

# NOTICE OF REGULAR MEETING

August 14, 2018

## 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, August 14, 2018 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 Hearings and Regular Meeting held on July 24, 2018.
2. Consideration and possible action to authorize street closures for the Wine and Music Festival beginning on Friday, September 14, 2018 at 5 p.m. and running through the entire Festival on Saturday, September 15, 2018 for East College, McCown, Maiden, Caroline, and John A. Butler Streets, as requested by the Montgomery Area Chamber of Commerce.
3. Consideration and possible action regarding street closure of East College Street, the north half of McCown Street between Caroline Street and College Street beginning at 8:00 a.m. Saturday, October 6 until 5:00 p.m. the same date, as requested by Kati Krouse, Bears, Etc.
4. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery and Christian C. and Mary Cheatham regarding Emma's Way Development.
5. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery and NH Heritage LP regarding Heritage Seniors Tract Development.
6. Consideration and possible action regarding Certificate of Acceptance for public water, sanitary sewer, drainage and paving improvements to serve Villas of Mia Lago, Section 2.
7. Consider and possible action regarding voting on the Montgomery County Emergency Communications District Board Member Election.

## **CONSIDERATION AND POSSIBLE ACTION:**

8. Consideration and possible action regarding a Utility and Economic Feasibility Study for the Louisa Street Development.
9. Consideration and possible action regarding presentation of the Annual Update to the Service and Assessment Plan for City of Montgomery PID No. 1 by Mallory J. Craig, Attorney for Coats and Rose Law Firm.
10. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY ACCEPTING AND APPROVING AN ANNUAL UPDATE TO THE SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR CITY OF MONTGOMERY PUBLIC IMPROVEMENT DISTRICT NO. 1; PROVIDING FOR PAYMENT OF THE ANNUAL INSTALLMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; AND PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.
11. Consideration and possible action regarding adoption of an Encroachment and Maintenance Agreement with ProCore Developments 105, L.L.C. for sign placement and a light pole.
12. Consideration and possible action regarding adopting of an Encroachment and Maintenance Agreement with Spirit of Texas Bank, SSB for a Gateway Monument, dumpster and storage area and light poles.
13. Consideration and possible action regarding nomination to the Montgomery Central Appraisal District Board.
14. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE ANNEXING INTO THE CITY OF MONTGOMERY, TEXAS, THE HEREINAFTER DESCRIBED TERRITORY OF 1.799 ACRES OF LAND, MORE OR LESS, IN THE PUBLIC ROAD RIGHT-OF WAY OF STATE HIGHWAY 105 EAST WHICH RUNS ADJACENT AND PARALLEL TO THE BOUNDARIES OF THE CITY, AND LOCATED IN THE JOHN CORNER SURVEY, ABSTRACT 8, MONTGOMERY COUNTY, TEXAS; AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS; PROVIDING A SEVERABILITY CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING THE EFFECTIVE DATE UPON PASSAGE OF THE ORDINANCE.
15. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE BY THE CITY OF MONTGOMERY, TEXAS ("CITY") DENYING THE RATE INCREASE REQUEST OF ENTERGY TEXAS, INC. FILED ON MAY 15, 2018; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.
16. Consideration and possible action regarding calling a Public Hearing regarding the City of Montgomery 2018-2019 Proposed Operating Budget to be held on August 28, 2018 at 6 p.m. at City Hall.
17. Consideration and possible action to Accept the 2018 Effective and Rollback Tax Rates.
18. Consider and Discuss the Tax Rates Needed to Fund the 2018/2019 Budget for Maintenance and Operations and Debt Service.

19. Consider and Vote on a Proposed Tax Rate for 2018.
20. If the Tax Rate needed to fund the budget exceeds the lower of the 2018 Effective or Rollback Tax Rate Presented, Consider and approve two (2) Public Hearing dates.
21. Buffalo Springs Bridge Report by the City Engineer.

**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.

22. Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following:
  - a. 551.071 (confidential consultation with the City Attorney); and
  - b. 551.072 (deliberation regarding real property) related to the purchase of property for a road right-of-way.
23. Reconvene into Open Session.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

24. Consideration and possible action, if necessary, on a Resolution approving the purchase of real property for a road right-of-way as discussed in Closed Executive Session.

**COUNCIL INQUIRY:**

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

**ADJOURNMENT**



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 10<sup>th</sup> day of August 2018 at 11:35 o'clock a.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

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*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.*

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# MINUTES OF PUBLIC HEARINGS AND REGULAR MEETING

July 24, 2018

## MONTGOMERY CITY COUNCIL

### CALL TO ORDER

Mayor Sara Countryman declared a quorum was present, and called the meeting to order at 6:02 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: Dave McCorquodale City Council Place # 5

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

Mayor Countryman took a moment to extend a thank you to Mike Muckleroy and Francisco Salas with the City's Public Works Department. Mayor Countryman advised Mr. Salas totally restored the meeting gavel and block, which was in really bad shape and now it is beautiful. Mayor Countryman asked Mr. Muckleroy to extend her appreciation to Mr. Salas. Mr. Muckleroy advised Mr. Salas had done all the work and he would pass the compliment on to him. Mayor Countryman said that it was a great job.

### INVOCATION

John Champagne gave the Invocation.

### PLEDGE OF ALLEGIANCE TO FLAGS

### PUBLIC HEARING(S):

**Convene into Public Hearings for the purpose of giving all interested persons the right to appear and be heard regarding the following:**

1. **Public Hearing** – Annexation of a 1,799-acre tract of land, more or less, as being out of and a part of State Highway 105 at Stewart Creek Road and west to the present City limits, of the City of Montgomery and in the JOHN CORNER SURVEY, Abstract No. 8, of Montgomery County, Texas. *(This is the second of two public hearings.)*

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

Mr. Yates advised this was the second of two public hearings conducted by City Council. Mr. Yates said this annexation includes the SH 105 right of way from the east City limits all the way to the eastern part of the intersection of Stewart Creek Road. Mr. Yates advised the action of annexation will be at the next City Council Meeting.

There were no public comments made.

**Adjourn Public Hearing.**

Mayor Countryman adjourned the Public Hearing at 6:04 p.m.

2. **Consideration and possible action regarding receiving the Amended Final Report from the Planning and Zoning Commission related to their second Public Hearing held on July 23, 2018 regarding a request to rezone a 5-acre tract of land located at 2512 Lone Star Parkway (north/west of 2500 Lone Star Parkway), Montgomery, from I-Industrial Use to R2–Multi-Family Use, as requested by Larry Jacobs for the Star of Texas Seniors Development.**

Mr. Yates advised that following the second public hearing conducted by the Planning and Zoning Commission concerning the requested rezoning classification, the Commission at its July meeting found the following:

- the property is currently designated with the zoning classification of “I” Industrial;
- the property’s proposed land use by Star of Texas Seniors Development is consistent with the “R-2” Multi-Family zoning designation; and

- To reclassify the land use zoning designation of the said parcel from “I” Industrial to “R-2” Multi-Family.

Mr. Yates said that by unanimous vote of the members present and following the Public Hearing, the Planning and Zoning Commission approved the Amended Final Report.

Rebecca Huss asked if there were any changes other than the date on the Report. Mr. Yates said that there were no other changes.

Mr. Foerster said he would recommend City Council accept the report, and stated that City Council is not taking action on the proposed ordinance, you are just acknowledging receipt and accepting the Amended Final Report from the Planning and Zoning Commission.

Rebecca Huss moved to acknowledge receipt of the Amended Final Report from the Planning and Zoning Commission related to their second Public Hearing held on July 23, 2018 regarding a request to rezone a 5-acre tract of land located at 2512 Lone Star Parkway (north/west of 2500 Lone Star Parkway), Montgomery. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

3. Public Hearing – Regarding the Amended Final Report of the Planning and Zoning Commission related to the request to rezone a 5-acre tract of land located at 2512 Lone Star Parkway (north/west of 2500 Lone Star Parkway), Montgomery, from I-Industrial Use to R2–Multi-Family Use, as requested by Larry Jacobs for the Star of Texas Seniors Development.

Mayor Countryman convened the Public Hearing at 6:10 p.m.

Mr. Yates advised this is to receive any public input on the Amended Final Report that was just presented.

Mayor Countryman stated there were some people that have requested to speak and asked if they wanted to do so now, or wait for the Citizens Forum. Both speakers stated they would wait. There were no comments made during the Public Hearing.

**Adjourn Public Hearing.**

Mayor Countryman adjourned the Public Hearing at 6:12 p.m.

**Convene into Regular Meeting**

Mayor Countryman convened into the Regular Meeting at 6:12 p.m.

**VISITOR/CITIZENS FORUM:**

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Mrs. Donna Rasmuson stated she was present to speak on behalf of the Heritage Apartments here in Montgomery. Mrs. Rasmuson said they have several seniors that have moved into the Heritage Apartments with the anticipation of moving into the second phase of the Heritage Seniors Apartments when they are built. Mrs. Rasmuson said the seniors that have moved into the Heritage Apartments first phase moved in with the anticipation of moving over to the senior portion of the second phase for the ages 55 plus seniors. Mrs. Rasmuson said a lot of the seniors thought the first phase was going to be seniors and then later it was found out that it was going to include families as well, so they are waiting for the second phase so they can move into an area without the families and the kids. Mrs. Rasmuson said the property for the Heritage Seniors is a perfect area for the senior phase as it is located by the Brookshire Grocery Store, Post Office and restaurants, allowing them to walk to these areas. Mrs. Rasmuson said that whatever the seniors need is very close, and if the senior phase was right there it would be very handy for the seniors. Mrs. Rasmuson said they feel this is the best area in Montgomery for a senior phase of apartments.

Mr. Matt Fuqua stated he wanted to give an update of the Heritage Seniors plans, which he provided copies to City Council. Mr. Fuqua said they have submitted a development application with the City and are awaiting the development agreement from staff. Mr. Fuqua said they are eager to get their plans submitted to the City for permitting and to move things forward.

**CONSENT AGENDA:**

4. Matters related to the approval of minutes of the Special Meeting held on July 5, 2018 and Regular Meeting held on July 10, 2018.
5. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery and Josh Cheatham for Louisa Street Development.
6. Consideration and possible action regarding City of Montgomery Procurement Policy Applicable To All Procurements Made With Federal Funds.
7. Consideration possible action regarding accepting the revised Single Audit Report for the year ending September 30, 2017, as submitted by Belt Harris Pechacek, LLLP.

John Champagne asked about Item 5 and asked for an update on the agreement. Mr. Yates said that it is related to a proposed development on Louisa Street. Mr. Yates stated the \$5,000 payment is for the Feasibility Study and the beginning of the plan review with the City Engineer by Josh Cheatham.

Mr. Yates commented on Item 6 stating this is not something that they do not already do now, as far as the procurement policy, they are on their 4<sup>th</sup> or 5<sup>th</sup> federally regulated procurement due to the Hurricane. Rebecca Huss asked what the benefit would be to making this the City's actual policy. Mr. Yates said this is a required policy.

John Champagne moved to accept the Consent Agenda items as presented. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

#### **CONSIDERATION AND POSSIBLE ACTION:**

8. Consideration and possible action regarding adoption of the following Resolution:  
RESOLUTION APPROVING THE MONTGOMERY COUNTY EMERGENCY COMMUNICATION DISTRICT BUDGET FOR FISCAL YEAR 2019.

Mr. Chip VanSteenberg, Executive Director with Montgomery County Emergency Communication District, was present for the meeting. Mr. Yates advised the District appears to be handling its finances very well according to the presentation in the report. Mr. Yates said the revenues are proposed to be \$4,701,000 and expenses are proposed to be \$4,328,000, with an estimated capital reserve at the end of 2019 at \$5,258,000.



Jon Bickford asked what they would be using the funds for out of capital reserves. Mr. VanSteenberg said they planned to use those funds for equipment replacement in the future. Jon Bickford asked if they do the replacement all at the same time. Mr. VanSteenberg stated they have two or three different systems so they will be replaced at interval schedules, with the next big replacement in two years from now. Jon Bickford said that it sounds like they are putting away another \$300,000 - \$400,000 in savings to continue that program. Mr. VanSteenberg said that was correct. Jon Bickford asked when they anticipated the next upgrade. Mr. VanSteenberg said it would probably be late 2019 or early 2020. Jon Bickford asked how complex the upgrade would be. Mr. VanSteenberg said it would be approximately a \$2.5 million dollar project.

Rebecca Huss moved to adopt the Resolution approving the Montgomery County Emergency Communication District Budget for fiscal year 2019 as presented. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

9. Consideration and possible action on Department Reports.

- A. Administrator's Report – Mr. Yates presented his monthly report to City Council. Mr. Yates stated he had met with the TORC Committee a couple of times regarding a development handbook. Rebecca Huss asked Mr. Yates if the issues of information going to the TORC Committee have been resolved. Mr. Yates said it had pretty much been resolved, but not completely. Rebecca Huss asked what needed to happen for them to get the information they need to help the City with the capital improvement decision making process. Mr. Yates said they just need to get the information to them before the meeting times so they have time to review the materials. Mr. Yates said they need to send the TORC Committee some updated estimates on water and they will be sending that information out to them. Rebecca Huss said the budget is a pretty big priority, but otherwise the City making the decision of spending millions of dollars on capital improvements is a really big priority to get a second set of eyes on, so if they need to have additional staff or additional encouragement for engineers to get them the information they need to help us make our decisions. Mr. Yates said he has been encouraging them and he will continue. Rebecca Huss said for the City Engineer to consider themselves encouraged.

Mr. Yates said he also met with Bill Cassidy who came to the June 26, 2018 City Council Meeting about the Lake Creek Village HOA. Mr. Yates said he met with Mr. Cassidy and Mr. Muckleroy, and he advised that the HOA has not actually been formed so as a result of that meeting Mr. Cassidy is considering whether or not to push for the HOA to be formed. Mr. Yates said they also talked about the drainage issues and said he would consider whatever the City had to say.

Mr. Yates said the line item budget review, where they look at each item in the budget to determine the need and cost, is taking longer than he expected but he feels that it is still worth doing. Mr. Yates said he did not think they would have every line item done before the budget process begins for this year. John Champagne asked if Mr. Yates was doing this budget review with the department heads. Mr. Yates said that was correct, and said the department heads have finished all their review. Mr. Yates said now they need to meet with the Mayor and Mayor Pro-tem at the time Rebecca Huss, who he thought would still like to be on the review Committee. Mr. Yates said the Review Committee would be the Mayor, Councilmember Huss and the department heads, who would meet to review the line items with a brief review of each item and discuss the justification of the item. Mr. Yates said this is a thorough review of the budget and a good thing to do. Mayor Countryman said she is looking forward to the exercise and asked when Mr. Yates anticipated having the meeting and when did the budget need to be approved. Mr. Yates said the budget will need to be approved by the first meeting in September. Mr. Yates said the first Budget Workshop would be next Tuesday evening. John Champagne asked if these meetings would restrict more than one or two Council Members participating. Mr. Foerster said if they are talking about meeting where there are more than two Council Members, with a quorum present, they would need to post the meeting 72-hours in advance of the meeting. John Champagne said his issue was from what he is understanding, they are going to go line item by line item and he is assuming as they do that with the department heads the people in that room will decide what is appropriate and inappropriate. Mr. Yates said they will be making comments that are on the sheets. John Champagne said they would be coming up with a number for the budget. Mr. Yates said they will come up with whether or not the purchase is something that is really needed or not, but the item itself would not be deleted. John Champagne asked to confirm that no budgetary guidelines would be set

in place. Mr. Yates said that was correct. Rebecca Huss said ultimately if it comes down to whether they can find copiers for a lower cost that is not necessarily a budgetary purse impact but will have an impact on the budget. Mr. Yates said the budget itself would not change based on this Committee. Mr. Yates said should a Council Member feel strongly enough to be in the meeting for specific departments on a certain day, they could let him know. John Champagne asked if there would be a schedule. Mr. Yates said that was correct.

Rebecca Huss asked Mr. Yates for an update on the position of Assistant to the City Administrator. Mr. Yates advised that the position has been advertised and we have 16 resumes. Rebecca Huss said that Mr. Yates was ahead of schedule from the schedule given at the last meeting. Mr. Yates said that was correct thanks to the City Secretary.

John Champagne asked about the 9-1-1 Board and asked if Mr. Yates was considering serving on the Board. Mr. Yates said he thought he was the only person nominated for the position by five cities, with the actual election being held in August. John Champagne asked if Mr. Yates was participating in the election. Mr. Yates said that was correct. John Champagne said he had asked if Mr. Yates had thought that there would be no encumbrance or distraction on his core duties that would be something to consider. John Champagne said he was assuming Mr. Yates has done the evaluation and the job will not cause a problem, because that night he believed Rebecca Huss asked for something and it was late because he did not have time. John Champagne said he was just jealous of Mr. Yate's time.

- B. Public Works Report – Mr. Muckleroy presented his report to City Council detailing the activities from last month. Mr. Muckleroy advised they had installed all the signal beacons for the Distrx application and repainted the welcome sign at the John A. Butler Street. Rebecca Huss said the sign looks fantastic. Mr. Muckleroy advised that for the month they had one water leak, one sewer stoppage, two water taps and two sewer taps. Mr. Muckleroy advised the docents reported 579 visitors and provided 33 tours for the month.

Rebecca Huss asked how the new material worked regarding drainage for the ditch. Mr. Muckleroy advised it has rained but there has not been a heavy rain to test the drainage yet. Mr. Muckleroy said the material has held up pretty good and they only have one spot to make an adjustment. Rebecca Huss said she will be curious if they need to add this material to other places in the City. Mr. Muckleroy said he is impressed so far and said you can thank John Champagne because he is the one that recommended this product and it seems to be working and he has got the same guy looking at the other portion of the lake at Memory Park, where they have a wall that is failing. Mr. Muckleroy said he is looking at another one of their products to use at Memory Park. Rebecca Huss said a lot of the issues they talk about and she did not know whether they could use this product on a grander scale, such as embankment failure and expansion of water ways or pathways of water. Rebecca Huss said she was very curious to see how this product works. Rebecca Huss asked how the material is installed. Mr. Muckleroy said they made a good stable base underneath, and there is a fibrous mat that goes down first, then the enviro-grid product lays on top of the mat and then it is filled in with whatever aggregate you need to fill the cavities and cover about three inches deep on top of the product. John Champagne said you do not see any of the product because it is completely covered. Mr. Muckleroy said the grid essentially holds the aggregate in place and does not let it drop below it or move side to side. John Champagne said you can put this product under an asphalt parking lot and they have an aggregate that has 40% voids and you can actually collect water under the parking lot and let it disburse gradually. Rebecca Huss said she loved the concept.

- C. Police Department Report – Police Chief James Napolitano presented his report to City Council. Chief Napolitano advised that this last month with the help of the State of Texas they are one of the first Police Departments to enter into a new thing called First Net. Chief Napolitano said that since 9-11 after major catastrophes and multiple victim incidents around the United States, they have found out cell phones do not work so well. Chief Napolitano said if they had an incident at a football game in Montgomery, with all the folks in the stands, where police had to respond, not only would they need their cell phones but they would need their MDT's (Mobile Data Terminals) in the vehicles. Chief Napolitano said they would be sharing time on these antennas with everyone at the stadium that would want to use their phone. The Chief said the State

of Texas came back and is now offering for Police Departments to join First Net. Chief Napolitano said it was a contract they put out through the federal government to ask for these phone providers to come up with a way to make all first responders have their own separate net so they will never have to share with the general public. Chief Napolitano said Montgomery is the first Police Department in the State of Texas, along with the Harris County Sheriff's Department, Brazos County Sheriff's Department and now Bryan College Station have entered into this agreement with AT&T. Chief Napolitano said it actually brought their phone bill down about 10-15% and said it worked out well for them because they were getting a cheaper phone rate. Chief Napolitano said the only place they have a problem in the entire County is in the jail. Chief Napolitano said when the officers make an arrest they drive the person to jail, so until they get the Sheriff to give them an extra antenna for the jail, they can't use their computers at the jail. Chief Napolitano said DPS is working on getting the antenna problem resolved. Chief Napolitano said they are trying to get all the fire departments and EMS to go over to this service. Mayor Countryman asked if this was an application, software or a 3G network. Chief Napolitano said they have their phones and when they dial up they get priority over anyone else. Chief Napolitano said AT&T is trying to place the First Net on every antenna in the State of Texas, at that point they won't have to share the antenna they will go through the First Net System. Chief Napolitano said they had to change a lot of the software on the computers and their air cards to do this, but now they do not share air space with the general public. Mayor Countryman asked if the system was tied to their phone number or is there an application that you have to use. Chief Napolitano said it was tied to their phone number. Mayor Countryman said she loved the fact that if you can take your own computer into the jail, because when she did a ride along, that was a long experience and they have to wait for computers to be available. Chief Napolitano said it was a longer process than they would like to have. Chief Napolitano said he would like to see Montgomery County build a west side jail facility where they could drop their prisoners off, but he did not think that was happening anytime soon. Jon Bickford asked the Chief if they used this Net First System all the time. Chief Napolitano said that it runs their computers and cell phones. Jon Bickford asked if they got rid of the old cell phones, and asked why everyone would not be doing that if it is reducing their cost by 10%. Chief Napolitano said there are people even in small government that do

not trust the larger government, so instead of Governor Abbott forcing everyone to do it, he has made it a voluntary plan. Chief Napolitano said when they first tested the system at Texas A&M during a football game, the officers working on the outside of the stadium could never get on their computers because they had 100,000 people inside the stadium using their cell phones. Chief Napolitano said the Governor did not want to force everyone to change over to the system, he wants the municipalities and local governments to request and get on board. Jon Bickford asked if the software for the system was free of charge. Chief Napolitano said they took the old phones and they did not charge them anything for the new phones, they just gave them new S9 phones. Mayor Countryman asked if they have seen an improvement in the service. Chief Napolitano said they are having no issues with losing signal.

- D. Court Department Report – Mrs. Kimberly Duckett, Court Administrator, presented her report to City Council. Mrs. Duckett stated the report before City Council was incorrect and said she has reconciled the report with Mrs. Branco, Financial Consultant, and it appears there was a glitch in Incode. Mrs. Duckett said she reported \$25,000 for the month, but the total should have been \$41,156.10. Mrs. Duckett said she has a call in with Incode to resolve the problem.
  
- E. Utility/Development Report – Mr. Yates advised they had \$140,396.33 revenue from utilities, \$20,600 received from permits and \$1,650 was collected from use of the Community Building. Mr. Yates noted there are 667 active water accounts, and they seem to be growing approximately seven connections per month. Mr. Yates advised Memory Park had a high month with 180,000 gallons of water usage. John Champagne said they will have more than that for this month.

Mr. Muckleroy updated City Council on the irrigation pump status at Memory Park, advising he is waiting to meet with the TORC Committee to get a recommendation from them regarding this matter. Mr. Muckleroy said Mr. Randy Burleigh has a really good plan drawn up already on a system being installed that includes a backwash valve and they just need to sit down and review the details. Mr. Yates said they would be meeting with the TORC Committee on either July 31, 2018 or August 1, 2018. Mr. Yates said he will advise when they are going to meet.

F. Water Report – Mr. Michael Williams with Gulf Utility Service, Inc., presented his report to City Council. Mr. Williams advised they had three district alerts last month due to power issues with the supplier, but there were no major issues with the equipment. John Champagne asked to confirm this was not the same power issue they had in the past. Mr. Williams advised it appears to occur only during storms, which is typical. Mr. Williams said they have not had any issues other than a breaker being popped and having to reset them. Rebecca Huss asked if this occurs in The Woodlands also. Mr. Williams said it occurs in The Woodlands, Houston, everywhere.

Mr. Williams said the effluent flow for the month of June was 3,121,000 gallons and the peak flow occurred on May 20, 2018 at 304,000 gallons at 76% of the permitted value and the average daily flow was 107,000, which is 25% of the permitted value. Mr. Williams said the effluent monitor report shows all samples were in compliance for the month of June with 3 ½ inches of rain for the month. Rebecca Huss said the reason why there is hardly any flow is because there was hardly any rain. Mr. Williams said that was correct. Mr. Williams said they did have some issues with the rain gauge in June, but Public Works got it up and running.

Mr. Williams then reviewed the water report, stating they sourced a total of 11.592 million gallons, flushing of 159,000 gallons, and they sold 10,976,000 gallons of water, bringing them to a 96% accountability. Rebecca Huss said she has a big concern about this section of the report because this covers half of June and they only have 50% of remaining pumpage on the Catahoula Aquifer. Rebecca Huss asked the City Engineer when the City is going to get the new permit. Mr. Roznovsky advised they have put the project on hold until they work out the water projections with the TORC Committee. Mr. Roznovsky said the application is ready to go they are just waiting to see the projections. Rebecca Huss asked if they could have both things happening at the same time, because she understood the projections that they were going with mean a lot to other things, particularly the Impact Fees, but in the short term they need additional water out of the Catahoula Well. Rebecca Huss said they need the permit expanded this year and said what Mr. Roznovsky was referring to about the projection numbers, is two or three years from now. Mr. Roznovsky said they are but they have

to provide data and do a GRP amendment for them to approve the additional pumpage, and the GRP amendment is based on projections and projected flows, and they are going back and forth on the projected flows. Mr. Roznovsky said they can submit the information with the projections they have, they are just not agreed upon with the Committee. Rebecca Huss asked if they would have to use the non-agreed upon projections for other things. Mr. Roznovsky said he would be consistent with their projections, and said the amendment is prepared. Rebecca Huss asked about the timeline for getting the amendment approved and then getting the actual water approved. Mr. Roznovsky said he would have to check on that information. Mr. Roznovsky said they have talked to Lone Star Groundwater Conservation District (LSGCD) and they do not see any issues with the information, so they just have to back up the projections so they will know that we need the additional usage. Mr. Roznovsky said they have presented the preliminary numbers to the LSGCD and they did not see any issues, they just advised the type of format they wanted the information presented in, but have not submitted the information. Rebecca Huss said if they pumped 10 million gallons out of the other aquifer and that is 75%, so that means that they have another 30 million gallons and they are halfway through. John Champagne said the usage will slow down. Rebecca Huss said maybe, but they still have July, August and September that will be hot and dry, so they could get to a point where December could get a little dicey. Mr. Roznovsky said he understood, and noted they were close on the usage last year, and based on their projections they are going to increase in flow this year, which is another issue they are debating. Rebecca Huss said that makes it even more imperative to get these two groups together and get the numbers agreed upon so the permit can get amended sooner rather than later, before it gets hot in October and they have to use the expensive water. Rebecca Huss said if they have to put some numbers together to get the permit done and then later amend the numbers to come up with the amended impact fees, they can do that, but the highest priority is having water.

John Champagne said the way he reads the chart and the year to date percentages, Well 4 has been utilized 75% of the total production. Mr. Williams said that was correct. John Champagne said they have under 50% remaining of what they are allowed to pull out of the aquifer, so he is assuming they are going to start pulling out of the Catahoula. Mr. Williams advised that was correct and historically they usually have one issue or



another, where they have to take the Catahoula down and they are running shorter on the Jasper Permit, but this year up until this report they have not had any issues. Mr. Williams said they did have some time that they had to reduce the usage from the Catahoula to reduce the temperature of the water, so next month they should see the numbers change a little bit. Mr. Williams said that they are going to start tapering off usage from the Catahoula and start pulling more from the Jasper. Mr. Williams said they are trying to utilize the Catahoula as much as possible because for one reason or another they always seem to have an issue in the summer. John Champagne said the Well is there to use. Mr. Williams said during the last couple of summers they have had issues with the incoming power or something with the Catahoula Well where they have to take the Well down and they ran short on the other permit. Mr. Williams said they are going to utilize both permits optimally so that they try their best not to go over any of the permits.

Mr. Williams advised this month they had 28% of the water sold returned to the Sewer Treatment Plant. Jon Bickford asked about the City's water temperature and said it is starting to get warm at his house and he imagined that it would impact others as well. Mr. Williams advised at the plant the temperature is in the mid 80's and said the water from the Catahoula well comes out at 120 degrees. Mayor Countryman said the fans have been installed. Mr. Williams advised that is correct the fans are in and they are mixing the water with the Jasper Wells to keep the temperature down. Mr. Williams said the water from the Catahoula can get up to the lower hundreds when it does not have as much water from the Jasper Well mixed in, but they try to keep the temperature in the 80's.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky said the FM 149 cleaning and televising project, they received the costs so they will be sending out the letter to MagnaFlow tomorrow. Mr. Roznovsky advised that regarding the GLO projects, they heard from GrantWorks and they believe the earliest funds will be available for these projects will be September 2018 versus July 2018, based on the schedule of the State of Texas.

Mr. Roznovsky advised they expect to have the Louisa Lane Feasibility Study at the next City Council Meeting. Mr. Roznovsky advised the plan reviews are listed in the report, and they have received revised plans for BlueWave Express Car Wash and ProCore Developments since this report went out. Mr. Roznovsky said there has been an update for Emma's Way, stating the second deposit on the account has been received so those inspections are back on track. Mr. Roznovsky stated that McCoy's one year warranty inspection is due, which will occur tomorrow morning to make sure everything is in order.

Mayor Countryman asked if the Spirit of Texas was able to start moving dirt. Mr. Roznovsky said that was correct and advised they have equipment on location. Mr. Roznovsky said the one thing they are held up by is they have approval on their site plans, but they do not have approval for their exterior lights because they need an encroachment agreement that was sent to them today, and they expect it to be returned back and on the next agenda. Mayor Countryman said she thought they had agreed to not hold them up any further. Mr. Roznovsky said that was correct they can move forward, they just can't put in their lights, which will take another 2-3 weeks before that is done.

John Champagne advised Mr. Muckleroy they still had a number of culverts that are plugged to the max and are not draining off of Racetrack. John Champagne then asked how many metered outlets do they have for contactors to fill up their trucks located in the City. Mr. Muckleroy said they have a total of eight meters, and right now there are only three being utilized. Mr. Muckleroy asked if there was someone hooked up to them. John Champagne said yes, all the time on the meter. John Champagne asked how they track that use, and how do you know who is taking water. Mr. Muckleroy said they get lucky and drive by and catch them doing it, or have someone call and advise that they are taking the water.

- H. Financial Report – Mr. Yates presented the report to City Council. Mr. Yates said they have \$912,012.22 in the General Fund, with about \$260,000 being loaned to the Capital Projects Fund to pay for the bridge. Mr. Yates stated there is \$3,042,202 in the Construction Fund, with most of that being TWDB funds. Mr. Yates said there is

\$730,252 in MEDC funds, and \$453,867 in the Utility Fund for a Total of all funds of \$5,418,203. Mr. Yates said that while it is not included in the pack, the General Fund Surplus revenue over expenditures for this year is \$64,280, and the excess in the Utility Fund in revenues over expenditures is \$152,321. Rebecca Huss said she thought they were closer to \$400,000 for loans to the Capital Projects Fund. Mr. Yates said not as of last week when he talked to Mrs. Branco. Rebecca Huss said she signed Pay Estimate No. 5 last week. Mr. Yates said he did not think that they had paid Pay Estimate No. 5, but he would check on that information. Rebecca Huss said that was why she was worried that they were at their borrowing limit from the General Fund of \$400,000. Mr. Yates said he suspected they were about two weeks away from getting Pay Estimates 2 and 3 from the State and possibly Pay Estimate No. 4. Rebecca Huss asked if they needed to do anything to hurry that along, in terms of asking for help from our elected representatives. Mr. Yates said he had sent a copy of the last request to Representative Metcalf and Senator Nichols. Mr. Yates said that what has happened was they paid Pay Estimate No. 1 and then re-asked for information on hiring of the engineer, contractor and copies of checks on Pay Estimates Nos. 2, 3 and 4. Mr. Yates said he was not sure why they were getting the repeat requests, other than it was assigned to a different person. Mr. Yates said they started with Jubril Bello and now they have Catherine Ault.

- I. Economic Development Report – Mr. Yates presented the information in the absence of Randy Moravec, MEDC Treasurer. Mr. Yates said the Kroger Center still has four empty spaces and said that it is filling up gradually. Mr. Yates said CVS has begun their site work and they are going to have five full time employees and 10 part time employees, and their project costs \$1.4 million dollars. Mr. Yates said the Liberty Street Business Park is getting finished, the North East Corner Strip Center that is at the northeast corner of SH 105 and Lone Star Parkway that includes Dentists of Montgomery has 4 full time employees. Mr. Yates said that State Farm Insurance has started phase one of their construction and they are located off of Waterstone Drive. Mr. Yates said the permits issued for the second quarter included 30 residential permits and seven commercial permits. Mr. Yates said that the year to date permits are 57 residential permits and 20 commercial permits.

Rebecca Huss moved to approve the Departmental Reports as presented. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

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

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE CITY CODE OF ORDINANCES AMENDING CHAPTER 98, "ZONING," FOR THE LARRY JACOBS PROPERTY AT 2512 LONE STAR PARKWAY FROM "I" INDUSTRIAL ZONING DISTRICT CLASSIFICATION AS FOUND ON THE CITY'S OFFICIAL ZONING MAP TO "R-2" MULTI-FAMILY ZONING DISTRICT; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE.

Mr. Matt Fuqua, Vice President of Blazer Building here representing the Heritage Seniors located at 325 Flagship Blvd. Mr. Fuqua said he just wanted to remind City Council that in their previous discussions, they purchased their property on Flagship Blvd. in 2013 with the intent to develop Heritage and Heritage Seniors, and to date they have spent a considerable amount of money and time making improvements to the infrastructure and overall the detention pond and regional improvements to serve Montgomery Trace Shopping Center and their property and outlying areas of Stewart Creek. Mr. Fuqua said that to date Heritage Seniors has developed permit issue drawings and they have made progress with their development to meet readiness to proceed requirements. Mr. Fuqua said they are currently zoned for multi-family, platted and practically shovel ready to begin construction on October 31, 2018, and they have utilities. Mr. Fuqua said there are two developments that are making application for award with the State, one will move forward this year and he would like to ask just as a point of reference the Feasibility Report that is on the agenda tonight, which is Item 14, is directly impacting and directs information regarding the zoning, and from a viewing and optic standpoint City Council is being asked to rezone a property with the report that was produced for and direct purpose of this development, which he wanted to bring that up as a discussion point. John Champagne asked Mr. Fuqua to go over that last point again. Mr. Fuqua said the Economic Feasibility Report listed as Item 14, is put together to show the viability requirements for the proposed site that the City is being asked to rezone, which is on the

agenda tonight for information sharing and he just wanted to bring that up as a point of reference for the City, taking into consideration for the rezone and what exactly is being asked of the City and what is required and what can be done.

Mr. Larry Jacobs, property owner, advised the Star of Texas is the developer of the property, once they get the property rezoned. Mr. Jacobs said he would like to point out the Star of Texas is very compatible to the neighborhood as they have discussed before. Mr. Jacobs said the Independence Place project next door has a density of 7 ½ units per acre, and Star of Texas will be approximately 6 ½ units per acre, very low density, and his unit are all one story and they do not have to worry about elevators or anything else. Mr. Jacobs said the State is obviously awarded the Star of Texas more points for that location and the overall competitiveness of the deal or they would not have other people raising a lot of other concerns that don't have to do with zoning. Mr. Jacobs said he wanted to point out, for the record, that he believes that the Planning and Zoning Commission has moved forward in unanimous votes every time with recommendations to City Council and he appreciates City Council's consideration.

Mr. Fuqua said that he wanted to address one additional comment regarding the Final Report that was prepared and the Amended Final Report to the Planning and Zoning was prepared by staff, and regarding the engineering report actually prepared by an engineer, which the Planning and Zoning Commission did not have was not prepared or provided.

Rebecca Huss said that she finds herself in the uncomfortable position of disagreeing with the Planning and Zoning Commission, but she does not feel the rezoning is actually in the best interest of the City of Montgomery at this time.

Rebecca Huss moved to deny the rezoning request.

Jon Bickford said he would have to say that his position on change has been consistent and he gets very frustrated with asking for changes in restrictions, changes in variances, changes in zoning, unless he sees a hardship, which he does not see here. Jon Bickford said he was struggling himself with rezoning an area that is industrial today, when he looks at what is across the street, FM 149, that kind of industrial complex very well could

be built in that area and that is what that area was zoned for. Jon Bickford said he did not really want the City to become a downtown Houston and they have a house, refinery, industrial complex, house, apartment, etc., which is the whole reason they put the zoning and planning in place in the first place.

Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

11. Consideration and possible action regarding the Atkins Creek Engineering Contract.

Mr. Yates advised this is a proposed contract for the Terra Vista area water and sewer crossing, which is necessary due to the washout of the water and sewer line across Atkins Creek adjacent to Terra Vista subdivision that occurred during Hurricane Harvey. Mr. Yates stated this is a FEMA project, and over the past several months discussions between FEMA and the City have resulted in selection of an engineer for the project, Jones and Carter, and preliminary discussions about what to do to repair the water and sewer lines. Mr. Yates stated the proposed solution is an aerial crossing by placing the water and sewer line on concrete piers across Atkins Creek. Mr. Yates said he had no problem with the proposed solution and realized the engineering for such an aerial crossing is more involved/costly than just simply putting the lines back in the ground. Mr. Yates said however, he felt the proposed \$133,500 for a \$232,500 project was excessive.

Mr. Yates said that for instance there is a \$31,000 preliminary design, construction administration fee, yet there is also a \$6,000 charge for structural engineer, \$11,000 for environmental sub-consultants and \$30,000 for drainage and scour study analysis. Mr. Yates said, in his opinion, the structural engineer, environmental sub-consultant in the drainage and scour study should be part of the \$31,000 design cost. Mr. Yates advised he had asked Mr. Roznovsky several questions and he had received the responses via email.

Mr. Yates said he had discussed Value Engineering, which would be for the entire project, but what he was asking for was to renegotiate the engineering costs, and if necessary get another engineer to review the information and give some advice about the engineering costs.

Mr. Roznovsky stated that traditionally an engineering percentage is not what is proposed as this was, and said the reason it is for this project is because FEMA is a different level of effort than a normal project, which drives the cost up. Mr. Roznovsky said there were a couple of items, scour analysis and the environmental that is the same cost for the bridge as it was for this project, which is a drastically different construction cost, but the amount of analysis for the report is about the same, in fact there is actually substantially more analysis that had to be done on the drainage side. Mr. Roznovsky said they were dealing with an existing structure at that time and just putting two vertical walls back to where they were versus for this they are taking a stream that has eroded out and trying to remodel and reconfigure it and then evaluate different alternatives of piers and obstructions within that stream. Mr. Roznovsky said additionally one of the items that is included in the drainage analysis is a little more detailed to help the City prepare for a longer term solution to the erosion that is happening in and around Atkins Creek that is effecting the neighboring properties and working its way back to FM 1097. Mr. Roznovsky said there is a benefit in doing that analysis now to get a better design for these improvements, but it also helps to have the data to use in the future to be able to help come up with a solution for that area. Mr. Roznovsky said as Mr. Yates stated, they plan to sit down and go through in detail, which they have detailed hour estimates on how they got to these numbers. Mr. Yates said he wanted to say Jones and Carter has been the main proponent of convincing FEMA we need to do the mitigation project rather than just putting it back the way that it was, so that cost is about \$110,000. Mr. Yates said this is not a negative comment about Jones and Carter, it is just that it seemed like they need more review of the figures. Rebecca Huss said ultimately not all of the money is coming from FEMA, 75% of the funds are coming from FEMA and 25% percent is coming from the City residents, so that does have an impact on the taxpayers. Mr. Roznovsky said this disaster was on a 90/10 payment split so only 10% is paid for by the taxpayers. Mr. Yates said they spoke with FEMA this morning and they tentatively approved these engineering estimates. John Champagne asked for clarification that the initial engineering done on this project was done by Jones and Carter. Mr. Roznovsky said the initial engineering consisted of a highly conceptual cost estimate that has been done, no analysis has been done as of yet. Mr. Roznovsky said this was based on the conditions what is believed to be the solution, which are the piers. John Champagne asked if because of the configuration of the repair, things have changed. Mr. Roznovsky said the way FEMA

works is you can only spend their funds on property that the City is responsible for, so there is a 26 foot easement those utilities cross over, and if you just fill in the 26 foot easement there is a couple of hundred feet of channel, which is eroded away on each end so you are just creating a dam that will wash out with the first rain, or create a pond. Mr. Roznovsky said this is why putting it back to the same condition is not a feasible option, if we only work within our easement. Rebecca Huss stated this was a freestanding span with nothing underneath it. Mr. Roznovsky said before the pipe was buried five to six feet underground with cement sand on top of it, and then during Harvey that five to six feet of cover became that sewer line that is now seven to eight feet in the air. Rebecca Huss said the structure will be new. Mr. Roznovsky said that was correct because there is no structure there and it will have to be a casing put in and then piers to help support the casing, because it is approximately an 85 foot span the last time they checked, but the way it has been eroding it could be more now. John Champagne asked if they would be using steel casing. Mr. Roznovsky said that was correct, it will be steel casing with supports that would be buried into the embankments. Jon Bickford asked if they would fill in the area. Mr. Roznovsky said his initial thoughts are using the federal funds that the City has to be able to repair and get the line back up and working so they are no longer having to pump out the sewer, and then if they can get the analysis done on the long term solution to that channel that effect the lots and everything that backs up to it, then it will at least be ready to go while they work out the long term solutions. Mayor Countryman asked if that channel will hold water or is it just a tributary to go down to the lake. Mr. Roznovsky said the channel will not hold water, and it was dry before and is dry now and is a very similar situation to Town Creek.

Mr. Yates said he thinks that they can negotiate this out, but he wanted to ask City Council's permission to have another engineer look at the information if necessary. Rebecca Huss asked Mr. Yates if the money involved was not outside of his scope of discretion. Mr. Yates said that was correct. Rebecca Huss confirmed Mr. Yates did not need action, he just needed direction. Mr. Yates said that was correct. Rebecca Huss said she thought pursuing outside advice is a logical next step if Mr. Yates feels that he needs it. John Champagne agreed and said let's move.

No action was taken.



12. Consideration and possible action regarding selection of an engineer for the Plez Morgan FEMA Project.

Mr. Yates advised that the Plez Morgan FEMA Project is all about the Memorial Day flood after the Buffalo Springs Bridge Project. Mr. Yates said what happened was after they rerouted the traffic off of Buffalo Springs to Plez Morgan, they talked to FEMA and convinced them they needed to work on Plez Morgan to repair it because it was part of the bridge traffic. Mr. Yates advised the Review Committee consisting of T.J. Wilkerson, Rebecca Huss, Susan Hensley and myself interviewed three engineering firms who submitted proposals after advertisement soliciting their proposals. Mr. Yates said the three firms were Jones and Carter, GLS Engineers and IDS Engineering Group. Mr. Yates said that as has been discussed by the Review Committee and City Council the intention is to use another engineering firm besides Jones and Carter on smaller, definable project. Mr. Yates said the Plez Morgan resurfacing of the road as funded by FEMA appears to be such a project. Mr. Yates said the Committee through telephone interviews and written proposals rated the three firms. Mr. Yates said IDS Engineering Group scored the highest on the rating sheets and is recommended for selection by the Review Committee. Mr. Yates advised IDS is located in Houston, but the person responsible for the City project lives in Magnolia as do several of his employees. Mr. Yates said the Committee felt well about the ability of the firm to complete the project and their experience with FEMA.

Rebecca Huss said she also wanted to point out for the record that the engineer that they spoke to from IDS said that from the traffic he thought that Plez Morgan was taking, even being the primary or a primary cut through, one of the main things that they should be investigating why it failed because he thought there was a chance that it was not built as per the drawings or there is some other structural problem they were not aware of because he felt the traffic it was taking should not have caused some of the larger areas of failure. Rebecca Huss said she was worried that similar to the bridge there might be something ugly underneath the surface. Mayor Countryman asked who had engineered that road. Rebecca Huss said they did not know at this point, but it is part of the PDD. Mr. Yates said he thought it was part of the Montgomery County and LeFevre Project. Rebecca

Huss said either way, some things they thought like the ditches were not holding water, it is entirely possible that could be wrong and that could be the cause of it or other things so there might be some surprises there. Mr. Yates said the point is that could make quite a difference in the cost of the project as to whether or not it would be a milled overlay versus tearing up the subbase and having to put down six inches of base and two or three inches of asphalt on top of that. Mr. Roznovsky said the initial estimate that was provided to FEMA included approximately 30 % of the road having full base repairs on those areas. John Champagne asked if that may or may not be necessary. Mr. Roznovsky said it likely will be necessary to have some type of base repairs, what is not known are there areas where the surface is not showing yet, for example Houston Street there was zero base. Mr. Yates said they will take four to six core samples along the area. Rebecca Huss said it was interesting that this company was the first one to say that was an area of interest to find out why the road failed before they even go through and decide what to do.

Jon Bickford stepped out of the meeting at 7:32 p.m.

Mayor Countryman asked if FEMA would be paying 100% for this project. Mr. Yates said FEMA would be paying 75%, and the City will pay 25%. Mr. Yates said he will be checking to see if the City can get a CDBG-DR for this Project, so he will talk to Grantworks. Mr. Yates said they were about to close out the Bridge DR Project Grant so maybe they can get it for this Project.

John Champagne moved to accept the recommendation of the Review Committee to select IDS Engineering Group to pursue the Plez Morgan FEMA Project. Rebecca Huss seconded the motion, the motion carried unanimously. (3-0)

Mayor Countryman announced that Jon Bickford was absent for the vote on Item 12.

Jon Bickford returned to the meeting at 7:35 p.m.

13. Consideration and possible action regarding acceptance of Montgomery County offer of the right-of-way for Lone Star Parkway and the portion of Lone Star Bend in the Villas of Mia Lago subdivision.

Mr. Yates said this is to discuss though not necessarily to decide about acceptance of the offer of Lone Star Bend and Lone Star Parkway from Montgomery County to the City. Mr. Yates pointed out that Lone Star Bend was already a platted public City road that was included in the letter by mistake, and goes with the Estates of Mia Lago, Section 2. Mr. Yates said this is something that the City has been aware of the intention by Commissioner Meador for quite a while, meaning the intention of the County to give Lone Star Parkway to the City for continued maintenance. Mr. Yates said that he has not done a thorough review of the financial costs over the years of acceptance of maintenance of the Parkway. Mr. Yates said that mowing alone will add about \$35,000 per year to the City's mowing contract. Rebecca Huss asked what the approximate current total for the mowing contract. Mr. Yates said the mowing contract right now is \$80,000 per year. Rebecca Huss said it would add one third to the contract, which seems like a very large amount, and will be a huge financial burden for the City. Mr. Yates said that one of his questions to City Council was whether or not they want him to do a financial analysis of the next 10 years of the Parkway being a City street. Rebecca Huss said that would be \$350,000, which would be a little over 12% of one year's budget, which seems excessive. Mr. Yates said, as stated in the City Attorney's email, the County could continue to assist the City with maintenance of the street. Mr. Yates said as City Council may remember, the City is now in discussions with TxDOT on making Lone Star Parkway a State highway as part of the business look around the City. Mr. Yates said that should the State accept it as a State road, the State would take over the maintenance of the roadway itself, but the mowing would still be the City's responsibility, along with the crack sealing and/or pot hole repairs and any other work would be at the City's cost. Mr. Yates said the reason that he mentioned 10 years was probably within 10 years the road would become a State highway, but there is no way of really knowing that. Rebecca Huss said that it is not just the maintenance but preventative maintenance and repairs, etc. Mr. Yates said that he also needed to ask the City Attorney, just because someone offers you something does not mean that you have to accept it. Rebecca Huss said she believed that the County was under the impression that they have given the roadway to the City before, and obviously it was not successful because they did the repairs with the understanding that they were giving it to the City again. Mr. Muckleroy said that all their people are already being told that the roadway is the City's and said he has had two conversations with people last week and

one as recently as today and they are all being told that they thought it was the City's road already. Rebecca Huss said the only problem with that is they are not going to maintain it either.

Mr. Foerster said that in his email, when he responded to Mr. Yates request, is that it might be helpful to look at the original documentation related to the construction of the road and any emails, letters, correspondence or contracts, if they can locate them, so he could review them to see if there was any understanding this would be a County maintained road forever, or if there was any obligation that the City has as far as an ongoing arrangement back several years ago that would lead the County to believe that when they finished it the City would assume responsibility for the road. Mr. Foerster said they do not have those documents at this time, and he thought it would be useful to table this item until they explore that information further.

Rebecca Huss moved to table this and continue to table it for quite some time until they have an idea of at least the financial implications and maybe discussions on sharing and avoiding responsibility as much as possible. John Champagne seconded the motion.

Discussion: John Champagne and said he would be open to accepting the maintenance of the section of road if they completed the loop to the south all the way to SH 105, which they might bring up with the County. Rebecca Huss said they could include buying the right of way. John Champagne said the whole deal. Rebecca Huss said Senator Nichols has said that TxDOT has only made one road a FM road or a State road before, taken one City or County road and turned it into a State road, so that would mean turning Lone Star Parkway into a State road, and is a big goal and one they should pursue through the Houston-Galveston Area Council, but it is definitely a tough thing to get. Mr. Roznovsky said a City has to improve the roadway, which is why they are working with H-GAC and the TIP Program to get the funding because the entire Lone Star Parkway would have to be brought up to FM standards and TxDOT might say you also need to add two more lanes, so it is a big commitment for the north and south loop together to get that bypass, it is always going to be some trading of options.

Mr. Foerster said he has not spoken with the County Attorney about this in many years, but there was a time 30 years ago when he was the County Attorney, when it was his opinion based on the law at that time that a City road that connected either a County road or a State road could be assumed, in terms of maintenance, by the County. Mr. Foerster said there have been many occasions, in the City of Panorama Village for one where that has happened. Mr. Foerster said he did not know if that was still the policy of the County with the laws changed in that regard because he has not done any research on it, but it has been his experience since that Parkway is a method of connecting the east side of SH 105 with the west side of SH 105, and with the north side of FM 149 and part of the south side of FM 149, there is a possibility they could enter into an agreement by which the County as part of the transition would agree to at least maintain the surface of the road. Mr. Foerster said he was saying that conditioned on what we find when we do our research, going back 15 years ago when the Parkway was constructed. John Champagne said it has been at least 8-9 years. Mr. Foerster said if they can find the records they can look at the correspondence, understandings, agreement, if there was one, and evaluate whether or not the City at any time during that process assumed any obligation to at a later date maintain the road. Mr. Foerster said it is interesting that it has not been referenced in Mike Meador's letter. Rebecca Huss said she thought that if the County had anything in writing the City would already own the road. Mr. Foerster said that was the reason why they would need to look into the matter.

Chief Napolitano said this morning an 18-wheeler was doing an illegal U-turn and crushed a bunch of the shoulder of that road. Chief Napolitano said that when they made an inquiry to Precinct 1 to have them come out and do the repair, they said no they do not fix that road that is the City's. Chief Napolitano said they are between a rock and a hard place because they have damage to the road and they can't finish the report because they don't have a victim, is it the City or the County the victim of the damage to the road. Mayor Countryman said that based on the photo of the damage it is significant, so a car travelling on the highway it is dangerous. Mr. Foerster said that the recommendation is to table action on this item. John Champagne stated there is a motion and a second on the floor to table the item.

The motion carried unanimously. (4-0)

14. Consideration and possible action regarding a Utility and Economic Feasibility Study for the Star of Texas Seniors, Ltd. Development.

Mr. Roznovsky advised that he will present the information since the tract will be looked at again in the future. Mr. Roznovsky said the projected water capacity requirements is approximately 14,000 gallons a day, which was determined by the water usage data they received for 15-18 months for three other developments of the same size that this developer has done and came up with the average usage. Mr. Roznovsky stated the City's average daily flow is about 300,000 gallons and will exceed our capacity after this plant expansion beyond the year 2024. Rebecca Huss said that Mr. Roznovsky has the City's average daily flow at 300,000 gallons and the flow for July was 100,000 gallons. Mr. Roznovsky said they were looking at the average daily flow of water. Mr. Roznovsky said they are looking at an annual average for the last couple of years, which was 296,000 to 297,000 gallons. Rebecca Huss asked how many years the average was based on. Mr. Roznovsky said it was the last two years and last year it was 297,000 gallons, and the year before was pretty close. Rebecca Huss said that was during the year when they had the problems with the regulator, so that number would be high. Mr. Roznovsky said it was still consistent with the year prior when they did not have the problem with the regulator.

Mr. Roznovsky said there are two waterline extensions required to service this tract, one being a 12 inch waterline along Lone Star Parkway, and the second is an 8 inch waterline up a proposed street and through the development to close the loop. Mr. Roznovsky said sewer was approximately the same with 8,400 gallons per day, and the City is nearing that capacity, so in 2021 they will need to start construction, which is all part of the projections that they are working with the TORC Committee.

John Champagne said that if Heritage Seniors does what they have said they are going to do then the cumulative increase is still there. Mr. Roznovsky said that they are included in the projections as a future expected section with a number included based on the number of units they described. Mr. Roznovsky said one big item that was part of this was they looked at Lift Station #7, which does have capacity to serve this development.

Mr. Roznovsky spoke about traffic and stated this is the first Feasibility Study since the Mobility Plan was adopted. Mr. Roznovsky said there was a major thoroughfare that was proposed through this property, and based on the initial land plan they have provided that access road did not line up. Mr. Roznovsky said they looked at the turning radius for that part of the road and they could not get to the tract, so their recommendation would be that the access drive should be shifted over approximately 100 feet, the right of way be widened from 60 to 80 feet from what they have proposed, but still keep the two lane road at this time, with the ability to add the second two lanes in the future.

Mr. Roznovsky said the development costs listed, 12-inch waterline that was discussed earlier is on the Capital Impact Fee list, so their water impact fee that was approximately \$44,000 would go to the cost of the waterline. Mr. Roznovsky said the estimated cost for the street and eight inch waterline was approximately \$400,000, and then their sewer impact fee is approximately \$100,000. Mr. Roznovsky said the other part of this is since the last Feasibility Study they have changed the escrow format, so now as part of the Feasibility Study they identify the estimate for the escrow account for the remainder of the project, which their cost was estimated to be \$18,000 for inspection of all the public streets, utilities, plan reviews, coordination and administrative costs. Mr. Roznovsky said the taxes are listed based on a \$4 million dollar evaluation, which is approximately \$16,000 per year.

Rebecca Huss moved to accept the Utility and Economic Feasibility Study for the Star of Texas Seniors, Ltd. Development as presented. Jon Bickford seconded the motion, the motion carried unanimously. (4-0)

15. Consideration and possible action regarding award and execution of construction contract documents for the 18” Gravity Sanitary Sewer Extension, Phase I, to serve the Shoppes at Montgomery development.

Mr. Roznovsky said this project is the 18-inch sewer line section that runs from SH 105 to the Waste Water Treatment Plant site, and this is part of a 380 Agreement with the developer who is funding this project. Mr. Roznovsky said that as part of the water development projects the lift station being relocated to the Plant both to increase its

capacity and to improve operations and free up land for development. Mr. Roznovsky said they received bids for the phase one portion, which has been split into two phases because this will get the majority of the line in but does not do the final connections. Mr. Roznovsky said since the lift station is there they can't disconnect the existing lift station until they get there. Mr. Roznovsky said they wanted to get phase one out of the way so the development paving and other work could go on.

John Champagne moved to award the bid for the 18-inch gravity sanitary sewer extension to Randy Road Construction, Inc. and to authorize construction contract execution. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

16. Report on the Montgomery Economic Development Board Budget preparation.

Rebecca Huss stated that both John Champagne and she are on the Montgomery EDC (MEDC) Board of Directors. Rebecca Huss advised that the MEDC held their first workshop two weeks ago and the biggest change was MEDC decided not to extend their contract to share personnel with the Montgomery Area Chamber of Commerce, they decided to go in a different direction. Rebecca Huss said the MEDC has decided to hire a full time person who was dedicated to tourism activity in the City, with the main object to extend the number of visitors that they have coming to the City and in particular invigorate our downtown and try and maximize the value that they can add to the City. Rebecca Huss said everyone on the Board really talked about the cities that they enjoyed going to and doing things and what they liked about them, and every one of those cities had downtowns they admired, which is where they decided to put their money at. Rebecca Huss said the Tourism person will be housed in the City and will be an employee of the City, because the MEDC will not have an employee of its own. Rebecca Huss said that person will report to whomever Mr. Yates determines that person should report to. Rebecca Huss said the other commitment MEDC is making is to be more aggressive about being responsible for its own performance, rather than waiting for things to come to it, they are setting up one, three and five year goals and grading themselves on how they are doing as well as the person that they are hiring they will be setting up goals and performances for them and holding them to it. Rebecca Huss said the big difference is there will be a big decrease in the utility extensions line item of the budget. Rebecca Huss



said if there is a utility extension option coming through, she thought the MEDC will need to dip into its bank balance to pay for that, which is something that they would have to come back to City Council for approval.

Jon Bickford said he thought it was a particularly good idea to get this person in place and particularly timely, because he thought one other place that this person could help would be to drive more businesses into downtown before they start the FM 149 upgrades. Jon Bickford said awesome timing and great work to the MEDC. Rebecca Huss said ultimately there are a couple of things they can do to pay for their position, such as a couple more festivals that make money and they can pay for at least half or more of their position, which could be invested back into the community. Rebecca Huss announced that the Texian Festival is not going to be happening this year, which is a shame and so they would like to make that one of the investments this person does as well as one of the Mayor's commitments to have a Texas Flag Festival. Jon Bickford said that was a good idea. Rebecca Huss said this person will also update the marketing materials and brochures and things like that, because she felt that they could do much better marketing the image of the City. Rebecca Huss said they will be coming to City Council for official approval, but she just wanted to make sure that City Council as a whole was on board with the direction in which MEDC was going. John Champagne said that this was a good report.

17. Discussion regarding formation of a Park Board.

Mr. Yates said that he wanted to ask City Council what they thought of the proposed ordinance. Mr. Yates said that he felt that the first appointment would be representations one from Memory Park group, one from the Fernland group, and three non-affiliated citizens. John Champagne asked if the non-affiliated people would not be affiliated with the parks. Mr. Yates said that was correct. Rebecca Huss asked if they wanted a couple more people on the Board, because you need Cedar Brake, Homecoming and then maybe three non-affiliated, which would be seven people. Mr. Yates said that personally seven people seemed like a lot for the Board. John Champagne said that he agreed. Jon Bickford said they would never get anything done. Rebecca Huss said there are seven people on the MEDC Board. Mr. Yates said that, in his mind, this would be the first group, because

what he thought was hopefully over time each member of the Park Board will become representatives of the entire park system, rather than just one particular park. Jon Bickford said that was the way they need to look at this.

Jon Bickford said he felt they do need feedback from people that have been working with each individual park over time to make sure that they lay out the Board right. Mr. Yates asked if they wanted to add someone from Fernland, Cedar Brake, Memory and Homecoming Parks. Rebecca Huss said she felt it was better to be more inclusive in the beginning and then if you find that it is unwieldy then you can pare it down later. Jon Bickford said that the Board needs a Charter. Mayor Countryman said that they have been working independently and so if initially they get them all together, that way everyone learns how each one functions. Jon Bickford said he felt things should be consistent with the parks, such as the same rental fees, photography requirements, etc. Jon Bickford said they need to get someone from each of the parks Homecoming, Fernland, Cedar Brake Park and Memory Park. Mr. Yates said part of the reason for representation from each of the parks is to keep up their individual interests because they do not want to have a completely non-affiliated group and make the people from the parks feel shut out. Rebecca Huss said Fernland has some very specific historical concerns and can't have people climbing on the buildings, while at Cedar Brake they encourage climbing on the playground equipment. Rebecca Huss said she thought it was important to have the local knowledge of each of the parks be represented. Jon Bickford said they need to have someone with history and knowledge of each of the parks on the Board to make sure whatever interests and activities they have had going and developing and all work gets captured so that they don't lose it. John Champagne said they will have four affiliates and three nonaffiliated. Mr. Yates said he would prefer to keep the Board at five. Mayor Countryman said maybe for the first two years they have the Board at seven members. John Champagne said he does not like seven because they do not get anything done. John Champagne said he has seen City Councils with nine and 12 members and it is a zoo. Rebecca Huss said they could see where it goes somewhere between five and seven members, and they can work it out later since this is just a discussion item. John Champagne asked who is going to represent the ownership of the parks. Rebecca Huss said the City is the owner so that would be City Council. John Champagne said someone on City Council needs to serve on the Park Board. Rebecca Huss said that could be John

Champagne. John Champagne said he was going to suggest Jon Bickford, but they could co-chair one spot held by two people. Jon Bickford said that would keep the five member Board in place. Jon Bickford suggested they do this for the first three months to get it laid out and then if they need to make any changes they could do so. Jon Bickford said the main thing is to get the Charter straight.

Mr. Yates said the Park Board will consider, advise and recommend things to the City Council and the City Administrator.

18. Discussion regarding the potential sale of City Property at the existing Water Plant No. 2 site.

Mr. Roznovsky advised the Louisa Lane development has requested to potentially purchase or try to purchase a piece of Water Plant 2 site to develop single family homes. Mr. Roznovsky said there are potential advantages and disadvantages of this. Mr. Roznovsky said if it is a straight sale of land it would have to go to public auction and the value of that is not much, versus the flexibility the City could lose from needing to do repairs mainly for placement of things at the Plant site by giving away a portion of that property. Mr. Roznovsky said one thing he would have City Council consider is if they would be open to a possible land swap with the developer if there is an advantageous piece of land that would help the City expand either this site in a different direction or other water plant sites. Mr. Roznovsky said he did not have a recommendation on what or where that site would be. Mr. Roznovsky said his recommendation from the sale is probably not advantageous to do so, but if there is a mutually advantageous land swap then it would. Jon Bickford asked if Water Plant 2 was Houston and Worsham Street. Mr. Roznovsky said that was correct. Jon Bickford asked if they wanted to open up even more of that property with more homes. Mr. Roznovsky said the development is at the end of Louisa Lane and has 16-18 single family homes.

Mr. Roznovsky said it was his recommendation that City Council decline the sale of the property, but if City Council is open to City Staff and the City Engineer and developer further developing a potential land swap options they could work on that.

Rebecca Huss directed staff to decline to outright sell the property at Water Plant #2. John Champagne seconded the direction.

19. Presentation of the City Geographic Information System (GIS) as prepared by Jones|Carter.

Mr. Roznovsky said they will put together a summary of how to access the information. Mr. Roznovsky said there is a public and private side to this information, so they are working with the City to get a link on the web site. Mr. Roznovsky said that will allow a developer and residents to be able to access zoning information, flood plain information, elevations, and location of City facilities.

Rebecca Huss asked what we might want to do with this information. Mr. Roznovsky said on the public side of the information will be very beneficial for developers to obtain information on their tracts, and general inquiries to the City on what the zoning information for the tract of land, what are the elevations and other related information. Mr. Roznovsky said there is a login for City staff, consultants, City Council and the Planning and Zoning Commission to view water, sewer, drainage lines, copies and links to all the Feasibility Studies that have been done, all the construction plans for public development, which they are substantially complete, the Thoroughfare Plan can be overlaid on the map, development agreements, zoning, future land use maps, etc.

John Champagne said this is good information. Mayor Countryman asked if this is something the City can direct their developers to go and log into. Mr. Roznovsky said that it correct. Mr. Roznovsky said the difference between the public and private side is mainly utilities, because they do not show or provide access to all the construction plans and agreements and studies on the public side. Rebecca Huss said in theory everything they do is open to the public, so what is the limit. Mr. Roznovsky said they can do an open records request and request some of the plans, it does not allow just anyone to come into the City and log in and obtain the information for the utility facilities. Mr. Roznovsky said it is easy to switch what is public and private, so if they want to include more information for the public they can do that.

20. Buffalo Springs Bridge Report by City Engineer.

Mr. Roznovsky advised they have received an updated schedule on the way to the meeting, so they will send the information out tomorrow. Mr. Roznovsky advised the reason the photos of the work area show water is due to ground water that is coming in. Mr. Roznovsky said there have been three additional sections of the wall completed and it now extends all the way under the bridge and they are on the last two sections of the wall and scheduled to be complete with that next week. Mr. Roznovsky said they have the deepest portion of the storm sewer lines on both the north and south side of the bridge extended up and the junction boxes are being formed and built back up to the top. Mr. Roznovsky said the workers did run into an issue today when they ran into a 15 foot by 10 foot by 3 foot thick piece of concrete, so they had to break it up and it should be removed tomorrow morning.

Mr. Roznovsky said during the next two weeks they will remove the concrete, finish the last two sections of the wall, finish the junction boxes and begin forming the slope paving to tie back up to the road. Mr. Roznovsky said that as far as impact days, which they discussed at the last meeting, they did a preliminary look and there have not been that many impact days, so they are looking at less than a week of additional impact days, and as of tomorrow liquidated damages do start for the contract. Jon Bickford asked if the City had collection of liquidated damages from the contractor. Mr. Roznovsky said that was correct, the liquidated damages will be taken out of their pay estimates. Mr. Roznovsky advised he will send out the updated schedule tomorrow.

**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**

Jon Bickford moved to adjourn the meeting at 8:17 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (4-0)

Submitted by:  Date Approved: \_\_\_\_\_  
Susan Hensley, City Secretary

\_\_\_\_\_  
Mayor Sara Countryman

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: Letter of Request, map</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is a request to close a portion of East College Street, McCown Street, Maiden, East Caroline and John A. Butler Street from 5:00 p.m. Friday, September 14 to 8:00 p.m., Saturday, September 15.

**Description**

This Montgomery Area Chamber of Commerce event is the same plan as accomplished the last several years. There is good cooperation with the Public Works and Police Department regarding this street closing and the Festival in general.

Last year the area was perfectly cleaned of any litter or disturbance whatsoever.

**Recommendation**

Motion to approve the closure as requested, as part of the consent item agenda.

**Approved By**

City Administrator

Jack Yates

Date: August 8, 2018



August 3, 2018

Jack Yates  
City of Montgomery  
P.O. Box 708  
Montgomery, Texas 77356

Re: Historic Montgomery Wine & Music Fest, September 15, 2018

Dear Jack:

This letter is to request street closures for the Historic Montgomery Wine & Music Fest, **Beginning Friday, September 14, 2018 at 5pm and running through the entire festival day Saturday, September 15.**

The streets affected by this request include:

College St.  
McCown St.  
Maiden St.  
Caroline St.  
John A. Butler St.

...as marked by the red dashes in the map for road blocks.

Tents will be delivered to their various lots during the workday Friday, September 14, 2018, but should not interrupt the flow of street traffic.

Preliminary set up for the festival will begin Friday evening at 5pm. We will need the roads closed at that time.

This is the same timeline used in the last several years of the festival.

If you have any questions, please do not hesitate to contact us.

There's A LOT to love about Montgomery!

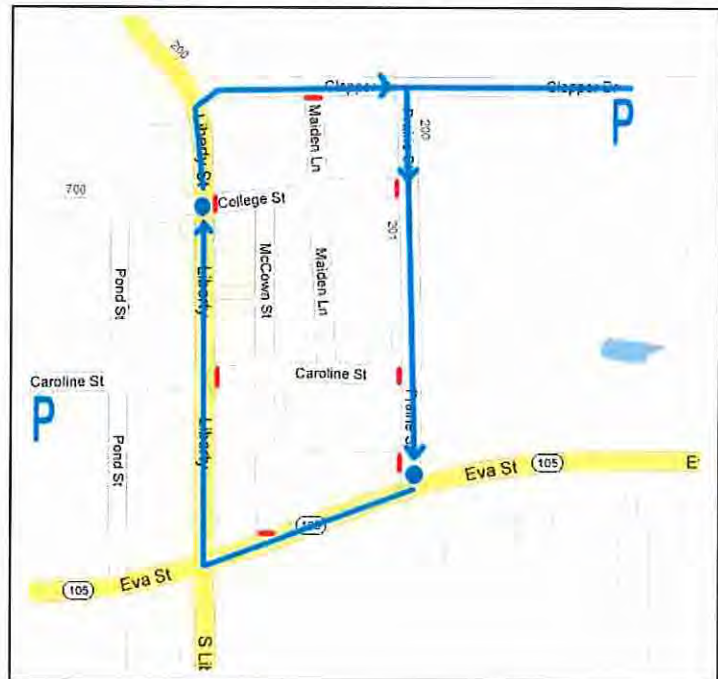
*Shannan Reid*

Montgomery Area Chamber of Commerce

Web | [www.MontgomeryWineFest.com](http://www.MontgomeryWineFest.com)

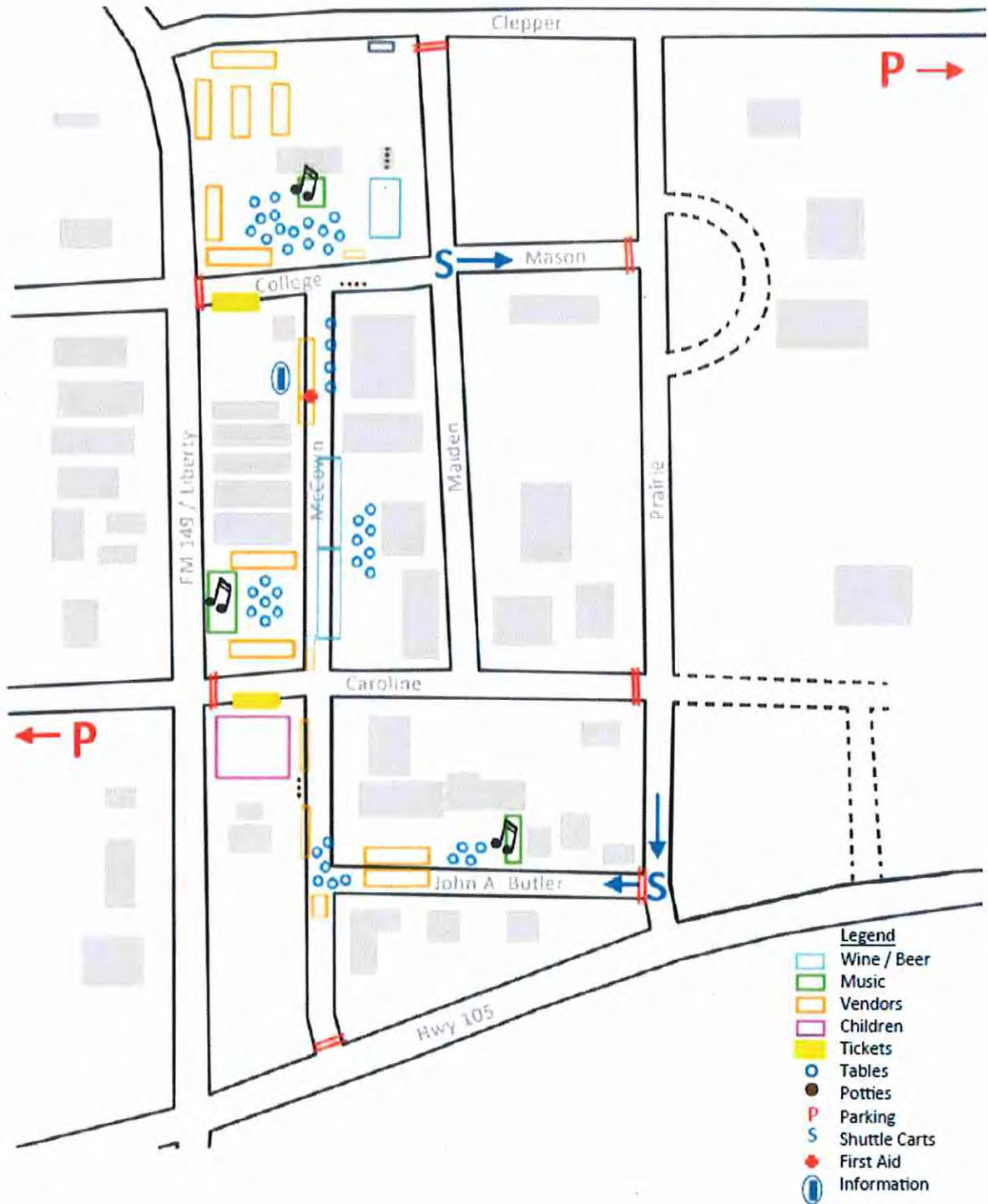
Email | [experiencemontgomery@gmail.com](mailto:experiencemontgomery@gmail.com)

Office | [\(936\) 597-5004](tel:(936)597-5004)





# ★ MONTGOMERY wine & MUSIC FEST ★



Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits:</b> Letter of Request, map, e-mails
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is a request to close a portion of the intersection of College Street and the north half of McCown on Saturday, October 6 from 8:00 a.m. until 5:00 p.m. for the OctoBEARfest event.

**Description**

The applicant is attempting to create a Bear Sanctuary in or near the city of Montgomery. This is an event to raise funds for that effort.

Because this is the first time that Kari Krouse, the Bear Sanctuary person has ever requested a street closure I had several comments for her. They are addressed in the attached e-mails.

**Recommendation**

Motion to approve the closure as requested, as part of the consent item agenda.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
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# OctoBEARfest

## Saturday October 6<sup>th</sup>, 2018



BEAR AND EXOTIC ANIMAL  
RESCUE SANCTUARY

Dear City Council,

Saturday, October 6<sup>th</sup>, we would like to hold our first annual OctoBearfest including BBQ cook off, children's area, crafter's market, and bake sale. We have spoken with the Chamber of Commerce and we would do this in partnership with Lone Star First Saturday.

We are requesting permission for the use of the community center and the lawn around it and to enclose the "T" of College and McCown for the day for the safety of the festival goers. The "T" in marked in green on the attached map and will allow for ease of traffic flow along McCown to circle in and out of the parking lot in front of the Steak House. We have chosen this set up, after speaking with Shannan at the Chamber, because this set up has been successful at her events. Should there be any deliveries on this day, we will manage the road blocks to accommodate drivers.

The entire event will be closed by 5pm. This leaves plenty of time for clean up from the day and for patrons to have time to shop in other stores in the area.

As our community grows, we want to add a reason for people to come to our community to live, and enjoy life, with the festivals and activities it has to offer. This event will be another way to bring the community together as a family, and partner with our local businesses, to fulfill our mission to be a community based organization.

After partnering with the Chamber's Freedom Festival, we made note of how important it is to Keep Montgomery Beautiful and will be adding dumpsters for the event. As the Chamber does, we will try to minimize the negatives, while still managing to bring the positives of hosting an event like this in our community. Bears Etc.'s planning team has made every effort to learn from other events and address all of the details we have been educated about (learning from others' previous festivals). We have 125+ volunteers ready to keep Historic Montgomery clean and to aid with traffic, road blocks, and parking.

We hope that this is the first of many OctoBearfests for the community. We love this community and love that Bears Etc. can be a part of it.

Thank you so much for your support!

Respectfully yours,  
Kati Krouse  
Executive Director  
Bears Etc.

*The Bear and Exotic Animal Rescue Sanctuary (Bears Etc.) was founded as a non-profit organization in 2017 dedicated to providing a permanent, community-based, self-sustainable refuge for displaced exotic and wild animals and educate others about the natural world.*

to me

I would want to place them at 8am after vendors have had a chance to unload.

Thank you,  
Kati

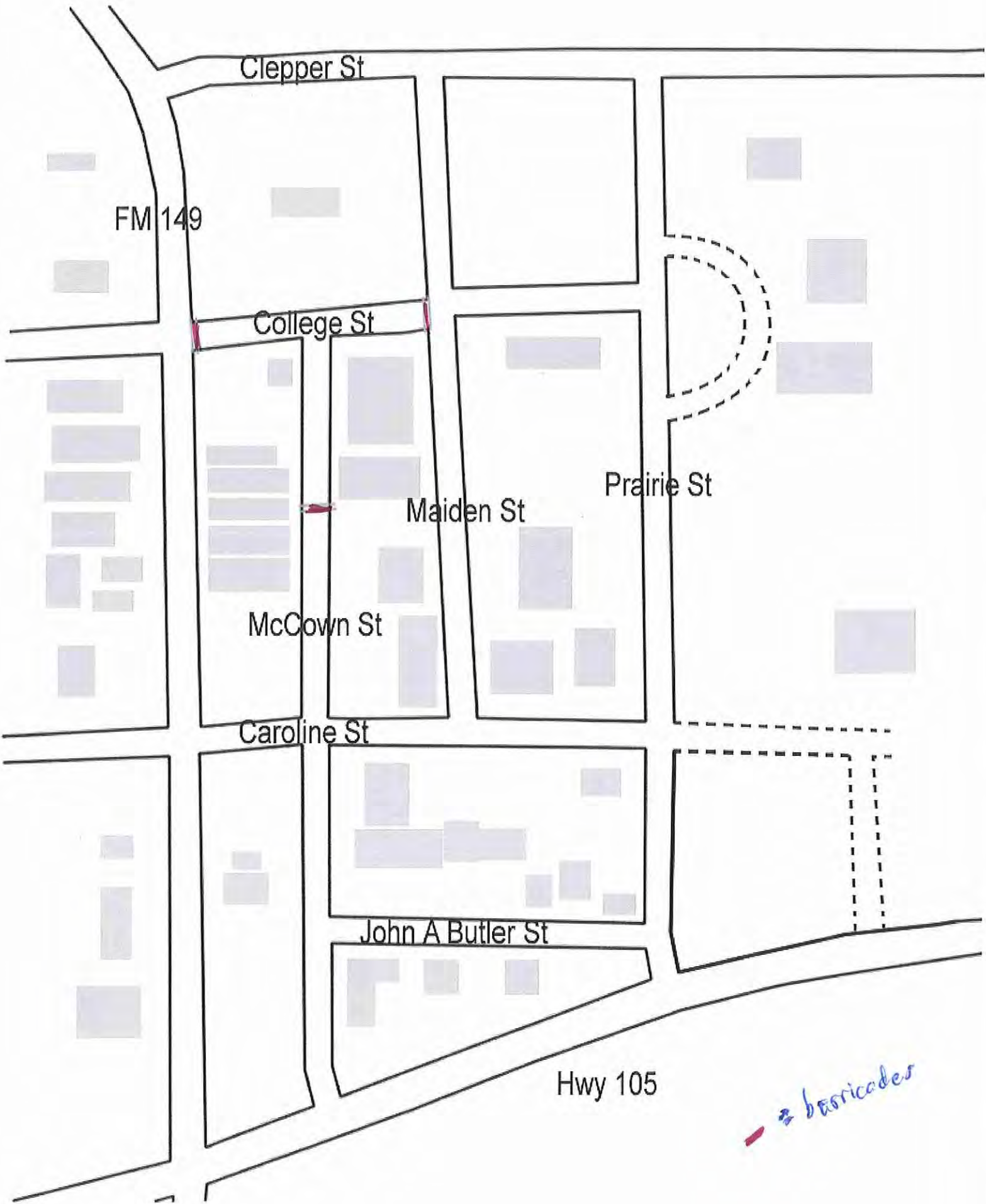
Kati Krouse  
Executive Director  
Bears Etc.  
[www.bearsetc.org](http://www.bearsetc.org)

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On Aug 6, 2018, at 11:28 AM, Yates, Jack <[jjyates@ci.montgomery.tx.us](mailto:jjyates@ci.montgomery.tx.us)> wrote:

When do you propose placing the barricades - in the beginning??  
I see by your letter that you would remove the barricades by 5:00 p.m.

Jack



*- = barricades*

## Re: Letter to address the City Council

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

to Bears

Kati, I suggest that you coordinate with the affected merchants so that I/you can tell the City Council that they are all right with the closure.

Also, I would need a copy of your Certificate of Insurance before the event showing the City as an "Additional Insured".

Jack

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On Mon, Aug 6, 2018 at 4:39 PM, Bears Etc wrote:

Not yet. I was going to once I had your permission. I have the list of owners.

No alcohol will be served at the event.

I have insurance for the event through 1st Insurance and have reserved Montgomery Police Department officers for the event.

Kati

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On Mon, Aug 6, 2018 at 4:35 PM, Yates, Jack <jyates@ci.montgomery.tx.us> wrote:

Have you spoken/coordinated with businesses affected by the closing?

Also, are you planning on serving/selling beer or alcohol?

Jack

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On Mon, Aug 6, 2018 at 12:00 PM, Bears Etc <admin@bearsetc.org> wrote:

I would want to place them at 8am after vendors have had a chance to unload.

Thank you,

Kati

---

On Aug 6, 2018, at 11:28 AM, Yates, Jack wrote:

When do you propose placing the barricades - in the beginning??

I see by your letter that you would remove the barricades by 5:00 p.m.

Jack

---

On Mon, Aug 6, 2018 at 11:07 AM, Bears Etc <[admin@bearsetc.org](mailto:admin@bearsetc.org)> wrote:

Jack,

Attached is a letter to address the City Council to ask for permission to use the community building and to close the streets in a "T" for the festival. This is a first, of hopefully, many annual OctoBearfests.

Thanks so much for your help and support!

Kati Krouse  
Executive Director  
Bears Etc.  
[www.bearsetc.org](http://www.bearsetc.org)

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> City Administrator	<b>Exhibits: Escrow Agreement</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is the escrow agreement with Christopher C. and Mary Cheatham for development of the Emma's Way development

**Description**

This is to approve the standard escrow agreement. The developer has submitted payment in the amount of \$10,000 for full payment of the escrow amount

**Recommendation**

Motion to approve the escrow agreement between the city and Christopher C. and Mary Cheatham as part of the consent item agenda.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
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**ESCROW AGREEMENT**  
**BY AND BETWEEN**  
**THE CITY OF MONTGOMERY, TEXAS,**  
**AND**  
**Christian C. and Mary Cheatham**  
**Dev. No. 1020**

THE STATE OF TEXAS            ⊃

COUNTY OF MONTGOMERY       ⊃

This Escrow Agreement, is made and entered into as of the 3 day July \_\_\_\_\_, 2018 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 Christian C. and Mary Cheatham, (hereinafter called the "Developer").

**RECITALS**

WHEREAS, the Developer desires to acquire and develop all or part of a 1.155 acre tract of land located being out of called 11.2176 acres being tract 63A-1 in the Ben Rigsby Survey, A-31 sometimes referred to as the Emma's Way 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 plan reviews, developer coordination, construction management, inspection services to be provided for during the construction phase, and one-year warranty services; and,

WHEREAS, City has determined that the estimated cost of providing such services will be approximately \$10,000.

**AGREEMENT**

ARTICLE I

**SERVICES REQUIRED**

Section 1.01 The development of the Emma's Way 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 such costs as herein set out:

City Engineer	\$ 10,000
<hr/>	
TOTAL	\$ 10,000

Section 2.02 Developer agrees to submit payment of the Escrow Fund to City no later than ten (10) days after the execution of this Escrow Agreement.

Section 2.03 The total amount shown above for 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: [Name 1] CHRIS CHEATHAM  
[Name 2]  
[Address] PO BOX 234  
[City, State, Zip Code] MONTGOMERY, TX 77356

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

Christian C. and Mary Cheatham  
\_\_\_\_\_  
Developer

By: Christian C. and Mary Cheatham  
Signature

Title: \_\_\_\_\_

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 \_\_\_\_\_, 2018.

\_\_\_\_\_  
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 Christian C. & Mary Chestnam, Developer of Montgomery TX, a \_\_\_\_\_, 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 11 day of July, 2018.

Nicole A Mulder  
\_\_\_\_\_  
Notary Public, State of Texas





## Prohibition on Boycotting Israel Verification

This Verification is hereby incorporated into the terms of the contract by and between Chris Cheatham and City of Montgomery entered into this the 3 day of July, 2018.

1. City of Montgomery, 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]

*Chris Chatham*

Contractor

State of Texas

County of Montgomery

Before me, a notary public, on this day personally appeared CHRIS CHATHAM, 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)



*Susan Hensley*

Notary Public's Signature

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

*Chris Chatham*

Owner

**VENDOR CONTRACTS APPROVED BY CITY COUNCIL  
AND/OR IN EXCESS OF ONE MILLION DOLLARS**

**Effective January 1, 2016** there is now a requirement for Certificates of Interested Persons (Form 1295) to be filed with the city secretaries and they in turn electronically file notice with the Texas Ethics Commission (TEC).

The TEC website is <https://www.ethics.state.tx.us/tec/1295-Info.htm>

***Summary of new law:***

1. All contracts that must be approved by the city council must be given a contract tracking number.
2. Vendors or business entities (but not other governmental entities) must be given the Form 1295 and directed to fill it out.
3. The Form 1295 must be signed by an authorized person from the business entity.
4. The Form 1295 must be submitted to the city secretary.
5. The city secretary must in turn electronically file the notice of the Form 1295 to the Texas Ethics Commission at its website:  
  
[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)
6. The city secretary must electronically file all such forms within 30 days of the contract approval.
7. Form 1295 will be executed by the Vendor and filed with the City Secretary prior to the Contract being executed.

# Vendor Training and Registration

## Form 1295:

### Step One - Set up Account

For a video detailing how you register your company for the first time with the Texas Ethics Commission go to:

<https://www.ethics.state.tx.us/filinginfo/videos/Form1295/FirstLogin-Business/Form1295Login-Business.html>

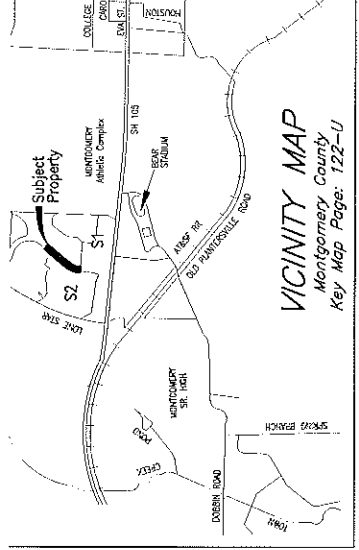
### Step Two - Create Certificate Form 1295

For a video detailing how to create a Form 1295, following registration go to:

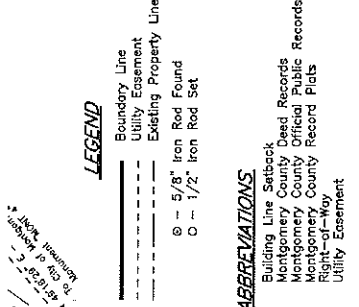
<https://www.ethics.state.tx.us/filinginfo/videos/Form1295/CreateCertificate/CreateCertificate.html>

To complete your Form 1295 you will need to obtain a Contract Tracking Number from the City of Montgomery City Secretary at (936) 597-3288 or via email at [shensley@ci.montgomery.tx.us](mailto:shensley@ci.montgomery.tx.us).

You will print out your completed Certificate – Form 1295 and have it signed. The Form 1295 will then be submitted to the City of Montgomery City Secretary for acknowledgment of the Certificate.



**VICINITY MAP**  
Montgomery County  
Key Map Page: 122-2



**ABBREVIATIONS**  
BL Building Line setback  
M.C. Montgomery County Official Public Records  
R.P. Right-of-Way  
R.O.W. Right-of-Way  
U.R. Utility Easement

**STATE OF TEXAS** §  
**COUNTY OF MONTGOMERY** §

BEFORE ME, the undersigned authority, on this day  
Christian C. Cheatham and Mary Cheatham, known to me  
whose name is subscribed to the foregoing instrument at  
which time is subscribed to the foregoing instrument at  
expressed and in the capacity therein and herein stated, a  
deed of such corporation.

GIVEN UNDER MY HAND AND SEAL, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

My Commission expires \_\_\_\_\_

**KNOWN ALL MEN BY THESE PRESENTS** §  
That I, Kevin R. McClure, R.P.L.S., do certify that I prepared  
and accurate survey of the land and that the  
survey was conducted in accordance with the subdivision  
regulations of the City of Montgomery.

I, MARK TURNBULL, Clerk of the County Court of  
Texas, do hereby certify that the within instrument was  
authenticated was filed for registration in my office on  
2017, at \_\_\_\_\_ o'clock, \_\_\_\_\_ M., and duly recorded on  
2017, at \_\_\_\_\_ o'clock, \_\_\_\_\_ M. in Cabinet \_\_\_\_\_ Sheet \_\_\_\_\_  
for said County.

WITNESS MY HAND AND SEAL OF OFFICE, at Comroe,  
Texas, the day and date last above written.

Mark Turnbull, Clerk, County Court,  
Montgomery County, Texas

By \_\_\_\_\_ Deputy

**FINAL PLAT**

**EMMA'S WAY**

**80' R.O.W. DEDICATED**

**1.155 ACRES**

Christian C. Cheatham  
Mary Cheatham

Ed Shackelford, PE  
City Engineer - Montgomery

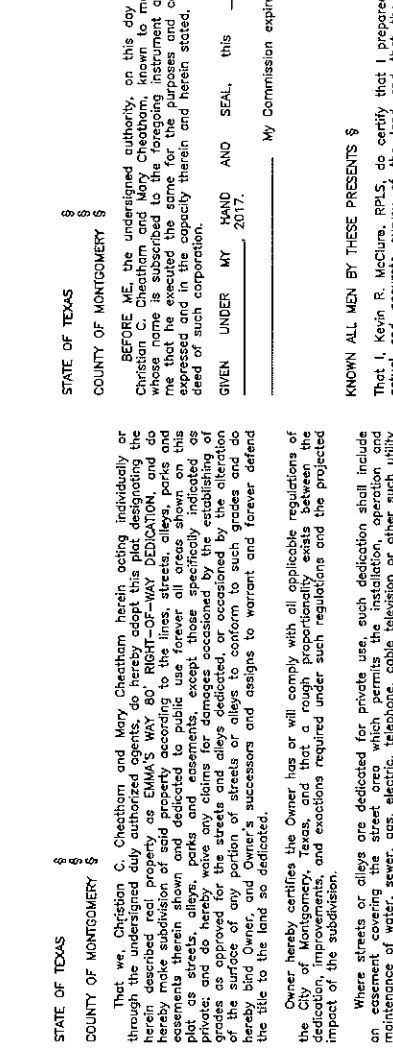
This plat and subdivision has been submitted to and considered by the City Planning and Zoning Commission and the City Council of the City of Montgomery, Texas, and is hereby approved by such Commission and Council.

Dated This \_\_\_\_\_ day of \_\_\_\_\_, 2017

By: Kirk Jones Mayor

By: Nelson Cox Chairman Planning and Zoning Commission

Attest: \_\_\_\_\_



**STATE OF TEXAS** §  
**COUNTY OF MONTGOMERY** §

That we, Christian C. Cheatham and Mary Cheatham herein acting individually or through the undersigned duly authorized agents, do hereby adopt this plat designating the herein described real property as EMMA'S WAY 80' RIGHT-OF-WAY DEDICATION, and do hereby make subdivision of said property according to the lines, streets, alleys, parks and easements therein shown and dedicated to public use forever all areas shown on this plat as streets, alleys, parks and easements, except those specifically indicated as private; and do hereby waive any claims for damages occasioned by the establishing of streets as approved for the streets and alleys dedicated, or occasioned by the alteration of the streets and alleys of streets or alleys to conform to such grades and do hereby bind Owner and Owner's successors and assigns to warrant and forever defend the title to the land so dedicated.

Owner hereby certifies the Owner has or will comply with all applicable regulations of the City of Montgomery, Texas, and that a rough proportionality exists between the dedication, improvements, and exactions required under such regulations and the projected impact of the subdivision.

Where streets or alleys are dedicated for private use, such dedication shall include an easement covering the street area which permits the installation, operation and maintenance of water, sewer, gas, electric, telephone, cable television or other such utility facilities by the city and other utilities lawfully entitled to provide service to the abutting property. The easement shall also provide a right of access to public agencies engaged in both routine and emergency public services including law enforcement, fire protection, medical response, inspection and code enforcement.

IN TESTIMONY WHEREOF, Christian C. Cheatham and Mary Cheatham have caused these presents to be signed by Christian C. Cheatham and Mary Cheatham, thereto authorized, this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Christian C. Cheatham  
Mary Cheatham

Ed Shackelford, PE  
City Engineer - Montgomery

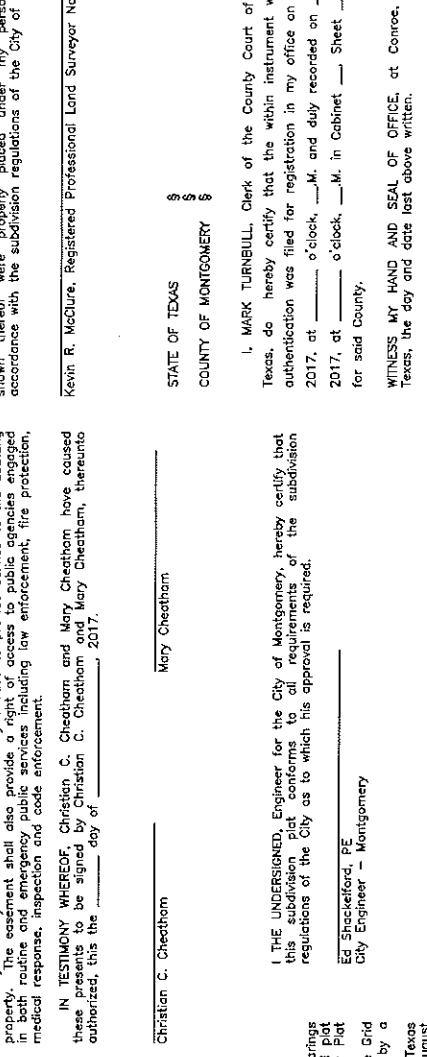
This plat and subdivision has been submitted to and considered by the City Planning and Zoning Commission and the City Council of the City of Montgomery, Texas, and is hereby approved by such Commission and Council.

Dated This \_\_\_\_\_ day of \_\_\_\_\_, 2017

By: Kirk Jones Mayor

By: Nelson Cox Chairman Planning and Zoning Commission

Attest: \_\_\_\_\_



**GENERAL NOTES:**  
1. ORIGIN OF BEARING SYSTEM: Monuments found and the record bearings along the north lines of THE HILLS OF THE CREEK SECTION 2, final plat Block 2, The Hills of the Creek Section 2, Cabinet 2, Sheets 4342-4343. Records were used as the basis of bearings shown above.  
2. Distances shown herein are Texas Central Zone No. 4203 State Plane Grid (NAD83) and may be converted to geodetic horizontal by dividing by a combined Scale Factor of 1.000077360.  
3. According to the Flood Insurance Rate Maps for Montgomery County, Texas and Incorporated Areas, Map Number 48339C0206, Map Revised August 18, 2014, this property is not located in a 100-year flood hazard area.

Called 11.2176 Acre  
Remainder Farm Tract  
Now of Mary Cheatham  
M.C.P.R. No. 2001-065811  
M.C.P.R. 07/18/01

**CURVE TABLE**

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD BRG.	CHORD DIST.
C1	38°41'42"	280.00'	175.59'	91.29'	S 15°52'43" W	172.27'
C2	37°52'56"	340.00'	224.80'	116.66'	N 16°17'07" E	220.73'

**LINE TABLE**

LINE	BEARING	DISTANCE
L1	S 54°45'25" E	80.00'
L2	S 89°59'00" W	80.11'

Block 2, The Hills of the Creek Section 2, Cabinet 2, Sheets 4342-4343

Block 3, The Hills of the Creek Section 3 (Proposed Plat)

Block 2, The Hills of the Creek Section 2, Cabinet 2, Sheets 4342-4343

Block 2, The Hills of the Creek Section 2, Cabinet 2, Sheets 4342-4343

Block 2, The Hills of the Creek Section 2, Cabinet 2, Sheets 4342-4343

Block 2, The Hills of the Creek Section 2, Cabinet 2, Sheets 4342-4343

Block 2, The Hills of the Creek Section 2, Cabinet 2, Sheets 4342-4343

Block 2, The Hills of the Creek Section 2, Cabinet 2, Sheets 4342-4343

# 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

Certificate Number:  
2018-368284

Date Filed:  
06/14/2018

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.  
Cheatham Management  
Montgomery, TX United States

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.  
1020  
Escrow agreement between Cheatham Management and the City of Montgomery, Texas for the Emma's Way project.

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Cheatham Management	Montgomery, TX United States	X	

5 Check only if there is NO Interested Party.

### 6 UNSWORN DECLARATION

My name is CHRISTIAN C. CHEATHAM, and my date of birth is 8/13/1949.

My address is P.O. BOX 234 (street), MONTGOMERY (city), TX (state), 77356 (zip code), USA (country).

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

Executed in MONTGOMERY County, State of TEXAS, on the 18th day of JULY, 20 18 (month) (year).

Christian C. Cheatham  
Signature of authorized agent of contracting business entity (Declarant)

CITY OF MONTGOMERY

936-597-6434

REC#: 00027860 7/17/2018 10:01 AM  
OPER: AR TERM: 003  
REF#: 2976

TRAN: 15.0000 MISC INCOME  
ESCROW FINAL PAYMENT  
EMMA'S WAY CHRIS CHEATHAM  
UNANTICIPATED INCD 5,000.00CR

TENDERED: 5,000.00 CHECK  
APPLIED: 5,000.00-

CHANGE: 0.00

CHEATHAM MANAGEMENT LLC

09-09

2976

4

7/10/18

Date

\$ 5000.00

Dollars



Pay to the  
Order of

City of Montgomery  
For shared and roll

For EMMA'S WAY ESCROW FINAL

Chris Cheatham

REVERSE SIDE

ATM/CHEQUE CASHOUT STATIONS

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits: Escrow Agreement</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is the escrow agreement with NH Heritage, LP for development of the senior housing on their parcel immediately south of Flagship Boulevard.

**Description**

This is to approve the standard escrow agreement. The developer has submitted a check in the amount of \$6,500 for full payment of the escrow amount

**Recommendation**

Motion approved the escrow agreement between the city and NH Heritage LP as part of the consent item agenda.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
--------------------	------------	----------------------



NANTUCKET HOUSING, L.L.C.

HOUSTON, TX 77043  
713-914-9200

8/1/2018

PAY TO THE ORDER OF CITY OF MONTGOMERY

\$ \*\*6,500.00

Six Thousand Five Hundred and 00/100\*\*\*\*\*

DOLLARS

CITY OF MONTGOMERY  
P.O. BOX 708  
MONTGOMERY, TX 77356

*Matt*

MEMO

ESCROW AGREEMENT DEPOSIT

SECURITY FEATURES INCLUDED. DETAILS ON BACK

*Diana Heron*  
AUTHORIZED SIGNATURE

NANTUCKET HOUSING, L.L.C.

WWW.COMPUCHECKS.COM 888.356.5541

2412

CITY OF MONTGOMERY

Date 8/1/2018  
Type Bill  
Reference 180801-ESCROW

Original Amt. 6,500.00

Balance Due 6,500.00

8/1/2018  
Discount

Payment 6,500.00

Check Amount

6,500.00

Checking - G.P.

ESCROW AGREEMENT DEPOSIT

6,500.00

**ESCROW AGREEMENT**

**BY AND BETWEEN**

**THE CITY OF MONTGOMERY, TEXAS,**

**AND**

**NH Heritage LP**

**Dev. No. 1810**

THE STATE OF TEXAS            ⊃

COUNTY OF MONTGOMERY    ⊃

This Escrow Agreement, is made and entered into as of the 2 day August, 2018 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 NH Heritage LP, a Texas Corporation, (hereinafter called the "Developer").

**RECITALS**

WHEREAS, the Developer desires to acquire and develop all or part of a 4.09-acre tract, being a portion of Heritage Plaza Section 1, Reserve B, sometimes referred to as the Heritage Seniors 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 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 Heritage Seniors 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 such costs as herein set out:

Administrative	\$ 500
City Engineer	\$5,000
Legal	\$1,000
<hr/>	
TOTAL	\$6,500

Section 2.02 Developer agrees to submit payment of the Escrow Fund no later than ten (10) days after the execution of this Escrow Agreement. No work will begin by or on behalf of the City until funds have been received.

Section 2.03 The total amount shown above for the Escrow Fund 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:	Matt Fuqua NH Heritage LP 4001 W. Sam Houston Pkwy N. Ste. 100 Houston, Texas 77043
----------------------	--

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.

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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.

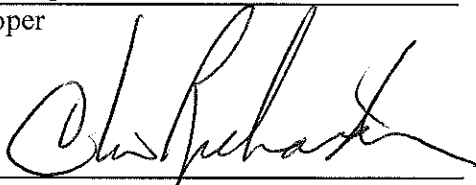
CITY OF MONTGOMERY, TEXAS

By: \_\_\_\_\_  
Sara Countryman, Mayor

ATTEST:

By: \_\_\_\_\_  
Susan Hensley, City Secretary

NH Heritage LP  
Developer

By:   
Signature Chris Richardson

Title: Vice President  
\_\_\_\_\_



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 \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public, State of Texas

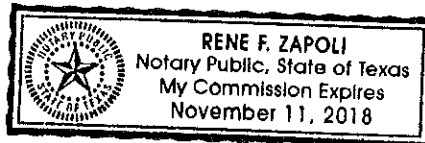
THE STATE OF TEXAS {

COUNTY OF Harris {

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Chris Richardson, Vice President of NH Heritage LP, a Texas 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 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 3<sup>rd</sup> day of August, 2018.

Rene F. Zapoli  
\_\_\_\_\_  
Notary Public, State of Texas



## Prohibition on Boycotting Israel Verification

This Verification is hereby incorporated into the terms of the contract by and between NH Heritage LP and Blazer Building Texas entered into this the 1 day of August, 2018.

1. Blazer Building Texas, 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

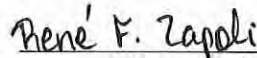
Matt Fuqua  
Vice President

State of Texas

County of Harris

Before me, a notary public, on this day personally appeared Matt Fuqua, 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.

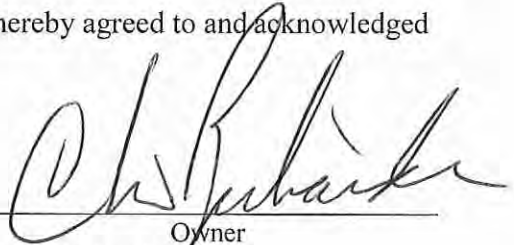
(Personalized Seal)



Notary Public's Signature



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



Owner

Chris Richardson  
NH Heritage LP  
Vice President

**VENDOR CONTRACTS APPROVED BY CITY COUNCIL  
AND/OR IN EXCESS OF ONE MILLION DOLLARS**

**Effective January 1, 2016** there is now a requirement for Certificates of Interested Persons (Form 1295) to be filed with the city secretaries and they in turn electronically file notice with the Texas Ethics Commission (TEC).

The TEC website is <https://www.ethics.state.tx.us/tec/1295-Info.htm>

***Summary of new law:***

1. All contracts that must be approved by the city council must be given a contract tracking number.
2. Vendors or business entities (but not other governmental entities) must be given the Form 1295 and directed to fill it out.
3. The Form 1295 must be signed by an authorized person from the business entity.
4. The Form 1295 must be submitted to the city secretary.
5. The city secretary must in turn electronically file the notice of the Form 1295 to the Texas Ethics Commission at its website:  
  
[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)
6. The city secretary must electronically file all such forms within 30 days of the contract approval.
7. Form 1295 will be executed by the Vendor and filed with the City Secretary prior to the Contract being executed.

# Vendor Training and Registration

## Form 1295:

### Step One - Set up Account

For a video detailing how you register your company for the first time with the Texas Ethics Commission go to:

<https://www.ethics.state.tx.us/filinginfo/videos/Form1295/FirstLogin-Business/Form1295Login-Business.html>

### Step Two - Create Certificate Form 1295

For a video detailing how to create a Form 1295, following registration go to:

<https://www.ethics.state.tx.us/filinginfo/videos/Form1295/CreateCertificate/CreateCertificate.html>

To complete your Form 1295 you will need to obtain a Contract Tracking Number from the City of Montgomery City Secretary at (936) 597-3288 or via email at [shensley@ci.montgomery.tx.us](mailto:shensley@ci.montgomery.tx.us).

You will print out your completed Certificate – Form 1295 and have it signed. The Form 1295 will then be submitted to the City of Montgomery City Secretary for acknowledgment of the Certificate.

## Exhibit "A" Attachment

TRACT ONE (1):

5.3219 ACRES (231,822 SQUARE FEET)

BEING A 5.3219 ACRES (231,822 SQUARE FEET) TRACT OF LAND OUT OF RESTRICTED COMMERCIAL RESERVE "G", RESTRICTED COMMERCIAL RESERVE "H", OF MONTGOMERY TRACE CENTER, SECTION 1, A SUBDIVISION OF RECORD ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CABINET Q, SHEET 82 AND 83, OF THE MAP RECORDS OF MONTGOMERY COUNTY, TEXAS. AND OUT OF RESTRICTED COMMERCIAL RESERVE "I" AND ACCORDING TO THE MAP THEREOF RECORDED IN CABINET Z, SHEET 1896 OF THE MONTGOMERY COUNTY MAP RECORDS; SAID 5.3219 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF LIBERTY STREET (F.M. 149 - A STREET OF VARIABLE WIDTH) AND THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF FLAGSHIP BOULEVARD (70-FOOT WIDE) AND MARKING THE MOST NORTHERLY NORTHWEST CORNER OF RESTRICTED COMMERCIAL RESERVE "G";

THENCE, ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND WITH THE NORTH LINE OF SAID RESTRICTED COMMERCIAL RESERVE "G", SOUTH 87 DEGREES 57 MINUTES 16 SECONDS EAST, FOR A DISTANCE OF 10.23 FEET TO A POINT AT THE BEGINNING OF A CURVE TO THE LEFT;

THENCE, CONTINUING WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND WITH THE NORTH LINE OF SAID RESTRICTED COMMERCIAL RESERVE "G", ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 335.00 FEET, AN INTERIOR ANGLE OF 28 DEGREES 46 MINUTES 48 SECONDS, AN ARC LENGTH OF 168.27 FEET AND A CHORD BEARING AND DISTANCE OF NORTH 77 DEGREES 39 MINUTES 20 SECONDS EAST, 166.51 FEET TO A POINT;

THENCE, CONTINUING WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND WITH THE NORTH LINE OF SAID RESTRICTED COMMERCIAL RESERVE "G", NORTH 63 DEGREES 15 MINUTES 56 SECONDS EAST, FOR A DISTANCE OF 32.45 FEET TO A 5/8-INCH IRON ROD SET FOR THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT;

THENCE, CONTINUING WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND WITH THE NORTH LINES OF SAID RESTRICTED COMMERCIAL RESERVE "G", RESTRICTED RESIDENTIAL RESERVE "I" AND SAID RESTRICTED COMMERCIAL RESERVE "H", NORTH 63 DEGREES 15 MINUTES 56 SECONDS EAST, FOR A DISTANCE OF 339.98 FEET TO A 5/8-INCH IRON ROD SET AT THE BEGINNING OF A CURVE TO THE RIGHT;

THENCE, CONTINUING WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND WITH THE NORTH LINE OF SAID RESTRICTED COMMERCIAL RESERVE "H", ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 265.00 FEET, AN INTERIOR ANGLE OF 26 DEGREES 44 MINUTES 04 SECONDS, AN ARC LENGTH OF 123.65 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 76 DEGREES 37 MINUTES 58 SECONDS EAST, 122.53 FEET TO A 5/8-INCH IRON ROD SET FOR THE MOST NORTHERLY NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, CONTINUING WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND WITH THE NORTH LINE OF SAID RESTRICTED COMMERCIAL RESERVE "H", NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, FOR A DISTANCE OF 125.07 FEET TO A 5/8-INCH IRON ROD SET FOR THE MOST NORTHERLY NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, DEPARTING SAID FLAGSHIP BOULEVARD RIGHT-OF-WAY AND ACROSS RESTRICTED COMMERCIAL RESERVE "H" AND ACROSS RESTRICTED RESIDENTIAL RESERVE "I", SOUTH 00 DEGREES 09 MINUTES 23 SECONDS WEST, FOR A DISTANCE OF 101.66 FEET TO A 5/8-INCH IRON ROD SET FOR AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, EASTERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", SOUTH 89 DEGREES 50 MINUTES 37 SECONDS EAST, FOR A DISTANCE OF 112.77 FEET TO A 5/8-INCH IRON ROD SET FOR THE MOST EASTERLY NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTHERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", SOUTH 00 DEGREES 09 MINUTES 23 SECONDS WEST, FOR A DISTANCE OF 138.84 FEET TO A 5/8-INCH IRON ROD SET AT THE BEGINNING OF A CURVE TO THE LEFT;

THENCE, SOUTHEASTERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 92.21 FEET, AN INTERIOR ANGLE OF 32 DEGREES 27 MINUTES 45 SECONDS, AN ARC LENGTH OF 52.24 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 15 DEGREES 13 MINUTES 53 SECONDS EAST, 51.55 FEET TO A 5/8-INCH IRON ROD SET AT THE BEGINNING OF A CURVE TO THE RIGHT;

THENCE, SOUTHEASTERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 114.67 FEET, AN INTERIOR ANGLE OF 29 DEGREES 11 MINUTES 14 SECONDS, AN ARC LENGTH OF 58.42 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 14 DEGREES 59 MINUTES 13 SECONDS EAST, 57.79 FEET TO A SET 5/8-INCH IRON;

THENCE, SOUTHERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", SOUTH 00 DEGREES 09 MINUTES 23 SECONDS WEST, FOR A DISTANCE OF 122.57 FEET TO A 5/8-INCH IRON ROD SET FOR THE MOST EASTERLY SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, WESTERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", NORTH 89 DEGREES 50 MINUTES 37 SECONDS WEST, FOR A DISTANCE OF 173.31 FEET TO A 5/8-INCH IRON ROD SET AT THE BEGINNING OF A CURVE TO THE LEFT;

THENCE, SOUTHWESTERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 19.00 FEET, AN INTERIOR ANGLE OF 43 DEGREES 19 MINUTES 52 SECONDS, AN ARC LENGTH OF 14.37 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 68 DEGREES 29 MINUTES 27 SECONDS WEST, 14.03 FEET TO A SET 5/8-INCH IRON ROD;

THENCE, SOUTHWESTERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", SOUTH 46 DEGREES 49 MINUTES 31 SECONDS WEST, FOR A DISTANCE OF 81.89 FEET TO A 5/8-INCH IRON ROD SET FOR THE MOST SOUTHERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTHWESTERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", NORTH 43 DEGREES 10 MINUTES 29 SECONDS WEST, FOR A DISTANCE OF 160.69 FEET TO A 5/8-INCH IRON ROD SET FOR AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTHWESTERLY ACROSS SAID RESTRICTED RESIDENTIAL RESERVE "I", SOUTH 46 DEGREES 49 MINUTES 31 SECONDS WEST, FOR A DISTANCE OF 84.06 FEET TO A 5/8-INCH IRON ROD SET IN THE NORTHEASTERLY LINE OF RESTRICTED RESIDENTIAL RESERVE "J" AND IN THE SOUTHWESTERLY LINE OF SAID RESTRICTED RESIDENTIAL RESERVE "I" AND MARKING THE MOST WESTERLY SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, WITH THE NORTHEASTERLY LINE OF RESTRICTED RESIDENTIAL RESERVE "J" AND IN THE SOUTHWESTERLY LINE OF SAID RESTRICTED RESIDENTIAL RESERVE "I" AND ACROSS SAID RESTRICTED COMMERCIAL RESERVE "G", NORTH 43 DEGREES 10 MINUTES 27 SECONDS WEST, FOR A DISTANCE OF 395.86 FEET TO THE POINT OF BEGINNING AND CONTAINING 5.3219 ACRES OR 231,822 SQUARE FEET OF LAND, MORE OR LESS.



TRACT TWO (2):

2.6726 ACRES (116,420 SQUARE FEET)

BEING A 2.6726 ACRES (116,420 SQUARE FEET) TRACT OF LAND OUT OF RESTRICTED COMMERCIAL RESERVE "G", OF MONTGOMERY TRACE CENTER, SECTION 1, A SUBDIVISION OF RECORD ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CABINET Q, SHEET 82 AND 83, OF THE MAP RECORDS OF MONTGOMERY COUNTY, TEXAS. SAID 2.6726 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF LIBERTY STREET (F.M. 149 - A STREET OF VARIABLE WIDTH) AND THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF FLAGSHIP BOULEVARD (70-FOOT WIDE) AND MARKING THE MOST NORTHERLY NORTHWEST CORNER OF COMMERCIAL RESERVE "G" AND THE HEREIN DESCRIBED TRACT;

THENCE NORTH 87 DEGREES 57 MINUTES 16 SECONDS EAST, ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND WITH THE NORTH LINE OF SAID COMMERCIAL RESERVE "G", FOR A DISTANCE OF 10.23 FEET TO A 5/8-INCH IRON ROD SET AT THE BEGINNING OF A CURVE TO THE LEFT;

THENCE, CONTINUING WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND WITH THE NORTH LINE OF SAID COMMERCIAL RESERVE "G", ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 335.00 FEET, AN INTERIOR ANGLE OF 28 DEGREES 46 MINUTES 48 SECONDS, AN ARC LENGTH OF 168.27 FEET AND A CHORD BEARING AND DISTANCE OF NORTH 77 DEGREES 39 MINUTES 20 SECONDS EAST, 166.51 FEET TO A SET 5/8-INCH IRON ROD;

THENCE NORTH 63 DEGREES 15 MINUTES 56 SECONDS EAST, CONTINUING WITH THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND WITH THE NORTH LINE OF SAID RESTRICTED COMMERCIAL RESERVE "G", FOR A DISTANCE OF 32.45 FEET TO A SET 5/8-INCH IRON ROD;

THENCE SOUTH 43 DEGREES 10 MINUTES 27 SECONDS EAST, ACROSS SAID RESTRICTED COMMERCIAL RESERVE "G", FOR A DISTANCE OF 158.22 FEET TO A SET 5/8-INCH IRON ROD, BEING THE NORTH CORNER OF RESTRICTED RESIDENTIAL RESERVE "J";

THENCE SOUTH 16 DEGREES 04 MINUTES 54 SECONDS WEST, ALONG THE EAST LINE OF SAID RESTRICTED COMMERCIAL RESERVE "G", SAME BEING THE WEST LINE OF SAID RESTRICTED RESIDENTIAL RESERVE "J", FOR A DISTANCE OF 103.08 FEET TO A SET 5/8-INCH IRON ROD;

THENCE SOUTH 02 DEGREES 02 MINUTES 48 SECONDS WEST, CONTINUING ALONG THE EAST LINE OF SAID RESTRICTED COMMERCIAL RESERVE "G", SAME BEING THE WEST LINE OF SAID RESTRICTED RESIDENTIAL RESERVE "J", FOR A DISTANCE OF 269.89 FEET TO A SET 5/8-INCH IRON ROD IN THE NORTH LINE OF A CALLED 7.38 ACRE TRACT DESCRIBED IN DEED RECORDED IN VOLUME 111, PAGE 162 OF THE MONTGOMERY COUNTY DEED RECORDS;

THENCE NORTH 76 DEGREES 59 MINUTES 10 SECONDS WEST, WITH THE NORTH LINE OF SAID 7.38 ACRE TRACT AND THE SOUTH LINE OF RESTRICTED COMMERCIAL RESERVE "G", FOR A DISTANCE OF 216.83 FEET TO A 1/2-INCH IRON ROD FOUND FOR THE MOST SOUTHEAST CORNER OF A 0.28 ACRE TRACT DESCRIBED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 9651163 AND THE MOST SOUTHERLY SOUTHWEST CORNER OF COMMERCIAL RESERVE "G" AND THE HEREIN DESCRIBED TRACT;

THENCE NORTH 02 DEGREES 21 MINUTES 35 SECONDS EAST, WITH THE EAST LINE OF SAID 0.28 ACRE TRACT AND THE WEST LINE OF RESTRICTED COMMERCIAL RESERVE "G", FOR A DISTANCE OF 123.75 FEET TO A FOUND 1/2-INCH IRON ROD MARKING THE MOST NORTHEAST CORNER OF SAID 0.28 ACRE TRACT AND AN INTERIOR CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 88 DEGREES 33 MINUTES 13 SECOND WEST, WITH A SDUTHERLY LINE OF RESTRICTED COMMERCIAL RESERVE "G" AND THE NORTH LINE OF SAID 0.28 ACRE TRACT, FOR A DISTANCE OF 100.08 FEET TO A 1/2-INCH IRON ROD FOUND IN THE EAST RIGHT-OF-WAY LINE OF SAID LIBERTY STREET AND MARKING THE MOST NORTHWEST CORNER OF SAID 0.28 ACRE TRACT AND THE MOST WESTERLY SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 02 DEGREES 02 MINUTES 44 SECONDS EAST, WITH THE EAST RIGHT-OF-WAY LINE OF LIBERTY STREET AND THE WEST LINE OF RESTRICTED COMMERCIAL RESERVE "G", FOR A DISTANCE OF 145.26 FEET TO A SET 5/8-INCH IRON ROD;

THENCE NORTH 16 DEGREES 04 MINUTES 54 SECONDS EAST, CONTINUING WITH THE EAST RIGHT-OF-WAY LINE OF LIBERTY STREET AND THE WEST LINE OF RESTRICTED COMMERCIAL RESERVE "G", FOR A DISTANCE OF 103.08 FEET TO A SET 5/8-INCH IRON ROD;

THENCE NORTH 02 DEGREES 03 MINUTES 21 SECONDS EAST, CONTINUING WITH THE EAST RIGHT-OF-WAY LINE OF LIBERTY STREET AND THE WEST LINE OF RESTRICTED COMMERCIAL RESERVE "G", FOR A DISTANCE OF 15.12 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.6726 ACRES OR 116,420 SQUARE FEET OF LAND, MORE OR LESS.

### TRACT THREE (3):

Being 2.123 acres of land, more or less, being all of Restricted Commercial Reserve "J" of REPLAT, MONTGOMERY RESERVE, SECTION 1, a subdivision of record according to the map or plat thereof recorded in Plat Cabinet Z, as Sheet 1896 of the said Map Records of Montgomery County, Texas.

TRACT FOUR (4):

6.9242 ACRES (301,618 SQUARE FEET)

BEING 6.9242 ACRES (301,618 SQUARE FEET) TRACT OF LAND OUT OF RESTRICTED COMMERCIAL RESERVE "H", OF MONTGOMERY TRACT CENTER, SECTION 1, A SUBDIVISION OF RECORD ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CABINET Q, SHEET 82 AND 83, OF THE MAP RECORDS AND OUT OF RESTRICTED COMMERCIAL RESERVE "I", OF REPLAT, MONTGOMERY RESERVE, SECTION 1, ACCORDING TO THE MAP THEREOF RECORDED IN CABINET Z, SHEET 1896 OF THE MAP RECORDS OF MONTGOMERY COUNTY, TEXAS, SAID 6.9242 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A SET 5/8 INCH IRON ROD AT THE MOST NORTHEAST CORNER OF SAID COMMERCIAL RESERVE "H" AND THE HEREIN DESCRIBED TRACT;

THENCE, WITH THE WEST LINE OF A 270 ACRE TRACT AS RECORDED IN VOLUME 655, PAGE 34 OF THE MONTGOMERY COUNTY DEED RECORDS AND THE EAST LINE OF COMMERCIAL RESERVE "H" AND RESIDENTIAL RESERVE "I", SOUTH 00 DEGREES 09 MINUTES 23 SECONDS WEST, FOR A DISTANCE OF 939.43 FEET TO A FOUND 1/2-INCH IRON ROD MARKING THE MOST SOUTHEAST CORNER OF RESIDENTIAL RESERVE "I" AND THE HEREIN DESCRIBED TRACT;

THENCE, WITH THE SOUTH LINE OF RESIDENTIAL RESERVE "I" AND A NORTHERLY LINE OF SAID 270 ACRE TRACT, NORTH 85 DEGREES 12 MINUTES 25 SECONDS WEST, FOR A DISTANCE OF 419.28 FEET TO A 5/8-INCH IRON ROD SET FOR CORNER;

THENCE, WITH THE NORTHEAST LINE OF RESIDENTIAL RESERVE "J" AND THE SOUTHWEST LINE OF SAID RESERVE "I", NORTH 43 DEGREES 10 MINUTES 27 SECONDS WEST, FOR A DISTANCE OF 371.57 FEET TO A 1/2-INCH IRON ROD FOUND FOR THE MOST WESTERLY CORNER;

THENCE, DEPARTING SAID COMMON LINE OF SAID RESIDENTIAL RESERVE "J" AND RESIDENTIAL RESERVE "I" AND IN A NORTHEASTERLY DIRECTION ACROSS RESIDENTIAL RESERVE "I", NORTH 46 DEGREES 49 MINUTES 31 SECONDS EAST, FOR A DISTANCE OF 84.06 FEET TO A SET 5/8-INCH IRON ROD;

THENCE, ACROSS RESIDENTIAL RESERVE "I" THE FOLLOWING NINE COURSES:

1. SOUTH 43 DEGREES 10 MINUTES 29 SECONDS EAST, FOR A DISTANCE OF 160.69 FEET TO A SET 5/8-INCH IRON ROD;
2. NORTH 46 DEGREES 49 MINUTES 31 SECONDS EAST, FOR A DISTANCE OF 81.89 FEET TO A 5/8-INCH IRON ROD SET AT THE BEGINNING OF A CURVE TO THE RIGHT;
3. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 19.00 FEET, AN INTERIOR ANGLE OF 43 DEGREES 19 MINUTES 52 SECONDS, AN ARC LENGTH OF 14.37 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 68 DEGREES 29 MINUTES 27 SECONDS EAST, 14.03 FEET TO A SET 5/8-INCH IRON ROD;
4. SOUTH 89 DEGREES 50 MINUTES 37 SECONDS EAST, FOR A DISTANCE OF 173.31 FEET TO A SET 5/8-INCH IRON ROD;
5. NORTH 00 DEGREES 09 MINUTES 23 SECONDS EAST, FOR A DISTANCE OF 122.57 FEET TO A 5/8-INCH IRON ROD SET AT THE BEGINNING OF A CURVE TO THE LEFT;
6. ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 114.67 FEET, AN INTERIOR ANGLE OF 29 DEGREES 11 MINUTES 14 SECONDS, AN ARC LENGTH OF 58.42 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 14 DEGREES 59 MINUTES 13 SECONDS WEST, 57.79 FEET TO A 5/8-INCH IRON ROD SET AT THE BEGINNING OF A CURVE TO THE RIGHT;
7. ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 92.21 FEET, AN INTERIOR ANGLE OF 32 DEGREES 27 MINUTES 45 SECONDS, AN ARC LENGTH OF 52.24 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 15 DEGREES 13 MINUTES 53 SECONDS WEST, 51.55 FEET TO A SET 5/8-INCH IRON ROD;
8. NORTH 00 DEGREES 09 MINUTES 23 SECONDS EAST, FOR A DISTANCE OF 138.84 FEET TO A SET 5/8-INCH IRON ROD;
9. NORTH 89 DEGREES 50 MINUTES 37 SECONDS WEST, FOR A DISTANCE OF 112.77 FEET TO A SET 5/8-INCH IRON ROD;

THENCE, NORTH 00 DEGREES 09 MINUTES 23 SECONDS EAST, FOR A DISTANCE OF 101.86 FEET TO A 5/8-INCH IRON ROD SET IN THE SOUTH RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND IN THE NORTH LINE OF COMMERCIAL RESERVE "H" AND MARKING THE MOST NORTHERLY NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND THE NORTH LINE OF COMMERCIAL RESERVE "H", NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST, FOR A DISTANCE OF 217.80 FEET TO A 5/8-INCH IRON ROD SET AT THE BEGINNING OF A CURVE TO THE LEFT;

THENCE, WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID FLAGSHIP BOULEVARD AND THE NORTH LINE OF COMMERCIAL RESERVE "H", ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 175.98 FEET, AN INTERIOR ANGLE OF 87 DEGREES 18 MINUTES 15 SECONDS, AN ARC LENGTH OF 268.15 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 47 DEGREES 43 MINUTES 14 SECONDS EAST, 242.95 TO THE POINT OF BEGINNING AND CONTAINING 6.9242 ACRES OR 301,618 SQUARE FEET OF LAND, MORE OR LESS.

Southwest Corner of the Benjamin Ripley Survey, A-31  
 Northeast Corner of the Zuckeloh Landau Survey, A-22  
 1862 4/4 West

### HERITAGE PLAZA

SECTION 1  
 A SUBDIVISION OF 17.042 ACRES OF LAND  
 BEING A REPLAT RESTRICTED RESERVES "I" & "J",  
 REPLAT OF MONTGOMERY RESERVE, SECTION 1  
 & RESTRICTED RESERVES "G" & "H"  
 MONTGOMERY TRACE CENTER  
 IN THE JOHN CORNER SURVEY, A-8  
 MONTGOMERY COUNTY, TEXAS  
 CONTAINING 2 RESTRICTED RESERVES

November 2014  
 OWNER/DEVELOPER  
 Heritage Plaza LLC  
 16723 FM 1587  
 Humble, Texas 77448  
 (713) 914-9900  
 FAX (713) 914-9282

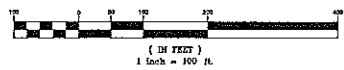
CURVE TABLE				
CURVE	RADIUS	LENGTH	DELTA	CHORD BEARING & DISTANCE
01	232.58	18.817	89°45'51"	N07°52'25" E 164.57
02	213.58	17.843	89°45'51"	N07°52'25" E 157.52
03	173.94	14.535	87°38'15"	N07°52'25" E 124.57

LINE TABLE		
LINE	BEARING	DISTANCE
1.1	N00°00'00" E	342.87
1.2	S00°08'23" W	939.43
1.3	N06°12'25" W	621.33
1.4	N05°15'05" E	572.45
1.5	N00°00'00" E	342.87

270 Acres  
 Kathryn Ritter Ranch  
 wife of Edward Ritter, Jr.  
 Vol. 055, Pg. 34 W.C.D.R.

GRAPHIC SCALE



**JEFFREY MOON & ASSOCIATES, INC.**  
 LAND SURVEYORS  
 www.moonsurveying.com  
 14000 West Loop South, Suite 100  
 Houston, Texas 77040  
 (281) 485-1111  
 (281) 485-1112  
 (281) 485-1113

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits:</b> City Engineer's Memo, Inspection information, Maintenance bond
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is to consider acceptance of public infrastructure improvements at Villas of Mia Lago, Section 2.

**Description**

The City Engineers memo states that the improvements have been placed in the recommending acceptance of the public Street, sanitary sewer, and paving infrastructure. A required maintenance bond is also attached. This approval starts a one-year maintenance. Approximately 11 months from now the subdivision infrastructure will be reviewed for adequacy and if repairs are needed they will be required or the cost will come out of the bond.

**Recommendation**

Motion to accept the public infrastructure for at Villas of Mia Lago Section 2.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
--------------------	------------	----------------------



1575 Sawdust Road, Suite 400  
The Woodlands, Texas 77380  
Tel: 281.363.4039  
Fax: 281.363.3459  
[www.jonescarter.com](http://www.jonescarter.com)

August 9, 2018

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

Re: Acceptance of Public Infrastructure  
Villas of Mia Lago, Section 2  
City of Montgomery

Dear Mayor and Council:

We have conducted a final inspection of the referenced development and find it to be substantially complete in accordance with the approved plans and specifications. We recommend the City accept the public water, sanitary sewer, and paving infrastructure.

If you have any questions or comments, 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

K:\W5841\W5841-0900-00 General Consultation\Correspondence\Letters\2018\MEMO to Council RE Villas of Mia Lago Section 2 Acceptance.doc

Enclosures: Final Punch List – W5841-1015-00  
Certificate of Substantial Completion – Jones | Carter  
Certificate of Substantial Completion – DPK Engineering, LLC  
Maintenance Bond  
Certificate of Acceptance

cc/enc: Mr. Jack Yates – City of Montgomery, City Administrator  
Ms. Susan Hensley – City of Montgomery, City Secretary  
Mr. Larry Foerster – Darden, Fowler & Creighton, City Attorney

### INSPECTION PUNCH LIST

Project: Villas of Mia Lago Section 2

JC Job No.: W5841-0025-00

Inspection Date: 5/31/2018

Contractor: <u>Randy Roan Construction, Inc.</u> <u>O.B.O. Select Earth, LLC</u>	Construction Manager: <u>James Ian McCain, C.Tech.</u> Field Project Representative: <u>Jim Gregg</u>
Owner: <u>City of Montgomery</u>	Design Engineer: <u>DPK Engineering</u>

An Inspection was conducted at the above project by Jones & Carter, Inc. at 8:30 am on the above date.

The following items are to be corrected or completed to comply with the Contract Documents:

Item No.	Description	Status	Date Comp.	FPR Sign	Off
1	Provide As-Built Drawings in both PDF and DWG format.	D	P/E 6/15/8		
2	Ensure vegetative growth along all pervious locations along the ROW and any site drainage ROW.	C			
3	Provide Affidavit of Bills Paid.	D	7/20/18		
4	Provide Certificate of Substantial Completion.	D			
5	Contractor to provide 2 consecutive passing Bacteriological tests of the waterline.	C			
6	Install stop bars at locations shown on drawings.	C			
7	Install all signage as shown on the contract drawings.	C			
8	Lower hydrant bottom flange on the south east side of Lone Star Bend to within 6" of the finished grade.	C/D			
9	Raise existing valve box on the south east side of Lone Star Bend to extend 4" above finished grade.	C/D			
10	Locate existing valve feeding Minero and raise to ensure the top of the valve box is 4" above finished grade.	C/D			
11	Paint all water valves blue.	C			
12	Paint all the fire hydrants City of Montgomery required colors.	C			
13	All meter boxes that are to service 2 lots are to be double type meter boxes.	C/D	Double is inst. 11/8		
14	Replace blow off gate valve at Bois D'Arc Bend.	C			
15	Install gravel in blow off box at Bois D'Arc Bend.	C			
16	Provide City of Montgomery lid on both Air Release Valve Manholes	C			
17	Move meter box towards road to avoid property pin conflicts on Villa Lane Block 3 lots 4/5,8/9, 11/12, 13/14,17/18, Block 4 lots 3/4,6/7.	C/D			
18	Adjust and expose property pin at Lot 11/12.	D			
19	Seal curb joints at multiple locations along Villa Lane.	C			
20	Re-caulk Villa Lane road joint near block 4 lot 3/4.	C			
21	Exercise valve north east of intersection of Villa Lane and Lone star parkway in the presence of City of Montgomery or Jones and Carter staff.				
22	Fine grading required for the entire site and ROW prior to application of vegetation.	C/D	Home Owner Adjusting site		
23	Miscellaneous trash/debris removal throughout site.	C/D			
24	RegROUT MH 9 to prevent water infiltration.	C			
25	Regrade MH 10 bench to eliminate drop.	C			
26	Remove loose fitting/reducer in MH 13. Verify in the presence of Jones and Carter staff the repair has been completed.	C			
27	Provide financial guarantee of 30% of the total construction cost for all public improvements along with the proof of the actual construction cost. Per Sec. 78-131 of the Code of Ordinances.	D	city received		

CERTIFICATE OF SUBSTANTIAL COMPLETION ISSUED BY

JONES | CARTER

CONSTRUCTION OF VILLAS OF MIA LAGO, SECTION II

August 9, 2018

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

CONTRACTOR: Randy Roan Construction, LLC  
O.B.O Estate of Mia Lago, Ltd  
5123 Hiltonview Road  
Houston, TX 77086-1310

CONTRACT: Construction of Villas of Mia Lago Section II  
City of Montgomery

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

We recommend that the **OWNER** issue the **CONTRACTOR** a Certificate of Acceptance of the Work. We also recommend that the Contractor's guarantee period of 1 year begin August 14, 2018.



Sincerely,

Chris Roznovsky, PE  
Engineer for the City

CVR/jim:lr2

P:\PROJECTS\W5841 - City of Montgomery\W5841-1015-00 - Villas of Mia Lago, Section Two\Substantial Completion.doc

cc: Mr. Jack Yates – City of Montgomery, City Administrator  
Ms. Susan Hensley – City of Montgomery, City Secretary  
Mr. Larry Foerster – Darden, Fowler and Creighton, LLP, City Attorney  
Mr. Nick Liberatore- Select Earth, LLC



JONES | CARTER

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



**DPK Engineering LLC**  
**Land Development – Site Development - Municipal**

PO Box 823  
Fulshear, Texas 77441  
Tel: 281-346-2616  
Cell : 281-300-1869

July 20, 2018

City of Montgomery Texas  
101 Old Plantersville Rd.  
Montgomery, TX 77316

Re: Substantial Completion  
Villas of Mia Lago Section 2

City of Montgomery Texas,

The Villas of Mia Lago, Section Two Subdivision has completed the streets, utilities and drainage and is in accordance with the engineering specifications and construction plans. The roadway was tested during construction by a certified lab and verified by the engineer. This project is now substantially complete.

If you have any questions or concerns feel free to contact me.

Respectfully Submitted,



**David P. Kelly II, P.E.**  
**DPK Engineering LLC**

MAINTENANCE BOND

STATE OF TEXAS                   §  
  §     KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF MONTGOMERY       §

THAT Randy Roan Construction, Inc. of the City of Montgomery, County of Montgomery, and State of Texas, as PRINCIPAL, and SureTec Insurance Company is/are authorized under the Laws of the State of Texas to act as SURETY on bonds for PRINCIPAL, as SURETY, are held and firmly bound unto **City of Montgomery, Texas** as OWNER, in the penal sum of Two Hundred Nine Thousand Seven Hundred Nineteen Dollars and Eighty Cents (\$209,719.80) for the payment whereof, the said PRINCIPAL and SURETY bind themselves, and their officers, directors, successors and assigns, jointly and severally, pursuant to the following:

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the 8th day of August, 2018, for construction of:

**Villas of Mia Lago Improvements  
to serve  
City of Montgomery, Texas**

which contract is hereby referred to and make a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if said PRINCIPAL shall perform regular maintenance and shall repair, replace and restore any and all defects for work provided in said Contract for a period of one (1) year from the date of acceptance of said work from defects in materials furnished by, or workmanship of the contractor or subcontractor performing the work covered by said contract, then this obligation shall be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Article 5160 for Public Work of the Revised Civil Statutes of Texas as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Article to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in anyway affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument the 8th day of August, 2018.

Randy Roan Construction, Inc.  
Principal

SureTec Insurance Company  
Surety

By: 

By: 

Title: President

Title: Attorney-in-fact

Address: 6052 N. FM 1486

Address: 1330 Post Oak Blvd. Suite 1100

Montgomery, Texas 77356

Houston, Texas 77056

(SEAL)

(SEAL)

The name and address of the Resident Agent of Surety is:

Kelly J. Brooks, Southern American Insurance Agency, Inc.  
13823 Schmidt Road, Cypress, Texas 77429

The name, mailing address, physical address and telephone number, including the area code, of the Surety to which any notice of claim should be sent:

SureTec Insurance Company Atten: Claims  
9737 Great Hills Trail, Suite 320  
Austin, Texas 78714-9104  
866-732-0099

# SureTec Insurance Company

## LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

C. A. McClure, Kelly J. Brooks, Kenneth L. Meyer, Michelle Ulery

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety for, providing the bond penalty does not exceed

Fifteen Million and 00/100 Dollars (\$15,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney-in-Fact may do in the premises. Said appointment shall continue in force until 12/31/2018 and is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

*Be it Resolved*, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

*Attorney-in-Fact* may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

*Be it Resolved*, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. (Adopted at a meeting held on 20<sup>th</sup> of April, 1999.)

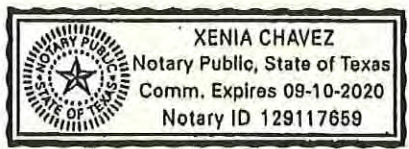
In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its President, and its corporate seal to be hereto affixed this 27<sup>th</sup> day of January, A.D. 2017.

SURETEC INSURANCE COMPANY  
By: [Signature]  
John Knox Jr., President



State of Texas ss:  
County of Harris

On this 27<sup>th</sup> day of January, A.D. 2017 before me personally came John Knox Jr., to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is President of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.



[Signature]  
Xenia Chavez, Notary Public  
My commission expires September 10, 2020

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 8<sup>th</sup> day of August, 2018, A.D.  
[Signature]  
M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.  
For verification of the authority of this power you may call (713) 812-0800 any business day between 8:00 am and 5:00 pm CST.

**CERTIFICATE OF ACCEPTANCE**

Randy Roan Construction, LLC  
O.B.O Estate of Mia Lago, Ltd  
5123 Hiltonview Road  
Houston, TX 77086-1310

Re: Construction of Villas of Mia Lago Section II  
City of Montgomery

Gentlemen:

This is to certify that City of Montgomery accepts the subject project on the basis of the Certificate of Substantial Completion issued by engineers from, Jones|Carter and DPK Engineers, LLC, and understands that a guarantee shall cover a period of one (1) year beginning August 14, 2018.

By: \_\_\_\_\_

**Mr. Jack Yates**  
**City Administrator, City of Montgomery**

Approved by City Council on: \_\_\_\_\_

P:\PROJECTS\W5841 - City of Montgomery\W5841-1015-00 - Villas of Mia Lago, Section Two

cc: Mr. Jack Yates – City of Montgomery, City Administrator  
Ms. Susan Hensley – City of Montgomery, City Secretary  
Mr. Larry Foerster – Darden, Fowler and Creighton, LLP, City Attorney  
Mr. Nick Liberatore – Select Earth, LLC

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits:</b> Ballot information from MCEDC, Ballot
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is to vote for the board member to the Montgomery County Emergency Communications District Board

**Description**

The information from the District Executive Director states that one person was nominated, Jack Yates. That nomination came from the city of Oak Ridge North, city of Shenandoah, city of Willis, city of Stagecoach and the city of Montgomery.

As to the Council's direction to me, to get assistance in my work, an advertisement has been made, 16 applications accepted and I interviewed two people. One of the people interviewed backed out of applying, so I am going to the second tier of applications today (Friday) and will conduct more interviews next week. I expect to have someone hired and in place before October 1st the beginning of the MCEDC board tenure.

**Recommendation**

Motion to vote for Jack Yates.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
--------------------	------------	----------------------



Montgomery County Emergency Communication District

August 1, 2018

Mayor Sara Countryman  
City of Montgomery  
Post Office Box 708  
Montgomery, Texas 77356

Dear Mayor Countryman:

As previously notified, Vicky Rudy's service on the Board of Manager of the Montgomery County Emergency Communication District will expire on September 30, 2018. Ms. Rudy was elected to serve in one of the two positions that represent all the cities in the county. Ms. Rudy is retiring from the City of Oak Ridge North and in unable to serve again as a city appointee. Nominations were requested for any qualified individual willing to serve a two-year term, expiring September 30, 2020. Mr. Jack Yates, City Administrator for the City of Montgomery was the only candidate nominated. Nominations were received from:

Mayor Kuykendall, City of Oak Ridge North  
Mayor Wheeler, City of Shenandoah  
Mayor Reed, City of Willis  
Mayor Mansee, City of Stagecoach  
Mayor Countryman, City of Montgomery

Enclosed with this letter is a ballot for the election based on the nominations received. Please return it as soon as possible but no later than close of business on September 14, 2018.

Thank you for your participation in selecting a member of the MCECD Board of Managers. If you should have any questions, please call me at (936) 523-5915.

Sincerely,

Chip VanSteenberg  
Executive Director

Enclosure

**Mayors of the Cities and Towns of Montgomery County  
9-1-1 Board of Managers Appointment for  
October 1, 2018 - September 30, 2020  
BALLOT**

**Nominee**

**Place an "X" in the box for your Candidate**

**Jack Yates, nominated by Mayor Kuykendall, Oak Ridge North**

-----  
-----  
-----

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Signature: -----

Printed Name: -----

Date: -----

City: -----

***Please complete and fax to (936) 539-9111, or email to [tgill@mc911.org](mailto:tgill@mc911.org) no later than close of business on September 14, 2018.***



Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits: The Feasibility Study</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is to consider approval of the analysis of feasibility for the “Louisa Street Development” water and sewer service and other development aspects.

**Description**

The study, in brief, says:

The water usage from the property will be approximately 6,480 gallons per day and the land is served by an 8 inch water line with interior development lines paid by the developer, with an analysis by the engineer that water service capacity is available from the city.

The sewer usage will be approximately 5400 gallons per day, in the land is served by an 8 inch sewer line with interior development lines to be paid by the developer, with an analysis of the engineer that there is sewer service capacity available from the city.

Four drainage, a detention pond will be required and must be designed for the city’s code of ordinances in the Montgomery County Drainage Criteria Manual with a drainage study to follow, prior to approval of construction plans.

For paving and traffic, Louisa Street is proposed to be extended through the development within a proposed 60 foot right-of-way, to be a public street. A variance on the turn radii will be proposed. Presently the land plan provides only one point of access onto SH105, per the city’s thoroughfare plan a thoroughfare is proposed to run East and West South of the tract as shown in appendix a of the enclosed study the city may want to require the developer to extend the proposed public right-of-way to the track boundary to allow for future extension to connect to the future thoroughfare.

Montgomery City Council  
**AGENDA REPORT**

Development cost summary: water and sewer line extensions		\$147,000
	Escrow account	21,000
	Water impact fee	20,268
	Wastewater impact fee	<u>45,234</u>
	Subtotal	\$233,502

A summary of the report is on page 6

**Recommendation**

Motion to Approve feasibility study for the Louisa Street Development as presented.

**Approved By**

City Administrator

Jack Yates

Date: August 8, 2018

**ANALYSIS OF FEASIBILITY FOR  
THE CITY OF MONTGOMERY  
TO PROVIDE WATER AND SANITARY SEWER SERVICE  
TO A PROPOSED 13.536-ACRE DEVELOPMENT  
“LOUISA STREET DEVELOPMENT”**

**August 2018**



**JONES | CARTER**

Texas Board of Professional Engineers Registration No. F-439



1575 Sawdust Road, Suite 400  
The Woodlands, Texas 77380  
Tel: 281.363.4039  
Fax: 281.363.3459  
[www.jonescarter.com](http://www.jonescarter.com)

August 8, 2018

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

Re: Proposed 13.536-Acre Development Feasibility Study  
Louisa Street Development (Dev. No. 1809)  
City of Montgomery ETJ

Dear Mayor and Council:

On June 14, 2018, Mr. Josh Cheatham (the "Developer") submitted an application for utility service of lands situated in the southern portion of the City of Montgomery (the "City"). We are pleased to present this analysis of the feasibility for the City to provide water and sanitary sewer service to the referenced 13.536-acre tract (the "Tract"). The purpose of the feasibility is to determine if water system and sanitary sewer system capacity is available, to determine how the existing public utilities will need to be upgraded or extended to serve the Tract, and to offer clarity on the potential financial impact of the development.

### **General**

This undeveloped Tract is located adjacent to the southern end of Louisa Street south of SH 105. The entirety of the Tract falls within the City's current City limits. An exhibit displaying the Tract boundary is enclosed as Appendix A. A preliminary site plan submission is enclosed as Appendix B and indicates the Developer intends to subdivide the Tract into eighteen single family tracts of approximately 0.5 acres each. The estimates included in this feasibility are based on the anticipated land use provided by the Developer. The Tract is currently zoned as R1 residential and is proposed to remain R1 residential. Appendix A shows the current zoning of the Tract and surrounding properties. The final land plan may affect the estimated costs and revenues associated with the development.

The Developer has requested the City consider a land swap to allow the developer to acquire a portion of the unused Water Plant No. 2 site in exchange for land elsewhere in the City. We are working with the developer and City Staff to determine suitable alternatives for a mutually beneficial land swap site.



City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 2  
August 8, 2018

### **Water Production and Distribution**

The City has three active water wells and two existing water plants with an average daily flow capacity of 598,000 gallons per day (“gpd”). The current ADF in the City is approximately 300,000 gpd. Inclusive of existing connections and ultimate future projected connections within current platted developments, the City has committed approximately 687,000 gpd or 115% of existing ADF capacity. A current summary of Development Acreages & Service Demands is enclosed as Appendix C.

Based upon the information provided by the Developer, the Tract’s water capacity requirement is approximately 6,480 gpd (195,000 gallons per month). While the TCEQ minimum capacity requirement for the Tract is 6,480 gpd (based on an estimated 360 gpd/ESFC), annual average flows for the City indicate that the Tract’s requirement will be below the amount requested by the Developer and TCEQ minimums. The estimated water capacity requirement is 5,400 gpd (162,000 gallons per month) based upon the City’s historical usage.

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

The Tract will be served by extending an 8-inch waterline from Water Plant No. 2 to the proposed western right-of-way (“ROW”) of Louisa Street, as shown on Appendix D. Appendix E contains a cost estimate for the proposed waterline extension. The Developer will be responsible for all costs associated with this waterline extension, and required easements.

The ultimate alignment of waterlines interior to the Tract will depend on the final land plan of the proposed development. The proposed waterline along Louisa Street will be required to be 8-inches in diameter and extend the entire length of Louisa Street to allow for future extensions. These waterlines will need to be placed in public utility easements located along public ROW or placed within public ROW interior to the development and constructed per all applicable City and TCEQ design criteria. The Developer will be responsible for all costs associated with easement acquisitions and recordation. The proposed easements will be based on the City’s requirements and will be reviewed in advance of recordation.



City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 3  
August 8, 2018

The Developer is responsible for providing engineered plans and specifications for the water distribution system interior to the development and the public 8-inch waterline to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

### **Sanitary Sewer Collection and Treatment**

The City's existing wastewater facilities consist of 14 public lift stations, four semi-public lift stations, and two wastewater treatment plants (one of which is currently decommissioned). The Stewart Creek wastewater treatment plant (TPDES Permit No. WQ0011521001) has a permitted capacity of 400,000 gpd. The current ADF at the Stewart Creek Wastewater Treatment Plant is approximately 155,000 gpd.

Inclusive of existing connections and platted developments which are in design or under construction, the City has committed approximately 487,000 gpd or 122% of existing permitted capacity. A current summary of Development Acreages & Service Demands is enclosed in Appendix C.

Based upon the information provided by the Developer, the Tract's sanitary sewer capacity requirement is approximately 5,400 gpd (162,000 gallons per month). Based upon the City's historical usage, the estimated sanitary sewer capacity requirement is 4,050 gpd (122,000 gallons per month).

The TCEQ requires the City to initiate design of a wastewater treatment capacity expansion when the ADF exceeds 75% of the City's 400,000 gpd permitted capacity for 3 consecutive months. The ADF for the City, including this Tract and other tracts under design/feasibility, is not expected to exceed 75% of the permitted capacity (300,000 gpd) until the year 2020-2021. Additionally, the TCEQ requires the commencement of the construction phase of the expansion after 3 consecutive months of ADF exceeding 90% of the permitted capacity (360,000 gpd). This is not expected to occur until the year 2022. As the projects shown in Appendix C achieve full development, the City should be prepared to initiate aggressive planning for additional treatment capacity.

The Tract will be served by extending an 8-inch public sanitary sewer line from the existing 8-inch sanitary sewer line located on the western ROW of Pond Street. The proposed sanitary sewer line will be extended west to the east ROW of Louisa Street then south to the northern boundary of the Tract. The Developer will be responsible for delivery of sanitary sewer service from the Tract to this location by means of gravity sanitary sewer line. As can be seen in Appendix D, the existing sanitary sewer line extending southwest of the line located at the intersection of Pond and Liberty will need to be plugged and abandoned in place and removed as necessary. The existing public sanitary sewer line at this location ultimately flows to Lift Station No. 3 ("LS No. 3"). Appendix E contains a construction cost estimate for the proposed work. The Developer will be responsible for all costs associated with this sanitary sewer line extension and required easements.



City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 4  
August 8, 2018

The ultimate alignment of sanitary sewer lines interior to the Tract will depend on the final land plan of the proposed development. These sanitary sewer lines will need to be placed in public utility easements located along public ROW or placed within public ROW interior to the development and constructed per all applicable City and TCEQ design criteria. The Developer will be responsible for all costs associated with easement acquisitions and recordation.

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

#### **Drainage**

The onsite storm sewer system will be designated public and accepted by the City upon completion of the development. The proposed detention pond will be private and will require maintenance and upkeep by a Property Owners Association or similar entity. The Developer will be responsible for obtaining an easement from the neighboring property owner to discharge the detention pond across the neighboring property to the receiving stream. All drainage and detention improvements must be designed per the City's Code of Ordinances requiring compliance with the City's floodplain regulations and all applicable Montgomery County Drainage Criteria Manual Standards. Failure to design and construct the drainage and detention facilities per Montgomery County criteria potentially jeopardizes eligibility for acceptance by the City.

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

#### **Paving and Traffic**

Per the preliminary land plan submitted by the developer, Louisa Street is proposed to be extended through the development within a proposed 60 foot ROW. The extension proposed is to be public and accepted by the City. It is our understanding the Developer's proposed land plan would require variances to the turn radii requirements of the proposed design of Louisa Street's extension into the Tract. The Developer is responsible for providing engineered plans and specifications for the roads interior to the development to the City Engineer for review and approval prior to commencing



City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 5  
August 8, 2018

construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

Currently, the preliminary land plan only provides for one point of access for the eighteen-lot development from Louisa Street onto SH 105. Per the City's thoroughfare plan, a thoroughfare is proposed to run east-west south of the tract, as shown on Appendix A. The City may wish to require the Developer to extend the proposed public ROW to the tract boundary to allow for a future extension to connect to the future thoroughfare. This would allow the residents an additional point of access to the development.

#### **Development Costs**

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

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

An escrow agreement has been entered into between the Developer and the City and funds have been deposited to cover the cost of this feasibility study. An estimated additional \$21,000 will be required to cover the City's remaining expenses for the development, which includes administrative costs, legal fees, plan reviews, developer and construction coordination, construction inspection, and one year warranty expenses. The fees calculation can be seen in Appendix G. These additional funds must be deposited into the escrow prior to any further work being completed by the city.

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

#### **Estimated Costs:**

• Waterline and Sanitary Sewer Line Extension	\$147,000
• Escrow Account	\$ 21,000
• Water Impact Fee	\$ 20,268
• Wastewater Impact Fee	<u>\$ 45,234</u>
<b>Subtotal</b>	<b><u>\$233,502</u></b>





City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 6  
August 8, 2018

The estimate is based on the projected water and wastewater usage provided by the developer. The actual costs will depend on the final land plan, final design, and actual construction costs.

### **Financial Feasibility**

The Developer projects the home sales prices to be between \$400,000 and \$600,000. The Developer estimates the total assessed value (A.V.) the project will attain at full development to be approximately \$9,000,000. Based on the estimated total A.V. and assuming 95% collection, the development would generate approximately \$18,058 per year in debt service revenue based on the City's \$0.2112/\$100 valuation debt service tax rate, and approximately \$17,468 per year in maintenance and operations revenue based on the City's \$0.2043/\$100 valuation Operations & Maintenance (O&M) tax rate.

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

### **Summary**

- The 13.536-acre tract lies inside of the current city limits.
- The Tract is comprised of approximately eighteen homes with an estimated sales price per home between \$400,000 and \$600,000.
- Extension of public utilities is required to serve the Tract.
- The City currently has water production capacity and wastewater treatment capacity to serve the Tract, but needs to continue to aggressively plan for expansion of City facilities to meet projected future demands.
- The Developer must deposit an additional \$21,000 with the City to go toward the escrow account to cover future estimated costs.
- The Developer will be responsible for the cost of the public and private utility extensions necessary to serve the Tract.
- The Developer would need to pay water and wastewater system impact fees in the amounts of \$20,268 and \$45,234, respectively for a total estimated amount of \$65,502.
- The development results in an increase in assessed valuation of \$9,000,000 and additional tax revenue to the City of approximately \$35,526 annually.



City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 7  
August 8, 2018

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



Sincerely,

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

Chris Roznovsky, PE

CVR\msm

K:\W5841\W5841-1809-00 Louisa Street Single Family Development\2 Design Phase\Reports\Louisa Lane Feasibility Report.doc

Attachments

Appendix A-G

cc: The Planning and Zoning Commission – City of Montgomery  
Mr. Jack Yates – City of Montgomery, City Administrator  
Ms. Susan Hensley – City of Montgomery, City Secretary  
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP  
Mr. Jonathan White, PE – L<sup>2</sup> Engineering  
Mr. Josh Cheatham – Developer

**Appendix A**  
**Proposed 13.536-Acre Louisa Street Development**  
**Boundary, Zoning, & Thoroughfare Map**



**ANALYSIS OF FEASIBILITY FOR  
THE CITY OF MONTGOMERY  
TO PROVIDE WATER AND SANITARY SEWER SERVICE  
TO A PROPOSED 13.536-ACRE DEVELOPMENT  
“LOUISA STREET DEVELOPMENT”**

**August 2018**



**JONES | CARTER**

Texas Board of Professional Engineers Registration No. F-439



1575 Sawdust Road, Suite 400  
The Woodlands, Texas 77380  
Tel: 281.363.4039  
Fax: 281.363.3459  
[www.jonescarter.com](http://www.jonescarter.com)

August 8, 2018

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

Re: Proposed 13.536-Acre Development Feasibility Study  
Louisa Street Development (Dev. No. 1809)  
City of Montgomery ETJ

Dear Mayor and Council:

On June 14, 2018, Mr. Josh Cheatham (the “Developer”) submitted an application for utility service of lands situated in the southern portion of the City of Montgomery (the “City”). We are pleased to present this analysis of the feasibility for the City to provide water and sanitary sewer service to the referenced 13.536-acre tract (the “Tract”). The purpose of the feasibility is to determine if water system and sanitary sewer system capacity is available, to determine how the existing public utilities will need to be upgraded or extended to serve the Tract, and to offer clarity on the potential financial impact of the development.

### **General**

This undeveloped Tract is located adjacent to the southern end of Louisa Street south of SH 105. The entirety of the Tract falls within the City’s current City limits. An exhibit displaying the Tract boundary is enclosed as Appendix A. A preliminary site plan submission is enclosed as Appendix B and indicates the Developer intends to subdivide the Tract into eighteen single family tracts of approximately 0.5 acres each. The estimates included in this feasibility are based on the anticipated land use provided by the Developer. The Tract is currently zoned as R1 residential and is proposed to remain R1 residential. Appendix A shows the current zoning of the Tract and surrounding properties. The final land plan may affect the estimated costs and revenues associated with the development.

The Developer has requested the City consider a land swap to allow the developer to acquire a portion of the unused Water Plant No. 2 site in exchange for land elsewhere in the City. We are working with the developer and City Staff to determine suitable alternatives for a mutually beneficial land swap site.



City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 2  
August 8, 2018

### **Water Production and Distribution**

The City has three active water wells and two existing water plants with an average daily flow capacity of 598,000 gallons per day (“gpd”). The current ADF in the City is approximately 300,000 gpd. Inclusive of existing connections and ultimate future projected connections within current platted developments, the City has committed approximately 687,000 gpd or 115% of existing ADF capacity. A current summary of Development Acreages & Service Demands is enclosed as Appendix C.

Based upon the information provided by the Developer, the Tract’s water capacity requirement is approximately 6,480 gpd (195,000 gallons per month). While the TCEQ minimum capacity requirement for the Tract is 6,480 gpd (based on an estimated 360 gpd/ESFC), annual average flows for the City indicate that the Tract’s requirement will be below the amount requested by the Developer and TCEQ minimums. The estimated water capacity requirement is 5,400 gpd (162,000 gallons per month) based upon the City’s historical usage.

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

The Tract will be served by extending an 8-inch waterline from Water Plant No. 2 to the proposed western right-of-way (“ROW”) of Louisa Street, as shown on Appendix D. Appendix E contains a cost estimate for the proposed waterline extension. The Developer will be responsible for all costs associated with this waterline extension, and required easements.

The ultimate alignment of waterlines interior to the Tract will depend on the final land plan of the proposed development. The proposed waterline along Louisa Street will be required to be 8-inches in diameter and extend the entire length of Louisa Street to allow for future extensions. These waterlines will need to be placed in public utility easements located along public ROW or placed within public ROW interior to the development and constructed per all applicable City and TCEQ design criteria. The Developer will be responsible for all costs associated with easement acquisitions and recordation. The proposed easements will be based on the City’s requirements and will be reviewed in advance of recordation.



City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 3  
August 8, 2018

The Developer is responsible for providing engineered plans and specifications for the water distribution system interior to the development and the public 8-inch waterline to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

### **Sanitary Sewer Collection and Treatment**

The City's existing wastewater facilities consist of 14 public lift stations, four semi-public lift stations, and two wastewater treatment plants (one of which is currently decommissioned). The Stewart Creek wastewater treatment plant (TPDES Permit No. WQ0011521001) has a permitted capacity of 400,000 gpd. The current ADF at the Stewart Creek Wastewater Treatment Plant is approximately 155,000 gpd.

Inclusive of existing connections and platted developments which are in design or under construction, the City has committed approximately 487,000 gpd or 122% of existing permitted capacity. A current summary of Development Acreages & Service Demands is enclosed in Appendix C.

Based upon the information provided by the Developer, the Tract's sanitary sewer capacity requirement is approximately 5,400 gpd (162,000 gallons per month). Based upon the City's historical usage, the estimated sanitary sewer capacity requirement is 4,050 gpd (122,000 gallons per month).

The TCEQ requires the City to initiate design of a wastewater treatment capacity expansion when the ADF exceeds 75% of the City's 400,000 gpd permitted capacity for 3 consecutive months. The ADF for the City, including this Tract and other tracts under design/feasibility, is not expected to exceed 75% of the permitted capacity (300,000 gpd) until the year 2020-2021. Additionally, the TCEQ requires the commencement of the construction phase of the expansion after 3 consecutive months of ADF exceeding 90% of the permitted capacity (360,000 gpd). This is not expected to occur until the year 2022. As the projects shown in Appendix C achieve full development, the City should be prepared to initiate aggressive planning for additional treatment capacity.

The Tract will be served by extending an 8-inch public sanitary sewer line from the existing 8-inch sanitary sewer line located on the western ROW of Pond Street. The proposed sanitary sewer line will be extended west to the east ROW of Louisa Street then south to the northern boundary of the Tract. The Developer will be responsible for delivery of sanitary sewer service from the Tract to this location by means of gravity sanitary sewer line. As can be seen in Appendix D, the existing sanitary sewer line extending southwest of the line located at the intersection of Pond and Liberty will need to be plugged and abandoned in place and removed as necessary. The existing public sanitary sewer line at this location ultimately flows to Lift Station No. 3 ("LS No. 3"). Appendix E contains a construction cost estimate for the proposed work. The Developer will be responsible for all costs associated with this sanitary sewer line extension and required easements.



City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 4  
August 8, 2018

The ultimate alignment of sanitary sewer lines interior to the Tract will depend on the final land plan of the proposed development. These sanitary sewer lines will need to be placed in public utility easements located along public ROW or placed within public ROW interior to the development and constructed per all applicable City and TCEQ design criteria. The Developer will be responsible for all costs associated with easement acquisitions and recordation.

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

### **Drainage**

The onsite storm sewer system will be designated public and accepted by the City upon completion of the development. The proposed detention pond will be private and will require maintenance and upkeep by a Property Owners Association or similar entity. The Developer will be responsible for obtaining an easement from the neighboring property owner to discharge the detention pond across the neighboring property to the receiving stream. All drainage and detention improvements must be designed per the City's Code of Ordinances requiring compliance with the City's floodplain regulations and all applicable Montgomery County Drainage Criteria Manual Standards. Failure to design and construct the drainage and detention facilities per Montgomery County criteria potentially jeopardizes eligibility for acceptance by the City.

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

### **Paving and Traffic**

Per the preliminary land plan submitted by the developer, Louisa Street is proposed to be extended through the development within a proposed 60 foot ROW. The extension proposed is to be public and accepted by the City. It is our understanding the Developer's proposed land plan would require variances to the turn radii requirements of the proposed design of Louisa Street's extension into the Tract. The Developer is responsible for providing engineered plans and specifications for the roads interior to the development to the City Engineer for review and approval prior to commencing





City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 5  
August 8, 2018

construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

Currently, the preliminary land plan only provides for one point of access for the eighteen-lot development from Louisa Street onto SH 105. Per the City’s thoroughfare plan, a thoroughfare is proposed to run east-west south of the tract, as shown on Appendix A. The City may wish to require the Developer to extend the proposed public ROW to the tract boundary to allow for a future extension to connect to the future thoroughfare. This would allow the residents an additional point of access to the development.

### Development Costs

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

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

An escrow agreement has been entered into between the Developer and the City and funds have been deposited to cover the cost of this feasibility study. An estimated additional \$21,000 will be required to cover the City’s remaining expenses for the development, which includes administrative costs, legal fees, plan reviews, developer and construction coordination, construction inspection, and one year warranty expenses. The fees calculation can be seen in Appendix G. These additional funds must be deposited into the escrow prior to any further work being completed by the city.

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

#### Estimated Costs:

• Waterline and Sanitary Sewer Line Extension	\$147,000
• Escrow Account	\$ 21,000
• Water Impact Fee	\$ 20,268
• Wastewater Impact Fee	<u>\$ 45,234</u>
<b>Subtotal</b>	<b><u>\$233,502</u></b>

The estimate is based on the projected water and wastewater usage provided by the developer. The actual costs will depend on the final land plan, final design, and actual construction costs.

### **Financial Feasibility**

The Developer projects the home sales prices to be between \$400,000 and \$600,000. The Developer estimates the total assessed value (A.V.) the project will attain at full development to be approximately \$9,000,000. Based on the estimated total A.V. and assuming 95% collection, the development would generate approximately \$18,058 per year in debt service revenue based on the City's \$0.2112/\$100 valuation debt service tax rate, and approximately \$17,468 per year in maintenance and operations revenue based on the City's \$0.2043/\$100 valuation Operations & Maintenance (O&M) tax rate.

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

### **Summary**

- The 13.536-acre tract lies inside of the current city limits.
- The Tract is comprised of approximately eighteen homes with an estimated sales price per home between \$400,000 and \$600,000.
- Extension of public utilities is required to serve the Tract.
- The City currently has water production capacity and wastewater treatment capacity to serve the Tract, but needs to continue to aggressively plan for expansion of City facilities to meet projected future demands.
- The Developer must deposit an additional \$21,000 with the City to go toward the escrow account to cover future estimated costs.
- The Developer will be responsible for the cost of the public and private utility extensions necessary to serve the Tract.
- The Developer would need to pay water and wastewater system impact fees in the amounts of \$20,268 and \$45,234, respectively for a total estimated amount of \$65,502.
- The development results in an increase in assessed valuation of \$9,000,000 and additional tax revenue to the City of approximately \$35,526 annually.



City of Montgomery  
13.536-Acre Louisa Street Feasibility  
Page 7  
August 8, 2018

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



Sincerely,

  
Chris Roznovsky, PE

CVR\msm

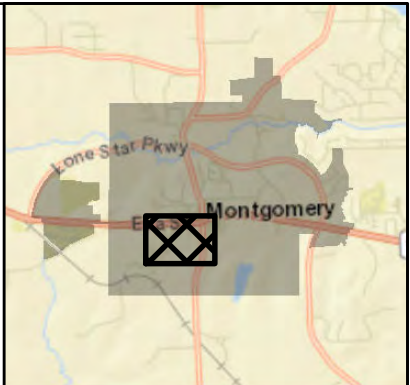
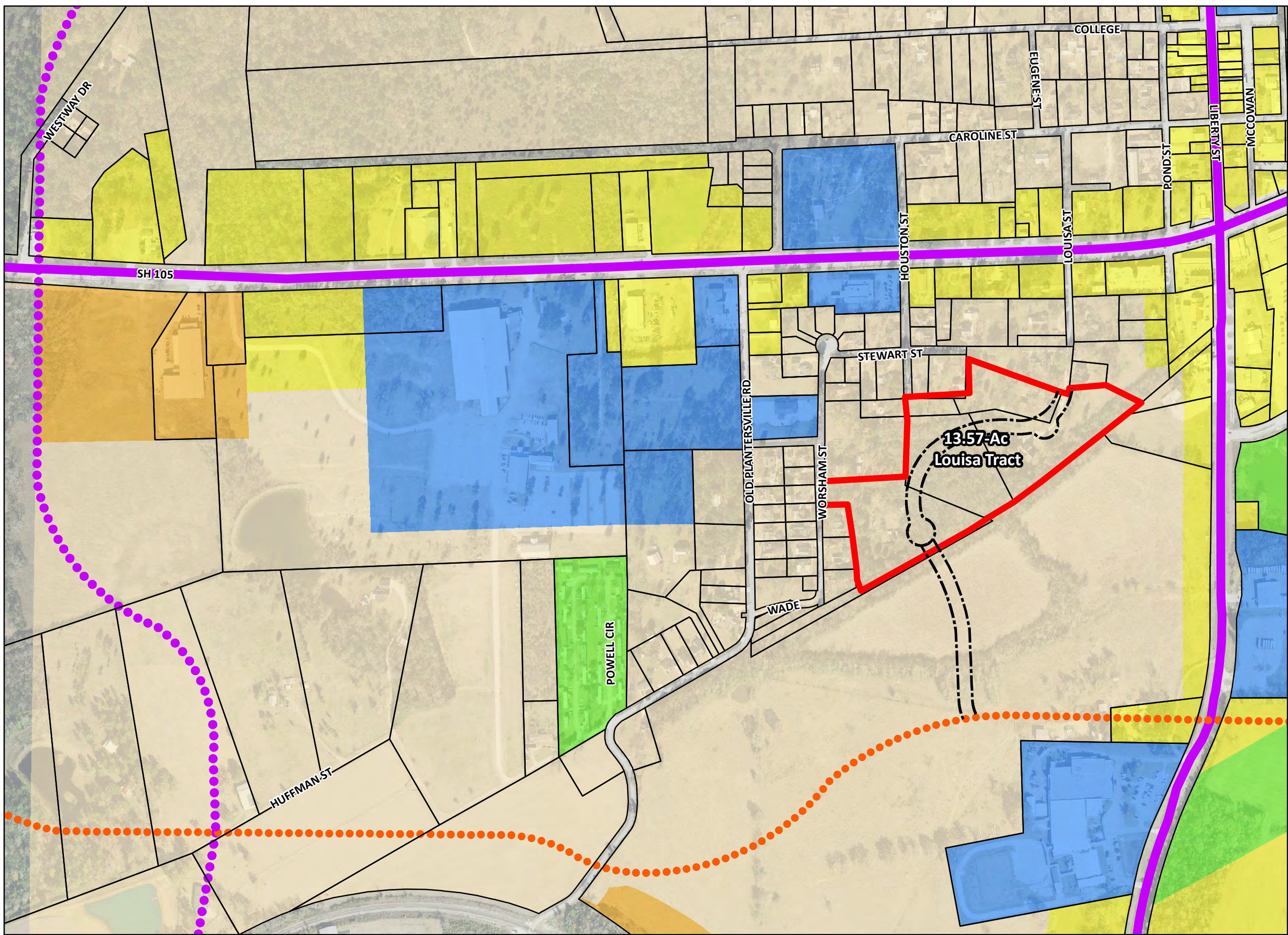
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Attachments

Appendix A-G  
cc: The Planning and Zoning Commission – City of Montgomery  
Mr. Jack Yates – City of Montgomery, City Administrator  
Ms. Susan Hensley – City of Montgomery, City Secretary  
Mr. Larry Foerster – Darden, Fowler & Creighton, LLP  
Mr. Jonathan White, PE – L<sup>2</sup> Engineering  
Mr. Josh Cheatham – Developer

**Appendix A**  
**Proposed 13.536-Acre Louisa Street Development**  
**Boundary, Zoning, & Thoroughfare Map**





**VICINITY MAP**

Scale: 1 inch equals 2 miles

**LEGEND**

- 13.57-Ac Tract Boundary
- MCAD Parcel
- Existing Thoroughfare
- Proposed Thoroughfare\*
- Existing Collector
- Proposed Collector\*

**ZONING CLASSIFICATION**

- COMMERCIAL
- INDUSTRIAL
- INSTITUTIONAL
- MULTI-FAMILY
- MULTI-USE
- RESIDENTIAL
- UNKNOWN

**13.57-AC LOUISA TRACT**

**CITY OF MONTGOMERY**  
MONTGOMERY COUNTY, TEXAS



**1 inch equals 400 feet**

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



**Appendix B**  
**Proposed 13.536-Acre Louisa Street Development**  
**Preliminary Site Plan**



S:\ENGINEERING PROJECTS\10442 - LOUISA LANE - CHEATHAM\03 CAD\DESIGN SET\X-SITEBASE-OP 1.DWG Jun. 12, 2018--12:40 PM



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21123 EVA STREET #200  
MONTGOMERY, TEXAS 77356  
OFFICE: 936-647-0400

# LOUISA LANE SITE PLAN OPTION 1

DRAWING INFORMATION			
DRAWN	GLH	PROJECT	10442
SCALE		EXHIBIT	
1" = 40' (24x36)		01	
1" = 80' (11x17)			

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW UNDER THE AUTHORITY OF:

E. LEVI LOVE, PE #99340  
OR  
JONATHAN WHITE, PE #127058

FOR REVIEW PURPOSES ONLY  
NOT FOR CONSTRUCTION

06/12/2018

**Appendix C**

**Proposed 13.536-Acre Louisa Street Development**

**Updated Development Acreages & Service Demands**





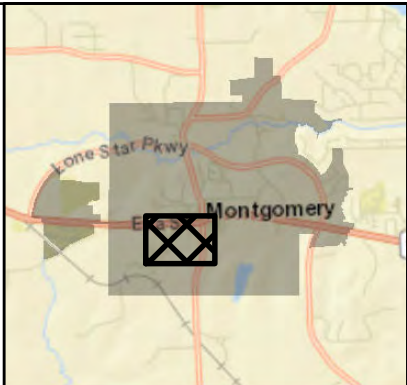
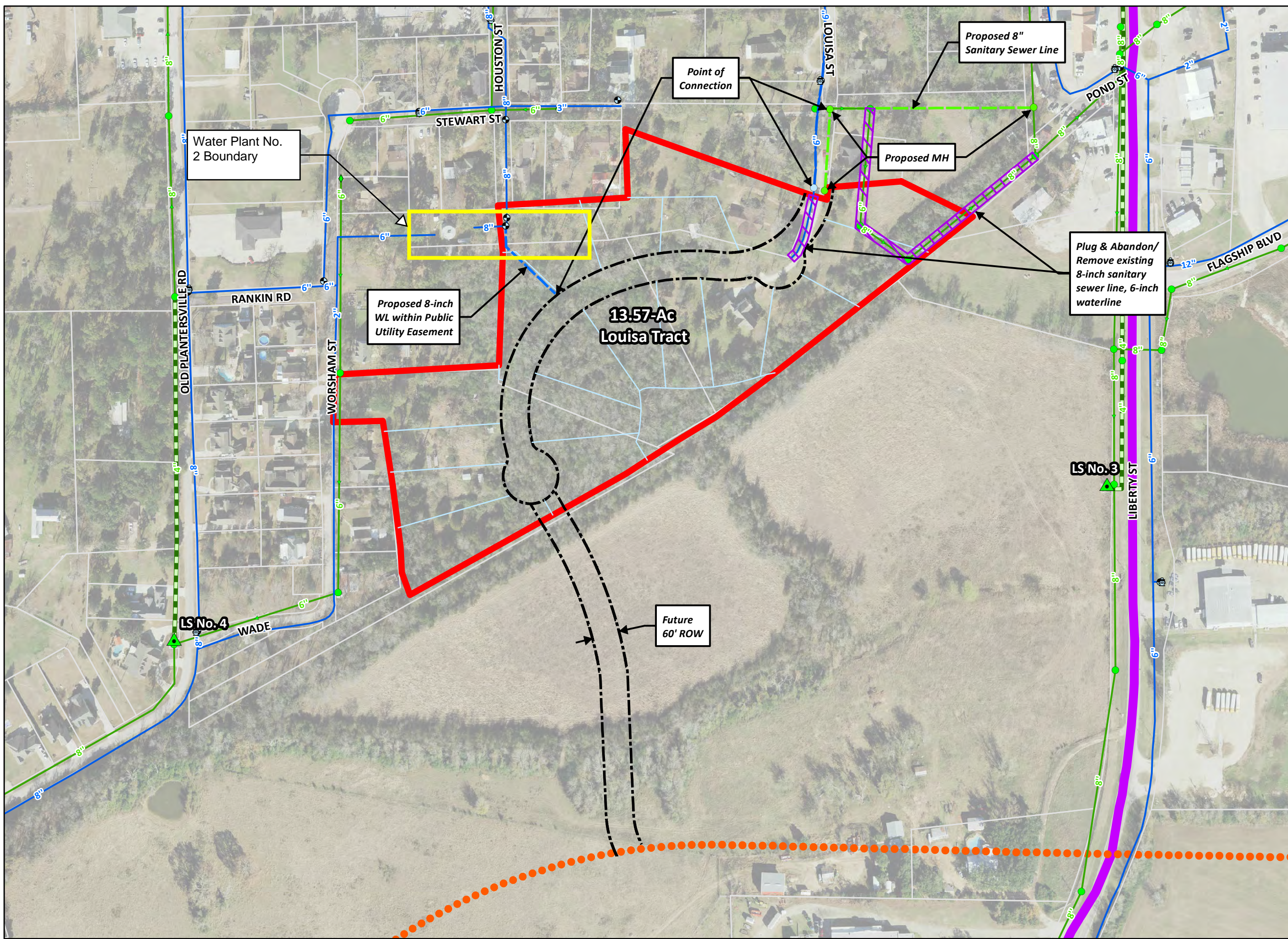
	Development Info & Capacities						Projected Additional Connections and Flow														
	Current Connections	Ultimate Connections	Water		Wastewater		2018			2019			2020			2021			2022		
			Current Actual	Ultimate	Current	Ultimate	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary
<b>Commercial/Multi Family per ESFC</b>			<b>360</b>	<b>360</b>	<b>250</b>	<b>300</b>															
<b>Single Family</b>			<b>250</b>	<b>300</b>	<b>150</b>	<b>225</b>															
<b>Single Family</b>																					
Buffalo Crossing	1	13	250	3,900	150	2,925		-	-	1	250	150	2	500	300	2	500	300	2	500	300
Buffalo Springs, Section 1	24	24	6,000	7,200	3,600	5,400		-	-		-	-		-	-		-	-		-	-
Buffalo Springs, Section 2	58	64	14,500	19,200	8,700	14,400		-	-		-	-		-	-		-	-		-	-
Estates of Mia Lago, Section 1	4	27	1,000	8,100			2	500	300	2	500	300	2	500	300	2	500	300	3	750	300
FM 149 Corridor	19	25	4,750	7,500	2,850	5,625	1	250		1	250		1	250		1	250		1	250	
Simonton and Lawson	12	23	3,000	6,900	1,800	5,175		-	-	1	250	150		-	-	1	250	150		-	-
Martin Luther King	47	55	11,750	16,500	7,050	12,375		-	-	1	250	150		-	-	1	250	150		-	-
Baja Road	7	11	1,750	3,300	1,050	2,475		-	-		-	-		-	-		-	-		-	-
Community Center Drive	3	3	750	900	450	675		-	-		-	-		-	-		-	-		-	-
Community Center Drive (Water Only)	8	10	2,000	3,000				-	-		-	-		-	-		-	-		-	-
Lake Creek Landing	15	15	3,750	4,500	2,250	3,375		-	-		-	-		-	-		-	-		-	-
Gulf Coast Estates, Section 2		3		900		675	1	250	150	1	250	150	1	250	150						
Lake Creek Village, Section 1	31	37	7,750	11,100	4,650	8,325	2	500	300	4	1,000	600									
Lake Creek Village, Section 2	21	45	5,250	13,500	3,150	10,125	5	1,250	750	6	1,500	900	6	1,500	900	6	1,500	900	6	1,500	900
Estates of Lake Creek Village	4	22	1,000	6,600	600	4,950	4	1,000	600	7	1,750	1,050	5	1,250	750	2	500	300			
Lone Star Estates	10	10	2,500	3,000	1,500	2,250		-	-		-	-		-	-		-	-		-	-
Hills of Town Creek, Section 2	32	51	8,000	15,300	4,800	11,475	4	1,000	600	7	1,750	1,050	7	1,750	1,050	2	500	300			
Hills of Town Creek, Section 3		49		14,700		11,025	4	1,000	600	7	1,750	1,050	7	1,750	1,050	7	1,750	1,050	7	1,750	1,050
Historic/Downtown	129	150	32,250	45,000	19,350	33,750	2	500	300	2	500	300	2	500	300	2	500	300	2	500	300
Terra Vista Section 1	12	61	3,000	18,300	1,800	13,725	5	1,250	750	10	2,500	1,500	10	2,500	1,500	10	2,500	1,500	10	2,500	1,500
Villas of Mia Lago Section 1	14	14	3,500	4,200	2,100	3,150		-	-		-	-		-	-		-	-		-	-
Villas of Mia Lago Section 2		42		12,600		9,450	6	1,500	900	10	2,500	1,500	10	2,500	1,500	10	2,500	1,500	6	1,500	900
Waterstone, Section 1	38	53	9,500	15,900	5,700	11,925		-	-	4	1,000	600	4	1,000	600	4	1,000	600	4	1,000	600
Waterstone, Section 2	4	89	1,000	26,700	600	20,025	2	500	300	4	1,000	600	4	1,000	600	4	1,000	600	10	2,500	1,500
West Side at the Park	5	11	1,250	3,300	750	2,475	3	750	450	2	500	300	1	250	150						
<b>Subtotal</b>	<b>498</b>	<b>907</b>	<b>124,500</b>	<b>272,100</b>	<b>72,900</b>	<b>195,750</b>	<b>41</b>	<b>10,250</b>	<b>6,000</b>	<b>71</b>	<b>17,750</b>	<b>10,500</b>	<b>66</b>	<b>16,500</b>	<b>9,600</b>	<b>57</b>	<b>14,250</b>	<b>8,100</b>	<b>48</b>	<b>12,000</b>	<b>6,750</b>
<b>Commercial Platted and Existing</b>																					
Buffalo Run, Section 1		6		20,000		16,600				1	3,300	2,700	1	3,300	2,700	1	3,300	2,700	1	3,300	2,700
Longview Greens Miniature Golf	1	1	300	300	250	250															
Summit Business Park, Phase 1	3	6	1,700	14,000	1,400	11,620				1	4,100	3,400	1	4,100	3,400	1	4,100	3,400			
Prestige Storage (SBP Res. D)	1	1	360	360	250	250															
McCoy's	1	1	360	360	250	250															
McCoy's Reserves B, C, & D		3		11,000		9,100				1	3,600	3,000				1	3,600	3,000			
Pizza Shack	1	1	4,000	4,000	3,320	3,320															
Virgin Development Tract	2	2	10,000	10,000	8,300	8,300															
KenRoc (Montgomery First)		3		20,000		17,000				1	6,600	5,600	1	6,600	5,600	1	6,600	5,600			
Dusty's Car Wash		1		4,000		3,800	1	4,000	3,800												
ProCore Developments		1		400		340				1	400	340									
Wendy's		1		1,500		1,245				1	1,500	1,245									
Madsen and Richards	1	1	405	405	340	340															
Kroger	2	2	4,000	4,000	3,300	3,300															
Burger King	1	1	850	850	700	700															
Buffalo Springs Shopping, Ph. I (Reserve B)	1	1	500	1,000	415	850															
Buffalo Springs Shopping, Ph. I (Reserve A2)		1		360		250				1	360	250									
Buffalo Springs Shopping, Ph. I (Reserve E)		1		3,000		2,100							1	3,000	2,100						
Buffalo Springs Shopping, Ph. I (Reserve D)		1		6,000		5,000										1	6,000	5,000			
Spirit of Texas Bank		1		500		415				1	500	4,158									
Heritage Place	1	1	360	1,200	250	1,000															
Buffalo Springs Shopping, Ph. 2		4		30,000		25,000															
BlueWave Car Wash		1		4,000		3,800	1	4,000	3,800	1	7,500	6,250	1	7,500	6,250	1	7,500	6,250	1	7,500	6,250
Brookshire Brothers	2	2	1,100	1,100	915	915															
Ransoms	1	1	1,500	1,500	1,245	1,245															
Heritage Medical Center	1	1	360	1,200	250	1,000															
Lone Star Pkwy Office Building	1	1	360	360	250	250															
Old Iron Work	1	1	300	300	250	250															
Apache Machine Shop	1	1	300	300	250	250															
Montgomery Community Center (lone star)	1	1	360	360	250	250															
Jim's Hardware	1	1	200	200	166	166															
Town Creek Storage	1	1	360	360	250	250															
Lake Creek Village 3 Commercial		5		30,000		24,000							1	6,000	4,800	1	6,000	4,800	1	6,000	4,800
Waterstone Commercial Reserve A	1	10	650	16,000	540	13,280				1	1,500	1,250	1	1,500	1,250	1	1,500	1,250	1	1,500	1,250
Waterstone Commercial Reserve B	1	1	360	4,300	250	3,600															
Waterstone Commercial Reserve C (State Farm)		1		405		340	1	405	340												
Waterstone Commercial Reserve D		1		4,000		3,200							1	4,000	3,200						
The Montgomery Shoppes		15		30,000		25,000				2	4,000	3,000	2	4,000	3,000	2	4,000	3,000	2	4,000	3,000
Burger Fresh	1	1	500	500	415	415															
Miscellaneous Commercial	78	78	40,000	40,000	33,000	33,000															
<b>Subtotal</b>	<b>106</b>	<b>164</b>	<b>69,185</b>	<b>268,120</b>	<b>56,806</b>	<b>222,241</b>	<b>3</b>	<b>8,405</b>	<b>7,940</b>	<b>12</b>	<b>33,360</b>	<b>31,193</b>	<b>10</b>	<b>40,000</b>	<b>32,300</b>	<b>10</b>	<b>42,600</b>	<b>35,000</b>	<b>6</b>	<b>22,300</b>	<b>18,000</b>

	Development Info & Capacities						Projected Additional Connections and Flow															
	Current Connections	Ultimate Connections	Water		Wastewater		2018			2019			2020			2021			2022			
			Current Actual	Ultimate	Current	Ultimate	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	
<b>Commercial/Multi Family per ESFC</b>			<b>360</b>	<b>360</b>	<b>250</b>	<b>300</b>																
<b>Single Family</b>			<b>250</b>	<b>300</b>	<b>150</b>	<b>225</b>																
<b>Multi Family</b>																						
Heritage Plaza, Phase 1 (Units)	80	80	4,500	9,000	4,000	7,200		1,875	1,500		1,875	1,500		1,875	1,500		1,875	1,500				
Mobile Home Park (connection)	29	29	4,000	4,000	3,300	3,300																
Town Creek Village, Phase I	152	152	11,000	18,000	10,000	16,000		1,750	1,500		1,750	1,500		1,750	1,500		1,750	1,500				
Montgomery Supported Housing	14	14	2,520	2,520	2,100	2,100																
Live Oak Assisted Living	1	1	1,500	1,500	1,000	1,000																
<b>Subtotal</b>	<b>276</b>	<b>276</b>	<b>23,520</b>	<b>35,020</b>	<b>20,400</b>	<b>29,600</b>	<b>-</b>	<b>3,625</b>	<b>3,000</b>	<b>-</b>	<b>3,625</b>	<b>3,000</b>	<b>-</b>	<b>3,625</b>	<b>3,000</b>	<b>-</b>	<b>3,625</b>	<b>3,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Institutional (Schools, City, Church)</b>																						
Churches	12	12	3,000	3,000	2,500	2,500																
MISD Athletic Complex	2	2	6,400	6,400	5,300	5,300																
MISD High School Complex	2	2	26,000	26,000	21,000	21,000																
MISD Warehouse (105/Clepper)	1	1	360	1,500	250	1,245																
Bus Barn	1	1	426	426	354	354																
MISD School (MLK)	2	2	3,250	3,250	2,700	2,700																
MISD School (149)	1	1	2,800	2,800	2,324	2,324																
City Hall	1	1	1,070	1,070	890	890																
Community Center	1	1	200	200	150	150																
Buffalo Spring Plant	1	1	360	360	250	250																
Cedar Brake Park Restrooms	1	1	200	200	150	150																
Fernland Park	1	1	200	200	150	150																
Homecoming Park Restrooms	1	1	200	200	150	150																
Water Plant No. 3	1	1	4,000	4,000	2,000	2,000																
<b>Subtotal</b>	<b>28</b>	<b>28</b>	<b>48,466</b>	<b>49,606</b>	<b>38,168</b>	<b>39,163</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Irrigation</b>																						
Single Family Residential	61	100	16,165	26,500	-	-	5	1,325	-	5	1,325	-	5	1,325	-	5	1,325	-	5	1,325	-	-
Commercial Irrigation	31	70	9,300	21,000	-	-	5	1,325	-	5	1,325	-	5	1,325	-	5	1,325	-	5	1,325	-	-
Multi-Family	4	7	1,060	1,855	-	-																
School	3	3	7,500	7,500	-	-																
Church	2	2	530	530	-	-																
City	9	9	4,500	4,500	-	-																
<b>Subtotal</b>	<b>110</b>	<b>191</b>	<b>39,055</b>	<b>61,885</b>	<b>-</b>	<b>-</b>	<b>10</b>	<b>2,650</b>	<b>-</b>	<b>10</b>	<b>2,650</b>	<b>-</b>	<b>10</b>	<b>2,650</b>	<b>-</b>	<b>10</b>	<b>2,650</b>	<b>-</b>	<b>10</b>	<b>2,650</b>	<b>-</b>	<b>-</b>
<b>Committed</b>	<b>1,018</b>	<b>1,566</b>	<b>304,726</b>	<b>686,731</b>	<b>188,274</b>	<b>486,754</b>	<b>54</b>	<b>24,930</b>	<b>16,940</b>	<b>93</b>	<b>57,385</b>	<b>44,693</b>	<b>86</b>	<b>62,775</b>	<b>44,900</b>	<b>77</b>	<b>63,125</b>	<b>46,100</b>	<b>64</b>	<b>36,950</b>	<b>24,750</b>	<b>-</b>
							<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>											
			<b>Total Projected Committed Volumes:</b>					<b>1,072</b>	<b>329,656</b>	<b>205,214</b>	<b>1,165</b>	<b>387,041</b>	<b>249,907</b>	<b>1,251</b>	<b>449,816</b>	<b>294,807</b>	<b>1,328</b>	<b>512,941</b>	<b>340,907</b>	<b>1,392</b>	<b>549,891</b>	<b>365,657</b>
<b>Future Development in Feasibility/Design</b>																						
Louisa Lane Development	-	18	-	5,400	-	4,050	3	900	675	5	1,500	1,125	5	1,500	1,125	5	1,500	1,125	5	1,500	1,125	
Peter Hill 5.7 Acre Feasibility	-	5	-	5,000	-	4,000	2	2,000	1,600	3	3,000	2,400	3	3,000	2,400							
<b>Subtotal</b>	<b>-</b>	<b>23</b>	<b>-</b>	<b>10,400</b>	<b>-</b>	<b>8,050</b>	<b>5</b>	<b>2,900</b>	<b>2,275</b>	<b>8</b>	<b>4,500</b>	<b>3,525</b>	<b>5</b>	<b>1,500</b>	<b>1,125</b>	<b>5</b>	<b>1,500</b>	<b>1,125</b>	<b>5</b>	<b>1,500</b>	<b>1,125</b>	
<b>Committed Plus Feasibility</b>	<b>1,018</b>	<b>1,589</b>	<b>304,726</b>	<b>697,131</b>	<b>188,274</b>	<b>494,804</b>																
							<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>											
			<b>Total Projected Committed Volumes Plus Feasibility</b>					<b>1,072</b>	<b>329,656</b>	<b>205,214</b>	<b>1,170</b>	<b>389,941</b>	<b>252,182</b>	<b>1,264</b>	<b>457,216</b>	<b>300,607</b>	<b>1,346</b>	<b>521,841</b>	<b>347,832</b>	<b>1,415</b>	<b>560,291</b>	<b>373,707</b>

	Development Info & Capacities						Projected Additional Connections and Flow																
	Current Connections	Ultimate Connections	Water		Wastewater		2018			2019			2020			2021			2022				
			Current Actual	Ultimate	Current	Ultimate	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary		
<b>Commercial/Multi Family per ESFC Single Family</b>			360	360	250	300																	
			250	300	150	225																	
<b>Potential Future Development (Within Current City Limits)</b>																							
HEB Tract (HEB store only)	-	1	-	25,000	-	17,500						1	25,000	17,500									
HEB Tract (pad sites only)	-	5	-	15,000	-	10,500						1	3,000	2,100	1	3,000	2,100	1	3,000	2,100	1	3,000	
Heritage Plaza, Phase 2	-	80	-	9,000	-	7,200						20	2,250	1,800	20	2,250	1,800	20	2,250	1,800	20	2,250	
Montgomery Forest	-	195	-	58,500	-	43,875						10	3,000	2,250	10	3,000	2,250	10	3,000	2,250	10	3,000	
Summit Business Park, Phase 2	-	6	-	4,400	-	3,100						2	1,450	1,030	2	1,450	1,030	2	1,500	1,040	2	1,500	
Town Creek Village, Phase 2	-	2	-	20,000	-	16,000									2	20,000	16,000						
J. Allen Kent	-	400	-	120,000	-	90,000						10	3,000	2,250	10	3,000	2,250	10	3,000	2,250	10	3,000	
Waterstone, Section 3	-	36	-	10,800	-	8,100									5	1,500	1,125	10	3,000	2,250	10	3,000	
Waterstone, Section 4	-	80	-	24,000	-	18,000												10	3,000	2,250	10	3,000	
Plez Morgan Commercial	-	7	-	10,500	-	8,700						1	1,500	1,250	1	1,500	1,250	1	1,500	1,250	1	1,500	
1097 Misc. Commercial	-	10	-	15,000	-	12,500						1	1,500	1,250	1	1,500	1,250	1	1,500	1,250	1	1,500	
Misc. Undeveloped (Commercial)	-	1,354	-	487,440	-	406,200						2	3,000	2,500	2	3,000	2,500	2	3,000	2,500	2	3,000	
Misc. Undeveloped (Single Family)	-	1,641	-	492,300	-	369,225						10	3,000	2,250	10	3,000	2,250	10	3,000	2,250	10	3,000	
Misc. Undeveloped (Industrial)	-	1	-	5,000	-	3,500						1	4,000	3,320	1	4,000	3,320	1	4,000	3,320	1	4,000	
<b>Subtotal</b>	-	<b>3,818</b>	-	<b>1,296,940</b>	-	<b>1,014,400</b>	-	-	-	27	13,700	11,150	59	50,700	37,500	65	47,250	37,135	76	30,250	23,470	76	30,250
<b>Potential Future Development (ETJ)</b>																							
Montgomery Ridge	-	488	-	175,680	-	122,000															25	9,000	6,250
80-Ac Mabry Single Family	-	368	-	112,140	-	87,500									10	2,500	1,500	10	2,500	1,500	10	2,500	
Stewart Landing	-	50	-	18,000	-	12,500						10	3,600	2,500	10	3,600	2,500	10	3,600	2,500	10	3,600	
90-AC Lone Star Parkway	-	225	-	81,000	-	56,250						10	3,600	2,500	10	3,600	2,500	10	3,600	2,500	10	3,600	
Misc. Undeveloped (Single Family)	-	6,370	-	1,146,600	-	859,950															5	7,500	6,250
Misc. Undeveloped (Commercial)	-	1,100	-	237,600	-	198,000						5	7,500	6,250	5	7,500	6,250	5	7,500	6,250	5	7,500	
<b>Subtotal</b>	-	<b>8,601</b>	-	<b>1,771,020</b>	-	<b>1,336,200</b>	-	-	-	5	7,500	6,250	25	14,700	11,250	35	17,200	12,750	60	26,200	19,000	60	26,200
<b>Potential Ultimate Totals</b>	<b>1,018</b>	<b>14,008</b>	<b>304,726</b>	<b>3,765,091</b>	<b>188,274</b>	<b>2,845,404</b>	<b>2018</b>			<b>2019</b>			<b>2020</b>			<b>2021</b>			<b>2022</b>				
							Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary	Connections	GPD Water	GPD Sanitary		
							1,072	329,656	205,214	1,202	411,141	269,582	1,380	543,816	366,757	1,562	672,891	463,867	1,767	767,791	532,212		
							<b>Total Potential Ultimate</b>																

**Appendix D**  
**Proposed 13.536-Acre Louisa Street Development**  
**Proposed Public Utilities**





**VICINITY MAP**  
Scale: 1 inch equals 2 miles

**LEGEND**

- Flush Valve
- Main Valve
- Waterline
- Cleanout
- Manhole
- Lift Station
- Force Main
- Gravity Main
- Proposed ROW
- Proposed Lot Line
- Proposed Water
- Proposed Sanitary
- Proposed Roadway
- 13.57-Ac Tract Boundary
- MCAD Parcel
- Existing Thoroughfare
- Proposed Thoroughfare\*
- Existing Collector
- Proposed Collector\*

**13.57-AC LOUISA TRACT**

**CITY OF MONTGOMERY**  
MONTGOMERY COUNTY, TEXAS



**1 inch equals 200 feet**

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



**Appendix E**  
**Proposed 13.536-Acre Louisa Street Development**  
**Cost Estimate**



**PRELIMINARY CONSTRUCTION COST ESTIMATE  
FOR  
LOUISA STREET SINGLE-FAMILY DEVELOPMENT  
CITY OF MONTGOMERY, TEXAS  
August 8, 2018**

Item No.	<u>Description</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Quantity</u>	<u>Total</u>
	<u>WaterLine</u>				
1.	8-inch (8") Waterline	LF	\$ 60	300	\$ 18,000
2.	Trench Safety System	LF	2	300	600
3.	Flushing Valves	EA	4,000	1	4,000
4.	8-Inch (8") Gate Valve	EA	2,500	1	2,500
5.	8-Inch (8") Plug & Clamp	EA	1,000	1	1,000
6.	Wet Connection to Existing 8-Inch (8") Waterline	EA	1,500	1	1,500
			Subtotal		<u>\$ 27,600</u>
	<u>Sanitary Sewer</u>				
7.	8-Inch (8") Sanitary Sewer Line by Open Cut	LF	\$ 75	610	\$ 45,800
8.	Trench Safety System	LF	2	610	1,300
9.	Sanitary Sewer Manhole	EA	5,000	3	15,000
10.	Remove 8-Inch (8") Sanitary Sewer Line	LF	5	200	1,000
11.	Cut, Plug & Abandon 8-Inch (8") Sanitary Sewer Line	EA	300	5	1,500
			Subtotal		<u>\$ 64,600</u>
	<u>Miscellaneous</u>				
13.	Move-in and Start-up	LS	\$ 10,000	1	\$ 10,000
14.	Traffic Control	EA	5,000	1	5,000
15.	Clearing and Grubbing	EA	5,000	1	5,000
16.	Storm Water Pollution Prevention	LS	5,000	1	5,000
17.	Hydro-mulch Seeding	LS	5,000	1	5,000
			Subtotal		<u>\$ 30,000</u>
			Subtotal		\$ 122,200
			Contingencies (20%)		<u>24,800</u>
			<b>Total Construction Cost</b>		<b>\$ 147,000</b> <sup>(1)</sup>

**Notes:**

<sup>(1)</sup> This estimate represents my best judgement as a design professional familiar with the construction industry. Jones & Carter, Inc. has no control over the cost of labor, materials or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding or market conditions. Accordingly, we cannot and do not guarantee that bids will not vary from this cost estimate.

**Appendix F**  
**Proposed 13.536-Acre Louisa Street Development**  
**Excerpt from Impact Fee Analysis**





**Table 1.1 September 2017 ESFC Table for Commonly Used Meters**

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

**Appendix G**  
**Proposed 13.536-Acre Louisa Street Development**  
**Escrow Calculation**



**ESCROW AGREEMENT, SECTION 2.03 ATTACHMENT**

**BY AND BETWEEN**

**THE CITY OF MONTGOMERY, TEXAS,**

**AND**

**Josh Cheatham**

**Dev. No. 1809**

THE STATE OF TEXAS                    ⤵

COUNTY OF MONTGOMERY            ⤵

As per section 2.03, the Feasibility Study completed an estimate of the additional escrow amount, which was determined for administration costs, legal fees, plan reviews, developer coordination, construction coordination, construction inspection, and warranty of services. The required additional amount is below:

Administration	\$ 1,000
City Attorney	\$ 1,000
City Engineer	\$ 19,000
<hr/>	
TOTAL	\$ 21,000

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: E-mails with Attorney Criag, Ordinance</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is to consider approval of the service and assessment plan Ordinance for the City PID # 1- The Summit Business Park.

**Description**

This is to approve the required annual assessment for PID No. 1 which consists almost completely of Michael Ogorchock. The Attorney who prepared the PID original document, Mallory Craig, will be present to explain the needed actions.

Basically, the Council approves as Assessment Roll and assesses a property tax rate that brings in enough to pay for the improvements already approved for the PID. Therefore, Mr. Ogorchock, until he sells more property in the district is the main payer to himself since he originally paid for the improvements.

**Recommendation**

Motion to Approve the Annual Update of the Service and Assessment Plan Ordinance for City of Montgomery PID No. 1

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
--------------------	------------	----------------------



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

---

**RE: City of Montgomery PID 1 - Annual SAP Update**

1 message

---

**Mallory J. Craig** <mcraig@coatsrose.com>

Fri, Jun 29, 2018 at 12:48 PM

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

Cc: Timothy Green <tgreen@coatsrose.com>, Mike Ogorchock <mike@summituniversal.com>

Jack,

Attached is a clean and redline of the proposed Annual Update to the Service and Assessment Plan for City of Montgomery PID No. 1. Please let us know if there are any questions.

Thanks,

**Mallory J. Craig**

*Associate Attorney*

COATS | ROSE

A PROFESSIONAL CORPORATION

**PLEASE NOTE:**

Effective June 1, 2018, our Houston Office address will now be:

9 Greenway Plaza, **Suite 1000**, Houston, Texas 77046

9 Greenway Plaza, **Suite 1000**

Houston, Texas 77046

Direct: 713.653.5709 Fax: 713.651.0220

mcraig@coatsrose.com

**From:** Yates, Jack [mailto: jyates@ci.montgomery.tx.us]  
**Sent:** Thursday, June 28, 2018 6:23 PM  
**To:** Mallory J. Craig <mcraig@coatsrose.com>  
**Cc:** Timothy Green <tgreen@coatsrose.com>; Mike Ogorchock <mike@summituniversal.com>  
**Subject:** Re: City of Montgomery PID 1 - Annual SAP Update

Yes you will be on the August 14 agenda. Please send me an advance whatever you want Council to approve.

On Thu, Jun 28, 2018 at 10:11 AM, Mallory J. Craig <mcraig@coatsrose.com> wrote:

Jack,

Can we plan on attending the August 14<sup>th</sup> City Council meeting to present the Annual Update to the Service and Assessment Plan for City of Montgomery PID No. 1? The update will look substantially the same as last year's, but with 2018 instead of 2017. This is because none of the other parcels have been triggered for assessment. Let us know if we can have this on the August 14<sup>th</sup> agenda, and I will get you the draft update soon.

Thank you,

**Mallory J. Craig**

*Associate Attorney*

COATS | ROSE

A PROFESSIONAL CORPORATION

**PLEASE NOTE:**

Effective June 1, 2018, our Houston Office address will now be:

9 Greenway Plaza, **Suite 1000**, Houston, Texas 77046

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Houston, Texas 77046

Direct: 713.653.5709 Fax: 713.651.0220

[mcraig@coatsrose.com](mailto:mcraig@coatsrose.com)

This e-mail and/or attachment is for the sole use of the intended recipient(s) and may contain confidential and/or legally privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

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**2 attachments**



**1229\_001.pdf**  
1823K



**Redline - 2018 AnnualUpdateSAP.pdf**  
391K

MINUTES AND CERTIFICATION FOR ORDINANCE

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

I, the undersigned City Secretary of the City of Montgomery, Texas (the "City"), do hereby certify as follows:

- 1. The City Council for the City convened in regular meeting on the 14th day of August, 2018 in the regular meeting place of the City Council at 101 Old Plantersville Road, Montgomery, Texas, and the roll was called of the duly constituted officials and members of said Council, to wit:

Sara Countryman Mayor
Jon Bickford Councilmember
John Champagne Councilmember
T.J. Wilkerson Councilmember
Rebecca Huss Councilmember
David McCorquodale Councilmember

and all of said persons were present, except \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY ACCEPTING AND APPROVING AN ANNUAL UPDATE TO THE SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR CITY OF MONTGOMERY PUBLIC IMPROVEMENT DISTRICT NO. 1; PROVIDING FOR PAYMENT OF THE ANNUAL INSTALLMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; AND PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE

was duly introduced for the consideration of said City Council and read in full. It was then duly moved and seconded that said Ordinance be adopted; and, after due discussion, said motion, carrying with it the adoption of said Ordinance, prevailed and carried by the following vote:

AYES: \_\_\_\_\_
NOES: \_\_\_\_\_
ABSTENTIONS: \_\_\_\_\_

- 2. That a true, full and correct copy of the aforesaid Ordinance adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said Ordinance has been duly recorded in said City Council's minutes of said meeting pertaining to the adoption of said Ordinance; that the above and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said meeting pertaining to the adoption of said Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, place and purpose of the aforesaid meeting, and that said Ordinance would be introduced and considered for adoption at said meeting; and each of said officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the date, hour, place, and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED on the 14th day of August, 2018.

Susan Hensley, City Secretary
Montgomery, Texas

(Seal)



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY ACCEPTING AND APPROVING AN ANNUAL UPDATE TO THE SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR CITY OF MONTGOMERY PUBLIC IMPROVEMENT DISTRICT NO. 1; PROVIDING FOR PAYMENT OF THE ANNUAL INSTALLMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; AND PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 30, 2014, Resolution No. 2014-2 was adopted by a majority of the members of the governing body of the City of Montgomery (the "Municipality") authorized the creation of City of Montgomery Public Improvement District No. 1 ("P.I.D. No. 1"), a public improvement district established pursuant to the Public Improvement District Act, Chapter 372, Texas Local Government Code, as amended (the "Act"); and in accordance with its finding as to the advisability of improvement projects and services within P.I.D. No. 1; and

WHEREAS, by Resolution No. 2015-03, effectively dated the 24<sup>th</sup> day of February, 2015, the governing body of the Municipality directed that the Proposed Assessment Roll be filed with the Secretary of the governing body of the Municipality for public inspection as required by the Act, directed that a hearing to be held on the 24th day of March, 2015, at 6:00 p.m. at which the governing body of the Municipality would consider approving the Service/Assessment Plan and the Assessment Roll of P.I.D. No. 1, respectively, and assessing assessments payable at the time and at the rate and in the amount proposed in the Service/Assessment Plan against each parcel of property in P.I.D. No. 1, as set forth in the Assessment Roll, and directed the Secretary of the governing body of the Municipality to give notice of the hearing in the manner required by the Act;

WHEREAS, the governing body of the Municipality conducted the hearing at 6:00 p.m. on the 24th day of March, 2015, at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Service/Assessment Plan, the Assessment Roll, and each proposed assessment, and offer testimony pertinent to any issue presented on the amount of the assessment, purpose of the assessment, special benefit of the assessment, and the penalties and interest on annual installments and on delinquent annual installments of the assessment;

WHEREAS, several persons appeared in support of the Service/Assessment Plan, and the levy of assessments as proposed in the Assessment Roll, including a representative of the owner of all the land located within P.I.D. No. 1;

WHEREAS, based on the evidence, information, and testimony provided to the City Council, the City Council found and determined that the Assessed Property would be specially benefited by the public improvement projects approved by the City Council and identified as the "Authorized Improvements" as set forth in the Service and Assessment Plan;

WHEREAS, based on the evidence, information, and testimony provided to the City Council, the City Council found and determined: (i) that the method of apportioning the cost of the Authorized Improvements against the Assessed Property and the real and true owners thereof as set forth in the Service and Assessment Plan is just and equitable; (ii) that such method of apportioning the cost would produce substantial equality considering the benefits to be received by and the burdens imposed on the Assessed Property; and (iii) that the assessments levied and charges declared against the Assessed Property and the real and true owners thereof as set forth in the Service and Assessment Plan are just and equitable; and

WHEREAS, after closing the public hearing on March 24, 2015, and after considering all evidence, information, and testimony provided to the City Council, and taking into consideration the fact that there were no written or oral objections to the proposed assessments, and further taking into consideration that the owners of 100% of the property liable for assessment consented to the proposed assessments, the governing body of the Municipality found and determined that the Service and Assessment Plan should be approved and the assessments should be levied as provided in the Assessment Roll;

WHEREAS, the governing body of the Municipality, after considering all evidence presented at the hearing, both written and documentary, and all written comments and statements filed with the Municipality, passed and adopted Ordinance No. 2015-02 approving the Service and Assessment Plan attached thereto;

WHEREAS, after the adoption of the Service and Assessment Plan, a portion of the property included within the boundaries of P.I.D. No. 1 has been developed and triggered the collection of the first annual installment of the Assessments on 6.1785 acres;

WHEREAS, pursuant to the Act, the Municipality has caused the preparation of an annual update of the Service and Assessment Plan and the Assessment Roll (the "Annual Service Plan") for the purpose of determining the annual budget for improvements and for making updates to the Assessment Roll to reflect the installment of Assessments to be collected for 2018;

WHEREAS, the City has determined that the Annual Service Plan reflects the amount of the Annual Installment of the Assessments, previously levied pursuant to Ordinance No. 2015-02; and

WHEREAS, a written notice of the date, hour, place and subject to this meeting of the City Council was posted at a place convenient to the public for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered, and formally acted upon.

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

Section 1. Terms.

Terms not otherwise defined herein are defined in the Annual Update to the Service and Assessment Plan attached hereto as Exhibit A (the "Annual Service Plan").

Section 2. Findings.

The findings and determinations set forth in the preambles are hereby incorporated by reference for all purposes. The governing body of the Municipality hereby finds, determines, and ordains, as follows:

(a) The Annual Service Plan should be approved;

(b) The Assessment Roll in the form attached as Appendix C to the Annual Service Plan (the "Assessment Roll") should be approved as the assessment roll for the P.I.D. No. 1 for the 2018 tax year; and

(c) The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Assessments, interest on Annual Installments, interest and penalties on delinquent Assessments and delinquent Annual Installments of the Assessments, and procedures in connection with the imposition and collection of Assessments are now and shall remain in effect and are applicable to the collection of the Annual Installments identified in the Annual Service Plan.

Section 3. Assessment Plan.

The Annual Service Plan is hereby accepted and approved.

Section 4. Assessment Roll.

The Assessment Roll attached to the Annual Service Plan is hereby accepted and approved.

Section 5. Severability.

If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 6. Effective Date.

This Ordinance shall take effect and become effective on upon passage and execution hereof.

PASSED, APPROVED, AND ADOPTED, this 14<sup>th</sup> day of August, 2018.

City of Montgomery

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Secretary

(SEAL)

**EXHIBIT A**  
**ANNUAL SERVICE PLAN**

**CITY OF MONTGOMERY**  
**PUBLIC IMPROVEMENT DISTRICT NO. 1**

**SERVICE AND ASSESSMENT PLAN**

*As updated*  
*8-14-2018*

CITY OF MONTGOMERY  
PUBLIC IMPROVEMENT DISTRICT NO. 1

SERVICE AND ASSESSMENT PLAN

Table of Contents

Section I	Plan Description and Defined Terms	3
Section II	Property Included in PID No. 1	7
Section III	Description of Authorized Improvements	8
Section IV	Service Plan	12
Section V	Assessment Plan	14
Section VI	Terms of the Assessments	18
Section VII	Assessment Roll	22
Section VIII	Miscellaneous Provisions	23

List of Appendixes

- Appendix A PID No. 1 Map
- Appendix B Estimated Costs of the Authorized Improvements
- Appendix C Assessment Roll

Section I  
PLAN DESCRIPTION AND DEFINED TERMS

A. Introduction

On September 30, 2014, the City of Montgomery City Council passed Resolution No. 2014-2 approving and authorizing the creation of City of Montgomery Public Improvement District No. 1 ("PID No. 1") to finance the costs of certain public improvements for the benefit of property in PID No. 1, all of which is located within the corporate limits of the City of Montgomery. This Service and Assessment Plan addresses the improvements to be provided for PID No. 1.

Chapter 372 of the Texas Local Government Code, "the Public Improvement Assessment Act" (as amended, the "PID Act"), governs the creation and operation of public improvement districts within the State of Texas. This Service and Assessment Plan has been prepared pursuant to Sections 372.013, 372.014, 372.015 and 372.016 of the PID Act. According to Section 372.013 of the PID Act, a service plan "must cover a period of at least five years and must also define the annual indebtedness and the projected costs for improvements. The plan shall be reviewed and updated annually for the purpose of determining the annual budget for improvements." The service plan is described in Section IV of this Service and Assessment Plan.

Section 372.014 of the PID Act states that "an assessment plan must be included in the annual service plan." The assessment plan is described in Section V of this Service and Assessment Plan.

Section 372.015 of the PID Act states that "the governing body of the municipality or county shall apportion the cost of an improvement to be assessed against property in an improvement district." The method of assessing the PID Costs and apportionment of such costs to the property in the PID No. 1 are included in Section V of this Service and Assessment Plan.

Section 372.016 of the PID Act states that "after the total cost of an improvement is determined, the governing body of the municipality or county shall prepare a proposed assessment roll. The roll must state the assessment against each parcel of land in the district, as determined by the method of assessment chosen by the municipality or county under this subchapter." The Assessment Roll for PID No. 1 is included as Appendix C of this Service and Assessment Plan. The Assessments as shown on the Assessment Roll are based on the method of assessment and apportionment of costs described in Section V of this Service and Assessment Plan.

Contemporaneously herewith, the City and Developer have entered into that certain Facilities and Creation Cost Reimbursement Agreement, dated March 24, 2015 (the "PID Reimbursement Agreement"). The PID Reimbursement Agreement contains a more detailed description of many of the concepts addressed in this Service and Assessment Plan, therefore, the two documents should be read as a whole in order to have a more complete understanding of the terms addressed in each of the agreements.

B. Definitions Capitalized terms used herein shall have the meanings ascribed to them as follows:

"**Administrator**" means the employee or designee of the City who shall have the responsibilities provided for herein or in any other agreement approved by the City Council relative to PID No. 1.

"**Administrative Expenses**" mean the costs associated with or incident to the administration, organization, maintenance and operation of PID No. 1, including, but not limited to, the costs of: (i) creating and organizing PID No. 1, including conducting hearings, preparing notices and petitions, and all



costs incident thereto, engineering fees, legal fees and consultant fees, and (ii) the annual administrative, organization, maintenance, and operation costs and expenses associated with, or incident and allocable to, the administration, organization, maintenance and operation of PID No. 1 and the Authorized Improvements, including the cost of each Annual Service Update Plan. Amounts collected in conjunction with Annual Installments for Administrative Expenses and not expended for actual Administrative Expenses shall be carried forward and applied to reduce Administrative Expenses in subsequent years to avoid the over-collection of Administrative Expenses.

**"Annual Collection Costs"** mean the following actual or budgeted costs, as applicable, related to the annual collection costs of outstanding Assessments paid in installments, including the costs or anticipated costs of: (i) computing, levying, collecting and transmitting the Assessments (whether by the City, the Administrator or otherwise), (ii) the City and the Administrator in the discharge of their duties relative to PID No. 1, and (iii) the City in any way related to the collection of the Assessments in installments, including, without limitation, the administration of PID No. 1, maintaining the record of installments, payments and reallocations and/or cancellations of Assessments, including, without limitation, any associated legal expenses, the reasonable costs of other consultants and advisors and contingencies for such costs. Annual Collection Costs collected and not expended for actual Annual Collection Costs shall be carried forward and applied to reduce Annual Collection Costs in subsequent years to avoid the over-collection of Annual Collection Costs.

**"Annual Installment"** means, with respect to each Parcel, each annual payment of the Assessment, as shown on the Assessment Roll attached hereto as Appendix C or an Annual Service Plan Update, and calculated as provided in Section VI of this Service and Assessment Plan.

**"Annual Service Plan Update"** has the meaning set forth in the first paragraph of Section IV of this Service and Assessment Plan.

**"Assessed Property"** means the property on which Assessments have been imposed as shown in the Assessment Roll, as the Assessment Roll is updated each year by the Annual Service Plan Update. Assessed Property includes Parcels within PID No. 1 other than Non-Benefited Property.

**"Assessment"** means the assessment levied against Parcels within PID No. 1 imposed pursuant to the Assessment Ordinance and the provisions herein as shown on the Assessment Roll, subject to reallocation upon the subdivision of such Parcel or reduction according to the provisions herein and the PID Act. The Assessment for a Parcel consists of the Annual Installments to be collected in all years and includes the Assessments, interest on the Assessments, and Collection Costs pertaining to the Assessment.

**"Assessment Ordinance"** means the ordinance approved by the City Council to approve the imposition of the Assessments.

**"Assessment Revenues"** mean the revenues actually received by the City from Assessments.

**"Assessment Roll"** means the document included in this Service and Assessment Plan as Appendix C, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act.

**"Authorized Improvements"** mean those public improvements described in Appendix B of this Service and Assessment Plan and Section 372.003 of the PID Act which are constructed pursuant to the PID Reimbursement Agreement, which are to be undertaken for the benefit of property in PID No. 1.

**"Authorized Improvement Costs"** mean the actual or budgeted costs, as applicable, of all or any portion of the Authorized Improvements, as shown in Appendix B.

**"Benefited Property"** means property within PID No. 1 that receives a benefit from the Authorized Improvements, which consists of all Parcels within PID No. 1 other than Non-Benefited Property. Benefited Property is identified on the map of PID No. 1 included in Appendix A, with a list of Parcels of Benefited Property included in Appendix C.

**"City"** means the City of Montgomery, Texas.

**"City Council"** means the duly elected governing body of the City.

**"Delinquent Collection Costs"** mean interest, penalties and expenses incurred or imposed with respect to any delinquent Annual Installments of an Assessment in accordance with §372.018(b) of the PID Act and the costs related to pursuing collection of a delinquent Assessment and foreclosing the lien against the Assessed Property, including attorneys' fees.

**"Developer"** means collectively, Ogorchock Investments, L.P., a Texas limited partnership and Ogorchock ATH, LLC .

**"Non-Benefited Property"** means Parcels within the boundaries of PID No. 1 that accrue no special benefit from the Authorized Improvements, including Owner Association Property, Public Property and easements that create an exclusive use for a public utility provider. Property identified as Non-Benefited Property at the time the Assessments (i) are imposed or (ii) are reallocated pursuant to a subdivision of a Parcel is not assessed. Assessed Property converted to Non-Benefited Property, if the Assessments may not be reallocated pursuant to the provisions herein remains subject to the Assessments and requires the Assessments to be prepaid as provided for in Section VI. C. 2.

**"Owner Association Property"** means property within the boundaries of PID No. 1 that is owned by or irrevocably offered for dedication to, whether in fee simple or through an exclusive use easement, a property owners' association.

**"Parcel"** or **"Parcels"** means a parcel or parcels within PID No. 1 identified by either a tax map identification number assigned by the Montgomery County Appraisal District for real property tax purposes or by lot and block number in a final subdivision plat recorded in the real property records of Montgomery County.

**"PID Act"** means Texas Local Government Code Chapter 372, Public Improvement Assessment Act, Subchapter A, Public Improvement Districts, as amended.

**"PID No. 1"** means City of Montgomery Public Improvement District No. 1.

**"PID Costs"** mean the portion of the Authorized Improvement Costs to be funded by PID No. 1 as explained in Section III.

**"Public Property"** means property within the boundaries of PID No. 1 that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, the City, a school district, a public utility provider or any other public agency, whether in fee simple or through an exclusive use easement.

**"Service and Assessment Plan"** means this Service and Assessment Plan prepared for PID No. 1 pursuant to the PID Act.

**"Trigger Date"** means with respect to an unimproved parcel, the date (i) the parcel is final platted, (ii) one or more permanent commercial structures are constructed thereon, and (iii) the city has issued a certificate of occupancy for such completed permanent structure(s); however, such date shall not be prior to September 1, 2018.

Section II  
PROPERTY INCLUDED IN THE PID

PID No. 1 is located within the corporate limits of the City of Montgomery, Texas and contains approximately 86.814 acres of land. A map of the property within PID No. 1 is shown on Appendix A to this Service and Assessment Plan. The property within PID No. 1 is proposed to be developed with warehouses or office warehouses.

Table II-A  
Proposed Commercial Development

Description	No. of Platted/Improved Acres
Various Commercial Reserves	72

The current Parcels in PID No. 1 are shown on the Assessment Roll and the map included as Appendix A.

The estimated number of Platted/Improved Acres at the build-out of PID No. 1 is estimated to be as follows:

72 net acres of commercial reserves (excluding road right-of-way).

Section III  
DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS

Section 372.003 of the PID Act defines the improvements that may be undertaken by a municipality or county through the establishment of a public improvement district, as follows:

372.003. Authorized Improvements

- (a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction. A project may be undertaken in the municipality or county or the municipality's extraterritorial jurisdiction.
- (b) A public improvement may include:
  - (i) landscaping;
  - (ii) erection of fountains, distinctive lighting, and signs;
  - (iii) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of

- sidewalks or of streets, any other roadways, or their rights-of way;
- (iv) construction or improvement of pedestrian malls;
- (v) acquisition and installation of pieces of art;
- (vi) acquisition, construction, or improvement of libraries;
- (vii) acquisition, construction, or improvement of off-street parking facilities;
- (viii) acquisition, construction, improvement, or rerouting of mass transportation facilities;
- (ix) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;
- (x) the establishment or improvement of parks;
- (xi) projects similar to those listed in Subdivisions (i)-(x);
- (xii) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
- (xiii) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and
- (xiv) payment of expenses incurred in the establishment, administration and operation of the district.

After analyzing the public improvement projects authorized by the PID Act, the City has determined that the Authorized Improvements as described in Appendix B and shown on the diagram included as Appendix C should be undertaken by the City for the benefit of the property within PID No. 1. The estimated Authorized Improvement Costs are shown by Table III-A.

Table III-A  
Estimated Authorized Improvement Costs

Authorized Improvements	Total PID No. 1 Estimated Cost
Improvements	
Roadway improvements	\$2,766,910
Water distribution system improvements	421,150
Storm sewer collection system improvements	132,487
Wastewater collection system improvements	563,752
Engineering, surveying	440,319
Soft costs including city, professional and miscellaneous fees	119,200
FM 1097 widening, striping, TxDot	131,528

General contingency	355,505
Subtotal:	<u>4,930,851</u>
Estimated PID Creation Costs	\$50,000
<b>Total Estimated Authorized Improvement Costs</b>	<b><u>\$4,980,851</u></b>

The costs shown in Table III-A are current estimates and may be revised in Annual Service Plan Updates.

The Authorized Improvements include on-site improvements and limited off-site improvements.

**On-site Improvements**

The on-site roadway improvements include:

Summit Park Drive and other internal streets – The project consists of construction approximately 4,900 linear feet of 24’ wide concrete streets (8” concrete) with 6’ shoulders (6” concrete) on each side within a dedicated street right-of-way inside PID No. 1.

The on-site water distribution system improvements consist of approximately 8,400 linear feet of 12-inch water line within the proposed street right-of-ways and easements within PID No. 1. The water lines will connect to an existing City of Montgomery main along the south side of FM 109.

The on-site storm sewer collection system improvements include

The onsite storm sewer collection systems include approximately 4,900 linear feet of ditch cut in within the proposed street right-of-way inside PID No. 1 to direct flow to the existing creeks within the development.

The on-site wastewater collection system improvements consist of approximately 5,000 linear feet of 8-inch wastewater lines within the proposed street right-of-ways within PID No. 1. A portion of these lines will connect to a proposed lift station using approximately 650’ linear feet of 4” force main to pump the wastewater to a proposed sanitary main. All proposed lines will ultimately connect to an existing main on the south side of FM 1097.

**Off-site Improvements**

The offsite roadway improvements include a portion of FM 1097 being re-stripped for a turn lane to allow safe access into the proposed Summit Park Drive.

Additional details of the Authorized Improvements are shown in Appendix B attached to this Service and Assessment Plan.

Table III-B shows the allocation of the Authorized Improvements costs to PID No. 1.

Table III-B  
Allocation of the Authorized Improvement Costs

Authorized Improvements	Total Estimated Cost	Percentage Allocated	Total PID No. 1 Estimated Cost
Improvements benefiting PID No. 1			
Roadway improvements		100%	\$2,766,910
Water distribution system improvements		100%	421,150
Storm sewer collection system improvements		100%	132,487
Wastewater collection system improvements		100%	563,752
Engineering, surveying		100%	440,319
Soft costs including city, professional and miscellaneous fees		100%	119,200
FM 1097 widening, striping, TxDot		100%	131,528
General contingency		100%	355,505
Subtotal:			4,930,851
 Estimated PID Creation Costs		 100%	 50,000
<b>Total Estimated Authorized Improvement Costs</b>			<b>\$4,980,851</b>

The costs shown in Tables III-A and III-B are estimates and may be revised in Annual Service Plan Updates. The detailed costs of the Authorized Improvements are shown in Appendix B to this Service and Assessment Plan. Savings from one line item may be applied to a cost increase in another line item. These savings may be applied only to increases in costs of the Authorized Improvements.

#### Section IV SERVICE PLAN

##### A. Sources and Uses of Funds

The PID Act requires a service plan to cover a period of at least five years. The service plan is required to define the annual projected costs and indebtedness for the Authorized Improvements undertaken within PID No. 1. As of the date of this Service and Assessment Plan approximately 15% of the Authorized Improvements have been constructed and funded by the Developer. PID No. 1 will not directly fund any of the Authorized Improvements. Instead, in accordance with the PID Reimbursement Agreement the Developer will construct the Authorized Improvements and the City will reimburse the Developer solely from the net proceeds of the Assessments. The plan shall be reviewed and updated annually for the purpose of determining the annual budget for the Authorized Improvements. The annual update to this Service and Assessment Plan is herein referred to as the "Annual Service Plan Update."

Table IV-A shows the sources.

**Table IV-A  
Sources and Uses of Funds**

<u>Sources of Funds:</u>			
	Reimbursed by the PID	Not Reimbursed by the PID	Total
Funded By Developer:	\$3,000,000	\$1,980,851	\$4,980,851
<u>Uses of Funds:</u>			
Construction Costs:	\$2,950,000	\$1,980,851	
Creation Costs:			
Costs paid by Developer:	\$50,000	\$0	
<b>Total:</b>			\$4,980,851

This sources and uses of funds table is subject to revision and the actual sources and uses of funds for any line item may be different than shown above. The sources and uses of funds shown in Table IV-A shall be updated each year in the Annual Service Plan Update to reflect any budget revisions or actual costs of the Authorized Improvements.

**B. Annual Costs and Indebtedness**

The annual projected costs and annual projected indebtedness is shown by Table IV-B. The annual projected costs and indebtedness is subject to revision and shall be updated each year in the Annual Service Plan Update to reflect any changes in the PID Costs expected for each year and the cumulative amounts owed to the Developer. Notwithstanding the preceding, the Developer shall be reimbursed solely from the net proceeds (after payment of all costs of the City) of the Assessments which will be significantly less than total projected costs of the Authorized Improvements.

**Table IV-B  
Annual Projected Costs and Indebtedness**

Year	Annual Projected Costs
2015	\$2,054,355
2016	
2017	
2018	
2019	\$990,964
2020	
2021	\$1,953,442
2022	
2023	
<b>Total</b>	\$4,998,761

*[Remainder of page left intentionally blank]*

Section V  
ASSESSMENT PLAN

A. Introduction

The PID Act requires the City Council to apportion the PID Costs on the basis of special benefits conferred upon the property because of the Authorized Improvements. The PID Act provides that the PID Costs may be assessed: (i) equally per front foot or square foot; (ii) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or (iii) in any other manner that results in imposing equal shares of the cost on property similarly benefited. The PID Act further provides that the governing body may establish by ordinance or order reasonable classifications and formulas for the apportionment of the cost between the municipality and the area to be assessed and the methods of assessing the special benefits for various classes of improvements. Section V of this Service and Assessment Plan describes the special benefit received by each Parcel of Assessed Property as a result of the Authorized Improvements, provides the basis and justification for the determination that this special benefit exceeds the amount of the Assessments, and establishes the methodology by which the City Council allocates the special benefit of the Authorized Improvements to Parcels in a manner that results in equal shares of the PID Costs being apportioned to Parcels similarly benefited. The determination by the City Council of the assessment methodology set forth below is the result of the discretionary exercise by the City Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners within the Assessed Property.

B. Special Benefit

Benefited Property receives a benefit from the Authorized Improvements. Among the Benefited Property, the Assessed Property will receive a direct and special benefit from the Authorized Improvements, and this benefit will be equal to or greater than the amount of the Assessments. The Authorized Improvements (more particularly described in line-item format on Appendix B to this Service and Assessment Plan) and the costs incurred in the establishment, administration, and operation of the PID No. 1 shown in Table IV-A are authorized by the Act. These improvements are provided specifically for the benefit of the Assessed Property.

The owners of all of the Assessed Property has acknowledged and agreed to the determinations and findings as to benefits by the City Council in the Service and Assessment Plan and the Assessment Ordinance, specifically including the special benefit conferred on the Assessed Property by the Authorized Improvements, as well as any other terms and provisions within these documents, and has, therefore, consented to the imposition of the Assessments to pay the PID Costs. The owners are acting in their own interests in consenting to this imposition, because the special benefit conferred upon the Assessed Property by the Authorized Improvements exceeds the amount of the Assessments.

The public improvements provide a special benefit to the Assessed Property as a result of the close proximity of these improvements to the Assessed Property and the specific purpose of these improvements of providing infrastructure for the Assessed Property. In other words, the Assessed Property could not be used in the manner proposed without the construction of the



Authorized Improvements. The Authorized Improvements are being provided specifically to meet the needs of the Assessed Property as required for the proposed use of the property.

The Assessments are being levied to provide the Authorized Improvements, which are required for the highest and best use of the Assessed Property (i.e., the use of the property that is most valuable, including any costs associated with that use). Highest and best use can be defined as "the reasonably probable and legal use of property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value." (*Dictionary of Real Estate Appraisal, Third Edition.*) The Authorized Improvements are expected to be required for the proposed use of the Assessed Property to be physically possible, appropriately supported, financially feasible, and maximally productive.

The Developer has evaluated the potential use of the property and has determined that the highest and best use of the property is the use intended and the legal use for the property as described in Section II of this Service and Assessment Plan. The use of the Assessed Property as described herein will require the construction of the Authorized Improvements.

Funding of the PID Costs by the Developer and reimbursement of the Developer by PID No. 1 is determined to be the most beneficial means of providing for the Authorized Improvements. Since the Authorized Improvements are required for the highest and best use of the Assessed Property, and PID No. 1 provides the most beneficial means of providing the Authorized Improvements, the Assessments result in a special benefit to the Assessed Property, and this special benefit exceeds the amount of the Assessments. This conclusion is based on and supported by the evidence, information, and testimony provided to the City Council.

In summary, the Assessments result in a special benefit to the Assessed Property for the following reasons:

1. The Authorized Improvements are being provided specifically for the use of the Assessed Property, are necessary for the proposed best use of the property and provide a special benefit to the Assessed Property as a result;
2. The Developer has consented to the imposition of the Assessments for the purpose of providing the Authorized Improvements and the Developer is acting in its interest by consenting to this imposition;
3. The Authorized Improvements are required for the highest and best use of the property;
4. The highest and best use of the Assessed Property is the use of the Assessed Property that is most valuable (including any costs associated with the use of the Assessed Property);
5. Financing of the PID Costs by PID No. 1 is determined to be the most beneficial means of providing for the Authorized Improvements; and,
6. As a result, the special benefits to the Assessed Property from the Authorized Improvements will be equal to or greater than the Assessments.

C. Assessment Methodology

1. The PID Costs may be assessed by the City Council against the Assessed Property so long as the special benefit conferred upon the Assessed Property by the Authorized Improvements equals or exceeds the Assessments. The PID Costs may be assessed using any methodology that results in the imposition of equal shares of the PID Costs on Assessed Property similarly benefited.
2. For purposes of this Service and Assessment Plan, the City Council has determined that the PID Costs shall be allocated to the Assessed Property equally on the basis of \$41,666.66 per acre of platted acreage that encompasses a completed permanent structure for which the City has issued a Certificate of Occupancy and that such method of allocation will result in the imposition of equal shares of the PID Costs to Parcels similarly benefited.
3. Having taken into consideration the matters described above, the City Council has determined that allocating the PID Costs among Parcels based on improved acreage containing a completed permanent structure for which the City has issued a certificate of occupancy. Accordingly, Assessments are allocated to each Parcel of Assessed Property on the basis of it being fully developed, a final plot has been recorded, commercial structure(s) have been completed and a certificate of occupancy has been issued.
4. The following table (Table V-A) shows the calculation of the Assessment per acre. There are a total of 72 acres expected to be developed and improved on the Assessed Property. The total Assessments, which represent the aggregate sum of the total Annual Installments, are equal to \$3,000,000 as shown in Table IV-C. As a result the Assessment per acre is \$41,666.66 as shown in Table V-A below.

TABLE V-A  
Assessment per Improved Acre

<u>Description</u>	<u>Assessments</u>
Total Amount	\$3,000,000.00
Estimated total acreage	72
Assessment per acre	\$41,666.66

Table V-B in the following page shows the estimated Annual Installment per acre from the Trigger Date through the fifteen (15) year amortization of the Assessment.

*[Remainder of page left intentionally blank]*

**TABLE V-B**  
**Annual Installment per Improved Acre from Trigger Date\***

Year	Principal	Interest	Total Payment	Plus Administrative Expenses **
1	1,790.12	2,500.00	4,290.12	\$50.00
2	1,897.52	2,392.59	4,290.12	\$50.00
3	2,011.37	2,278.74	4,290.12	
4	2,132.06	2,158.06	4,290.12	
5	2,259.98	2,030.14	4,290.12	
6	2,395.58	1,894.54	4,290.12	
7	2,539.31	1,750.80	4,290.12	
8	2,691.67	1,598.44	4,290.12	
9	2,853.17	1,436.94	4,290.12	
10	3,024.36	1,265.75	4,290.12	
11	3,205.82	1,084.29	4,290.12	
12	3,398.17	891.94	4,290.12	
13	3,602.06	688.05	4,290.12	
14	3,818.19	471.93	4,290.12	
15	4,047.28	242.84	4,290.12	
<b>Total</b>	<b>41,666.66</b>	<b>22,685.05</b>	<b>64,351.80</b>	

\* The Assessment shall run from the Trigger Date and shall be amortized over fifteen annual payments including principal and interest at 6% per annum. In addition, each year the City shall charge an Administrative Expense of \$50.00 per Parcel of Assessed Property to reimburse the City for its Administrative Expenses. In the event such fee for Administrative Expense is not sufficient to reimburse the City for its Administrative Expenses, the City shall deduct such expenses from the monies otherwise to be paid to Developer. The first year of the Assessment shall be levied in 2018, and shall be included in the 2018 tax bills.

\*\* To be determined based on number of Parcels included as Assessed Property.

*[Remainder of page left intentionally blank]*

Section VI  
TERMS OF THE ASSESSMENTS

A. Amount of Assessments

The Assessment for each Parcel is shown on the Assessment Roll, and no Assessment shall be changed except as authorized by this Service and Assessment Plan (including the Annual Service Plan Updates) and the PID Act. The Assessments shall not exceed the amount required to repay the Developer including interest and Collection Costs.

B. Reallocation of Assessments

1. Subdivision

Upon the subdivision of any Parcel, the Assessment for the Parcel prior to the subdivision shall be reallocated among the new subdivided Parcels according to the following formula:

$$A = B \times (C \pm D)$$

Where the terms have the following meanings:

A = the Assessment for each new subdivided Parcel

B = the Assessment for the Parcel prior to subdivision

C = the estimated number of units to be built on each newly subdivided Parcel

D = the sum of the estimated number of units to be built on all of the new subdivided Parcels

The calculation of the estimated number of units to be built on a Parcel shall be performed by the Administrator and confirmed by the City Council based on the information available regarding the use of the Parcel. The estimate as confirmed shall be conclusive. The number of units to be built on a Parcel may be estimated by net land area and reasonable density ratios.

The sum of the Assessments for all newly subdivided Parcels shall equal the Assessment for the Parcel prior to subdivision. The calculation shall be made separately for each newly subdivided Parcel. The reallocation of an Assessment for a Parcel may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the subdivision of the Parcels. Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the City Council.

2. Consolidation

Upon the consolidation of two or more Parcels, the Assessment for the consolidated Parcel shall be the sum of the Assessments for the Parcels prior to consolidation. The reallocation of an Assessment for a Parcel may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the consolidation of the Parcels. Reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the City Council.

C. Mandatory Prepayment of Assessments

1. If at any time the Assessment on a Parcel exceeds the Maximum Assessment per

Commercial Unit calculated for the Parcel as a result of any reallocation of an Assessment authorized by this Service and Assessment Plan and initiated by the owner of the Parcel, then such owner shall pay to the City prior to the recordation of the document subdividing the Parcel the amount calculated by the Administrator by which the Assessment for the Parcel exceeds the Maximum Assessment per Commercial Unit for the Parcel. The City shall not approve the recordation of a plat or other document subdividing a Parcel without a letter from the Administrator either (a) confirming that the Assessment for any new Parcel created by the subdivision will not exceed the Maximum Assessment per Unit for each Parcel, or (b) confirming the payment of the Assessments, plus all Prepayment Costs, as provided for herein.

2. If a Parcel subject to Assessments is transferred to a party that is exempt from the payment of the Assessment under applicable law, or if an owner causes a Parcel subject to Assessments to become Non-Benefited Property, the owner of such Parcel shall pay to the City the full amount of the Assessment on such Parcel, prior to any such transfer or act.
3. The payments required above shall be treated the same as any Assessment that is due and owing under the Act, the Assessment Ordinance, and this Service and Assessment Plan, including the same lien priority, penalties, procedures, and foreclosure specified by the Act.

D. Reduction of Assessments

1. If after all Authorized Improvements have been completed, the total Authorized Improvement Costs is less than the total Assessments, then the Assessments and Annual Installments for each Parcel shall be reduced by an equal percentage such that the sum of the resulting reduced Assessments and Annual Installments for all Parcels equals the amount required to repay the Authorized Improvement Costs and interest owed thereon, and Collection Costs. The Assessment for each Parcel shall be reduced by an equal percentage such that the sum of the resulting reduced monies owed Developer is equal to the outstanding principal amount of the Assessments.
2. If all the Authorized Improvements are not undertaken, resulting in the total amount owed Developer being less than the total amount of Assessments, then the Assessments and Annual Installments for each Parcel shall be appropriately reduced by the City Council to reflect only the amounts required to repay Developer, including interest and Collection Costs. The City Council may reduce the Assessments and the Annual Installments for each Parcel (i) in an amount that represents the Authorized Improvements provided for each Parcel, or (ii) by an equal percentage, if determined by the City Council to be the most fair and practical means of reducing the Assessments for each Parcel, such that the sum of the resulting reduced Assessments equals the amount required to repay the Developer, including interest and Collection Costs. The Assessment for each Parcel shall be reduced pro rata to the reduction in the Assessments for each Parcel such that the sum of the resulting reduced Assessments is equal to the outstanding principal amount owed Developer.

E. Payment of Assessments

1. Payment in Full

- (a) The Assessment for any Parcel may be paid in full at any time.
- (b) If an Annual Installment has been billed prior to payment in full of an Assessment, the Annual Installment shall be due and payable and shall be credited against the payment-in-full amount.
- (c) Upon payment in full of the Assessment, the City shall deposit the payment in accordance with the applicable governing document; whereupon, the Assessment shall be reduced to zero, and the owner's obligation to pay the Assessment and Annual Installments thereof shall automatically terminate.
- (d) At the option of the owner, the Assessment on any Parcel may be paid in part. Upon the payment of such amounts for a Parcel, the Assessment for the Parcel shall be reduced, the Assessment Roll shall be updated to reflect such partial payment, and the obligation to pay the Annual Installment for such Parcel shall be reduced to the extent the partial payment is made.

## 2. Payment in Annual Installments

The Act provides that an Assessment for a Parcel may be paid in full at any time. If not paid in full, the Act authorizes the City to collect interest and Collection Costs in Annual Installments. An Assessment for a Parcel that is not paid in full will be collected in Annual Installments each year in the amounts shown in the Assessment Roll, as updated as provided for herein, which include interest and Annual Collection Costs. Payment of the Annual Installments shall commence with tax bills mailed.

Each Assessment shall be paid with interest of no more than six percent per annum. The Assessment Roll sets forth for each year the Annual Installment for each Parcel based on an estimated interest rate of 6% and additional interest at the rate of 0.5% for administrative expenses. Furthermore, the Annual Installments may not exceed the amounts shown on the Assessment Roll.

### F. Collection of Annual Installments

No less frequently than annually, the Administrator shall prepare, and the City Council shall approve, an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include an updated Assessment Roll and a calculation of the Annual Installment for each Parcel. Annual Collection Costs shall be allocated among Parcels in proportion to the amount of the Annual Installments for the Parcels. Each Annual Installment shall be reduced by any credits applied, such as interest earnings on any account balances, and any other funds available to the City for such purpose. Annual Installments shall be collected by the City in the same manner and at the same time as ad valorem taxes and shall be subject to the same penalties, procedures, and foreclosure sale in case of delinquencies as are provided for ad valorem taxes of the City. The City Council may provide for other means of collecting the Annual Installments to the extent permitted under the PID Act. The Assessments shall have lien priority as specified in the Act.

Any sale of property for nonpayment of the Annual Installments shall be subject to the lien established for the remaining unpaid Annual Installments against such property and such property may again be sold at a judicial foreclosure sale if the purchaser thereof fails to make timely payment of the non-

delinquent Annual Installments against such property as they become due and payable.

## Section VII THE ASSESSMENT ROLL

Appendix C identifies each Parcel within PID No. 1, the Benefited Property, the Assessed Property and Non-Benefitted Property. The Assessment Roll includes each Parcel of Assessed Property, the Assessment imposed on each Parcel, the Assessments, and the Annual Installments to be paid each year for each Parcel if the Assessment is not paid in full for any Parcel. The Assessment on each Parcel is based on the number of units expected to be built on each Parcel, and the Assessment per unit results, as explained herein.

Each Parcel of Assessed Property has been evaluated by the City Council (based on the developable area, proposed Owner Association Property and Public Property, best and highest use of the property, and other development factors deemed relevant by the City Council) to determine, the number of dwelling units anticipated to be developed on a Parcel. Each dwelling unit is then multiplied by the Assessment per unit set forth in Table V-B of this Service and Assessment Plan, and the total of such amounts for all dwelling units for the Parcel shall constitute the "Assessment" for the Parcel as set forth on the Assessment Roll. The Assessment Roll shall be updated upon the preparation of each Annual Service Plan Update to reflect, for each Parcel, subdivisions, consolidations, prepayments, and reductions authorized by this Service and Assessment Plan.

The Administrator shall prepare, and the City Council shall review and approve, annual updates to the Assessment Roll as the Annual Service Plan Update to reflect the following matters, together with any other changes helpful to the Administrator or the City and permitted by the Act: (i) the identification of each Parcel as Benefited Property, Assessed Property, and NonBenefitted Property; (ii) the Assessment for each Parcel, including any adjustments authorized by this Service and Assessment Plan or in the Act; (iii) the Assessment for each Parcel, including any adjustments authorized by this Service and Assessment Plan or in the Act; (iv) the Annual Installment for the Parcel for the year (if the Assessment is payable in installments); and (v) payments of the Assessment, if any, as provided by Section VI.0 of this Service and Assessment Plan.

## Section VIII MISCELLANEOUS PROVISIONS

### A. Administrative Review

An owner of an Assessed Parcel claiming that a calculation error has been made in the Assessment Roll, including the calculation of the Annual Installment, shall send a written notice describing the error to the City not later than thirty (30) days after the date any amount which is alleged to be incorrect is due prior to seeking any other remedy. The Administrator shall promptly review the notice, and if necessary, meet with the Assessed Parcel owner, consider written and oral evidence regarding the alleged error and decide whether, in fact, such a calculation error occurred.

If the Administrator determines that a calculation error has been made and the Assessment Roll should be modified or changed in favor of the Assessed Parcel owner, such change or modification shall be presented to the City Council for approval, to the extent permitted by the Act. A cash refund may not be made for any amount previously paid by the Assessed Parcel owner (except for the final year during which the Annual Installment shall be collected or if it is determined there are sufficient funds to meet the expenses of the PID No. 1 for the current year), but an adjustment may be made in the amount of the

Annual Installment to be paid in the following year. The decision of the Administrator regarding a calculation error relating to the Assessment Roll may be appealed to the City Council. Any amendments made to the Assessment Roll pursuant to calculation errors shall be made pursuant to the PID Act.

The decision of the Administrator, or if such decision is appealed to the City Council, the decision of the City Council, shall be conclusive as long as there is a reasonable basis for such determination. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to any other appeal or legal action by such owner.

#### B. Termination of Assessments

Each Assessment shall be extinguished on the date the Assessment is paid in full, including unpaid Annual Installments and Delinquent Collection Costs, if any. After the extinguishment of an Assessment and the collection of any delinquent Annual Installments and Delinquent Collection Costs, the City shall provide the owner of the affected Parcel a recordable "Notice of Cancellation of PID No. 1 Assessment."

#### C. Amendments

The City Council reserves the right to the extent permitted by the Act to amend this Service and Assessment Plan without notice under the Act and without notice to property owners of Parcels: (i) to correct mistakes and clerical errors; (ii) to clarify ambiguities; and (iii) to provide procedures for the collection and enforcement of Assessments, Collection Costs, and other charges imposed by the Service and Assessment Plan.

#### D. Administration and Interpretation of Provisions

The City Council shall administer PID No. 1, this Service and Assessment Plan, and all Annual Service Plan Updates consistent with the PID Act, and shall make all interpretations and determinations related to the application of this Service and Assessment Plan unless stated otherwise herein, such determination shall be conclusive.

#### E. Severability

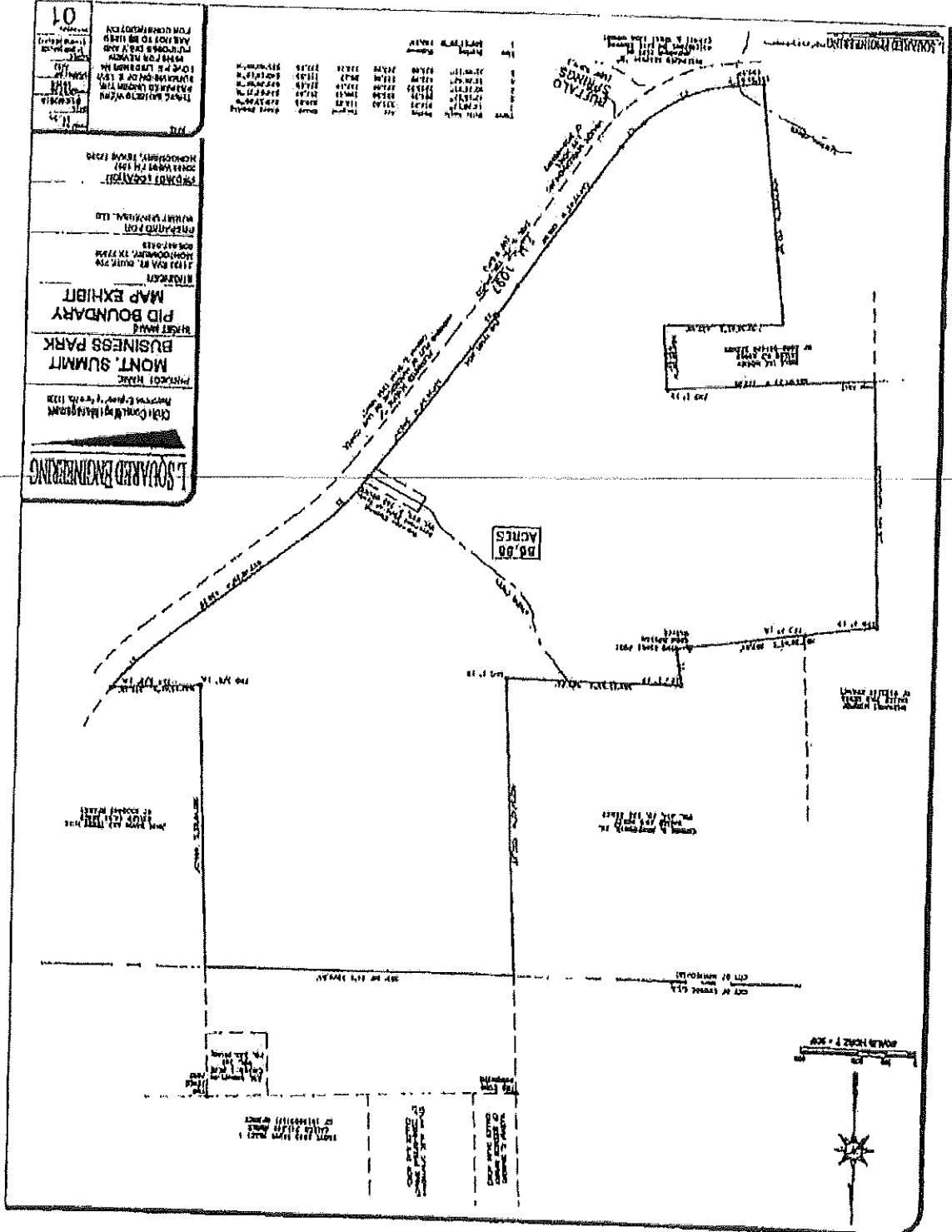
If any provision, section, subsection, sentence, clause or phrase of this Service and Assessment Plan or the application of same to an Assessed Parcel or any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Service and Assessment Plan or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Service and Assessment Plan that no part hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other part hereof, and all provisions of this Service and Assessment Plan are declared to be severable for that purpose.

If any provision of this Service and Assessment Plan is determined by a court to be unenforceable, the unenforceable provision shall be deleted from this Service and Assessment Plan and the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the City.



Appendix A

MAP OF PID No. 1



**01**

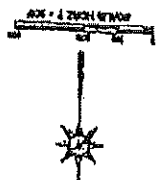
FROM COMMISSIONER OF THE REGISTRY  
 AND NOT TO BE REPRODUCED  
 WITHOUT PERMISSION  
 OF THE COMMISSIONER OF THE REGISTRY

**PROJECT NAME**  
 MONT SUMMIT BUSINESS PARK  
 11000 ROUTE 201, SUITE 200  
 MONT SUMMIT, VERMONT 05761

**OWNER**  
 MONT SUMMIT BUSINESS PARK, LLC  
 11000 ROUTE 201, SUITE 200  
 MONT SUMMIT, VERMONT 05761

**DESIGNED BY**  
 L. SOUARD ENGINEERING  
 11000 ROUTE 201, SUITE 200  
 MONT SUMMIT, VERMONT 05761

**DATE**  
 11/11/2011



88.88 ACRES

BUFFALO SPRINGS

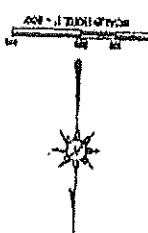
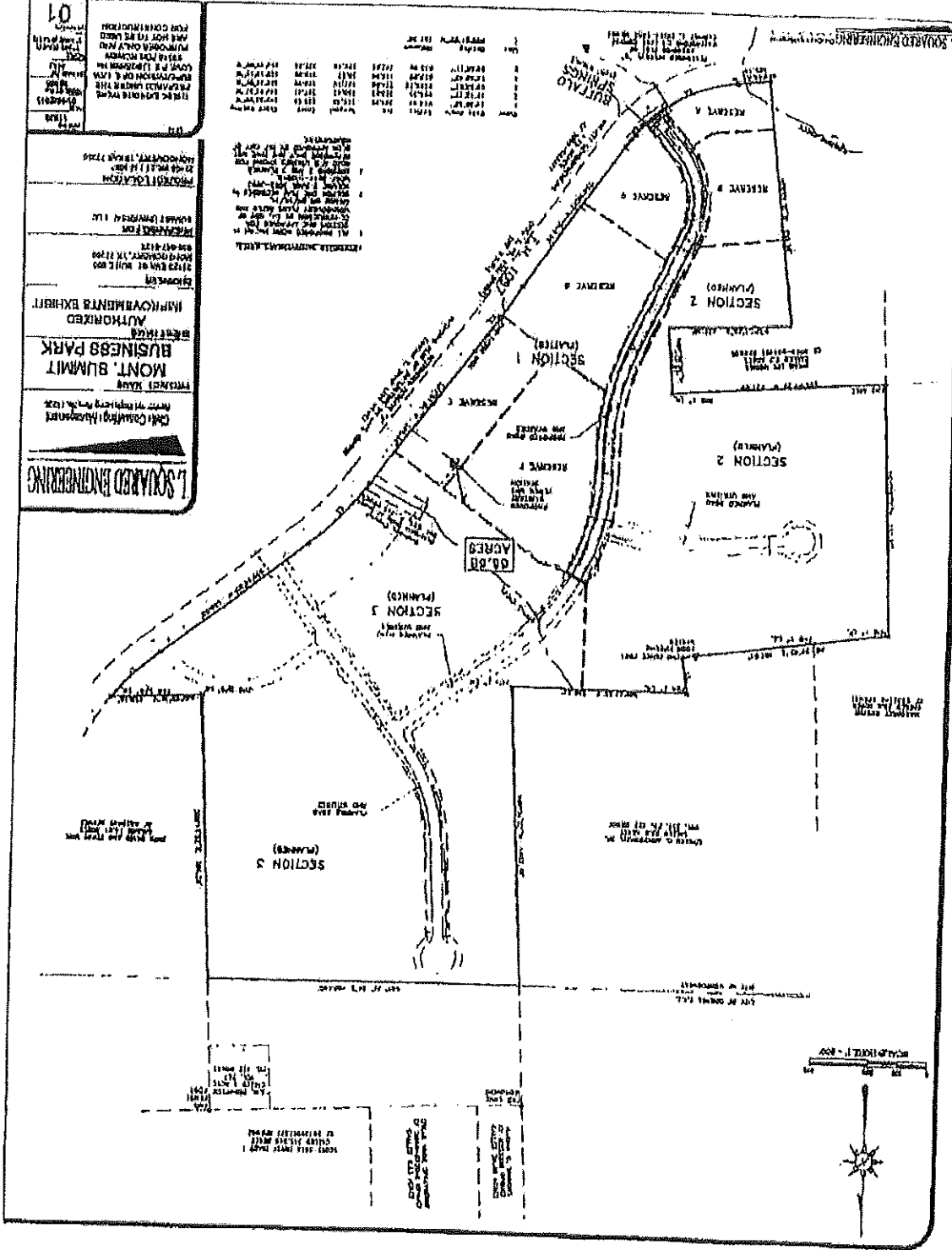
**L. SOUARD ENGINEERING**

**1. SQUARED ENGINEERING**  
 Civil Engineering Department  
 1100 North 1st Street  
 St. Paul, Minnesota 55102  
 Phone: 612-291-1100  
 Fax: 612-291-1101  
 E-mail: info@squared.com

**MOUNT SUMMIT BUSINESS PARK**  
 AUTONOMOUS IMPROVEMENTS EXHIBIT  
 PROJECT LOCATION  
 22nd Street, St. Paul, MN  
 2122 S.W. 4th St. and  
 21st Street, St. Paul, MN  
 2122 S.W. 4th St. and  
 21st Street, St. Paul, MN  
 2122 S.W. 4th St. and  
 21st Street, St. Paul, MN

NO.	DESCRIPTION	DATE	BY	CHECKED
1	PRELIMINARY PLAN	10/15/01	J. SMITH	M. JONES
2	REVISED PLAN	11/01/01	J. SMITH	M. JONES
3	REVISED PLAN	11/15/01	J. SMITH	M. JONES
4	REVISED PLAN	12/01/01	J. SMITH	M. JONES
5	REVISED PLAN	12/15/01	J. SMITH	M. JONES
6	REVISED PLAN	01/01/02	J. SMITH	M. JONES
7	REVISED PLAN	01/15/02	J. SMITH	M. JONES
8	REVISED PLAN	02/01/02	J. SMITH	M. JONES
9	REVISED PLAN	02/15/02	J. SMITH	M. JONES
10	REVISED PLAN	03/01/02	J. SMITH	M. JONES

**SECTION 1 (PLANNED)**  
**SECTION 2 (PLANNED)**  
**SECTION 3 (PLANNED)**  
**SECTION 4 (PLANNED)**  
**SECTION 5 (PLANNED)**  
**SECTION 6 (PLANNED)**  
**SECTION 7 (PLANNED)**  
**SECTION 8 (PLANNED)**  
**SECTION 9 (PLANNED)**  
**SECTION 10 (PLANNED)**  
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**SECTION 97 (PLANNED)**  
**SECTION 98 (PLANNED)**  
**SECTION 99 (PLANNED)**  
**SECTION 100 (PLANNED)**



Appendix B

ESTIMATED COSTS OF AUTHORIZED IMPROVEMENTS

### **On-Site Improvements**

The on-site roadway improvements include

- Summit Park Drive – The project consists of construction approximately 4,900 linear feet of 24' wide concrete streets (8" concrete) with 6' shoulders (6" concrete) on each side within a dedicated street right-of-way inside PID No. 1.

The onsite water distribution system improvements consist of approximately 8,400 linear feet of 12" water line within the proposed street right-of-way and easements within PID No. 1. The water lines will connect to an existing City of Montgomery main along the south side of FM 1097.

The onsite storm sewer collection systems include approximately 4,900 linear feet of ditch cut in within the proposed street right-of-way inside PID No.1 to direct flow to the existing creeks within the development.

The onsite wastewater collection system improvements consist of approximately 5,000 linear feet of 8" wastewater lines within the proposed street right-of-way inside PID No. 1. A portion of these lines will connect to a proposed lift station, using approximately 650' linear feet of 4" force main to pump the wastewater to a proposed sanitary main. All proposed lines will ultimately connect to an existing main on the south side of FM 1097.

### **Off-site Improvements**

The offsite roadway improvements include a portion of FM 1097 being re-stripped for a turn lane to allow safe access into the proposed Summit Park Drive.

Montgomery PID # 1	Estimated Phase 2 Costs	Estimated Phase 3 Costs	Project Total
Phase 1 costs			
Earthwork & Mobilization	\$ 5,130.00		
Legal & Insurance, Bond	\$ 76,175.01	\$36,500	
Engr, legal, surveying, clearing & dirtwork	\$ 344,770.70	\$166,850	
Randy Roan Const. Roadway, Water & sewer lines, lift station	\$ 1,278,167.09	\$1,605,393	
Sitework & landscape			
Hydromulching	\$ 73,752.90		
Platting & Surveying	\$ 42,839.84		
Utility work	\$ 48,755.59		
New Devl. Costs: project mgt., Gas line, power lines, Geotech, Communication lines, Boring, SWPP, inspection	\$ 184,763.63	\$144,699	
Total Phase 1	\$ 2,054,354.76	\$1,953,442	\$ 4,998,761.12

Appendix C

ASSESSMENT ROLL

CURRENT PLATTED RESERVES:	ASSESSMENT
Reserve A – 1.238 Acres	\$51,583.33
Reserve B – 2.262 Acres	\$94,249.98
Reserve C – 2.139 Acres	\$89,124.99
Reserve D – 4.221 Acres	\$175,874.97
Reserve E – 2.863 Acres	\$119,291.65
Reserve F – 5.346 Acres	\$222,749.96

Montgomery Summit Business Park, a subdivision of 21.227 acres recorded in Cabinet Z, Sheet Nos. 3061-3062 File No. 2014-095246 of the Map Records of Montgomery County.

Future platted reserves within the PID, which reserves will encompass approximately 56 acres. Assessment will run from Trigger Date on each platted reserve and be calculated based upon the acreage within the reserve.

2018 Annual Installment  
(First Annual Installment on Each Tract)

Quick Ref	Bdg #	Property ID	Address Line 1	Zip Code	Legal Description	Acres	PID Rate	Tiggored Acres	City Admin. Fee	2018 Annual Installment
R450269	B-1	7271-00-00200	15349 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 2, RES B (BLDG B-1 SUITE 101-104), ACRES 0.5655	0.5655	2426.06	0.5655	\$50.00	\$2,476.06
R450271	D	7271-00-00400	22394 FM 1097 W	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES D, ACRES 4.221	4.221	18108.60	4.2210	\$50.00	\$18,158.60
R450273	F-1	7271-00-00600	15498 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-1, SUITE 101-104), ACRES 0.696	0.696	2985.92	0.6960	\$50.00	\$3,035.92
R471619	F-2	7271-00-00601	15522 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-2, SUITE 201-204), ACRES 0.696	0.696	2985.92	0.6960	\$50.00	\$3,035.92

R471620	F-3	7271-00-00602	15584 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-3, SUITE 301- 303), ACRES 0.517	0.517	2217.99	0.5170	\$50.00	\$2,267.99
R471621	F-4	7271-00-00603	15636 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-4, SUITE 401- 403), ACRES 0.517	0.517	2217.99	0.5170	\$50.00	\$2,267.99
R471622	F-5	7271-00-00604	15514 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-5, SUITE 501- 503), ACRES 0.517	0.517	2217.99	0.5170	\$50.00	\$2,267.99
R471623	F-6	7271-00-00605	15556 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-6, SUITE 601- 603), ACRES 0.517	0.517	2217.99	0.5170	\$50.00	\$2,267.99
						18.092	57569.12	6.1785	\$400.00	\$35,778.47
									<b>Total 2018 Assessm ent:</b>	<b>\$35,778.47</b>



Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: memo from city engineer, Encroachment Agreement</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is to consider an encroachment agreement on the city utility easement.

**Description**

This is to allow encroachment of the City's Utility easement to place a monument sign and a light pole with ProCore Development. The location is at the northwest corner of the access road and SH105, lying West of Dusty's Car Wash.

The two encroachments are shown on the last page of the attachment—written in red with arrows.

The City Engineer's memo is attached.

**Recommendation**

Motion to approve the Encroachment Agreement as presented.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
--------------------	------------	----------------------



1575 Sawdust Road, Suite 400  
The Woodlands, Texas 77380-3795  
Tel: 281.363.4039  
Fax: 281.363.3459  
[www.jonescarter.com](http://www.jonescarter.com)

August 6, 2018

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

Re: Proposed Light Pole and Sign Encroachment Agreement  
ProCore Developments (Dev. No. 1804)  
The City of Montgomery

Dear Mayor and Council:

It has come to our attention that the developer of the proposed Retail Center at 19970 Eva Street intends to construct light poles, light pole foundations and a sign within the City's existing utility easement. Per the construction plans, the encroachments are proposed to be in close proximity, but not in conflict, with existing public water and sanitary sewer lines.

We recommend the City enter into an encroachment agreement with the developer, ProCore Developments 105, LLC, to allow the construction of the improvements within the City's utility easements. This agreement will release the City from all responsibility for damages incurred to the improvements as a result of required maintenance and repairs to the public utilities.

As always, should you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,

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

Chris Roznovsky, PE  
Engineer for the City

CVR/ab

K:\W5841\W5841-0900-00 General Consultation\Correspondence\Letters\2018\MEMO to Council RE ProCore Encroachment Agreement.doc

Enc: ProCore Developments 105 Encroachment Agreement Request  
DRAFT Encroachment Agreement

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

ProCore Developments 105, LLC  
Andy Friedman  
Partner  
[andysfriedman@gmail.com](mailto:andysfriedman@gmail.com)

ATTN: Chris Roznovsky, P.E.  
Department Manager  
Municipal and District Services  
JONES | CARTER  
[croznovsky@jonescarter.com](mailto:croznovsky@jonescarter.com)

RE: Request for Encroachment Agreements for 19970 Eva St. Montgomery, TX  
77356

Dear Mr. Roznovski,

Please accept this letter as our written request for Encroachment Agreements for the placement of one Light Pole, and one Monument Sign, approximate location of which are depicted on the attached site plan. The two will be within the 26' public easement (CF No. 2004-110202 and 2005-006370) adjacent to the right-of-way of SH 105.

Thank you kindly for your consideration.

Sincerely,

Andy Friedman  
ProCore Developments 105, LLC

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

STATE OF TEXAS

COUNTY OF MONTOMERY

**ENCROACHMENT AND MAINTENANCE AGREEMENT**

THIS AGREEMENT is made this 31<sup>st</sup> day of July, 2018, between the **CITY OF MONTGOMERY, TEXAS (CITY)** and **PROCORE DEVELOPMENTS 105, L.L.C.**, a Texas limited liability company (OWNER).

**RECITALS**

OWNER is the owner of certain property (PROPERTY) located in the City of Montgomery, Texas on State Highway 105 East and east of the Lonestar Parkway, which is being developed by OWNER for a new retail center.

The Property is a 1.062-acre tract of land in the John Corner Survey, A-8, in Montgomery County, Texas, as more particularly described in the site plan attached hereto as Exhibit "A."

OWNER is proposing to place a monument sign and light pole on the CITY public utility easement along State Highway 105 East in connection with the construction and operation of the retail center on the Property.

OWNER has agreed to regularly maintain the monument sign and light pole at its sole expense.

CITY and OWNER agree that CITY may in the future need to make major repairs to the public utility easement on the Property.

If future major repairs to the CITY's public utilities are required by CITY, the OWNER's light pole and/or monument sign may need to be relocated or disturbed in order for CITY to perform the necessary repairs.

The monument sign shall be the property of OWNER and shall be maintained by OWNER. OWNER agrees that CITY shall not incur the expense of maintaining the monument sign or removing the sign or replacing it when any repair work is complete.

The light pole shall also be the property of OWNER and shall be maintained by OWNER. OWNER agrees that CITY shall not incur the expense of maintaining the light pole or removing or replacing it when any repair work is complete.

CITY has agreed to the proposed site plan on the Property and OWNER'S installation of the monument sign and light pole on and along the public utility easement, subject to the above recitals and the following terms and conditions agreed by OWNER.

**NOW, THEREFORE,** be it mutually agreed by OWNER and CITY as follows:

1. Consent to Encroachment. Subject to the above recitals and the terms of this Agreement, CITY hereby consents and allows OWNER to enter upon the above-described CITY easement on the Property for the purpose of installing, placing and maintaining the above-described light pole and monument sign within the CITY public utility easement.

2. Term. This Agreement shall have an indefinite term and shall run with the Property until the CITY and the OWNER, or its successors and assigns, agree to terminate this Agreement.

3. Conditions.

- a. Prior to any construction in or along the CITY public utility easement on the Property, OWNER shall obtain all licenses or permits necessary to install the monument sign and to construct the light pole or any other improvements on the Property.
- b. OWNER shall be solely responsible for the normal maintenance of the monument sign and light pole on the Property and shall maintain them to avoid any damage to or interference with the CITY facilities, other public utilities or the general right of CITY to utilize the easement for its intended purpose. CITY shall be responsible for major repairs to the public utility easement (i.e., any work other than the normal maintenance required by OWNER.)

- c. CITY shall not be responsible to OWNER, its successors, assigns, or any other party for damages to OWNER'S monument sign, its light pole or other improvements on or along the CITY public utility easement on the Property. CITY may, at any time upon reasonable notice, require the removal of the monument sign or light pole along the public utility easement for the purpose of allowing CITY to make repairs to its public utilities. OWNER shall remove and, if desired by OWNER, replace such improvements promptly at its sole expense and shall not be entitled to compensation or damages of any kind.
- d. OWNER shall notify the City in writing of any change in ownership of the Property.

4. Notices. Any notice required or permitted under this Agreement shall be deemed sufficient if delivered in hand or by First Class US Mail addressed to the parties as follows:

CITY

City of Montgomery  
ATTN: City Administrator  
101 Old Plantersville Road  
Montgomery, Texas 77356

OWNER

ProCore Developments 105, LLC  
ATTN: Andy S. Friedman  
6331 Dexter Point Drive  
Cypress, Texas 77429

5. **Indemnity.** OWNER shall indemnify, defend and hold harmless CITY, its elected officials, officers and employees, from any claims, suits, causes of action, costs or damages arising from OWNER'S action or inaction relating to maintenance of the public utility easement by CITY or any improvements by OWNER on or along the public utility easement on the Property.

6. Entire Agreement. This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty or covenant not included in this Agreement has been or is relied on by any party hereto.

7. Construction and Venue. This Agreement shall be construed in accordance with the laws of the State of Texas. Exclusive venue over any claim or cause of action arising hereunder shall be in the courts of Montgomery County, Texas.

8. Agreement a Covenant Running With the Land. This Agreement shall be recorded in the Real Property Records of Montgomery County, Texas and shall be a

covenant running with the OWNER'S land and binding upon the OWNER'S successors and assigns.

**CITY OF MONTGOMERY, TEXAS**

By: \_\_\_\_\_  
Sara Countryman, Mayor

ATTEST:


\_\_\_\_\_  
Susan Hensley City Secretary

State of Texas           §  
County of Montgomery   §

This instrument was acknowledged before me on \_\_\_\_\_, 2018  
by SARA COUNTRYMAN, mayor of and acting in behalf of the City of Montgomery,  
Texas.

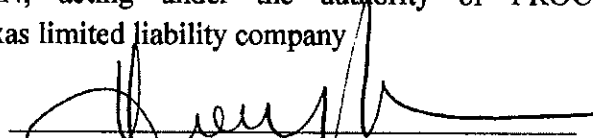
\_\_\_\_\_  
Notary Public, State of Texas

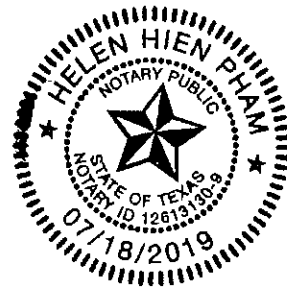
**PROCORE DEVELOPMENTS 105, LLC**

By:   
Name: Andy S. Friedman  
Title: Managing Partner

State of Texas §  
County of Harris §

This instrument was acknowledged before me on July 31<sup>st</sup>,  
2018 by ANDY S. FRIEDMAN, acting under the authority of PROCORE  
DEVELOPMENTS 105, LLC, a Texas limited liability company

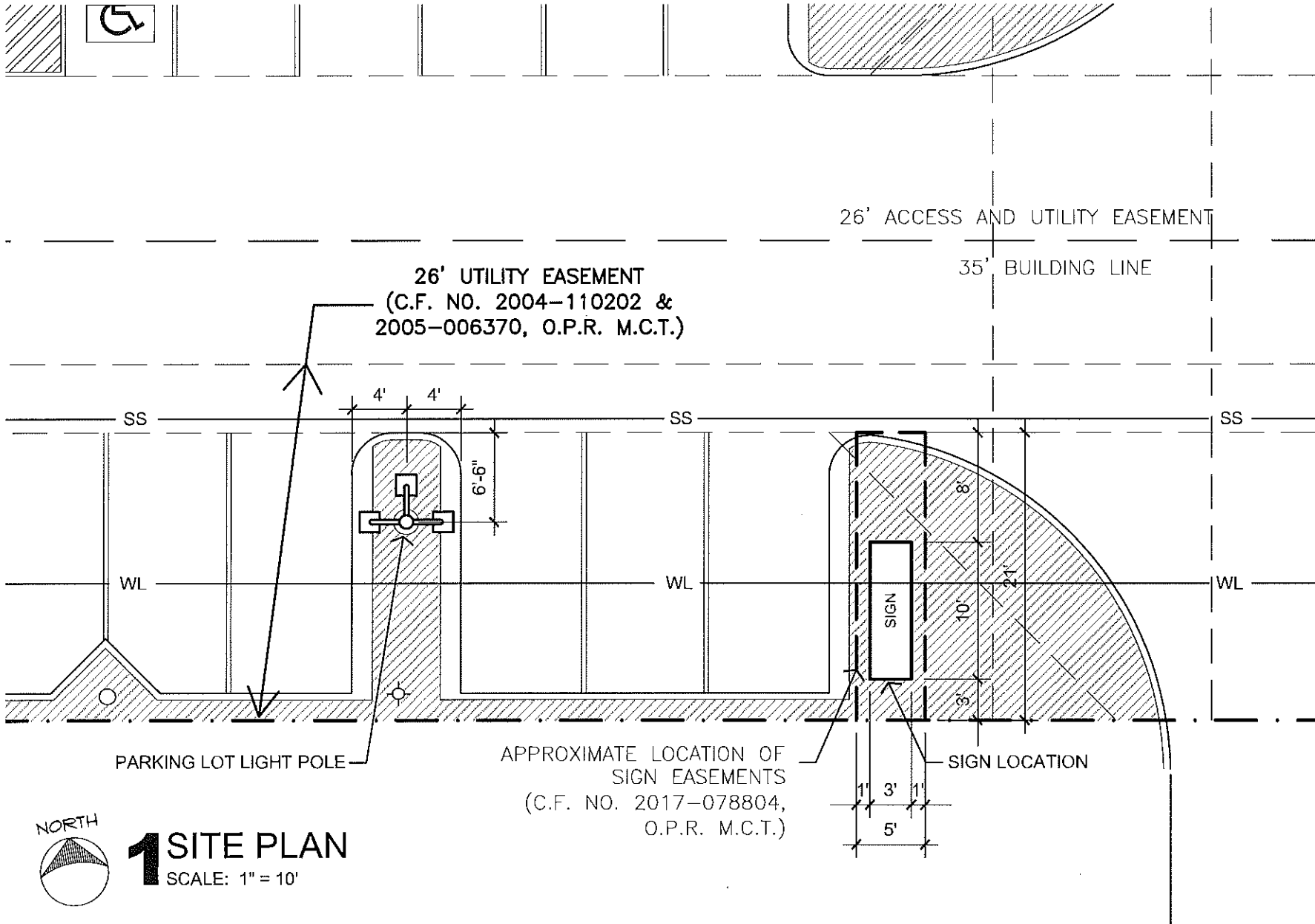
  
Notary Public, State of Texas



**After Recording Return to:**

Susan Hensley City Secretary  
City of Montgomery, Texas  
101 Old Plantersville Road  
Montgomery, Texas 77356



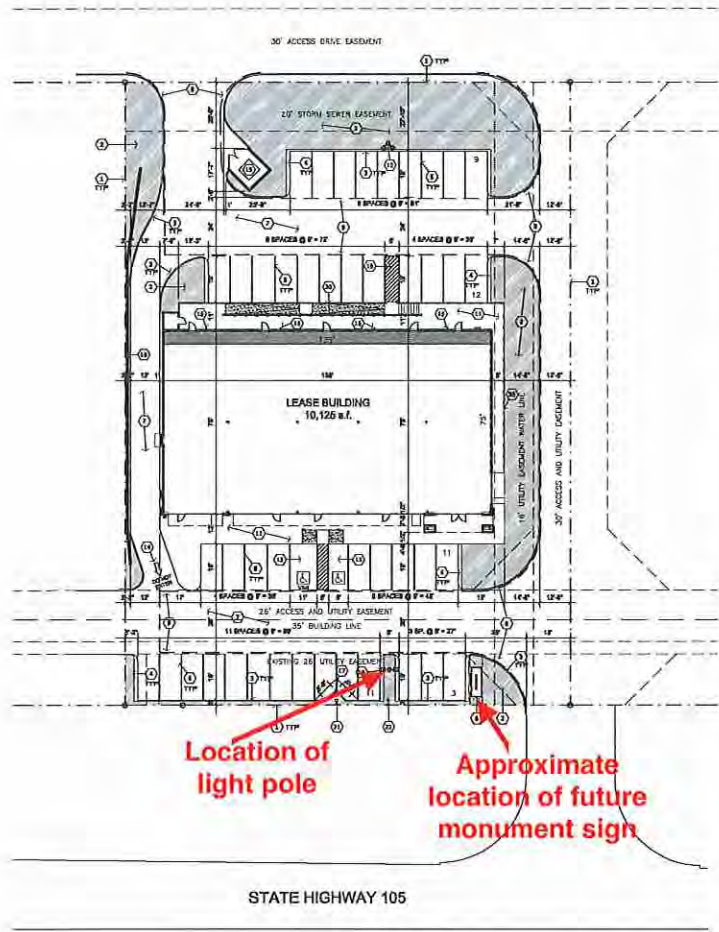


# RETAIL CENTER - TRACT '2'

19970 EVA ST.  
MONTGOMERY, TX 77356

OSBORN & VANE ARCHITECTS <sup>PC</sup>  
18019  
27 JULY 2018  
DRAWN BY: RW





Location of light pole

Approximate location of future monument sign

STATE HIGHWAY 105

NORTH  
1 SITE PLAN  
SCALE: 1" = 20'

Date issued/revision  
14 MAY 2018 - FOR PERMIT AND PRICING

- NOTES TO SHEET
1. PROPERTY LINE.
  2. LANDSCAPE AREA.
  3. LANDSCAPE COLOR, SEE COLOR SWATCHES.
  4. 10" WIDE LANDSCAPE PAINTED CURB, SEE ITEM 12.
  5. 4" WIDE PAINTED PARKING STRIPES ONTILE.
  6. UTILITY MARKERS SHALL BE 18" DIA. UNLESS NOTED.
  7. NEW PAINTS AND COATINGS SHALL BE AS PER SPECIFICATIONS.
  8. 1" WIDE PAINTED STRIPES FOR COORINATED DRIVEWAYS, SEE ITEM 12.
  9. 1" WIDE PAINTED STRIPES FOR COORINATED DRIVEWAYS, SEE ITEM 12.
  10. 1" WIDE PAINTED STRIPES FOR COORINATED DRIVEWAYS, SEE ITEM 12.
  11. CONCRETE WALK, CONCRETE RAMP, AND CONCRETE DRIVE, SEE CIVIL DRAWINGS FOR 1805.2.
  12. 10" WIDE PAINTED CURB, SEE ITEM 4.
  13. 4" WIDE PAINTED STRIPES FOR COORINATED DRIVEWAYS, SEE ITEM 12.
  14. 1" WIDE PAINTED STRIPES FOR COORINATED DRIVEWAYS, SEE ITEM 12.
  15. DOWNPOUR SET INTO UNDERGROUND STORAGE ISSUES.
  16. 3" WIDE PAINTED DOWNPOUR.
  17. LANDSCAPE RETAINING WALL, SEE STRUCTURE.
  18. ACCESSIBLE PAVEMENT WITH 4" WIDE PAINTED STRIPES, SEE ITEM 12.
  19. 6" DIA. HYDRANT, SEE 1805.2.
  20. 6" DIA. HYDRANT, SEE 1805.2.
  21. 6" DIA. HYDRANT, SEE 1805.2.
  22. 1" TYPING FOR HYDRANT TO REMAIN.

GENERAL NOTES  
THERE ARE NO NOTES TO BE TAKEN FROM THIS SHEET. REFER TO LANDSCAPE CONTRACT FOR LANDSCAPE REQUIREMENTS AND OTHER INFORMATION.

TOTAL DEVELOPABLE AREA	10,126 s.f.
TOTAL LAND AREA	10,126 s.f.
AREA OF PARKING SPACE FOR 100 VEHICLES	44,400 s.f.
PARKING PROVIDED	45,000 s.f.
PARKING SPACES	450 SPACES

**OSBORN & VANE ARCHITECTS & ASSOCIATES**  
 2000 Bayberry Drive, Suite 410  
 Houston, Texas 77057  
 Tel: 281.441.1111  
 Fax: 281.441.1112  
 Member American Institute of Architects



TRACT 2  
RETAIL CENTER

19970 EVA ST.  
MONTGOMERY, TX 77056

Project No. 18018  
 Drawn: RW  
 Checked: JC

SITE PLAN  
 Sheet No. AS1.0

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits:</b> memo from city engineer, Encroachment Agreement
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is to consider an encroachment agreement on the city utility easement.

**Description**

This is to allow encroachment of the City's Utility easement to place a light pole, in dumpster and City Monument sign by the Spirit of Texas bank at the northwest corner of S H 105 and Lone Star Parkway.

There are three light poles. The trash dumpster is behind a wooden surrounding and is necessary because the tightness of developing the odd shaped triangle area lot. The Gateway Sign/location is where Spirit of Texas Bank agreed with the city to place the gateway sign as part of the 380 Development Agreement with Milestone.

The specific design of the Gateway sign <sup>has</sup> is not been presented to the city as of now.

The encroachments are shown on the last page of the packet for this item- shown in red writing.

The City Engineer's memo is attached.

**Recommendation**

Motion to approve the Encroachment Agreement as presented.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
--------------------	------------	----------------------



1575 Sawdust Road, Suite 400  
The Woodlands, Texas 77380-3795  
Tel: 281.363.4039  
Fax: 281.363.3459  
[www.jonescarter.com](http://www.jonescarter.com)

August 6, 2018

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

Re: Proposed Light Pole, Dumpster, and Monument Sign Encroachment Agreement  
Spirit of Texas Bank (Dev. No. 1806)  
The City of Montgomery

Dear Mayor and Council:

It has come to our attention that the proposed Spirit of Texas Bank intends to construct several light poles and light pole foundations, a dumpster storage area, and a gateway monument sign within the City's existing utility easement. Per the construction plans, the encroachments are proposed to be in close proximity, but not in conflict, with existing public water and sanitary sewer lines.

We recommend the City enter into an encroachment agreement with the developer, Spirit of Texas Bank, SSB, to allow the construction of the proposed improvements within the City's utility easements. This agreement will release the City from all responsibility for damages incurred to the improvements as a result of required maintenance and repairs to the public utilities.

As always, should you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,

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

Chris Roznovsky, PE  
Engineer for the City

CVR/ab

K:\W5841\W5841-0900-00 General Consultation\Correspondence\Letters\2018\MEMO to Council RE Spirit of Texas Bank Encroachment Agreement.doc

Enc: Spirit of Texas Bank Encroachment Agreement Request  
DRAFT Encroachment Agreement

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



# BLEYL ENGINEERING

PLANNING • DESIGN • MANAGEMENT

100 Nugent Street  
Conroe, TX 77301  
Tex. Reg. No. F-678  
[www.bleylengineering.com](http://www.bleylengineering.com)

June 29, 2018

City of Montgomery  
c/o JonesCarter  
1575 Sawdust Rd, Suite 400  
The Woodlands, Texas 77380

ATTENTION: Mr. Chris Roznovsky, P.E.  
REFERENCE: Site Plan - Spirit of Texas Bank Montgomery Branch  
B&A Job No. 11997

Dear Mr. Roznovsky:

We, on behalf of Spirit of Texas Bank Montgomery Branch, request for the consent to encroach into the existing twenty-six-foot (26') utility easement located on the north side of SH 105 and the west side of Lonestar Parkway. We enclose an exhibit showing the location of the encroachment. We propose to install light poles and light pole foundations within the utility easement. The light pole locations and elevations are shown on the exhibit.

Please contact me at (936)441-7833 or [bbarringer@bleylengineering.com](mailto:bbarringer@bleylengineering.com) if you have questions or require additional information.

Respectfully,

Blake Barringer, E.I.T.  
Graduate Engineer

Enclosure

F:\11900s\11997 Spirit of Texas Bank - Montgomery Branch\Requested Consent to Encroach.doc

Conroe  
(936) 441-7833

Bryan  
(979) 268-1125

Austin  
(512) 328-7878

Houston  
(936) 271-9600

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

STATE OF TEXAS

COUNTY OF MONTOMERY

**ENCROACHMENT AND MAINTENANCE AGREEMENT**

THIS AGREEMENT is made this 31<sup>st</sup> day of July 2018, between the **CITY OF MONTGOMERY, TEXAS (CITY)** and **SPIRIT OF TEXAS BANK, SSB (Dev. No. 1806)**, a Texas State Saving Bank company (OWNER).

**RECITALS**

OWNER is the owner of certain property located in the City of Montgomery, Texas on the corner of State Highway 105 East and Lone Star Parkway ("the Property").

The Property is a 1.4 tract of land being Restricted Reserve "G" of the Second Amended Plat of Buffalo Springs Shopping Center, Phase I in the John Corner Survey, A-8, in Montgomery County, Texas, as more particularly described in the plat attached hereto as Exhibit "A."

CITY has a twenty-six-foot (26') utility easement lying across the Property extending along and abutting the Highway 105 East right-of-way and the Lone Star Parkway right-of-way.

OWNER plans to install at its expense a Gateway Monument, as approved by the City, a dumpster storage area, and light poles with light pole foundations within the CITY's utility easement as described in the attached Exhibit "B."

OWNER has agreed to regularly maintain the Gateway Monument, dumpster storage area, light poles light pole foundations and any other improvements on the utility easement at its sole expense.

CITY and OWNER agree that CITY may need to make major repairs in the future to the CITY water and sewer mains lying within the utility easement on the Property.

CITY has agreed to the proposed plat of the Property and OWNER'S installation of the Gateway Monument, dumpster storage area, light poles and light pole foundations, subject to the above recitals and the following terms and conditions agreed by OWNER.

**NOW, THEREFORE**, be it mutually agreed by OWNER and CITY as follows:

1. Consent to Encroachment. Subject to the terms of this Agreement, CITY hereby consents and allows OWNER to enter upon the above-described CITY utility easement or right-of-way on the Property for the purpose of installing, placing and maintaining the above-described Gateway Monument, dumpster storage area, light poles and foundations.

2. Term. This Agreement shall have an indefinite term and shall run with the Property until the CITY and the OWNER, or its successors and assigns, agree to terminate this Agreement.

3. Conditions.

- a. Prior to any construction in or along the CITY utility easement on the Property, OWNER shall obtain all licenses or permits necessary to construct the Gateway Monument, dumpster storage area, light poles and foundations or any other improvements.
- b. CITY shall not be responsible to OWNER, its successors, assigns, or any other party for damages to OWNER'S Gateway Monument, light poles, light pole foundations or other improvements on or along the CITY utility easement. CITY may, at any time upon reasonable notice, require the removal or relocation of the OWNER's Gateway Monument, dumpster storage area, light poles or other improvements on the CITY utility easement for the purpose of allowing CITY to make repairs to the CITY utilities. OWNER shall relocate or remove and, if desired by OWNER, replace such improvements promptly at its sole expense and shall not be entitled to compensation or damages of any kind.
- c. OWNER shall notify the City in writing of any change in ownership of the Property.



4. Notices. Any notice required or permitted under this Agreement shall be deemed sufficient if delivered in hand or by First Class US Mail addressed to the parties as follows:

CITY

OWNER

City of Montgomery  
ATTN: City Administrator  
101 Old Plantersville Road  
Montgomery, Texas 77356

SPIRIT OF TEXAS BANK  
ATTN: Mr. Michael Durham  
1836 Spirit of Texas Way  
Conroe, Texas 77301

5. Indemnity. OWNER shall indemnify, defend and hold harmless CITY, its elected officials, officers and employees, from any claims, suits, causes of action, costs or damages arising from OWNER'S action or inaction relating to maintenance of the Gateway Monument, light poles or any other improvements by OWNER on or along the CITY utility easement on the Property.

6. Entire Agreement. This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty or covenant not included in this Agreement has been or is relied on by any party hereto.

7. Construction and Venue. This Agreement shall be construed in accordance with the laws of the State of Texas. Exclusive venue over any claim or cause of action arising hereunder shall be in the courts of Montgomery County, Texas.

8. Agreement a Covenant Running With the Land. This Agreement shall be recorded in the Real Property Records of Montgomery County, Texas and shall be a covenant running with the OWNER'S land and binding upon the OWNER'S successors and assigns.

EXECUTED THIS \_\_\_ day of JULY 2018.

CITY OF MONTGOMERY, TEXAS

By: \_\_\_\_\_  
Sara Countryman, Mayor

ATTEST:

\_\_\_\_\_  
Susan Hensley City Secretary

State of Texas                    §  
  §  
County of Montgomery       §

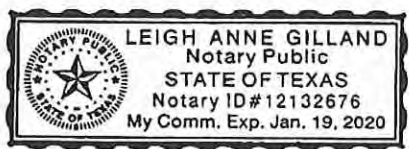
This instrument was acknowledged before me on \_\_\_\_\_ by  
SARA COUNTRYMAN, mayor of and acting in behalf of the City of Montgomery,  
Texas.

\_\_\_\_\_  
Notary Public, State of Texas

**SPIRIT OF TEXAS BANK**

By: *[Signature]*  
Name: Michael L Durham  
Title: General Counsel

State of Texas                    §  
  §  
County of Montgomery       §



This instrument was acknowledged before me on 7-31-18 by  
Michael Durham, acting under the authority of Spirit of Texas  
Bank.

*[Signature]*  
Notary Public, State of Texas

**After Recording Return to:**

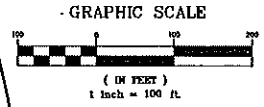
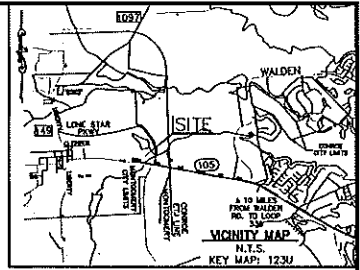
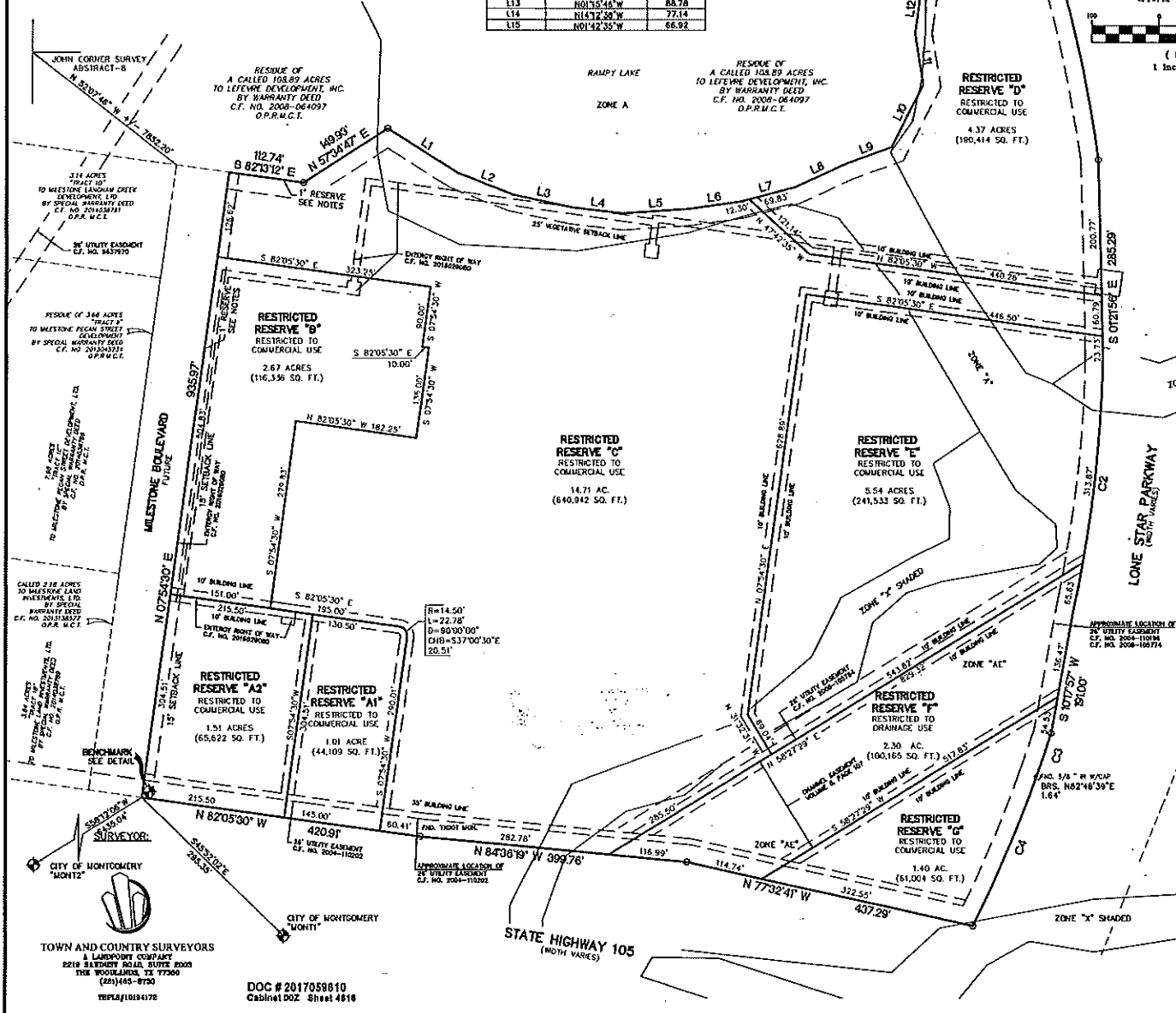
Susan Hensley City Secretary  
City of Montgomery, Texas  
101 Old Plantersville Road  
Montgomery, Texas 77356

**NOTES:**

1. O.P.R. M.C.T. denotes Official Public Records of Montgomery County, Texas
2. M.R.M.C.T. denotes Map Records Montgomery County Texas
3. R.O.W. denotes right-of-way
4. B.L. denotes building line
5. D.E. denotes drainage easement
6. U.E. denotes utility easement
7. (C) denotes block number
8. This property is located in "Zone X", determined to be outside 100 year flood plain, Zone "X" shaded, areas of 500-year flood, Zone "A", and Zone "AE", Special Flood Hazard areas identified by 100-year flood. A portion of this plat lies within a designated Special Flood Hazard Area, identified by 100 year flood or Other Flood Areas.
9. All corners are set 5/8 inch from iron w/cap unless otherwise noted.
10. There is a One-foot reserve dedicated as a buffer separation between the side or end of streets where such streets abut adjacent property, the condition of lot dedication being that when the adjacent property is subdivided or re-subdivided in a recorded subdivision plat, the one-foot reserve shall thereupon become void for street right-of-way purposes.
11. Subject to restrictions as recorded under Clerk's Title No. 2015114567.
12. Subject to Reciprocal Easement Agreement per Clerk's Title No. 2015114567.

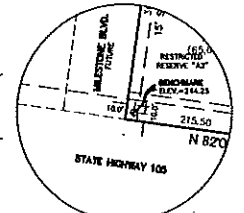
CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD DIR.	CHORD
C1	568.28	1955.00	16°47'03"	S18°32'36"E	567.27
C2	379.30	1945.01	11°10'48"	S06°24'48"W	376.90
C3	68.89	1956.90	2°00'34"	S18°55'47"W	68.89
C4	241.24	1960.00	7°03'07"	S23°07'58"W	241.08

LINE TABLE		
LINE	BEARING	LENGTH
L1	S87°50'23"E	123.58
L2	S88°41'01"E	87.84
L3	S77°50'54"E	89.54
L4	S83°29'31"E	77.99
L5	N08°00'13"E	106.30
L6	N81°41'38"E	77.80
L7	N78°17'84"E	82.13
L8	N65°36'13"E	85.48
L9	N70°17'48"E	71.10
L10	N82°19'32"E	104.68
L11	N09°24'27"W	76.91
L12	N08°13'05"E	69.82
L13	N01°35'45"W	88.78
L14	N14°27'58"W	73.14
L15	N01°42'55"W	66.92



**OWNER/DEVELOPER:**  
 MILESTONE PROPERTIES, INC.  
 10497 TOWN & COUNTRY WAY  
 SUITE 820  
 HOUSTON, TX. 77024  
 PH. (713) 784-3790  
 FAX (713) 784-8931  
 EMAIL:

**ENGINEER:**  
 DEVELOPMENT SERVICES, INC.  
 900 TOWN & COUNTRY LANE, SUITE 220  
 HOUSTON, TEXAS 77024  
 PH. (713) 647-9211  
 FAX (713) 647-9113  
 EMAIL: www.developmentservicesinc.com



# SECOND AMENDED PLAT OF BUFFALO SPRINGS SHOPPING CENTER

PHASE I  
 A COMMERCIAL SUBDIVISION OF  
 33.52 ACRES  
 (1,460,125 SQ. FT.)  
 IN THE  
 JOHN CORNER SURVEY, A-8  
 MONTGOMERY COUNTY, TEXAS  
 1 BLOCK 8 RESERVES  
 MARCH 2017

TOWN AND COUNTRY SURVEYORS  
 & LANDPOINT COMPANY  
 2818 BATHURST ROAD, SUITE 2000  
 THE WOODLAND, TX 77380  
 (281)445-8700

DOC # 2017059610  
 Cabinet/DOZ Sheet 4816

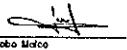
STATE OF TEXAS  
COUNTY OF MONTGOMERY  
STATE OF TEXAS


That Milestone Properties, Inc., a Texas corporation, as General Partner of Milestone 105 Investments, L.P., a Texas limited partnership, acting by and through Jacobo Mateo, President, does hereby adopt this plat designating the herein described property as the Second Amended Plat of Buffalo Springs Shopping Center, Phase I, and does hereby make subdivision of said property according to the lines, streets, alleys, parts and easements therein shown, and dedicate to public use hereon all areas shown on this plat as streets, alleys, parts, and easements, except those specifically indicated as private and does hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated, or occasioned by the alteration of the surface of any portion of streets or alleys to conform to such grades and does hereby bind Owner, and Owner's successors and assigns to warrant and forever defend the title to the land so dedicated.

Owner hereby certifies that Owner has or will comply with all applicable regulations of the City of Montgomery, Texas, and that a rough proportionality exists between the dedications, improvements, and easements required under such regulations and the projected impact of the subdivision.

There is hereby dedicated a 6' easement adjacent to all utility easement shown hereon from a plane 20 feet above the ground designated as "L.E. with A.L."

IN TESTIMONY WHEREOF, Milestone Properties, Inc., a Texas corporation, as President of Milestone Properties, a Texas corporation, has caused these presents to be signed by Jacobo Mateo, President, hereto authorized and its common seal hereto affixed this 28<sup>th</sup> day of June, 2017.

BY:   
Jacobo Mateo  
President

Attest:   
Michael Poppert, Authorized Agent  
Milestone Properties Inc., a Texas corporation

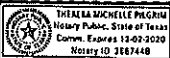
STATE OF TEXAS  
COUNTY OF MONTGOMERY

BEFORE ME, the undersigned authority, on this day personally appeared Jacobo Mateo, 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 considerations therein expressed, and in the capacity therein and herein set out, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 28<sup>th</sup> day of June, 2017.

  
Notary Public for Montgomery County, Texas

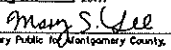
Printed name Theresa Michelle Pilgrim  
My commission expires 12-02-2020



STATE OF TEXAS  
COUNTY OF MONTGOMERY

BEFORE ME, the undersigned authority, on this day personally appeared Michael Poppert, 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 considerations therein expressed, and in the capacity therein and herein set out, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 5<sup>th</sup> day of June, 2017.

  
Notary Public for Montgomery County, Texas

Printed name Mary S. Lee  
My commission expires 11-09-2018



SURVEYOR'S CERTIFICATION


That I, David J. Strauss, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the subdivision regulations of the City of Montgomery, Texas.

By:   
David J. Strauss  
Registered Professional Land Surveyor  
Texas Registration No. 4633



CITY OF MONTGOMERY

I, THE UNDERSIGNED, Engineer for the City of Montgomery, hereby certify that this subdivision plat conforms to all requirements of the subdivision regulations of the City as to which his approval is required.

By:   
Ed Shockley  
City Engineer - City of Montgomery

This amended plat has been submitted to and considered by the City Administrator of the City of Montgomery, Texas, and is hereby approved as such.

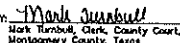
Dated this 28<sup>th</sup> day of JUNE, 2017.

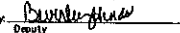
By:   
City Administrator Montgomery, Texas

COUNTY CLERK

I, Mark Turnbull, Clerk of the County Court of Montgomery County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on 28<sup>th</sup> day of June, 2017, at 1:35 o'clock P.M., and duly recorded on 7<sup>th</sup> day of July, 2017, at 2:04 o'clock P.M., in cabinet 7, sheet 1411.1 of Records of MAPS for said County.

WITNESS MY HAND AND SEAL OF OFFICE, of Conroe, Montgomery County, Texas, this day and date last above written.

By:   
Mark Turnbull, Clerk, County Court,  
Montgomery County, Texas

By:   
Deputy

SURVEYOR:



TOWN AND COUNTRY SURVEYORS  
& LANDSCAPE COMPANY  
2219 LAVERGNE BLDG., SUITE 8003  
THE WOODLARKS, TX 77060  
(832) 460-0700  
TMRPLR10194172

OWNER/DEVELOPER:

MILESTONE PROPERTIES, INC.  
10497 TOWN & COUNTRY WAY  
SUITE 820  
HOUSTON, TX, 77024  
PH. (713) 784-3790  
FAX (713) 784-8931  
EMAIL:

ENGINEER:

DEVELOPMENT SERVICES, INC.  
900 TOWN & COUNTRY LANE, SUITE 220  
HOUSTON, TEXAS 77024  
PH. (713) 647-9211  
FAX (713) 647-9113  
EMAIL: www.development-services-inc.com

SECOND AMENDED PLAT OF  
BUFFALO SPRINGS  
SHOPPING CENTER  
PHASE I



**LANCASTER & ASSOCIATES**  
 1208 FOX POND DRIVE, SUITE 200  
 THE WOODLAND, TEXAS 77380  
 PHONE: 281.356.9602 FAX: 281.356.9088



NOT FOR REGULATORY APPROVAL. PERMITTING OR CONSTRUCTION UNLESS SEAL IS SIGNED AND DATED ABOVE.

**SPIRIT OF TEXAS BANK**  
 MONTGOMERY BRANCH  
 MONTGOMERY, TX.

ISSUE RECORD  
 12.07.2018 - ENG/MSST  
 04.10.2019 - ISSUE FOR PERMIT & EG  
 06.23.2019 - PRELIM COMMENTS

DRAWING DATE  
 07.31.2017

COMMISSION  
 1616

SHEET NO.  
 E.O.1

GENERAL NOTES  
 (A) 10% E

KEYED NOTES  
 (1) COORDINATE WITH THE LOCAL UTILITY FOR THE PLACEMENT OF NEW POLES ON PROPERTY. PLAN TO THE METER IN AN UNDERGROUND PATH.  
 (2) PROVIDE PHYSICAL CONTROL ON LEAD FEATURE.  
 (3) APPROXIMATE LOCATION OF EXISTING POLE LINE.

Proposed Dumpster Encroachment

Proposed Light Pole Encroachment

Approximate Gateway Sign Location/Encroachment

26' Utility Easement MCCF No. 2015-073596

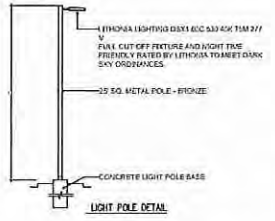
SIGNED: CITY OF MONTGOMERY

1 SITE PLAN  
 Scale: 1" = 20'-0"



14011 Park Drive • Tomball, TX 77377  
 281.356.9602 • 281.356.9088 • www.pdcgroup.com

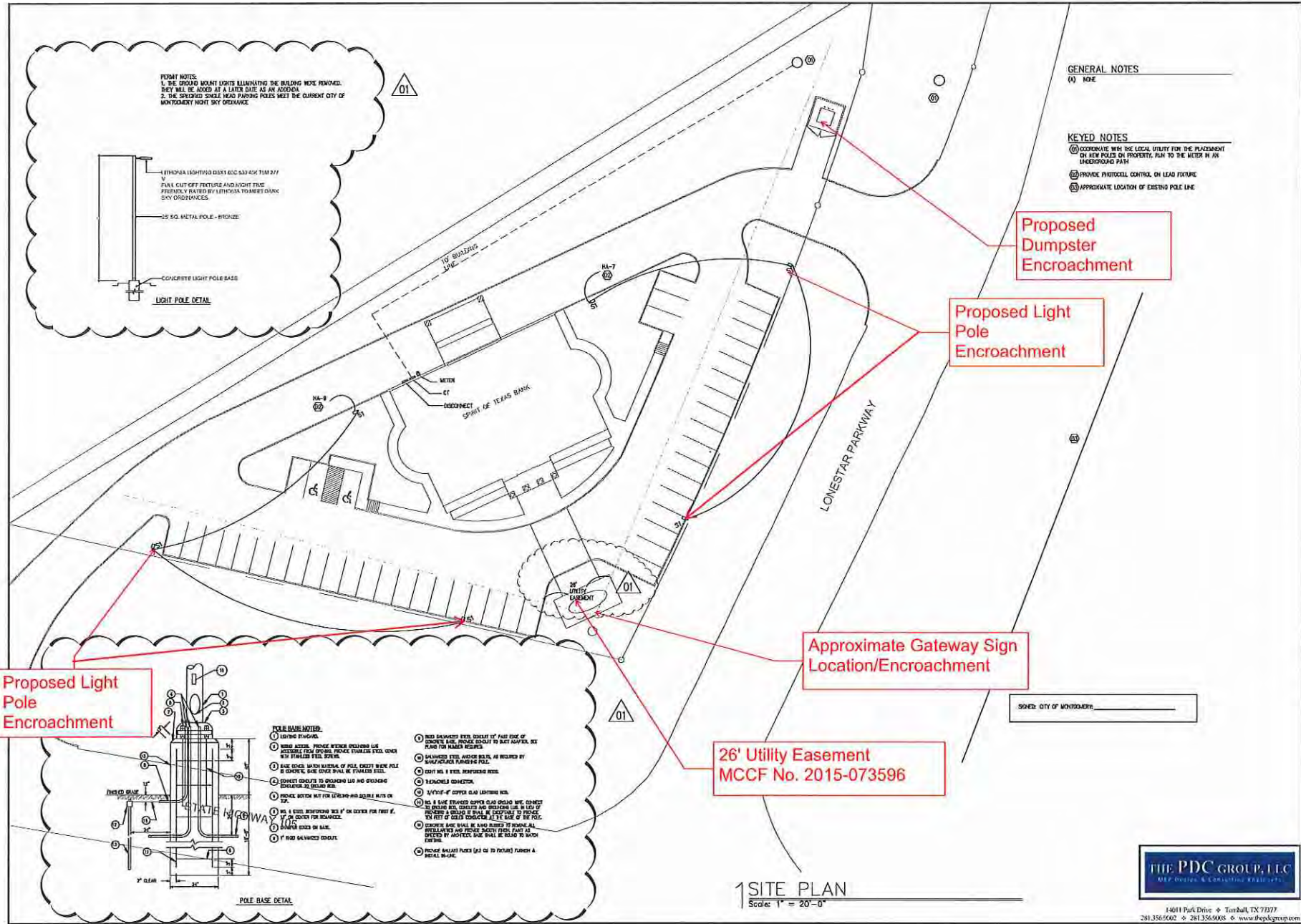
PERMIT NOTES  
 1. THE EXISTING MOUNT LIGHTS ILLUMINATING THE BUILDING WERE REMOVED. THEY WILL BE ADDED AT A LATER DATE AS AN ADDITION.  
 2. THE SPECIFIED SINGLE HEAD PARKING POLES MEET THE CURRENT CITY OF MONTGOMERY NIGHT SKY ORDINANCE.



POLE BASE NOTES  
 (1) EXISTING FOUNDATION  
 (2) 6" MIN. ACCESS. PROVIDE WRENCH PROTECTORS AND ACCESSIBLE FROM OPEN SIDE. PROVIDE STAINLESS STEEL COVER WITH STAINLESS STEEL BOLTS.  
 (3) BASE COVERS WHICH MATERIAL OF POLE MUST BE SAME POLE IS CONCRETE. BASE COVERS SHALL BE FINISHED EXTERIOR.  
 (4) CONNECT CONCRETE TO BRICKWORK AND PROVIDE PROTECTIVE COATING TO BRICKWORK.  
 (5) PROVIDE ACCESS HOLE FOR UTILITY AND SIGNAL WIRE OR 1 1/2".  
 (6) 1/2" x 1/2" x 1/2" BRASS WRENCH PROTECTOR FOR FIRST 1/2" OF COVER FOR BRASS.  
 (7) 1/2" MIN. GROUND CLEARANCE.  
 (8) 1" MIN. 6" DIA. STAINLESS STEEL.  
 (9) 1" MIN. 6" DIA. STAINLESS STEEL.  
 (10) PROVIDE WRENCH PROTECTORS (24" OR 30" PICTURE) FURNISH A METAL IN-LINE.

POLE BASE DETAIL

Proposed Light Pole Encroachment



Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: letter from Chief Appraiser</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is to consider if you want to nominate someone for the Montgomery County Appraisal District Board.

**Description**

There is one appointment opening to the Board. Page 2 of the information from MCAD states that to be eligible to serve the individual must be a resident of the district it must have resided in the district for at least two years immediately preceding the date the individual takes office.  
The nomination is not due until September 13, 2018 – so perhaps you want to let the public know of the opening – or you certainly are not required to nominate anyone.

**Recommendation**

Act as you desire.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
--------------------	------------	----------------------



## MONTGOMERY CENTRAL APPRAISAL DISTRICT

TONY BELINOSKI, RPA  
CHIEF APPRAISER

June 30, 2018

Mayor Kirk Jones  
City of Montgomery  
PO BOX 708  
Montgomery Texas 77356-0708

### Re: **Notification of Vacancy on the Board of Directors, 2018/2019 Term**

Dear Mayor :

On July 07, 2018, the Montgomery Central Appraisal District's Board of Directors received notification from Robert "Bob" Casey that he would be unable to serve on the Board of Directors. The Board of Directors will accept his resignation and declare a vacancy at the August 23, 2018 Board of Directors Meeting. Section 6.03(l) of the Texas Property Tax Code sets forth the method of filling a vacancy, as follows:

*If a vacancy occurs on the board of directors other than a vacancy in the position held by a county assessor-collector serving as a nonvoting director, each taxing unit that is entitled to vote by this section may nominate by resolution adopted by its governing body a candidate to fill the vacancy. The unit shall submit the name of its nominee to the chief appraiser within 45 days after notification from the board of directors of the existence of the vacancy, and the chief appraiser shall prepare and deliver to the board of directors within the next five days a list of the nominees. The board of directors shall elect by majority vote of its members one of the nominees to fill the vacancy.*

This letter, requesting a nomination, is being sent to all voting entities today. The deadline for MCAD to receive the Resolution nominating a candidate is September 13, 2018. Any nominees received after this date, will not be considered. A sample resolution and the qualifications for a board member, as defined by the code, are included. Filling the vacancy will be an item for consideration on the September 20, 2018 Agenda. The nominee chosen by the board to fill the vacancy, will finish out the regular term of office that expires on December 31, 2019.

If you have any questions or comments, please call me.  
Sincerely,

A handwritten signature in black ink, appearing to read "Tony Belinoski", written over a light blue horizontal line.

Tony Belinoski  
Chief Appraiser

*SERVICE, EXCELLENCE AND EQUITY IN AD VALOREM TAX ADMINISTRATION*

(936) 756-3354 CONROE • (936) 441-2186 METRO • P.O. BOX 2233 • CONROE TEXAS 77305-2233



# QUALIFICATIONS FOR AN APPRAISAL DISTRICT DIRECTOR

[Texas Property Tax Code 6.03]

To be eligible to serve on the board of directors, an individual must be a resident of the district and must have resided in the district for at least two years immediately preceding the date the individual takes office.

An individual is **ineligible** to serve if the individual is:

- ◆ An employee of a taxing unit in the district [a person may be an elected official of a taxing unit].
- ◆ An appraisal district employee.
- ◆ A person (or spouse) or business entity that contracts with the appraisal district or with a taxing unit in the appraisal district.
- ◆ A person (or spouse) or business entity that is a participant in a current lawsuit with the district.
- ◆ A person or relative within the second degree by consanguinity or affinity who does business in the appraisal district as a paid property tax agent or fee appraiser whose work involves property taxes.
- ◆ A person owing delinquent property taxes. [IF delinquency is older than 60 days] [DOES NOT apply if person is paying delinquent taxes and any penalty and interest under an installment payment agreement or has deferred or abated a suit to collect delinquent taxes.]

<b>1<sup>st</sup> DEGREE</b>	<b>2<sup>nd</sup> DEGREE</b>	<b>3<sup>rd</sup> DEGREE</b>
<p><b>By Consanguinity</b></p> <ul style="list-style-type: none"><li>• Parents</li><li>• Children</li></ul> <p><b>By Affinity</b></p> <ul style="list-style-type: none"><li>• Spouses of relatives listed under first degree consanguinity</li><li>• Spouse</li><li>• Spouse's parents</li><li>• Spouse's children</li><li>• Stepparents</li><li>• Stepchildren</li></ul>	<p><b>By Consanguinity</b></p> <ul style="list-style-type: none"><li>• Grandparents</li><li>• Grandchildren</li><li>• Brothers &amp; sisters</li></ul> <p><b>By Affinity</b></p> <ul style="list-style-type: none"><li>• Spouses of relatives listed by second degree consanguinity</li><li>• Spouse's grandparents</li><li>• Spouse's grandchildren</li><li>• Spouse's brothers &amp; sisters</li></ul>	<p><b>By Consanguinity</b></p> <ul style="list-style-type: none"><li>• Great grandparents</li><li>• Great grandchildren</li><li>• Nieces &amp; nephews</li><li>• Aunts &amp; uncles</li></ul> <p><b>By Affinity</b></p> <ul style="list-style-type: none"><li>• No prohibitions</li></ul>

**SAMPLE  
ONLY**

**STATE OF TEXAS**

§  
§  
§

**COUNTY OF MONTGOMERY**

**RESOLUTION**

**WHEREAS**, \_\_\_\_\_ of Montgomery County, Texas has been certified by the Chief Appraiser of the Montgomery Central Appraisal District (MCAD) as being eligible and entitled to nominate candidates for the Board of Directors of MCAD; and

**WHEREAS**, a vacancy has been declared on the Montgomery Central Appraisal District's Board of Directors;

**WHEREAS**, in accordance with Chapter 6.03(l) of the Texas property Tax Code, each taxing entity that is entitled to vote may nominate a candidate, by resolution, to fill the vacancy, now

**THEREFORE BE IT RESOLVED**, that the governing body of Montgomery County, Texas does hereby nominate to the Montgomery Central Appraisal District, Board of Directors the following candidate:

[Names(s):]

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2018.

/s \_\_\_\_\_  
President, Board of Directors

**ATTEST:**

\_\_\_\_\_  
Secretary,

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> City Administrator	<b>Exhibits: Ordinance w/ map</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is to consider adopting an ordinance to Annex 1.799 acre tract of land, consisting entirely of S H 105 right-of-way on the eastern boundary of the city.

**Description**

This is to consider adopting an ordinance to annex the right-of-way of SH 105, between the present eastern boundary of the city at well five (roughly in front of Dusty's car wash) and the Eastern right-of-way of the intersection of Stewart Creek Road and SH105.  
There's been to public hearings and no one has spoken at either public hearing.

**Recommendation**

Adopt the ordinances presented.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
--------------------	------------	----------------------

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_ approving the following Ordinance:

ORDINANCE NO. 2018- \_\_\_\_\_

**AN ORDINANCE ANNEXING INTO THE CITY OF MONTGOMERY, TEXAS, THE HEREINAFTER DESCRIBED TERRITORY OF 1.799 ACRES OF LAND, MORE OR LESS, IN THE PUBLIC ROAD RIGHT-OF WAY OF STATE HIGHWAY 105 EAST WHICH RUNS ADJACENT AND PARALLEL TO THE BOUNDARIES OF THE CITY, AND LOCATED IN THE JOHN CORNER SURVEY, ABSTRACT 8, MONTGOMERY COUNTY, TEXAS; AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN SAID CITY LIMITS; PROVIDING A SEVERABILITY CLAUSE AND A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING THE EFFECTIVE DATE UPON PASSAGE OF THE ORDINANCE**

**WHEREAS**, the City of Montgomery, Texas (“the City”) is a Type A general-law municipality of the State of Texas, with a population of 500 or more; and

**WHEREAS**, the municipal boundaries of the City extend along both sides of and parallel to the 120-foot wide right-of-way of State Highway 105 East, as described in the survey and legal description:

Being a 1.799acre tract of land, more or less, in the JOHN CORNER SURVEY, Abstract No. 8, of Montgomery County, Texas, further described in the survey and legal description attached hereto in Exhibit “A;” and

**WHEREAS**, Section 43.103 of the Texas Local Government Code (“the Code”) provides that a general-law municipality with a population of 500 or more may annex, by ordinance and without the consent of any person, that part of a street, highway, alley, or other public or private way that is adjacent and runs parallel to the boundaries of the municipality; and

**WHEREAS**, the City Council finds that the above-described 1.799-acre right-of-way of State Highway 105 East is parallel and contiguous to the city limits; is within its extraterritorial jurisdiction; and is vacant and without residents; and

**WHEREAS**, the City Council has conducted two public hearings on July 10, 2018 and July 24, 2018 to receive the comments of its citizens on the proposed annexation, and there have been no objections to the proposed annexation; and

**WHEREAS**, the annexation procedures prescribed by the Texas Local Government Code and the laws of this State have been duly followed with respect to the following described territory, to wit:

Being a 1.799-acre tract of land, more or less, in the JOHN CORNER SURVEY, Abstract No. 8, of Montgomery County, Texas, further described in the survey and legal description attached hereto in Exhibit "A."

**WHEREAS**, the City Council further finds that it is in the best interest of the public that said highway right-of-way be annexed by the City so that it can provide law enforcement traffic control and protection to those persons traveling along State Highway 105 east of the City; and

**WHEREAS**, having considered the arguments for and against the proposed annexation, the City Council believes it is appropriate and in the best interest of the City of Montgomery and its citizens that the proposed annexation be granted;

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

1. **PROPERTIES ANNEXED:** That the heretofore described property in Exhibit "A" is hereby annexed to the City of Montgomery, Montgomery County, Texas, and that the boundary limits of the City of Montgomery, be and the same be hereby extended to include the above described territory within the city limits of the City of Montgomery.
2. **SEVERABILITY CLAUSE:** The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application.
3. **TEXAS OPEN MEETINGS ACT:** It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, of the Texas Government Code.
4. **FILING ORDINANCE:** The City Secretary is hereby directed to file a certified copy of this Ordinance with the County Clerk of Montgomery County, Texas, the Montgomery County Central Appraisal District, the Texas Secretary of State, and the Office of Texas State Comptroller.
5. **EFFECTIVE DATE:** This Ordinance shall be effective upon its passage.

PASSED AND APPROVED by an affirmative vote of the members of the City Council, on this the \_\_\_\_\_ day of August 2018.

\_\_\_\_\_  
Sara Countryman, Mayor

ATTEST:

\_\_\_\_\_  
Susan Hensley, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry L. Foerster, City Attorney

Exhibit A

1.799 Acres

John Corner Survey  
Abstract Number 8

STATE OF TEXAS           §

COUNTY OF MONTGOMERY   §

A METES AND BOUNDS description of a 1.799 acre tract of land situated in the John Corner Survey, Abstract Number 8, Montgomery County, Texas; being out of and a part of Highway 105 at Stewart Creek Road; said 1.799 acre tract being more particularly described as follows with all bearings being based on South 79°38'53" East along the north line of a called 6.202 acres (Tract 1) as filed for reference under Ordinance No. 2015-06 by the City of Montgomery:

COMMENCING at a point in the north right-of-way of said Highway 105 (width varies) for the southeast corner of said 6.202 acres and the southwest corner of a called 2.039 acres (Tract 2) as filed for reference under Ordinance No. 2015-06 by the City of Montgomery;

THENCE, South 80°18'31" East; along the north right-of-way of said Highway 105 and the south line of said 2.039 acres to the POINT OF BEGINNING of the herein described tract;

THENCE, over and across said Highway 105 the following five (5) courses and distances:

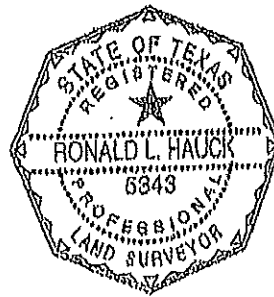
1. South 80°18'31" East, 192.55 feet continuing along the north right-of-way of said Highway 105 to a point for a southeast corner of Restricted Reserve "A", Block 1 of Pizza Shack Montgomery as shown on a plat filed for record in Cabinet Z, Sheet 4068 of the Montgomery County Map Records;
2. South 77°19'49" East, 150.00 feet to a point for a southwest corner of Restricted Reserve "B" of Stewart Creek Partners as shown on a plat recorded in Cabinet Z, Sheet 1657 of the Montgomery County Map Records;
3. South 11°19'50" West, 229.57 feet to a point in the south right-of-way of said Highway 105 and the north line of a called 48,450 acre tract conveyed to Kampgrounds of America, Inc. by General Warranty Deed as filed for record under Clerk's File No. 2007-000741 of the Montgomery County Official Public Records of Real Property;
4. North 78°46'19" West, 335.84 feet along the south right-of-way of said Highway 105, the north line of said 48,450 acres and the north line of a called 5.71 acres conveyed to Peter Hill by Special Warranty Deed with Vendor's Lien as filed for record under Clerk's File No. 2016086083 of the Montgomery County Official Public Records of Real Property to a point;
5. North 09°34'23" East, 228.28 feet to the POINT OF BEGINNING, CONTAINING 1.799 acres as shown on drawing number 12141.

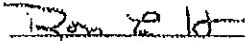
1,799 Acres

John Corner Survey  
Abstract Number 8

"This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

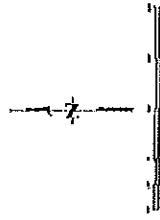
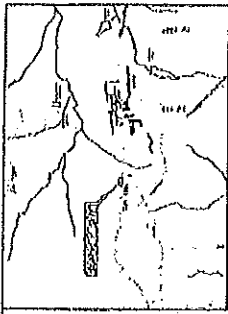
Jones and Carter  
1575 Sawdust Road, Suite 400  
The Woodlands, TX 77380  
(281) 363-4039



  
Acting By/Through Ronald L. Hauck  
Registered Professional Land Surveyor  
No. 5343  
rhauck@jonescarter.com  
*Texas Board of Professional Land Surveying  
Registration No. 10046106*

June 20, 2018



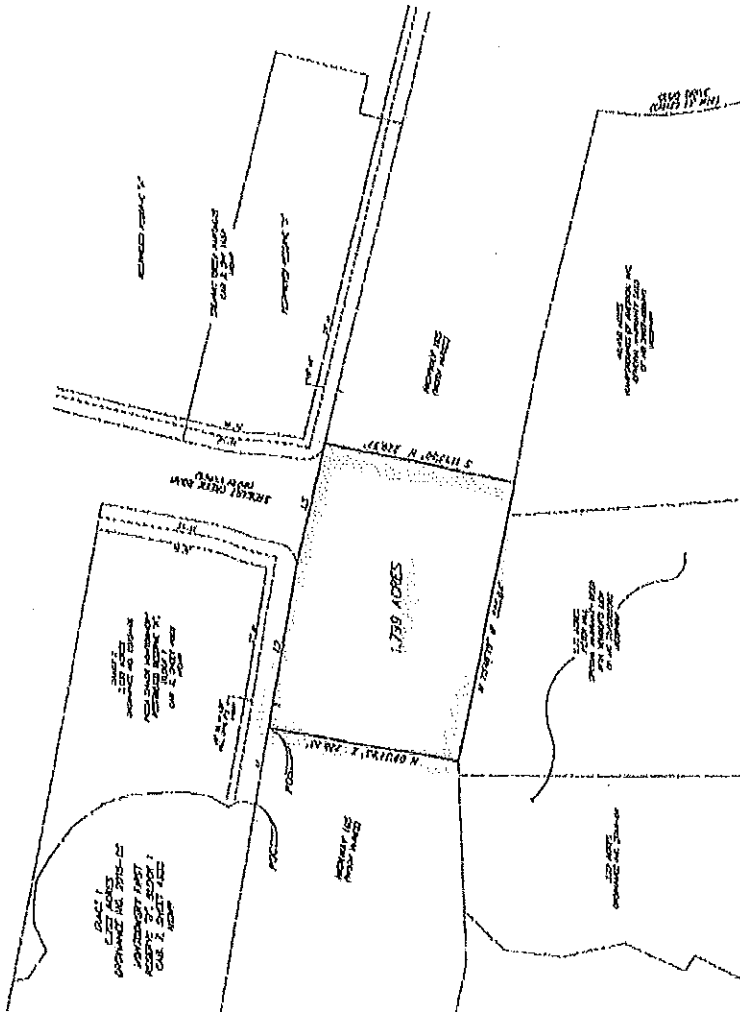


NOT TO SCALE

THIS PLAN IS THE PROPERTY OF THE ENGINEER AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT HIS WRITTEN CONSENT.



EXHIBIT  
 PROPOSED IMPROVEMENT OF  
 A PORTION OF SH-70  
 AND THE  
 CITY OF MONTGOMERY  
 THE ADJACENT  
 OUT OF THE  
 S.W. CORNER QUARTER, AS  
 SHOWN ON PLANS  
 JONES CARTER



THIS PLAN IS THE PROPERTY OF THE ENGINEER AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT HIS WRITTEN CONSENT.

JONES CARTER  
 ENGINEER

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits:</b> Letter from Lawson Law firm, Ordinance
<b>Date Prepared: August 8, 2018</b>	

**Subject**

This is to consider adopting an ordinance to deny a rate increase from Entergy as proposed by Lawson Law firm.

**Description**

This is to consider adopting an ordinance to deny a \$16,689,000 systemwide base rate increase by Entergy. As you may remember, the Lawson firm is the firm that reviews Entergy rates for many cities in the Houston area and recommends action on those requests.

**Recommendation**

Adopt the ordinances presented.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
--------------------	------------	----------------------

Mr. Shawn Oubre  
City Manager – City of Orange  
803 W. Green Avenue, Room 201  
P.O. Box 520  
Orange, Texas 77630

Mr. Rodney Price  
City Attorney – City of Pine Forest  
City Attorney – City of Rose City  
P.O. Box 310  
Vidor, Texas 77670

Mr. Tommy Gunn  
City Attorney – City of Pinehurst  
202 S. Border  
Orange, Texas 77630

Mr. Robbie Hood  
City Administrator – City of Pinehurst  
2497 Martin Luther King Jr. Drive  
Orange, Texas 77630

Ms. Val Tizeno  
City Attorney – City of Port Arthur  
P.O. Box 1089  
Port Arthur, Texas 77641

Mr. Harvey Robinson  
Interim City Manager – City of Port Arthur  
P.O. Box 1089  
Port Arthur, Texas 77641

Re: Recommendation on Entergy Texas, Inc.'s Pending Base Rate Case and Proposed Final Rate Ordinance

Dear Steering Committee of Cities in Entergy's Service Area:

This letter is to provide our recommendation regarding Entergy Texas Inc.'s ("Entergy" or "Company") rate case currently pending before the Cities and the Public Utility Commission ("Commission"). **As you are aware, each City must take final action on Entergy's rate request by September 17, 2018.**

In its statement of intent filed May 15, 2018, Entergy proposed a system-wide base rate increase of \$16,689,590 annually. However, the actual annual increase under the Company's application is approximately \$117.6 million, but this would be offset for the first 2 years by \$101 million per year for monies being returned to customers as a result of the Tax Cuts and Jobs Act.<sup>1</sup> In other words, under the Company's proposal, customers would experience a very large rate increase after the first two years rates are in effect and not know why. Of the total \$16.7 million annual increase, the annual increase in revenues for residential customers is about \$10 million, representing about 1.51% increase in customer revenues. After the first two years (when the tax refund is completed), the annual increase for residential customers would jump to a 13.67% increase over current revenues. Based upon the analyses and evaluations conducted to date by the rate experts retained to review Entergy's filing, our overall recommendation is that the Cities deny Entergy's proposed rate increase. Our recommendation is appended to this letter as **Attachment 1**.

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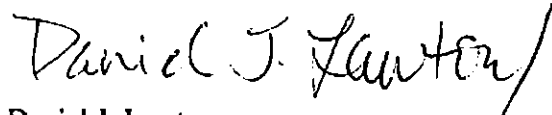
<sup>1</sup> The Tax Cuts and Jobs Act 2017 (TCJA) reduced corporate income tax rates from 35% to 21%. Given the tax rate change, all deferred taxes on the ETI books now must be paid at a 21% rate not the 35% level customers have previously provided. The Company has about \$202 million of these excess tax payments and proposes to return these amounts to consumers by amortizing these \$202 million over two years (\$101 million per year), thus lowering the calculated \$117.6 million base rate increase to \$16.7 million.

The attached Rate Report outlines the review and analysis of the various consultants on issues ranging from the level of shareholder profits, annual operating and maintenance expense levels, and used and useful investment. Taken as a whole, we conclude that no increase in rates is justified at this time. In fact, if each recommended adjustment were accepted, there would be a rate decrease.

**We are also attaching, as Attachment 2, a proposed Rate Ordinance denying Entergy's rate increase request. A Final Rate Ordinance must be passed on or before September 17, 2018. If a Final Rate Ordinance is not passed by that date, the rate increase proposed by Entergy may take effect by operation of law under Texas Public Utilities Regulatory Act § 36.108(c). Please forward a copy of the passed rate ordinance to us at [dlawton@ecpi.com](mailto:dlawton@ecpi.com) and [molly@mayhallvandervoort.com](mailto:molly@mayhallvandervoort.com).**

If you have any questions or concerns, please do not hesitate to call.

Sincerely,



Daniel J. Lawton



# ATTACHMENT 1

# THE LAWTON LAW FIRM, P.C.

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

## CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

### FINAL RATE REPORT TO STEERING COMMITTEE OF CITIES

This Final Rate Report to the Steering Committee of Cities (“Report”) recommends that Cities exercising original jurisdiction over the rates and operations of Entergy Texas, Inc. (“Entergy” or the “Company”) pass the attached recommended rate ordinance and deny the rate increase request filed on or about May 15, 2018, by Entergy with Cities. Any final rate ordinance taking action on Entergy’s rate filing package **must be approved by September 17, 2018.**

#### I. Introduction

On or about May 15, 2018, Entergy filed an application with municipal regulatory authorities and the Public Utility Commission (“Commission”) requesting to increase their rates by \$16,689,590 annually. The actual annual increase under the Company’s application is approximately \$117.6 million, but this would be offset for the first 2 years by \$101 million per year for monies being returned to customers as a result of the Tax Cuts and Jobs Act.<sup>1</sup> In other words, under the Company’s proposal, customers would experience a very large rate increase after the first two years rates are in effect and not know why.

Residential customers would receive the largest increase in terms of dollars. For each of the first two years rates are in effect, residential customers would bear about \$10 million of the \$16.7 million proposed increase, representing about 1.51% increase in customer revenues. After the first two years, the residential customers’ share of the \$117.6 million increase would be \$66,901,087 per year, a 13.67% increase over current revenues.<sup>2</sup> The average residential customer using 1000 kWh/month would initially receive an increase of \$2.35 per month, or a

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<sup>1</sup> The Tax Cuts and Jobs Act 2017 (TCJA) reduced corporate income tax rates from 35% to 21%. Given the tax rate change, all deferred taxes on the ETI books now must be paid at a 21% rate not the 35% level customers have previously provided. The Company has about \$202 million of these excess tax payments and proposes to return these amounts to consumers by amortizing these \$202 million over two years (\$101 million per year), thus lowering the calculated \$117.6 million base rate increase to \$16.7 million.

<sup>2</sup> Entergy Schedule Q-1.

2.02% increase above their present monthly billing.<sup>3</sup> Entergy's fuel rates will not be directly affected by this proceeding. The following table shows the effect of Entergy's proposed rate increase on all rate classes, both initially and after the first 2 years rates are in effect:

**TABLE 1**

<b>Rate Class</b>	<b>For The First 2 Years Rates Are In Effect</b>		<b>After First 2 Years Rates Are In Effect</b>	
	<b>Dollar Increase Requested</b>	<b>% Change in Total Revenues</b>	<b>Dollar Increase Requested</b>	<b>% Change in Total Revenues</b>
Residential Service	\$10,057,323	1.51%	\$66,901,087	13.67%
Small General Service	\$1,850,014	4.48%	\$5,369,360	17.51%
General Service	\$(1,983,625)	-0.69%	\$19,574,638	10.36%
Large General Service	\$1,446,992	1.49%	\$7,815,395	14.29%
Large Industrial Power Service	\$6,402,429	1.96%	\$16,972,341	12.95%
Lighting Service	\$(1,083,543)	-6.28%	\$884,803	6.12%
<b>Total Retail</b>	<b>\$16,689,590</b>	<b>1.16%</b>	<b>\$117,517,624</b>	<b>12.92%</b>

## **II. Expert Witnesses Retained**

Five utility rate experts have been retained to review Entergy's filing. Two of the expert witnesses, Mr. Mark Garrett and Mr. Karl Nalepa, have been previously retained to provide testimony in past Entergy rate cases. The team of experts retained in this proceeding provides a combination of regulatory experience with an institutional knowledge of Entergy and its affiliates. The experts and the subject of their recommendations are as follows:

*Mr. Mark Garrett* is a certified public accountant and an attorney who has been practicing in the utility regulatory field since 1991. Mr. Garrett provides various cost of service recommendations on complex accounting and rate issues, which include limiting or eliminating the amount of financial incentive compensation charged to customers and making adjustments for various federal income tax benefits not accounted for by Entergy, along with other accounting and general expense-related cost of service issues.

<sup>3</sup> Schedule Q-8.9. The Company did not provide the bill impact for average customers after the first two years.

*Mr. Karl Nalepa* is a former Public Utility Commission analyst and also a former technical rate examiner for the Texas Railroad Commission. Mr. Nalepa has worked in the electric and natural gas industries for more than thirty-five years. Mr. Nalepa and his staff produced the cost of service model supporting our experts' overall recommendations.

*Mr. Kevin O'Donnell* is a Chartered Financial Analyst ("CFA") and has been working in the utility regulatory industry since 1984. Mr. O'Donnell provides recommendations regarding Entergy's cost of capital, capital structure, and the reasonable level of shareholder profit Entergy should be authorized to earn in rates.

*Mr. David Garrett* has been in the utility regulatory business since 2011. He is an attorney and a Certified Depreciation Professional with the Society of Depreciation Professionals. Mr. Garrett provides recommendations regarding the Company's proposed depreciation rates.

*Mr. Brian Murphy* is a former Public Utility Commission rate analyst who has participated in over 120 rate proceedings for a variety of Texas's electric utilities. He provides recommendations regarding miscellaneous cost of service issues.

The experts have reviewed Entergy's filing as well as Entergy's responses to requests for information filed at the Public Utility Commission. This report summarizes the recommendations made in their direct testimony filed with the Commission on August 1, 2018.

### **III. Standard of Review**

Municipalities exercise exclusive original jurisdiction over the rates, operation, and services of an electric utility in order to "provide fair, just, and reasonable rates," pursuant to Texas Utilities Code, Public Utilities Regulatory Act ("PURA") § 33.001.

Utility rates are set prospectively based upon the utility's cost of service in the most recent test year. Utility rates are set so as to provide the utility with "overall revenues at an amount that will permit the utility a reasonable opportunity to earn a reasonable return on the utility's invested capital used and useful in providing service to the public in excess of the utility's reasonable and necessary operating expenses." PURA § 36.051.

In this proceeding, Entergy has the burden of proving that the requested rate increase is just and reasonable. PURA § 36.006(1).



#### IV. Ratemaking Findings

The rate experts conducted a thorough review and investigation of the Company's filed request, and recommended the adjustments summarized in Table 2 below. Their findings and recommended adjustments show that Entergy's rate increase request is overstated and not supported by evidence, and that no increase should be granted.

**TABLE 2<sup>4</sup>**

Adjustment	Revenue Requirement Adjustment	Sponsor
Return on Equity	(\$27,337,854)	O'Donnell
Depreciation Adjustment	(\$14,854,484)	D. Garrett
Sabine & Neches Retirement Balances	\$1,634,390	D. Garrett
Post Test Year Plant Removal	(\$17,066,628)	M. Garrett
Storm Regulatory Assets Removal	(\$25,866,749)	M. Garrett
TCJA Excess ADIT Amortization	(\$41,528,010)	M. Garrett
TCJA Overcollection Refund	(\$8,903,763)	M. Garrett
Payroll Adjustment	(\$2,087,075)	M. Garrett
ST Incentive Adjustment	(\$4,036,693)	M. Garrett
LT Incentive Adjustment	(\$1,805,622)	M. Garrett
Retirement Plan Adj.	(\$1,119,729)	M. Garrett
Skylining Removal	(\$610,441)	Murphy
Self-Insurance Reserve	(\$762,750)	Murphy
Weather Normalization	(\$5,298,285)	Murphy
Total Cities' Adjustments	(\$149,643,694)	

<sup>4</sup> The bottom line adjustment of \$149,643,694 represents the sum of all issues. Many issues are interrelated and the final overall impact is about \$121 million reduction to the ETI \$117 million rate increase request.

A brief discussion of the issues addressed by the team of rate experts follows:

**Cost of Capital** – Entergy proposed that Texas regulators adopt 8.23% as the Company’s overall cost of capital, with a 10.65% equity component. After reviewing the Company’s books and current financial market data, Mr. O’Donnell concluded that a more reasonable overall cost of capital for Entergy would be 7.39%, with a 9.0% equity component. The overall impact of this adjustment is about \$27 million.

**Depreciation** – Entergy conducted a depreciation study and determined that the Company has an annual depreciation revenue requirement of more than \$30 million above current levels. However, Mr. Garrett concluded that Entergy’s proposed increase is unreasonably high due to its inappropriate inclusion of retired plant and interim retirements in its calculation of depreciation and net salvage rates. In addition, Mr. Garrett recommended adjustments to the Company’s mass property accounts and demolition costs. Mr. Garrett’s proposed adjustments add up to approximately \$15 million off of the Company’s proposed cost of service.

**Post-Test Year Adjustment** – Entergy proposed to include approximately \$128 million of capital additions in rate base that, at the time of filing, were expected to go into service by June 30, 2018, which is six months after the Company’s test year ended. This is normally not allowed under the Commission’s rules unless the Company can show that it qualifies for an exception. Mr. Garrett discussed the reasons Entergy does not qualify for an exception, and recommended that the post-test year capital additions be excluded. The Company recently disclosed that the actual capital additions completed in the 6 months after the test year totaled only \$41 million, which further bolsters Mr. Garrett’s recommendation. The total revenue impact of removing the proposed post-test year adjustment is estimated to be about \$17 million.

**Employee Compensation and Benefits** – Several aspects of Entergy’s request related to employee compensation and benefits require adjustments in order to reflect Entergy’s true test year cost of service. First, Entergy has included in its cost of service about \$8 million for the financial incentive bonus payments Entergy pays to certain employees once an identified financial metric for the Company is met. Entergy’s financial incentive plans exist exclusively for the benefit of shareholders, not customers. Financial incentive bonus payments should therefore be paid out of the extra earnings received as a result of the incentives, and not passed on to customers through rates. Second, Entergy overstated the amount of pension funding appropriately charged to customers, which results in an adjustment of approximately \$1 million.

Third, adjustments totaling about \$2 million are recommended to correct for raises that were given outside of the test year but included in cost of service.

**The Tax Cuts and Jobs Act (“TCJA”)** – The Tax Cuts and Jobs Act reduced the corporate income tax rate from 35% to 21%. The Commission ordered utilities to keep track of savings resulting from the tax rate decrease starting January 25, 2018, and that these savings must be returned to customers. Mr. Garrett made two recommendations regarding the Company’s treatment of TCJA savings. First, Mr. Garrett recommended that Entergy be ordered to return to customers \$28 million in tax savings it will accrue from January 1, 2018 until its new rates go into effect. Entergy proposed to keep these savings for its shareholders, in direct contradiction of the Commission’s order. Second, the tax rate reduction produced unprotected excess accumulated deferred income taxes in the amount of \$201 million. The Company proposed to refund this amount over two years at around \$100 million per year. Mr. Garrett proposed that part of these funds be used to pay off certain regulatory assets related to storm damage and to amortize the remainder over four years to customers.

**Skylining Removal** – Entergy proposed to capitalize and include in rate base certain O&M vegetation management costs that have already been rejected by the Commission in a previous rate proceeding. Mr. Murphy recommended that this item be removed from rate base, which would have a revenue impact of \$610,441.

**Storm Reserve** – Entergy estimated an annual cost to customers of \$7,847,000 for (1) estimated annual expenses arising from storm damage, and (2) the cost of replenishing the self-insurance reserve and building it to a target level of \$13,253,000 over three years. Mr. Murphy recommended that the self-insurance reserve deficit be funded over four years instead of three years, which reduces the annual collections by \$762,750.

**Weather Normalization** – Entergy included in its request an adjustment to normalize its test year billing units for the effects of weather, otherwise known as a weather normalization adjustment. Entergy used a 20-year period of weather data to determine what normal weather conditions would be, whereas the Commission has been requiring a 10-year weather normalization period in recent proceedings. Mr. Murphy recommended that a 10-year weather normalization period be applied, which results in a decrease to the revenue requirement of about \$5 million.

**V. Failure to Meet Burden**

Entergy's revenue requirement is overstated, as is shown in the discussion and issue summary table above. The sum of Cities' experts' proposed adjustments to Entergy's test year revenue requirement more than eliminates Entergy's proposed \$117.6 million base rate increase. Therefore, we recommend that the Cities deny Entergy's proposed rate increase request and require Entergy to continue to charge customers the base rate charges currently approved by the Cities and other Texas retail regulators.

# ATTACHMENT 2

(Provided in Microsoft Word Format)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE BY THE CITY OF \_\_\_\_\_,  
TEXAS (“CITY”) DENYING THE RATE INCREASE  
REQUEST OF ENTERGY TEXAS, INC. FILED ON MAY 15,  
2018; FINDING THAT THE MEETING COMPLIES WITH  
THE OPEN MEETINGS ACT; MAKING OTHER  
FINDINGS AND PROVISIONS RELATED TO THE  
SUBJECT; AND DECLARING AN EFFECTIVE DATE**

WHEREAS, on or about May 15, 2018, Entergy Texas, Inc. (“Entergy”) filed a Statement of Intent with the City to increase electric rates in the Entergy Service Area by \$16.7 million per year for the first two years rates would be in effect and \$117.6 million per year thereafter;

WHEREAS, the City of \_\_\_\_\_ suspended the effective date of Entergy’s rates within its jurisdictional limits until September 17, 2018, and hired the Lawton Law Firm, P.C. to review the Company’s rate change request and proposed tariffs;

WHEREAS, the expert utility rate consultants retained to review the Company’s rate increase on behalf of the City have proposed a total of about \$120 million in consolidated adjustments to Entergy’s revenue requirement and have concluded that Entergy has not justified the need for a rate increase. The consultants’ analyses more than eliminate the Company’s purported annual revenue increase, as set out in the recommendations made to the City in the Final Rate Report to Cities Steering Committee (“Report”);

WHEREAS, the rate experts retained for the rate review have concluded that Entergy’s rate filing request includes rate increases for Entergy’s proposed cost of capital, depreciation rates, employee compensation—including bonus, stock awards and other compensation—benefits, and storm reserve charges, which are unjustified by Entergy’s filing; and

WHEREAS, Entergy has failed to justify increasing the rates previously determined to be reasonable and necessary by this City and other Texas regulatory authorities; and

WHEREAS, the statutory deadline to act on Entergy’s rate increase request is September 17, 2018;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, TEXAS, THAT:

Section 1. That the statement and findings set out in the preamble to this Ordinance are hereby in all things approved and adopted.

Section 2. The City of \_\_\_\_\_ hereby denies the rate increase and proposed tariff revisions requested in Entergy's Statement of Intent.

Section 3. Entergy is hereby ordered to continue operating under its existing approved rates.

Section 4. Entergy shall reimburse the City for the reasonable costs of attorney and consultant expenses related thereto, upon the presentation of invoices reviewed by the Steering Committee.

Section 5. 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 6. This ordinance shall become effective from and after its passage.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_

ATTEST:

\_\_\_\_\_

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: Budget calendar</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

Calling a public hearing for the 2018 – 2019 budget.

**Description**

This is to call the required public hearing. To meet with the time of publication hearing requirements it is recommended to call the public hearing for August 28, the second regular City Council meeting date.

**Recommendation**

Motion to set August 28 for the public hearing date for the 2018 – 2019 budget.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
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## 2018-2019 FY Budget Preparation Calendar

Date	Task	Responsible Party
6-Jul	Staff Budgets Due, Preliminary 2018 Tax Roll Estimate	Staff
15-Jul	Preliminary 2018-2019 Budget to Council	Staff
19-Jul	Council Budget Workshop 6 pm	City Council and Administrator
31-Jul	Council Budget Workshop 6 pm	City Council and Administrator
25-Jul	Certification of Tax Roll	Mont. Central Appraisal District
3-Aug	Proposed Budget filed with City Secretary (must be 30 days before tax levy)	Mayor
13-Aug	Calculation of 2018 Effective Tax Rate	Mont. Central Appraisal District
14-Aug	Call (2) Tax Public Hearings on Effective Tax Rate	City Council
14-Aug	Call Budget Public Hearing	City Council
17-Aug	Publish notice of date of Budget Public Hearing (must be 10-30 days before Public Hearing)	City Secretary
17-Aug	Council Budget Workshop #3 (if needed)	City Council and Administrator
28-Aug	Budget Public Hearing on proposed budget (6pm) (must be at least 15 days after filing of proposed Budget)	City Council
28-Aug	Tax Public Hearing 1 Effective Tax Rate (Two (2) Public Hearings required)	City Council
4-Sep	Tax Public Hearing 2 on Effective Tax Rate (Two (2) Public Hearings required)	City Council
11-Sep	Adopt Budget for FY 2018-2019 (6pm) (Must be adopted before the Tax Rate)	City Council
11-Sep	Adopt 2018 Tax Rate (must be adopted by Sept. 15 to ensure Tax Statements are mailed as early as possible)	City Council

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits:</b> 2018 Property Tax Rates In City of Montgomery Worksheet from County Treasurer
<b>Date Prepared: August 8, 2018</b>	

**Subject**

Consideration of acknowledgment and acceptance of the Effective Tax Rate and the Rollback Rate calculations as presented by the County Treasurer.

**Description**

This is the acknowledgment of the Effective Tax Rate and Rollback Rates has shown the attached worksheet from the County Treasurer. The Effective Tax Rate is .4094 in the rollover rate is .4860.

The Effective Tax Rate is what the tax rate would be to collect the same amount of taxes as in 2017 – 2018. With the increase of approximately \$54,000,000 of taxable value the effective tax rate would be .3660

The Rollover Rate is the available tax rate that the City could collect legally based on the percentage of increase allowed each year in the law. The Council has decided that the growth of the assessment is roughly equal to the growth in the city services needed so that the Council is actually reducing the previous .4155 tax rate to a .4055 tax rate.

The Council, in budget planning,, has decided to lower that tax rate in order to grow the budget with the equal increase in demand for services, believing that by keeping the tax rate at this amount that the growth in the budget is paid for by the new growth of the city

The way it worked out this year is that the increase of approximately \$54,000,000 in the growth of assessment – resulted in \$206,220 in total

Montgomery City Council  
**AGENDA REPORT**

revenues for the city, further broken down by .2113 in general fund maintenance and operation resulting in \$131,514 of additional funds and .1941 to Debt Service \$74,707.

**Recommendation**

(Motion mistreated as follows)

Motion to acknowledge and accept the Effective Tax Rate and the Rollover Rate calculations as presented in the City of Montgomery Worksheet from the County Treasurer.thanks

**Approved By**

City Administrator

Jack Yates

Date: August 8, 2018

## 2018 Property Tax Rates in City of Montgomery

This notice concerns the 2018 property tax rates for City of Montgomery. It presents information about three tax rates. Last year's tax rate is the actual tax rate the taxing unit used to determine property taxes last year. This year's *effective* tax rate would impose the same total taxes as last year if you compare properties taxed in both years. This year's *rollback* tax rate is the highest tax rate the taxing unit can set before taxpayers start rollback procedures. In each case these rates are found by dividing the total amount of taxes by the tax base (the total value of taxable property) with adjustments as required by state law. The rates are given per \$100 of property value.

### Last year's tax rate:

Last year's operating taxes	\$406,718
Last year's debt taxes	\$420,454
Last year's total taxes	\$827,172
Last year's tax base	\$199,078,700
Last year's total tax rate	\$0.4155/\$100

### This year's effective tax rate:

Last year's adjusted taxes (after subtracting taxes on lost property)	\$825,052
÷ This year's adjusted tax base (after subtracting value of new property)	\$234,533,846
<b>=This year's effective tax rate</b>	<b>\$0.3517/\$100</b>

(Maximum rate unless unit publishes notices and holds hearings.)

### This year's rollback tax rate:

Last year's adjusted operating taxes (after subtracting taxes on lost property and adjusting for any transferred function, tax increment financing, state criminal justice mandate, and/or enhanced indigent healthcare expenditures)	\$960,221
÷ This year's adjusted tax base	\$234,533,846
<b>=This year's effective operating rate</b>	<b>\$0.4094/\$100</b>
<b>x 1.08=this year's maximum operating rate</b>	<b>\$0.4421/\$100</b>
+ This year's debt rate	\$0.2612/\$100
<b>= This year's total rollback rate</b>	<b>\$0.7033/\$100</b>
-Sales tax adjustment rate	\$0.2173/\$100
<b>=Rollback tax rate</b>	<b>\$0.4860/\$100</b>

### Statement of Increase/Decrease

If City of Montgomery adopts a 2018 tax rate equal to the effective tax rate of \$0.3517 per \$100 of value, taxes would increase compared to 2017 taxes by \$70,244.

### Schedule A - Unencumbered Fund Balance

The following estimated balances will be left in the unit's property tax accounts at the end of the fiscal year. These balances are not encumbered by a corresponding debt obligation.

Type of Property Tax Fund	Balance
DEBT SERVICE FUND	249,900

### Schedule B - 2018 Debt Service

The unit plans to pay the following amounts for long-term debts that are secured by property taxes. These amounts will be paid from property tax revenues (or additional sales tax revenues, if applicable).

Description of Debt	Principal or Contract Payment to be Paid from Property Taxes	Interest to be Paid from Property Taxes	Other Amounts to be Paid	Total Payment
CERTIFICATES OF OBLIGATION	435,000	231,595	0	666,595

Total required for 2018 debt service	\$666,595
- Amount (if any) paid from Schedule A	\$0
- Amount (if any) paid from other resources	\$0
- Excess collections last year	\$0
<b>= Total to be paid from taxes in 2018</b>	<b>\$666,595</b>
+ Amount added in anticipation that the unit will collect only 100.00% of its taxes in 2018	\$0

= Total debt levy

\$666,595

**Schedule C - Expected Revenue from Additional Sales Tax**

In calculating its effective and rollback tax rates, the unit estimated that it will receive \$554,553 in additional sales and use tax revenues.

This notice contains a summary of actual effective and rollback tax rates' calculations. You can inspect a copy of the full calculations at 400 N. SAN JACINTO CONROE, TEXAS 77301

tammy.merae@mctx.org.

Name of person preparing this notice: Tammy McRae

Title: TAX ASSESSOR/COLLECTOR

Date Prepared: 07/30/2018

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits:</b> 2018 Property Tax Rates In City of Montgomery Worksheet from County Treasurer
<b>Date Prepared: August 8, 2018</b>	

**Subject**

Discussion of tax rates needed to fund the 2018 –2019 budget for Maintenance and Operation and Debt Service

**Description**

This is a required item of the law to publicly discuss the O and M in the Debt Service split of property taxes received.

Total property taxes at .4055 tax rate will bring in a total of \$1,024,755. The proposed split of the tax rate is .2113 for O and M to General Fund and .1942 for Debt Service. This is a reduction of the total tax rate from .4155 to .4055.

Increased amount from last year to this year for the O and M in General Fund is \$131,514 in the increase to Debt service Fund is \$74,707. The Council felt, during budget discussions, that this split allows growth in each of these funds enough to allow for the related expense of services due to growth in the city. For the O and M property taxes received and an increase in sales tax collections meet the increase of the General Fund budget. For the Debt Service the increase allows an opportunity to set aside funds enough to borrow for long-term needs should that needs arise.

Montgomery City Council  
**AGENDA REPORT**

**Recommendation**

Have a brief discussion or simply agree with the rationale given above. No action required

**Approved By**

City Administrator

Jack Yates

Date: August 8, 2018

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> City Administrator	<b>Exhibits:</b> Draft Notice of Public Hearing that is prepared and published by the County Treasurer
<b>Date Prepared: August 8, 2018</b>	

**Subject**

Consideration of Proposed Tax Rate for 2018.

**Description**

This is to establish a Proposed Tax Rate in order for the public hearings to have a basis for of discussion. There has to be a public hearing ( further on tonight's agenda) if the Council wants to exceed the Effective Tax Rate.

In order to know if that the exceeding is going to happen the Council has to establish a Proposed Tax Rate before notice can be published with the Proposed Tax Rate being part of the advertisement.

In budget discussions the City Council is proposing a tax rate of .4055.

**Recommendation**

(the Motion must read as follows);

Motion to propose in the 2018 – 19 budget a property tax rate of .4055.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
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# Notice of Public Hearing on Tax Increase

The City of Montgomery will hold two public hearings on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by -100.00 percent (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax calculated under Chapter 26, Tax Code). Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

The first public hearing will be held on at at .

*August 28, 2018 at 101 old Plantersville Road, Montgomery, Texas*

The second public hearing will be held on at at .

*September 4, 2018 at 101 old Plantersville Road, Montgomery, Texas*

The members of the governing body voted on the proposal to consider the tax increase as follows:

**FOR:**

**AGAINST:**

**PRESENT** and not voting:

**ABSENT:**

*251,750*  
The average taxable value of a residence homestead in City of Montgomery last year was \$0. Based on last year's tax rate of \$0.4155 per \$100 of taxable value, the amount of taxes imposed last year on the average home was \$0.921.40

The average taxable value of a residence homestead in City of Montgomery this year is \$0. If the governing body adopts the effective tax rate for this year of \$0.3517 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$0.

*4055*  
If the governing body adopts the proposed tax rate of \$0.0000 per \$100 of taxable value, the amount of taxes imposed this year on the average home would be \$0.

Members of the public are encouraged to attend the hearings and express their views.

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits: Budget Calendar,</b> 2018 property tax rates in City of Montgomery Worksheet from county Treasurer
<b>Date Prepared: August 8, 2018</b>	

**Subject**

Calling a public hearing for exceeding the 2018 Effective Tax Rate for the 2018 – 2019 budget

**Description**

This is the acknowledgment of setting the tax rate at above the Effective Tax Rate. The Effective Tax Rate is .3517, that is what the tax rate would be to click the same amount taxes is and 2017 – 18. With the increase of approximately \$52,000,000 taxable value the effective rate would raise \$879,250, approximately the same amount of tax income as last year. However, the Council budget planning, has decided to reduce the tax rate from .4155 to .4055 in order to grow the budget was equal increase in demand for services, believing that by keeping the tax rate at this level that the growth in the budget is paid for by the new growth. As further explanation of the options the Council has regarding the tax rate—the rollover rate is the available tax rate that the city could collect legally based upon the accumulated percentage of increase allowed each year in the law that rate is .4860. But the Council has decided that growth of the assessment is roughly equal to the growth and city services needed to the Council is placing a .4055 rate.

**Recommendation**

(the Motion must read as follows);  
Motion to set August 28 and September 4 at 6:00 p.m. at City Hall, 101 Old Plantersville Rd., Montgomery, TX for the two public hearings regarding exceeding the Effective Tax Rate for the 2018 – 2019 budget.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
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### 2017 Property Tax Rates in City of Montgomery

This notice concerns the 2017 property tax rates for City of Montgomery. It presents information about three tax rates. Last year's tax rate is the actual tax rate the taxing unit used to determine property taxes last year. This year's *effective* tax rate would impose the same total taxes as last year if you compare properties taxed in both years. This year's *rollback* tax rate is the highest tax rate the taxing unit can set before taxpayers start rollback procedures. In each case these rates are found by dividing the total amount of taxes by the tax base (the total value of taxable property) with adjustments as required by state law. The rates are given per \$100 of property value.

#### Last year's tax rate:

Last year's operating taxes	\$340,131
Last year's debt taxes	\$351,618
Last year's total taxes	\$691,749
Last year's tax base	\$166,485,921
Last year's total tax rate	\$0.4155/\$100

#### This year's effective tax rate:

Last year's adjusted taxes (after subtracting taxes on lost property)	\$691,112
+ This year's adjusted tax base (after subtracting value of new property)	\$188,776,941
= This year's effective tax rate	\$0.3660/\$100

(Maximum rate unless unit publishes notices and holds hearings.)

#### This year's rollback tax rate:

Last year's adjusted operating taxes (after subtracting taxes on lost property and adjusting for any transferred function, tax increment financing, state criminal justice mandate, and/or enhanced indigent healthcare expenditures)	\$806,320
+ This year's adjusted tax base	\$188,776,941
= This year's effective operating rate	\$0.4271/\$100
x 1.08 = this year's maximum operating rate	\$0.4612/\$100
+ This year's debt rate	\$0.2814/\$100
= This year's total rollback rate	\$0.7426/\$100
- Sales tax adjustment rate	\$0.2316/\$100
= Rollback tax rate	\$0.5110/\$100

#### Statement of Increase/Decrease

If City of Montgomery adopts a 2017 tax rate equal to the effective tax rate of \$0.3660 per \$100 of value, taxes would increase compared to 2016 taxes by \$45,619.

#### Schedule A - Unencumbered Fund Balance

The following estimated balances will be left in the unit's property tax accounts at the end of the fiscal year. These balances are not encumbered by a corresponding debt obligation.

Type of Property Tax Fund	Balance
DEBT SERVICE FUND- I&S TAXES	197,328
GENERAL FUND- M&O TAXES	674,300

#### Schedule B - 2017 Debt Service

The unit plans to pay the following amounts for long-term debts that are secured by property taxes. These amounts will be paid from property tax revenues (or additional sales tax revenues, if applicable).

Description of Debt	Principal or Contract Payment to be Paid from Property Taxes	Interest to be Paid from Property Taxes	Other Amounts to be Paid	Total Payment
2012 GENERAL OBLIGATION	120,000	57,088	0	177,088
2012 TAX & REVENUE BOND	105,000	38,160	0	143,160
2015 GENERAL OBLIGATION	80,000	7,761	0	87,761
REFUNDING BOND				
2017 A&B TAX & REVENUE CERTIFICATE OF OBLIGATION	130,000	29,049	0	159,049

Total required for 2017 debt service	\$567,058
- Amount (if any) paid from Schedule A	\$0
- Amount (if any) paid from other resources	\$0
- Excess collections last year	\$0
= Total to be paid from taxes in 2017	\$567,058
+ Amount added in anticipation that the unit will collect only 100.00% of its taxes in 2017	\$0
= Total debt levy	\$567,058

**Schedule C - Expected Revenue from Additional Sales Tax**

In calculating its effective and rollback tax rates, the unit estimated that it will receive \$466,510 in additional sales and use tax revenues.

This notice contains a summary of actual effective and rollback tax rates' calculations. You can inspect a copy of the full calculations at 400 N. SAN JACINTO CONROE, TEXAS 77301  
tammy.merz@mcctx.org.

Name of person preparing this notice: Tammy McRae  
Title: TAX ASSESSOR/COLLECTOR  
Date Prepared: 07/26/2017



**Tammy J. McRae**  
Tax Assessor-Collector  
Montgomery County

**2018 Municipality Tax Rate Adoption Calendar**

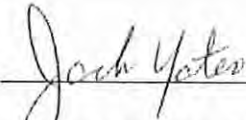
Entity Name: City of Montgomery

Please complete the following proposed calendar and return to Charlotte Hatchley on or before June 1, 2018. You may email it to [charlotte.hatchley@mctx.org](mailto:charlotte.hatchley@mctx.org).

Date	Action
June 1	Submit Preliminary 2018 Tax Rate Calculation Data to Montgomery County Tax Office
July 2	Deadline to submit <i>Final</i> 2018 Tax Rate Calculation Data to Montgomery County Tax Office
July 25	Deadline for chief appraiser to certify rolls to taxing entities
August 3	Complete calculation of Effective Tax Rates by Montgomery County Tax Office
August 14	Meeting of the governing body to discuss tax rate; if proposed tax rate will exceed the rollback rate or the effective tax rate (whichever is lower), take a record vote and schedule public hearings.
MCTX - No later than August 20th	<b>Publish SIMPLIFIED TAX RATE NOTICE**</b> - One quarter page notice that provides the Proposed, Effective, & Rollback tax rates and the hearing notice to the public. Published no later than September 1 in the newspaper and posted on your entity website until the final tax rate is adopted.
August 28	Date and time of First Public Hearing (must be at least 7 days after the publication of notice); announce time, date, and place of meeting to vote on tax rate.
September 4	Date and time of Second Public Hearing (may not be earlier than 3 days after the first public hearing); schedule and announce meeting to adopt tax rate 3-14 days from this date.
September 11	Date of meeting to adopt tax rate. Meeting is 3-14 days after second public hearing.

*Montgomery County Tax Office needs your adopted rate by September 15<sup>th</sup> to ensure 2018 Tax Statements are mailed as early as possible.*

Completed by: Jack Yates  
Print Name

Signature: 

Email: jyates@ci.montgomery.tx.us

Phone: (936) 597-3962

400 N. San Jacinto St.  
Conroe, Texas 77301

(936) 539-7897  
(281) 354-5511 ext 7897

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: August 14, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> City Administrator	<b>Exhibits:</b>
<b>Date Prepared: August 8, 2018</b>	

**Subject**

Buffalo Springs bridge repair for from the City Engineer.

**Description**

This is the City Engineer's Report regarding the construction status of the Buffalo Springs Bridge repair

**Recommendation**

Comment as you think appropriate.

**Approved By**

City Administrator	Jack Yates	Date: August 8, 2018
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