

## **NOTICE OF REGULAR MEETING**

**May 8, 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, May 8, 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 Hearing and Regular Meeting held on April 24, 2018.
2. Consideration and possible action regarding adoption of an Escrow Agreement by and between the City of Montgomery and Thomas Claire Investments, LLC, Development Number 1802 (*Montgomery State Farm Tract*).
3. Consideration and possible action regarding scheduling a Special City Council Meeting to be held on Tuesday, May 15, 2018 at 6 p.m. to canvass the May 5, 2018 City Election results and administer the Oath of Office for the Mayor and City Council Places 2 and 4.
4. Consideration and possible action regarding adoption of the following Resolution:  
A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS, ESTABLISHING THE PLANNING AND ZONING COMMISSION TERMS AND POSITIONS FOR THE EXISTING MEMBERS OF THE PLANNING AND ZONING COMMISSION IN ACCORDANCE WITH CITY OF MONTGOMERY CODE OF ORDINANCES, DIVISION 2, SECTION 98-51, ENTITLED "TERMS OF OFFICE."

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

5. Presentation of the development plans for Anchored Properties, for McInnis Lane Tract as submitted by Blaine and Crystal Ward.
6. Consideration and possible action regarding use of Fernland Park as a movie site.

7. Consideration and possible action regarding setting a Public Hearing for amending the City of Montgomery 2017-2018 General Fund Budget.
8. Consideration and possible action regarding selection of Engineer for Atkins Creek Project as required by FEMA.
9. Consideration and possible action regarding adoption of the following Resolution:  
A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS CITY COUNCIL IDENTIFYING THE INTERSECTION OF STATE HIGHWAY 105 AND FM 149 AS A SERIOUS DETRIMENT TO COMMERCE; CONVEYANCE OF CITY ACQUIRED LAND TO THE TEXAS DEPARTMENT OF TRANSPORTATION; REDESIGN OF STATE HIGHWAY 105 AND FM 149 INTERSECTION; AND A REQUEST FOR AN UPGRADED PROGRAMMABLE TRAFFIC SIGNAL FOR STATE HIGHWAY 105 AND FM 149.
10. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE BY THE CITY OF MONTGOMERY, TEXAS, AMENDING SECTIONS 66 – 1,66 –2 (a) (11) AND ADDING 66 –53 (s) OF THE CITY CODE OF ORDINANCES REGARDING ELECTRONIC MESSAGE DISPLAY SIGNS IN THE CITY; PROVIDING DEFINITIONS, PROVIDING REGULATIONS OF ELECTRONIC MESSAGE DISPLAY SIGNS; PROVIDING SAVINGS AND REPEALING CLAUSES; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
11. Consideration and possible action regarding adoption of the following Ordinance:  
AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE INITIAL ZONING OF NEWLY ANNEXED PROPERTY AS PROVIDED IN CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; PROVIDING FOR THE CLASSIFICATION AND INCLUSION OF A CERTAIN TRACT OF LAND OF APPROXIMATELY 3.22 ACRES WITHIN A ZONING DISTRICT AS DESCRIBED AND DEPICTED ON THE MAP OR PLAT OF SAME ATTACHED TO THIS ORDINANCE AS EXHIBIT "A"; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING DISTRICT MAP OF THE CITY TO REFLECT THE ZONING CLASSIFICATION OF THE TRACT AS HEREIN PROVIDED; MAKING CERTAIN FINDINGS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION.
12. 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.

13. Convene 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).
14. Convene into Open Session.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

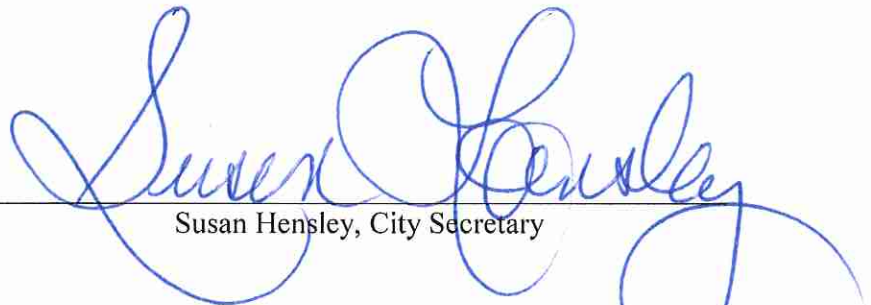
15. Consideration and possible action regarding real property located at 21049 Eva Street, Montgomery, Texas.

**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 4th day of May 2018 at 2:45 o'clock p.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 HEARING and REGULAR MEETING**

**April 24, 2018**

**MONTGOMERY CITY COUNCIL**

**CALL TO ORDER**

Mayor Kirk Jones declared a quorum was present, and called the meeting to order at 6:00 p.m.

Present:        Kirk Jones                    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  
                  Dave McCorquodale      City Council Place # 5

Absent:

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

**INVOCATION**

T.J. Wilkerson gave the Invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS**

**CONSIDERATION AND POSSIBLE ACTION:**

1. Receive Final Report from the Planning and Zoning Commission on a request to zone the newly annexed 3.22 acre tract of land as District "B" commercial use, situated in the John Corner Survey, Abstract No. 8, Montgomery County, Texas, being out of a 5.71 acre tract as recorded under Clerk's File No. 2016-086083, also being out of a called 111.857 acre tract of land as recorded under Clerk's File No. 9512940 Deed Records Montgomery County, Texas,

(property located south of SH 105 across from Stewart Creek Road) known as the Peter Hill property.

Mr. Yates advised that the Planning and Zoning Commission met last night and unanimously approved making the recommendation that City Council approve the initial zoning to District “B” Commercial use.

Rebecca Huss moved to receive and accept the Final Report from the Planning and Zoning Commission recommending approval to zone the newly annexed 3.22 acres of land as District “B” Commercial Use. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

### **PUBLIC HEARING:**

#### **Convene into Public Hearing**

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

2. **Public Hearing** to receive citizen input regarding a request to zone newly annexed 3.22 acre tract of land as District “B” commercial use, situated in the John Corner Survey, Abstract No. 8, Montgomery County, Texas, being out of a 5.71 acre tract as recorded under Clerk’s File No. 2016-086083, also being out of a called 111.857 acre tract of land as recorded under Clerk’s File No. 9512940 Deed Records Montgomery County, Texas, (property located south of SH 105 across from Stewart Creek Road) known as the Peter Hill property.

There were no comments made by the Public.

#### **Adjourn Public Hearing**

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

#### **Reconvene into Regular Session**

Mayor Jones reconvened the Regular Session at 6:04 p.m.

### **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.

Mrs. Sarah Mabry asked about the status of the A&M application for the Land-Use Plan. Mr. Yates advised that the letter of interest had been executed and sent to Texas A&M for consideration. Mr. Yates said that he had also sent an email to Mrs. Mabry's son today, who has offered to assist with the A&M information. Mrs. Mabry asked if there was a backup plan and whether the City would consider applying to the University of Texas that also provides a similar service. Mr. Yates advised that he would check on that information.

**PRESENTATION:**

3. Presentation of Lifesaving Awards regarding Police Officer George Hernandez by Chief of Police James Napolitano.

Chief Napolitano introduced Officer George Hernandez, his wife Brittany and their new baby, who were present. Chief Napolitano advised that in January 2018, while playing basketball at the gym with his friends Officer Hernandez started feeling bad, to the point that he went into the restroom. While Officer Hernandez was in the restroom he passed out in the stall; Russell Petrucciani was smart enough to realize that Officer Hernandez was in trouble, but he could not reach him, so he went out and got John and Kevin. Chief Napolitano said that the four men, using the AED and CPR kept Officer Hernandez alive until the ambulance arrived. Chief Napolitano asked Officer Hernandez when he woke up, and he advised that it was as they were putting him in the ambulance. Chief Napolitano said they almost lost Officer Hernandez, a 35 year old, well fit man.

Chief Napolitano presented Life Saving Awards to the following people for saving Officer Hernandez's life:

- Russell Petrucciani, member of 24-Hour Fitness
- John Franklin, General Manager at 24-Hour Fitness
- Kevin Coleman, Sales Manager 24-Hour Fitness
- Justin Latifi, off duty Houston Fire Fighter

- Casem Nouredin, Assistant Sales Manager at 24-Hour Fitness, was unable to attend the meeting, but received an award.

Chief Napolitano advised that due to the actions of these heroic men, they were able to keep one of our best employees here with us, and allowing a father and husband to be home with his family.

Mr. Franklin said that the best thing is that Officer Hernandez is back in the club, working out, and this was the least that they can do for folks that are out there protecting and serving, and putting their life on the line every day, so it was their pleasure and honor and we are glad that we were there.

**CONSENT AGENDA:**

4. Matters related to the approval of minutes for the Regular Meeting held on March 27, 2018 and Regular Meeting held on April 10, 2018.
5. Consideration and possible action regarding the July 4, 2018 Freedom Festival Street Closures.
6. Consideration and possible action regarding adopting an Escrow Agreement by and between the City of Montgomery and Samdana Investments, L.P.
7. Consideration and possible action regarding adopting an Escrow Agreement by and between the City of Montgomery and Procore Developments 105, LLC.

John Champagne asked for the location of Procore Developments. Mr. Yates said that was the property between Pizza Shack and the Care Now facility that is at the corner of SH 105 and Lone Star Parkway.

Rebecca Huss asked if the ProCore property was in the same tract of land that was annexed at the same time that they annexed Pizza Shack and Dusty's Car Wash, or is it a second piece that is outside the 2% sales tax. Mr. Roznovsky advised that it was annexed with Pizza Shack and the initial strip, and said that there was no active development on the other part, other than some additional site prep. Mayor Jones advised that it was in the City limits at the time of the ESD election.

8. Consideration and possible action regarding adopting a Lease Agreement by and between the City of Montgomery and Virginia Lee Adams for the property located on the corner of McCown, FM149 and SH 105.

John Champagne asked if Mr. Yates could elaborate on this item. Mr. Yates stated that this was the property that the City has leased since March of 2004, and the landlord is requesting more money this year.

Rebecca Huss stated that the City of Montgomery also pays the property taxes on that property. Mr. Yates said that was correct. Rebecca Huss said, for clarification, this is the land where the City's electronic sign is located. Mr. Yates said that was correct.

9. Consideration and possible action regarding building to be moved from 20998 Eva Street as requested by Sonja Spottswood.

John Champagne moved to accept and approve the Consent Agenda items (4-9) as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

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

10. Consideration and possible action regarding adoption of the following Resolution:  
A RESOLUTION BY THE CITY COUNCIL OF CITY OF MONTGOMERY, TEXAS  
RECOGNIZING AND SUPPORTING THE MONTGOMERY COUNTY VETERANS  
MEMORIAL PARK AND VISITORS CENTER.

Mr. Jimmie Edwards, retired U.S. Marine Corps Cpl. and retired County Judge, and Chair of the Montgomery County Veterans Memorial Commission as duly recognized by the State of Texas and the Governor of the State of Texas. Mr. Edwards introduced the Executive Director, Melanie Curtsinger, along with Judy Duroy, who is the Deputy Director and Chief Financial Officer. Mr. Edwards advised that they are dedicated to building a Memorial Park here in Montgomery County. Mr. Edwards advised that they have 166 names of fallen warriors in the present park located beside the Montgomery County Tax Office. Mr. Edwards said that the park was established in 1974 and is very small; when Mr. Edwards was County Judge in 1986 they redid the park and it was redone again in 2008. Mr. Edwards said that the park should



never have been done at that location because it is just too small. Mr. Edwards said that they had permission from the State of Texas and the City of Conroe, at the intersection of I-45 and SH 105 on 7.6 acres, which is the water park, to locate the Memorial Park along with an Education/Visitor's Center to be located near the County Library at that location.

Mr. Edwards advised that they are going to all 15 cities in Montgomery County, to have these Resolutions adopted showing support. Mr. Edwards said that he was not asking for any money; he was asking for the communities to stand behind them in building a new park to honor the veterans. Mr. Edwards said that there were people who have said that there was no way he was going to get all the cities across the County to agree to anything. Mr. Edwards stated that the Park is being built in Conroe because that is the County Seat.

Mr. Edwards said that they are about honoring the veterans, and that in this memorial every veteran's name in Montgomery County will be included, along with every relative of those veterans that reside in Montgomery County, with proper identification that they are a veteran. Mr. Edwards said that they are also going to remember the fallen people; these people are from Montgomery County, killed in action:

William Athens, Private, United States Army

Douglas Binford, Staff Sergeant, United States Army

Henry England Harris, Staff Sergeant, United States Army

Arlie Hill, Staff Sergeant, United States Army

Martin Mock, KIA Korea 1942

Wellman Napper, Battle of Sereno Italy, United States Army, KIA 1943

Connie Smith, Private

Reuben Vaughn, KIA Austria

Henry Waters, Captain

Mr. Edwards said that these Montgomery County veterans are all going to be honored in the Memorial Park.

Mr. Edwards said that they have been to the Texas House and Senate, and the Governor's Office, Montgomery County and the City of Conroe, Montgomery County Commissioner's

Court is providing funding. Mr. Edwards advised that Mike Meador, Precinct 1 County Commissioner, has kept the small park up and made sure that it was remembered and honored and has done a great job.

Mr. Edwards advised that they will provide a report each year on what they are doing and how they are doing it. Mr. Edwards advised that this is a multi-million dollar effort. Mr. Edwards said that this is going to be a living and teaching Memorial, and people will be able to pull up information on the veterans on their computer. Mr. Edwards said that no name will be on a paver that the public will walk on, they will be on the wall, up in the air, and they will not put any veteran's names on the floor.

Mr. Edwards advised that Mrs. Judy Duroy's father was Precinct 3 County Commissioner Ed Chance, who served for 26 years. Mayor Jones thanked Mr. Edwards for his service and for his efforts on this project.

Jon Bickford asked if there would be any financial impact to the City by adopting this Resolution. Mr. Edwards said that there was no financial impact to the City, they are not asking for any money. Jon Bickford asked how they are going to get the Memorial Park funded. Mr. Edwards said that will be done through foundations and grants.

Jon Bickford asked how the City can help.

Mrs. Duroy said that one of the reasons that they are going to all the cities and municipalities is when they go to the grant givers and foundations and they see all the backing that they have, that is huge and says that everybody is in. Mrs. Duroy said that if City Council chooses one day to support them financially that would be wonderful, if not, that is their choice. Mr. Duroy said that the City's verbal support of what they are doing is huge. Mrs. Duroy said that they are starting from the ground up and this is a place where our County comes together, with no divisiveness going; they are coming together for one cause. Mrs. Duroy asked if that answered Jon Bickford's question. Jon Bickford said that it was a tough question to ask, given the importance of the project, but that is their job.

Jon Bickford moved to adopt the Resolution as presented, recognizing and supporting the Montgomery County Veterans Memorial Park and Visitors Center. John Champagne seconded the motion.

Discussion: Rebecca Huss said that she wanted to say that she was very pleased that they are also offering this up to people who live here because she is the spouse of a 22-year Navy veteran, and they do not live where he was born, so he does not have anywhere to have his name and said “thank you.”

The motion carried unanimously. (5-0)

Jon Bickford thanked Mr. Edwards and his group and wished them good luck in moving forward.

II. Consideration and possible action on Department Reports.

- A. Administrator’s Report – Mr. Yates presented his report to City Council. Mr. Yates advised that he had coordinated the Home Grant Applications and said that they held a meeting with the people that wanted to apply for the grant on April 21, 2018, where 12 people attended. Mr. Yates said that three or four of the people clearly qualified for the Home Grant. Rebecca Huss asked about the other 8 people. Mr. Yates said that there were two people that lived outside the City, and the other people he did not know whether they would qualify for the grant. Mr. Yates said that he had drafted a hotel ordinance with an incentive package that will be presented at the first meeting in May. Mr. Yates said the Exxon convenience store is thinking about lowering their lot and building a new building, so they are working on the plans. Mr. Yates advised that he has been working on the budget line item reviews with staff and said he will get with the Mayor and Mayor Pro-tem about setting up a meeting to review the budget information.

Mr. Yates advised that they won’t hear anything on the General Land Office Grant until May or June. Mr. Yates said that regarding the CDBG Grant for Baja, they are looking for the plans to be through in May and start work in July or August.

Jon Bickford asked what the changes were for the flashing sign ordinance, and asked if they were going to be outlawed completely, finally. Mr. Yates said that the new ordinance will limit them quite a bit, and said that right now all they have is one line in the zoning ordinance that states “no flashing signs.” Mr. Yates said that the new ordinance will cover the brightness of the sign, how often it changes and the type of change. Jon Bickford asked if they are going from you can’t have flashing signs, to this is the type of flashing signs that you can have. Mr. Yates said that was correct. Jon Bickford asked if the City really needs signs that flash and change colors, because now we can just say no to them and if they change it, they will have to advise them how they have to be. Mayor Jones said that they have interpreted message signs that change once in a while to be acceptable, and Mr. Yates is defining that a little better.

John Champagne asked if these signs would be allowed in the Historic District. Mr. Yates said that he did not think so. John Champagne said that he had a problem with that, but would discuss it when the time came. Mr. Yates said that the Historic District signs require approval by the Planning and Zoning Commission.

- B. Public Works Report – Mr. Mike Muckleroy, Director of Public Works presented his report to City Council detailing his activities during the previous month. Mr. Muckleroy advised that they had repaired sections of asphalt on Community Center Drive and Old Plantersville Road. Mr. Muckleroy advised that for the month they had four water leaks, nine water taps, eight sewer taps and zero sewer stoppages. Mr. Muckleroy advised that on the parks side they repaired the wheel chair ramp at Fernland, assembled and installed a baby changing station in the Community Center, and installed grass sod along the new sidewalks at Fernland to prevent erosion. Mr. Muckleroy reported that the docents at Fernland had 1,446 visitors and provided 101 tours.

Mayor Jones said that he knew that they had some trouble with the crack sealing equipment and asked about the status of that project. Mr. Muckleroy advised they had major problems with the crack sealing equipment and he will try to schedule the project for the second or third week in May, because it is a week-long project that will require all hands on deck, including one temp for the job.

Mr. Muckleroy said that in the past they had tried to do smoke testing of the system to locate leaks, and they have not been able to get the time to get back on the testing so he has asked Mr. Williams, with Gulf Utilities, to get a proposal. Mr. Muckleroy said that they were going to try and section off the City, starting with the older part of the City, looking at the manholes and performing smoke testing at the same time, getting the City on a rotation where they can complete the whole City in a two to three year time frame. Mr. Muckleroy said that when he has more details he will discuss it with Mr. Yates. Mr. Muckleroy advised that they did some testing a while back, where they found some problems that they fixed, but they still have a problem. Rebecca Huss said that on April 26, 2018, they had triple the normal flow through the plant, which was at 100 percent capacity, which was 260,000 extra gallons that they treated that day, and presumably that was all rain. Rebecca Huss said that cost the City \$1,000 cash to treat and it goes toward the permitted flow. Mr. Williams said that if they did go over the permitted flow for the month, they could let TCEQ know the reason that it occurred, but they are nowhere near that issue.

Jon Bickford asked if the generators were up and running and ready for hurricane season. Mr. Muckleroy said that they are all ready and they are run on a monthly basis and topped off.

C. Police Department Report – Chief Napolitano advised that once a year they present one award for Officer of the Year, and announced that the Officer of the Year for 2017 was Lieutenant Miguel Rosario. Chief Napolitano then brought in all of his officers to be formally introduced: as follows:

- Lieutenant Rosario – B Shift Supervisor, has been an officer for 11 years and holds an Advanced Peace Officer Certificate.
- Officer James Bracht, Master’s Degree in Criminal Statistical Analysis and is working on his PHD, has been an officer for 14 years and holds a Master Peace Officer Certificate.
- Officer James Riley, has been an officer for 11 years.
- Officer Abel Aguirre, is SWAT Certified and has been an officer for about two years.

- Lieutenant Joe Belmares – A Shift Supervisor, received the Employee of the Year Award last year, and has over 25 years' experience in patrol and police work.
- Officer Tim Bauer has 11 years' experience in police work.
- Officer Lozano has 17 years' experience in police work, was a major crime detective for the Sheriff's Department and on the SWAT team.

Chief Napolitano advised that Officers Kevin Thompson was assaulted by two individuals last night when he was by himself on a call at 5:00 a.m.; one of those individuals is out of jail and back at the apartments. Officers Thompson and Carswell are there dealing with that call.

John Champagne said that he was obviously a big advocate of our Police force, and said that this is the finest group of individuals that they have assembled in the history of this City. John Champagne said that he took his hat off to each one of the officers and to the Chief of Police, and expressed his appreciation. Chief Napolitano said that he appreciated that.

Chief Napolitano said that there has been some discussion about the tickets being a lower number than they have been before, and said that a lot of that is predicated right now because they all have open cases, and the officers are working on arrests that they have made. Chief Napolitano said that Officer Carswell is working on a case of reckless conduct and endangerment of some citizens, because there were shots fired behind the Napa Auto Parts Store, where they had three young men there with handguns, and they did not know what they were shooting at. Chief Napolitano said that they could hear the young men shooting their guns. Chief Napolitano said that they recovered the weapons and they had to have the Sheriff's Department test the weapons to see if they were used in any crimes. Chief Napolitano said that the officers are making some good cases and arrests. Chief Napolitano said that Officer Bauer is doing a great job on a Child Abuse case, which they received from CPS. Chief Napolitano said that all the interviews are done except for one, and once that is done this week, they will go to the Grand Jury and look for an indictment. Chief Napolitano said that these are tough cases.

D. Court Department Report – Interim Court Administrator Kimberly Duckett presented her report to City Council. Mrs. Duckett said for the month of March they collected \$52,380. Mrs. Duckett said that the citations are steady. Mrs. Duckett said that the Warrant Officer is going to go back out on patrol, so they are going to be focusing on warrants and work with the night shift to make sure that her warrants are being served properly. Mrs. Duckett said that she is hoping that in the next couple of months they can get a handle on the warrants. John Champagne asked if they were losing ground on following up on the warrants. Mrs. Duckett said that they were not losing ground.

Jon Bickford said that he hoped that they were not giving anyone the impression that they are not writing enough tickets, because the job is not to write more tickets, the job is to make sure that it is safe in the City. Jon Bickford said that if they write half the number of tickets they wrote last year, he is thrilled, because that says that people know that when they come through Montgomery, they behave themselves. Rebecca Huss said that anecdotally people still complain about speeding and reckless driving. Mayor Jones said that the Sheriff's Department and DPS are picking up the slack. Mrs. Duckett said that she went out to the High School at the beginning of the month and spoke with the Criminal Justice classes for two days and that was very successful. Mrs. Duckett said that the students had a lot of questions and they even sent thank you letters for coming out to speak to their class, and they were very impressed.

John Champagne asked how long Mrs. Duckett has been in her position. Mrs. Duckett said that it has been since the end of November 2017. John Champagne said that he could not say how impressed he is with how she has filled the position and how well it is going, and thanked Mrs. Duckett. Jon Bickford stated that it was good to have Mrs. Duckett on board, and said that he hoped she was having fun. Mrs. Duckett said that she was enjoying her job. Mayor Jones asked if the plan with the School District had been implemented. Mr. Yates said that it had been implemented. Mrs. Duckett said that the students were very nervous that if they received a citation from the City, that they would lose their parking privileges.

Rebecca Huss said that there was still quite a bit of the problem going on and said that the only thing that will fix the intersection of FM 149 and SH 105, is to make SH 105 the fastest road so the students will use the fastest route.

E. Utility/Development Report – Mr. Yates presented the report to City Council. Mr. Yates said that they collected \$134,000 for utilities this past month, \$17,900 in permits and \$1,030 for rental of the Community Building. Mr. Yates said that there were eight residential permits issued, two business commercial permits, two certificates of occupancy, one photography permit, one parade permit and four sign permits during the month. Mr. Yates said that the City water accounts were very low this month. Mr. Muckleroy advised that the Rose Garden sprinkler is turned off and the numbers shown on that line are actually for Memory Park. Mr. Yates said that they are still looking at installing a pump to use the pond water for irrigation at Memory Park, but said that they are still a few weeks away from making that recommendation.

F. Water Report – Mr. Mike Williams, with Gulf Utilities, presented his report to City Council. Mr. Williams said that they only had three alerts; two related to high flow on March 26, 2018, and Lift Station No. 1 had to be pulled, with the assistance of Public Works. Mr. Williams advised that they were both due to rags. Mr. Williams said that on March 5, 2018, at Lift Station No. 2 they had to pull the pump, and it was the power cable to the pump, which was replaced. Mr. Williams said that the total pumpage for the month was 3.74 million gallons. Rebecca Huss said that the daily peak flow was 499,000 gallons and was in excess of 100 %. Mr. Williams said that it was at 125%. Mr. Williams advised that all effluent samples were within compliance for March.

Mr. Williams said that they sourced a total of 5.584 million gallons of water, 202,000 gallons were flushing, and the total sold was 5.459 million, bringing them to 101% accountability. Mr. Williams said that they sold more than they pumped, but due to the influx of the readings, they can fluctuate. Rebecca Huss said that she was quite pleased that they have not used much of the Catahoula permit. Mr. Williams said that they have stayed on the Catahoula Well to make sure that it is running optimally, just in case they have issues later in the year. Jon Bickford said the more that they can run the Catahoula now, the cooler the water is later if they don't have to run it so much.



Jon Bickford asked what they learn from the well motor run times, stating that it is interesting but what does it mean. Mr. Williams said that it is telling you how often the well motors are running. Mr. Williams said that if they have an excessive run time with lower pumpage, it tells you that the well motor is not running as optimally as it should be. Jon Bickford said that it would be good if there was something that they need to be alerted to it would be shown, to give them some sort of sense as to what is happening.

Mr. Williams said that they have a 69% return to the sewer plant from water sold. Mr. Williams introduced Jeanette Montez who came here from an environmental testing lab and she is here to help with operations.

- G. Engineer's Report – Mr. Roznovsky presented his report to City Council. Mr. Roznovsky said they will begin to see movement on the following projects, which will be submitted for approval next month: Lift Station Force Main reroute, Lift Station No. 1 Relocation and the Waterline Improvements downtown. Mr. Roznovsky said that regarding the 18-inch gravity sewer project, they are working with the developer on the final route to coordinate the buildings as well as to complete the land swap. Mr. Roznovsky said that the GLO Project that Mr. Yates mentioned, has been submitted and they are waiting to hear back from Grantworks and they estimated that the earliest the funds would be available would be in July.

Mr. Roznovsky said that there have been a couple of changes in development projects since the last report went out. Mr. Roznovsky said that they did return comments to Montgomery First, Phase 3, which is the Kenroc Property. Mr. Roznovsky said that they received the plat for Samdana Investments. Mr. Roznovsky said that they returned comments to the Gulf Coast Estates minor plat located on Baja Road.

Mr. Roznovsky said the ongoing construction of development projects are Hills of Town Creek and Emma's Way. Mr. Roznovsky said that they have noted the need for an Escrow Agreement and depositing funds, which will be on a future Council Meeting

for approval. Mr. Roznovsky advised that the 2018 GRP Audit was submitted last week.

Rebecca Huss asked about Emma's Way and asked about the wording where it states that work will need to be fully exposed prior to acceptance, so what they are actually saying is that work has been covered prior to inspection and if the developer comes back and says that it is going to cost them money in order for the City to perform the necessary inspections, it is an expense that the developer could have avoided had they followed written communications. Mr. Roznovsky said that was correct. Mr. Roznovsky said that when they were notified that they were scheduling the pre-construction meeting, they let them know that they could not proceed with any work or inspections until an escrow agreement was entered into, to cover the City's costs for inspections and plan reviews.

John Champagne asked what the time element usually was for that procedure. Mr. Roznovsky said that they were first notified of this back in November 2017. John Champagne asked if he was saying that was related to the Escrow Agreement request. Mr. Roznovsky said yes, with the timeline for them to get the information, along with a draft of the Escrow Agreement. Mr. Roznovsky said that he received no response from the developer, so they decided to schedule the pre-construction meeting. Mr. Roznovsky said that they told them that the City and the City Engineer would not be in attendance since they had not deposited funds, and if they did any work they would not have an inspection, so they would have to uncover the work. Mr. Roznovsky said that a couple of weeks later they said that they had installed a water line and requested an inspection. Mr. Roznovsky said that they responded the same way stating that they could not do anything because they had not deposited funds. Mr. Roznovsky said that on Friday they finally deposited funds, so he advised them that if anything has been buried they will have to expose it so that they can inspect and verify that it was installed correctly.

Rebecca Huss said that, generally speaking, it seems like some of the big mistakes that the City, i.e., the taxpayers are paying for is like the Buffalo Springs Bridge, which was not properly inspected and the City accepted it anyway and it turned out to not have

been built as per the plans. Rebecca Huss said that to her, having the City accept anything that has not been properly inspected is a huge bag of worms. Rebecca Huss said that it seems to her that the developer has deliberately entered into a situation where they are going to waste money and they are going to be unhappy about the City making them uncover everything to be able to inspect the work. Rebecca Huss said that she did not see that this is something that the City should accommodate them on, because it is quite clear that from the beginning, the City's procedures are that the work gets inspected. John Champagne asked when the transitional escrow account mandate would go into effect. Mr. Roznovsky said that the escrow agreement procedure was approved around June or July. John Champagne asked when the letters were sent to the developers. Mr. Roznovsky said that it was ongoing, but that was in the October or November timeframe.

Mr. Yates said that in November the developer was sent a request, just as everyone else was, with the escrow agreement form included. Mr. Yates said the developer disagreed with the agreement and the charge because he thought that the previous agreement included the Emma's Way area, but the City Engineer and City Attorney looked at the information and agreed that it was not included. Mr. Yates said that there was an escrow agreement and they did not hear from the contactor, so he contacted them in late January 2018, reminding him that they did not have an escrow agreement, and that it would have to be in place before they start the work. Mr. Yates said that they started dirt work roughly three or four weeks ago, which they can do without an inspection. Mr. Yates said that at the time they started the dirt work, they sent an email stating that what they were doing was alright, but they suggested that they not to do any more work because of the inspections. Mr. Yates said that last week he emailed the developer saying that they understood that they had done some replacement work. Mr. Yates said that they emailed back and asked if he would accept a \$5,000 deposit toward the escrow agreement, while he still debated whether or not he wanted the escrow agreement. Mr. Yates said that he took the \$5,000 and they were supposed to have a meeting early next week. John Champagne said that as far as they are concerned Mr. Yates has done everything that was expected and we performed our side of this equation in terms of responsibility and provided the information and customer service that we are mandated to do. Mr. Yates said yes.

Mr. Foerster said that he wanted to add something to this dialog; he had confirmed with the former City Attorney that the development agreement that Mr. Yates was referring to back in September 2011, which had to do with Emma's Way development, was limited to the utility extension work that was part of that particular project and nothing beyond that. Mr. Foerster said that several weeks ago the question came up from the developer that this 2011 development agreement should include the new extension of Emma's Way, which includes roughly 625 feet of water, 625 feet of road and 1,200 feet of sewer. Mr. Foerster said that he went back, stating that he did not draft the development agreement, and looked at the agreement and said that it was plain to him that it only addressed that project at the time, which is the position that they took. Mr. Foerster said that a few weeks ago the attorney for the developer again approached them and challenged why there should be an escrow agreement at all, and what was their authority to do that. Mr. Foerster said that they referred them back to two things, first of all the Feasibility Resolution that was passed and also the approval of an escrow agreement, which is set out in the minutes, where City Council took the position, which he felt was an appropriate position, that the City and its taxpayers should not be underwriting the developers' projects by providing, free of charge, all the inspections and reviews that are required for such projects. Mr. Foerster said to look to the developer to do that, as part of their expense of doing business with the City, nothing more and nothing less. Mr. Foerster said that was brought to the attorney's attention and they have been going forth on that and other issues for the last few weeks and that is where they stand. Mr. Foerster said that their position is that this City Council has approved the procedure and it is the fair thing to do for the taxpayers, and we expect them to provide an escrow agreement. Mr. Foerster said that they have gone so far as to providing them some background on the calculations on how they arrived at that figure, because he felt that they are entitled to know what they are getting for their money. Mr. Foerster said that they are going to try to be as transparent with them moving forward on what those expenses are.

Rebecca Huss said that either way, under no circumstances would anyone think that they could cover up utilities and then later have them accepted by the City without an inspection. Rebecca Huss said to her that was the most obvious, they would never

accept that from anyone, regardless of the other issues that they have brought up, and she felt that the City was right on them, it just seems to be crazy that they have gotten to this point, where the developer felt like that was an okay place to go. Rebecca Huss said that it is going to cost them money and they are probably going to come and complain, and she does not really see where (a) the City should feel responsible or (b) respond by waiving fees or saying do not worry.

Mayor Jones asked if that was a case where the developer had an issue with uncovering the lines, how would that get resolved. Mr. Yates said that the inspections happened this afternoon. Mr. Roznovsky said that they went out yesterday afternoon and started the inspections, and they are going to work with them on what all will have to be exposed to make sure that they look at all critical points and they also picked random points so that they can check that the backflow was done properly. John Champagne asked who the initial point of contact was for the developers in communicating any questions or issues. Mr. Yates said that he has been the initial point of contact. John Champagne asked if we have been adequate in our response and access to the developers. Mr. Yates said that he has.

Mr. Foerster said that this particular developer has entered into a development agreement with the City, case in point, the one in 2011, where he understood that he would be advancing money and if all the money was not used it would be reimbursed to him, so it is not like he has never had to pay the expense of our people going out there and inspecting and doing the reviews of plans and so forth. Jon Bickford said that it is not like it is a surprise to him, and said why are we belaboring the issue, he owes the City and he has to put the escrow agreement up and deposit funds, and pay for exposing the lines for inspections. John Champagne said that he wanted to make sure that that the City is responding to the developers in a timely way and they have access to the individual(s) that are responsible in communicating and that is happening. Mr. Foerster said that Mr. Yates has been communicating with the developer; he has been communicating with the developer's attorney.

Mr. Roznovsky said that he wanted to bring to City Council's attention that Jones and Carter was asked to provide a proposal for a developer in the City for a tax incentive project located next to the Lone Star Community Center on Lone Star Parkway. Mr.

Roznovsky said that this is the second phase of that project. Mr. Roznovsky said that they have not been hired by the developer or done any work for them. Mr. Roznovsky said that he has spoken to Mr. Yates and Mr. Foerster about this project and the potential conflict, because it could be that their same office, working in a different division, where the project was designed by a different division of their office and then they would send it to him to perform the normal review for the City. John Champagne said that it could be argued that it is a distinction without a difference. Mr. Roznovsky said that he is not looking for any action tonight, this is more of a notification to let you know that they have been reached out to, and if needed they will put something on the agenda. Mayor Jones said that it would be a future agenda item. Mr. Roznovsky said that if they have any concerns, to please let Mr. Yates know in the next few days and they will stop any work. Mr. Foerster said that it would need to be an agenda item if they were going to take action on it; Jones and Carter is bringing this to the City's attention after consulting with him, and for what it is worth, there have been other occasions where other City Engineers that he represented for other cities have asked the same question, and ordinarily he does not see a conflict in doing that because you have the same staff of people both doing the work for the developer and then making sure that it is done correctly at the outset. Mr. Foerster said that there might be a conflict from time to time, but he trusts that Jones and Carter are professional enough that they are going to see the conflict and would bring it to the City's attention. Mr. Foerster said that Jones and Carter felt that they needed to bring this to City Council's attention and if any Council member has some concern about it, he would suggest, that after the meeting or this week, they get back with Mr. Yates.

Rebecca Huss said that she would like to comment that they came to us before when Milestone asked them to do work, and she thought that the size and importance of senior housing really has very little taxable impact for the City and is much less important than the Milestone project. Rebecca Huss said that this is something that they have dealt with before and this is on a much smaller scale. Mayor Jones said that he doubted that there is a whole lot of public infrastructure that the City will be inheriting through this project. Mr. Roznovsky said that they are very early in their phase of development, as they do not know if they are going to have public streets,

private streets, housing set up; there is a potential for it, but right now it would be set up like the one that is all private.

Rebecca Huss said she would be curious to know what the revised plans from TxDOT look like and she believed that they have not necessarily started work on the intersection of FM 149 and SH 105, and she did not know if they needed to pass a Resolution to get them to make that project a priority. Rebecca Huss said that she did not think that it made any sense to do any work on the north side if it does not fit to the intersection, and the intersection is what everyone in town really agrees on. Mr. Roznovsky said that they received some revised plans, but they were not a complete set. Rebecca Huss said that she would not know what to look at for the sewer, but in terms of whose driveways are getting blocked. Mr. Roznovsky said that he would send out what he received. Mayor Jones said that they can work on the sewer, but they can look at the rest.

- H. Financial Report – Mr. Yates presented the report to City Council. Mr. Yates advised that Cathy Branco, Financial Consultant, was present in case they needed any questions answered. Mr. Yates stated that the General Fund balance is \$869,958. Mr. Yates said that the City has received the State CDBG Grant portion of the bridge payment, and they should receive the State share that is approximately \$95,000 on the 28<sup>th</sup> of this month. Mr. Yates said that the second payment, which they got last week was for \$50,000 total. Mr. Yates advised that the Utility Fund balance is \$372,054 and the Capital Projects Fund is \$341,614. Mr. Yates said that the General Fund is a positive \$160,000, the Utility Fund is minus \$123,000, which he thought had to do partially with how much money is in the Capital Projects Fund. Mr. Yates said that he and Mrs. Branco have been working quite a bit on transferring money into the Capital Projects Fund to make sure that the funds are there to fund the projects, and he thought that it might have resulted in taking too much away from the Utility Fund, so he will check on that account.

Mr. Yates said that regarding the Kroger line item, he has Mrs. Branco working on how to do the accounting of those funds, and Mr. Yates is working on how much money to allow for that item. Mr. Yates said that he just did the sales tax report a couple of days

ago, and they are working on the property tax, since they have to go back one year. Mr. Yates said that by next month he should have a line item and a specific amount of how much they need to allow for the payback to Kroger. Mr. Yates said that it certainly would not be the \$165,000 positive that they have in the account right now.

Mr. Yates said that the City has \$5,080,096 in the bank, with \$2.6 million of those funds being the TWDB funds. Mr. Yates said that by next month they will be getting ready to start on the budget for next year. Jon Bickford asked to confirm that the funds are coming in so they are not having to dig into savings as they had planned. Mr. Yates said that was correct, and said that it is \$122,000 on top of the \$869,000, which is about \$1 million dollars in the General Fund.

Rebecca Huss said that she was not always interested in the actual balance sheet, but more on the income statement, so when Mr. Yates makes the Kroger adjustment on the balance sheet and get its own bank account for the sequestration of those funds, she asked Mrs. Branco to also take it out of the income statement. Mrs. Branco said that they have discussed showing it as a revenue and expense item. Mr. Yates said that they will be talking to the auditor regarding how it is set up. Rebecca Huss said that she wanted to make sure that they know where they stand and not think that they have more money than they do. Mrs. Branco said that once she had the figure that they will be using she will be able to calculate the information. Rebecca Huss said that they were more than halfway through the fiscal year and Kroger has been open for a long time, so they know that they owe money, but there has been no representation of how much money. Mayor Jones asked if it would satisfy the City's needs if this Kroger analysis happened outside of the budget, as a separate analysis. Mr. Yates said that he would think just the opposite, that you would want it in the general fund and keep it as close to the source as possible, which is the sales tax and the expense in the general fund. John Champagne asked if there were not accounting practices to note this within the budget. Mrs. Branco said that was why they were going to be consulting with the auditor.

Rebecca Huss asked about the Utility Fund, which states the total income as \$125,000 and on the Utilities report it showed \$134,000. Mr. Yates said that was the difference



between actual collections versus the billing. Rebecca Huss said that \$9,000 in bad debt seemed like a really large number. Mr. Yates said that he would check on the amount.

- I. MEDC Economic Development Report - Mr. Randy Moravec, Treasurer of the Montgomery EDC Board, presented the Montgomery EDC Quarterly Report to City Council. Mr. Moravec said that they are trying to identify the jobs that are primary jobs, essentially jobs that are distinguished from retail, because retail jobs are not considered primary jobs by the Legislation governing economic development corporations. Mr. Moravec advised that they obtained the information for the report from interviews with the employers, and advised if City Council would like to see specific information that is not included, please let him know because they would be glad to add that information.

Mr. Moravec talked about the Lake Conroe Economic Development Summit and said that he was very impressed with the quality speakers that were there. Mr. Moravec said that the report that was presented by the Community Development Strategies group, which shows Montgomery in context with the entire Lake Conroe development area and the City of Conroe, and the Houston Metropolitan area, and those figures both in terms of median income, the value of the single family homes and education level of the people in the City is very impressive.

Mayor Jones asked Mr. Moravec to mention the time frame that the analysis was done and the total jobs. Mr. Moravec advised that this information, which is required as part of their MEDC rules and regulations, to provide for City Council within 30 days from the end of the calendar quarter, so this is development and activities that occurred from January 1 through March 30, 2018. Mr. Moravec stated that the Kroger Center has a lot of retail, so it will probably remain on the report, but as they add new development and columns, they might need to revise the report. Jon Bickford said that he thought it would be really interesting to him, where they have the status of the project, the number of people that are going to be hired, the value of the building(s) and the contents, the MEDC participation, but the one thing that is not included that might be interesting is the sales tax contributions. Mr. Moravec said that they could not include that

information. Jon Bickford said that there is a lot more interest in funding projects where there is more sales tax dollars. Mr. Moravec said that they could make some inference based on square footage of the development, and knowing that certain retail, services or industrial areas produce a certain amount of sales tax based upon the square footage of the property. Mr. Moravec said that the State of Texas does prohibit them from revealing some information. Mr. Moravec said that they can try and project sales tax based upon square footage and the proposed use. Mr. Yates said that they could come up with the top ten tax payers. Mr. Moravec said that they would try and work on that information.

Dave McCorquodale said that he would like to thank Mr. Moravec and Mrs. Shannan Reid for this snapshot of information, and for those of us who are not able to attend the meetings, to see what they are working on every day, which this puts all the information in one place. Mr. Moravec said that this report is primarily for the City, so if there is anything that you want them to change, and said that the anticipated sales tax is a good idea.

Mayor Jones said that the total full time jobs created, not necessarily by any effort of ours but they might have had a part in it, were 52 full time positions in the quarter and 35 part time jobs. Mayor Jones said that was a lot of jobs for this City. Mr. Moravec said that was correct, and said that they are quality jobs. Mr. Moravec said the primary jobs are 15-20.

John Champagne thanked Mr. Moravec for his good work. Mr. Moravec thanked the City Council. Mayor Jones also thanked Mrs. Shannan Reid.

Rebecca Huss moved to approve the Departmental Reports as presented. Dave McCorquodale seconded the motion, the motion carried unanimously. (5-0)

12. Consideration and possible action regarding appointment of Gary Scott as Associate Judge of the City of Montgomery Municipal Court.

Municipal Judge Robert Rosenquist advised that he has worked for the City for years as the Judge without having a backup Judge, while they have never had a problem, he is worried about one day him getting stuck at his day job and not being able to make court. Judge Rosenquist recommended appointment of Gary Scott as the Associate Judge to fill in for him on the nights that he can't make court. Judge Rosenquist advised that there would be no additional cost to the City, because he would be paying Gary Scott out of what they pay him. Judge Rosenquist advised that Gary Scott is the Assistant City Attorney and Prosecutor for the City of Conroe during the day as his full time job, but at night he is also the Judge for the Cities of Willis and Panorama. Judge Rosenquist said that he was also the Associate Judge for Judge Gary Scott, so they work together and back each other up.

Rebecca Huss said that this makes sense, because of the importance of what they do effects people's lives. Judge Rosenquist said that Gary Scott's mind set is the same as his in running the Court.

John Champagne moved to approve the appointment of Gary Scott as Associate Judge of the City of Montgomery Municipal Court. T.J. Wilkerson seconded the motion, the motion carried unanimously. (5-0)

13. Consideration and possible action regarding distribution of 1% sales tax collected in the newly annexed areas due to the ESD #2 Sales Tax Agreement.

Mr. Yates presented the information advising that the ESD agreement calls for evenly splitting the 2% sales tax in areas newly annexed, so the City will receive one cent in the newly annexed areas. Mr. Yates said that the ESD agreement has no effect on the property taxes and the City will continue to collect 100% of the property tax in the newly annexed areas. Mr. Yates advised that the MEDC's only revenue source is sales tax, which is expected to be \$530,000 in 2017-2018. Mr. Yates said that MEDC is contributing \$160,000 this year to the debt service of the entirety of the City, and \$120,000 of this debt service is for the Catahoula Well and \$40,000 is toward the TWDB loan. Mr. Yates said that the MEDC also contributes annually to various infrastructure improvements, usually by paying a "gap" amount for items such as over sizing of utility lines or paying the final 5-10% of development costs for a development.

Mr. Yates said that the decision is a local decision and has nothing to do with the State Comptroller's Office distribution of sales tax. Mr. Yates said that the City receives all the sales tax in one lump sum and then it is distributed by the Finance Department, based upon a City Council/MEDC Interlocal Agreement. Mr. Yates said that he spoke to the State Comptroller's Office and they are going to create another appropriation code that will provide a notation showing how much was collected in the one percent area.

Mr. Yates said that the 1.5 cents of the sales tax for the fiscal year 2017-2018 is \$1,810,800, which is 59 percent of the total revenue for the General Fund Budget. Mr. Yates said that using the projection of the budget doubling in ten years, that would mean that the City's General Fund Budget will be \$6,138,182 and the sales tax will be 49% (based on 1/10<sup>th</sup> of the total sales tax being in the one cent ESD area) of that amount \$3,007,709, rather than keeping the 59% amount to be \$3,621,903, leaving the City short \$614,000 of being able to provide services.

Rebecca Huss said that it goes back to the basic premise that the way the sales tax works is that originally one-half cent went to the MEDC, one-half cent to debt reduction and the City needed one percent to run the City. Rebecca Huss said that does not change if they gave up a whole percent to the ESD. Jon Bickford said that the City has one percent and they can either give a portion of it to MEDC or the City can have all of it, but at the end of the day, if they give it all to the City, they have absolute flexibility. Jon Bickford said if they give a portion to MEDC they do not have flexibility because there are only very specific things that they can do with the funds. Jon Bickford said that he felt that this is a really simple problem; give the funds to the City and let the City determine, as they have, what needs to go to MEDC.

Jon Bickford moved to keep the one percent sales tax with the City. Rebecca Huss seconded the motion.

Discussion: Mayor Jones said that the motion is to keep all the proceeds from the one percent sales tax from ESD 2 to the City. John Champagne stated that was only on newly annexed property. Rebecca Huss said that it will be on all newly annexed property. Mr. Foerster said that this is with regard to the sharing of the ESD #2 sales tax. Jon Bickford said that if there is other annexed property in the future, to be annexed, it would not be part of this. Rebecca Huss said that yes, it would be part of this. Mayor Jones said that was forever. Rebecca Huss said

that this is not related to just the Peter Hill tract; this is related to the theoretical annexation of all properties that are subject to sharing of revenue with ESD #2.

The motion carried unanimously. (5-0)

14. Consideration and possible action regarding hiring Sales Tax Contractor Assistance.

Mr. Yates advised that to give City Council a measure of the relevance of the issue, the recent six month report received from the State Comptroller's Office showed approximately 4,000 different companies have paid anywhere from \$.05 cents to \$100 to \$20,000 of sales tax dollars to the City of Montgomery. Mr. Yates said that the question of an outside contractor to review sales tax collections has been discussed several times for the past several years. Mr. Yates said that he had never really been a proponent of it, however, he changed his mind recently because of five things; the amount of sales tax that they are receiving is increasing substantially and we want it to continue to increase. Mr. Yates said that there is more at stake on the collections and catching mistakes by the State and jurisdiction problems. Mr. Yates said that the second reason is with the ESD Agreement and sharing the sales tax, a few mistakes there could cause a sizable difference in the amount of dollars.

Rebecca Huss said that it will be some time before the Peter Hill property is actually up and running and our site is not getting huge amounts of sales tax, so that might be some time. Rebecca Huss asked if it was possible to get any kind of confirmation of what they are actually saving the City, showing the errors and omissions that they found and does the City get the money back. Rebecca Huss said that over the last couple of years the budget has been cut by the Secretary of State taking money from us, if this company finds errors, do they get the money back from previous periods. Mr. Yates said yes they do. Mr. Yates said that there would be audits and adjustments each month. Rebecca Huss asked how they would know if there is any value to the service that they are providing. Mr. Yates said that they can get a report of the actions taken.

Mrs. Branco stated that she has several clients that have hired a sales tax representative and what they have done is save them a tremendous amount of money, find a lot of value of what was not being taxed or was not being sent to those particular entities and finding errors that have been made. Mrs. Branco said that the companies have saved them from the drastically

enormous deductions that were not necessary in some cases, and in some cases they were. Mrs. Branco said that the companies save you money, they get your money back for sales taxes that you have not been receiving. Mrs. Branco said that the reports that they produce each month are very valuable. Mr. Yates said that there are also the 380 Agreements that have legality issues that they need to be accurate on.

John Champagne asked how they would be compensated, flat rate or a percentage of the savings. Mrs. Branco said that it could be either one. Mr. Yates said that what he is recommending is the flat rate of \$1,400 per month. Mayor Jones said that with a City of our size that is probably what they would prefer. Jon Bickford asked why they would recommend a flat rate. Mr. Yates said that way they would know what they would be paying. Jon Bickford said that if the percentage was based on the amount that they recovered, then they would not have to worry because they would not have gotten the funds anyway. Jon Bickford said if they collected \$100,000 and they were supposed to collect \$300,000, they charge a variable amount based on the \$200,000. Jon Bickford said that your budget would be based on the \$100,000 because that is what you anticipate receiving. Mr. Yates said that it would get into a documentation game and a verification versus knowing exactly what you are paying. John Champagne said that it would seem to him that they would be incentivized to do as good a job as they are motivated to do, based on what is being saved or garnered by the City and the proof would be what we are depositing in our accounts as a result of their efforts, so how would there be a documentation problem. Mr. Yates said that it is not based on the amount of sales tax, it is based on what they find. Mayor Jones said that if they work all month and find nothing, then they would not get paid. Jon Bickford said that if they do not find anything, then they would not get paid, that is their choice.

John Champagne asked what would be best for the City in regards to compensating for a service that they may or may not realize a benefit. Mr. Yates said that he thought there was enough incentive for the business to stay in good with the City and find things. John Champagne said that he would work a whole lot harder if he knew he was being compensated a percentage of savings as opposed to a flat rate. Jon Bickford said that the inclination to get better oversight is going to be there if there is a variable component to this, and said that he might be inclined, if he got a fixed fee, to pass the day-to-day part of it to a more junior member of his staff. Rebecca Huss said that they are looking at Secretary of State filing information and comparing it to zip

codes and maps. John Champagne asked if a flat rate was typical. Mrs. Branco said that typically her clients have selected the flat rate. Rebecca Huss said that they should pay a flat rate for the first year, because it is going to be the easiest to find the mistakes and they could be paying the highest variable rate the first year. Jon Bickford had one other thought, he could be indifferent for six months, so he could choose the flat rate for six months, but have the company report on both options so they could compare; then in six months they could make a decision. Jon Bickford said that they can also determine in six months whether this is saving the City any money. Mr. Yates said that the agreement is on a 30-day basis.

Rebecca Huss moved to approve the selection of a sales tax contractor by Mr. Yates and Mrs. Branco for a fixed rate contract. Dave McCorquodale seconded the motion.

Discussion: Jon Bickford stated that he would like to request an addition to the motion, to say that they get the variable rate and asked the company to also provide us with what the variable rate would look like for the same period. Mayor Jones asked if they could direct staff to prepare that information. Mr. Yates stated that he would prepare that information. Jon Bickford said that he would like to put a time on the contract. Rebecca Huss said that was not necessary since they can get out of the contract in 30 days; it does not matter how long the contract is. Jon Bickford asked if they can get out of the contract in 30 days at any time. Mr. Yates said that was correct. Jon Bickford said that he was fine with that. Mayor Jones stated that the motion was not going to be amended, and will stand as stated.

The motion carried unanimously. (5-0)

15. Consideration and possible action regarding adoption of Land-Use Plan.

Mr. Yates advised that this is a Land-Use Plan that can't be adopted as a formal document, but is an informal guide for the land-use of the City. Mr. Yates said that this Land-Use Plan primarily has to do with inside the City and the ETJ, and the areas showing the high and low density lot sizes.

Jon Bickford asked if this is an informal document and guidelines, so therefore there is no obligation to follow this and you need this in order to have a Land-Use Plan in place. Mr. Yates said that was correct.

Jon Bickford moved to accept this Land-Use Plan as presented. John Champagne seconded the motion.

Discussion: Rebecca Huss commented that there was a lot of high density on the map and Jon Bickford did not say anything. Jon Bickford said that this is not a direction and he is not agreeing to this, it is just a recommendation; it does not mean that they have to follow any of this, but they have to have it in place to put a Land-Use Plan in place. Rebecca Huss said that she would like to say that she appreciated the Planning and Zoning Commission work in putting this together because it has been helpful. Mayor Jones said that it means that somebody gave some thought to planning, which is how they see it going.

The motion carried unanimously. (5-0)

16. Consideration and possible action for the approval of the Certificate of Acceptance for Houston Street Rehabilitation Project.

Mr. Roznovsky stated that they are recommending full acceptance of the project.

John Champagne moved to approve the approval of the Certificate of Acceptance for the Houston Street Rehabilitation Project as presented. Jon Bickford seconded the motion, the motion carried unanimously. (5-0)

17. Buffalo Springs Bridge Report by City Engineer.

Mr. Roznovsky stated that since the last City Council Meeting the contactors have completed another 40 feet of bulkhead. Mr. Roznovsky said that during the last two weeks they had two large rain events and four days lost due to clean up. Mayor Jones asked when the rain would quit being a deterrent. Mr. Roznovsky said that once they get out of the channel, so what is left on this side is three more sections, which they are pouring tomorrow, the footing and the



wall should be the following day and then they will start on the next footing. Mr. Roznovsky said that hopefully by next week the wall on the north side will be complete so they can get out of the channel. Mr. Roznovsky said the contractor is still working out his plan on whether he is going to finish all of the work on this side and then move to the other side and he does have another crew coming in next week. Mayor Jones asked how they are going to support the road. Mr. Roznovsky said that they ripped out the 60 feet of asphalt and they will build the base back up.

**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.)

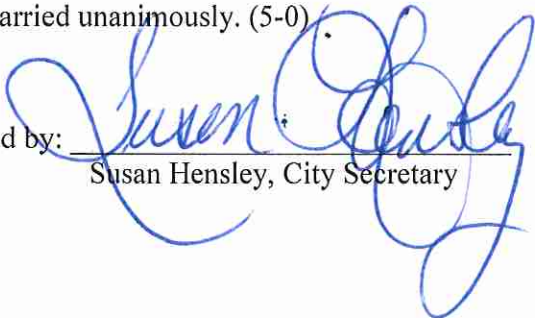
**COUNCIL INQUIRY:**

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 8:20 p.m. Rebecca Huss seconded the motion, the motion carried unanimously. (5-0)

Submitted by: \_\_\_\_\_

  
Susan Hensley, City Secretary

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor Kirk Jones

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: May 8, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits: Agreement</b>
<b>Date Prepared: May 1, 2018</b>	

**Subject**

This is to improve the standard escrow agreement between the city and Thomas Claire Investments, LLC. ( The Montgomery State Farm Office tract).

**Description**

This his approval of the escrow agreement. The funds have already been deposited with the City.

**Recommendation**

Approve the Escrow Agreement.

**Approved By**

City Administrator	Jack Yates	Date: May 1, 2018
--------------------	------------	-------------------

**ESCROW AGREEMENT**

**BY AND BETWEEN**

**THE CITY OF MONTGOMERY, TEXAS,**

**AND**

**Thomas Claire Investments, LLC**

**Dev. No. 1802**

THE STATE OF TEXAS            ⤵

COUNTY OF MONTGOMERY    ⤵

This Escrow Agreement, is made and entered into as of the 12th day January, 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 Thomas Claire Investmesnts, LLC, a Texas Corporation, (hereinafter called the "Developer").

**RECITALS**

WHEREAS, the Developer desires to acquire and develop all or part of a subdivision of 0.9805 acres of land out of Restricted Reserve "C," Cab. Z, Sht. 1356 M.R.M.C.T., sometimes referred to as the Montgomery State Farm 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 and inspection services to be provided for during the construction phase; and,

WHEREAS, City has determined that the estimated cost of providing such services will be approximately \$3,000.

**AGREEMENT**

ARTICLE I

**SERVICES REQUIRED**

Section 1.01 The development of the Montgomery State Farm 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:

Plan Review	\$ 2,000
Developer Coordination	\$ 500
Construction Inspection	\$ 500
<hr/>	
TOTAL	\$3,000

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 In the event the funds advanced are insufficient to cover the City's costs and expenses, Developer agrees to tender additional sums upon request to cover such costs and expenses. 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: Ms. Shanon Salsbury  
Thomas Claire Investments, LLC  
19142 Grandview Pt  
Montgomery, Texas 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

STATE OF TEXAS {

COUNTY OF MONTGOMERY {

BEFORE ME, the undersigned authority, on this day personally appeared Kirk Jones, 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.

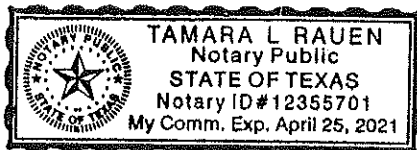
\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS {

COUNTY OF Montgomery {

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Sharon Salsbury of Thomas Claire Investments, a development company, 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 12<sup>th</sup> day of January, 2018.



Tamara Rauén  
Notary Public, State of Texas



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: \_\_\_\_\_  
Kirk Jones, Mayor

ATTEST:

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

Thomas Claire Investments, LLC  
Developer

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

Title: President

## Prohibition on Boycotting Israel Verification

This Verification is hereby incorporated into the terms of the contract by and between                     [Owner]                     and                     [Contractor]                     entered into this the 12<sup>th</sup> day of January, 2018.

1.                     [Contractor]                    , 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]

unknown @ this time

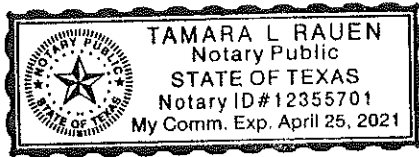
Contractor

State of Texas

County of Montgomery

Before me, a notary public, on this day personally appeared Shanon Salisbury, 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)



Tamara Rauén  
Notary Public's Signature

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

[Signature]  
Owner

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

## OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Thomas Claire Investments, LLC  
Montgomery, TX United States

Certificate Number:  
2018-301818

Date Filed:  
01/12/2018

Date Acknowledged:

5/03/2018 

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

The 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.

1802  
business rental and lease space.

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

5 Check only if there is NO Interested Party.

### 6 UNSWORN DECLARATION

My name is Shanon Salsbury, and my date of birth is 4-13-1972.

My address is 19142 Grandview Pt, Montgomery, Tx, 77356 USA.  
(street) (city) (state) (zip code) (country)

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

Executed in Montgomery County, State of Texas, on the 22<sup>nd</sup> day of February, 20 18.  
(month) (year)

  
Signature of authorized agent of contracting business entity (Declarant)

CITY OF MONTGOMERY  
970-637-6434

REF#: 00024101 1/12/2018 10:49 AM  
DEPT: AR TERM: 003  
RLI#: 164

AMOUNT: 16.0000 MISC INCOME  
THOMAS CLAIRE ESCROW AGGREE  
THOMAS CLAIRE ESCROW AGGREE  
UNANTICIPATED INCD 3,000.00CR

TENDERED: 3,000.00 CHECK  
APPLIED: 3,000.00-

CHANGE: 0.00

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> May 8, 2018	<b>Budgeted Amount:</b>
<b>Department:</b> Administrative	
<b>Prepared By:</b> Susan Hensley, City Secretary	<b>Exhibits:</b>
<b>Date Prepared:</b> May 4, 2018	

**Subject**

Schedule a Special City Council Meeting to Canvass 2018 City General Election results and install the Mayor and City Council Members, Places 2 and 4.

**Recommendation**

Schedule a **Special City Council Meeting** to be held on **Tuesday, May 15, 2018 at 6 p.m.**

**Discussion**

The Montgomery County Elections Administrator has recommended that the local entities schedule their canvass of the Election results to be done between, May 14 – 16, 2018. Montgomery County will be processing provisional ballots and mail ballots as late as May 10-14, 2018, which could delay the canvass report being received until May 14<sup>th</sup>.

**Texas Secretary of State May 5, 2018 Election Calendar:**

**Friday, May 11, 2018 (6th day after Election Day)**

First day that newly-elected officers of Type A general law city may qualify and assume duties of office (per Sec. 22.006, Local Government Code), but see **NOTE**, below.

**NOTE:** Council members may take office anytime following the canvass. Section 22.006 of the Texas Local Government Code states that a newly-elected municipal officer of a Type A city may exercise the duties of office beginning the fifth day after the date of the election, excluding Sundays. **However, no newly elected official may qualify for office before the official canvass of the election has been conducted** (or would have been conducted, in the event of a cancelled election).

**Wednesday, May 16, 2018 (11th day after election day)**

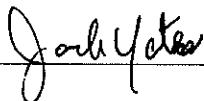
Last day for official canvass of returns by governing authority of political subdivision. (Sec. 67.003).

**Section 22.036 of the Texas Local Government Code further requires that the newly-elected governing body of the municipality “meet at the usual meeting place and shall be installed.”**

**NOTE:** This reason that the Oaths are being administered following the canvass of the Election instead of at the next Regular City Council Meeting is because the regular meeting scheduled for May 22, 2018 has to be held at the Community Center Building due to the Montgomery County Run Off Election, not at the usual meeting place at City Hall.

**Approved By**

City Administrator



Date: May 1, 2018

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> May 8, 2018	<b>Budgeted Amount:</b>
<b>Department:</b> Administrative	
<b>Prepared By:</b> Susan Hensley, City Secretary	<b>Exhibits:</b> Resolution, reviewed and approved by the City Attorney.
<b>Date Prepared:</b> May 1, 2018	

**Subject**

Resolution establishing the Planning and Zoning Commission terms and positions for the existing members of the Commission.

**Recommendation**

Adoption of the Resolution.

**Discussion**

The City of Montgomery Code of Ordinances, Division 2, entitled "Planning and Zoning Commission," Section 98-51, entitled "Terms of office," provides as follows:

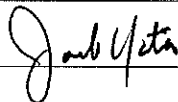
*The terms of three of the members shall expire on October 1 of each odd-numbered year and the terms of two members shall expire on October 1 of each even-numbered year. The members of the commission shall be identified by place numbers one through five. The odd-numbered places shall expire in the odd-numbered years; and the even-numbered places shall expire in the even-numbered years. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no member shall be appointed for a term in excess of two years. Newly-appointed members shall be installed at the first regular Commission meeting after their appointment.*

The following members of the Planning and Zoning Commission with the following terms are hereby stated and the positions identified by Place as stated in the City Code at Section 98-51:

<i>Place 1. William Simpson</i>	<i>October 1, 2016 - 2018</i>
<i>Place 2. Nelson Cox</i>	<i>October 1, 2016 - 2018</i>
<i>Place 3. Arnette Easley</i>	<i>October 1, 2017- 2019</i>
<i>Place 4. Carol Langley</i>	<i>October 1, 2017- 2019</i>
<i>Place 5. Jeffrey Waddell</i>	<i>October 1, 2017 -2019</i>

**Approved By**

City Administrator



Date: May 1, 2018

**RESOLUTION 2018-**

**A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS, ESTABLISHING THE PLANNING AND ZONING COMMISSION TERMS AND POSITIONS FOR THE EXISTING MEMBERS OF THE PLANNING AND ZONING COMMISSION IN ACCORDANCE WITH CITY OF MONTGOMERY CODE OF ORDINANCES, DIVISION 2, SECTION 98-51, ENTITLED “TERMS OF OFFICE.”**

**WHEREAS**, the City of Montgomery Code of Ordinances, Division 2, entitled “Planning and Zoning Commission,” Section 98-51, entitled “Terms of office,” provides as follows:

*The terms of three of the members shall expire on October 1 of each odd-numbered year and the terms of two members shall expire on October 1 of each even-numbered year. The members of the commission shall be identified by place numbers one through five. The odd-numbered places shall expire in the odd-numbered years; and the even-numbered places shall expire in the even-numbered years. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no member shall be appointed for a term in excess of two years. Newly-appointed members shall be installed at the first regular commission meeting after their appointment.*

**WHEREAS**, the following members of the Planning and Zoning Commission with the following terms are hereby stated and the positions are identified by Place as stated in the City Code at Section 98-51:

Place 1.	William Simpson	October 1, 2016 - 2018
Place 2.	Nelson Cox	October 1, 2016 - 2018
Place 3.	Arnette Easley	October 1, 2017- 2019
Place 4.	Carol Langley	October 1, 2017- 2019
Place 5.	Jeffrey Waddell	October 1, 2017 -2019

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

**Section 1. Findings.**

The findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.



**Section 2. Planning and Zoning Commission Terms and Places Assigned.**

The City Council hereby approves for record the terms of office for the members of the Planning and Zoning Commission, showing the term of office and identifying each member by Place numbers one through five, as stated in the recital above.

**Section 4. Severability Clause**

In the event any clause, phrase, provision, sentence or part of this Resolution or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Resolution as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Montgomery, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

**Section 5. Effective Date.**

This Resolution shall be effective upon its passage and approval by City Council.

**PASSED, APPROVED, and ADOPTED** this 8th day of May, 2018.

**CITY OF MONTGOMERY, TEXAS**

\_\_\_\_\_  
Kirk Jones, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry L. Foerster, City Attorney

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> May 8, 2018	<b>Budgeted Amount:</b>
<b>Prepared By:</b> Jack Yates City Administrator	<b>Exhibits:</b> Letter from Mr. Ward and wife, Rough draft of proposed development
<b>Date Prepared:</b> April 20, 2018	

**Subject**

This is to hear a presentation from Blaine Ward for proposed development at the end of McGinnis Lane. Not a formal presentation requiring any action.

**Description**

The attached information from Mr. Ward. This informal presentation is a result discussion several months ago to in order to speed up the development process and to save the time and possible cost to a developer who asked for guidance in the early stage of their development rather than after they've spent a lot of money on formal engineering and platting cost.

Mr. Ward's property is 5.7 acres and he is debating whether to put an RV park with a minimum of 40 sites, or to develop the property is single-family residential. As you can tell from the on the map he has quite a few floodway issues to consider in the development of the property.

McGinnis Lane is a narrow dead end (off Martin Luther King, Jr. Blvd.) in poor condition that almost certainly would have to be improved and widened by Mr. Ward. Water and sewer lines are present to the end of the Lane but probably not large enough to fulfill Mr. Ward's needs so there would be that cost from MLK to his new development area.

If Mr. Ward were to want to continue on the development the first thing that would happen is to get an Escrow Agreement, then have a planning meeting with him and the City group- meaning engineers, city police department

Montgomery City Council  
**AGENDA REPORT**

representatives, other utility companies and city staff to have a comprehensive information session.

Mr. Ward is not an experienced developer but is an entrepreneur who bought the property and is just trying to figure out how to make the most of their investment in the property.

**Recommendation**

Listen and comment as you think. None of your comments are positions of the city.

**Approved By**

City Administrator

Jack Yates

Date: April 20, 2018

Good morning Chris,

Please find our rough draft of the preliminary site plan attached. This is taking into consideration the floodway according to FEMA maps. We do plan to save as many of the mature hard wood trees as possible and we do plan to alter this plan as needed to accommodate this task.

The proposed purpose for the land would be to develop an rv park. It is my understanding that we would need to obtain commercial r2 zoning on the property for this project.

The lot size is around 5.7 acres and we would plan to utilize the entire space. The majority of the property is in the 100 year flood plain so we would like to dig a large pond (3/4 to 1 acre) and use the dirt to build up other areas of the property and control water flow on to the property.

The rv park would have a minimum of 40 sites. Our civil engineer will help us determine exact number of possible rv sites for the final plan. We would also have an office, a laundry facility, restroom and shower facility, park with playground equipment, a dog park, a fountain in the lake and benches and/or picnic areas around the lake.

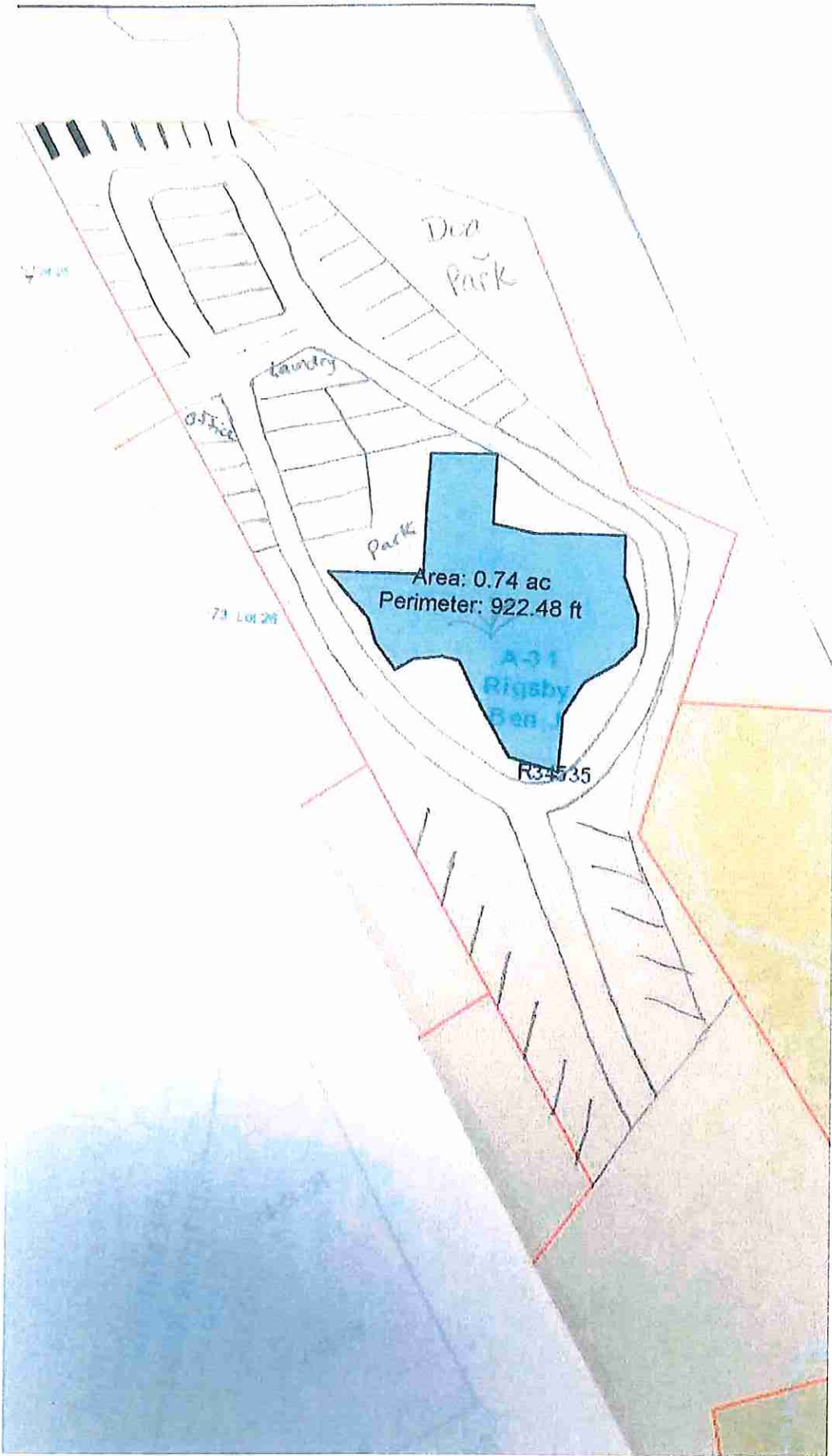
The roads throughout will be gravel base with an asphalt top. Each rv site will have gravel parking and a green space equal to or greater than the parking area.

We do not currently have a plan to have a store or sell propane but we may add that in the future. As of now there would not be any taxable sales.

I would speculate the appraised property value would be at least \$500k after development is complete. That would be more than a 1000% increase in taxable value!

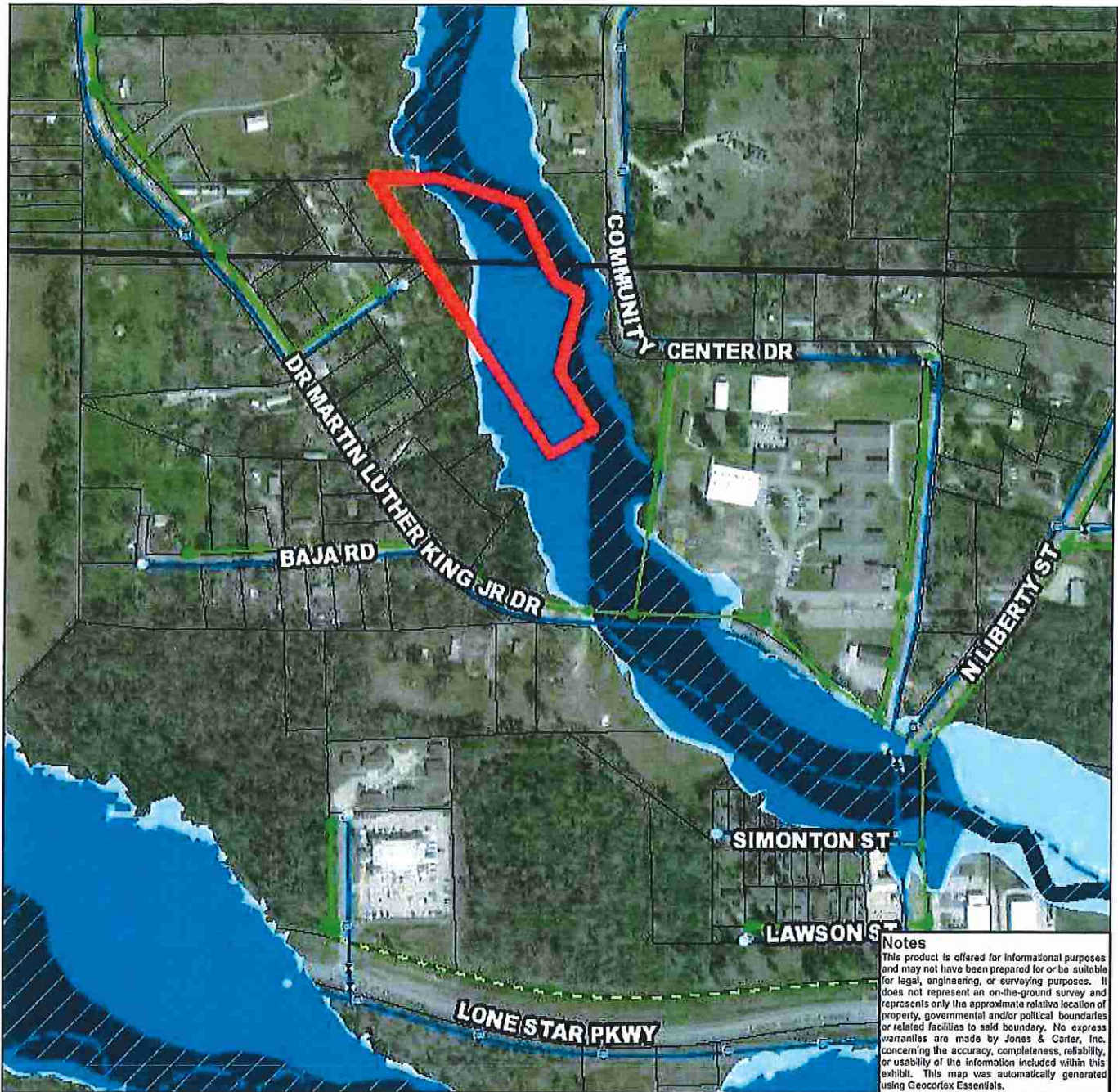
Please let me know if there is anything I missed or if you have any questions or concerns prior to next Monday's meeting.

Thank you,  
Blaine and Crystal Ward  
Anchored Properties  
832-495-8798





# Anchored Properties Tract



**Notes**  
 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. This map was automatically generated using Geocortex Essentials.

## LEGEND

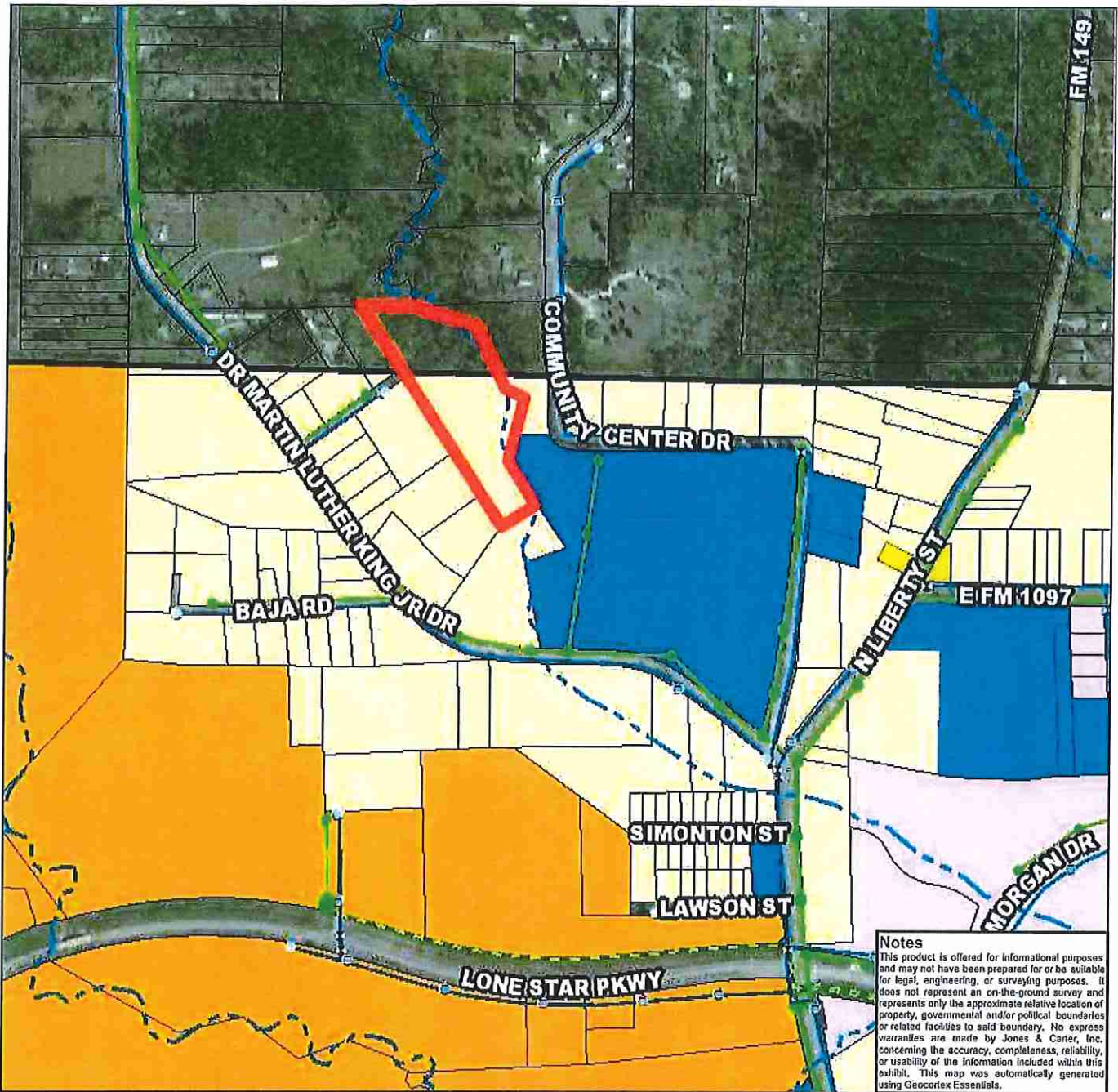
- |                   |                     |                    |
|-------------------|---------------------|--------------------|
| Blowoff/Plug      | Sewerline           | 100-yr             |
| Flush Valve       | Abd. Gravity Main   | 100-yr Overflow    |
| Main Valve        | Gravity Main        | 500-yr             |
| Waterline         | Abd. Force Main     | Road Label         |
| Manhole           | Force Main          | MCAD Property Info |
| Cleanout          | City Limit          |                    |
| Manhole           | City ETJ            |                    |
| Abd. Lift Station | Streams             |                    |
| Lift Station      | FEMA Effective FIRM |                    |



1 inch equals 524.6 Feet



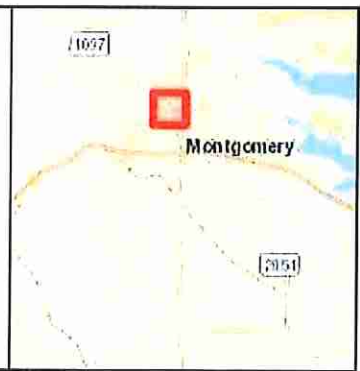
# Anchored Properties Tract



**Notes**  
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## LEGEND

<ul style="list-style-type: none"> <li>○ Blowoff/Plug</li> <li>⊕ Flush Valve</li> <li>⊗ Main Valve</li> <li>— Waterline</li> <li>Manhole                     <ul style="list-style-type: none"> <li>● Cleanout</li> <li>● Manhole</li> <li>○ Abd. Lift Station</li> <li>● Lift Station</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Sewerline                     <ul style="list-style-type: none"> <li>— Abd. Gravity Main</li> <li>— Gravity Main</li> <li>· · · Abd. Force Main</li> <li>· · · Force Main</li> </ul> </li> <li>□ City Limit</li> <li>□ City ETJ</li> <li>— Streams</li> <li>— Road Label</li> </ul>	<ul style="list-style-type: none"> <li>Zoning                     <ul style="list-style-type: none"> <li>■ COMMERCIAL</li> <li>■ FLOODPLAIN</li> <li>■ INDUSTRIAL</li> <li>■ INSTITUTIONAL</li> <li>■ MULTI-FAMILY</li> <li>■ MULTI-USE</li> <li>■ RESIDENTIAL</li> <li>■ UNKNOWN</li> </ul> </li> </ul>
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1 inch equals 657.6 Feet

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: May 8, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits:</b> E-mail of request from Filmmaker Instructor at Houston Art Institute, e-mail from Fernland, Inc. Board re: suggested response to film request, Film portion of script,
<b>Date Prepared: May 4, 2018</b>	

### Subject

This is to consider the use of Fernland Park as a movie site.

### Description

The Fernland Board received a request from Molly Vernon and an Adjunct Film Instructor at the Art Institute of Houston, wherein she request to use the cabin in Fernland Park for a movie that is by implication being made by the Art Institute.

Attached is the request from Mrs. Vernon, wherein she says that they would probably need one or 2 days for the cabin scene..

The brief minutes of the Fernland Board regarding the subject are:

- " 3) Proposed movie at Fernland in July
  - a. Jack is looking for an opinion
  - b. Motion: Larry to draft motion and circulate via email for approval w/recommendation to hold movie if city approves.
  - c. Motion approve, Gareth W., Patti S. Second. Approved "

after their meeting, Larry Daspit,drafted a proposed response to the filming question, wherein the Fernand Board proposes:

approval based upon:

- 1) Reimburse the city for out-of-pocket costs for docent and police officer based on actual hourly compensation for the 2 employees.
- 2) Make a \$1000 one-time donation to the city of Montgomery to be used for systems specifically to preserve/maintain/improve for Fernland Historic Park.



Montgomery City Council  
**AGENDA REPORT**

3) Film project manager provides written proof of projects liability insurance coverage.

Although the issue has come up before, there is no written approval required from the LeFevre family regarding filming at the Park, which was originally donated by the LeFevre family. Just in case this come up in the conversation.

Also, attached (maybe too much information) is the script in which the scene shows a family being stalked and a grandmother being killed by Mexican troops of Santa Anna.

**Recommendation**

Approve the recommendation and allow the filming to occur.

**Approved By**

City Administrator

Jack Yates

Date: May 4, 2018



Yates, Jack &lt;jyates@ci.montgomery.tx.us&gt;

**RE: The use of Fernland Historical Park as a location for a Film**

1 message

**molly@mollyvernon.com** <molly@mollyvernon.com>

Tue, Apr 10, 2018 at 6:38 PM

To: fernland COM &lt;fernland@ci.montgomery.tx.us&gt;

Cc: "H.W. Newman" &lt;mikesan39@yahoo.com&gt;, "Yates, Jack" &lt;jyates@ci.montgomery.tx.us&gt;

Greetings --

Attached is the portion of the script for the short historical film LILLIAN that we would need the cabin and general area beside it for.

We would use as small a crew on site as possible and stage our home base in the parking area or wherever you would designate us.

We would probably need 1 to 2 days to shoot these 5 pages as we have to work rather short film days using children. (I understand these would be Mondays when the park is closed and perfect dates for us would be July 16th and July 23rd.)

We will be insured and understand there is a \$250 filing fee with the city and we would love to make a donation for the use of the location and credit billing in the film to whomever is designated.

I am a college film professor at The Art Institute - Houston but will use our professional crew for this shoot with college senior interns as assistants.

Below is a link to the films IMDb page and location references if needed.

Special thanks to Dana for assisting me with this!

IMDb Link:

[http://www.imdb.com/title/tt7860576/?ref\\_=nm\\_fimg\\_wr\\_1](http://www.imdb.com/title/tt7860576/?ref_=nm_fimg_wr_1)

Location References:

SILO

Ken Crimmons  
(832) 423-1005  
kfjc@aol.com

Cinestar Interactive  
Ibis Fernandez  
(832)315-6615  
toontitan@gmail.com

Home Owner  
Cheryl Rusdal  
(832)580-7277  
cherylrusdal@gmail.com

Regards,

Molly Vernon

**(713)894-3158**

Vernon-McKee Productions, Producer  
Art Institute-Houston, Adjunct Film Instructor  
Women in Film & Television-Houston, Vice President  
molly@mollyvernon.com  
mollyvernon@icloud.com  
<http://www.imdb.me/mollyvernon>  
<http://www.linkedin.com/in/mollyvernon>  
<http://www.facebook.com/mollyvernon>  
<https://twitter.com/mollyvern>  
[https://www.instagram.com/molly\\_vernon](https://www.instagram.com/molly_vernon)  
<http://www.mollyvernon.com>

**"Opportunity is missed by most people because it is dressed in overalls and looks like work." -- Thomas Edison**

----- Original Message -----

Subject: The use of Fernland Historical Park as a location for a Film

From: fernland COM <fernland@ci.montgomery.tx.us>

Date: Mon, April 09, 2018 4:15 pm

To: "molly@mollyvernon.com" <molly@mollyvernon.com>

Cc: "H.W. Newman" <mikesan39@yahoo.com>, "Yates, Jack" <jyates@ci.montgomery.tx.us>

Dear Molly,

I spoke to both the Montgomery City administrator, Jack Yates and the Fernland board president, Mike Newman. Neither seem opposed to your project, but they would like you to send a letter stating your specific needs and use of the park in order to make a definitive decision. As you suggested, I think it would be a good idea to include the script and description of the specific scenes you want to film at Fernland.

I am copying both Jack Yates and Mike Newman in this email so it's easier for you to communicate with all the parties involved in making a decision.

We look forward to hearing from you. Have a wonderful day.

Sincerely,

Dana Bickford  
City Docent at Fernland Historical Park

---

 **LILLIAN - Fernland.pdf**  
62K



Yates, Jack &lt;jyates@ci.montgomery.tx.us&gt;

## Request for comment: City of Montgomery & Fernland Inc. response to filmmaker request

1 message

ldaspit &lt;ldaspit@consolidated.net&gt;

Thu, Apr 19, 2018 at 10:45 AM

To: "H.W. Newman <mikesan39@yahoo.com>, Pattii Stafford <patti.stafford@amegybank.com>,brenda beaven <brenda.n.beaven@gmail.com>, twestlake@pobox.com,Michael A Hayles <mahayles@cmcmi.org>, Jack" <jyates@ci.montgomery.tx.us>, Gareth Westlake <gareth.westlake@gmail.com>, don carter <donhcarter@gmail.com>, Billy Ray Duncan <brd221@consolidated.net>  
Cc: mmuckleroy@ci.montgomery.tx.us

All,

Per discussion last night, attached for your review and comment a suggested response to request to film a video at Fernland Historical park in July, 2018.

### BEST CASE SCENARIO IF FILM PROJECT GETS "GO" APPROVAL

Film crew completes project in one (1) 10-hour day.

One (1) docent @ \$10.00/hour = \$100.00

One (1) police officer @ \$20.00/hour\* = \$200.00

\$100.00 + \$200 = \$300.00

\$250 fee for park use.

Net to City of Montgomery = (\$50.00)

\* \$20/hr for police officer is simply my guess. I ask appropriate city employee to plug in actual police officer hourly cost to determine actual cost to city.

In best case scenario, it costs city \$50.00 or more to host this project, with no material benefit to the city or Fernland Inc.

### DRAFT PROPOSED RESPONSE

City of Montgomery approves use of Fernland Historical Park for film project IF film project manager agrees to:

- 1) Reimburse city for out of pocket cost for docent and police officer based on actual hourly compensation for the two employees.
- 2) Make a \$1,000.00 one-time donation to the City of Montgomery to be used specifically to preserve/maintain/improve Fernland Historical Park.
- 3) Film project manager shows written proof of the project's liability insurance coverage in the event someone suffers an injury or the park is damaged.

To repeat, comments welcome and wanted.

Larry Daspit  
Cell: 713-858-9619

Script

LILLIAN

Written by

Molly Vernon

749 Ted Pickett  
League City, TX 77573  
(713)894-3158

FADE IN:

1 INT. MCKINNEY FARM CABIN - AFTERNOON 1

The CLIP of the horses hooves on the dry Texas dirt in the distance, soft but growing louder.

Wind BLOWS hauntingly across the prairie outside and a few animals STIR.

GRAMMY, 60s, she was pretty once but time and the prairie have aged her. She carries her musket BILLIE as she rings the school bell standing in the cabin door and all the children run toward her laughing and playing with their dog RANGER until they see her face. She steps outside.

2 EXT. MCKINNEY FARM CABIN - CONTINUOUS 2

GRAMMY

Ya'll get right here now. It's time to hide, the Mexican Army is coming.

They hear the CLIP of the horses hooves in the distance.

LILLIAN, 14 and beautiful, she wears her freckles and Irish heritage well and GREYCLOUD, 9, a wise Apache soul have been through the drill with the other children and know what to do.

LILLIAN

Let's do what Grammy says real fast now. Don't dilly dally!

All the children move to hide in their places underneath the cabin. Grammy grabs Lillian before she moves under the cabin to join the others.

GRAMMY

(softly)

You take your Papa's ole' musket Billie and keep your brother and sister and all those orphan kids we took in safe you hear? She's powdered and ready to fire if you need her.

Lillian takes Billie from Grammy. Grammy is unarmed.

LILLIAN

Yes, ma'am.



Speaking to all the children.

GRAMMY

You all hear me well now. Your parents all fought and sacrificed their lives for this land and we aim to keep it in the family. News come awhile back that the Alamo fell to Santa Ana and Goliad is in ruins.

The children GASP and WHISPER.

Hush now. The Mexican Army coming can't see or hear you. You have to stay hidden and quiet like we practiced. They will take me to jail and I'll be back when the war is over so you have to keep the stock fed and the crops growing until I get back. Remember, this is our land. Lillian, get with the others.

LILLIAN

Greycloud, you keep Ranger quiet like you taught him.

Lillian takes Billie with her and hides with the others as the SOUNDS from the horses grow closer.

(Special Note: There will be no horses. This is all sold with sound.)

Grammy has a white hankie ready to wave to surrender and she wipes her face off as she moves further away from the cabin.

The Mexican Army soldiers arrive.

GRAMMY (V.O.)

I surrender! La rendición! La --

There is no discussion. They shoot Grammy and leave her dead in the dust.

In Spanish they discuss searching the house and one of them does so.

His boots creak on the boards in the cabin with the children hiding underneath with tear stained faces pressed in the dirt.

The Mexican soldiers decide it was just the old woman on the land and they take the whiskey jug.

MEXICAN SOLDIER ONE (V.O.)  
 Volveremos por el ganado cuando  
 lleguen los otros soldados.

MEXICAN SOLDIER TWO (V.O.)  
 Sí, y el resto de los suministros  
 que tenía la anciana.

They ride away as we hear the horses ride into the distance.

When Greycloud thinks they are far enough away he signals for them to come out from under the cabin.

Quietly they run to Grammy's dead body.

BETTY, 3, precocious and precious, Lillian's little sister, throws herself on Grammy's body as the others move toward her.

CUT TO:

3 EXT. MCKINNEY FARM CABIN - CONTINUOUS 3

JOHNNY, 10, Lillian's younger brother and Betty's older brother, a little spoiled and jealous, and Greycloud are digging a grave with Lillian's help.

CUT TO:

4 EXT. MCKINNEY FARM CABIN - CONTINUOUS 4

The girls MARY, 7, Hispanic and a spunky tomboy; MINNIE, 11, free black with a gentle spirit caring for Betty; SARAH, 6, mixed race with her rag doll, a girlie girl, and Ranger stand around Grammy's grave which is a mound of dirt with a wooden cross in a small graveyard with several graves. Lillian sings ROCK OF AGES as Johnny plays Papa's guitar.

LILLIAN  
 Rock of Ages, cleft for me,  
 Let me hide myself in Thee;  
 Let the water and the blood,

Mary, Greycloud, Minnie, Sarah and Betty place flowers on the grave while Lillian sings.

LILLIAN (CONT'D)  
 From Thy wounded side which flowed,  
 Be of sin the double cure,  
 Save from wrath and make me pure.  
 Minnie, what does cleft mean?



Sarah whispers to Minnie as she tugs on her sleeve --

SARAH  
Minnie, what does cleft mean?

CUT TO:

5 INT. MCKINNEY FARM CABIN AND PORCH - SHORTLY AFTER 5  
The children are packing to leave. Ranger stands guard at the door.

JOHNNY  
Why cant we stay here?

MARY  
The Mexican Army men said they will come back.

MINNIE  
Why? They didn't see us?

Betty Jo is unpacking everything Minnie packs and wads it up. Patiently she repacks.

GREYCLOUD  
They will come for the livestock.

SARAH  
But they belong to us?

LILLIAN  
Yes, Sarah. If Texas doesn't win the war they will belong to Mexico. Let's hurry along.

Johnny picks up Papa's guitar and Lillian gently puts it back as Greycloud finishes packing the dried meat jerky.

LILLIAN (CONT'D)  
Johnny, we can't take Papa's guitar with us.

Johnny walks away sadly to help Mary with the water canteens.

MARY  
Is this enough water?

Mary holds up a canteen as she finishes her packing.

LILLIAN  
We can get water from streams as we go.

MINNIE  
Which way are we going?

Lillian realizes her concern.

LILLIAN  
North. We are heading north to stay  
ahead of the rest of the Mexican  
Army.

JOHNNY  
Will we never get to come home  
again?

Lillian shakes her head "no" as she speaks.

LILLIAN  
I don't know Johnny? Depends on who  
wins the war I guess.

GREYCLOUD  
We need to get off the land before  
sunset. Let's go now.

CUT TO:

6 EXT. MCKINNEY FARM CABIN - CONTINUOUS

6

Ranger, Lillian, Mary, Greycloud, Minnie, Sarah, Johnny, and  
Betty stand away from the cabin. The cabin, stalls, and  
Grammy's grave are in view.

They turn and we see the road that lies ahead.

GREYCLOUD  
North.

MINNIE AND BETTY  
North.

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: May 8, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits:</b>
<b>Date Prepared: May 1, 2018</b>	

**Subject**

The need for an amendment to the budget may will be necessary primarily due to the allowance for the Kroger 380 agreement rebate that needs setting aside of funds from the 2017 – 2018 budget even though the expenditures will not happen until the 2018-2019 fiscal year.

**Description**

This is a request to amend the 2017-2018 General Fund Budget. The reason for the need is primarily due to the additional amount needed for the allocation for the Kroger/Milestone 380 Agreement (though not spent in this fiscal year), and other minor changes as might be needed upon further review of the financial report.

The public hearing has to be at least ten days after publishing of a public notice and not more than thirty days. So, my suggestion is to not publish until mid-May and have the public hearing on June 12<sup>th</sup>. That will allow more time for a better financial analysis and will give any possible new members of the Council a little more time for consideration.

**Recommendation**

Motion to call it public hearing to amend the budget for June 12<sup>th</sup>.

**Approved By**

City Administrator	Jack Yates	Date: May 1, 2018
--------------------	------------	-------------------

## Projection --- Milestone Agreement - 2017

### Net Payment Due December 8, 2018

Property Tax	\$	43,118
Sales Tax	\$	107,250
Total Due to Kroger	\$	150,368
From MEDC	\$	(48,750)
City Share	\$	(101,618)

Breakdown:

Property ID	2017 Taxes	2017 Sales Taxes
R457941	\$ 548,850	\$ 55,000
R457943	\$ 548,850	\$ 65,000
R457944	\$ 581,531	\$ 70,000
R457945 *	\$ 7,491,422	\$ 190,000
R457947	\$ 1,206,610	\$ (5,000) Fuel Center Estimate
	\$ 10,377,263	\$ 10,000 Burger King & Other Stores
Tax Rate	\$ 0.004155	\$ 195,000
	\$ 43,118	\$ 107,250 Total Sales Tax x .55
		\$ (48,750) MEDC Portion (based on \$195,000 x .25)
*less fuel center value		\$ (58,500) City Portion of Sales Tax

#### FUEL CENTER ASSESSED VALUATION CALCULATION-- Parcel # R457945

\$ 7,728,250 Total valuation	2017 Fuel Center - Assesed Value	
14.71 Acres	19,638	Sq. Ft. Area in Fuel Center
\$ 525,374 Total Value/Acres	\$ 12.06	\$ per Sq. Ft. Value
\$ 43,560 Total Sq.Ft./acre	\$ 236,828	Est. Assessed Value of Fuel Center
\$ 12.06 Assesment \$/Sq.Ft.		

## Projection --- Milestone Agreement - 2018

### Net Payment Due December 8, 2019

Property Tax	\$	87,626
Sales Tax	\$	169,125
Total Due to Kroger	\$	256,751
From MEDC	\$	(76,875)
City Share	\$	(179,876)

Breakdown:

<u>Property ID</u>	<u>2018 Taxes</u>	<u>2018 Sales Taxes</u>	
R457941	\$ 1,062,860	\$ 300,000	Total Sales Tax
R457943	\$ 657,760	\$ (7,500)	Fuel Center Estimate
R457944	\$ 5,732,080	\$ 15,000	Burger King & Other Stores
R457945 *	\$ 12,429,940	\$ 307,500	
R457947	\$ 1,206,610	\$ 169,125	Total Sales Tax x .55
	\$ 21,089,250	\$ (76,875)	MEDC Portion (based on \$195,000 x .25)
Tax Rate	\$ 0.004155	\$ (92,250)	City Portion of Sales Tax
	\$ 87,626		

\*less fuel center value

#### FUEL CENTER ASSESSED VALUATION CALCULATION-- Parcel # R457945

<u>\$</u>	<u>Total valuation</u>	<u>2018 Fuel Center - Assesed Value</u>	
12,982,420	14.71 Acres	19,638	Sq. Ft. Area in Fuel Center
\$ 882,557	Total Value/Acres	\$ 20.26	\$ per Sq. Ft. Value
\$ 43,560	Total Sq.Ft./acre	\$ 397,856	Est. Assessed Value of Fuel Center
\$ 20.26	Assement \$/Sq.Ft.		

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: May 8, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits:</b> Rating sheets on Engineers From Review Committee, Pictures and drawings re; The Atkins Creek Project
<b>Date Prepared: May 4, 2018</b>	

**Subject**

This is required solicitation for engineers on the Hurricane Harvey Atkins Creek project.

**Description**

Atkins Creek is located adjacent to the Terra Vista subdivision and experience severe erosion during the Hurricane Harvey event. . Attached are photos of the damaged area and an overall location of the project. The severe erosion caused the water line and sanitary sewer line serving Tara Vista to get washed away- broken pipe. The sanitary sewer line is not currently serving one customer, and sewage is flowing to a manhole that is being pumped out once or twice per week and the sewage is being taken to a nearby lift station at little expense that is being, 90%, covered by FEMA.

In order to restore sanitary sewer service to the neighborhood and to prevent future issues the city is looking to construct an area crossing of both the water and sanitary sewer lines across the ditch/canal.

Before the repair project can be approved by FEMA a design needs to happen by an engineer. And for each FEMA disaster they require a separate solicitation and hiring process for the engineer.

The Review Committee (Rebecca Huss, TJ Wilkerson, Susan Hensley and Jack Yates) appointed by the City Council previously, met on May 2<sup>nd</sup> and interviewed the three engineers who submitted RFPs.

The three engineering firms were: Jones and Carter, Goodwin Lassiter and Strong (GLS), and the TGB Group. Following those interviews the firm recommends Jones and Carter- mostly due to their previous work regarding hydrology studies that we

Montgomery City Council  
**AGENDA REPORT**

know will be required by FEMA, their involvement from the beginning of this issue to now, and their depth of knowledge regarding the project itself.

The Committee, as has been discussed previously with the Council, would like to give a project to another firm besides Jones and Carter. The Committee discussed GLS and recommend that they work on the Plez Morgan Road repaving project that is just now being in the process of being approved by FEMA as a May 2016 project that they will fund. Although the Committee is not making that recommendation yet, I am in the process of reviewing and working with FEMA to make sure that their approval is given. GLS submitted an engineering proposal at the original RFP process but was not selected. I am verifying that their selection can be now approved. So far in my request for information it appears that they can be approved without having to go out for a separate RFP, but that will be need to be a separate item for a future agenda.

**Recommendation**

Approved Jones and Carter for the Atkins Creek project.

**Approved By**

City Administrator

Jack Yates

Date: May 4, 2018

## Engineer/Architect/Surveyor Rating Sheet

Grant Recipient City of Montgomery  
 Name of Respondent Goodwin Lassiter-Strong  
 Evaluator's Name Review Committee

FEMA PW No. \_\_\_\_\_  
 Date of Rating \_\_\_\_\_

**Experience** -- Rate the respondent for experience in the following areas:

Factor	Comments	Max.Pts.	
1. Has previously designed _____ type of projects		20	<u>17.50</u>
2. Has worked on federally funded construction projects		10	<u>10</u>
3. Has worked on projects that were located in this general region.		10	
Note: Location for NE (Architect/Engineer) may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. 2 CFR 200.319(b)			
4. Extent of experience in project construction management		15	<u>9</u>
5. Current Certification of Tx4CDBG Project Implementation Training		5	<u>13.25</u>
			<u>5</u>
Subtotal, Experience		60	<u>54.75</u>

**Work Performance**

Factor		Max.Pts.	
1. Past projects completed on schedule		10	<u>9</u>
2. Manages projects within budgetary constraints		5	<u>4.50</u>
3. Work product is of high quality		10	<u>8</u>
			<u>21.50</u>
Subtotal, Performance			<u>21.50</u>



Capacity to Perform Factor

	Max. Pts.	
1. Staff Level / Experience of Staff	<u>4.75</u>	5
2. Adequacy of Resources	<u>4.75</u>	5
3. Professional liability insurance is in force	<u>5</u>	5
Subtotal, Capacity to Perform	<u>14.50</u>	Total

TOTAL SCORE

	Max. Pts.	
1. Experience _____		60
2. Work Performance Factor _____		25
3. Capacity to Perform _____		15

Total Score 90.75

## Engineer/Architect/Surveyor Rating Sheet

Grant Recipient City of Montgomery

FEMA PW No. \_\_\_\_\_

Name of Respondent TGB Group

Date of Rating \_\_\_\_\_

Evaluator's Name Review Committee

**Experience** -- Rate the respondent for experience in the following areas:

Factor	Comments	Max.Pts.	
1.	Has previously designed _____ type of projects	20	<u>9.75</u>
2.	Has worked on federally funded construction projects	10	<u>2.75</u>
3.	Has worked on projects that were located in this general region.  Note: Location for NE (Architect/Engineer) may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. 2 CFR 200.319(b)	10	
4.	Extent of experience in project construction management	15	<u>4</u> <u>8.75</u>
5.	Current Certification of Tx4CDBG Project Implementation Training	5	<u>1.25</u>
Subtotal, Experience		60	<u>26.50</u>

**Work Performance**

Factor		Max.Pts.	
1.	Past projects completed on schedule	10	<u>9.50</u>
2.	Manages projects within budgetary constraints	5	<u>5</u>
3.	Work product is of high quality	10	<u>9</u>
Subtotal, Performance		_____	<u>15.40</u>

Capacity to Perform Factor

	Max. Pts.	
1. Staff Level / Experience of Staff	<u>3.75</u>	5
2. Adequacy of Resources	<u>2.75</u>	5
3. Professional liability insurance is in force	<u>3.75</u>	5
Subtotal, Capacity to Perform	<u>9.75</u>	Total

TOTAL SCORE

	Max. Pts.
1. Experience _____	60
2. Work Performance Factor _____	25
3. Capacity to Perform _____	15

Total Score 51.65

## Engineer/Architect/Surveyor Rating Sheet

Grant Recipient City of Montgomery  
 Name of Respondent Jones & Carter  
 Evaluator's Name Review Committee

FEMA PW No. \_\_\_\_\_  
 Date of Rating \_\_\_\_\_

**Experience** -- Rate the respondent for experience in the following areas:

Factor	Comments	Max.Pts.	
1.	Has previously designed _____ type of projects	20	<u>20</u>
2.	Has worked on federally funded construction projects	10	<u>10</u>
3.	Has worked on projects that were located in this general region.	10	
Note: Location for NE (Architect/Engineer) may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. 2 CFR 200.319(b)			
4.	Extent of experience in project construction management	15	<u>9.50</u>
5.	Current Certification of Tx4CDBG Project Implementation Training	5	<u>15</u>
Subtotal, Experience		60	<u>5</u> <u>59.50</u>

**Work Performance**

Factor		Max.Pts.	
1.	Past projects completed on schedule	10	<u>9.50</u>
2.	Manages projects within budgetary constraints	5	<u>4.75</u>
3.	Work product is of high quality	10	<u>10</u>
Subtotal, Performance		20	<u>24.25</u>

Capacity to Perform Factor

	Max. Pts.	
1. Staff Level / Experience of Staff	<u>5</u>	5
2. Adequacy of Resources	<u>5</u>	5
3. Professional liability insurance is in force	<u>5</u>	5
Subtotal, Capacity to Perform	<u>15</u>	Total

TOTAL SCORE

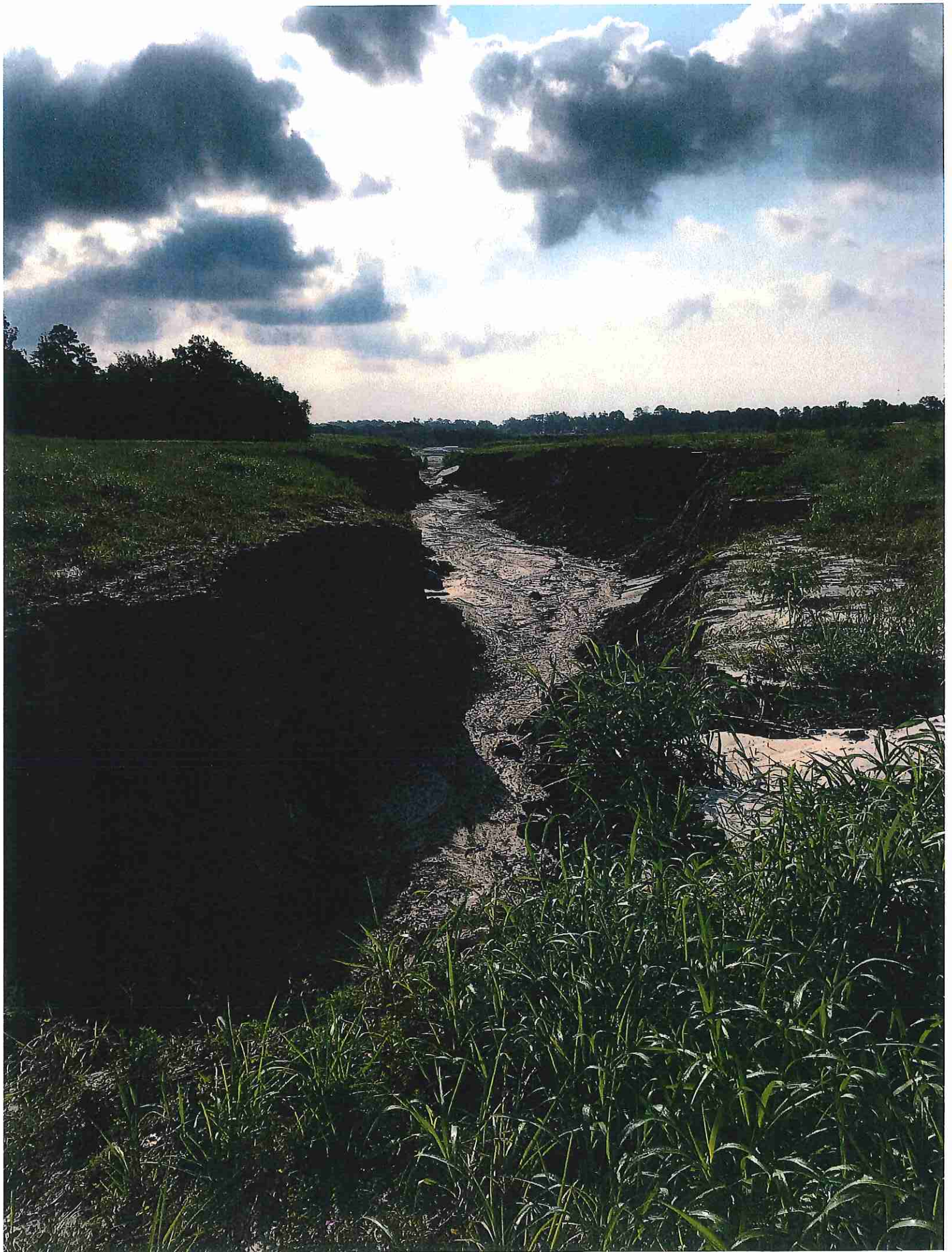
	Max. Pts.	
1. Experience _____		60
2. Work Performance Factor _____		25
3. Capacity to Perform _____		15

Total Score 98.75

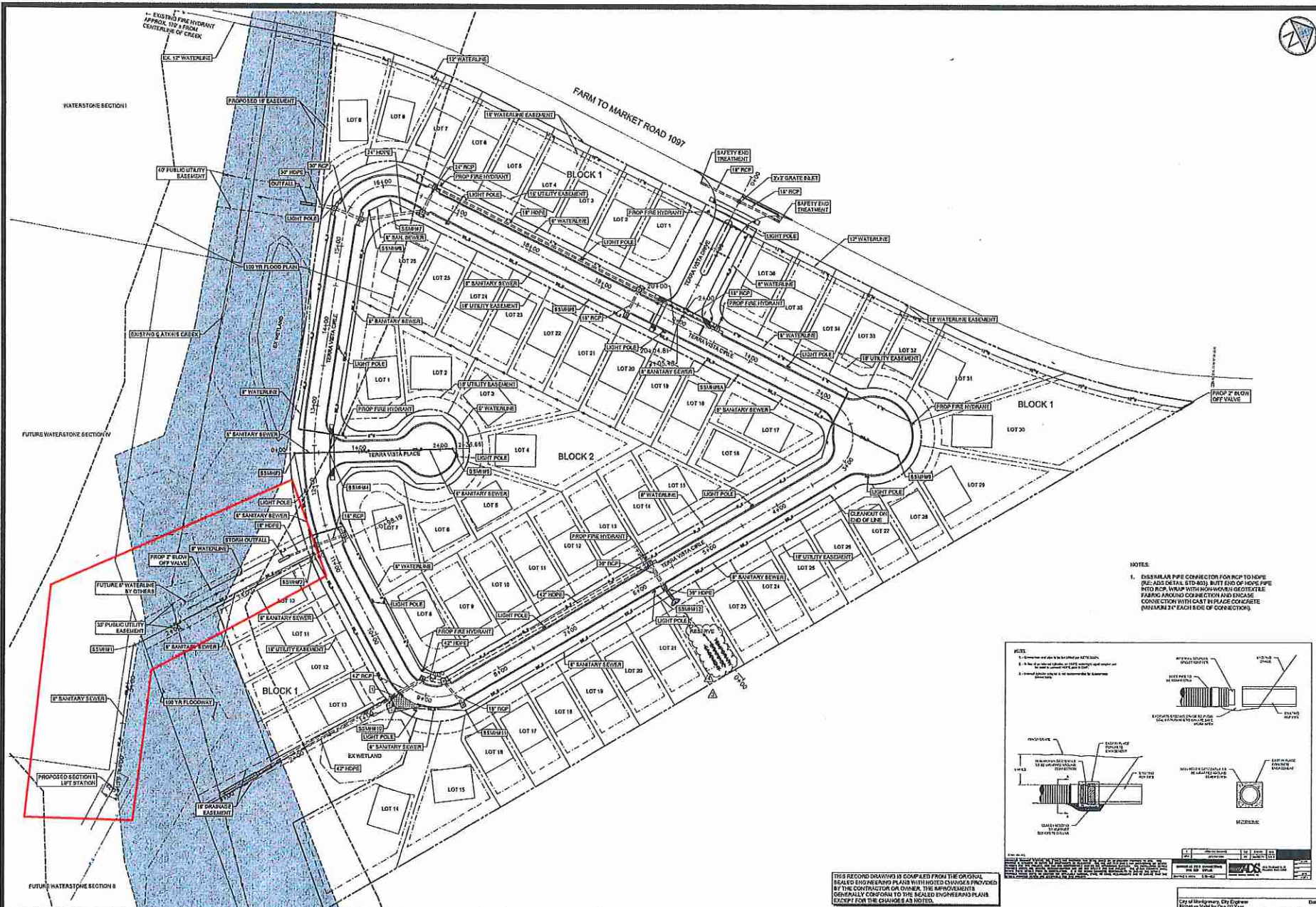












Overall Utility Plan

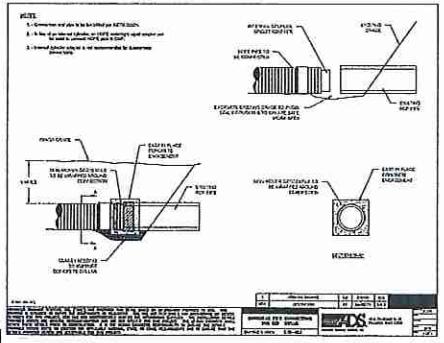


NO.	DATE	ISSUED FOR
1	1-10-15	For Construction
2	07-10-15	REVISED FROM DRAWING
3	07-24-15	Revised and Add Revision
4	09-25-17	Revised Drawings

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- NOTES:
1. DISMISAL PIPE CONNECTION FOR RCP TO HOPE PIPE AS SHOWN IN DETAIL, BUT END OF HOPE PIPE INTO RCP. WRAP WITH NON-CORROSIVE GEOTEXTILE FABRIC AROUND CONNECTION AND ENCASE CONNECTION WITH CAST IN PLACE CONCRETE (MINIMUM 2" EACH SIDE OF CONNECTION).



THIS RECORD DRAWING IS COMPILED FROM THE ORIGINAL SCALED ENGINEERING PLANS WITH NOTED CHANGES PROVIDED BY THE CONTRACTOR OR OWNER. THE IMPROVEMENTS ARE GENERALLY CONFORM TO THE SCALED ENGINEERING PLANS EXCEPT FOR THE CHANGE AS NOTED.

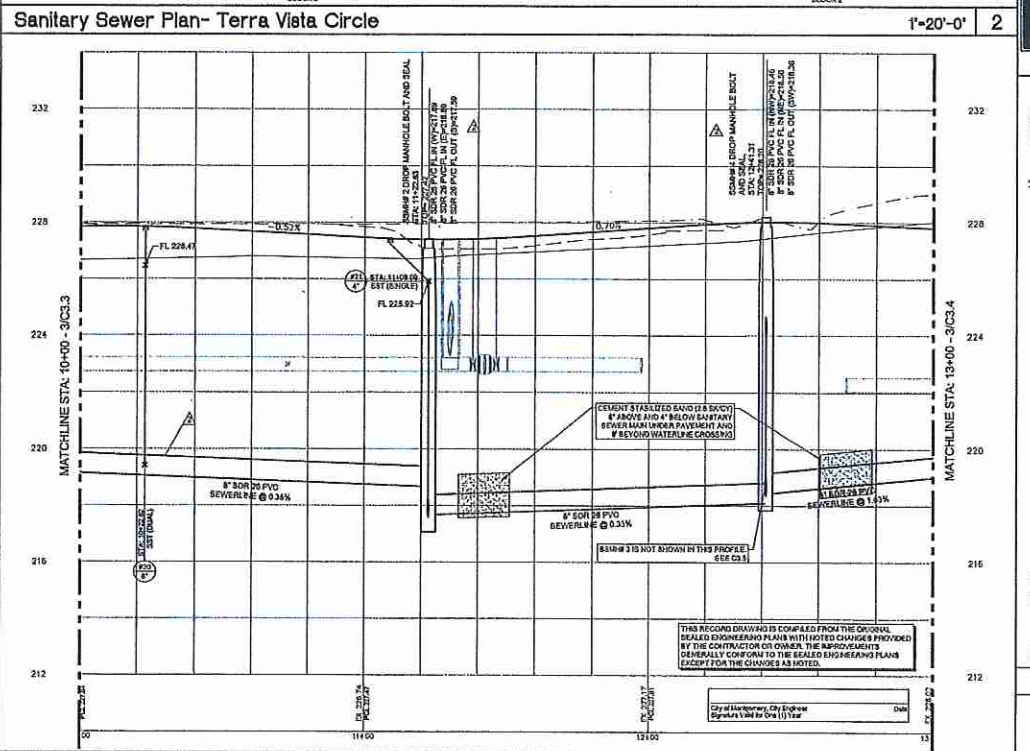
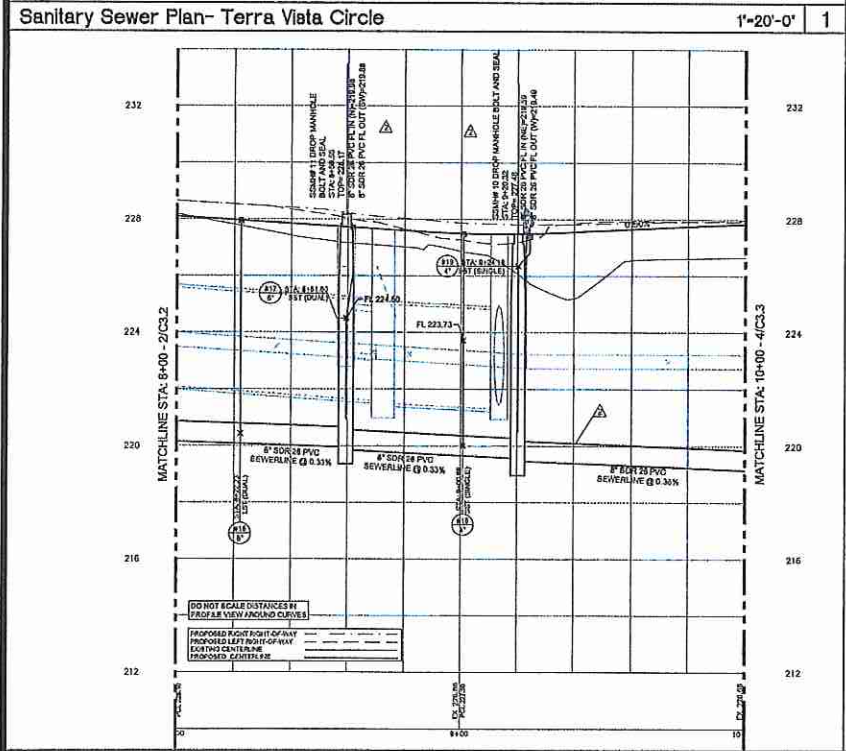
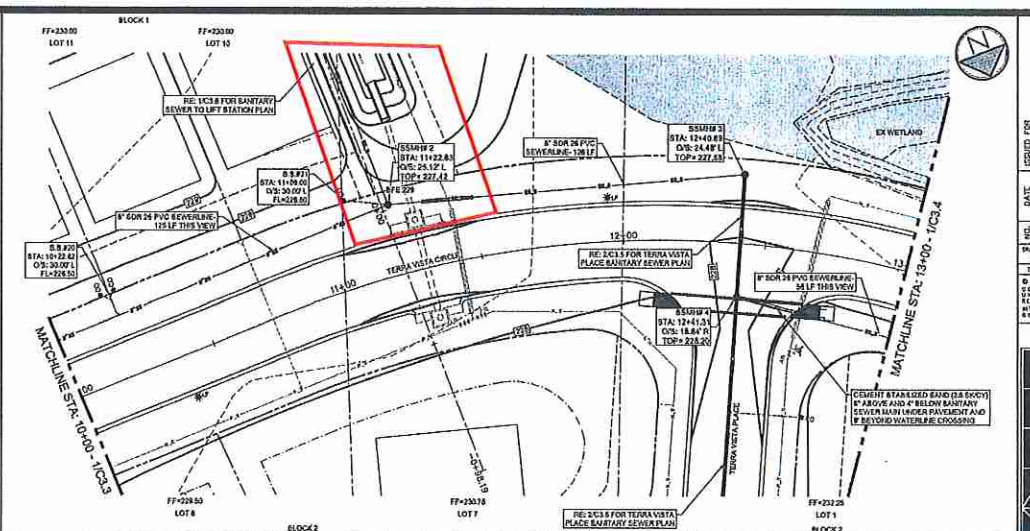
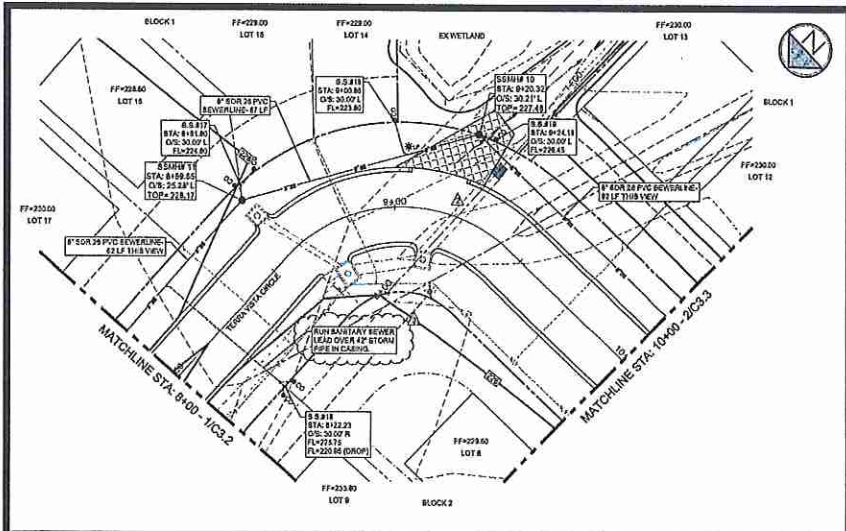
CONTRACT NO.	614014
SHEET NO.	1

Scale: 1"=50'-0"

Terra Vista  
Steve Bowen  
Montgomery, Texas  
Overall Utility Plan

C1.3





DATE:	02/02/25	FOR CONSTRUCTION
REV:	1	1-02-25
REV:	2	08-08-15
REV:	3	01-20-17
REV:	4	01-20-17
REV:	5	01-20-17
REV:	6	01-20-17
REV:	7	01-20-17
REV:	8	01-20-17
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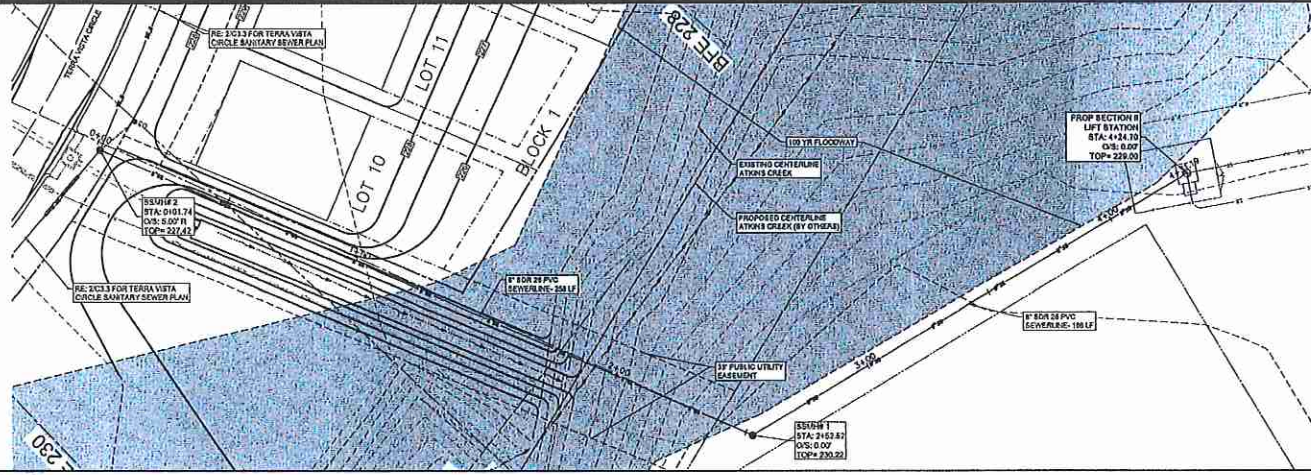
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 1100 W. UNIVERSITY BLVD., SUITE 1000  
 AUSTIN, TEXAS 78705  
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 WWW.GLS-STRONG.COM

**Terra Vista**  
 Steve Bowen  
 Montgomery, Texas  
 Sanitary Sewer Plan & Profile

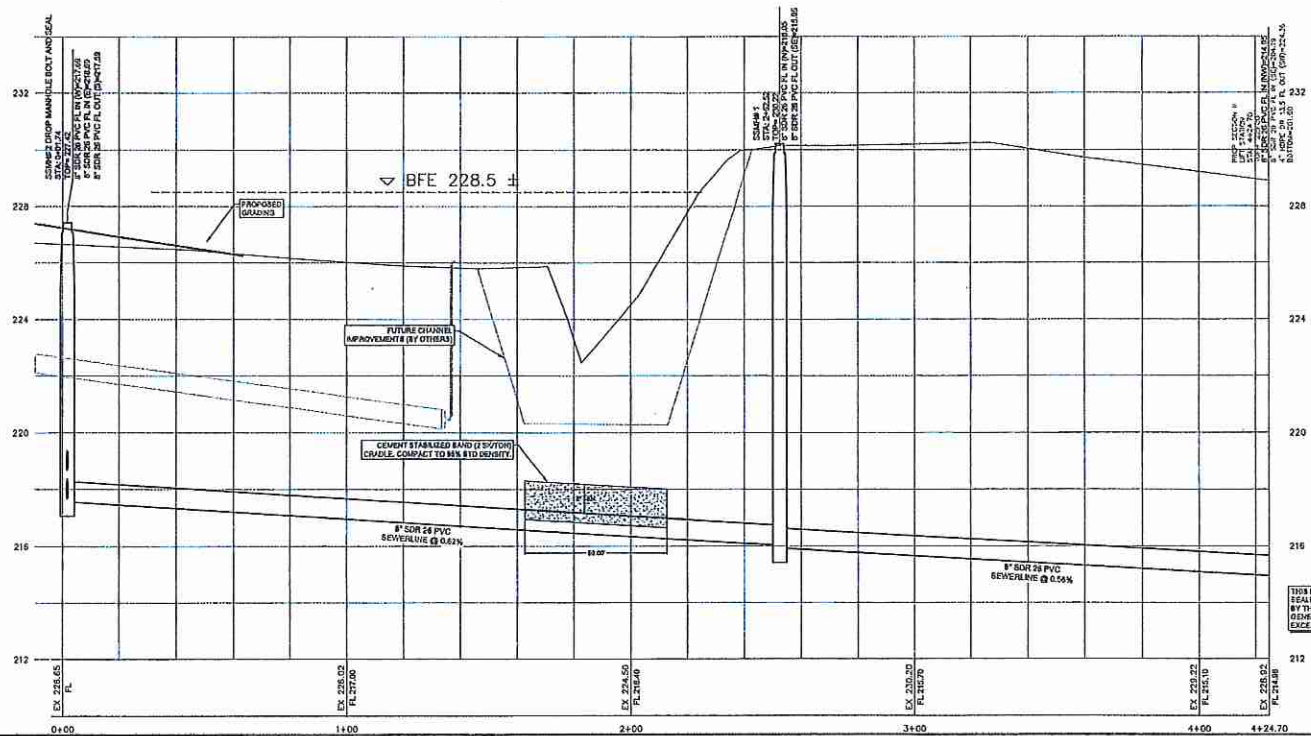
CONTRACT NO. 814014  
 SHEET NO. C3.3





Sanitary Sewer to Lift Station Plan

1"=20'-0" 2



Sanitary Sewer to Lift Station Profile

H: 1"=20'-0" V: 1"=2'-0" 4



NO.	DATE	REVISION FOR
1	1-10-15	For Construction
2	01-28-17	Record Drawings
3		
4		

DESIGNED BY: JLV  
 DRAWN BY: JLV  
 CHECKED BY: JLV  
 DATE: 01-28-17  
 PROJECT: TERRA VISTA CIRCLE SANITARY SEWER PLAN, 400'

**GLS**  
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 1000 WEST WYOMING AVE., SUITE 1000  
 DENVER, COLORADO 80202  
 PHONE: 303.733.1100  
 FAX: 303.733.1101  
 WWW: GODWIN-LASTER-STRONG.COM

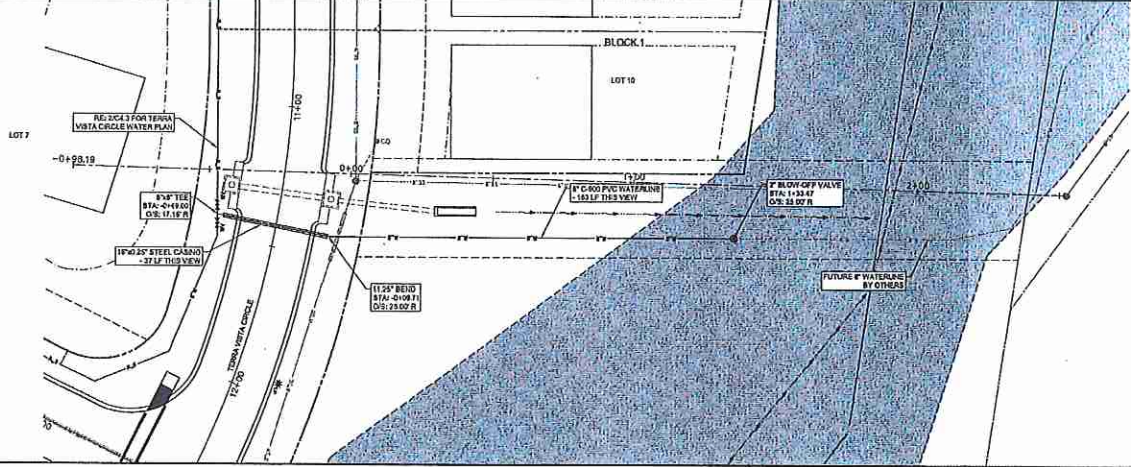
Steve Bowen  
 Terra Vista

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 Steve Bowen  
 Montgomery, Texas  
 Sanitary Sewer Plan & Profile

CONTRACT NO. 41404  
 SHEET NO. C3.6

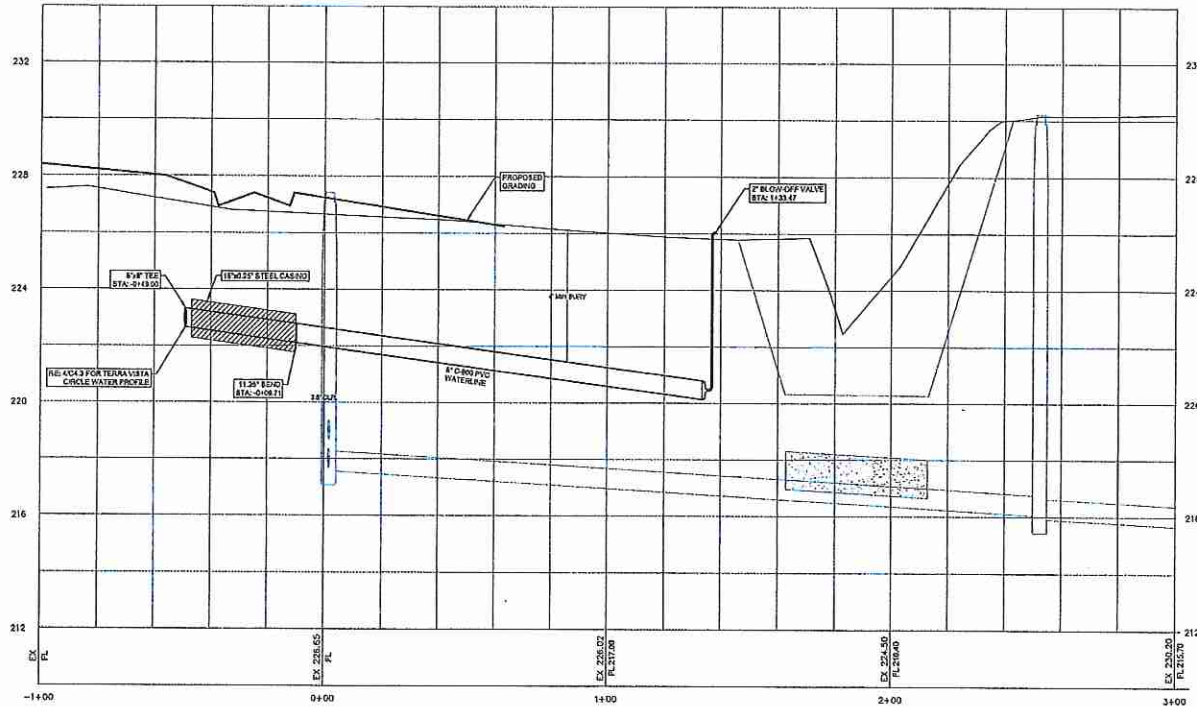
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EXTRAORDINARY CONDITIONS  
 PROPOSED CENTRALLINE



Waterline Plan

1"=20'-0" 1



Waterline Profile

H: 1"=20'-0" V: 1"=2'-0" 2

NO.	DATE	REVISION FOR
1	1-15-15	For Construction
2	1-16-15	Revised Drawings
3		
4		
5		

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FAX: 972.443.4445  
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Steve Bowen  
1/16/17

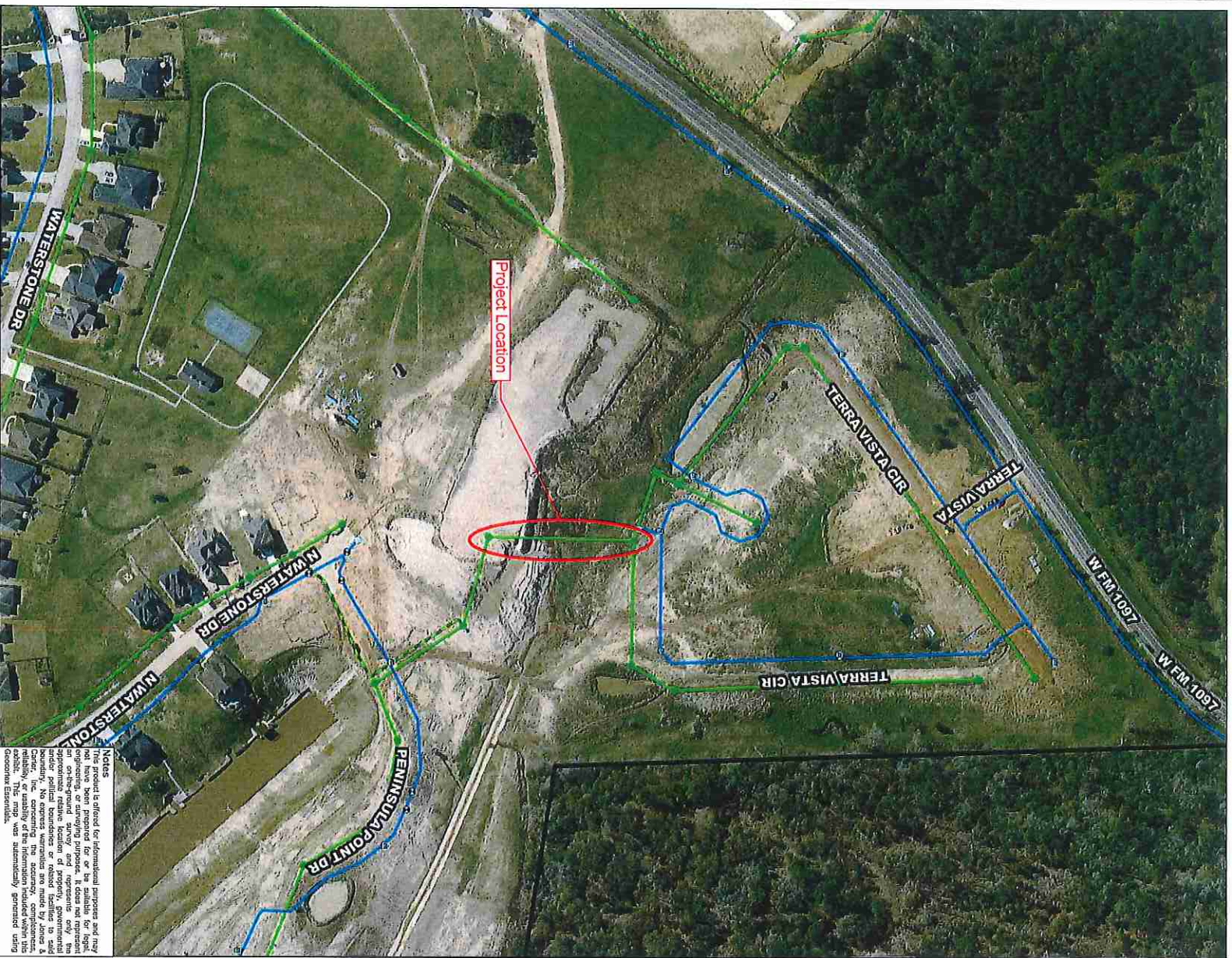
Terra Vista  
Steve Bowen  
Montgomery, Texas  
Water Plan & Profile

CONTRACT NO. 614014  
SHEET NO.

C4.9



# TERRA VISTA CANAL LOCATION



**Notes**  
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## Legend

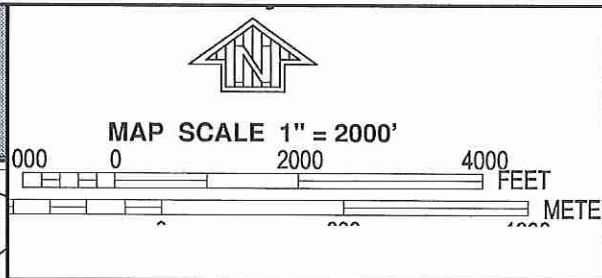
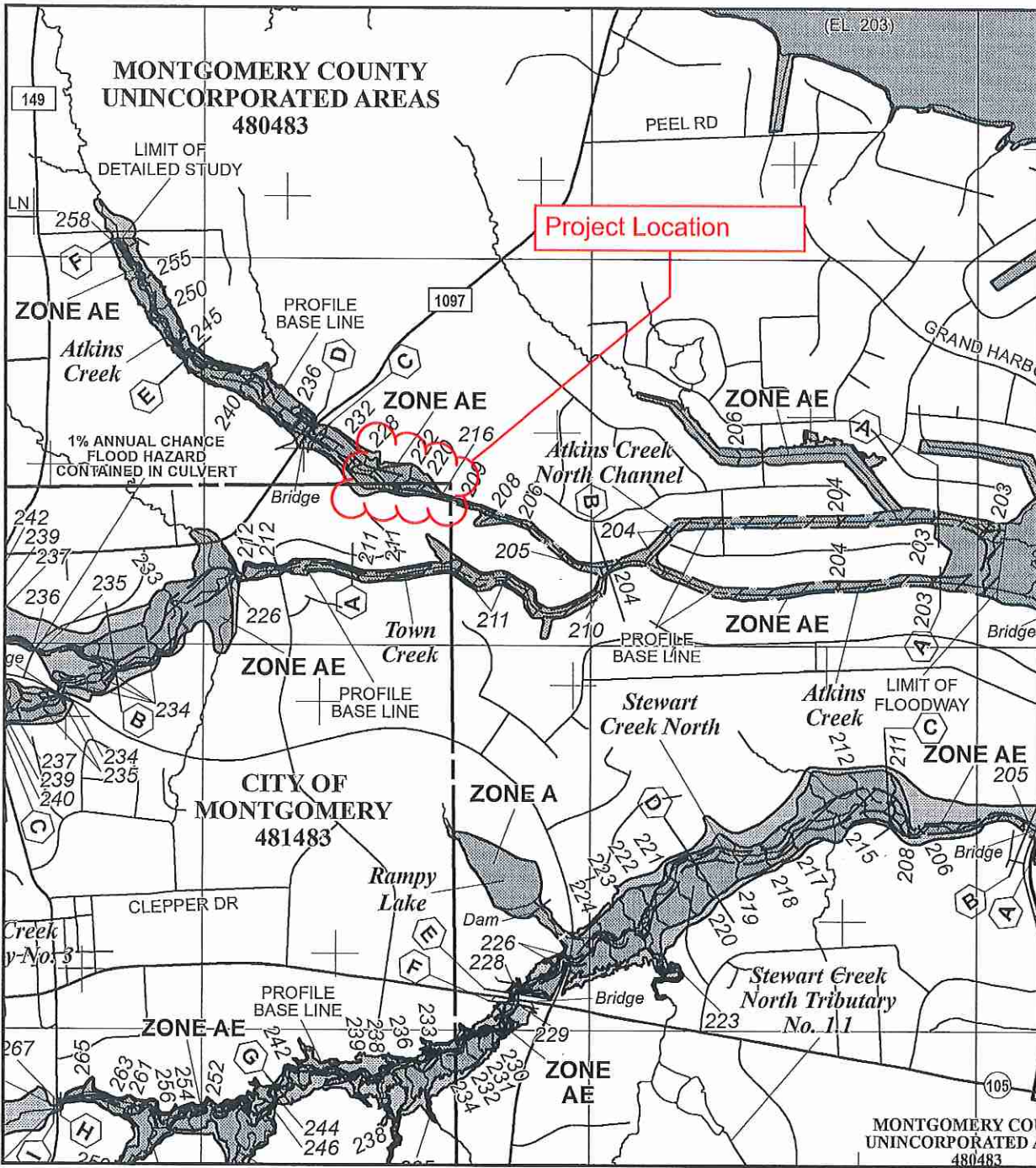
- Blowfilling
- Rush Valve
- Main Valve
- Reducer
- Waterline
- VP Boundary
- Mainline
- Sewerline
- Flow Main
- Grassy Area

- City EFD
- Road Label

1 inch equals 200 feet







PANEL 0200G


**FIRM  
FLOOD INSURANCE RATE MAP  
MONTGOMERY COUNTY,  
TEXAS  
AND INCORPORATED AREAS**

PANEL 200 OF 750  
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
MONTGOMERY COUNTY	480483	0200	G
CONROE, CITY OF	480494	0200	G
MONTGOMERY, CITY OF	481483	0200	G

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on Insurance applications for the subject community.



**MAP NUMBER  
48339C0200G**

**MAP REVISED  
AUGUST 18, 2014**

Federal Emergency Management Agency

NATIONAL FLOOD INSURANCE PROGRAM

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)

**MONTGOMERY CO  
UNINCORPORATED  
480483**

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: May 8, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates City Administrator</b>	<b>Exhibits: Resolution</b>
<b>Date Prepared: May 1, 2018</b>	

**Subject**

This Resolution was requested by a Council member. The Resolution concerns the right-hand turn lane placement intentions of TxDOT and request urgency in placement of the turn lanes, and also requests traffic signal worked on intersection.

**Description**

This is a request of TxDOT to as soon as possible place the right-hand turn lanes on FM 149 on the north and south approaches to State Highway 105. The key elements of the Resolution are in Sections One and Four.

Section One asks for the placement of the turn lanes as soon as possible, even before the northern part of the FM 149 project occurs.

Section Four asks for improved traffic signalization of the SH 1-5 /FM 149 intersection as soon as possible.

This Resolution was, I believe, requested partly because of the delay from TxDOT of final plans for the northern part of the FM 149 project and the urgent need to get TxDOT agreement/action on the crucial SH 105/ FM 149 intersection improvements.

I see no harm to the City to for passing this Resolution and forwarding it to TxDOT immediately.

**Recommendation**

Motion to the Resolution as presented.

Montgomery City Council  
**AGENDA REPORT**

**Approved By**

City Administrator

Jack Yates

Date: May 1, 2018

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS CITY COUNCIL IDENTIFYING THE INTERSECTION OF STATE HIGHWAY 105 AND FM149 AS A SERIOUS DETRIMENT TO COMMERCE; CONVEYANCE OF CITY ACQUIRED LAND TO THE TEXAS DEPARTMENT OF TRANSPORTATION; REDESIGN OF STATE HIGHWAY 105 AND FM 149 INTERSECTION; AND A REQUEST FOR AN UPGRADED PROGRAMMABLE TRAFFIC SIGNAL FOR STATE HIGHWAY 105 AND FM 149.**

**WHEREAS**, the City of Montgomery and Montgomery County Precincts 1 and 2 have an engineering study that has identified the intersection of SH 105 and FM 149 as failing, being a serious detriment to commerce and the cause of significant disruption throughout the City during certain times of the day, and

**WHEREAS**, the City of Montgomery has, at its own expense, acquired land to be conveyed to these Texas Department of Transportation (TxDOT) for the construction of turn lanes on the south portion of the SH 105 and FM 149 intersection, and

**WHEREAS**, a private landowner on the northwest corner of the named intersection wishes to contribute to the redesign of the intersection, and

**WHEREAS**, the TxDOT Area Engineer has stated that the TxDOT right-of-way on the northern side of FM 149 currently provides enough space to construct additional turn lane, and

**WHEREAS**, it is the opinion of TxDOT traffic engineers that an upgraded traffic signal, which can be remotely operated and programmed to anticipate traffic occurrences resulting from different daily and seasonal events, in conjunction with the north and south bound turn lanes, would greatly mitigate the traffic congestion and safety issues that the City currently faces during each day of the week.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, that:**

**Section One.** City Council does hereby request that work on the SH 105 and FM 149 proposed improvements of a right-hand turn lane on the north and south side of FM 149 to begin as expeditiously as possible so as to mitigate the economic damage caused by this failing intersection. Such improvements should be engineered to include the effects of additional work being currently contemplated north of SH 105 extending to FM 1097. However, the intersection improvements are of primary importance and construction should begin as soon as practicable, regardless of the timing of the northern project.

**Section Two.** City Council does hereby request that TxDOT construct the FM 149 right hand turn lanes in conjunction with the larger improvements that are contemplated north of State Highway 105 and extending to FM 1097, provided that the right-of-way is available at that time.

**Section Three.** City Council does hereby inform TxDOT of its intention to convey to TxDOT right-of-way for the right-hand turn land on the southeast side of FM 149 as it approaches SH 105 by the end of 2018. City Council does hereby request that TxDOT coordinate with the City and the property owner on the northwest corner of State Highway 105 and FM 149 regarding any acquisition of the necessary right-of-



way to allow construction of the right-hand turn lane on the northwest side of FM 149 as it approaches SH 105 by the end of 2018.

**Section Four.** City Council does hereby request an upgraded traffic signal at the intersection of SH 105 and FM 149, which will allow remotely operated and programmed to anticipate daily and special event traffic management. The City Council requests that the upgraded traffic signal occur as soon as possible, and in conjunction with the right-hand turn lane improvements on FM 149.

**PASSED and APPROVED** this \_\_\_\_\_ day of May, 2018.

\_\_\_\_\_  
Kirk Jones, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry Foerster, City Attorney

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: May 8, 2018</b>	<b>Budgeted Amount:</b>
	<b>Exhibits:</b> Ordinance, Brightness readings sheet for existing signs, Background information regarding electronic sign ordinance issues, 2-26-18 Planning Comm. minutes, 3-27-18 Planning Comm. minutes, 1-22-18 not toes to Pl. Comm from Jack Yates re: Ordinance
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	
<b>Date Prepared: May 1, 2018</b>	

**Subject**

This concerns a new Electronic Message Display sign ordinance.

**Description**

The Planning Commission voted unanimously <sup>to</sup> recommend this ordinance for passage.

This ordinance is needed because the current sign ordinance regarding any possible relevance to electronic message signs is one sentence in the sign ordinance section entitled “Prohibited signs” that reads “ signs with flashing, blinking or traveling signs”. I have been able to use this sentence as a management tool regarding electronic signs but with such imprecise, undefined wording my management has been mostly persuasion to the applicant and notes about flashing of lights on the sign permits—and phone calls if I think the sign is too bright or flashes a message too often – mostly bluff on my part.

The proposed ordinance defines brightness based on a precise measurement of lux (a specific term in the electric field) and also defines terms that are used in the modern electronic message board field.

Basically the ordinance: in section 62 – 53 (s) requires static displays meaning messages that our static or dissolve or fade but not in a burst or flashing type of methods,

Section 62 – 53 (s) (2) requires a message to say on the sign a minimum of five seconds,

Section 62 – 53 (s) 4 does not allow electronic message display signs as temporary signs,

Section 62 – 53 (s) (3) requires the brightness to not exceed 700 Lux when measured one foot from the sign,

Section 62 – 53 (s) (5) requires electronic signs not to be displayed between the hours of 10 PM and 10 AM if adjacent to residential area- but this provision does not apply to businesses that is operating during these hours,

Section 62 – 53 (s) (6) does not allow animation or television type of screen effects,

Section 62 – 53 (s) (7) states that an Electronic Message Display board may not exceed more than one half of the entire size of the sign- meaning that an Electronic Message Display sign must be part of another sign cannot be a single item type of sign.

**Recommendation**

I realize that this is a new subject and that you may need to study it the issue more or consider it more

**Approved By**

City Administrator

Jack Yates

Date: May 1, 2018

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

**AN ORDINANCE BY THE CITY OF MONTGOMERY, TEXAS, AMENDING SECTIONS 66-1, 66-2(a) (11) AND ADDING 66-53(s) OF THE CITY CODE OF ORDINANCES REGARDING ELECTRONIC MESSAGE DISPLAY SIGNS IN THE CITY; PROVIDING DEFINITIONS; PROVIDING REGULATIONS OF ELECTRONIC MESSAGE DISPLAY SIGNS; PROVIDING SAVINGS AND REPEALING CLAUSES; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Chapter 216 of the Texas Local Government Code authorizes a Texas municipality to regulate signs in its city limits; and

WHEREAS, the city council for the City of Montgomery, Texas is concerned about the proliferation of Electronic Message Display signs inside the City; and

WHEREAS, the City Council in the interest of traffic safety and maintaining the appearance of the City finds that it is in the best interest of the citizens of Montgomery that there be regulations and restrictions on the use of such signs within the City; and

WHEREAS, the regulation of Electronic Message Display signs needs specific definitions and regulatory controls regarding the brightness, the method of changing the message displayed on the sign and the frequency of the message changes; and further needs to be specifically described for permittees who desire to place such signs inside the City; and

WHEREAS, the City Council finds it is in the best interest of the citizens of the City that Chapter 66, entitled "Signs," of the Montgomery City Code of Ordinances ("Code") be amended as set out below;

**NOW, THEREFORE, BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS THAT:**

**SECTION 1: FINDINGS OF FACT.** The City Council adopts the recitals above as true and correct findings of fact.

**SECTION 2: AMENDING SIGN ORDINANCE.**

- A. Section 66-1, entitled "Definitions," of the Code is hereby amended by deleting the term "Moving Message Boards" and replacing it with the term "Electronic Message Display" such that it reads as follows:

*Electronic Message Display* means a sign that uses light emitting diodes (LED), plasma screen, or other similar technology capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

- B. Section 66–1, entitled Definitions,” of the Code is hereby supplemented with the following additional definitions:

*Dissolve* means a mode of message transition on Electronic Message Display signs by varying the light intensity or pattern, where the first message gradually appears to dissipate in this legibility simultaneously with the gradual appearance and legibility of the second message.

*Fade* means a mode of message transition on Electronic Message Display signs accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

*Frame* means a complete, static display screen on an Electronic Message Display sign.

*Frame Effect* means a visual effect on Electronic Message Display signs applied to a single frame to attract the attention of viewers.

*Scroll* means a mode of message transition on an Electronic Message Display signs where the message appears to move vertically across the displayed surface.

*Transition* means a visual effect used on Electronic Message Display signs to change from one message to another.

- C. Section 66–2 (a) (11) of the Code is amended to read as follows:

(11) Signs with flashing, blinking or traveling lights, other than provided in Section 66–53 (s) of the Code.

- D. Section 66–53 (s) of the Code is added to read as follows:

Electronic Message Display signs may be permitted in the commercial and industrial zoning districts subject to the following requirements:

- (1) Operational limits. Such displays shall be limited to static displays, messages that appear or disappear from the display through dissolve, fade, moving message or scroll modes, or similar transitions and frame effects that have text or visual, non-

animated visuals, that appear to move or change in size, or be revealed sequentially rather than all at once.

- (2) Minimum display time. Each message on the sign must be displayed for a minimum of five seconds.
- (3) Lighting intensity. In no case shall the lighting intensity of any sign, whether resulting from internal illumination or external illumination shall not exceed 700 Lux more than one (1) feet from the sign when measured with a standard light meter perpendicular to the face of the sign.
- (4) No temporary signs. No Electric Message Display signs may be used on temporary signs.
- (5) Limitations near residences. Electronic Message Display signs located on property adjacent to any residential district shall not be operated between the hours of 10:00 PM and 6:00 AM. This requirement shall not apply to any premises at which the business is operating during these hours.
- (6) Animation limitations. The image or message of the sign does not flash or have animation or television type of screen effects.
- (7) Size limitations. The area of the Electronic Message Display does not exceed one half of the entire size of the sign.

**SECTION THREE: CODIFICATION OF THIS ORDINANCE.** Wherever any provision of this Ordinance provides for the amendment of the Code of Ordinances, City of Montgomery, Texas, such provision shall be liberally construed to provide for the codification of the specified provision and for such other provisions of the Ordinance that the codifier in its discretion deems appropriate to codify. The codifier may change the designation or numbering of chapters, articles, divisions or sections as herein specified in order to provide for logical ordering of similar or related topics and to avoid the duplicative use of chapter, article or section numbers. Neither the codification nor any application of the codified Ordinance shall be deemed invalid on the basis of a variance in the number or section of this Ordinance and its codified provisions. The failure to codify the specified provisions of this Ordinance shall not affect their validity or enforcement.

**SECTION FOUR: REPEALING CLAUSE.** Any provisions in other City ordinances that are in conflict with this Ordinance are hereby repealed.

**SECTION FIVE: SAVINGS CLAUSE.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portion of this Ordinance shall not be affected hereby, it being the intention of the City Council of the City of Montgomery in adopting and of the Mayor in approving this Ordinance, that no portion hereof or provisions or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

**SECTION SIX: TEXAS OPEN MEETINGS ACT CLAUSE.** 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 Open Meetings Act, Chapter 551, of the Texas Government Code.

**SECTION SEVEN: EFFECTIVE DATE.** The effective date of this Ordinance shall be upon its passage and publication as provided by law.

PASSED AND APPROVE this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Kirk Jones, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry L. Foerster, City Attorney

<i>Location</i>	1'	25'	50'
Pizza Shack	693	10	0
Ransom's	75	4.4	0
Old MES/105	3	3	0
City sign	590	14.6	0
High school	145	15.8	0
New MES/149	544	14.1	0

### SIGN "LUX" BRIGHTNESS READINGS

Measurement is in "Lux".

1' = Measurement taken at one foot away from sign

25' = Measurement taken at 25 feet away from sign

50' = Measurement taken at 50 feet away from sign

"The attached document is a list of readings I took this morning (March 3, 2018) on the multiple LED signs around town. I could not get a reading for the Brookshires Brothers Fuel Center because the parking lot lights are so bright that the meter will not read the sign only." - Mike Muckleroy



# *Background Information Regarding*

## **ELECTRONIC SIGN ORDINANCE ISSUES**

Recent breakthroughs in the sign field have made available high intensity LEDs in red, green, blue and amber. These LEDs have made it possible to produce displays bright enough for outdoor use with viewing angles that are equal to, or better than, other technologies currently available. They are energy-efficient, can be programmed and operated remotely, and require little maintenance. In addition, the computer software has evolved such that a broad range of visual effects can be used to display messages and images. The spacing of the LEDs can be manipulated to achieve near-television resolution.

Electronic changeable message signs are generally of two types: light emitting and light reflective. Current light emitting display technologies include LED and incandescent lamp. Light reflective displays typically consist of either a reflective material affixed to a mechanical device (like a "flip disk") or a substance commonly referred to as electronic ink.

Electronic signs have evolved to the point of being capable of a broad range of operational capabilities. They are controlled via electronic communication. Text and graphic information is created on a computer using a software program. This software is typically a proprietary component that is supplied by the display manufacturer. These software programs determine the capabilities of the displays. The software is then loaded onto a computer that operates the sign. The computer may be installed within the sign itself, operated remotely from a nearby building, or even more remotely by a computer located miles away and connected to the sign with a telephone line modem or other remote communication technology.

All display capabilities are securely in the hands of the display operators. They are ultimately responsible for what type of, and how, information is displayed on their changeable message sign.

### Traffic Safety Considerations

Electronic message displays (EMDs) are capable of a broad variation of operations, from fully-static to fully-animated. In exterior sign use, they are often

placed where they are visible to oncoming traffic. Concerns are often raised as communities change their sign codes to expressly permit such signage about the traffic safety implications for signage with moving messages. These concerns are largely unfounded.

Operations: Duration of message on-time. The duration of the message on-time should be related to the length of the message, or in the case of messages displayed sequentially, the message element. For instance, based on state highway agency experience, "comprehension of a message displayed on a panel of three lines having a maximum of 20 characters per line is best when the on-time is 15 seconds. In contrast, the customary practice of signing which merely displays time and temperature is to have shorter on-times of 3 to 4 seconds. Use of electronic signs requires only that messages be changed at "reasonable intervals."

### Regulation of Electronic Signs

There is no legal basis to deny a static-display electronic sign, as it is legally indistinguishable from any other illuminated sign. Virtually all illuminated signs go through a cycle of illumination and non-illumination, as the sign is turned off during the day when illumination is not needed, or during the evening after business hours. If this were the standard, most sign owners would be guilty of a code violation on a daily basis.

The critical regulatory factors in the display of electronic changeable message signs are: 1) Duration of message display, 2) Message transition, and 3) Frame effects. Messages should be permitted to change at "reasonable intervals." Government users of signs have utilized 3 to 5 seconds on their own signs as a reasonable interval for message changes, and other communities permit very short display times or continuous scrolling on business signs without adverse effect. As a policy matter, some communities have elected to adopt longer duration periods, although to do so limits the potential benefits of using an

electronic sign, particularly where messages are broken down into segments displayed sequentially on the sign.

Flashing is a frame effect that is:

- Level 1 Static Display Only (messages changed with no transition)
- Level 2 Static Display with "Fade" or "Dissolve" transitions, or similar subtle transitions and frame effects that do not have the appearance of moving text or images
- Level 3 Static Display with "Travel" or "Scrolling" transitions, or similar transitions and frame effects that have text or animated images that appear to move or change in size, or be revealed sequentially rather than all at once
- Level 4 Full Animation, Flashing and Video

Seeking to regulate electronic signs is procedural. Some signs may be acceptable always, while the community may determine that others are acceptable only in certain given circumstances. Alternatives to be considered for a sign code are as follows:

- Permit electronic signs "as a matter of right"
- Permit electronic signs with certain transitions "as a matter of right"
- Permit electronic signs, subject to a review procedure
- Permit electronic signs, with certain transitions, subject to a review procedure
- A hybrid of the above

---

#### Definition/Other Issues

**ELECTRONIC MESSAGE BOARD.** A business sign that uses light emitting diodes (LED), plasma screen, or other similar technology to electronically change the image or message displayed on the message board no more frequently than once every 30 seconds.

FLASHING, ANIMATED OR MOVING SIGN. A sign that intermittently reflects lights from either an artificial source or from the sun; a sign which has movement of any illumination such as intermittent, flashing or varying intensity or a sign that has any visible portions in motion, either constantly or at intervals, which motion may be caused either by artificial or natural sources. An electronic community bulletin board or electronic freestanding business sign meeting the requirements of section 28.13 shall not be considered a flashing, animated or moving sign.

- a. The area of the electronic message board does not exceed one-third of the entire size of the freestanding sign.
- b. The image or message on the electronic bulletin board does not change more frequently than once every 10 seconds.
- c. The sign cannot contain moving images (i.e. animated, television type screens).
- d. The image or message of the sign does not flash or scroll (vertically or horizontally).
- e. The electronic message board can operate only when the business is open or between the hours of 7:00 a.m. and 9:00 p.m., or shorter time period.

All electronic signs shall abide by the Lighting Code now in place. Light only what is needed when needed and only an illumination level necessary while reducing light scattering upwards away from the object being lit.

Illuminated signs located on the lot adjacent to any residential district shall not be operated between the hours of 9:00 PM and 7:00 AM. In the event the premises on which the sign is specifically operating is engaged in the operation of its business, this requirement shall not apply.

Lighting intensity. In no case shall the lighting intensity of any sign, whether resulting from internal illumination or external illumination shall not exceed 0.5 foot candles more than fifty (50) feet from the sign when measured with a standard light meter perpendicular to the face of the sign.

No electronic signs may be used on temporary signs.

February Planning Commission Minutes

5. Consideration and possible action regarding Electronic Message Display sign ordinance.  
Mr. Yates made a presentation to the Commission. Mr. Yates presented a drafted ordinance regarding amending Section 66, which is dealing with signage in the City Code of Ordinances. Mr. Yates said that the ordinance would revise Section 66-1 Definitions replacing "Moving Message Boards" with "Electronic Message Display" and the new definition, which is a more modern definition of a moving message board. Mr. Yates said that there are also additions to the definitions to include, the following terms:
- a) dissolve, which is the way a message changes by dissolving into another message;
  - b) fade, which is where the first message gradually reduces and then the next message gradually comes into view;
  - c) burst, which is where they have a flash type pattern, and this is addressed later in the ordinance as not being allowed;
  - d) frame, which is a complete, static display screen on an electronic message display;
  - e) frame effect, which is a visual effect on an electronic message display applied to a single frame to attract the attention of viewers;
  - f) scroll, which is a mode of message transition where the message appears to move vertically across the screen; and
  - g) transition, which is a visual effect used to change from one message to another.

Mr. Yates said that Section 66-2 is amended to read that signs with flashing, blinking or traveling lights are prohibited, other than lights stated in 66-53 of the Code. Mr. Yates also discussed the timing of the electronic signs, and asked the Commission to think about the timing of the messages.

Mr. Yates said that he also discussed the lighting intensity of the sign, internal and/or external. Mr. Yates said that he met with Brian Solomon, Solomon Electric, this afternoon and he had tried to measure the Brookshire Bros. sign brightness, but said that he could not do that because he went at 6 p.m. and the car and street lights were so bright that he could not get a good reading. Mr. Yates said that he would have to go in the middle of the night, or when there was not so much other lighting. Mr. Yates said that they could put in a requirement that the light could not exceed 0.5 foot-candles if they were ever able to measure the level. Mr. Yates said that Mr. Solomon had loaned him his light meter, so he was going to go in the middle of the night and check the light level. Mr. Yates said that he would have to word that section so that it is easy to understand. Mr. Yates said that he is going to send the information to a local sign business in Willis to get some feedback from them.

Mr. Yates said that he wants to work on the illumination paragraph in the ordinance and to also give the businesses a chance to look at the ordinance for feedback. Mr. Yates said that the signs that are up now would be grandfathered, and the only one that he had to discuss was the Brookshire Bros. sign, and they turned down the frequency and brightness, and said that the 4.5 seconds was close enough to the 5 seconds, so he did not feel he could go back to them to say that it is flashing.

Chairman Cox stated that they had heard from someone that expressed disdain for signs, banners and so on that are popping up. Chairman Cox said that they are going to get some negative responses, so he feels that it is good that they are studying the information and taking their time with the information. Arnette Easley asked about portable signs. Mr. Yates stated that the ordinance prohibits portable electronic signs.

Mr. Yates said that he has been asked about open signs, which he feels is a wall sign or an area of the electronic message display, which can't exceed 1/3 of the entire size of the sign. Jeffrey Waddell stated that overall brightness is going to be the concern versus the size. Jeffrey Waddell said that he thought that 50 percent of the sign for the message would be more reasonable. Arnette Easley said that you could charge them for larger signs. Carol Langley asked about the size of the City's message board and whether it was larger than what Mr. Yates was recommending. Mr. Yates said yes, if they took the entire frame of the sign, the electronic part could only be the bottom half of the sign, and currently the message board is about 2/3 of the sign. Carol Langley asked where Mr. Yates came up with the 1/3 for the message board. Mr. Yates said that he was just being very conservative. Carol Langley asked if Brookshire Bros.'s sign was larger than what Mr. Yates was recommending. Mr. Yates said no, their message board is less than the 1/3 of the entirety of their sign. Carol Langley said that she was okay with the 1/3 ratio. Mr. Yates discussed other signs in the City with the Commission in comparison with the requirements of the new ordinance.

Mr. Yates said that he would provide a few drawings of a monument sign, showing what 30 percent of the sign would be in relation to the size of the entire sign. Jeffrey Waddell said that it was good to educate all of them with the LED signs and the new technology because everything has changed. Jeffrey Waddell said that they want to be within reason, but they also have to understand the new technology. Arnette Easley said that they also have to be open with the growth. Chairman Cox said that before they take any action on this ordinance, he would like the ordinance to be as accurate as it can be before they take it to City Council. Chairman Cox asked if they could review the information again next month. Mr. Yates said that he would send an email to the Commission once he gets some more information on the brightness, along with some drawings on the sizes of the message boards. Mr. Yates said that he will also contact a sign company and get some comments from them. The Commission was in favor of that recommendation.

No action was taken on this item.

Planning  
Commission  
Minutes  
3-26-  
2018

5. Consideration/take action regarding Electronic Message Display sign ordinance.

Mr. Yates stated that this item was to make sure that the Commission was prepared to recommend that ordinance to City Council for adoption. Mr. Yates said that the only change that was made to the ordinance was regarding Section 66-53D (4) and changing footcandles to Lux, and the 700 Lux is the recommendation. Mr. Yates said that the reason that he used 700 Lux was because he felt that the Pizza Shack sign, which was the closest reading, at 690 Lux, was not so bright as to cause a distraction to a driver. Mr. Yates said that they could go up to 1,000 Lux and still not be a hindrance to the driver, and said that 700 Lux was on the conservative side.

Mr. Yates said that he wrote one letter to Affordable LEDs, which is an electronic sign company in Willis, but he had not received any response from them.

Mr. Yates said that the ordinance adds some definitions for "dissolve, fade, frame, frame effects, scroll and transition" to the existing sign ordinance. Mr. Yates said that 66-53 is a new section to the ordinance, that states that electronic sign message display boards may be permitted in the commercial and industrial zoning districts, subject to requirements. Mr. Yates advised that the City Attorney has reviewed the Ordinance. Chairman Cox asked if the City Attorney had any comments. Mr. Yates advised that he did not have any comments.

Mr. Yates said that he felt that the ordinance was something that could be easily administered, and staff will be able to measure the Lux of the sign with the indicator from one foot away. Mr. Yates said that the definitions will also describe the signs appropriately. William Simpson asked, after the signs have been installed, are they able to adjust the signs. Mr. Yates said yes, the signs can be adjusted. Mr. Yates said that he will attach the ordinance to the permit before the person ever gets the permit. Mr. Yates said that Brookshire Bros. was able to adjust their sign when he advised them that it was too bright.

Chairman Cox asked about the piece of equipment, indicator that you test the lights with, is it something that the City owns or will they have to lease one. Mr. Yates said that they can borrow one from Mr. Solomon or they can purchase one for \$200. Jeffrey Waddell said that Mr. Yates had mentioned that Mr. Muckleroy tested one sign, and asked if they would continue to have Public Works test the signs. Mr. Yates said that either they would or the Code Enforcement Officer, Tim Bauer, could do that.

After discussion, William Simpson moved to approve to pass the Electronic Message Display Sign Ordinance to City Council. Arnette Easley seconded the motion, the motion carried unanimously. (5-0)



FROM JANUARY 22<sup>nd</sup> meeting Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> January 22 2018	<b>Budgeted Amount:</b>
<b>Department:</b>	
<b>Prepared By:</b> Jack Yates City Administrator	<b>Exhibits:</b> Electronic sign ordinances information <i>Ordinance</i>
<b>Date Prepared:</b> January 19, 2018	

**Subject**

A member of the City Council request that the Commission will you consider the ordinance regarding electric display signs.  
 I have investigated the subject as administered by other cities.

**Description**

The electric sign ordinance basically gets down to three issues to administer/enforce:

- The brightness of the sign and in the recommendation is not to exceed .5 footcandles more than 50 feet from the sign when measured with a standard light meter perpendicular to the face of the sign.
- How often the sign changes/flashes and the recommendation is 5 to 10 seconds.
- The fade/dissolve/transition of the sign message and the recommendation is to allow a "dissolve" (meaning where the first message gradually appears to dissipated news legibility simultaneously with a gradual appearance and legibility of the second message) "fade" (meaning where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases in intensity to the point of legibility) a "transition" any type of visual effect used on an electronic message display to change from one message to another (seems too broad to me to include, but might preclude some interesting graphics during the display transition time).

Once you decide the brightness, how often you want the sign to change/flash, and if you want the any of the fade/dissolve/transition elements preparing an ordinance will be fairly easy, probably ready next meeting for your consideration

Montgomery City Council  
AGENDA REPORT

**Recommendation**

Read the enclosed materials and direct the staff to prepare an ordinance that applies.

**Approved By**

City Administrator

Jack Yates

Date: January 19, 2018

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: May 8, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits: Ordinance,</b>
<b>Date Prepared: May 1, 2018</b>	

**Subject**

This regards the initial zoning of the recently annexed Peter Hill land tract as "B" Commercial

**Description**

The Planning Commission voted to recommend the "B" Commercial zoning for this property.

The commercial zoning is consistent with the surrounding zoning of property along State Highway 105. Mr. Hill is planning to put commercial establishments on this property.

**Recommendation**

Motion to approve this ordinance is presented..

**Approved By**

City Administrator

Jack Yates

Date: May 1, 2018

**ORDINANCE NO. 2018-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, PROVIDING FOR THE INITIAL ZONING OF NEWLY ANNEXED PROPERTY AS PROVIDED IN CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS; PROVIDING FOR THE CLASSIFICATION AND INCLUSION OF A CERTAIN TRACT OF LAND OF APPROXIMATELY 3.22 ACRES WITHIN A ZONING DISTRICT AS DESCRIBED AND DEPICTED ON THE MAP OR PLAT OF SAME ATTACHED TO THIS ORDINANCE AS EXHIBIT "A"; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING DISTRICT MAP OF THE CITY TO REFLECT THE ZONING CLASSIFICATION OF THE TRACT AS HEREIN PROVIDED; MAKING CERTAIN FINDINGS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AFTER PUBLICATION.**

**WHEREAS**, pursuant to Ordinance No. 2018-04, passed on February 13, 2018, the City annexed into its corporate limits a parcel of land of approximately 3.22 acres, which land is described by and bounds in Exhibit "A" attached hereto ("Annexed Area").

**WHEREAS**, the City of Montgomery is located in rapidly growing Montgomery County, Texas, an area with increasing economic diversity, burgeoning population growth, and significant residential and commercial development, and the City is proactively addressing the challenge of maintaining a proper balance and integration of residential and commercial uses, and their needs for public services; and

**WHEREAS**, the Planning and Zoning Commission and City Council of the City (the "City") have reviewed that portion of the newly Annexed Area and the needs of the community, the character of each zoning district and its particular suitability for particular uses, with a view of conserving the value of building and encouraging the most appropriate use of land in the City, and has given reasonable consideration to permanently zoning the newly Annexed Area in order to protect and enhance the value of property, lessen congestion in the streets, secure safety from fire, panic, and other dangers, promote health and the general welfare, provide adequate light and air, prevent overcrowding of land, avoid undue concentration of population, and facilitate the adequate provision of transportation, water, sewer, parks, and other public requirements; and

**WHEREAS**, the matter was referred to the City of Montgomery Planning and Zoning Commission for consideration and recommendation, and the Planning and Zoning Commission, after due notice and public hearing, did consider and make a recommendation on the initial zoning classification of the newly Annexed Area; and

**WHEREAS**, the City Secretary caused to be issued and published the notices of public hearing required by the City of Montgomery Zoning Ordinance (the "Zoning Ordinance") found in Chapter 98 of the City Code of Ordinances and of the laws of the State of Texas applicable thereto; and

**WHEREAS**, the City has conducted public hearings in the time and manner and after the notice required by law and the Zoning Ordinance of the City on such classification; and

**WHEREAS**, the City Council, now deems it appropriate to establish a permanent zoning classification for that referenced tract in the Annexed Area.

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

**SECTION 1. Recitations.** The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

**SECTION 2. Zoning Classification.** The zoning classification of that certain tract of land, described below, situated within the corporate limits of the City of Montgomery, Montgomery County, Texas, are hereby classified, as stated below and as shown upon the map attached hereto:

Being a 3.22-acre tract of land in the JOHN. H. CORNER SURVEY, Abstract 8, of Montgomery County, Texas, further described in the legal description attached hereto in Exhibit "A" and incorporated herein by reference for all purposes, are hereby designated the zoning classification of "B" Commercial."

**SECTION 3.** The official zoning district map of the City of Montgomery shall be revised and amended as set forth above to show the zoning district designation for the tract described in Exhibit "B."

**SECTION 4. Repeal of Conflicting Ordinances.** All provisions of the ordinances of the City of Montgomery in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Montgomery not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 5. Severability Clause.** If any provision, section, subsection, sentence, paragraph, sentence, clause or phrase of this Ordinance or the application of same to any person or set of circumstances, shall for any reason be held to be unconstitutional, void, or invalid or otherwise unenforceable, the invalidity or unenforceability shall not affect other provisions of this Ordinance or their application to other sets of circumstances and to this end all provisions of this Ordinance are declared to be severable.

**SECTION 6. Texas Open Meetings Clause.** 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

the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**SECTION 7. Effective Date.** This Ordinance shall become effective and be in full force after publication as required by law.

PASSED AND APPROVED this \_\_\_\_\_ day of March 2018.

\_\_\_\_\_  
Kirk Jones, Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Larry L. Foerster, City Attorney



**SURVEYORS**

**PLANNERS**

## “A LAND SURVEYING COMPANY”

November 6, 2017

A8AC3.22

Being a 3.22 acre tract of land in the John Corner Survey, Abstract 8, Montgomery County, Texas, being out of a 5.71 acre tract as recorded under Clerk's File No. 2016-086083, also being out of a called 111.857 acre tract of land as recorded under Clerk's File No. 9512940 Deed Records Montgomery County, Texas, being more particularly described as follows:

**COMMENCING** at a PK nail found for the northwesterly corner of a called 48.540 acre tract as recorded under Clerk's File No. 2007-000741 Deed Records Montgomery County, Texas, being along the of the southerly right of way line of State Highway 105 (R.C.W. Varies), and being the northeasterly corner of said 5.71 acre tract;

THENCE S 03 deg. 48' 31" E along the westerly line of said 48.540 acre tract, also along the easterly line of said 5.71 acre tract, a distance of 308.15 feet to a found PK nail, being the most easterly south corner of said 5.71 acre tract;

THENCE N 87 deg. 26' 35" W, along the northerly line of said 48.540 acre tract, also along the southerly line of said 5.71 acre tract, a distance of 95.82' to a found PK nail;

THENCE S 01 deg. 47' 27" W, along the northerly line of said 48.540 acre tract, also along the southerly line of said 5.71 acre, a distance of 17.85' to a found PK nail;

THENCE N 87 deg. 16' 39" W, along the northerly line of said 48.540 acre tract, also along the southerly line of said 5.71 acre a distance of 231.56' a point for corner along the northerly line of said 48.540 acre tract, also being along the southerly line of said 5.71 acre tract, and being the easterly corner of herein described tract, and being the **POINT OF BEGINNING**;

THENCE N 87 deg. 16' 39" W, along the northerly line of said 48.540 acre tract, also along the southerly line of said 5.71 acre, a distance of 5.68' to a found PK nail;

THENCE S 86 deg. 42' 40" W, along the northerly line of said 48.540 acre tract a distance of 145.64' to a 5/8" iron rod found, being the most westerly north corner of said 48.540 acre tract, being an interior corner of herein described tract;

THENCE S 12 deg. 11' 42" W, along the westerly line of said 48.540 acre tract a distance of 102.69' to a 5/8" iron rod found;

THENCE S 78 deg. 19' 16" E, along the southerly line of said 48.540 acre tract a distance of 62.50' to a 5/8" iron rod found;

THENCE N 10 deg. 25' 11" E, along the easterly line of said 48.540 acre tract a distance of 39.11' to a 5/8" iron rod found;

THENCE S 79 deg. 31' 27" E, along the southerly line of said 48.540 acre tract a distance of 100.21' to a 5/8" iron rod set, being an interior corner of said 48.450 acre tract, being an exterior corner of herein described tract;

THENCE S 46 deg. 51' 53" W, along the westerly line of said 48.540 acre tract a distance of 70.05' to a 5/8" iron rod set;

THENCE S 35 deg. 57' 21" W, along the westerly line of said 48.540 acre tract a distance of 101.39' to a 5/8" iron rod set;

THENCE S 24 deg. 44' 23" W, along the westerly line of said 48.540 acre tract a distance of 146.12' to a 5/8" iron rod set;

THENCE S 22 deg. 09' 41" E, along the westerly line of said 48.540 acre tract a distance of 52.72' to a 5/8" iron rod set;

THENCE S 25 deg. 44' 51" W, along the westerly line of said 48.540 acre tract a distance of 32.14' to a point in the centerline of a creek, being a point on the easterly line of said 111.857 acre tract, being the most southerly corner of herein described tract;

THENCE N 50 deg. 25' 39" W, across said 111.857 acre tract a distance of 68.02' to a 5/8" iron rod set;

THENCE N 34 deg. 45' 39" W, across said 111.857 acre tract a distance of 103.76' to a 5/8" iron rod set;

THENCE N 17 deg. 33' 45" W, across said 111.857 acre tract a distance of 111.07' to a point at a creek intersection, being the southeasterly corner of a called 1.289 acre tract as recorded under Clerk's File No. 2014-103529 Deed Records Montgomery County, Texas;

THENCE along the following courses and distances along said creek:

THENCE N 02 deg. 11' 01" W, along the easterly line of said 1.289 acre tract a distance of 20.00' to a point for corner;

THENCE N 23 deg. 02' 40" E, along the easterly line of said 1.289 acre tract a distance of 59.23' to a point for corner;

THENCE N 15 deg. 12' 33" E, along the easterly line of said 1.289 acre tract a distance of 51.14' to a point for corner;

THENCE N 29 deg. 51' 25" E, along the easterly line of said 1.289 acre tract a distance of 17.50' to a point for corner, being the northeasterly corner of said 1.289 acre tract, being the southeasterly corner of a called 12.74 acre tract as recorded under Clerk's File No. 2014-103574 Deed Records Montgomery County, Texas;

THENCE N 16 deg. 10' 51" E, along the easterly line of said 12.74 acre tract a distance of 35.68' to a point for corner;



THENCE N 26 deg. 12' 24" E, along the easterly line of said 12.74 acre tract a distance of 22.44' to a point for corner;

THENCE N 26 deg. 12' 24" E, along the easterly line of said 12.74 acre tract a distance of 95.80' to a point for corner;

THENCE N 57 deg. 22' 01" W, along the easterly line of said 12.74 acre tract a distance of 22.66' to a point for corner;

THENCE N 23 deg. 09' 59" E, along the easterly line of said 12.74 acre tract a distance of 83.90' to a point for corner;

THENCE N 11 deg. 45' 39" W, along the easterly line of said 12.74 acre tract a distance of 78.90' to a point for corner;

THENCE N 05 deg. 42' 22" E, along the easterly line of said 12.74 acre tract a distance of 71.60' to a point for corner;

THENCE N 43 deg. 37' 22" E, along the easterly line of said 12.74 acre tract a distance of 67.78' to a point for corner;

THENCE leaving said creek N 87 deg. 19' 04" E, a distance of 158.67' to a point for corner along the northerly line of said 5.71 acre tract, being the most northerly west corner of herein described tract;

THENCE S 00 deg. 00' 01" W, across said 5.71 acre tract, a distance of 366.85' to the **POINT OF BEGINNING**, and containing 3.22 acres of land, more or less.

THIS LEGAL & EXHIBIT WAS PREPARED UNDER TITLE 22 OF THE TEXAS ADMINISTRATIVE CODE, CHAPTER 663, RULE 663.21, AND 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

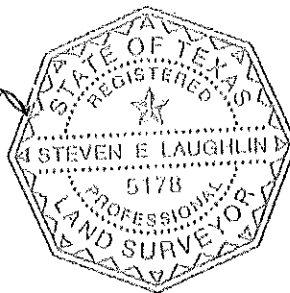
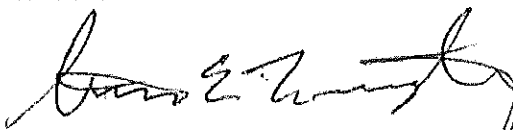
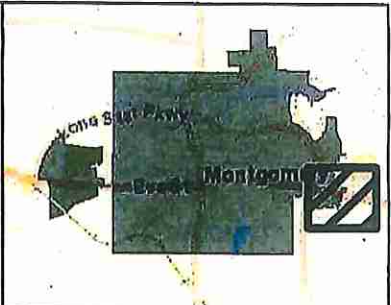


EXHIBIT "A"



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

**LEGEND**

-  200-ft Notification Boundary
-  Tract Boundary
-  City of Montgomery City Limits
-  MCAD Parcel

Aerial Imagery flown January 2016

**INITIAL ZONING  
"B" - COMMERICAL**

**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.



**JONES & CARTER**

Texas Board of Professional Engineers Registration No. F-139



Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date: May 8, 2018</b>	<b>Budgeted Amount:</b>
<b>Prepared By: Jack Yates</b> <b>City Administrator</b>	<b>Exhibits:</b>
<b>Date Prepared: May 4, 2018</b>	

**Subject**

This is a report regarding the Buffalo Springs Bridge repair.

**Description**

The construction is going according to schedule, even with one day added to the construction because wet weather. The city engineer will explain more at the meeting.

**Recommendation**

Make comments as you feel appropriate.

**Approved By**

City Administrator

Jack Yates

Date: May 4, 2018