTIFICATE OF COUNTY CLERK (FOR BQ)

Section 11.37

I hereby certify on this _____ day of _____, 20¹⁸, that the location for which the license/permit is sought as the place of business is in a "wet" area and is not prohibited by any valid order of the Commissioner's Court for a Wine and Beer Retailer's Off-Premise Permit.

Most current election for given location was held for:

- legal sale of all alcoholic beverages for off-premise consumption
- legal sale of all alcoholic beverages
- legal sale of all alcoholic beverages except mixed beverages
- legal sale of all alcoholic beverages including mixed beverages
- legal sale of mixed beverages
- legal sale of mixed beverages in restaurants by food and beverage certificate holders
- legal sale of wine on the premises of a holder of a winery permit
- legal sale of beer/wine (17%) on-premise or beer/wine off-premise **AFTER** Sept. 1, 1999
- legal sale of beer/wine (14%) on-premise or beer/wine off-premise **BEFORE** Sept. 1, 1999

SIGN

HERE _____

County Clerk

Montgomery

COUNTY

S E A L

COMPTROLLER OF PUBLIC ACCOUNTS CERTIFICATE

Sections 11.46(b) & 61.42(b)

This is to certify on this _____ day of _____, 20____, the applicant holds or has applied for and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit.

Sales Tax Permit Number 1-74-2118879-2

Outlet Number 00688

Print Name of Comptroller Employee _____

Print Title of Comptroller Employee _____

SIGN

HERE _____

FIELD OFFICE _____

S E A L

PUBLISHER'S AFFIDAVIT (FOR BQ, BF, P & Q)

Sections 11.39 & 61.38

Name of newspaper		ATTACH PRINTED COPY OF THE NOTICE HERE
City, County		
Dates notice published in daily/weekly newspaper (MM/DD/YYYY)		
<i>Publisher or designee certifies attached notice was published in newspaper stated on dates shown.</i>		
Signature of publisher or designee Sworn to and subscribed before me on this date		
Signature of Notary Public		

S E A L

Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: E-mail from City Attorney, Letter from Lawton Law firm, Ordinance
Date Prepared: January 2, 2019	

Subject

This item is to participate, at no cost, with the Lawton Law firm's involvement in electric utility rate issues with the PUC in behalf of the city.

Description

The ordinance is required for the Lawton Law firm to represent city of Montgomery before the Public Utilities Commission. The reason that there is no cost to the city is because the PUC rules require utilities to pay the expenses of contesting/questioning/reviewing any electric rate issues brought before the PUC.

For the past three and half years the law firm has been representing the city before the PUC. They also represent approximately 40 other cities in Southeast Texas in the same manner.

The City Attorney recommends passage of this ordinance.

Recommendation

Motion to approve the ordinance as presented.

Approved By

City Administrator	Jack Yates	Date: January 2, 2019
--------------------	------------	-----------------------



Yates, Jack <jyates@ci.montgomery.tx.us>

2019 Annual Ordinance Authorizing Participation in ETI Proceedings

1 message

Larry Foerster <foerster@dfcllp.com>
To: Larry Foerster <foerster@dfcllp.com>

Fri, Dec 21, 2018 at 11:21 AM

TO OUR CITY COUNCILS:

Attached is a letter from the Lawton Law Firm in Austin that for years has represented a number of cities in Texas served by Entergy Texas (ETI). These cities are part of a "Steering Committee" of cities that monitor, review and sometimes challenge the Entergy rate increase requests to the Public Utilities Commission (PUC.)

The law firm is requesting that cities that want to participate as members of the Steering Committee approve the attached ordinance by which your city would join the Steering Committee for 2019 and thereby be represented by the Lawton Firm in any challenges to the Entergy rate increases. I make the following comments:

1. If your city has signed a franchise agreement with Entergy by which you have waived your original jurisdiction to contest Entergy rate increases, thereby letting the PUC resolve the issue in Austin, then you do not need to consider the ordinance or approve it. Specifically, some cities have signed a Franchise Agreement or approved a Franchise Ordinance with Entergy to waive original jurisdiction, in exchange for which Entergy pays that city an additional incremental fee (which is collected from the city's Entergy customers).
2. In my judgment, it is not critical that any city join the Steering Committee. Some larger cities do and some smaller cities don't. There is no cost to those cities that do, since the Lawton attorney's fees are approved by the PUC, and Entergy is then permitted to pay the fees and pro rationally remit these fees to its customers in ALL cities served by it—regardless of whether or not a city is a member of the Steering Committee.
3. It can be argued that having a large representation on the Steering Committee might give the Lawton Firm more clout with the PUC, but I really don't know how valid that argument may be.

At the end of the day, each city council should independently make a decision as to whether it wants its city to be a member of the collaborative voice of the Steering Committee that appeals rate increases to the PUC. There is no cost to your city if you join.

Larry L. Foerster

THE LAWTON LAW FIRM, P.C.

12600 Hill Country Blvd., Suite R-275 • Austin, Texas 78738 • 512/322-0019 • Fax: 512/329-2604

December 20, 2018

Via e-mail

Mr. Richard Ferguson
City Attorney – City of Anahuac
City Attorney – City of Sour Lake
13201 Northwest Freeway, Suite 300
Houston, Texas 77040

Mr. Tyrone Cooper
City Attorney – City of Beaumont
P.O. Box 3827
Beaumont, Texas 77704

Mr. Kyle Hayes
City Manager – City of Beaumont
P.O. Box 3827
Beaumont, Texas 77704

Mr. Paul Fukuda
City Attorney – Bridge City
260 Rachal
Post Office Box 846
Bridge City, Texas 77611

Ms. Kelly McDonald
City Manager – City of Cleveland
907 E. Houston
Cleveland, Texas 77327

Mr. David Olson
City Attorney – City of Cleveland
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019

Ms. Angela Smith
City Secretary – City of Cleveland
907 E. Houston
Cleveland, Texas 77327

Mr. Mark Winberry
City Attorney – City of Conroe
P.O. Box 3066
Conroe, Texas 77305

Mayor Nyla Akin Dalhaus
City of Cut and Shoot
P.O. Box 7364
Cut and Shoot, Texas 77306

Amy L. Wade
City Secretary – City of Cut and Shoot
P.O. Box 7364
Cut and Shoot, Texas 77306

Mr. Jeff Lambright
Mayor – City of Dayton
117 Cook Street
Dayton, Texas 77535

Mr. Theo Melancon
City Manager – City of Dayton
117 Cook Street
Dayton, Texas 77535

Mr. James Black
City Attorney – City of Groves
3535 Calder Avenue, Suite 300
Beaumont, TX 77706

Mr. D. E. Sosa
City Manager – City of Groves
P.O. Box 3286
Port Arthur, Texas 77643

Ms. Tina Paez
City of Houston Administration & Regulatory
Affairs Department (ARA)
611 Walker, 13 th Floor
Houston, Texas 77002

Ms. Yushan Chang
City of Houston Legal Department
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City Hall Annex, 4th Floor
900 Bagby
Houston, Texas 77002

Mr. Leonard Schneider
City Attorney – City of Huntsville
City Attorney – City of Splendora
Liles Parker PLLC
2261 Northpark Dr., Suite 445
Kingwood, TX 77339

Mr. Aron Kulhavy
Interim City Manager – City of Huntsville
1212 Ave. M
Huntsville, Texas 77340

Mr. Brandon Davis
City Attorney – City of Liberty
City Attorney – City of Dayton
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Liberty, Texas 77575

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Mayor – City of West Orange
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Mr. Rex Peveto
City Attorney – City of West Orange
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Orange, Texas 77630

Mr. Michael S. Stelly
City of West Orange, Texas
2700 Austin Avenue
West Orange, TX 77630

Re: **Annual Ordinance Authorizing Municipal Participation in
Regulatory Proceedings of Entergy Texas, Inc. in 2019**

Steering Committee of Cities located in Entergy Texas, Inc.'s Service Territory:

2019 is fast approaching, which means it is once again time to authorize municipal participation in regulatory rate proceedings involving Entergy Texas, Inc. ("ETI" or "Company") before the Public Utility Commission of Texas ("PUCT" or "Commission"). **Attached is a proposed Ordinance for your consideration to authorize participation in rate proceedings in 2019. Please forward the completed Rate Ordinance to us by email at dlawton@ecpi.com and molly@mayhallvandervoort.com.**

The Steering Committee of Cities has long played a crucial role in limiting ETI's various requested rate increases to reasonable revenue levels. This past year, ETI filed a base rate case requesting a \$117.5 million increase.¹ Cities' participation in the proceedings was instrumental in negotiating a just and reasonable settlement, under which the Company agreed to a rate *decrease* of approximately \$4.3 million. The settlement agreement incorporated many of the recommendations made by Cities' team of consultants, and the net impact of the settlement on customers turned out to be very close to Cities' filed case.

Customers received other rate relief in 2018 related to fuel costs. ETI refunded \$30.5 million in fuel cost over-collection during the first quarter of 2018. Residential consumers received a monthly bill credit of approximately \$8.75 per 1,000 kwh's of consumption for the January through March 2018 period. In addition, ETI's fuel factor was lowered in both of its semi-annual fuel factor filings. The impact of these two adjustments on residential customers consuming 1,000

¹ ETI proposed to offset the first two years of the rate increase by about \$100.8 million per year for excess income taxes collected that it must return to customers as a result of the Tax Cut and Jobs Act of 2017. In other words, under the Company's proposal, customers would experience a very large rate increase after the first two years and not know why. Cities' consultants recommended that the excess income taxes be paid out over a longer period of time to lessen the risk of rate shock to customers.

kwh's per month was a decrease of approximately \$0.48 in March 2018 and another \$0.55 per month in September 2018.

In 2019, we anticipate that ETI will seek rate revenue increases mainly through incremental cost recovery mechanisms such as the Transmission Cost Recovery Factor ("TCRF") and the Distribution Cost Recovery Factor ("DCRF"). The Steering Committee of Cities' past efforts in such proceedings have led to reductions to ETI's requested TCRF and DCRF increases and even dismissal or denial of ETI's request for purported incremental cost recovery. As in past years, we will review these filings carefully to ensure that ETI has adhered to all statutory and regulatory requirements.

We also anticipate that ETI will file various fuel proceedings throughout the year. For several years, the Steering Committee of Cities has been able to negotiate favorable settlements for customers for the fuel proceedings filed by ETI. The settlements returned more money to customers and in a more timely fashion than would have been possible through ETI's filed requests. We will continue to monitor ETI's over/(under)-recovery balance to ensure that customers are promptly refunded any fuel over-recovery to which they are entitled.

The continued support of each of the Cities in the Steering Committee has been instrumental in the successful regulation of ETI and in maintaining reasonable rates for customers within the Cities. We look forward to each City's continued participation with the Steering Committee in the regulatory process. **Please forward completed Rate Ordinances to us by email at dlawton@ecpi.com and molly@mayhallvandervoort.com.**

If you have any questions or concerns, please call.

Sincerely,

A handwritten signature in black ink that reads "Daniel J. Lawton" followed by a stylized flourish.

Daniel J. Lawton

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF _____, TEXAS, AUTHORIZING PARTICIPATION WITH OTHER ENTERGY SERVICE AREA CITIES IN MATTERS CONCERNING ENTERGY TEXAS, INC. AT THE PUBLIC UTILITY COMMISSION OF TEXAS IN 2019; AUTHORIZING THE HIRING OF LAWYERS AND RATE EXPERTS; AUTHORIZING THE CITY'S PARTICIPATION TO THE FULL EXTENT PERMITTED BY LAW AT THE PUBLIC UTILITY COMMISSION OF TEXAS; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Cities have exclusive original jurisdiction over rates, operations, and services of an electric utility in areas in the municipality pursuant to *Tex. Util. Code* § 33.001;

WHEREAS, Cities have standing in each case before the Public Utility Commission of Texas that relates to an electric utility providing service in the municipality pursuant to *Tex. Util. Code* § 33.025;

WHEREAS, Entergy Texas, Inc. ("ETI" or "Company") is expected to litigate rate change requests in various proceedings before the Public Utility Commission of Texas or before municipalities in 2019, which may include (1) rate proceedings or cost adjustments such as a transmission cost recovery rider, a distribution cost recovery rider, energy efficiency cost recovery factor, or hurricane restoration cost or offset true-ups, and (2) various fuel cost refunds or surcharges and reconciliations;

WHEREAS, ETI is scheduled to file fuel factor proceedings at the Public Utility Commission in February and August 2019, and may file other fuel proceedings to refund or surcharge fuel charges;

WHEREAS, ETI is scheduled to file a proceeding to recover costs incurred in association with its Energy Efficiency Plan as well as reconcile past costs;

WHEREAS, Cities have the statutory right to set fair and reasonable rates for both the Company and customers within Cities; and

WHEREAS, Cities are entitled to reimbursement by the utility of their reasonable rate case expenses to participate in cases that are deemed rate proceedings pursuant to *Tex. Util. Code* § 33.023.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF _____, TEXAS, that:

SECTION 1. The City of _____ shall participate with other Cities to intervene in ETI's various rate filings related to the various fuel cost surcharges and reconciliations, any interim or incremental surcharge proceedings or surcharge adjustments, and for any base rate adjustment proceedings or cost of service adjustments on file with the Public Utility Commission of Texas or with municipalities in 2019.

SECTION 2. The City of _____ employs the Lawton Law Firm P.C. to represent the City with regard to the ETI rate matters before local and Public Utility Commission of Texas and any court of law and authorizes counsel to employ rate experts as are recommended by the Cities' Steering Committee to intervene in fuel or rate related proceedings at the Public Utility Commission concerning ETI's rates charged to Texas customers.

SECTION 3. All such actions shall be taken pursuant to the direction of the Cities' Steering Committee. Cities' Steering Committee shall have authority to retain rate consultants and lawyers. Cities' Steering Committee shall direct the actions of Cities' representatives in the above proceedings. The Steering Committee is directed to obtain reimbursement from ETI of all reasonable expenses associated with participation in said proceedings.

SECTION 4. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

SECTION 5. This Ordinance shall be effective from and after the date of its passage.

PASSED by _____ vote of the City Council of the City of _____, Texas, this _____ day of _____ 2019.

THE CITY OF _____, TEXAS

By: _____

Mayor Sara Countryman

MONTGOMERY

ATTEST:

City Secretary

Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Ordinance Article regarding "Motion to Rescind"
Date Prepared: January 2, 2019	

Subject

This item was requested to be on the agenda for the purpose of the ordinance to be rescinded – by Councilman John Champagne.

Description

Mr. Champagne said "I believe the ordinance to be intrusive, overreaching, and onerous for the city to implement. The city could be better served by establishing an ordinance that addresses the main issue at hand"

Recommendation

Listen, consider and do as you think appropriate.
The proper motion would be "Motion to rescind the Animal Control Ordinance approved at the December 11, 2018 City Council meeting".

Approved By

City Administrator	Jack Yates	Date: January 2, 2019
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Parliamentary procedure: What is a motion to rescind?

Board members sometimes realize the need to change their mind regarding an issue before them. One method of revisiting a past decision is the motion to rescind.

April 16, 2013 - Author: [Julie Pioch \(/people/julie_pioch\)](/people/julie_pioch), [Michigan State University Extension \(/outreach\)](#)

This is one in a series of articles on parliamentary procedure and how to conduct more effective organizational meetings. For a complete list in this series go to the [Parliamentary Procedure resource \(/http://www.msue.anr.msu.edu/resources/parliamentary_procedure_resources\)](#).

A common question of parliamentary procedure is whether or not a board can change its mind on a decision once it has been adopted. The answer is, yes, it can be done. That being said, from a practical standpoint some decisions, if already carried out, cannot be undone (such as issues with a contract being let, an already completed purchase or a person given official notification of expulsion from membership).

As a [professional registered parliamentarian \(/http://www.parliamentarians.org/membertypes.php\)](#) working for [Michigan State University Extension \(/http://www.msue.msu.edu\)](#), I often consult the gold standard of parliamentary procedure, *Robert's Rules of Order* (<http://www.robertsrules.com/>), a book that had its first printing in 1876.

According to *Roberts Rules of Order, 11th Edition* (RONR), there are two ways a decision of the board can be changed. If a member wants to change a decision made in the same meeting they would use a motion to reconsider. If it is necessary to change a decision that was adopted at a previous meeting a member would make a motion to rescind. These two motions have some similar characteristics but it is important to highlight their differences so that board members know when and how to use them properly. This article provides a basic primer on the motion to rescind. (Also see: [What is the motion to reconsider?](#))

(http://www.msue.anr.msu.edu/news/parliamentary_procedure_what_is_a_motion_to_re

The motion to rescind

The motion to rescind is one of a group of motions that bring a question again before the assembly. It can be applied to any decision adopted by the board at any time (if it is during the same meeting as the decision the motion to reconsider is used). It differs from the motion to reconsider in that there is no time limit on making this motion and any member regardless of how the member voted on the original question can make it.

Unlike a motion to reconsider, which only needs a majority vote to pass, a motion to rescind is more of a challenge. In order to rescind something previously adopted by a majority vote, the board must have received notice of the intent to present such a motion either at a previous meeting or with the call of the meeting (as long as the time between meetings is within a quarter). If that pre-meeting notice does not occur, then the vote required to rescind is two-thirds of those present and voting or a majority of the entire membership of an organization (not just those present).

The motion to rescind can be introduced at a time when no other business is pending. After being recognized by the chair, a member makes the motion to rescind. The motion should include a description or reference to the decision in question (worded as closely as possible to any notice that has already been provided). Another member then must second the motion. The chair restates the motion to rescind and asks for debate. During debate, any member may propose amendments (changes that are greater than the scope of notice are not in order). After full debate, the vote is taken on rescinding the motion.

If the original motion has been acted upon and that action cannot be undone the motion cannot be rescinded. However, any unexecuted part could be rescinded or amended.

For a complete description of the characteristics of the rescind/amend options of something previously adopted see RONR pp. 305-310.

This is one in a series of articles on parliamentary procedure and how to conduct more effective organizational meetings. For a complete list in this series go to the [Parliamentary Procedure resource](http://www.msue.anr.msu.edu/resources/parliamentary_procedure_resources) (http://www.msue.anr.msu.edu/resources/parliamentary_procedure_resources).

Watch [MSU \(Michigan State University\) Extension](http://www.msue.msu.edu/) (<http://www.msue.msu.edu/>) for monthly articles posted on commonly asked questions about how to use parliamentary procedure. As a professional registered parliamentarian with [the National Association of Parliamentarians](http://www.parliamentarians.org/), (<http://www.parliamentarians.org/>) the primary reference for the

answers to the questions will be based on Robert's Rules of Order, Newly Revised, 11th Edition. See the Robert's Rules Society (<http://www.robertsrules.com/>) for information on how to adopt RONR as your organization's parliamentary authority.

This article was published by **Michigan State University Extension** (<http://www.msue.msu.edu>). For more information, visit <http://www.msue.msu.edu> (<http://www.msue.msu.edu>). To have a digest of information delivered straight to your email inbox, visit <http://www.msue.msu.edu/newsletters> (<http://www.msue.msu.edu/newsletters>). To contact an expert in your area, visit <http://expert.msue.msu.edu> (<http://expert.msue.msu.edu>), or call 888-MSUE4MI (888-678-3464).

ORDINANCE NO. 2018-26

AN ORDINANCE FOR THE CITY OF MONTGOMERY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, BY REPEALING CHAPTER 14 IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 14; PROVIDING FOR DEFINITIONS; PROVIDING FOR A LOCAL RABIES CONTROL AUTHORITY; PROVIDING FOR PURPOSES, APPLICABILITY AND EFFECT; REGULATING ANIMAL DENSITY, CARE AND PROTECTION; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR THE REPEAL OF ANY AND ALL ORDINANCES, RESOLUTIONS, AND/OR INFORMAL POLICIES TO THE EXTENT THE SAME ARE INCONSISTENT WITH OR IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, the City Council of the City of Montgomery, Texas, believes that it would be in the best interest of the public and the citizens of the City of Montgomery that both domestic and wild animals be controlled or prohibited within the city limits; and

WHEREAS, the City Council desires to pass a new animal control ordinance, thereby repealing chapter 14 of the Code of Ordinances of the City of Montgomery in its entirety; and

WHEREAS, Section 826.013 of the Texas Health and Safety Code (the "Code") provides that the governing body of a municipality may adopt the provisions of the Rabies Control Act of 1981, as amended (Texas Health and Safety Code, Chapter 826); and

WHEREAS, Section 826.015 of the Code provides that a governing body of a municipality may adopt ordinances or rules that establish a local rabies control program in the municipality and set local standards that are compatible and equal to or more stringent than (1) the ordinances or rules adopted by the county in which the municipality is located; and (2) the program established by the chapter and the rules adopted by the Texas Board of Health; and

WHEREAS, Section 826.016 of the Code permits the governing body of a municipality to enter into contractual agreements with public or private entities to carry out the activities required or authorized under Chapter 826 of the Code; and

WHEREAS, Section 826.017 of the Code permits the governing body of a municipality to designate an officer to act as the local rabies control authority as provided in the Code.

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

SECTION ONE REPEALING AND AMENDING CHAPTER 14 OF THE CODE

The Code of Ordinances of the City of Montgomery, Texas, shall be and is hereby amended by repealing Chapter 14 in its entirety and adopting a new Chapter 14 as follows:

Chapter 14 ANIMALS

ARTICLE 1, IN GENERAL

Sec, 14-1. Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any vertebrate member of the animal kingdom, domestic or wild, excluding the human species.

Animal Control means Montgomery County Animal Control Department or its designee

Astray or Stray means any animal running free or otherwise without physical or other restraint whether on or off the premises of its owner.

Cat means any domesticated member of the family *felis catus*.

Community Cats means any unowned cats These cats may be feral, unsocialized, or friendly and may either have been borne into the wild or are lost or abandoned pet cats.

Director means the City of Montgomery Director of Public Works or authorized designee.

Dog means a domesticated member of the family *canidae* but shall not include a wolf, jackal, fox, or other wild animal of this family.

Fowl means any heavy bodied, terrestrial bird of the order Galliformes, including but not limited to chickens, ducks, geese, pheasants, turkeys, grouse, guineas, or other common domestic fowl, but not including caged pet birds kept inside a building and otherwise not a bird defined as fowl herein.

Livestock means any horse, swine, cattle, sheep, goat, mules jack, or jenny.

Owner means any owning, keeping, or harboring an animal and any person who permits an animal to remain on or about his premises, who has possession, or has control or the responsibility to control an animal.

Person means any individual, corporation, partnership, trust, association or other legal entity.

Quarantine means strict confinement under restraint by closed cage or paddock or on the premises of the owner in any other manner approved by the Local Rabies Control Authority or designee or at a facility approved by the Local Rabies Control Authority or designee.

Rabies means an acute viral disease of human and animal affecting the central nervous system usually transmitted through the bite of a rabid animal or contact with bodily fluid of a rabid animal and/or including the condition commonly known as rabies.

Reptile means any cold-blooded vertebrate of the class reptilia, such as lizards, snakes, etc.; of particular concern are those that are poisonous, constrictors, and/or carnivores.

Restraint, except as otherwise provided, an animal shall be deemed to be restrained when it is:

- (a) Confined on the premises of the owner within a fence or enclosure; or fastened or picketed by a lead, rope, or chain so as to keep the animal on the premises of the owner; or
- (b) Under the control of a person by means of a harness, leash, chain, or similar device attended by a person of sufficient strength to prevent the animal from running at large; or
- (c) On or within a vehicle being driven or parked if the owner is present to control the animal from jumping or falling out;
- (d) At heel beside or otherwise controlled and obedient to a person competent to restrain the animal by command.

Running at large means animals wandering or roving at will and unsupervised.

Secure enclosure means a fenced or locked area that is capable of confining the animal in question.

Sec. 14-2. Local Rabies Control Authority designated; duties.

(a) The Mayor shall designate the Montgomery County Animal Control Department (Animal Control)) official designated by Montgomery County Commissioner's Court, as the Director or his/her designee as the Local Rabies Control Authority pursuant to state law.

(b) The duties of the Director and the Local Rabies Control Authority shall include but are not limited to:

(i) Enforcement of all ordinances and/or rules of the City pertaining to rabies and animal control; enforcement of the provisions of state law and administrative rules of the Texas Board of Health pertaining to rabies and animal control.

(ii) Selection and establishment of facilities for impoundment, maintenance, shelter and dysfunction of stray, diseased, injured, or vicious animals.

(c) The Director or Animal Control Officer may employ such Animal Control Officers or inspectors as are necessary and feasible to carry out the purposes of this chapter.

(d) Nothing in this chapter shall be interpreted so to prohibit a service animal as defined in federal law, or an assistance animal defined in State law, that is specially trained or equipped to assist persons with disabilities.

Sec. 14-3, Citation of person in control; interference or false reports unlawful.

(a) Whenever an animal is found in violation of this chapter and when ownership is known to the Director, an Animal Control Officer, a peace officer or other authorized official, such person enforcing this chapter may elect, in lieu of or in addition to impounding such animal, to issue a citation to the owner, harbinger, or other person in control of the animal which shall require the person to appear in the Municipal Court within ten (10) business days to answer a charge of violation of this chapter.

(b) The signature of the owner, harbinger or other person in control on a citation shall constitute only a promise to appear at the appointed date and shall not be construed as an admission of guilt.

(c) It is unlawful for any person, upon being issued a citation for violation of this chapter, to fail to provide proof of identification, or provide a false name, address, or other false information concerning an animal or its ownership to the Director, an Animal Control Officer or other enforcing official.

(d) It is unlawful for any person to interfere with, hinder or obstruct the Director, an Animal Control Officer or other official engaged in the enforcement of this chapter, including but not limited to the failure to release an animal for impoundment or any manner of interference with such impoundment.

(e) It is unlawful for any person to make a false report or complaint concerning a violation of this chapter to the Director, to any Animal Control Officer, or to any other enforcing official.

Sec. 14-4. Authority to impound or destroy certain animals.

(a) The Director, the Police Chief, or their designees are hereby authorized to:

- (i) Impound any stray animal found running at large within the city limits or within five thousand (5,000) feet thereof, or any animal being kept in violation of this chapter;
- (ii) Impound any animal which attacks, bites, or physically injures human beings, domestic animals, or livestock or which has acted in a vicious manner as described herein;
- (iii) Destroy any animal if it is in the act of pursuing or wounding livestock or wounding or killing poultry or attacking humans under circumstances of emergency;
- (iv) Impound for treatment or, in the alternative, humanely destroy an animal that is injured to a degree presenting little or no likelihood of recovery, upon the recommendation of a licensed veterinarian. This provision shall not be construed to include veterinary hospitals or animals under active veterinary care.

(b) If an animal running astray is found upon the premises of any person, the owner or occupant thereof shall have the right to confine the animal temporarily in humane fashion pending notification and response by the Animal Control Department or other authority

Sec. 14-5. Reserved

ARTICLE II. ANIMAL DENSITY, CARE AND PROTECTION

Section 14-6 Nuisance

(a) It is unlawful for the owner, custodian, or keeper of any animal to permit such animal to be a nuisance to any neighbor, including but not limited to: (1) noxious odors from the animal or its enclosure, (2) any animal which soils, defiles, or defecates on public or private property, other than the property of the owner, unless the owner immediately removes and properly disposes of it, or (3) any noise from the animal that is loud, persistent and habitual in nature,

(b) No person shall keep, allow or permit to be kept on any premises occupied by the person or under his/her charge or control, any animal or fowl in a pen or other enclosure under such conditions that an offensive or noxious smell or odor shall arise therefrom, to the injury, annoyance or inconvenience of any inhabitant of the neighborhood or City. Any odor which is detectable from a public right of way or adjacent property line is considered to be in violation of this section.

(c) It is a violation to keep any dog, bird or other animal that causes frequent or long continued noise that disturbs the comfort and repose of any person of ordinary sensibilities in the immediate vicinity. Once a noise violation has been determined by the Director, the violator has two weeks to remedy this violation through training technology or relocation of the animal(s).

(d) Fines for animal owners found guilty of the above noise and odor nuisances shall be: One hundred dollars (\$100.00) for the first (1st) offense. Two hundred dollars (\$200.00) for the second (2nd) offense, and Three hundred dollars (\$300.00) for the third (3rd) offense.

(e) Additionally, a person convicted of a third (3rd) offense shall have his or her right to keep or maintain livestock within City revoked for one (1) year.

Section 14-7 Keeping of Dogs

(a) No person may keep more than six dogs over three months of age on a property of less than five acres.

(b) No person may keep a dog outdoors within an enclosure such as a fence, kennel, or other device unless the enclosure contains at least one hundred square feet of unobstructed area per each dog weighing twenty pounds or less and at least two hundred square feet of unobstructed area per each dog weighing more than twenty pounds. The height of such enclosure should be no less than two feet above the tip of the animal's ears if the ears are upright or otherwise two feet above the animal's head. This restriction shall not apply to government agencies, non-profit animal rescue organizations exempt from taxation under Internal Revenue Code section 501 (c)(3), humane societies, or societies for the prevention of cruelty to animals.

(c) No person shall keep, use or maintain a dog outdoors on any premises unless the dog is always either provided with full access to an enclosed building or access to a dog house or similar shelter .

(d) No person shall keep, use or maintain any dog on any premises unless the dog has access to clean fresh water at all times. Clean potable water shall be available to the dog unless restricted for veterinary care.

(e) No person shall keep, use or maintain any dog on any premises unless the dog is provided sufficient food daily to maintain proper body weight and good general health.

(f) It shall be unlawful for any person to tether, fasten, chain, tie, restrain or cause a dog to be fastened, chained, tied or restrained to houses, trees, fences, garages or other stationary or highly immobile objects by means of a rope, chain, strap or other physical restraint for the purpose of confinement, except in circumstances where all of the following requirements are met:

(i) The tethering shall not be for more time than is necessary for the dog owner or custodian to complete a temporary task that requires the dog to be physically restrained for a reasonable period; and

(ii) The dog must be tethered by a non-choke type collar or a body harness to a tether that is at least three times the body length of the dog, measured from the dog's nose to the back of the hindquarters and which tether is free from entanglement; and

(iii) The dog must have access to food, water and shelter as described above; and

(iv) The dog shall be monitored periodically.

(v) Restraint by a trolley system is permitted under the following conditions:

(1) Only one animal may be tethered to each cable run; and

(2) The device must be attached to a pulley on a cable run or trolley; and

(3) There must be a swivel on at least one end of the tether to minimize tangling of the tether; and

(4) The tether and cable must be of adequate size and strength to effectively restrain the animal; and

(5) The size and weight must not be excessive as determined by the Director, considering the age, size, and health of the animal; and

(6) The cable run must be at least ten feet in length and at least four feet above the ground; and

(7) The tether must not allow the animal to move beyond the legal boundary of the owner's property; and

(8) The device must be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness; and

(9) The device must be fastened so that the animal can sit, walk, and lie down comfortably, and must be unobstructed by objects that may cause the device or animal to become entangled or strangled;

(10) The animal must have easy access to adequate shade, shelter, food, and potable water; and

(11) The area where the animal is confined must be kept free of garbage and other debris that might endanger the animal's health or safety; and

(12) Feces shall be cleaned regularly, but no less frequently than once per week.

Section 14-8 Keeping of Chickens and Rabbits

(a) No person may keep more than 20 grown chickens and 6 grown rabbits or 18 flyer rabbits on a property of less than one acre. Students enrolled in a 4-H and Future Farmers of America project may receive a temporary exception to this restriction, provided (1) they are city residents who are members of the immediate household; (2) they have filed with the City Secretary a letter from their 4-H adult leader or the teacher of their Future Farmers of America class certifying their project; and (3) no neighbor within 50 feet of the animal's pen files a written complaint with the City Secretary. This exception to this chapter shall be available to a student only for the duration of his or her project. All other husbandry requirements of this section must be met.

(b) The animals shall be provided with a covered, predator-proof pen that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners, and be at least two square feet per adult animal in size. All enclosures shall be so constructed or repaired as to prevent rot, mice, or other rodents from being harbored underneath or within the walls of the structure.

(c) No animal pen will be located closer than fifty feet to any residential structure occupied by someone other than the owner of the animals and must be located no closer than ten feet to any adjacent property line.

(d) The animals shall be secured in their pens at night from sunset to sunrise. The owner, custodian, or keeper of chickens or rabbits shall not keep animals in any location on the property other than in the backyard. For the purposes of this section, "backyard" means the portion of a lot enclosed by the property's rear lot line and the side lot lines to the point where the side lot lines intersect with an imaginary line established by the rear of the residential structure and extending to the side lot lines.

(e) The area containing the animals shall be adequately fenced to protect and contain the animals and to prevent access to the animals by dogs or other predators.

(f) Stored feed must be kept in rodent and predator proof containers.

(g) No person shall keep, use or maintain any animal outdoors unless the animal is either provided with natural shade or a man-made structure.

(h) No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

(i) No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

(j) No more than two roosters shall be allowed on any property.

Section 14-9 Keeping of Livestock

(a) Cows, horses, sheep, goats and other similar farm animals are permitted only on lots of at least one acre in size. Recommended stocking densities are as follows:

<u>Animal</u>	<u>Area Recommended for First Animal</u>	<u>Additional Animals</u>
Beef cattle/dairy cows	1.5 acres for first animal	1 acre each
Sheep, goats, alpaca	1 acre for first animal	1 acre each
Llama	1.5 acres for first animal	1 acre each
Horses/equine-type animals	1.5 acres for first animal	1 acre each

(b) The acreage on which such livestock are maintained must be enclosed by a fence of sufficient height, strength, and construction to keep such livestock from escaping from the premises. Rodeo, roping, calf-wrestling or other such type of special activities with corrals and proper provisions for the animals are excluded from the area requirements of this section.

(c) All livestock kept under this section shall be provided a stable, shed, pen, or other structure of adequate size for the storage, shelter, and safekeeping of such animals. This structure shall be located at least fifty feet from property lines.

(d) No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

(e) No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

(f) Areas on which agricultural operations are conducted or livestock are kept that are annexed into the City shall remain as legal uses pursuant to state law. State law requires that regulations of agricultural operations or livestock in such newly-annexed areas can only be applied if the City Council, by resolution, makes findings that such regulations are necessary to protect the public health.

Section 14-10 Keeping of potbellied pigs

No more than two potbellied pigs may be kept as pets, provided:

(a) Lot size is at least twenty thousand square feet; and

- (b) The animals are regularly housed indoors, and when outdoors, are restrained by leash or within a durable fenced enclosure area; and
- (c) Animals over the age of four months are spayed/neutered. Exemption to this requirement will be considered when the Director is presented with evidence authored by a veterinarian stating that this procedure would be detrimental to the health of the animal; and
- (d) Tusks are regularly trimmed so as not to exceed one inch in length outside the outer lip.
- (e) No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.
- (f) No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

Sections 14-11 to 14-16 Reserved

ARTICLE III. PROHIBITED ACTS

Sec, 14-17 Animals running at large

- (a) It is unlawful for any person to allow an animal to run at large, as defined in this chapter, on any public or private street, alley, sidewalk, vacant lot, or property. An Animal Control Officer has the right to impound animals that are destroying public property or endangering the welfare of any person or animal that is lawfully on public or private property. All dogs, livestock, fowl or dangerous wild animals running at large within the city limits or within five thousand feet of such are hereby declared a public nuisance.
- (b) A notice of impoundment will be left in each case that an animal is impounded from private property. An attempt will be made by the Animal Control Officer to contact the owner.
- (c) Community cat colonies that are actively managed by a property owner are exempt from the provisions of this chapter prohibiting animals from running at large. To be an eligible community cat colony manager, the property owner must show active work to trap, feed, vaccinate, sterilize, and release members of the colony, it is preferred, but not required, that animals that have been trapped and released will have their left ear clipped as a visual identification of sterilization and vaccination against rabies. Information for each colony cat will include a description of cat (gender, color, and approximate age), date of sterilization, location of colony, and property owner's name and contact information. In order to qualify for this chapter exemption, it is the responsibility of the property owner to provide the Director with information about each cat in the colony as it is trapped and

sterilized. Animals with appropriate markings and found on property elsewhere will be treated as though they were on the property where their colony is registered.

- (d) It is unlawful for any person to chain, stake-out, graze or herd any animal on any unenclosed premises in such a manner that the animal may go beyond the property line or that is detrimental to the animal's safety or health.
- (e) Any dog not deemed potentially dangerous or on its owner's property may be kept under the immediate physical control of a person capable of restraining the animal confined through a means of a buried electronic barrier/collar system if the animal is properly trained and the electronic system is functioning properly.

Section 14-18 Animal fights prohibited

It is unlawful for any person to promote, stage, hold, manage, conduct or attend any game exhibition, contest, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal.

Section 14-19. Dangerous wild animals prohibited

- (a) *Dangerous wild animal or reptile* means one not normally considered domesticated, that is wild by nature, which, because of habit, mode of life, or natural instinct, is incapable of being completely domesticated, and requires the exercise of art, force or skill to keep it in subjection; and is dangerous by nature, capable of inflicting serious injury, death or disease to humans, and is more likely to do so than a domestic animal. In addition to wild animals prohibited by federal or state law, prohibited wild animals shall include, but are not limited to:

Racers, boas, water snakes, pythons, other constrictor snakes, venomous snakes, alligators, caymans, crocodiles, hawks, eagles, vultures, ostriches, rheas, cassowaries, bats, ocelots, margays, tigers, jaguars, leopards, cougars, cheetahs, lynx, bobcats, mountain lions, panthers, wolves, wolf hybrids, dingos, coyotes, fox, jackals, weasels, martins, mink, skunks, badgers, raccoons, bears, kangaroos, opossums, sloths, anteaters, armadillos, elephants, monkeys, chimpanzees, gorillas, porcupines, antelope, deer, bison or camels.

Sec. 14-20 Sale of diseased animals prohibited

- a. It is unlawful for any person to, with knowledge, sell, barter, or otherwise transfer for use, retention, or resale as a pet any animal which has a disease or internal parasite.

- b. It is a defense to prosecution under subpart a. that the seller or transferor provided to the transferee at the time of such sale or transfer a certificate from a licensed veterinarian attesting that the veterinarian had examined the animal within ten (10) days prior to such sale or transfer and found the animal to be free of disease or parasites.
- c. It is unlawful for any person to, with knowledge, make any false statement in the certificate described in the preceding subpart.

Section 14-21 Roadside sale of animals prohibited; exceptions

(a) It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or display for any purpose a live animal on a roadside, public right of way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event,

(b) This section does not apply to the following:

- i An event primarily for the sale of agricultural livestock such as hooved animals or animals or fowl commonly raised for food, dairy, or fiber product;
- ii A tax exempt, registered 501(c)(3) non-profit organization founded for the purpose of providing humane sanctuary for abandoned or unwanted animals; or
- iii County or municipal animal shelters or shelter-certified partners.

Section 14-22. Trapping prohibited; impoundment of traps; exceptions

(a) It is unlawful for any person to set or place any trap designed for trapping animals in any street, alley, park, or other public place within the city limits.

(b) It is unlawful for any person to set or place any steel-jawed or tooth-jawed trap upon private premises within the City.

(c) Any traps mentioned in the preceding subsections, when found within the city limits, are hereby declared to be abandoned property and the Director, any peace officer or Animal Control Officer is hereby authorized to impound and process the same as abandoned property in accordance with State law and this Code.

(d) This section shall not apply to any peace officer or Animal Control Officer engaged in the performance of that officer's duties within the city limits or to persons using traps provided by Animal Control or with specific authorization,

Sec. 14-23, Duty to remove dead or decaying animal carcasses.

(a) It is unlawful for any owner, occupant, or other person in control of premises to knowingly suffer, permit or maintain the presence of a dead or decaying animal carcass upon any such premises within the City, whether public or private, for more than six (6) hours.

(b) The presence of dead or decaying animal carcasses in violation of this section is hereby deemed a public nuisance.

(c) Dogs, cats or any other small dead animals shall not be placed in garbage containers nor collected as solid waste.

(d) Proper disposal shall include:

- (i) Burial below the natural surface of the ground. Dead animals shall be buried to such a depth that no part of the dead animal shall be nearer than three (3) feet to the natural surface of the ground. Every part of the dead animal shall be covered with at least three feet of earth. The location of a burial site shall be in compliance with any applicable setbacks for sanitary or public health reasons; or
- (ii) Drop off at a location that is approved by the Montgomery County Health Department for disposal of deceased animals; or
- (iii) Pick up by Montgomery County Health Department or designated representatives.

Sec. 14-24 Maintenance of mosquito breeding waters unlawful

(a) The collection or maintenance of standing or flowing water in which mosquitoes breed or are conducive to breeding is hereby declared to be an illegal public nuisance, unless such collection of water is treated in the manner prescribed by the Director, to prevent the breeding of mosquitoes,

(b) The methods of treatment of any collection of water for the purpose of preventing the breeding of mosquitoes is subject to approval by the Director and may include one or more of the following:

- (i) Screening with wire netting of at least sixteen (16) meshes to the inch one way or any other material which will effectively prevent the ingress or egress of mosquitoes;
- (ii) Complete emptying every seven (7) days of unscreened containers together with their thorough drying or cleaning;
- (iii) Using an approved larvicide;
- (iv) Clearing and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito destroying fish (with absence of half-grown mosquito larvae to be evidence of compliance);

- (v) Filling or draining to the satisfaction of the Director; or
- (vi) Proper disposal of bottles, cans, boxes, tubs, broken or empty bottles or similar articles likely to hold water.

(c) The City or its Director shall forward written notice to comply with this section within three (3) days, to the owner, occupant or other person in control of premises, describing with particularity the mosquito breeding conditions to be abated and the suggested method to abate them.

Sections 14-24 to 14-29 Reserved.

ARTICLE IV FIERCE OR DANGEROUS ANIMALS

Section 14-30 Regulation of fierce or dangerous animals.

- (a) No person who owns or keeps an animal shall allow the animal to engage in fierce or dangerous conduct. If any person witnesses an animal engaging in fierce or dangerous conduct as described herein, a complaint can be filed in Municipal Court against the owner or keeper of the animal. This section shall not apply to animals that are in the service of law enforcement agencies or guard dogs restrained as provided in Sec. 14-32.
- (b) Determination That a Dog is a Dangerous Dog. A dog may be determined to be a Dangerous Dog under the following procedures:
 - i Incident Report. Any person may report by sworn statement an incident described in Section 14-30 to the Director. Such statement shall include a description of all elements of the act required under Section 14-30, including whether the incident related to actions against a person or actions against livestock, a domestic animal or fowl. Reports of such incident(s) received by police officers or other law enforcement officials or county representatives shall be forwarded to the Director.
 - ii Investigation. The Director or designee will investigate any Incident Report received under Section 14-30 by taking sworn statements concerning the incident from witnesses and gathering any other pertinent information related to the Incident

- iii Notice. Written notice will be given to the person filing the Incident Report (when that person provides sufficient to contact information), the Owner of the dog (when the Owner is known, and sufficient contact information is available), and other interested parties known to the Director at the time and date of the hearing to review the incident information.
- iv Hearing. A hearing will be held before the Director or his/her designated representative (with such person always being a person separate from the persons investigating the incident) to hear testimony from witnesses and review all information gathered related to the incident
- v Findings. Upon completion of the hearing, the Director (or his/her designated representative) shall make a determination based upon a preponderance of the evidence as to whether or not the dog meets the requirements to be determined a "Dangerous Dog." The Director shall issue such determination either at the end of the hearing or within a reasonable time after the hearing. The determination shall be made in writing and shall include the finding that the dog is a Dangerous Dog (with a description of the action which was the basis of the complaint specifying whether the action was against a person or another animal), shall order compliance with the requirements of these rules regarding Dangerous Dogs (including a copy of those requirements) and shall advise the Owner of the possible results of failure to comply with those requirements.
- vi Notification of Findings. If the determination is not made at the hearing, the Director will promptly notify the Owner and those requesting such notification at the hearing (and providing necessary contact information) of the findings by telephone or email, with written notification to follow (as allowed by available contact information), Written notification will include the elements of the determination described in subsection v above and will also be provided as follow-up to any determination made at the hearing.

(c) If the dog is determined to be a Dangerous Dog, the Owner of the dog:

- i Has 15 days in which to appeal the decision to a court of competent jurisdiction;
- ii If there is no appeal, the Owner has 30 days (measured from the date the Owner received notice under subsection vi above, or the date a final decision is reached

under an appeal, whichever applies, to comply with the requirements of this section and to provide proof of such compliance to the Director.

- iii If an appeal is filed, during that appeal the Owner must either comply with the requirements of this section for a Dangerous Dog or post sufficient bond, as determined by the Court, or allow the Director or Animal Control to continue to impound the dog at the Owner's expense and pay all fees and costs related to such impoundment on a weekly basis; or the Owner shall deliver the dog to the Director, Animal Control, or a licensed veterinarian for disposition and immediately thereafter provide proof of disposition to the Director.

(d) Requirements for Dangerous Dog Owners Restraining the Dog. The Owner of a Dangerous Dog must either deliver the dog to the Director, Animal Control or a licensed veterinarian for disposition or, no later than the 30th day after learning that the person is the Owner of a Dangerous Dog (and on an annual basis for as long as the Owner retains possession of the Dangerous Dog), comply with the following and submit to the Director proof of such compliance where required:

- i register the dog with the Director (and continue registration with current proof of the following on an annual basis) as follows:
 - (1) provide proof of compliance with the insurance requirements in section;
 - (2) provide proof of current rabies vaccination;
 - (3) provide proof satisfactory to the Director of a Secure Enclosure in which the Owner's dog is and will be kept when not on a leash or under the Owner's direct control (or direct control of a person designated or allowed by the Owner). Such proof may include pictures, statements, or other evidence, including an on-site visit by the Director, as determined by the Director. The Secure Enclosure shall be clearly marked as containing a Dangerous Dog;
 - (4) pay an annual \$50 fee; and
 - (5) within 14 days of moving the dog, provide the Director notice of the new address;
 - (6) immediately ensure that the dog is restrained at all times on a leash in the immediate control of a person or in a Secure Enclosure. Failure to restrain the dog as required will subject the dog to immediate seizure and impound by the Director or Animal Control;
 - (7) obtain liability insurance coverage or show financial responsibility in the following amounts to cover damages resulting from an attack by the dog on any person, livestock,

domestic animal or fowl, and provide proof of such to the Director on an annual basis:

- (a) for acts against a person \$100,000.00
- (b) for acts against livestock, a domestic animal or fowl \$ 10,000.00

- ii Comply with all other requirements of the Director contained in the Notification of Findings in which a Dangerous Dog determination has been made or imposed by the Director pursuant to these rules. Any additional requirements will be reasonably related to the proper enforcement of the applicable provisions of these rules and provided to the Owner in writing by the Director.
- iii Notify the Director in writing if the dog dies or if ownership of the dog is transferred to another person within 7 days of such death or transfer of ownership. If ownership is transferred, the written notice shall contain the new Owner's name, address and telephone number. The original Owner must notify the new Owner of the Dangerous Dog status of the dog prior to transferring ownership. The new Owner then becomes responsible for meeting all applicable requirements of these rules.
- iv Allow the Director to identify the dog by microchip with the cost for such identification being born by the Owner.

(e) A person learns that the person is the Owner of a Dangerous Dog under this section when:

- i the Owner knows of an attack described under this section; or
- ii the Owner receives notice that a court has made such determination related to proceedings under Section 14-30, or
- iii the Owner is informed by the Director that the dog is a Dangerous Dog under this section.

(f) The status of "Dangerous Dog" remains with the dog, regardless of ownership and the requirements of these rules apply equally to the Owner in possession of the dog when the determination was made and any future Owner.

Section 14-31 Failure to Comply with Dangerous Dog Rules

(a) The Application by Complaining Party

- i Act Against a Person. Any person may make application by sworn statement to the appropriate court to determine that an Owner who knowingly has possession of a Dangerous Dog has failed to comply with this section. A person will be considered to "knowingly have possession of a Dangerous Dog" if that person learns that he/she has a Dangerous Dog as described under Section 14-30.
- ii Act Against an Animal. Any person may make application by sworn statement to the Director to determine that an Owner knowingly has possession of a Dangerous Dog but has failed to comply with Section 14-30. A person will be considered to "knowingly have possession of a Dangerous Dog" if that person learns that he/she has a Dangerous Dog as described under Section 14-30.

(b) Hearing

- i Act Against a Person. On receipt of such application under Section 14-30, the Municipal Court shall set a hearing date that is within 10 calendar days of receiving the application and give written notice of such hearing date to the Owner, the Applicant and any other known interested parties.
- ii Act Against an Animal. On receipt of such application under Section 14-30 (g)(1), the Director shall set a hearing date that is within 10 days of receiving the application and give written notice of such hearing date to the Owner, the Applicant and any other known interested parties.

(c) Decision after Hearing

- i Act Against a Person. If the Municipal Court determines that the Owner has failed to comply with the requirements of these rules regarding a Dangerous Dog where the act was against a person, the court shall order the Director or Animal Control to seize the dog and shall issue a warrant authorizing the seizure. The Owner may appeal the decision of the court to the appropriate court. Nothing in this subsection prevents the Director or Animal Control from seizing the dog at any time under this or any other applicable portion of these rules.
- ii Act Against an Animal. If the Director determines that the Owner has failed to comply with the requirements of these rules regarding a Dangerous Dog where the act was against an animal, the Director or Animal Control shall seize the dog. The Owner may appeal the decision of the Director to the appropriate court. Nothing in this subsection prevents Director or Animal

Control from seizing the dog at any time under this or any other applicable portion of these rules.

(d) Compliance

- i Impound. Upon a court order or a decision by the Director under Subsection Section 14-30, the Director or Animal Control shall seize and impound the dog.
- ii Appeal. No further action shall be taken regarding the dog (other than the Director or Animal Control continuing to impound the dog) if the Owner files an appeal under Section 14-30 until a final decision is issued under such appeal. If the decision of the appeals court is that the dog is not a Dangerous Dog or that the Owner has not failed to comply, the dog shall be immediately released to the Owner. If the appeals court affirms that the dog is a Dangerous Dog and that the Owner has failed to comply with applicable requirements of these rules (or if no appeal is filed), subsection "iii" below will apply, with the time periods being measured from the date of such decision of the appeals court rather than the date the dog is seized.
- iii Release. The Court shall order the dog released to the Owner if the Owner:
 - (1) before the 11th day after the dog was seized, shows proof of compliance with the applicable requirements; and (2) pays any cost (including necessary medical costs, as determined by a licensed veterinarian), fee or fines assessed by Montgomery County Health Department and/or the City of Montgomery related to the seizure, acceptance and impoundment.
 - (2) Destruction If the Owner does not fulfill the requirements of Section 14-30 within the 11-day time period in the event that the attack or acts were directed toward a person, the court shall order the Director or Animal Control to humanely destroy the dog.
 - i If the Owner does not fulfill the requirements of Section 14-30 within the 11-day time period in the event the attack or acts were directed toward livestock, a domestic animal or fowl, the court may make its own determination as to the action to be taken or submit the matter to the Director for consideration by hearing as set forth in subsection below. The Owner shall pay all costs related to the seizure, acceptance, impoundment and/or destruction of the dog (including necessary medical costs, as determined by a licensed veterinarian).

- ii If the Owner of the dog is not found by the 15th day after the dog was seized, and the dog is a Dangerous Dog, the court shall order the dog humanely destroyed.

Section 14-31 Attack by a Dangerous Dog.

(a) Subject to the following, Section 14-30 shall apply to any attack by a Dangerous Dog after such determination has been made as follows:

1. After a dog has been determined to be a Dangerous Dog, notification of an attack by a Dangerous Dog on any person, livestock, or domestic animal or fowl shall be given to the Director within 24 hours of the attack or as soon as such attack is known by any person to have occurred.

2. Attack on an Animal. The offense classifications of the statute (as set forth in herein) shall only apply to attacks against a person. If the attack is against livestock, domestic animals or fowl, the attack shall be registered with the Director. After one such registered attack (an attack made after the dog has been determined to be a Dangerous Dog), the dog shall be surrendered to the Director or Animal Control. The Director shall schedule a hearing to be held with prior notice of such hearing to the Owner. Unless good cause shall be shown at the hearing as to why the dog should not be destroyed, the Director or Animal Control shall humanely destroy the dog. If the Director finds reason not to destroy the dog, and a second attack occurs, then must humanely destroy the dog.

(b) Penalties for Violations.

1. Attack by a Dangerous Dog Against a Person.

- i A person commits an offense if the person is the owner of a Dangerous Dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
- ii A person found guilty of violating this section shall be subject to a fine not to exceed \$500.00.
- iii If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person authorized by an animal control officer authorized to perform such a procedure.
- iv In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000,

An attorney for the City where the offense occurred may file suit in behalf of the City in a court of competent jurisdiction to collect the civil penalty.

- v Any person who keeps a Dangerous Dog which was classified as such because of an attack or act upon a person and does not comply with all requirements of these rules commits an offense for which a fine not to exceed \$500.00 may be imposed. Defenses to prosecution under this section are as set forth in Section 14-30. This section applies only to a dog determined to be a Dangerous Dog as a result of an attack or acts against a person and does not apply where the attack or acts were against livestock, a domestic animal or fowl.

Section 14-32. Guard dogs.

Except for law enforcement agency dogs, it is unlawful to place or maintain any dog which has been specifically trained to attack in any area for the protection of persons or property unless the dog is physically confined to a specific area or is under complete and absolute control. If a guard dog is to be maintained in a building or adjoining fenced area of a business after work hours, then the Fire Department and Police Department must be notified. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two (2) inches high and placed not less than every twenty-five (25) feet on or adjacent to the structure or barrier which confines the animal; at least one (1) warning sign shall be conspicuously posted on the structure or barrier.

ARTICLE IV. RABIES CONTROL

Sec. 14-33, Proof of vaccination required.

(a) All dogs and cats within the city limits must be vaccinated against rabies. It is the duty of all persons owning or keeping a dog or cat over the age of three months to have such animals vaccinated against rabies. The initial rabies vaccine shall be given in an amount sufficient to provide immunity from rabies for one year.

(b) Where proof of prior rabies vaccination is provided, subsequent vaccinations shall be administered with a three-year vaccine. A certificate from a licensed veterinarian shall be evidence of vaccine and type. Montgomery County Health Department may require other animals to receive rabies vaccinations. All anti-rabies vaccines shall be administered by or under the supervision of a licensed veterinarian who shall issue a serially-numbered certificate and tag for each such administration.

(c) The fine for violation of the requirement to have dogs and cats vaccinated for rabies annually shall be no less than \$25.00 and no more than \$500.00.

(d) The veterinarian administering anti-rabies vaccines to any animal shall issue to the owner or custodian of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or custodian of the animal, a description of the animal vaccinated, the date of the vaccination and the expiration date of the period of immunity.

(e) It is unlawful for the owner or custodian of any dog or cat to fail to exhibit its certificate of vaccination upon demand by an animal control officer,

(f) From time to time, public health and safety requirements may result in the three-year vaccination period being modified by the Montgomery County Health Department. The City requirement for rabies shall reflect any such change.

Sec. 14-34. Impoundment, quarantine of animals; redemption by Owner

(a) Pursuant to state law, the Director, Animal Control, or designee is authorized to impound and/or quarantine an animal when there is probable cause to believe that a person may have been exposed to rabies,

(b) A quarantined animal with rabies or rabies symptoms shall be confined in the County or municipal animal shelter or a veterinary hospital and disposition shall be made in accordance with state law.

(c) In the case of other animals quarantined, the Director or designee shall determine whether to confine the animal in the County or municipal animal shelter, a veterinary hospital, or on the premises of the Owner,

(d) Home quarantine on the premises of the Owner shall be permissible where:

- i The owner is a City resident; and
- ii The owner possesses facilities adequate to restrain the animal so as to prevent exposure of persons or other animals; and
- iii Adequate documentation exists that the animal was vaccinated against rabies in the preceding twelve-month period; and
- iv The animal currently possesses no apparent symptoms of rabies.

(e) It is unlawful for any person to remove an animal from the premises of the Owner following issuance of an order for home quarantine.

(f) During confinement, an animal may be inspected at any time by the Director or designee,

(g) The Director or designee shall determine the length of confinement and safety procedures. A licensed veterinarian shall make a determination of whether or not the animal is free of rabies pursuant to state law.

(h) If a licensed veterinarian determines that the animal does not show the clinical signs of rabies, the animal may be reclaimed by the Owner upon satisfaction of applicable tests.

SECTION TWO. SEVERANCE CLAUSE

It is hereby declared to be the intention of the City Council that the several provisions of this ordinance are severable, and if any court of competent jurisdiction shall judge any provision of this ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this ordinance which are not specifically designated as being illegal} invalid or unenforceable.

SECTION THREE. REPEALING CLAUSE

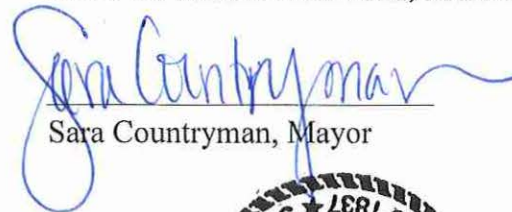
Any and all ordinances, resolutions, and/or policies of the City of Montgomery, Texas, whether written or otherwise, which are in any manner in conflict with or inconsistent with this ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION FOUR. EFFECTIVE DATE AFTER PUBLICATION

This ordinance shall become effective and applicable immediately upon its passage and approval after publication as provided by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Montgomery, Texas,
on this 11th day of December 2018.

CITY OF MONTGOMERY, TEXAS


Sara Countryman, Mayor

ATTEST:


Susan Hensley, City Secretary



Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits:
Date Prepared: January 3, 2019	

Subject

This is a report on the Atkins Creek water line and sewer line damage cause during hurricane Harvey in very early September 2017.

Description

The Engineer and I will give a report regarding the status of the Atkins Creek water line and sewer line repair we have been in discussions with FEMA about for almost a year.

It now appears as though things have been worked out well -- meaning a good repair paid for at 90% expense to FEMA.

Recommendation

Listen then comment as you think appropriate—no action requested.

Approved By

City Administrator

Jack Yates

Date: January 3, 2019

Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: Final pay request , Certificate of Substantial Completion
Date Prepared: January 4, 2019	

Subject

This is to consider approval of the Certificate of Substantial Completion to Glenn Fuqua, Inc. for their work on the Buffalo Springs Bridge project.

Description

Attached is the final pay request coversheet for the Contractor.
There are no outstanding punchlist items.
Also attached is the Certificate of Substantial Completion which serves as the approval of the work to begin the one-year guarantee of the work on the project to begin October 31, 2018.

Recommendation

Motion to approve the Certificate of Substantial Completion as presented.

Approved By

City Administrator	Jack Yates	Date: January 4, 2019
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1575 Sawdust Road, Suite 400
 The Woodlands, Texas 77380-3795
 Tel: 281.363.4039
 Fax: 281.363.3459
www.jonescarter.com

January 2, 2019

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

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

Dear Mayor and Council:

Enclosed is Progress Payment Request No. 11 & Final from Glenn Fuqua, Inc. for the referenced project. The estimate is in order and we recommend payment in the amount of \$63,406.18 to Glenn Fuqua, Inc.

Table No. 1 below provides a summary of the source of funding for this project.

Table No. 1 – Sources of Funding

<u>Source</u>	<u>Original Contract Amount</u>	<u>Revised Contract Amount⁽⁵⁾</u>	<u>Previous Pay Request</u>	<u>Current Pay Request⁽¹⁾</u>	<u>Balance⁽²⁾</u>
FEMA ⁽³⁾	\$767,810.93	\$836,202.45	\$788,647.82	\$47,554.63	\$0.00
Texas CDBG ⁽⁴⁾	\$255,936.97	\$274,430.00	\$262,882.60	\$11,547.40	\$0.00
Local Funds	\$0.00	\$4,304.15	\$0.00	\$4,304.15	\$0.00
Total Amount	\$1,023,747.90	\$1,114,936.60	\$1,051,530.42	\$63,406.18	\$0.00

Notes:

1. Amount due from each entity necessary to fund current pay request.
2. Amount available to pay balance of current construction contract amount.
3. 75% of total construction costs.
4. 25% of total construction costs up to \$274,430.00.
5. Less \$21,500.00 in Liquidated Damages.

At this time, we recommend the City to submit Pay Request No. 11 & Final - REVISED to FEMA and TxCDBG. We recommend payment in the amount of \$47,554.63 to be sent to the City from FEMA, and payment in the amount of \$11,547.40 to be sent to the City from TxCDBG.



City of Montgomery
Pay Estimate No. 11 and Final
Page 2
January 2, 2019

Also enclosed is Construction Progress Report No. 11 & Final Pay Estimate, 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 1, 2018 to November 30, 2018.

You will also find your copies of the Contractor's Affidavits of Bills paid, Affidavit of Guarantee and the Certificate of Construction Completion, 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/

K:\W5841\W5841-0025-00 Buffalo Springs Bridge Embankment Rehab\3 Construction Phase\Pay Estimates\W5841-0025-00 Current Estimate.docx

Enclosure

- cc: Glenn Fuqua, Inc.
Ms. Cathy Branco – Municipal Accounts & Consulting, LP (cc via email)
Mr. Jack Yates – City of Montgomery, City Administrator (cc via email)
Ms. Susan Hensley – City of Montgomery, City Secretary (cc via email)
Mr. Larry Foerster – Darden, Fowler and Creighton, LLP, City Attorney (cc via email)
Ms. Rachel Nolley – GrantWorks (cc via email)
Ms. Meghan Hicks – CohnReznick, LLP (cc via email)

**CERTIFICATE OF SUBSTANTIAL COMPLETION FOR
CONSTRUCTION OF BUFFALO SPRINGS DRIVE BRIDGE EMBANKMENT REPAIR**

GLENN FUQUA, INC.

November 29, 2018

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

CONTRACTOR: Glenn Fuqua, Inc.
P.O. Box 589
Navasota, TX 77868

CONTRACT: Construction of Buffalo Springs Drive Bridge Embankment Repair

We have observed the subject project constructed by **GLENN FUQUA, INC.** 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 **CITY OF MONTGOMERY** issue **GLENN FUQUA, INC.** a Certificate of Acceptance of the Work, and that final payment be made to **GLENN FUQUA, INC.** We also recommend that the Contractor's guarantee period of 1 year begin October 31, 2018.



Sincerely,

A handwritten signature in black ink that reads "Rebekah L. Campbell".

Rebekah L. Campbell, PE, CFM



1575 Sawdust Rd, Suite 400, The Woodlands, Texas 77380
TBPE Registration No. F-439

A709

Certificate of Construction Completion (COCC)

(Submit one for each Prime Construction Contract)

Grant Recipient: City of Montgomery TxCDBG Contract No: 7215112

This is to certify that all construction work has been completed and a final inspection of the project described below was conducted on the 2nd day of November, 2018. Contract was entered into on the 4th day of January, 2018 between the City of Montgomery and Glenn Fuqua, Inc. for the Construction of Buffalo Bridge Drive Bridge Embankment Repair.

This is to further certify that:

1. The work has been completed in accordance with the plans and specifications and all amendments, change orders and supplemental agreements thereto.
2. The sum of \$ 21,500.00, has been deducted from the final payment to the Contractor in accordance with any contract liquidated damages requirements, separate from any liquidated damages resulting from Davis-Bacon compliance.
3. All programmatic requirements have been met, all claims and disputes have been settled, all warranties have been received, and all liens have been released.
4. The Contractor has presented on behalf of itself and its sureties, satisfactory evidence that he or she will repair, replace and rectify any faulty workmanship and/or materials discovered in the work within a period of 12 months from this date, as provided in the Contract.
5. All bills for materials, apparatus, fixtures, machinery, labor, and equipment used in connection with the construction of this project have been fully paid.

6.	Amount of Original Contract	<u>\$ 1,023,747.90</u>
	Cumulative Change Orders	<u>\$ 112,688.70</u>
	Final Amount of Contract	<u>\$ 1,136,436.60</u>
	Less Previous Payments	<u>\$ 1,051,530.42</u>
	Less Deductions (from #2 above)	<u>\$ 21,500.00</u>
	FINAL PAYMENT (Balance)	<u>\$ 63,406.18</u>

7. The Final Payment above is now due and payable.

Certified by the following Engineer, Contractor, and Chief Elected Official/Designee:

Chris Reynolds
Engineer
Department Manager
 Title
Jones|Carter
 Firm

Chief Elected Official/Designee

 Title

 City / County

Contractor

 Title
Glenn Fuqua, Inc.
 Firm

CERTIFICATE OF ACCEPTANCE

Glenn Fuqua, Inc.
P.O. Box 589
Navasota, TX 77868

Re: Buffalo Springs Drive Bridge Embankment Repair

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 October 31, 2018.

CITY OF MONTGOMERY

By: _____

K:\W5841\W5841-0025-00 Buffalo Springs Bridge Embankment Rehab\3 Construction Phase\Contract Documents\FINAL- Certificate of Completion.doc

cc: Mr. Jack Yates – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Larry Foerster – Daren, Fowler and Creighton, LLP, City Attorney

OF
GUARANTEE

STATE OF TEXAS §

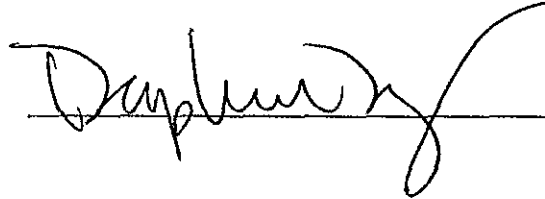
COUNTY OF MONTGOMERY §

Before me, a Notary Public in and for the State of Texas, on this day personally appeared DAPHNE DAY of GLENN FUQUA, INC. well known to me to be the person making this affidavit, who, being by me first duly sworn and deposed did say:

I am DAPHNE DAY of GLENN FUQUA, INC. and have personal knowledge of the matter stated in this affidavit. GLENN FUQUA, INC. does hereby give notice to the Owner, CITY OF MONTGOMERY that work for the Owner, known as JC Job No. W5841-0025-00 Buffalo Springs Drive Bridge Embankment Repair has been substantially completed. In accordance with the provisions of paragraph 5.07 Guarantee, of the General Conditions of Agreements, GLENN FUQUA, INC. 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 GLENN FUQUA, INC. 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: 1-4-2019

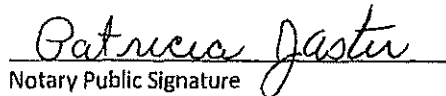


STATE OF TEXAS §

COUNTY OF GRIMES §

BEFORE ME, the undersigned, a Notary Public, in and for the State of Texas, on this day personally appeared, DAPHNE DAY 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.

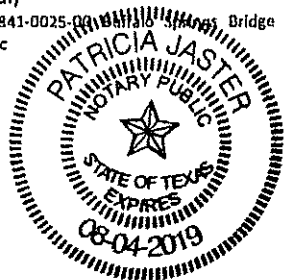
GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 4 day of JANUARY, A.D., 2019.



Notary Public Signature

(Notary Seal)

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STATE OF TEXAS §

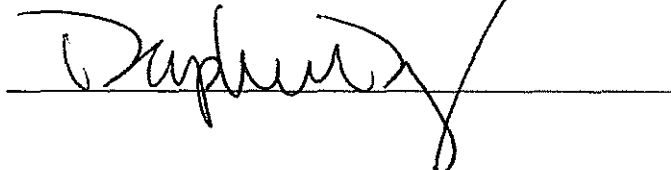
COUNTY OF MONTGOMERY §

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

I am DAPHNE DAY of GLENN FUQUA, INC. and have personal knowledge of the matter stated in this affidavit. GLENN FUQUA, INC. has paid all of the labor and material costs in connection with construction for CITY OF MONTGOMERY known as JC Job No. W5841-0025-00 Buffalo Springs Drive Bridge Embankment Repair, 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 GLENN FUQUA, INC. 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: 1-4-2019

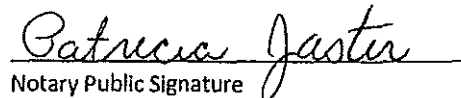


STATE OF TEXAS §

COUNTY OF GRIMES §

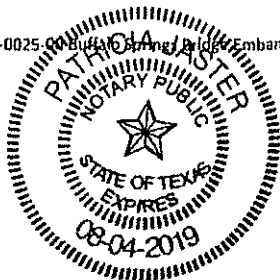
BEFORE ME, the undersigned, a Notary Public, in and for the State of Texas, on this day personally appeared, DAPHNE DAY known to me to be the person whose name subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 4 day of JANUARY, A.D., 2019.


Notary Public Signature

(Notary Seal)

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Montgomery City Council
AGENDA REPORT

Meeting Date: January 8, 2018	Budgeted Amount:
Prepared By: Jack Yates City Administrator	Exhibits: E-mail of items to discuss, Current procedure for hiring from Personnel Policy of City, Employment Contract of City/City Administrator that includes hiring in “Exhibit A” as attachment to Contract,
Date Prepared: January 4, 2019	

Subject

This is a requested item from John Champagne. Attached is the e-mail requesting this item.

Description

As to the individual items listed:

- a. Procedure for hiring—Attached is the current City Personnel Policy and the employment contract with the City Administrator that includes the hiring responsibility.
- b. Number of employees per department – We are working on that list and will have it at the meeting.
- c. Status of application for Police Chief - Susan has reported to me that 28 applications have been submitted. Neither Susan nor I nor any Council member has begun a review of those applications. The deadline for the applications is January 17th.
- d. Process of hiring an assistant to the current city administrator and transition plan for that position (meaning the City Administrator, I believe) -- As to the process of hiring assistant to the City Administrator (John has told me that he thought that the Assistant was considered to be my replacement and that the Council should have been in on the selection process- He is the only Council member who has said that to me and I believe my instruction was to hire the best possible person to provide me with the best possible help—by the end of September).

As for the transition plan for the City Administrator, that is a good discussion that I was planning on bringing up in the first meeting in February when I was going to ask for an executive session for the normal, annual review of the City Administrator contract. My basic position is that I am the dedicated steward of this position as long as the Council wants me in the City Administrator position.

If the discussion is truly about developing a Succession Plan, that can be a written policy document that the Council can discuss, with a step-by-step process of determining how to select the new Administrator that plays out over a period of time (i.e. six-months to a year) possibly with me staying on in a part-time role to work on specific projects, maybe budget preparation help and to generally work with the new City Administrator as needed.

Recommendation

Consider the reports, comment or direct as you think appropriate.

Approved By

City Administrator

Jack Yates

Date: January 4, 2019



Yates, Jack <jyates@ci.montgomery.tx.us>

Personnel Issues Pertaining to City Staff

1 message

Champagne, John <jchampagne@ci.montgomery.tx.us>

Fri, Jan 4, 2019 at 9:27 AM

To: Jack Yates <jyates@ci.montgomery.tx.us>

Cc: Susan Hensley <shensley@ci.montgomery.tx.us>

Jack,

I would like to place on the agenda the opportunity for city council to discuss the following:

1. Current procedure for hiring for all positions
 1. Number of employees per department
2. Status of applications for Police Chief
3. Discuss process of hiring assistant to the current City Administrator and transition plan for that position.

Thanks,
John

II. RECRUITING AND HIRING		Reference Number	2.02
Subject	<i>Recruitment, Selection, & Hiring Practices</i>	Last Revised	<i>Feb. 26, 2008</i>

STATEMENT OF POLICY:

Each Department Director, in coordination with the City's Human Resources Official, is responsible for the recruitment, selection and hiring process in his/her respective Department(s) or Division. When considering whether to hire an applicant, each Department Director or Supervisor shall make such decision on the basis of the individual's job related qualifications for the position. Such qualifications may include work experience, education, physical condition, background and references, and driving record as applicable to the requirements for the position sought. The following procedure shall begin the recruiting process:

1. Departments notify the City's Human Resources Official of existing and anticipated vacancies by forwarding a completed Personnel Requisition Form to the City's Human Resources Official.
2. The City's Human Resources Official posts Non-Exempt vacancies internally for a minimum of 3 working days by sending job announcements to posting sites throughout the City.
3. If there are no qualified internal candidates, the City's Human Resources Official will then post the Non-Exempt position on the City website and through outside employment sources until the position is filled or a minimum of 3 days.
4. Exempt vacancies can be posted internally and externally at the same time.
5. All applications must be received and processed through the City's Human Resources Official in order to be considered.

The City has the following methods of recruiting and selecting persons to fill vacancies:

1. Promotion

The City will attempt to provide promotional opportunities to existing Employees, when possible. A selection process may be limited to qualified City Employees, or such Employees may be given preference in application or consideration. Opportunities for promotion across organizational lines shall also be possible, contingent on business necessities at the time. All promoted Employees shall serve a 90 Day Orientation Period in the new position.

When in the course of the normal budget process, a currently filled position will no longer exist, but will be replaced with a position having a higher classification, the Employee in the former position may be promoted to the new grade level/position without the formal hiring process.

2. Temporary Promotion

The City Administrator may authorize a temporary promotion if a position is vacant or its regular incumbent is absent for a minimum of 30 days. Temporary promotions are for a specific period of time as determined by the City Administrator. Employees temporarily promoted may be additionally compensated for the duration of their temporary assignments according to the promotional grade level. Employees temporarily promoted shall not acquire any status or rights in the class to which they are temporarily assigned.

3. Transfers

The City will attempt to transfer Employees wishing to transfer when it does not adversely affect the City's interests or the interests of other Employees.

The following terms shall govern all transfers:

1. A 90 Day Orientation Period shall be served in the new position.
2. If the Employee is not satisfied in any way during the Orientation Period, the Employee may request a transfer back to the former position, providing it has not been filled and the affected Department Directors and the City's Human Resources Official approve the return to the former position.

3. Should the Employee fail to meet the Orientation Period and their former position is no longer vacant, the Employee may be separated from the City's service.

4. Administrative Transfers

An administrative transfer is an assignment of an Employee from one position to another not involving promotion or demotion. A transfer may be for administrative convenience or upon request of the Employee, provided the Employee is qualified for the position. Transfers between grade levels or between Departments shall become effective following approval by the City Administrator. The Employee will not be required to serve a 90 Day Orientation Period and the position does not require the posting of the job opportunity announcement.

5. Lateral Transfers – Inter Departmental

A lateral transfer is the transfer of an Employee between two Departments and within the same grade level, provided the Employee is qualified for the position. The Employee will not be required to serve a 90 Day Orientation Period and the position does not require the posting of the job opportunity announcement.

6. Lateral Transfers – Intra Departmental

Nothing within this section shall prevent a Department Director from transferring an Employee within the Department to another position within the same Department, provided the new position is a lateral move with comparable job description and pay grade level. The Employee will not be required to serve a 90 Day Orientation Period and the position does not require the posting of the job opportunity announcement.

7. Voluntary Demotions

Voluntary demotions require the approval of the Department Director, the City's Human Resources Official, and/or the City Administrator, and will be considered only if they are in the best interest of the City. If approved, Employees may be administratively demoted at their own request, or as an alternative to layoff. Such demotions shall not be considered disciplinary actions or disqualify the Employee involved from consideration for future advancement. Demotions resulting from alternatives to layoffs may be fully or partially rescinded at any time. Demoted Employees shall successfully complete a 90 Day Orientation Period, but will not be eligible for a salary adjustment until one-year from date of demotion.

8. Involuntary Demotions

Involuntary demotions require the approval of the Department Director, the City's Human Resources Official, and the City Administrator. This action may be taken for disciplinary purposes. An Employee involuntarily demoted shall not be disqualified from consideration for future advancement. Demoted Employees shall successfully complete a 90 Day Orientation Period, but will not be eligible for a salary adjustment until one-year from date of demotion.

9. Appointments

The purpose of categorizing positions within the City service is to designate the nature of the position's work routine as well as to clarify the eligibility of benefits provided to the particular type of position.

There are two types of appointments: Regular and Temporary.

Regular Employees

1. Regular Full-Time Employees are those who work a minimum of 32-40 hours per workweek, or 56 hours per workweek for 24-hour shift personnel, but are not employed for only a specific period of time or for a special job task or project.
2. Regular Part-Time Employees are those who work less than 32 hours per workweek on a regular basis. Regular Part-Time Employees in the 24-hour shift job class may work over 40 hours per workweek, but less than 56 hours per workweek.

Temporary Employees

1. Temporary Full-Time Employees are those who work a minimum of 32-40 hours per workweek, or 56 hours per workweek for 24-hour shift personnel, but are employed only for a specific period of time or for a special job task or project.

2. Temporary Part-Time Employees are those who work less than 32 hours per workweek, or less than 56 hours per workweek for 24-hour shift personnel, for a specified period of time or for a special job task or project.

10. Emergency Temporary Appointments
During an emergency, if City Employees are unable to provide the necessary services, the City Administrator may immediately fill positions without regard to normal selection and appointment methods. Such appointments shall be for periods not to exceed 30 working days. Persons receiving emergency temporary appointments are not eligible for benefits other than Workers' Compensation coverage.

11. Selection from a valid current eligibility list.
 1. The eligibility list includes solicited applications on file for 6 months of solicited date with the City's Human Resources official.
 2. The eligibility list for the Police Department shall also include solicited applications on file for a maximum of 12 months from the opening occurring. Uniformed Police Positions have specific qualifications, hiring requirements, and pre-employment background checks as stated in the information regarding those positions and available in the respective Department.

12. Benefits
Regular Full-Time Employees are eligible to receive the full scope and level of benefits offered by the City.

Regular Part-Time Employees are not eligible to receive any benefits other than Workers' Compensation coverage.

Temporary Employees, whether Full-Time, Part-Time, or emergency temporary appointments, are not eligible to receive any benefits other than Workers' Compensation coverage.

13. Orientation Period
Department Directors and Supervisors shall use the 90 Day Orientation Period to closely observe and evaluate the Employee and if necessary recommend corrective actions to better fulfill the expectations of the job description. Only those Employees who maintain acceptable work performance during their Orientation Period shall be retained. The City's Appeal Procedures Policy does not apply to anyone terminated during the Orientation Period.

Tests may be utilized in the selection process. The hiring Department may, with the approval of the City's Human Resources Official, select from outside sources or develop internally appropriate job-related tests. These may include, as appropriate, assessment centers, physical agility tests, typing tests, and various written examinations. All pre-employment testing will be completed under the direction of the City's Human Resources Official, if applicable. All applicants for the same position will be afforded uniform and equal treatment in all phases of the examination process. Reasonable accommodation will be provided for qualified applicants who may need assistance in any stage of the recruitment and selection process.

Successful applicants that are hired will generally be brought in at the minimum salary (but not to exceed the first quartile) for the assigned pay grade (See "Compensation Plan"). Starting salary decisions are subject to the final approval of the City Administrator. A Department Director may recommend hiring an applicant at a salary above minimum based upon factors including but not limited to education, related experience, exceeding minimum qualifications, market factors, and business necessity.

IL. RE

Subject

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EMPLOYMENT CONTRACT FOR
CITY ADMINISTRATOR FOR
CITY OF MONTGOMERY, TEXAS

THIS AGREEMENT, made and entered into this 1st day of March 2018, by and between the **CITY OF MONTGOMERY**, State of Texas, (hereinafter called the "City") and **JACK YATES**, (hereinafter called the "City Administrator"),

WITNESSETH:

WHEREAS, the City has employed the City Administrator as its chief administrative and executive officer, with the title of "City Administrator;" and

WHEREAS, the City Administrator desires to continue such employment; and

WHEREAS, the parties have agreed to the terms and conditions of such employment and desire to reduce their agreement to writing.

NOW THEREFORE, in consideration of the promises, covenants and agreements herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1. TERMS OF EMPLOYMENT

The City shall employ the City Administrator for a term of one (1) year from March 1, 2018 until February 28, 2019, subject to renewal or termination as hereinafter provided.

2. DUTIES

The City Administrator shall fulfill the duties of the position as defined in the job description attached hereto as Exhibit "A". The City Administrator is required to work a minimum of forty (40) hours per week.

Exhibit "A"

City of Montgomery, Texas

Job Description

Job Title: City Administrator
Department: Administration
Reports To: The Mayor and City Council
FLSA Status: Exempt
Prepared By: Mayor
Prepared Date: April 1, 2010
Approved By:
Approved Date: April 13, 2010

SUMMARY

Directs and coordinates administration of the City of Montgomery government in accordance with policies determined by City Council or other authorized elected officials by performing the following duties personally or through subordinate supervisors.

ESSENTIAL DUTIES AND RESPONSIBILITIES include the following. Other duties may be assigned.

Responsible for the supervision, coordination and direction of all departments of the City with authority to appoint, discipline and remove department heads and other City employees with the exception of the Court Judge.

Supervises activities of departments performing functions such as collection and disbursement of taxes, law enforcement, maintenance of public health, construction of public works, and purchase of supplies and equipment.

Attends City Council meetings to provide Council with pertinent information in a courteous and professional manner. Advise and receive direction from the Council.

Attends other City and community meetings relevant to the development, health and welfare of the City and reflects positively for the City at any and all of these functions. Makes conscious effort to take part in all possible community events and organizations throughout the area that will benefit the City.

Coordinates and provide assistance to established City Boards, Commissions, and Committees.

Assists the Accountant in developing the annual budget. Assists in financial monitoring of revenues and expenses as necessary for the City to function within the parameters of the adopted City budget.

Administers all contracts with the City to ensure their faithful execution. Coordinates contracted services (legal/engineering) to maximize effectiveness and minimize expenses and ensures all projects are completed in a timely, efficient and professional manner.

Ensures efficient and economical purchasing of equipment, supplies and materials, property and facilities for the City.

Ensures compliance and enforcement of state, federal and local statutes as well as grant and contract provisions. Identify and aggressively pursue all appropriate grant opportunities.

Provides adequate and accurate information to news media in a professional and courteous manner to both inform the community and promote the City.

Effectively communicate with the Mayor, Council, City Employees and the general public in a professional and courteous manner.

Plans for future development of urban and non-urban areas to provide for population growth and expansion of public services.

The above statements are intended to describe the general nature and level of work being performed by the employee assigned to this classification. They are not intended to be construed as an exhaustive list of all responsibilities, duties and/or skills required of the individual classified in this position.

SUPERVISORY RESPONSIBILITIES

Manages all department heads who supervise all applicable employees within their Departments. Also, directly supervises all other applicable staff. Carries out supervisory responsibilities in accordance with the City's policies and procedure manual, and applicable laws. Responsibilities include interviewing, hiring, and training employees; planning, assigning, and oversight of work; appraising performance; rewarding and disciplining employees; addressing complaints and resolving problems.

QUALIFICATIONS

To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

EDUCATION and/or EXPERIENCE

Bachelor's Degree and/or five to seven years related experience and/or training; or equivalent combination of education and experience.

Associate's degree (A.A.) or equivalent from two-year College or technical school; or six months to one year related experience and/or training; or equivalent combination of education and experience.

LANGUAGE SKILLS and COMMUNICATION

Ability to read and interpret documents such as safety rules, operating and maintenance instructions, and procedures manuals. Ability to write routine reports and correspondence. Ability to speak

effectively before groups of managers, City Council, other organizations, the media and the general public.

Ability to read, analyze, and interpret general business periodicals, professional journals, technical procedures, or governmental regulations. Ability to write reports, business correspondence, and procedure manuals. Ability to effectively present information and respond to questions from groups of managers, City Council, other organizations, the media and the general public.

Ability to communicate well with department heads and all other employees of the City in a positive and respectful manner. Ability to be an effective listener and use positive reinforcement in order to motivate City Staff to do the best job possible. Ability to realize the importance of every employee in the City regardless of capacity served.

MATHEMATICAL SKILLS

Ability to calculate figures and amounts such as discounts, interest, commissions, proportions, percentages, area, circumference, and volume. Ability to apply concepts of basic algebra and geometry.

Ability to work with mathematical concepts such as probability and statistical inference, and fundamentals of plane and solid geometry and trigonometry. Ability to apply concepts such as fractions, percentages, ratios, and proportions to practical situations.

REASONING ABILITY

Ability to apply common sense understanding to carry out instructions furnished in written, oral, or diagram form. Ability to deal with problems involving several concrete variables in standardized situations.

Ability to solve practical problems and deal with a variety of concrete variables in situations where only limited standardization exists. Ability to interpret a variety of instructions furnished in written, oral, diagram, or schedule form.

Ability to define problems, collect data, establish facts, and draw valid conclusions. Ability to interpret an extensive variety of technical instructions in mathematical or diagram form and deal with several abstract and concrete variables.

CERTIFICATES, LICENSES, REGISTRATIONS

N/A

OTHER QUALIFICATIONS

N/A

PHYSICAL DEMANDS

The physical demands here are representative of those that must be met by an employee to successfully perform the essential functions of this job. The individual must maintain regular and acceptable attendance as such a level as determined at the City's sole discretion. The employee must display strong interpersonal skills, adaptability, initiative, dependability, decision-making ability, oral and written communication skills, work standards and follow up.

While performing the duties of this job, the employee is regularly required to sit; use hand to finger, handle, or feel; reach with hands and arms; climb or balance; stoop kneel, crouch, or crawl; and talk or hear. The employee frequently is required to stand and walk. The employee must regularly lift and/or move up to 10 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth perception, and ability to adjust focus. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is occasionally exposed to moving mechanical parts and outside weather conditions. The employee is occasionally exposed to fumes or airborne particles. The noise level in the work environment is usually moderate.

This is a contract job...three year rolling contract. Can not be fired at will

The City of Montgomery is an "at will" employment city. I understand that this job description does not create a contract for employment with the City of Montgomery and the City reserves the right to change or modify this job description at any time with or without notice. I understand that my employment is "at will" and that I may voluntarily leave employment with the City at any time, for any reason or no reason with or without notice. Similarly, the City may terminate my employment at any time, for any reason or for no reason, with or without notice.