

**Notice of City Council Regular Meeting  
AGENDA**

**July 13, 2021 at 6:00 PM**

**NOTICE TO THE PUBLIC IS HEREBY GIVEN** in accordance with the order of the Office of the Governor issued March 16, 2020, the City Council will conduct its City Council Regular Meeting scheduled for **6:00 PM on Tuesday, July 13, 2021**, at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas.

This meeting will be **limited in-person** attendance by the public. A temporary suspension of the Open Meetings Act to allow telephone or videoconference public meetings has been granted by Governor Greg Abbott. These actions are being taken to mitigate the spread of COVID-19 by avoiding meetings that bring people into a group setting and in accordance with Section 418.016 of the Texas Government Code. Members of the public who wish to submit their written comments on a listed agenda item must submit them by email to [shensley@ci.montgomery.tx.us](mailto:shensley@ci.montgomery.tx.us) by 3:00 p.m. on July 13, 2021.

Members of the public may view the meeting live on the City's website at [www.montgomerytexas.gov/meetings](http://www.montgomerytexas.gov/meetings) and then select **Live Stream Page (located at the top of the page)**. The Meeting Agenda Pack will be posted online at [www.montgomerytexas.gov](http://www.montgomerytexas.gov). The meeting will be recorded and uploaded to the City's website.

**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. City 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 the June 22, 2021 Regular Meeting Minutes.
- 2.** Consideration and possible action on an encroachment agreement with Haza Foods (Wendy's).

**CONSIDERATION AND POSSIBLE ACTION:**

- 3.** Discuss and consider candidates to be considered for Place 2, City of Montgomery Planning and Zoning Commission for the unexpired term expiring October 1, 2022.
- 4.** Consideration and possible action regarding adoption of the following Ordinance: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF SECTIONS 545.356 AND 545.353 OF THE TEXAS TRANSPORTATION CODE, ON CERTAIN STREETS AND HIGHWAYS OR PARTS THEREOF WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY, AS SET OUT IN THIS ORDINANCE, TO WIT: ESTABLISHING A CONSTRUCTION SPEED ZONE ON SH 105 FROM 0.108 MILES WEST OF FM 2854 TO STEWART CREEK ROAD, A DISTANCE OF APPROXIMATELY 0.262 MILES TO REDUCE THE SPEED LIMIT TO 45 MILES PER HOUR; AUTHORIZING THE INSTALLATION OF SIGNAGE IN ACCORDANCE WITH THIS ORDINANCE; PROVIDING FOR THE ALTERATION OF THE PRIMA FACIE SPEED LIMIT OF SH 105 TO INCREASE TO 55 MILES PER HOUR UPON COMPLETION OF CONSTRUCTION; PROVIDING A PENALTY NOT TO

EXCEED \$400.00 FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

5. Consideration and possible action regarding adoption of the following Ordinance: AN ORDINANCE ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF § 545.356, TEXAS TRANSPORTATION CODE, UPON THE BASIS OF AN ENGINEERING AND TRAFFIC INVESTIGATION, UPON CERTAIN STREETS AND HIGHWAYS, OF PARTS THEREOF, WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY, AS SET OUT IN THIS ORDINANCE; AND PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$200 FOR THE VIOLATION OF THIS ORDINANCE.
6. Consideration and possible action regarding adoption of the following Ordinance: AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CITY ORDINANCE NO. 1996-3, DATED JUNE 4, 1996, BY AMENDING CHAPTER 64, "PEDDLERS, SOLICITORS AND VENDORS" OF THE CITY CODE OF ORDINANCES; PROVIDING FOR A PENALTY FOR A VIOLATION OF THIS ORDINANCE; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SAVING AND SEVERABILITY CLAUSES; PROVIDING A TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

**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.)*

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

**COUNCIL INQUIRY:**

Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to the 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**

/s/Susan Hensley

Susan Hensley, City Secretary

I certify that the attached notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas on July 9, 2021 at 5:00 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 REGULAR MEETING**

**June 22, 2021**

**MONTGOMERY CITY COUNCIL**

**CALL TO ORDER**

Mayor Sara Countryman declared a quorum was present and called the meeting to order at 6:02 p.m.

Present:	Sara Countryman	Mayor
	Carol Langley	City Council Place # 1
	Kevin Lacy	City Council Place # 2
	T.J. Wilkerson	City Council Place # 3
	Byron Sanford	City Council Place # 5

Absent:	Julie Davis	City Council Place # 4
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Also Present:	Richard Tramm	City Administrator
	Dave McCorquodale	Assistant City Administrator
	Caleb Villarreal	City Attorney

**CALL TO ORDER**

**INVOCATION**

T.J. Wilkerson gave the 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.

Mayor Countryman congratulated Mrs. Kimberly Duckett, Court Administrator on her fifth anniversary with the City of Montgomery. Mayor Countryman gave Mrs. Duckett a token of appreciation and acknowledged all the hard work she has done.

**CONSENT AGENDA:**

1. Matters related to the approval of the June 8, 2021 Regular Meeting Minutes.
2. Consideration and possible action regarding an Interlocal Agreement by and between the City of Montgomery and Montgomery County regarding reimbursement of COVID-19 related expenses.
3. Consideration and possible action regarding TxCDBG Contract #7217320 Amendment No. 2.

Byron Sanford moved to accept the Consent Agenda cumulatively as presented. Kevin Lacy seconded the motion, the motion carried unanimously. (4-0)

Mayor Countryman stated for the record Julie Davis was not present this evening, however, they do have a quorum.

**CONSIDERATION AND POSSIBLE ACTION:**

4. Consideration and possible action regarding accepting a proposal from Ward, Getz & Associates, PLLC for completion of application renewal for Texas Pollution Discharge Elimination System (TPDES) Permits for both the Stewart Creek and Town Creek Wastewater Treatment Plants.

Mr. Tramm said the TPDES Permits must be renewed every five years for proper permitting of wastewater treatment plants. Mr. Tramm said the City has maintained the permit for the old treatment plant site (Stewart Creek Wastewater Treatment Plant) in addition to the currently operated site (Town Creek Wastewater Treatment Plant). Mr. Tramm said the reason for maintaining the older facility site is it gives the City greater flexibility with its future in wastewater treatment needs. Mr. Tramm said it would be much easier to put an existing plant that is not operating back into operation than to re-permit a new plant and that is the reason for maintaining the permit. Mr. Tramm said given the scope of this work, it is an item he



thinks is best performed by the current City Engineer versus being the subject of an RFQ. Mr. Tramm said he reviewed the proposal and believes it is reasonable for the scope of work to be performed.

Kevin Lacy asked if there is anything out of the ordinary from what is typically done every five years. Mr. Tramm said no this is completely ordinary.

Kevin Lacy moved to accept the proposal as submitted. Byron Sanford seconded the motion, the motion carried unanimously. (4-0)

5. Consideration and possible action regarding adoption of the following Ordinance: AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 64 "PEDDLERS, SOLICITORS, AND VENDORS" OF THE CITY OF MONTGOMERY CODE OF ORDINANCES TO ADD SEC. 64-6 "STREET FESTIVALS"; PROVIDING FOR FEES AND PENALTIES; REPEALING ALL OTHER CONFLICTING ORDINANCE PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.

Mr. Tramm said City Council may remember last fall when they approved changes regarding festivals to this Ordinance and other items. Mr. Tramm said Montgomery has a lot more outdoor events so this may be an Ordinance that they will come back to periodically to update as conditions change.

Mr. Tramm said specifically what is on the agenda tonight is regarding chapter 64. Mr. Tramm said the previous change allowed for street festivals, what most of you might think we would commonly call events in the City. Mr. Tramm said it did not provide specific guidelines for how to be permitted. Mr. Tramm said each street festival application will be required to be reviewed by the Chief of Police with final approval by the City Administrator. Mr. Tramm said that once approved, the permit will be issued and filed in the office of the City Secretary.

Mr. Tramm said this Ordinance provides for a clean-up clause of \$200.00. Mr. Tramm said that number came from the Public Works Director after considering what staff time might be necessary and that could be refundable if the event is cleaned up. Mr. Tramm said that way

they are not seeking to charge them after the fact. Mr. Tramm said it would cover the cost of two Public Works individuals for clean-up should that be necessary.

Mr. Tramm said the City Attorney has reviewed and approved the Ordinance. Mr. Tramm said a couple of things he would like to mention is this provides that the application would need to be turned in 30 days before the event. Mr. Tramm said this will not be enforced on events that are in progress right now. Mr. Tramm said there will be a fee of \$50 for the festival permits. Mr. Tramm said one of the most notable items and of the most value to them and the City is that non-food vendor participants will not have to individually permit with the City as vendors as they will be covered by this Ordinance. Mr. Tramm said those putting on the event will provide a list of those vendors to them so the City will be notified of who is participating. Mr. Tramm said imagine with one of our events such as Sip N' Stroll with 30 or 40 vendors there. Mr. Tramm said we do not need them all here, we just need to know who they are. Mr. Tramm said that will put the administrative burden on those putting on the event and take it off all these vendors who might be coming in once or twice. Mr. Tramm said why should they permit for something that they are going to come in for once or twice. Mr. Tramm said they do have a six-month option on permitting, but if they are only planning to come once or twice that might not be of interest to them. Mr. Tramm said this is hopeful also to encourage more to participate with the City.

Mr. Tramm said he wanted to reiterate what he mentioned earlier that he envisions there will be modifications as time goes on as events change and certainly the City of Montgomery is changing and they see a lot more events today than they did five or 10 years ago. Mr. Tramm said the way the community keeps growing and the greater area keeps growing, he envisions there will be a lot of changes to come.

Mayor Countryman said if she recalls correctly they had previous events where clean-up was more expensive because they had to pay the guys overtime and with all hands on deck it was a lot more expensive than the \$200. Mayor Countryman asked if \$200 was enough. Mr. Mike Muckleroy, Public Works Director said they came up with \$200 as a good number to hopefully be safe but also to not discourage someone from wanting to participate because of a large deposit like they did in the past with hydrometers. Mr. Muckleroy said they pushed people away from using hydrometers because they made the deposit so large and helped make the

decision for them to try and steal water instead. Mr. Muckleroy said they do not want to do that and put a burden on anyone. Mr. Muckleroy said it is a gamble and they have had much worse and also had minor clean-up that \$200 would have been more than enough. Mayor Countryman asked Mr. Muckleroy if he feels like adding this deposit would encourage clean-up behavior from those in charge of the event downtown. Mr. Muckleroy said \$200 is a good enough number to at least make someone think about making a sweep back through to check everything versus the alternative to let someone else worry about it. Mayor Countryman said she just thought it was low given what she had remembered but it is fine if Mr. Muckleroy and Mr. Tramm are comfortable with it. Mr. Tramm said if they find they are wrong they can come back and revisit this Ordinance. Kevin Lacy asked if this also applies to holiday parades and things like that because it talks about having animal wash stations. Mayor Countryman said yes it falls under events and festivals.

Mayor Countryman said on the certificate of insurance listing the City of Montgomery as an additional insurer, it is her understanding through TML that they have insurance for the festival but are requiring vendors to get an additional policy. Mr. Tramm said that would be if there is something they need to seek through their insurance that they are the cause of. Mr. Tramm said our insurance covers the general public but imagine a vendor is doing something and they are the cause of something that is damaged. Mr. Tramm said yes our insurance covers it but if they are the cause, their insurance should cover it as well. Mayor Countryman asked if in the case of a parade and a vehicle or horse runs into a building is that on the City's insurance or is it on the festival's insurance or is it on the independent person who owns the vehicle or horse. Mr. Tramm said that is why they are seeking they have insurance, but because it is a City event, the City's insurance can cover it, however, it is going to be more appropriate than the one causing the damage use their insurance to cover it. Mr. Tramm said if their insurance did not properly pay, the City's insurance would pay for it and then would go after that person or entity, otherwise, the City would be the only one liable.

Mayor Countryman said they just went through this with the Antique Festival and they have been paying \$1,000 for an insurance policy they did not need and it was cutting into HMBA's profits. Mayor Countryman said they found out from TML the City would have insurance and therefore that was able to save them on that expense.

Mr. Tramm said the example he thought of earlier concerning this was if you have a food truck vendor and then their food truck catches fire and catches the neighborhood building on fire. Mr. Tramm said that is the City's way to make sure they have their proper insurance in place. Mayor Countryman asked if they would go after the food truck or after the festival insurance. Mr. Tramm said their insurance should take care of it and their insurance should notify the City, but if for some reason there was a problem they know the City's insurance would cover it. Mr. Tramm said the City's insurance has to cover everything which is a protection for the City. Carol Langley asked if this is even for Sip 'N Stroll. Mr. Tramm said yes. Mr. Tramm said for those ongoing events that are in the works right now they will work closely with them to get this in line presuming approval from this day going forward. Mr. Tramm said their interest is in working with them to get everything covered, not preventing anything from happening.

Kevin Lacy moved to adopt the Ordinance as presented. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

#### **DEPARTMENTAL REPORTS:**

6. City Administrator's Reports for May 2021 – Mr. Tramm presented his report to City Council. Mr. Tramm said they have coordinated with the Texas Department of Emergency Management to host a juvenile COVID-19 vaccine clinic to be held at the City Community Center on June 24<sup>th</sup> from noon to 5:00 pm. Mr. Tramm said they will also be returning next month to provide a second round of shots, which are provided at no cost to those who need them. Mr. Tramm said the main point is a lot of the providers who have been providing those vaccinations started scaling those down around the same time the juveniles became eligible to start receiving them. Mr. Tramm said if you know of anyone who is looking for those vaccinations for their juveniles or even adults as well, please let them know.

Kevin Lacy asked how many vaccines do they have. Mr. Tramm said 150 and those administering the vaccinations are trained Army National Guard personnel. Mr. Tramm said they have notified the local school district.

Mr. Tramm said the engineering transition is well underway and most items that are transitioning to WGA from Jones/Carter have already transitioned. Mr. Tramm said they had a meeting with both parties and had organized a list of what items are being transferred and when. Mr. Tramm said there are a couple of ongoing project items that will stay with Jones/Carter and right now they are working on the completion of two traffic studies, a speed study, and a traffic study off of FM 1097.

Mr. Tramm said earlier in the meeting City Council approved the Interlocal Agreement with Montgomery County on COVID-19 funding and that will be sent to Montgomery County this week. Mr. Tramm said the Commissioner's Court still has to pass that but that will open up a door to them to release the funding to Montgomery County.

Mr. Tramm said TML is hosting a small cities workshop on July 15, 2021, in Austin, Texas. Mr. Tramm said it is a half-day question and answer, problem-solving event and thinks it is the kind of event that might be of interest. Mr. Tramm said if anyone is interested, please see him or Ms. Susan Hensley, City Secretary.

Mr. Tramm said if anyone on City Council is interested in getting a newer device on laptops or computers please let him or Ms. Hensley know.

Mr. Tramm said he wanted to congratulate Mrs. Kimberly Duckett, Court Administrator on her fifth anniversary with the City. Mr. Tramm said Mrs. Duckett is a very valued department head in the City.

Mr. Tramm said residential and commercial construction are both continuing throughout the City. Mr. Tramm said AutoZone is close to complete and near to obtaining their occupancy.

Mr. Tramm said in the calendar year through May 31, 2021, there were 23 new homes completed and more new homesites are coming later this year both in Hills of Town Creek where 30 new home sites will go on the market and Town Creek Crossing.

Mr. Tramm said the Downtown Improvement Plan draft which is a product of the MEDC is expected late in July. Mr. Tramm said he expects the MEDC Board to approve the plan after comments in August.

Mr. Tramm said he attached the Sales Tax Report for review. Mr. Tramm said they do not have anyone coming this month to provide comments. Mr. Tramm said there are some changes ongoing with the firm that he will be discussing next month. Mayor Countryman asked if they are staying with SRI. Mr. Tramm said he sees no reason that will change for the time being. Mr. Tramm said he does not have any information as to why it would need to change, he thinks it is just a matter of new personnel they will be dealing with.

7. Public Works Monthly Report for May 2021 – Mr. Muckleroy, Public Works Director said on the water section they replaced several meter box lids and activated and deactivated 18 water accounts. Mr. Muckleroy said they completed 11 work orders for sewer taps and two for sewer-stop ups. Mr. Muckleroy said they removed fallen limbs and debris from storm events and repaired four potholes. Mr. Muckleroy said they replaced keypads and a receiver at the Sewer Plant 2 gate and repaired brake wiring on the dump trailer. Mr. Muckleroy said they prepared the Clover's Dedication Area at Cedar Brake Park and rebuilt flower beds at the entrance to Homecoming Park. Mr. Muckleroy said Fernland docents reported 684 visitors and they provided 44 tours for the month.

Mr. Muckleroy said they assisted with the Antique Festival and attended a meeting with the Eagle Scout candidate to discuss a possible lighting project at Memory Park.

Byron Sanford said he was reading earlier there was a Lift Station 3 that had four or five calls, something that seemed like it was all electrical related. Mr. Muckleroy said they did have a lot of electrical issues this last month and Mr. Williams will cover that in his report.

8. Police Department Report for May 2021 – Mayor Countryman said she wanted to thank Chief Solomon for the detailed report that gives a very clear vision of what is going on in the City by what the patrol division is doing and the breakdowns. Mayor Countryman said she received an email this week from a gentleman that was concerned with the activity on SH 105 regarding Montgomery being a speed trap. Mayor Countryman said because of Chief Solomon's detailed

report she was able to go back through the minutes and find those. Mayor Countryman said luckily he realized that not everyone that is pulled over is for a speeding ticket and other things are going on in the City. Mayor Countryman said Chief Solomon made it very easy to reference and appreciates that and not having to do a formal records request.

Chief Solomon said they went back and looked at those and started their fast initiatives from these DWI's they had this month and that is significant. Chief Solomon said just as many people who say it is a speed trap, those people call and say the City needs more traffic control. Mayor Countryman said if we are known for a speed trap then people need to slow down.

Mayor Countryman said 12 DWI's is a high number. Chief Solomon said it is really high. Mayor Countryman asked if it was people from within the City or people driving through the City. Chief Solomon said people driving through the City. Mayor Countryman said she thinks that is the highest she has ever seen here.

9. Court Report for May 2021 – Mrs. Kimberly Duckett, Court Administrator said for the Court Report for May there were 205 citations written and the collections were \$21,995.10
10. Utility & Development Report for May 2021 – Mr. Tramm said the utility collection for the month was just under \$150,000 and there was over \$17,000 collected in construction permit fees.

Mr. Tramm said one item he finds the most significant to note between the new water accounts and the disconnected water accounts is a lot of that is transitional with people moving in and out. Mr. Tramm said if we continue this way per month, although it might not sound like a lot, that is a one percent growth the City has had off and on for a while. Mr. Tramm said 10-12 percent growth rate a year is an awful high growth rate the City has seen and maintained.

11. Water Operations Report for May 2021 – Mr. Mike Williams, Vice President of H2O Innovation, said they did have several electrical issues and whether it was related to the weather in town or all across the area or Entergy related issues, Mr. Muckleroy has been in touch with an Entergy representative to try and resolve this issue.

Mr. Williams said if you take out all the electrical and rain-related issues there are only three issues that stand out. Mr. Williams said Lift Station 4, sewer back up there was a manhole

overflowing and the sewer lines were jetted to clear the blockage. Mr. Williams said they were notified of a sewer back up on 20821 Eva Street but found that to be a private issue. Mr. Williams said on May 15<sup>th</sup> Lift Station 3 over temperature they found one pump running and one pump tripped at overload. Mr. Williams said the pumps were pulled and cleaned of debris.

Mr. Williams said flow for the month of April-May was 6,475,000 gallons, daily peak flow for May 1, 2021, was 764,000 gallons, and average daily flow was 215,900 gallons which is 54% of permitted capacity. Mr. Williams said it is a little higher than average because of all the rain but there is still plenty of board space there.

Mr. Williams said all samples were in compliance for May on the effluent report with a total of 9.45 inches of rainfall for the month.

Mr. Williams said for the water report they pumped a total of 10,365 gallons, flushed 178,000, and sold a total of 9,722,000 with 96% accountability. Mr. Williams said the total connection count was 1,024.

Mr. Williams said they received a letter from TCEQ notifying them the Wastewater Treatment Plant inspection that was completed was given a clean bill of health and there were no violation issues. Mr. Williams said the City is following all the rules and regulations.

Mr. Tramm said receiving a clear inspection report with no violation on a wastewater treatment plant is not easy.

12. Finance Report for May 2021 & Quarterly Investment Report – Mr. Anthony Lasky, Senior Accounting Clerk presented his report to City Council.

Mr. Lasky said for the general fund there are seven and a half months of reserve, MEDC has over two years of reserve, and the utility fund is under one year of reserve.

Mr. Lasky said sales tax collected for May 2021 was over \$440,000.

Mr. Lasky said one of the invoices for the cash flow in May that was paid that he would like to point out was for check #31228 to AV Design Pros which is the second installment for the live stream as well as the PID reimbursement for this past year for \$38,364.38.



Mr. Lasky said the budget for sales tax in the general fund collected \$440,000, \$330,000 of it was for the general fund. Mr. Lasky said they did receive the June numbers and it was just under \$280,000 collected for that month to show on the next month's report.

Mr. Lasky said revenues for May were roughly 27 percent over. Mr. Lasky said for the fiscal year of eight months completed, 97 percent of revenues were collected.

Mr. Lasky said expenditures were 12 percent under in May and roughly 74 percent was collected.

Mr. Lasky said the Downtown Waterline Improvement pay application #4 was paid for \$135,400.

Mr. Lasky said the debt service is going to be a lower payment than what was expected for the September 2021 interest payment. Mr. Lasky said it will be around \$30,000 less. Mayor Countryman asked if that was because of what they approved a couple of months ago. Mr. Lasky said yes and the entire 2012 series are now both paid.

Mr. Lasky presented the quarterly investment report summarizing the TexPool money markets, active CDs, plus pledge securities.

Mayor Countryman asked if \$440,000 was the most ever collected. Mr. Lasky said they did collect \$450,000 in February.

Kevin Lacy asked about the police drug and miscellaneous fund account. Chief Solomon said it is for procedures for the District Attorney's office.

Mr. Tramm said to answer Mayor Countryman's question, in May \$440,993 was collected in the quarterly collection that included May. Mr. Tramm said in February it was \$415,079, approximately \$10,000 more whereas every fourth month, quarterly month, February quarterly month is an annual month because some businesses file annually. Mr. Tramm said February typically has a good chance to be the highest throughout the year.

13. City Engineer's Report for May 2021 – Mr. Chris Roznovsky, City Engineer said regarding the Downtown Waterline Replacement Project, they did receive approval today for the project on FM 149 being completed.

Mr. Roznovsky said they received the draft reports for the FM 1097 speed study.

Mr. Roznovsky said the plans they received from Jones/Carter regarding Wendy's were resubmitted. Mr. Roznovsky said the plans were from before he reviewed them in the Fall of 2019, so those will be revised and sent back, as well as an encroachment agreement that will be on next month's agenda.

Mr. Roznovsky said they had a meeting last week for Town Creek Crossing to review the current construction status and yesterday they started inspection work for Town Creek Crossing.

Mr. Roznovsky said they restarted the biweekly operations call this morning.

Mr. Roznovsky said TxDOT has advised them the FM 149 & SH-105 NB Right Turn Lane Project is let and construction is expected to begin in late September.

Mayor Countryman said she understands it is the property they purchased coming north, but asked if they ever received the agreement with Exxon. Mr. Roznovsky said he does not believe so. Mr. Roznovsky said when they were finding a way to move the dumpster over when they redeveloped their site it never got resolved. Mr. Roznovsky said the FM 149 Improvements Project is when that will likely happen at the same time.

Mr. Roznovsky said all of TxDOT's 2021 Transportation Alternatives Call for Projects applications were submitted on June 14<sup>th</sup>.

Mr. Roznovsky said they have had a handful of transition meetings and will go through all the City documents from the hard drive to make sure they have everything. Mr. Roznovsky said for the immediate term issues and how they broke up the transition was to determine what do they need today to keep things moving and what will they need eventually down the road. Mr. Roznovsky said they have everything they need for today to keep things moving forward.

Kevin Lacy asked if the sidewalk work for Memory Park was included in what they approved. Mr. Roznovsky said it was along Bessie Owens and Clepper Street and not anything on the Park Project. Mr. Roznovsky said the reason is that since it is not on a road, it is outside the scope.

Mayor Countryman asked when they can expect to hear back about this as she knows they have submitted everything, but what is the timeframe. Mr. Dave McCorquodale, Assistant City Administrator said they were told they would likely be following up in late August or sometime in September, but the official answer comes in October.

Mayor Countryman asked if the transition from Jones/Carter has been easy going and smooth as promised. Mr. Roznovsky said so far so good. Mr. Roznovsky said they have been provided information and are working through the chain of command and identifying the right people to get updates from.

Mayor Countryman asked if Staff felt it was an easy transition. The staff said yes.

Kevin Lacy moved to accept the Departmental Reports as presented. T.J. Wilkerson seconded the motion.

The motion carried unanimously. (4-0)

#### **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 was no Executive Session held.

#### **POSSIBLE ACTION FROM EXECUTIVE SESSION:**

##### **COUNCIL INQUIRY:**

Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to the 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.

Kevin Lacy said he would like to revisit the Sign Ordinance and asked if that is something they are going to look at soon. Mr. Tramm said they had a good conference call with Mr. Alan Petrov, City Attorney last week and they are working through some of those things and he thinks it will be in the next month or two when they will bring it back to City Council. Mr. Tramm said one of the things they need to do is drive around the City and look for items they may need.

Kevin Lacy asked if they found out anything regarding political signs. Mr. Tramm said he does have additional guidance with that and they will be able to move forward with some of those.

Mayor Countryman asked with the current ordinance concerning banners are they allowed for hiring for smoothies, for coffee, etc. Mr. McCorquodale said they can put something up for less than 30-days. Mr. McCorquodale said he thinks the City has latitude in the way it is written that if they need to address it they could. Mr. McCorquodale said he has been mindful since COVID-19 has started to try and allow those businesses the latitude to find the staff they need or advertise hours. Mayor Countryman said she does not have a problem with the staffing but there is a new smoothie sign and it just takes away from the downtown aesthetics. Mr. McCorquodale said he has not seen it but he will take a look at it. Mayor Countryman said it is where they use to fly the coffee banners. Mayor Countryman said everyone talks about the charm and everyone up here ran on the platform of keeping the charm and then when there are vinyl banners that have anything other than now hiring, it is true, it is a tough spot right now with hiring. Mayor Countryman said she just thinks it takes away from the aesthetics of what they are trying to achieve. Mr. McCorquodale said it is more a Sign Ordinance than it is a Historic Preservation Ordinance. Mr. McCorquodale said it is temporary and the Sign Ordinance even has a time and a date that should give them the latitude to address something like that.

T.J. Wilkerson asked if there is an update on the park benches for Homecoming Park. Mr. Tramm said there is a 16-month backlog on orders. Mr. Tramm said they do have orders in but are just waiting for them to come in due to materials, COVID-19, and popularity.

Kevin Lacy asked if there have been any applicants for the Planning and Zoning Commission position. Mr. Tramm said they have received one at this time, but the insert that will go in the utility bills has not gone out yet.

Byron Sandford said he has had enough time to absorb things and has told people when he came in it was an outstanding staff and things are going in the right direction and there is a reason for a lot of optimism. Byron Sandford said he can appreciate Mr. Tramm's position as a mid-manager because he knows as being a principal and athletic director himself, you have to deal with a lot of things. Byron Sandford said he just wants to encourage everyone to not let the tail wag the dog. Byron Sandford said the City is a highly marketable place and he assured the people when he was on the election trail that he wants to see the City negotiate from a position of strength and not people's special interests. Byron Sandford said he is not speaking about any particular thing or person. Byron Sandford said he just knows that politics is politics and in his short time he has already had people say, "Well you are with City Council", and yes he is, but he does not own the City. Byron Sandford said this is one of the specific things he had on the campaign trail. Byron Sandford said when we convince our constituents and potential clients from the outside especially that the way the City operates clearly defined long and mid-range goals and daily driven decision making, they will not even push us eventually to fudge on anything. Byron Sandford said they need to have clearly defined goals and a way to get there. Byron Sandford said going into the August budget meeting, he wants to have something that drives him now to meet those three, five, and 10-year goals. Byron Sandford said the elephant in the room is still infrastructure and when people ask him, he wants to be able to have an answer. Byron Sandford said he and Mr. Tramm have had some personal conversations about that. Byron Sandford said they need to get articulated so they are all saying the same thing because that is the way the government is perceived, the left-hand does not know what the right hand is doing. Byron Sandford said he can say from experience in coaching that everyone needs to be on board and understand how to answer the people so it does not become more political than it already is inherently.

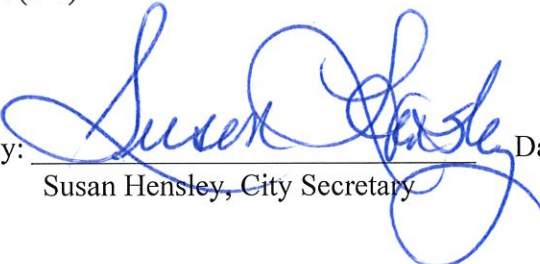
Mayor Countryman said she thinks what Byron Sandford is touching on is a workshop and for all of them to define what the three, five, and ten years and even look to what the need for 20 and 30-years is. Mayor Countryman said when it comes to infrastructure it is not just three and five-year plans. Mayor Countryman said at the workshop maybe if they have a little extra time or if there is an additional workshop they can put on the schedule that would be great so they can get those defined and City Council can start moving in the same direction instead of independently.

Mr. Tramm said he thinks everyone on City Council knows he sent out emails with the times and dates and has received four responses that the 1:00 p.m. start time is good for them. Mr. Tramm said that would be a good time for them to do this in the first workshop or the second. Mr. Tramm said he is a

believer in organized planning and one of the things he does want to see in this coming budget is simplified categories for longer-term savings and target those two things like a future water storage tank and future capital projects. Mr. Tramm said over this fall and winter he expects some of the City staff and City Engineers to redo the longer-term capacity plan for water and wastewater capacity. Mr. Tramm said he thinks all of those all work together. Mr. Tramm said this City growing as it is has a lot of future infrastructure needs, but it is also in a good position to be able to get those needs in place before they are needed and not having to play catch up. Mr. Tramm said he thinks the City is in a good position today, but you have to plan to do it. Mr. Tramm said they will endeavor to include that within the first workshop.

**ADJOURNMENT**

Kevin Lacy moved to adjourn at 6:56 p.m. T.J. Wilkerson seconded the motion, the motion carried unanimously. (4-0)

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

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

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> July 13, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Administration	<b>Prepared By:</b> Richard Tramm

**Subject**

Consideration and possible action on an encroachment agreement with Haza Foods (Wendy's).

**Recommendation**

City staff recommends approval of the encroachment agreement with for Haza Foods (Wendy's).

**Discussion**

The developer of a new Wendy's restaurant planned to be built in the City is requesting an encroachment agreement to locate proposed monument sign and light poles within the existing City utility easement at the site. The construction plans show the proposed items would be near but not in conflict with the existing water and wastewater utility lines. The agreement will release the City from responsibility for damages to these proposed items that result from the City doing necessary work to repair or maintain these utility lines.

Approval of this agreement does not remove Haza Foods from being required to get all necessary permits for this location, including for the proposed monument signage. We have received a signed copy of the encroachment agreement from Haza Foods.

The City Engineer's memo on this item is attached for your review. The City Engineer will also be in attendance at the City Council meeting for questions related to this item.

<b>Approved By</b>		
City Administrator	Richard Tramm	Date: July 8, 2021



July 7, 2021

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

Re: Monument Sign and Site Light Pole Encroachment Agreement  
Wendy's (Haza Foods) – Development No. 1808  
City of Montgomery

Dear Mayor and Council:

It is our understanding that the developer of the proposed Wendy's has requested an encroachment agreement for a proposed monument sign and site light poles to be placed within an existing City utility easement. Per the construction plans, the encroachments are proposed to be in close proximity, but not in conflict, with existing public water and sanitary sewer lines.

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

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Chris Roznovsky". The signature is fluid and cursive.

Chris Roznovsky, PE  
Engineer for the City

CVR/kmv

Z:\00574 (City of Montgomery)\\_900 General Consultation\Correspondence\Letters\2021.07.06 MEMO to Council RE Wendy's Encroachment Agreement.docx

Enclosures: Encroachment Request  
Signed Encroachment Agreement

Cc (via email): Mr. Richard Tramm – City of Montgomery, City Administrator  
Ms. Susan Hensley – City of Montgomery, City Secretary  
Mr. Dave McCorquodale – City of Montgomery, Director of Planning & Development  
Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney





June 3, 2021

City of Montgomery  
101 Old Plantersville Rd.  
Montgomery, TX 77356

Re: Request for Encroachment Agreement

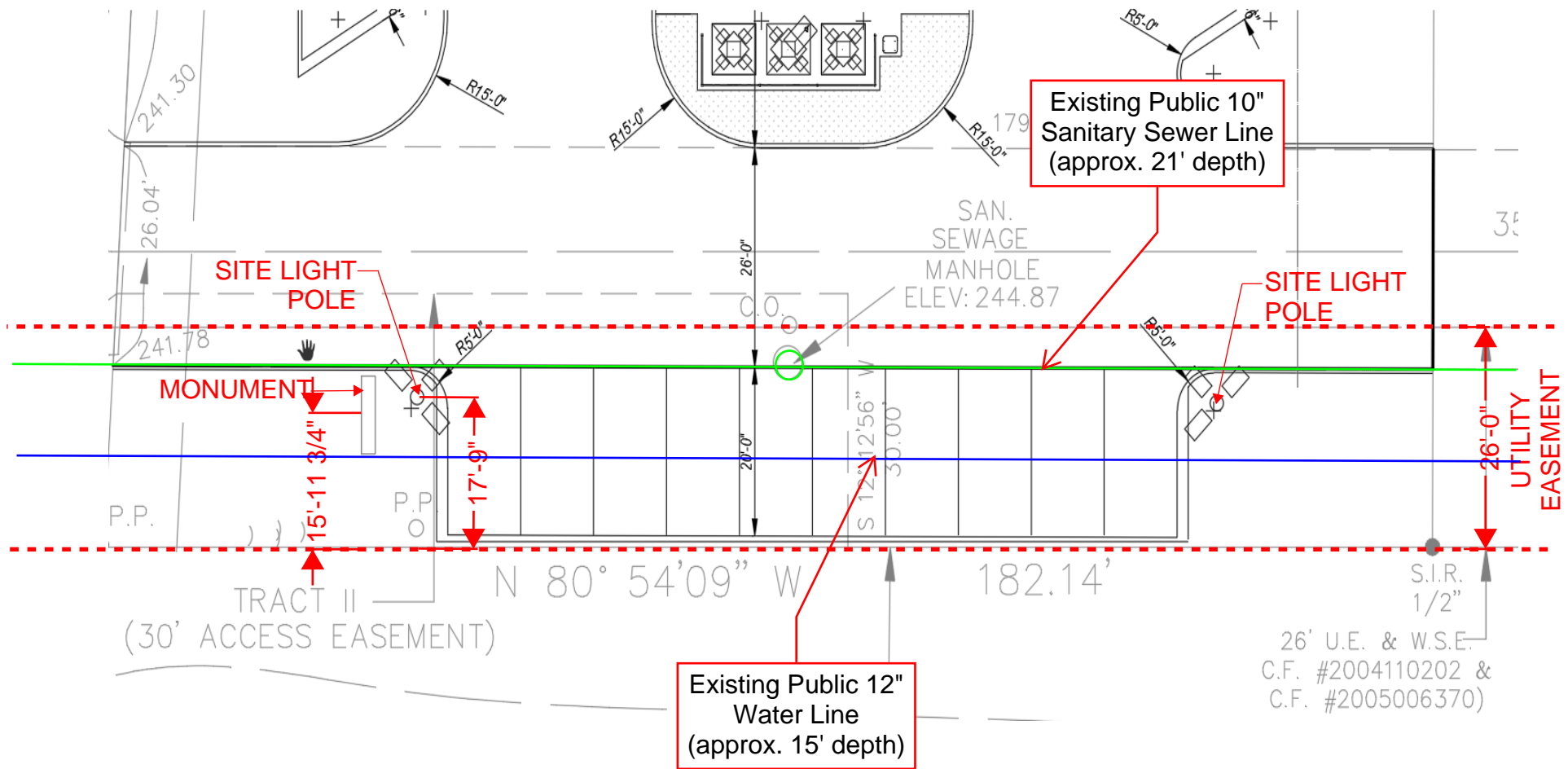
To Whom This May Concern:

We are in the process of building a new construction Wendy's restaurant located at 19990 Eva St. Montgomery, TX. The proposed site design includes (2) site light poles and (1) monument sign that are located within the utilities easement. We would like to request encroachment approval to place the previously listed items within the utilities easement. I've attached a diagram for your review. Please feel free to reach out with any questions.

Sincerely,

Lauren Smith  
Anchor CM  
lauren@anchorcm.net  
(713) 449-9447

# PARTIAL SITE PLAN



# SITE LIGHT POLE DETAILS

Item 2.

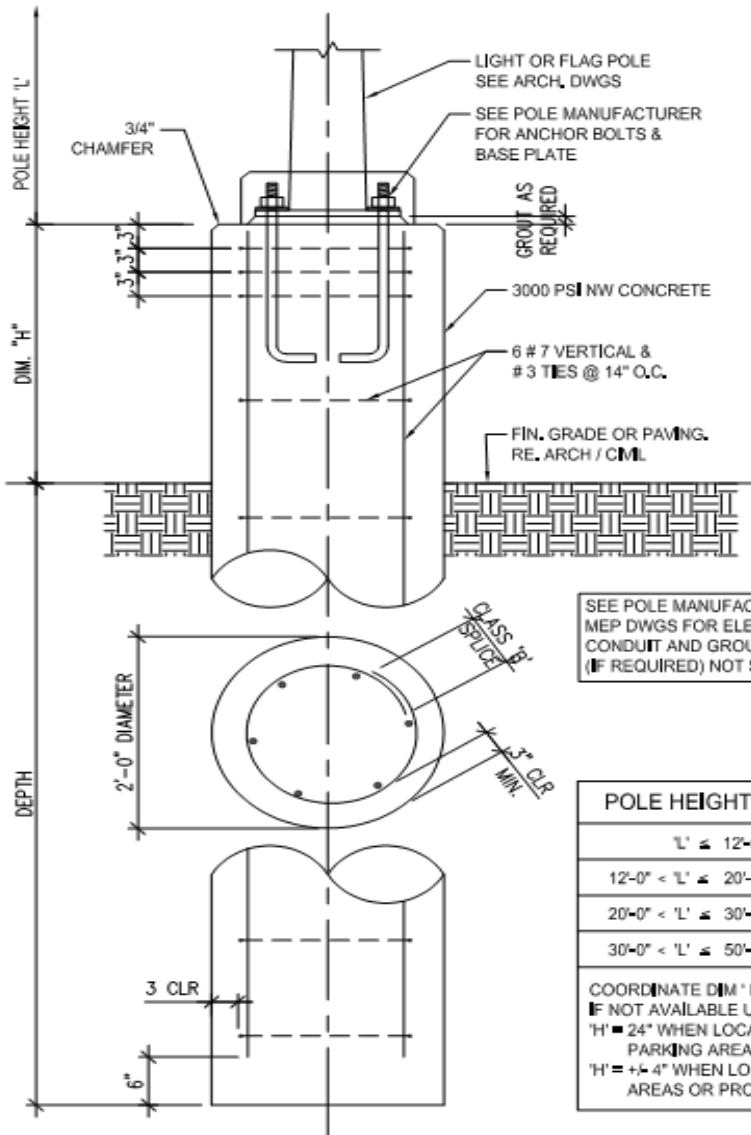
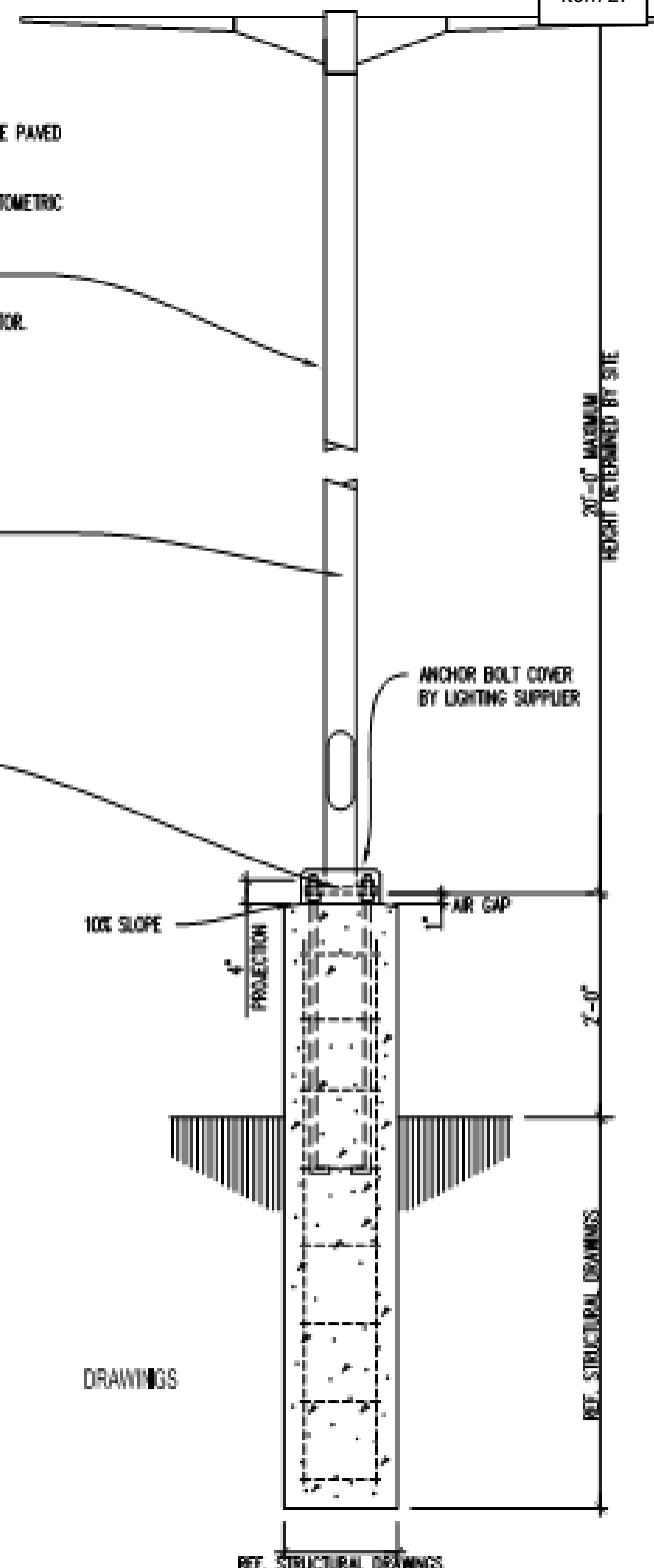
### EXTERIOR PARKING LOT LIGHTING NOTES

1. REFER TO SITE LIGHTING SUPPLIERS
2. PARKING LOT TO HAVE AN AVERAGE OF 4 - 6 FOOTCANDLES IN THE PAVED AREA UNLESS LOCAL CODES REQUIRE LESS
3. CONSULT WITH THE PARKING LOT LIGHT SUPPLIERS TO HAVE A PHOTOMETRIC SITE PLAN PREPARED
4. LIGHT POLE: 24'-0" HIGH, 4" DIAMETER

LIGHT POLE TO BE FURNISHED AND INSTALLED BY ELECTRICAL CONTRACTOR.  
POLE AND LUMINAIRE TO BE FURNISHED BY THE SAME MANUFACTURER

POLE HEIGHT = 24'-0"  
POLE DIAMETER = 4"  
POLE TYPE = STEEL SQUARE  
POLE FINISH = BRONZE  
BOLT SIZE = 1/2" BOLT CIRCLE  
ANCHOR BOLTS = 1"x3/8" W/  
DOUBLE NUT AND WASHERS

FOR PROPER INSTALLATION OF SITE LIGHTING  
ALWAYS USE DOUBLE NUTS AND WASHERS.  
THIS ASSEMBLY WILL PREVENT MOISTURE BUILD-UP  
IN THE POLE BY ALLOWING AIR TO CIRCULATE  
THROUGH THE INSIDE OF POLE. BASES MOUNTED  
DIRECTLY TO CONCRETE CAN CAUSE A  
MOISTURE BUILD-UP, AND DETERIORATION  
OF THE POLE'S STABILITY



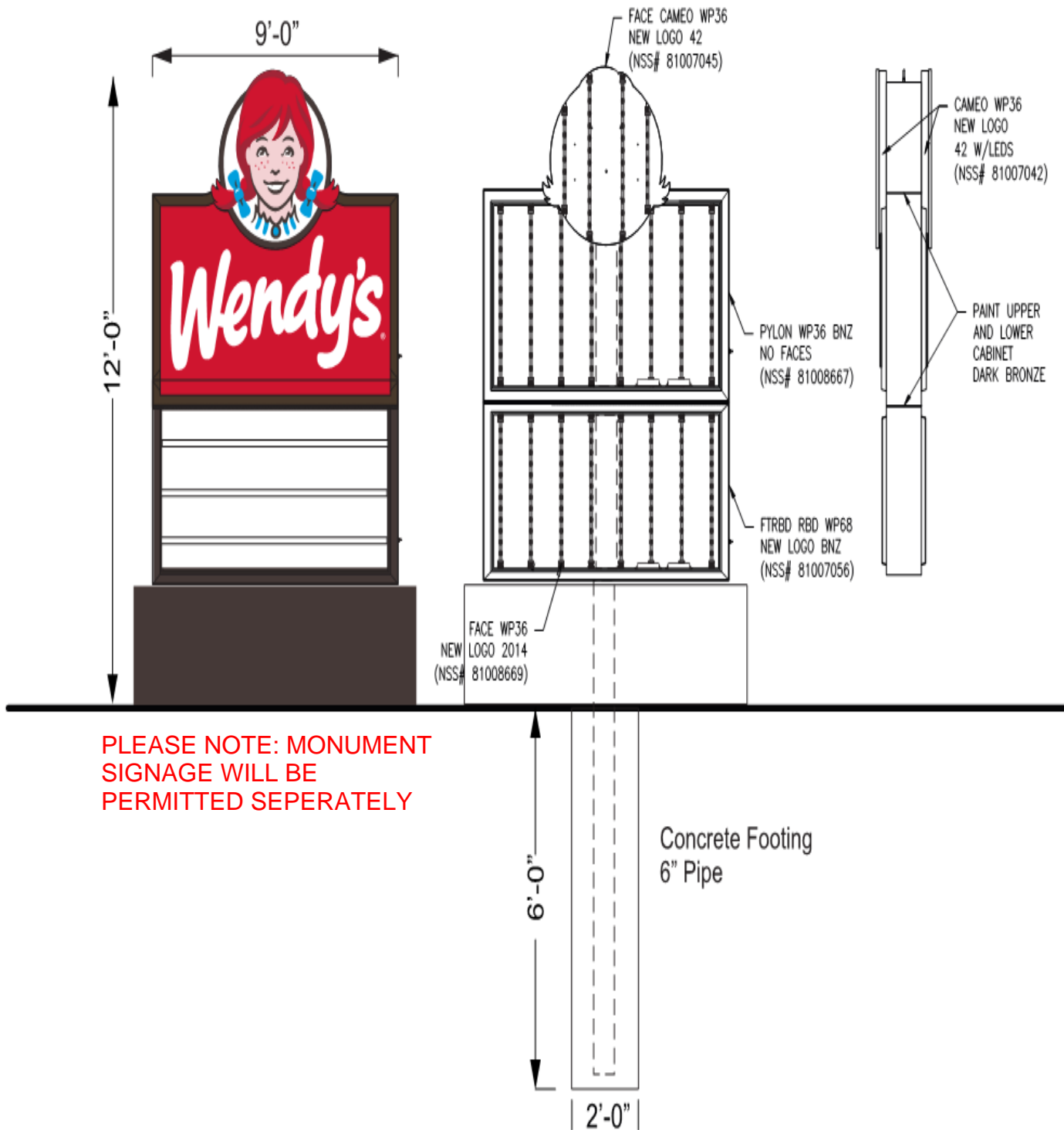
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L' ≤ 12'-0"	6'-0"
12'-0" < L' ≤ 20'-0"	8'-0"
20'-0" < L' ≤ 30'-0"	10'-0"
30'-0" < L' ≤ 50'-0"	14'-0"

COORDINATE DIM 'H' WITH ARCH/CIVIL.  
IF NOT AVAILABLE USE THE FOLLOWING:  
'H' = 24" WHEN LOCATED IN PARKING AREAS,  
'H' = +4" WHEN LOCATED IN GRASSY AREAS OR PROTECTED FROM CARS.

LIGHT POLE DETAIL

SITE LIGHT POLE FOUNDATION DETAIL

# MONUMENT SIGNAGE DETAILS



PLEASE NOTE: MONUMENT SIGNAGE WILL BE PERMITTED SEPERATELY

### NOTES:

CABINET:  
 12-1/2" EXTRUSION #1400 WITH "2-1/2" RETAINER" EXTRUSION #8184, EXTRUSION #8185

FACES:  
 .118" THEROMFORMED MUSTANG ACRYLIC 1/2" EMBOSSED, 1-3/4" PAN.

ELECTRICAL DETAILS:  
 GE 7100K LED'S  
 (2) 60W UNIVERSAL POWER SUPPLIES  
 TOTAL LOAD: 6.2 A @ 120/60HZ

**CONSENT TO ENCROACHMENT AGREEMENT**

THE STATE OF TEXAS       §  
  §  
COUNTY OF MONTGOMERY   §

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

**THIS CONSENT TO ENCROACHMENT AGREEMENT** (this "**Agreement**") is made and entered into as of the 1st day of July, 2021, by and between **CITY OF MONTGOMERY, TEXAS**, a municipal corporation principally situated in Montgomery County, Texas, a political subdivision of the State of Texas (the "**City**"), and **HAZA FOODS, LLC.**, a Texas limited liability company (the "**Owner**"). The City and Owner are individually referred to herein as "**Party**" and collectively referred to herein as, the "**Parties.**"

**RECITALS**

**WHEREAS**, the City is the owner of an existing twenty-six foot (26.0') wide Utility Easement and Sanitary Sewer Easement (the "**Easement Tract**") over the property recorded under Clerk's file No. 2004110202 and 2005006370 respectively in the Real Property Records of Montgomery County, Texas;

**WHEREAS**, the City has constructed a twelve inch (12.0") in diameter water line and a ten inch (10.0") in diameter sanitary sewer line within the Easement Tract (these lines, together with any and all other current and future pipelines, water lines and all related connections and appurtenances thereto on, over, under, across, within, and through the Easement Tract are collectively referred to herein as the "**City Facilities**");

**WHEREAS**, the City has the perpetual right, without limitation, to utilize the Easement Tract from time to time to gain access to and lay, maintain, operate, replace, change the size of, repair, modify, and remove the City Facilities;

**WHEREAS**, the Owner has requested that the City give its consent to install two (2) site light poles and one (1) monument sign, as described and depicted on that certain Site Light Pole Details attached hereto as **Exhibit "A,"** and Monument Signage Details attached hereto as **Exhibit "B."** (collectively, the "**Encroachment**"); and

**WHEREAS**, the City is willing to consent to the foregoing, subject to the terms and conditions contained herein.

## TERMS AND CONDITIONS

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Except for the right to encroach expressly set forth herein, the City shall retain its full rights to utilize the Easement Tract and all of its remedies associated therewith.

2. The consent herein granted shall be limited to the installation of two (2) light poles and one (1) monument sign within the Easement Tract at locations approved in writing by the City Administrator prior to installation. The consent granted shall not apply to any other structures, encroachments, or improvements contemplated, allowed, owned or operated by the City.

3. IN CONSIDERATION OF THE CONSENT HEREIN GRANTED BY THE CITY TO THE OWNER AND IN CONSIDERATION OF THE USE OF A PORTION OF THE EASEMENT TRACT, THE OWNER HEREBY AGREES, TO THE EXTENT PERMITTED BY THE LAWS AND THE CONSTITUTION OF THE STATE OF TEXAS, FOR ITSELF, ITS SUCCESSORS, ASSIGNS AND GRANTEEES TO RELEASE AND HOLD THE CITY, ITS OFFICERS, DIRECTORS, CONSULTANTS, ATTORNEYS, AND AGENTS AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "INDEMNITEES"), HARMLESS FROM ALL LIABILITY FOR ANY DAMAGES OF ANY KIND OR NATURE TO THE ENCROACHMENT, SPECIFICALLY INCLUDING, BUT NOT LIMITED TO, LIABILITY ARISING FROM THE FAULT, SOLE, JOINT OR CONTRIBUTORY NEGLIGENCE, GROSS NEGLIGENCE, ACT OR OMISSION OF AN INDEMNITEE, ARISING OUT OF, RESULTING FROM, OR IN ANY WAY CONNECTED WITH THE EXISTENCE OF THE ENCROACHMENT WITHIN THE EASEMENT TRACT OR THE LOCATION OF, SETTLING OF, OR ANY REPAIRS, MODIFICATIONS OR ADDITIONS TO, OR THE MALFUNCTIONING OR REPLACEMENT OF, THE CITY FACILITIES LOCATED WITHIN THE EASEMENT TRACT.

4. The Owner, its successors and assigns shall be responsible for and shall promptly pay to the City, its successors or assigns, the costs of any repairs, replacements, modifications, relocations, removals, improvements or alterations to the City Facilities and the Easement Tract arising from the construction, existence, maintenance or use of the Encroachment, including, without limitation, all costs incurred to restore the surface of the Easement Tract to its existing condition following such activity.

5. THE OWNER HEREBY BINDS ITSELF, ITS SUCCESSORS AND ASSIGNS, TO THE EXTENT PERMITTED BY THE LAWS AND THE CONSTITUTION OF THE STATE OF TEXAS, TO DEFEND, INDEMNIFY AND HOLD THE INDEMNITEES HARMLESS FROM ALL COSTS, DAMAGES, LOSSES, LIABILITIES, JUDGMENTS AND EXPENSES (INCLUDING REASONABLE AND NECESSARY ATTORNEYS' FEES AND COURT COSTS) INCURRED IN CONNECTION WITH CLAIMS FOR INJURY TO OR DEATH OF ANY PERSON, FOR DAMAGE TO THE EASEMENT TRACT, OR FOR ANY AND ALL OTHER TYPES OF DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE CONSTRUCTION, EXISTENCE, MAINTENANCE OR USE OF THE ENCROACHMENT WITHIN OR WITHOUT THE EASEMENT TRACT, OR CLAIMS WHICH RESULT FROM THE SOLE, JOINT, OR CONTRINBUTORY NEGLIGENCE, OR

STRICT LIABILITY IMPOSED UPON THE INDEMNITEES BY THE LAW, OR CLAIMS ARISING FROM INJURIES, DEATHS OR DAMAGES WHICH WOULD NOT HAVE OCCURRED BUT FOR THE PRESENCE OF THE ENCROACHMENT, OR ANY CLAIMS RELATED TO WATER, STORM OR OTHER DAMAGE TO THE ENCROACHMENT.

6. If determined by the City, in its sole discretion, that the use of the Easement Tract by the Owner, its successors and assigns, or the location of the Encroachment within the Easement Tract prevents or hinders the City from installing, improving, altering, modifying, replacing, relocating, removing, repairing or operating any of the City Facilities in accordance with applicable statutes, laws, rules, regulations, engineering, or other technical requirements, then the City, in its sole discretion, may either (a) by written notice to the Owner, require the Owner, its successors, assigns and grantees, at the Owner's sole cost and expense, to immediately alter, modify, lower, raise, change the size of, and/or remove some or all of the Encroachment within the Easement Tract, or (b) alter, modify, lower, raise, change the size of, and/or remove some or all of the Encroachment within the Easement Tract, in which event, the Owner, its successors, assigns and grantees, shall be obligated to reimburse the City for all costs incurred by the City to take such actions immediately upon demand. If the City elects to require the Owner, its successors, assigns and grantees, to take such actions as set forth in (a) above, and the Owner, its successors, assigns and grantees, fail to perform its obligations within the time period prescribed in the written notice from the City, the City may take such actions as are necessary to fulfill the Owner's obligations, and the Owner, its successors, assigns and grantees, shall reimburse the City for all costs incurred by the City to perform such obligations immediately upon demand.

7. The City expressly consents to the Encroachment within the Easement Tract.

8. It is further expressly understood and agreed that the City's consent to the location of the Encroachment within the Easement Tract shall remain in force and effect only so long as the Encroachment shall remain in use, and upon the removal, destruction, or cessation thereof, all rights hereunder shall cease and terminate.

9. No currently existing lienholder as to the Easement Tract or the Encroachment (including, without limitation, any holder of a vendor's lien or right of prior title) shall be a beneficiary of this Agreement unless and until such lienholder delivers a document in recordable form reasonably acceptable to the City wherein such lienholder agrees to be bound by all of the terms and conditions of this Agreement.

10. The consent contemplated by this Agreement shall not inure to the benefit of any person other than the Owner and its respective successors, assigns and grantees.

11. No waiver by the City of any breach or default of any term, condition, or provision of this Agreement shall be deemed a waiver of any other or subsequent breaches or defaults of any kind, character, or description under any circumstance. No waiver of any breach or default of any term, condition, or provision of this Agreement shall be implied from any action or non-action of the City, and any such waiver, to be effective, shall be set out in a written instrument signed by the City.

12. The individuals signing this Agreement on behalf of the Owner and the City, respectively, each represent that they have the requisite authority to bind the Owner and the City, respectively.

13. This Agreement constitutes the entire agreement of the Parties with respect to its subject matter, and all prior agreements with respect thereto are merged herein. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, assigns and grantees.

14. All exhibits attached to this Agreement are made a part hereof by this reference, and incorporated herein for all purposes.

15. The prevailing Party in any suit, action, or other proceeding instituted in connection with any controversy arising out of this Agreement shall be entitled to recover its reasonable attorneys' fees from the other Party.

16. Notwithstanding anything in this Agreement to the contrary, in the event the Owner, its successors, assigns and grantees, fail to comply with the terms hereof and/or interfere with the rights of the City to maintain and operate the City Facilities, the City, in addition to any and all rights or remedies available to the City at law or in equity, shall be entitled to obtain restraining orders and injunctions (temporary or permanent) prohibiting any such failure and/or interference, and commanding compliance with the provisions of this Agreement without the necessity of proof of inadequacy of legal remedies or irreparable harm, and without the need to post a bond.

17. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one instrument.

18. The rights granted to the Owner in this Agreement relate only to the City's interests in the Easement Tract. The Owner shall be fully and solely responsible for notifying and obtaining consent and approval from all other parties in possession of the portion of the Easement Tract affected by the Encroachment.

**[SIGNATURE PAGE FOLLOWS]**



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

**CITY OF MONTGOMERY, TEXAS, a municipal corporation and a political subdivision of the State of Texas**

By: \_\_\_\_\_  
Sarah Countryman,  
Mayor

[CITY SEAL]

THE STATE OF TEXAS                   §  
  §  
COUNTY OF MONTGOMERY           §

Before me on this day, personally appeared Sarah Countryman, proved to me to be the mayor of the City of Montgomery, Texas whose name is subscribed to the foregoing instrument and acknowledged to me that the instrument was the act of **CITY OF MONTGOMERY, TEXAS, municipal corporation principally situated in Montgomery County, Texas, political subdivision of the State of Texas**, and that she executed the instrument as the act of said political subdivision for the purposes and consideration expressed therein, by proper authority, and in the capacity stated in the instrument.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public in and for the State of Texas

[NOTARY SEAL]



AGREED TO AND ACCEPTED by the Owner on behalf of himself, his successors, assigns and grantees, which acceptance shall constitute affirmative acceptance of all rights, privileges, liabilities and indemnifications contained herein, this 1<sup>st</sup> day of July, 2021.

**HAZA FOODS, LLC.**  
a Texas limited liability company

By: M. Ali Dhanani  
Name: Mohammed Ali Dhanani  
Title: Manager

THE STATE OF TEXAS           §  
  §  
COUNTY OF Fort Bend       §

Before me on this day, personally appeared **Mohammed Ali Dhanani**, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the instrument was the act of said individual, and that he executed the instrument for the purposes and consideration expressed therein, by proper authority, and in the capacity stated in the instrument.

Given under my hand and seal of office this 1 day of July, 2021.

Bella H Nguyen  
Notary Public in and for the State of Texas

After recording return to:  
City of Montgomery, Texas  
c/o Johnson Petrov LLP  
2929 Allen Parkway, Suite 3150  
Houston, Texas 77019  
Attention: Caleb D. Villarreal  
713-489-8977





**EXHIBIT "A"**

**(Site Light Pole Details)**

# SITE LIGHT POLE DETAILS

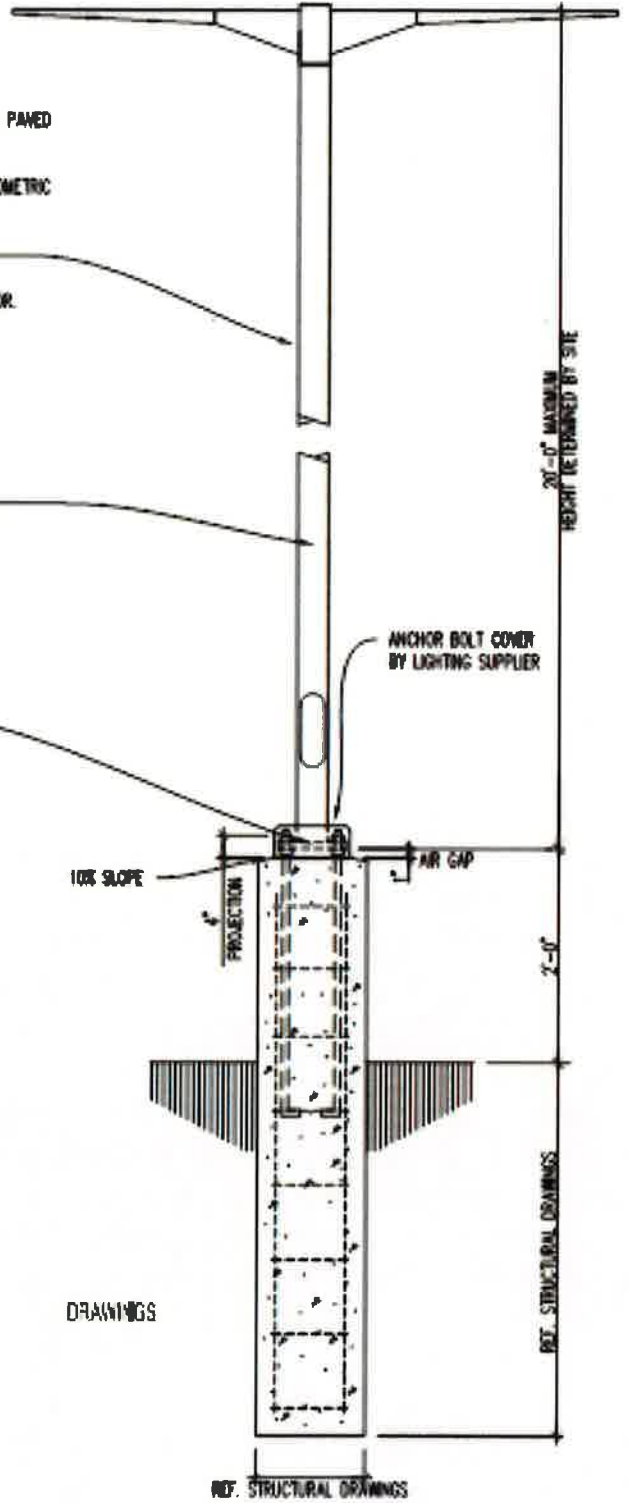
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1. REFER TO SITE LIGHTING SUPPLIERS
2. PARKING LOT TO HAVE AN AVERAGE OF 4 - 6 FOOTCANDLES IN THE PAVED AREA UNLESS LOCAL CODES REQUIRE LESS
3. CONSULT WITH THE PARKING LOT LIGHT SUPPLIERS TO HAVE A PHOTOMETRIC SITE PLAN PREPARED
4. LIGHT POLE: 24'-0" HIGH, 4" DIAMETER

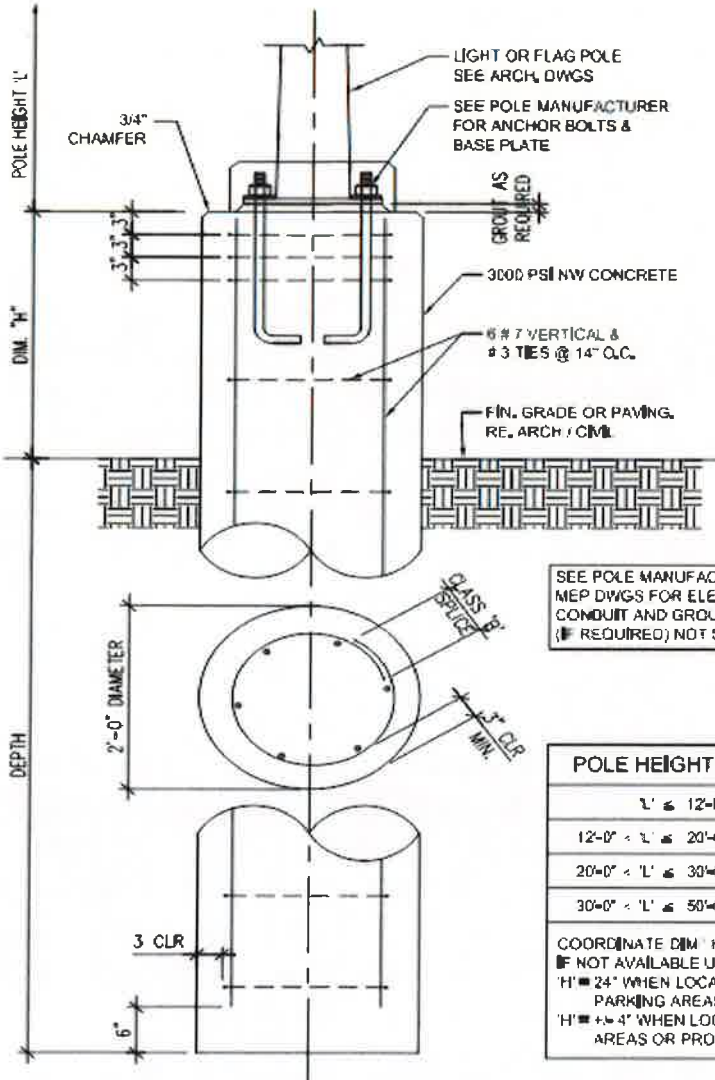
LIGHT POLE TO BE FURNISHED AND INSTALLED BY ELECTRICAL CONTRACTOR. POLE AND LUMINAIRE TO BE FURNISHED BY THE SAME MANUFACTURER

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 POLE DIAMETER - 4"  
 POLE TYPE - STEEL SQUARE  
 POLE FINISH - BRONZE  
 BOLT SIZE - 1/2" BOLT CIRCLE  
 ANCHOR BOLTS - 1"x3/8" W/  
 DOUBLE NUT AND WASHERS

FOR PROPER INSTALLATION OF SITE LIGHTING ALWAYS USE DOUBLE NUTS AND WASHERS. THIS ASSEMBLY WILL PREVENT MOISTURE BUILD-UP IN THE POLE BY ALLOWING AIR TO CIRCULATE THROUGH THE INSIDE OF POLE. BASES MOUNTED DIRECTLY TO CONCRETE CAN CAUSE A MOISTURE BUILD-UP, AND DEGRADATION OF THE POLE'S STABILITY



LIGHT POLE DETAIL



SITE LIGHT POLE FOUNDATION DETAIL

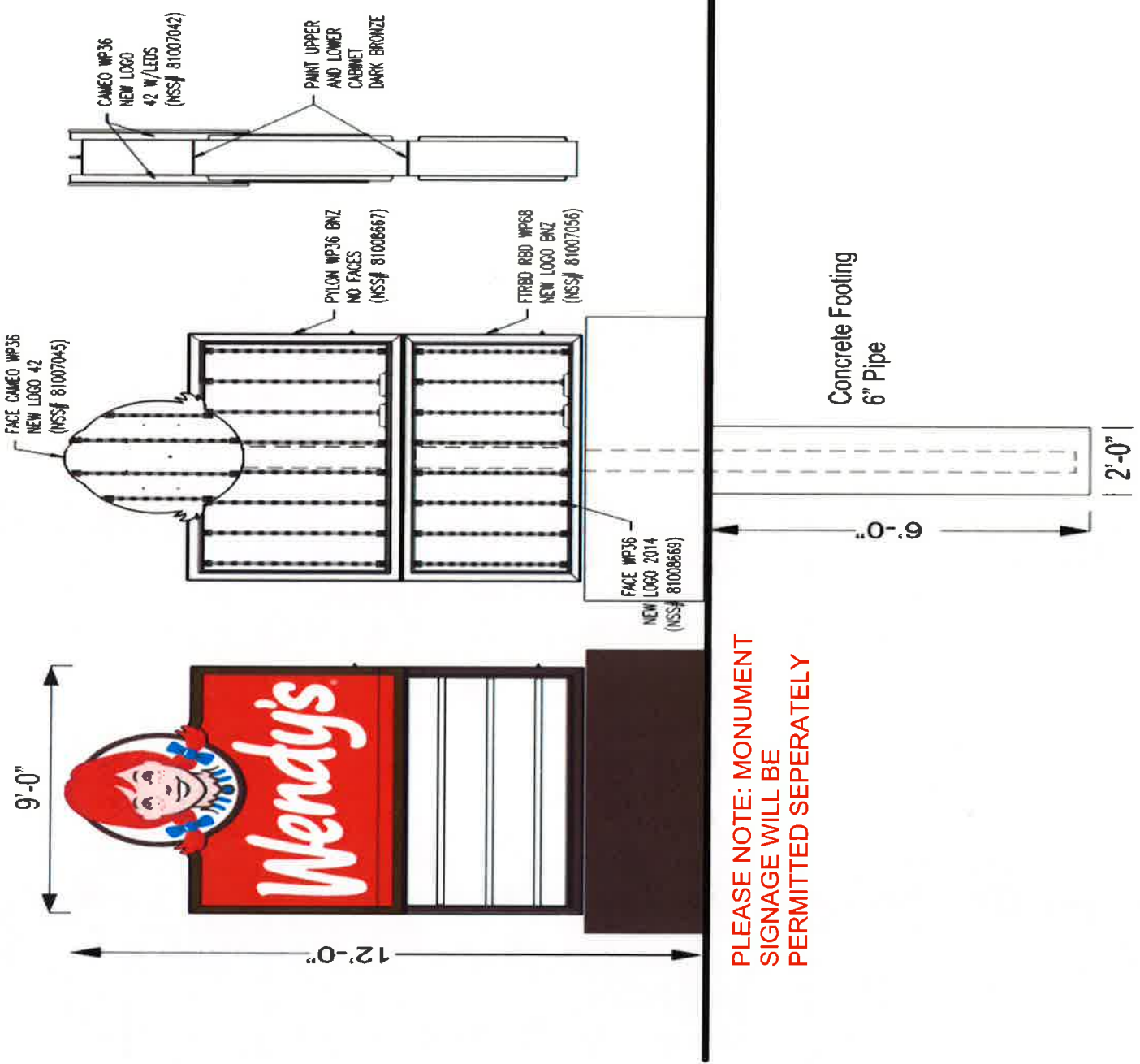
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20'-0" < 1' ≤ 30'-0"	10'-0"
30'-0" < 1' ≤ 50'-0"	14'-0"

COORDINATE DIM 'H' WITH ARCH/CIVIL. IF NOT AVAILABLE USE THE FOLLOWING:  
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 'H' = 4'-4" WHEN LOCATED IN GRASSY AREAS OR PROTECTED FROM CARS.

**EXHIBIT "B"**

**(Monument Signage Details)**

**MONUMENT SIGNAGE DETAILS**



NOTES:

CABINET:

12-1/2" EXTRUSION #1400 WITH "2-1/2" RETAINER" EXTRUSION #8184, EXTRUSION #8185

FACES:

.118" THERMOFORMED MUSTANG ACRYLIC 1/2" EMBOSSED, 1-3/4" PAN.

ELECTRICAL DETAILS:

GE 7100K LED'S  
 (2) 60W UNIVERSAL POWER SUPPLIES  
 TOTAL LOAD: 6.2 A @ 120/60HZ

**PLEASE NOTE: MONUMENT SIGNAGE WILL BE PERMITTED SEPERATELY**

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> July 13, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Administration	<b>Prepared By:</b> Richard Tramm

**Subject**

Discuss and consider candidates to be considered for Place 2, City of Montgomery Planning and Zoning Commission for the unexpired term expiring October 1, 2022.

**Recommendation**

Please consider the candidates that applied to be considered for Place 2, City of Montgomery Planning and Zoning Commission and select one to fill the unexpired term expiring October 1, 2022.

**Discussion**

On June 8, 2021, the City Council accepted the resignation of Keri May from the Planning and Zoning Commission, Place 2. The position was open for applications through July 7, 2021. There have been three applicants for the position, and their applications are attached. The applications have been reviewed to confirm they meet the minimum qualifications to serve in the position, which are to be a legal resident of the City and a legal voter in the City. The person appointed to replace Ms. May will serve the remainder of the uncompleted term, which runs through October 1, 2022.

The recommended format for this item is to allow each candidate 3-5 minutes to introduce themselves and describe why they would want to serve the City in this capacity. Following that, City Council would have the opportunity to ask questions of any or each of the candidates. Finally, City Council should vote on selecting one of the candidates for the position.

Please see the attached applications for additional information on each candidate. Each has been notified of the possible selection tonight and was offered the opportunity to attend and participate on this agenda item, if desired by City Council.

City Council may also choose to select one of the applicants or select none of the applicants and direct the City Administrator to continue to advertise for additional candidates.

**Approved By**

City Administrator	Richard Tramm	Date: July 8, 2021

### City of Montgomery Application for Consideration of Appointment

Name of Board/Commission/Committee: Planning and Zoning - Place 2

Name: Simpson William (Bill) Charles  
(Last) (First) (Middle)

Home Address: 150 Harley Drive  
(Street) (Home Phone No.)

Email Address: \_\_\_\_\_

Mailing Address: 150 Harley Drive Montgomery, TX 77354  
(Business Phone / Fax)

Employer: Engineered Roofing / Energy Coating Systems  
(Name/Address)

Occupation: Estimator / Project Manager

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

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

If So, How Long? \_\_\_\_\_ Name of Business \_\_\_\_\_

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

Education: 4 yrs College and life Learning experiences

Related Experience/Community Service: Previously served on Planning and Zoning Commission, Montgomery Area Chamber of Commerce. Volunteer for many community events

Areas of Interests Related to this Committee: Enjoy residence interaction and quality community growth.

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

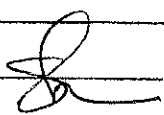
NONE at this time

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

Place 2 vacancy, to serve out term. Very important all city commissions, committees and council positions are full to maintain full perspective of thoughts and ideas and to serve properly without bias.

William Simpson  
Signature

07/01/2021  
Date



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





### City of Montgomery Application for Consideration of Appointment

Date of Application: 07.01.2021

Name of Board/Commission/Committee: Planning and Zoning Commission

Name: Daniel J.G. Gazda Voter Registration No. \_\_\_\_\_

Home Address: 167 Harley Drive, Montgomery, Texas 77356

Mailing Address: 167 Harley Drive, Montgomery, Texas 77356

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Occupation: Commercial Construction Project Manager

Education: Texas A&M Bachelors Degree in Construction Science & Minor in Urban Planning

Related Experience/Community Service: I have worked in construction for nearly 5 years while attending many Planning and Zone Committees' meetings in the cities that I have worked. While at A&M I also volunteered for College Station's Historical Marker Program and Project HOLD.

Areas of Interests Related to this Committee: I would like to see downtown improvements, increased outdoor recreation, and universal code enforcement.

List Membership on any other Governmental Board/Commission/Committee: N/A

Please provide a brief narrative outlining your reasons for seeking appointment to this Board/Commission.

I am not originally from Montgomery, but have fallen in love with the town since I moved my family here. I would like to be active in shaping the future of our city that my children will grow up in. I believe my education and experience in construction and urban planning will make me a strong candidate.

*Daniel J.G. Gazda*  
Signature

07.01.2021  
Date

Some (not all) Boards/Commissions/Committees require members to reside in the City of Montgomery and be a current registered voter. Please return the completed form to the City Secretary's Office for processing either via email at [shensley@ci.montgomery.tx.us](mailto:shensley@ci.montgomery.tx.us) or via mail 101 Old Plantersville Road, Montgomery, Texas 77316. **Please note when this is filed with City Hall the information included will become public information that may be disclosed per the Texas Public Information Act. City Council will receive this information And no attachments will be retained or forwarded.**



City of Montgomery Application for Consideration of Appointment

Date of Application: 7/7/2021

Name of Board/Commission/Committee: Montgomery Planning + Zoning Commission

Name: Charles Rollins Voter Registration No.

Home Address: 106 Kings Ln Montgomery, TX 77356

Mailing Address: Same as Above

Phone Number: Email:

Occupation: Self Employed -> Business Owner of Multiple Successful Businesses

Education: University of Houston -> Bachelor's in Business Administration
-> Minor Degree in Construction Management

Related Experience/Community Service:

Experience in Numerous Facets of Industrial/Commercial/Residential Construction
Experience Managing Large Teams and Navigating Political Minefields
Experience in Real Estate Investing and Development.

Areas of Interests Related to this Committee: All types of Construction.

List Membership on any other Governmental Board/Commission/Committee: N/A

Please provide a brief narrative outlining your reasons for seeking appointment to this Board/Commission.

- Preservation of City of Montgomery History/Character/Beauty/Natural Resources/Property Values
- Representation of Local Taxpayers/Stakeholders Interests and Goals
- Provide a Community Service Utilizing my Relevant and Unique Education/Experience
- Contribute to Efficiently Manage/Promote Sustainable City Growth with a Thoughtful Forward Thinking App

Signature: [Handwritten Signature]

Date: 7/7/2021

Some (not all) Boards/Commissions/Committees require members to reside in the City of Montgomery and be a current registered voter. Please return the completed form to the City Secretary's Office for processing either via email at shensley@ci.montgomery.tx.us or via mail 101 Old Plantersville Road, Montgomery, Texas 77316. Please note when this is filed with City Hall the information included will become public information that may be disclosed per the Texas Public Information Act. City Council will receive this information And no attachments will be retained or forwarded.

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> July 13, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Administration	<b>Prepared By:</b> Richard Tramm

**Subject**

Adoption of an Ordinance to Lower the Speed Limit from 55 mph to 45 mph during construction from a point 0.108 miles west of FM 2854 to Stewart Creek Road.

**Recommendation**

Consider adoption of the ordinance at the request of TXDOT.

**Discussion**

Texas Department of Transportation has requested the City of Montgomery take action to reduce the speed limit on a portion of State Highway 105 in the City during upcoming construction. Following construction, the speed limit would return to its previous speed limit.

The attachments include a recommended ordinance supplied by TXDOT, s memo from the City Engineer, except of City road map showing the affected area, and a cover sheet showing the full TXDOT construction project area.

**Approved By**

City Administrator	Richard Tramm	Date: July 8, 2021

5/5/2021 9:33:06 AM JPRODR132 p:\txdot\projectwise\line.com\TXDOT3\Documents\12 - HOU\Design Projects\033803089\4 - Design\Master Design Files\General\Title Sheet\001 SH 105 TIT

SEE SHEET 2 FOR INDEX OF SHEETS

# STATE OF TEXAS DEPARTMENT OF TRANSPORTATION

## PLANS OF PROPOSED STATE HIGHWAY IMPROVEMENT

PROJECT NO.: F 2021 (659)  
CSJ 0338-03-089

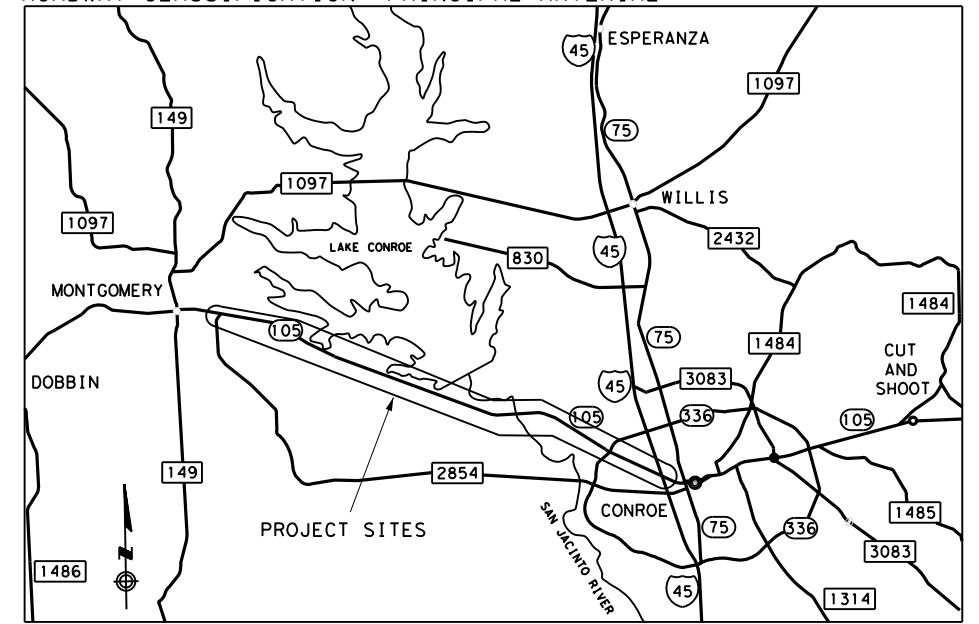
MONTGOMERY COUNTY  
LIMITS: SH 105 FROM FM 2854 TO IH 45

NET LENGTH OF PROJECT= 13.576 MILES  
FOR THE CONSTRUCTION OF SAFETY IMPROVEMENTS PROJECT  
CONSISTING OF INSTALLING RAISED MEDIAN BARRIER,  
ACCESS MANAGEMENT, PAVEMENT WIDENING,  
TRAFFIC SIGNALS AND PAVEMENT MARKINGS

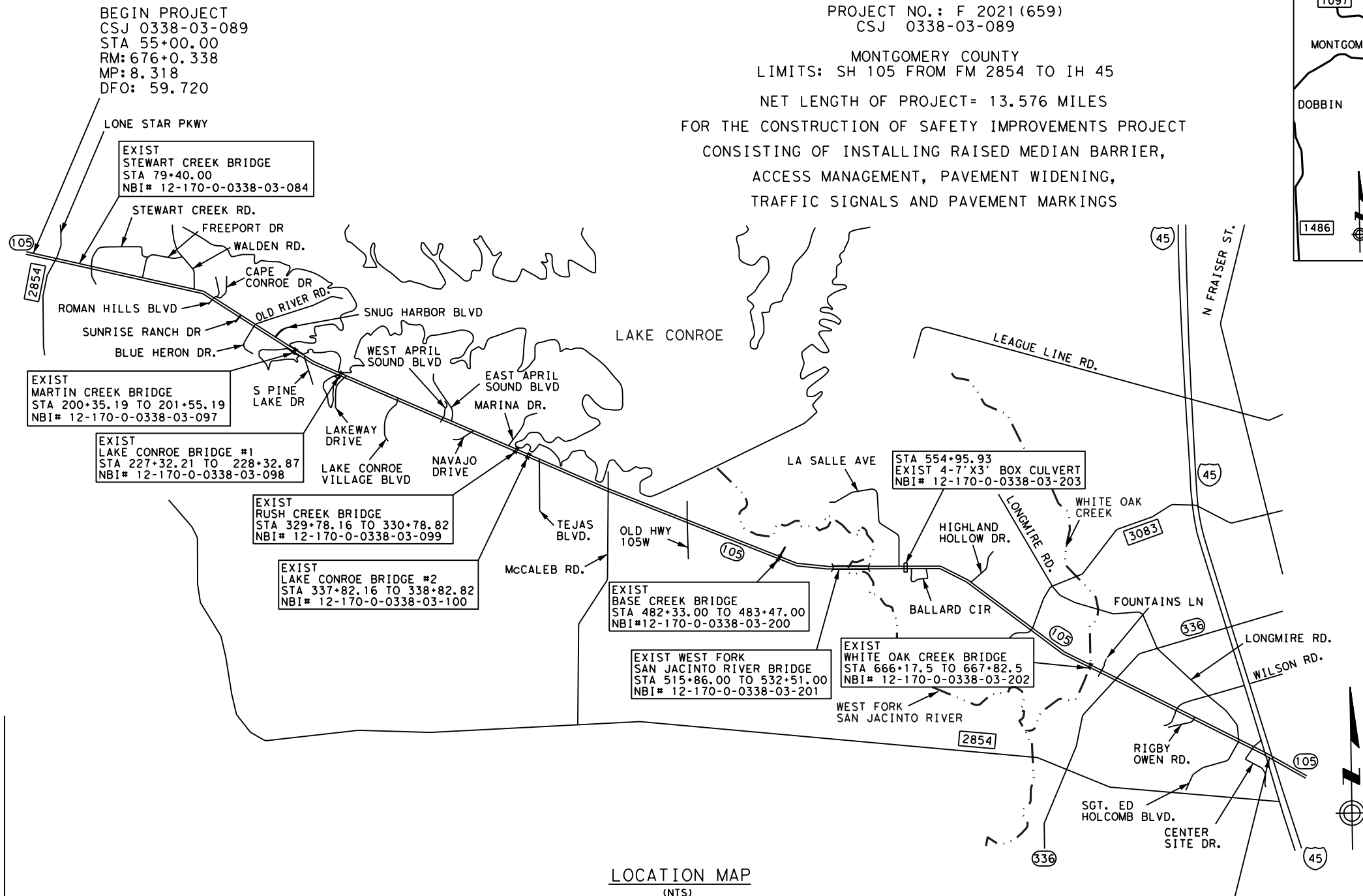
TRAFFIC COUNT INFO:  
ADT-33,700 (2021)  
ADT-47,000 (2041)  
DESIGN SPEED: 35 MPH (Urban)

DESIGN	BY: NO.	PROJECT NO.	Item 4.
GRAPHICS	6	F 2021 (659)	
CHECKED	STATE	STATE DIST.	
CHECKED	TEXAS	12	MONTGOMERY
CHECKED	CONT.	SECT.	JOB
	0338	03	089
			SH105

ROADWAY CLASSIFICATION: PRINCIPAL ARTERIAL



VICINITY MAP  
(NTS)



LOCATION MAP  
(NTS)

END PROJECT  
CSJ 0338-03-089  
STA 771+79.33  
RM: 690+0.286  
MP: 21.894  
DFO: 66.296

RR CROSSINGS : NONE  
EQUATIONS : NONE  
EXCEPTIONS : NONE

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SPECIFICATIONS ADOPTED BY THE TEXAS DEPARTMENT OF TRANSPORTATION, NOVEMBER 1, 2014 AND SPECIFICATION ITEMS LISTED AND DATED AS FOLLOWS, SHALL GOVERN ON THIS PROJECT: REQUIRED CONTRACT PROVISION, FEDERAL-AID CONSTRUCTION CONTRACTS (FORM FHWA-1273, MAY 2012)

COUNTY: MONTGOMERY PROJ. NO.: F 2021 (659)  
HWY. NO.: SH 105 LETTING DATE: JULY 2021  
DATE ACCEPTED:

**TEXAS DEPARTMENT OF TRANSPORTATION**

SUBMITTED FOR LETTING:

SUPERVISING DESIGN ENGINEER:

APPROVED FOR LETTING:

DISTRICT ENGINEER:



**Current speed limit = 55 mph**

**Proposed speed limit (During Construction) = 45 mph**



**Upon Completion of Construction Speed Limit = 55 mph**



Service Layer Credits: Jones|Carter, Inc. Jones & Carter, Inc.  
 Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri

1 inch equals 376 feet



- LEGEND**
-  City Limit
  -  City ETJ
  - Road Label



Date: 6/16/2021

## ORDINANCE NUMBER XXX-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF SECTIONS 545.356 AND 545.353 OF THE TEXAS TRANSPORTATION CODE, ON CERTAIN STREETS AND HIGHWAYS OR PARTS THEREOF WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY, AS SET OUT IN THIS ORDINANCE, TO WIT: ESTABLISHING A CONSTRUCTION SPEED ZONE ON SH 105 FROM 0.108 MILES WEST OF FM 2854 TO STEWART CREEK ROAD, A DISTANCE OF APPROXIMATELY 0.262 MILES TO REDUCE THE SPEED LIMIT TO 45 MILES PER HOUR; AUTHORIZING THE INSTALLATION OF SIGNAGE IN ACCORDANCE WITH THIS ORDINANCE; PROVIDING FOR THE ALTERATION OF THE PRIMA FACIE SPEED LIMIT OF SH 105 TO INCREASE TO 55 MILES PER HOUR UPON COMPLETION OF CONSTRUCTION; PROVIDING A PENALTY NOT TO EXCEED \$400.00 FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the Texas Department of Transportation (TxDOT) has made it known to the City of Montgomery that operations will begin soon to upgrade SH 105, and such construction activity along SH 105 will create road conditions that require that the maximum speed along such roadway be reduced; and

WHEREAS, pursuant to Section 545.356 of the Texas Transportation Code, the governing body of the City has the same authority as the Texas Transportation Commission to alter prima facie speed limits from the result of an engineering and traffic investigation for an officially designated or marked highway of the state highway system when the highway or part of the highway is under repair, construction or maintenance, with said reasonable and safe prima facie speed limit thereat or thereon being established by the passage of an ordinance and becoming effective when appropriate signs giving notice thereof are erected at such intersection or other place or part of the street or highway; and

WHEREAS, Section 545.353(e) of the Texas Transportation Code provides that the Texas Transportation Commission shall follow the "Procedure for Establishing Speed Zones" as adopted by said Commission in conducting the engineering and traffic investigations related to altering prima facie speed limits; and

WHEREAS, the "Procedures for Establishing Speed Zones" adopted by the Texas Transportation Commission provides that engineering and traffic investigations are not required for establishing construction speed zones; and

WHEREAS, the Texas Department of Transportation, has submitted a request to establish construction speed zones on SH 105; and

WHEREAS, the City Council of the City of Montgomery, Texas, finds that establishment of the requested construction zones is in the best interest of the health, safety and welfare of the traveling public and the persons working along SH 105.

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

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Pursuant to the provisions of Sections 545.356 and 545.353, Texas Transportation Code, the City Council has determined that the following prima facie speed limits hereafter indicated for vehicles upon such roads are hereby determined and declared to be reasonable and safe; and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named street(s) and highway(s), or parts thereof, described as follows:

“Along SH 105 from 0.108 miles west of FM 2854 to Stewart Creek Road, a distance of approximately 0.262 miles, the speed limit shall be 45 miles per hour.”

Section 3. Upon the completion of the construction activity on the aforementioned section of SH 105, the prima facie speed limit for vehicles traveling upon this section of the main lanes of SH 105 is determined and declared to be 55 miles per hour.

Section 4. The City Administrator or his/her designated representative is hereby authorized and directed to place or cause to be placed appropriate traffic control devices to effectuate the establishment of the maximum prima facie speed limit as herein provided.

Section 5. Any vehicle traveling at a speed in excess of the maximum prima facie speed limit herein established for the designated roads shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful. No person shall drive a vehicle at a speed in excess of that which is reasonable and prudent under the circumstances existing.

Section 6. Any person intentionally, knowingly, recklessly, or with criminal negligence violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than Four Hundred Dollars (\$400.00).

Section 7. 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 8. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this ordinance 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 such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 9. This Ordinance shall be in full force and effect from and after its date of passage, in accordance with the law.

**PASSED AND APPROVED** on the first reading, this XXth day of XXXXX, 2021.

**PASSED AND APPROVED** on the second reading this XXth day of XXXXX, 2021.

**PASSED, APPROVED, AND ADOPTED** on the XXX and final reading this XXth day of XXXXX, 2021.

ATTEST:

APPROVED:

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City Secretary

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Mayor





July 7, 2021

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

Re: Proposed TxDOT Speed Zone Ordinances  
City of Montgomery

Dear Mayor and Council:

It is our understanding that TxDOT is proposing speed changes along both FM 149 and SH-105. A summary of the proposed changes is as follows:

- FM 149: The school zone in front of Montgomery Elementary is proposed to change from 35 MPH to 25 MPH when flashing.
- SH-105: The speed limit is proposed to be reduced from 55 MPH to 45 MPH from Stewart Creek Road to approximately 550 feet east of Lone Star Parkway for the duration of upcoming construction activities. The speed is proposed to return to 55 MPH upon completion of construction activities.

We offer no objections to the modifications to the speed limits as presented.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Chris Roznovsky, PE  
Engineer for the City

CVR/kmv

Z:\00574 (City of Montgomery)\\_900 General Consultation\Correspondence\Letters\2021.07.07 MEMO to Council RE TxDOT Speed Limits Ordinances.docx

Enclosures: N/A

Cc (via email): Mr. Richard Tramm – City of Montgomery, City Administrator  
Ms. Susan Hensley – City of Montgomery, City Secretary  
Mr. Dave McCorquodale – City of Montgomery, Director of Planning & Development  
Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> July 13, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Administration	<b>Prepared By:</b> Richard Tramm

**Subject**  
Adoption of an Ordinance to Lower the Speed Limit along FM 149 south of Flagship Blvd.

**Recommendation**  
Consider adoption of the ordinance at the request of TXDOT.

**Discussion**  
Texas Department of Transportation has requested the City of Montgomery take action to reduce the speed limit on a portion of FM 149 in the City. This would be a permanent change.  
  
The attachments include correspondence from TXDOT on this item, a recommended ordinance supplied by TXDOT with a comparison to the current ordinance, memo from the City Engineer, and an excerpt of City road map showing the affected area.  
  
MISD was contact for comments related to this item as it contains a school zone speed limit change with them having an elementary school and other facilities in the area. Their staff supports the changes as presented. City staff has no objection to the changes as presented.



<b>Approved By</b>		
City Administrator	Richard Tramm	Date: July 8, 2021



Service Layer Credits: Jones|Carter, Inc.  
 Jones & Carter, Inc.  
 Sources: Esri, HERE, Garmin, Intermap,  
 increment P Corp., GEBCO, USGS, FAO,  
 NPS, NRCAN, GeBCo, IGN, Kadaster NL,  
 Ordnance Survey, EsriJapan, METI, Esri

1 inch equals 752 feet



- LEGEND**
-  City Limit
  -  City ETJ
  - Road Label



Date: 6/16/2021





P.O. BOX 1386 | HOUSTON, TEXAS 77251-1386 | 713.802.5000 | WWW.TXDOT.GOV

June 2, 2021

The Honorable Sara Countryman  
Mayor  
City of Montgomery  
City Hall  
101 Old Plantersville Rd.  
Montgomery, Texas 77316

RE: Request for City Speed Zone Ordinance – FM 149 – City of Montgomery – Montgomery County

Dear Mayor Countryman:

Our office has completed a Speed Zone Study along FM 149 within the City of Montgomery.

Attached you will find a Speed Zone Strip Map numbered 5703 F and a prepared Speed Zone Ordinance suggested by the Texas League of Municipalities containing the recommended zone along FM 149. If you concur with the recommended zone please furnish this office with a copy of your executed ordinance.

Should you have questions please contact Mr. Gaurang Pandit, Transportation Engineer Supervisor at (713) 802-5856.

Sincerely,

Ugonna U. Ughanze, P.E.  
Director of Transportation Operations  
Houston District

**Attachments**

cc: Susan Hensley – City Secretary – City of Montgomery  
Gaurang S. Pandit, P.E

OUR VALUES: *People • Accountability • Trust • Honesty*  
OUR MISSION: *Connecting You With Texas*

An Equal Opportunity Employer

SPEED ZONE ORDINANCE # \_\_\_\_\_

AN ORDINANCE ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF § 545.356, TEXAS TRANSPORTATION CODE, UPON THE BASIS OF AN ENGINEERING AND TRAFFIC INVESTIGATION, UPON CERTAIN STREETS AND HIGHWAYS, OF PARTS THEREOF, WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY, AS SET OUT IN THIS ORDINANCE; AND PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$200 FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, § 545.356, Vernon's Texas Civil Statutes, provides that whenever the governing body of the City shall determine upon the basis of an engineering and traffic investigation that any prima facie speed therein set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a street of highway within the City, taking into consideration the width and condition of the pavement and other circumstances on such portion of said street or highway, as well as the usual traffic thereon, said governing body may determine and declare a reasonable and safe prima facie speed limit thereat or thereon by the passage of an Ordinance, which shall be effective when appropriate signs giving notice thereof are erected at such intersection or other place or part of the street of highway;

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

Section 1. Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of § 545.356, Texas Transportation Code, the following prima facie speed limits hereafter indicated for vehicles are hereby determined and declared to be reasonable and safe; and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

Along FM 149 from 220 feet south of Flagship Blvd. to a point 2232 feet south of Flagship Blvd, a distance of approximately 0.400 mile, 40 MPH.

Along FM 149 from a point 2232 feet south of Flagship Blvd. to the southern city limit, a distance of approximately 0.203 mile, 50 MPH.

Along FM 149 from a point 633 feet south of Flagship Blvd. to a point 2217 feet south of Flagship Blvd. a distance of approximately 0.300 mile, 25 MPH WHEN FLASHING.

Section 2. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than Two Hundred Dollars (\$200).

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2021

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor



SPEED ZONE ORDINANCE #2008-24

AN ORDINANCE ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF § 545.356, TEXAS TRANSPORTATION CODE, UPON THE BASIS OF AN ENGINEERING AND TRAFFIC INVESTIGATION, UPON CERTAIN STREETS AND HIGHWAYS, OF PARTS THEREOF, WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY, AS SET OUT IN THIS ORDINANCE; AND PROVIDING A PENALTY OF A FINE NOT TO EXCEED \$200 FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, § 545.356, Vernon's Texas Civil Statutes, provides that whenever the governing body of the City shall determine upon the basis of an engineering and traffic investigation that any prima facie speed therein set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a street of highway within the City, taking into consideration the width and condition of the pavement and other circumstances on such portion of said street or highway, as well as the usual traffic thereon, said governing body may determine and declare a reasonable and safe prima facie speed limit thereat or thereon by the passage of an Ordinance, which shall by effective when appropriate signs giving notice thereof are erected at such intersection or other place or part of the street of highway;

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

Section 1. Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of § 545.356, Texas Transportation Code, the following prima facie speed limits hereafter indicated for vehicles are hereby determined and declared to be reasonable and safe; and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

Along FM 149 from the northern limits of the City of Montgomery to the north of Carwile Creek, a distance of approximately 0.575 mile, 40 MPH.

Along FM 149 from north of Carwile Creek to 220 feet south of Flagship Blvd, a distance of approximately 0.950 mile, 30 MPH.

Along FM 149 from 220 feet south of Flagship Blvd to a point <sup>2332</sup>~~3646~~ feet south of Flagship Blvd, a distance of approximately ~~0.342~~ mile, 40 MPH.  
0.400



Along FM 149 from a point ~~3646~~<sup>2323</sup> feet south of Flagship Blvd to the southern city limit, a distance of approximately ~~0.528~~<sup>0.203</sup> mile, 50 MPH.

Along FM 149 from a point ~~812~~<sup>633</sup> feet south of Flagship Blvd to a point ~~3300~~<sup>2217</sup> feet south of Flagship Blvd, a distance of approximately 0.300 mile, ~~35~~<sup>25</sup> MPH WHEN FLASHING.

Section 2. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than Two Hundred Dollars (200)

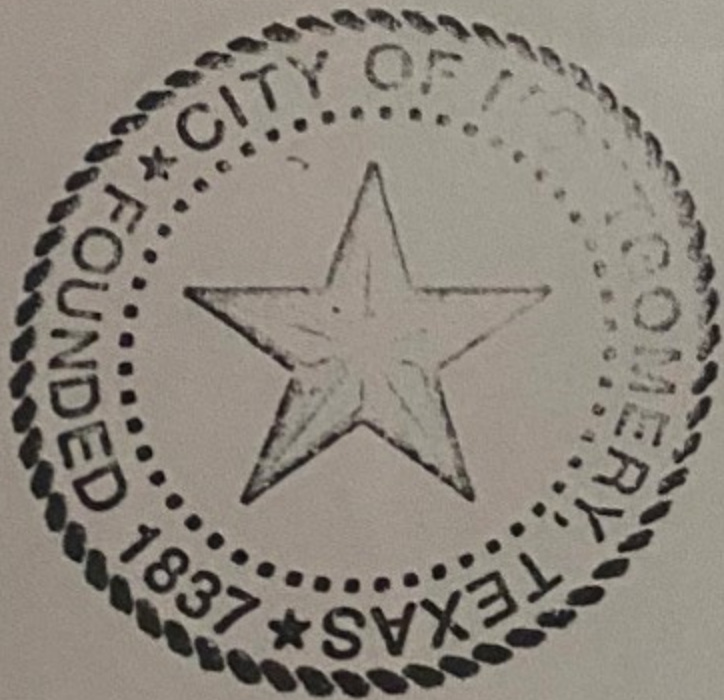
PASSED AND APPROVED THIS 16th day of DEC, 2008

ATTEST:

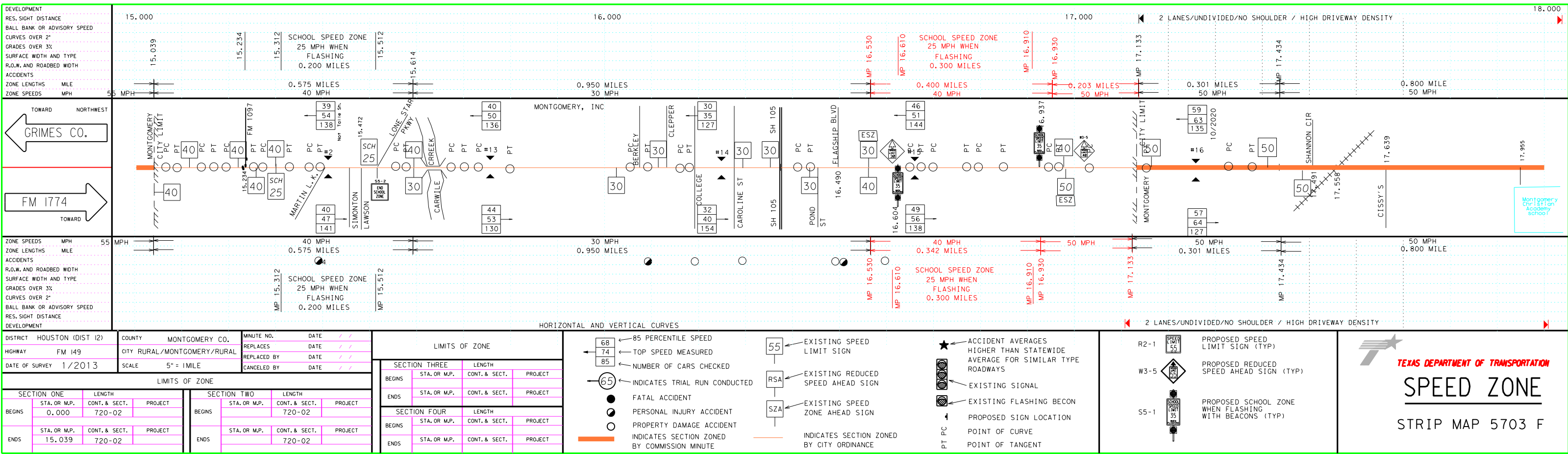
APPROVED

Carol Langley  
City Secretary

[Signature]  
Mayor







DEVELOPMENT

RES. SIGHT DISTANCE

BALL BANK OR ADVISORY SPEED

CURVES OVER 2"

GRADES OVER 3%

SURFACE WIDTH AND TYPE

R.O.W. AND ROADBED WIDTH

ACCIDENTS

ZONE LENGTHS MILE

ZONE SPEEDS MPH

DEVELOPMENT

RES. SIGHT DISTANCE

BALL BANK OR ADVISORY SPEED

CURVES OVER 2"

GRADES OVER 3%

SURFACE WIDTH AND TYPE

R.O.W. AND ROADBED WIDTH

ACCIDENTS

ZONE LENGTHS MILE

ZONE SPEEDS MPH

DISTRICT	HOUSTON (DIST 12)	COUNTY	MONTGOMERY CO.	MINUTE NO.	DATE
HIGHWAY	FM 149	CITY	RURAL/MONTGOMERY/RURAL	REPLACES	DATE
DATE OF SURVEY	1/2013	SCALE	5" = 1 MILE	REPLACED BY	DATE
				CANCELED BY	DATE

LIMITS OF ZONE					
SECTION ONE	LENGTH				
BEGINS	STA. OR M.P.	CONT. & SECT.	PROJECT		
BEGINS	0.000	720-02			
ENDS	15.039	720-02			

LIMITS OF ZONE					
SECTION TWO	LENGTH				
BEGINS	STA. OR M.P.	CONT. & SECT.	PROJECT		
BEGINS	720-02				
ENDS		720-02			

LIMITS OF ZONE					
SECTION THREE	LENGTH				
BEGINS	STA. OR M.P.	CONT. & SECT.	PROJECT		
ENDS					

LIMITS OF ZONE					
SECTION FOUR	LENGTH				
BEGINS	STA. OR M.P.	CONT. & SECT.	PROJECT		
ENDS					

HORIZONTAL AND VERTICAL CURVES

- 68 ← 85 PERCENTILE SPEED
- 74 ← TOP SPEED MEASURED
- 85 ← NUMBER OF CARS CHECKED
- 65 ← INDICATES TRIAL RUN CONDUCTED
- FATAL ACCIDENT
- PERSONAL INJURY ACCIDENT
- PROPERTY DAMAGE ACCIDENT
- INDICATES SECTION ZONED BY COMMISSION MINUTE
- 55 ← EXISTING SPEED LIMIT SIGN
- RSA ← EXISTING REDUCED SPEED AHEAD SIGN
- SZA ← EXISTING SPEED ZONE AHEAD SIGN
- ★ ACCIDENT AVERAGES HIGHER THAN STATEWIDE AVERAGE FOR SIMILAR TYPE ROADWAYS
- EXISTING SIGNAL
- EXISTING FLASHING BECON
- PROPOSED SIGN LOCATION
- P.T. PC POINT OF CURVE
- P.T. PT POINT OF TANGENT

- R2-1 PROPOSED SPEED LIMIT SIGN (TYP)
- W3-5 PROPOSED REDUCED SPEED AHEAD SIGN (TYP)
- S5-1 PROPOSED SCHOOL ZONE WHEN FLASHING WITH BEACONS (TYP)

TEXAS DEPARTMENT OF TRANSPORTATION

# SPEED ZONE

STRIP MAP 5703 F

\$FILE\$ \$DATE\$ \$TIME\$





July 7, 2021

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

Re: Proposed TxDOT Speed Zone Ordinances  
City of Montgomery

Dear Mayor and Council:

It is our understanding that TxDOT is proposing speed changes along both FM 149 and SH-105. A summary of the proposed changes is as follows:

- FM 149: The school zone in front of Montgomery Elementary is proposed to change from 35 MPH to 25 MPH when flashing.
- SH-105: The speed limit is proposed to be reduced from 55 MPH to 45 MPH from Stewart Creek Road to approximately 550 feet east of Lone Star Parkway for the duration of upcoming construction activities. The speed is proposed to return to 55 MPH upon completion of construction activities.

We offer no objections to the modifications to the speed limits as presented.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Chris Roznovsky, PE  
Engineer for the City

CVR/kmv

Z:\00574 (City of Montgomery)\\_900 General Consultation\Correspondence\Letters\2021.07.07 MEMO to Council RE TxDOT Speed Limits Ordinances.docx

Enclosures: N/A

Cc (via email): Mr. Richard Tramm – City of Montgomery, City Administrator  
Ms. Susan Hensley – City of Montgomery, City Secretary  
Mr. Dave McCorquodale – City of Montgomery, Director of Planning & Development  
Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> July 13, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Administration	<b>Prepared By:</b> Richard Tramm

**Subject**

Discuss and consider proposed amendments to Chapter 64 of the City Code of Ordinances related to permitting and operations of vendors in the City of Montgomery.

**Recommendation**

Consider the proposed amendments to Chapter 64 for approval.

**Discussion**

During the last amendment to Chapter 64 regarding Street Festivals it was discussed that more changes would be needed to bring the ordinance to bring it fully up to date with changes in the world since it was originally approved. The attached proposed amendments were prepared by the City Attorney in conjunction with comments and questions from staff. The proposed amendments include adding and updating definitions, adding a requirement to document the vendor having a state sales tax ID, acknowledging that operation of certain businesses operating under this Chapter are not included in the Cities Permitted Use Table and identifying the path for these to legally operate with a Special Use Permit so they will not be in conflict with City Ordinances.

<b>Approved By</b>		
City Administrator	Richard Tramm	Date: July 9, 2021

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

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CITY ORDINANCE NO. 1996-3, DATED JUNE 4, 1996, BY AMENDING CHAPTER 64, “PEDDLERS, SOLICITORS AND VENDORS” OF THE CITY CODE OF ORDINANCES; PROVIDING FOR A PENALTY FOR A VIOLATION OF THIS ORDINANCE; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SAVING AND SEVERABILITY CLAUSES; PROVIDING A TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION.**

**WHEREAS**, the City Council of the City of Montgomery, Texas (“Council”) has investigated and determined that Section 64-2 “Definitions,” and Section 64-33 “Special requirements for mobile food units and roadside food vendors,” of the City of Montgomery, Texas (“City”) should be amended; and

**WHEREAS**, the City has complied with all notices and public hearings as required by law; and

**WHEREAS**, the City Council finds that it will be advantageous, beneficial and in the best interest of the citizens of the City to amend Chapter 64 “Peddlers, Solicitors, and Vendors” of the City’s Code of Ordinances as set forth below.

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

**Section 1.** Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**Section 2.** “Mobile food unit” and “Roadside food vendor” of Section 64-2 entitled “Definitions” of the City Code of Ordinances, are hereby amended, to reads as follows:

**ADDITIONS                      DELETIONS**

*“Mobile food unit means any business that sells edible goods from a stationary location within the City. The term "mobile food unit" shall include, but not be limited to:*

*(1) Mobile food trucks. A mobile food truck is a self-contained motorized unit selling items defined as edible goods.*

*(2) Concession carts. A concession cart is a self-contained unit that is moved by non-motorized means.*

*(3) Concession trailers. A concession trailer is a self-contained unit that is pulled by a motorized unit and has no power to move on its own.*

~~*Roadside food vender has the same meaning as assigned to that term by rules adopted by the state board of health under the Texas Food, Drug and Cosmetic Act, V.T.C.A., Health and Safety Code ch. 431.001.*~~

Sec. 64-33 (d) - Special requirements for mobile food units and roadside food vendors of the City Code of Ordinances, is hereby amended, such that it reads as follows:

~~*“Sec. 64-33 (d) - Special requirements for mobile food units and roadside food vendors of the City Code of Ordinances, is hereby amended, such that it reads as follows:*~~

- d) “Each permit for operation of a mobile food unit shall be conditioned upon continuous compliance with the following:*
- 1) Mobile food units in the Historic Downtown District require a special use permit;*
  - 2) Each driver or operator of a mobile food unit shall maintain financial responsibility as required by the Texas Motor Vehicle Safety Responsibility Act, V.T.C.A., Transportation Code ch. 601;*
  - 3) No sales shall be made on any street or roadway where posted speed limits are in excess of 30 miles per hour;*
  - 4) No mobile food unit shall be parked within 50 feet of any street corner or crosswalk;*
  - 5) No person shall sell or solicit sales of merchandise from a mobile food unit within 1,000 feet of any public or private school between the hours of 9:00 a.m. and 5:00 p.m.;*
  - 6) No person shall sell or solicit sales of merchandise from a mobile food unit except between the hours of 9:00 a.m. and 7:00 p.m.; and*
  - 7) The permit issued pursuant to this article shall at all times be conspicuously posted upon the mobile food unit.”*

**Section 3.** This amendment to Ordinance No. 1996-3, dated June 4, 1996, as codified in Section 64-2 and Section 64-33 of the Code of Ordinances of the City of Montgomery, Montgomery County, Texas, shall prevail and all other Ordinances in conflict are hereby repealed to the extent of any conflict.

**Section 4.** If any section, subsection, sentence, clause, provision or part of this Ordinance shall be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

**Section 5.** 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 6.** This Ordinance shall take effect and be in force after its publication as provided by law.

PASSED AND APPROVED by the City Council of the City of Montgomery, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_.

THE CITY OF MONTGOMERY, TEXAS

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

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

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Alan P. Petrov, City Attorney