

**Notice of City Council Meeting  
AGENDA**

**May 11, 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 Meeting scheduled for **6:00 PM on Tuesday, May 11, 2021**, at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas via Zoom Teleconferencing.

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. Videoconferencing capabilities will be utilized to allow individuals to address the City Council. 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 May 11, 2021.

Members of the public are entitled to participate remotely via Zoom Teleconferencing. Citizens may join the Zoom Meeting by logging on: <https://us02web.zoom.us/j/81961584620> and using **Meeting ID: 819 6158 4620**. They may also join by calling (346) 248-7799 and entering the **Meeting ID: 819 6158 4620**.

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 the following day. ***Notice - any person(s) using profane, abusive or threatening language may result in them being removed from the Teleconference Meeting.***

**INVOCATION**

**CALL TO ORDER**

**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 minutes of the April 27, 2021, Regular Meeting.

**CONSIDERATION AND POSSIBLE ACTION:**

- 2.** Consideration and possible action to adopt the following Ordinance: AN ORDINANCE CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF MONTGOMERY GENERAL ELECTION HELD ON MAY 1, 2021, FOR THE PURPOSE OF ELECTING THREE (3) CITY COUNCIL MEMBERS, PLACES 1, 3 AND 5, TO THE CITY COUNCIL FOR THE CITY OF MONTGOMERY, TEXAS.
- 3.** Mayor Countryman will administer the Oath of Office to the following duly elected officials from the May 1, 2021, City of Montgomery General Election: Carol Langley, City Council Place 1, T.J. Wilkerson, City Council Place 3, and Byron Sanford, City Council Place 5.
- 4.** Recognition of outgoing Council Member Tom Cronin.

- 5.** Consideration and possible action to elect the Mayor Pro-Tem for the term of one (1) year as provided by Texas Local Government Code § 22.037(b).
- 6.** Consideration and possible action to appoint a replacement position to the Montgomery Economic Development Corporation (MEDC) Board of Directors.
- 7.** Consideration and possible action regarding City Engineer.
- 8.** Consideration and possible action on setting Exemptions for use on 2021 Notices of Appraised Value and 2021 Assessment Rolls.
- 9.** Consideration and possible action regarding adoption of the following Ordinance: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 86, TRAFFIC AND VEHICLES, ARTICLE VII, TOWING SERVICES, SECTION 86-236, DEFINITIONS, AND SECTION 86-237, TOWING SERVICE ROTATION LIST GUIDELINES, TO UPDATE THE CITY'S ROTATION LIST GUIDELINES FOR NON-CONSENT TOWS AND THE DEFINITIONS RELATED TO SAME; PROVIDING A SEVERANCE CLAUSE AND TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**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.

- 10.** Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, in accordance with the authority contained in the following: a) Section 551.071 (consultation with attorney) – Liquidated damages for Lift Station No. 1 Contract.
- 11.** Reconvene into Open Session.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

- 12.** Consideration and possible action(s), if necessary, on matter(s) deliberated in Closed Executive Session.

**COUNCIL INQUIRY:**

Pursuant to Texas Government Code Sect. 551.042 the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to 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 May 7, 2021 at 1:50 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****April 27, 2021****MONTGOMERY CITY COUNCIL****CALL TO ORDER**

Mayor Sara Countryman declared a quorum was present and called the meeting to order at 6:00 p.m.

Present:	Sara Countryman	Mayor
	Carol Langley	City Council Place # 1
	Kevin Lacy	City Council Place # 2
	Julie Davis	City Council Place # 4
	Tom Cronin	City Council Place # 5

Absent:	T.J. Wilkerson	City Council Place #3
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Also Present:	Richard Tramm	City Administrator
	Dave McCorquodale	Assistant City Administrator
	Susan Hensley	City Secretary
	Alan Petrov	City Attorney

**INVOCATION**

Carol Langley 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

1. Introduction of new Lion's Club President Patti Dugan.

Mr. Kevin Smith, President of the Lion's Club said Ms. Patti Dugan has started a new job but she is still a dedicated member of their Society. Mr. Smith stated he is the third President of the Montgomery Lion's Club and Ms. Dugan will be the President of the Lion's Club next year.

Mr. Smith said the Lion's Club is international and is the largest service organization in the world, over 104 years old. Mr. Smith said they claim 102 million Lions worldwide from over 140 countries. Mr. Smith said when there is a disaster, the Lions are normally the second group there as the first group is the victims themselves. Mr. Smith said in Texas they have 16 districts and in their district, there are 54 independent clubs. Mr. Smith said the way the Lions work is from the bottom up and it is about local community involvement. Mr. Smith said in the Lake Conroe area they have nine separate clubs and when there is a need, there is a Lion. Mr. Smith said all Lion's Clubs are independent of each other but they fall under an umbrella of resources, a support umbrella called the District. Mr. Smith said the Montgomery Lion's Club serves in the Montgomery area. Mr. Smith said before his time the Montgomery Lion's Club brought services to the town, sponsored and participated in seasonal celebrations like Easter egg hunts, Christmas parades, Fourth of July parades, and flag parades.

Mr. Smith said in the 1920's Helen Keller enlisted the Lions to be her knights on the war of blindness. Mr. Smith said to this day they collect and recycle eyeglasses and take them to their recycle center in Conroe. Mr. Smith said once restored, the eyeglasses are distributed locally, statewide, and also sent overseas on missions; however, the first call is local. Mr. Smith said in the past they have done 30-40 sets of eyeglasses a year.

Mr. Smith said in cooperation with the City and the County and the Local Chamber, they found many additional avenues of service for the community.

Mr. Smith said they have a proven legal program at Montgomery High School where they laid the groundwork for the Lake Creek Leo Club which was just chartered last week. Mr. Smith said they fund between six and ten \$1,000 scholarships a year. Mr. Smith said they started a

couple of years ago not only with the four-year institutions, but they also opened up 2-year institutions and trade schools. Mr. Smith said last year the COVID-19 situation cheated the City of Montgomery out of the first Music and Mudbugs Festival. Mr. Smith said this year was a very successful outing and the Lion's Club was tasked with operating parking and were expecting between 1,500 and 2,000 cars and received over 4,000 cars. Mr. Smith said what he is most proud of is their Bingo. Mr. Smith said it is a once-a-month opportunity and it has been done for generations. Mr. Smith said it is an opportunity where they have two hours where they allow many different generations of Montgomery residents to mingle, laugh, communicate, and have fun without their phones. Mr. Smith said the Bingo would not be possible without the use of the Community Building. Mr. Smith said the building and game are part of the history of Montgomery and the community has City Council to thank for that. Mr. Smith said in March their standard Bingo game turned into a bit more. Mr. Smith said they were able to help coordinate vaccination with the County Health Department. Mr. Smith said they were able to give 40+ people from the community their first COVID vaccine. Mr. Smith said he would love to invite everyone here to their next bingo on May 15<sup>th</sup> at 6:30 p.m. at the Community Building where one can get a taste of what Lionism is all about.

2. Entergy Update by Brittany Chandler, Customer Service Manager.

Ms. Brittany Chandler, Entergy Regional Customer Service Manager for the Montgomery area said she will discuss the winter storm and what happened, and how to get information during these weather events, and to spend some time regarding frequent questions they have had from the storm.

Ms. Chandler said Entergy is a regulated utility and a vertical utility. Ms. Chandler said unlike many of the companies in ERCOT, they are federally regulated and do own the generation, transmission lines, and distribution. Ms. Chandler said when they think back to this weather event, we all know there was a generation shortage that caused them to have to take customers out. Ms. Chandler said it was not just the cold temperatures or rain, it was the storm effect that happened with those sustained long, cold temperatures. Ms. Chandler said they knew the storm was coming and reached out to all the elected officials and started having those calls and having those conversations, putting out the conservation messages. Ms. Chandler said in many areas they did hit an all-time high in demand and people needing power to the maximum capacity

and experiencing extended cold temperatures and experiencing the freezing rain and ice, including the limited ability to get around the streets. Ms. Chandler said when that happened they were able to communicate that information. Ms. Chandler said she hopes that line of communication was helpful and will continue to do that for future storms.

Ms. Chandler said when the generation was going down they had a high demand on their system and they could not meet the load at the moment. Ms. Chandler said they have the Montgomery County Power Station, which just went online this year that helped significantly and shortened the amount of time they had to shed load and have that generation up and running. Ms. Chandler said looking forward going through the restoration process is not as simple as whenever they turn the lights back on and they work through the load shed event, that all the lights are going to go back on. Ms. Chandler said they still had the storm effects and they had to go back putting the load back into the system and they had some difficulties. Ms. Chandler said they had some outages that were caused by the weather, ice, vegetation being weighed down on lines, and lots of other things going on at one time.

Ms. Chandler said the best way to get information regarding answers to commonly asked questions, such as how long will the outages last, and when will the power be restored, is to go online and sign up for a My Entergy account online. Ms. Chandler said Entergy has this app where you can go into the outage map and see if your home is out of power and then report it and also the customer can see a full update of what is going on at the moment and all the details of the outage. Ms. Chandler said that is just a portion of what the app can do. Ms. Chandler said the customer can see their usage, report outages, change account information, and many other things. Ms. Chandler said she wanted to take this opportunity to direct people to use the app, especially now leading up to the storm season. Ms. Chandler said it is a new system where residents need to go and sign in even though they may have established their account a while ago. Ms. Chandler said this must be done to convert over to the new system and residents have the option of how they want to receive the updated information. Mayor Countryman said it is very user-friendly, extremely intuitive, and it is not difficult at all. Mayor Countryman said she highly recommends it as well. Ms. Chandler said a frequent question she is asked is how can one get the most recent up-to-date information during a storm. Ms. Chandler said they send as much information as possible to Mayors and they are also trying to update the outage map as

much as possible while being as accurate as possible regarding estimated restoration times so they can try and plan accordingly.

Julie Davis asked what Entergy is doing to be proactive in the future so that when they do have to do load sheds we are not dealing with such long intervals of time. Ms. Chandler said she is going to start with the duration of the load shed. Ms. Chandler said they are trying to look at their critical customer list first where they will do some additional reviews to what they have done in the past to make sure they are keeping all of the critical infrastructures such as hospitals, police stations, etc. on. Ms. Chandler said looking even deeper into that, they are trying to find ways to rotate those outages to keep them rolling. Ms. Chandler said internally there are a lot of different conversations about what will happen if this happens again because we do expect to have another active hurricane season this year. Ms. Chandler said they are continuously looking for ways to improve and find the best ways to serve their customers.

Julie Davis said she is probably the only one on City Council who has Midsouth and not Entergy as her provider. Julie Davis said many of her constituents ended up at her house during the storm because the longest they were without power was two hours on the rolling blackouts. Julie Davis said Midsouth did two hours then it was six hours on and 40 minutes off. Julie Davis said she feels that Entergy should be held more accountable and to a higher standard. Julie Davis asked how do we lessen this as some of the people in downtown Montgomery were without power for a week. Ms. Chandler said that was due to storm effects and not rolling outages or a specific line or equipment because they did have power restored by the end of the week. Mayor Countryman said that was on Old Plantersville and was a Hurricane Harvey issue that never got fixed. Mayor Countryman said for the record, Ms. Chandler was not on their account and it was someone else who was underserving the City. Mayor Countryman said that has actually been addressed and should there be an issue, that residence is in a much better place now because there has been new equipment put in place. Ms. Chandler said if there is a specific address they want to do a deep dive into that location, let her know and she will take it on and handle it. Ms. Chandler said she wants to make sure they feel good and prepared as they roll into this next storm season. Mayor Countryman said everyone at Entergy is dynamic and has been such a blessing to this town since they came. Mayor Countryman said Ms. Chandler has walked areas of the town with her to talk about the residents' concerns about poles and lighting, and she appreciates that every point she makes, Ms. Chandler comes back



with an answer or a game plan. Ms. Chandler said they appreciate the communication and teamwork and are very up in getting ready for that first storm. Mayor Countryman said there are 30 possible storms predicted. Ms. Chandler said on their end they are trying to prepare as much as they can and if there is an area where they feel needs to have extra eyes on it, let her know.

Julie Davis asked if there is a hotline or call-in center. Mayor Countryman said it is on the app where you can do everything. Ms. Chandler said she can send information out to people to direct them to the app if that will help people because she does think it will make a difference getting that information into everyone's hands. Mayor Countryman said they can do something in the water bill as well as on their social media and the City website to encourage everyone to download it. Mayor Countryman said even when they have new residents come in, they include information in the welcoming packages to tell them where to get their services and encourage them to download the Entergy app then.

Ms. Chandler said she appreciates everyone's time and always appreciates the opportunity. Ms. Chandler thanked the City for working with them through everything.

### **CONSENT AGENDA:**

3. Matters related to the approval of minutes of the April 13, 2021, Regular Meeting.
4. Consideration and possible action regarding acceptance of the Certificate of Acceptance for public infrastructure included in the Hills of Town Creek Section Four Project (Dev. No. 2004), including acceptance of the Maintenance Bond.
5. Consideration and possible action regarding approval of an Interlocal Agreement by and between the City of Montgomery and Montgomery County for road and right-of-way repair and maintenance.

Julie Davis moved to approve the Consent Agenda as presented. Tom Cronin seconded the motion, the motion carried unanimously. (4-0)

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

6. Consideration and possible action to adopt a Proclamation proclaiming April, 2021 as National Child Abuse Prevention Month in the City of Montgomery, Texas.

Mayor Countryman read the Proclamation into the record:

**PROCLAMATION:**

**WHEREAS**, in Texas, more than 4 children die from abuse or neglect on average every week, 184 children are confirmed victims daily, and more than 7 children are maltreated every hour; and

**WHEREAS**, in Montgomery County last year we had 826 confirmed victims of abuse, 5 child fatalities, and 524 children in the care of Child and Protective Services.

**WHEREAS**, child abuse and neglect is a serious problem affecting every segment of our community, and finding solutions requires input and action from everyone; and

**WHEREAS**, our children are our most valuable resources and will shape the future of the State of Texas as well as the great City of Montgomery; and

**WHEREAS**, child abuse can have long-term psychological, emotional, and physical effects that have lasting consequences for victims of abuse; and

**WHEREAS**, protective factors are conditions that reduce or eliminate risk and promote the social, emotional, and developmental well-being of children; and

**WHEREAS**, effective child abuse prevention activities succeed because of the partnerships created between child welfare professionals, education, health, community, and faith-based organizations, businesses, law enforcement agencies, pro-active non-profits and families; and

**WHEREAS**, communities must make every effort to promote programs and activities that create strong and thriving children and families; and

**WHEREAS**, we acknowledge that we must work together as a community to increase awareness about child abuse and contribute to promote the social and emotional well-being of children and families in a safe, stable, and nurturing environment; and

**WHEREAS**, prevention remains the best defense for our children and families.

**NOW, THEREFORE, I**, Mayor of the City of Montgomery, Texas, do hereby proclaim April 2021 as **NATIONAL CHILD ABUSE PREVENTION MONTH** in the City of Montgomery, Texas and urge all citizens to recognize this month by dedicating ourselves to the task of improving the quality of life for all children and families.

Kevin Lacy moved to adopt a Proclamation proclaiming April, 2021 as National Child Abuse Prevention Month in the City of Montgomery, Texas. Carol Langley seconded the motion, the motion carried unanimously. (4-0)

7. Consideration and possible action regarding the adoption of a Proclamation designating the week of May 16-23, 2021 as Public Works Week.

Mayor Countryman read the following Proclamation into the record:

National Public Works Week  
May 16-23, 201  
“Stronger Together”  
City of Montgomery Proclamation:

**WHEREAS**, Public Works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Montgomery, Texas; and,

**WHEREAS**, these infrastructures, facilities and services could not be provided without the dedicated efforts of Public Works professionals, who are engineers, managers and employees at all levels of City government and the private sector, who are responsible for rebuilding, improving and protecting our City’s transportation, water supply and treatment, wastewater

collection and treatment, public buildings, and other structures and facilities essential for our citizens; and,

WHEREAS, it is in the public interest for the citizens, civic leaders and children in Montgomery, Texas to gain knowledge of and to maintain a progressive interest and understanding of the importance of Public Works and Public Works programs in our community and,

WHEREAS, the year 2021 marks the 61<sup>st</sup> annual National Public Works Week sponsored by the American Public Works Association be it now,

RESOLVED, I, Sara Countryman, Mayor of the City of Montgomery do hereby designate the week May 16-23, 2021 as National Public Works Week; I urge all citizens to join with representatives of the American Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our Public Works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our City's health, safety, and quality of life.

IN WITNESS WHEREOF, I do hereby proclaim on behalf of the City of Montgomery.

Kevin Lacy moved to adopt a Proclamation designating the week of May 16-23, 2021 as Public Works Week. Julie Davis seconded the motion, the motion carried unanimously. (4-0)

8. Consideration and possible action regarding the City Engineer.

Mr. Tramm said back a couple of months ago they went through the Statement of Qualification process with the City Engineers. Mr. Tramm said at that time it was his recommendation to stay with the firm Jones and Carter due to the institutional knowledge of the two engineers who primarily worked on our account. Mr. Tramm said a couple of weeks ago they were advised those two engineers had left the firm and were going to another firm. Mr. Tramm said as he told City Council two weeks ago, he wanted to use the time to come back to City Council with what was the best recommendation to go forward. Mr. Tramm said what he would like to do with the concurrence of City Council in the coming weeks is he would like to make the

recommendation that City Council look to contract the primary City engineering services with Ward, Getz & Associates, which is the firm that Mr. Christopher Roznovsky and Mrs. Katherine Vu went to. Mr. Tramm said he also wants to retain a lot of the services they currently have with Jones & Carter. Mr. Tramm said they are involved with a number of the ongoing projects the City has. Mr. Tramm said the City has their GIS services through them and a separate contract with them for the General Land Office projects. Mr. Tramm said for the two years he has been the City Administrator he has told City Council he thinks they need to have more diversification in the engineering services as a way of checks and balances. Mr. Tramm said they could have one firm primarily working on the main City account, but have most of the projects contracted out to at least one or more firms. Mr. Tramm said he thinks this is a perfect opportunity to make that move. Mr. Tramm said his recommendation is he would like to have those discussions and bring those steps forward to City Council at the next meeting. Mr. Tramm said essentially that would be if they could come to terms with Ward, Getz & Associates and that would be a separate contract and replace that element with Jones & Carter and it would also include working out a schedule of how to transition items and identify which items they would continue to work with Jones & Carter on into the future.

Tom Cronin asked Mr. Tramm if he looked at and considered any other firms. Mr. Tramm said back in January they considered seven firms through the Request for Qualification (RFQ) process. Mr. Tramm said he did go back through the submissions of the firms he had as number two, which was not Jones & Carter or Ward, Getz & Associates, who did not originally submit because they were not planning to seek those services, but now what they have done in the meantime is they are opening a separate office primarily for municipal and district engineering services. Mr. Tramm said that is why Mrs. Vu and Mr. Roznovsky were hired. Mr. Tramm said that is why he also believes they end up being the best option for the City.

Tom Cronin asked Mr. Tramm if it is because Mr. Roznovsky has a history with the City and does he not think Jones & Carter or someone else can get up to speed quick enough. Tom Cronin said what he is afraid of is the City might be sending a message and some sort of precedent that if you leave the current firm the City will go ahead and hire you. Tom Cronin said that is what it looks like to him and he thinks they need to look at it a lot more in-depth. Mayor Countryman said they have always liked Mr. Roznovsky and he has been very honest upfront, and forthcoming, and with a growing City, it would be easier to get him moving over

because he knows the City. Mayor Countryman said with the growth in the City she thinks they need his knowledge. Mr. Tramm said he thinks this is a unique situation in the fact that the two who had their hands on left from one firm to another, and the reason for the recommendation primarily was because of their history and their knowledge. Mr. Tramm said certainly Jones & Carter could continue to provide those services as they are a large firm with many resources, but he does not think they will do it as effectively because of the loss of that pre-existing knowledge and likewise, they originally received statements of qualification from seven firms and any one of those seven firms could have done the services. Mr. Tramm said they went from his point of view and the staff's interviews and they were going with the recommendations they thought was the singular best for the City and that is why he is looking to go in this direction, but he can only do that with the support of City Council.

Kevin Lacy said if he was understanding correctly, Mr. Tramm said they will still have contracts with Jones & Carter for other issues so they will diversify and still retain Jones & Carter for other services. Mr. Tramm said that is one thing he has consistently said as the City Administrator that he thought they should look at different firms for the primary engineering services and reviews as they do for the projects there. Mr. Tramm said there is always the hint of possibility, and he is not saying Jones & Carter has done that and he is not pointing a finger at any other firms, but they are talking about on one hand studying the needs of the City and then designing the projects to meet those needs such as water, wastewater, roads and such. Mr. Tramm said he thinks having multiple engineers who are looking at different ends of that provides the best point of view for the City. Mr. Tramm said this becomes a unique situation of it being a way to make that happen more effectively in one step than as the next four or five projects come up.

Julie Davis asked if there is a way for them to compare apples to oranges so to speak regarding WGA and some of the other firms that have already been looked at back in January. Julie Davis said before they compared everything to Jones & Carter and now they are saying they are going to put them to the side and do little things with them. Julie Davis said she does not want to just put all of their eggs in one basket with Mr. Roznovsky when she feels like they are just left out to dry without an engineer for a month. Kevin Lacy said he understands what Julie Davis is saying in that they have been wanting to diversify for a while and it just so happens where they have two individuals they have known and worked with just happen to go

to another firm where they can start to diversify and still work with the folks that are familiar with them and the City and still have Jones & Carter for some of the other aspects as well. Julie Davis asked if Mr. Tramm is talking about taking their main contract for the City to WGA.

Mayor Countryman said what Jones & Carter has started they will continue to fulfill and then the new projects would go to WGA if they are chosen. Mr. Tramm said his intent is as larger projects come up in the future, one of the things he would intend to do from the engineering end and in review from the staff end and the TORC Committee later this year is to review all of their longer-term capacity needs. Mr. Tramm said at some point in time they will need to extend additional water and wastewater capacity. Mr. Tramm said if things continue as they have been and they make no changes, those designs are all run through Jones & Carter, the same firm who helps with those will perform the design work and more than likely then administer the contracts all the way through. Mr. Tramm said what he would want to do if they continue that way is that at some point pick a different firm to carry through with the design from before. Mr. Tramm said this is what he is recommending at this point.

Tom Cronin said Mr. Roznovsky and Mrs. Vu are both very capable engineers, but he does remember history when Mr. Roznovsky was at Jones & Carter and brought them a recommendation that they approved \$35,000 in billings that they had not budgeted into the bridge. Tom Cronin said the City did deny it but are they looking out for the best interest of their client when they try and bring \$35,000 in overcharges that they want approval on. Tom Cronin said he will do whatever City Council wants to do, but he thinks they need to study it. Mr. Cronin said he thinks they are both very capable engineers, but their firm is brand new, and are they asking the City then to help them get started into municipal engineering. Mr. Tramm said that the firm has done municipal engineering and district engineering and what they are doing is expanding a small element and opening up a larger office that is in The Woodlands to do that. Mr. Tramm said if City Council will allow him to, he would suggest letting him have those conversations and if he feels like he can work that out into a workable item, let him bring Mr. Roznovsky and if necessary other representatives from that firm here to the next City Council meeting and let City Council pose the questions directly to them and let City Council see how they feel about it at that point.

Kevin Lacy asked if Jones & Carter has reached out and spoken about this in an attempt to keep their business with the City since Mr. Roznovsky is leaving. Mr. Tramm said until today, Jones & Carter did not know this was going to be his recommendation. Mr. Tramm said once they received Mr. Roznovsky and Mrs. Vu's resignation, they did reach out to the City about transitioning services and he did have those conversations. Mr. Tramm said he believes they, as well as many firms, could do it effectively, but he is trying to find what is the best route for the City. Mr. Tramm said one of the things he was less than thrilled with was it was about a week before he heard from Jones & Carter on the beginnings of their transition. Mr. Tramm said there is a representative from Jones & Carter here to provide the engineering report. Mr. Tramm said he is not the person who is responsible to reach out to them, he is the person who was assigned to them, but it was essentially a week that went by before the City began to get the gaps filled in as to here is how they are going to provide services which is part of his reluctance to stay with them.

Julie Davis said she does not know if she is locked into just WGA as she would like to know competitively what is out there, what did Mr. Tramm compare in January, and what are they looking at now versus just WGA. Julie Davis said she has a lot of similar concerns about it being a new office and new staff. Julie Davis said she would like to see some other options. Tom Cronin said he agrees. Tom Cronin said Jones & Carter is a big firm but he agrees they do not necessarily need to commit to either one. Tom Cronin asked if Mr. Kotlan has reached out at all. Mr. Tramm said Mr. Kotlan is with BGE and the answer to the question is yes. Mr. Tramm said several engineering firms touched base to let him know they submitted the paperwork back in January and they would certainly be willing to have the engineering services for the City of Montgomery. Tom Cronin said exactly and he is with Julie Davis in that he thinks they need to think about it long and hard before they commit. Julie Davis said she likes diversifying but she wants to make sure there is somebody that has enough field of play to be able to execute and manage it all and does that mean there is going to be another task for Mr. Tramm to manage three different or however many different engineers and how do those strings connect back because at some point it all has to connect back into the City and it is just more confusion if they have several engineers all doing different projects. Mr. Tramm said he has worked at places where different items were subjected out to different consultants in the same type of field whether it be legal or engineering and that can certainly



be effectively managed as he has done that before. Mr. Tramm said if City Council would like him to look a little broader he would be happy to do that.

Kevin Lacy asked if the intention was to decide at the next meeting. Mr. Tramm said the intention tonight is to make sure City Council hears the recommendation from him and he has an understanding from City Council that he will be having more conversations and bringing something firm back to them and he can do that related to more than one firm if that is what City Council wants. Julie Davis asked if he could narrow down the choices and at least give them the top three. Mr. Tramm said what he can do is bring back what he considers the top three firms and in the intervening weeks figure out how to work best and effectively through that with City Council so City Council can have a strong comfort level with making a final decision. Tom Cronin said references are extremely easy and is sure this industry talks with other cities. Mr. Tramm said yes, especially local. Mr. Tramm said he will make that how he follows through on that.

#### **DEPARTMENTAL REPORTS:**

9. City Administrator's Report for March 2021 – Mr. Tramm presented his report to City Council. Mr. Tramm said this is City Council's first meeting in this format and he is pleased with the outcome.

Mr. Tramm said one item he would like to specifically mention is Marshall Anderson of Boy Scout Troop 491 is participating through the Zoom streaming portion of this meeting as part of his activities to observe the actions of the local government.

Mr. Tramm said they have a bid out right now on utility operations and that should be back before the middle of May so it will not be ready to report back to City Council by May 11<sup>th</sup>, but by the next meeting.

Mr. Tramm said he would like to add on top of what Mr. Kevin Smith pointed out earlier about one of the Lion Club's meetings at the Community Center becoming in March a site for the Public Health Department to supply vaccines. Mr. Tramm said they have been coordinating with the Public Health Department since then and there was an April follow-up date scheduled

for people who received their first vaccinations and they have already reserved that building for a May date.

Mr. Tramm said they are working with the City's financial advisor to provide the information for the bond rating related to the bond refinancing they approved at a previous meeting.

Mr. Tramm said as he mentioned earlier, he plans to work with the City Engineer, staff, and the TORC committee this coming fall and winter on updating all the capacity projections in needs and identifying how far up the timelines are on this extension for water and wastewater.

Mr. Tramm said at the last Montgomery Economic Development Corporation (MEDC) meeting they approved the transfer of the \$160,000 toward City Capital Projects. Mr. Tramm said those funds were budgeted by the MEDC at the beginning of this fiscal year which was approved by City Council. Mr. Tramm said the City reached a point on the Waterline Extension Project that has been going on with Neer Construction that crossed the threshold of \$160,000 in expenditures so the MEDC transferred that money. Mr. Tramm said it does not show up in these financial reports for March as that activity occurred in April so it will show up in the next reports and it will go to Capital Projects Fund to cover the costs associated with that project.

10. City Administrator's Development Report – Mr. Tramm reported that both residential and commercial markets continue through the first quarter of 2021 to show strong activity. Mr. Tramm said they had nine new homes completed which is a little below the average amount they have been having but it is also during part of the year that typically construction lags and builders are starting to run out of lots to build on in the areas as they have been having mostly built in Town Creek. Mr. Tramm said four new single-family home permits were also approved specifically during March. Mr. Tramm said the Hills of Town Creek has a new 30-lot section that was just accepted earlier this evening and they will soon be able to move onto the new home sites in that area.

Mr. Tramm said he wanted to mention two items under transportation mobility. Mr. Tramm said one is the FM 149 turn lane that has been an ongoing item for a while. Mr. Tramm said in November 2020 TxDOT reached back out to the City on the land the City helped to provide to them. Mr. Tramm said an existing easement was found to have still covered that property and

the City worked to reach back through to the three easement holders to get the easements released and is now back in the hands of TxDOT as of March of this year. Mr. Tramm said TxDOT is planning to relocate the utility and traffic signals this summer and begin construction on the turn lane in the fall of 2021 and that is the last information they have from TxDOT.

Mr. Tramm said recently they also participated in the TxDOT 2021 Transportation Alternatives Call for Projects. Mr. Tramm said for them that was the submission for two projects seeking an 80/20 grant with the City on the 20 percent side. Mr. Tramm said for these two the Mobility Projects would be a Sidewalk Project along Martin Luther King Jr. Drive from FM 149 to the City limits and one project is a sidewalk connecting downtown to the public library and Memory Park on Bessie Price Owens Drive. Mr. Tramm said they are waiting to hear back on those from TxDOT.

11. Public Works Report for March 2021 – Mr. Muckleroy, Public Works Director said they had a fairly quiet month on the water, wastewater side mainly because of the heavy load they had on the building maintenance and the parks side. Mr. Muckleroy said for the streets they repaired two potholes and for the building facility maintenance, they removed a wooden ramp on the back of the Community Center Building. Mr. Muckleroy said they painted and installed the signs for the Exchange Zone at City Hall. Mr. Muckleroy said on the parks and recreation side they pressure washed all sidewalks and equipment at all the parks which they do yearly and completed the annual water sealing of the cabins at Fernland Park. Mr. Muckleroy said Fernland docents reported 1,204 visitors and provided 74 tours for the month. Mr. Muckleroy said at Memory Park they applied for and received a Certified Wildlife Habitat Designation through the National Wildlife Foundation and the sign has been posted. Mr. Muckleroy said they completed the quarterly heavy trash event and held their first Parks Advisory Committee meeting.

Julie Davis asked if the ramp is going to be replaced. Mr. Muckleroy said it is already handicap accessible and they do not need it because of the front. Mr. Muckleroy said it was not a full ramp and there was already a concrete ramp there. Mayor Countryman said she spoke with several residents who said they appreciate the blue area and when they sell things online they meet there and feel very safe doing so as well as for children to be a swapping point location.

12. Police Report for March 2021 – Chief Solomon said the increase in traffic does not mean accidents. Chief Solomon said he had the officers take a closer look at what was causing

accidents and most of it is distracted driving such as texting, makeup, alcohol, and eating while driving. Chief Solomon said they are looking to team up with TxDOT and get more grants and safety traffic grants to put more initiatives out there and try to decrease traffic accidents. Chief Solomon said the traffic is going to continue to grow so they need to make people aware of what they are doing while driving.

Chief Solomon said their exchange zone is working very well. Chief Solomon said their first Citizen's Police Academy starts tomorrow evening and the officers will be teaching the classes for six weeks. Chief Solomon said they will have one each year. Mayor Countryman asked how many will be attending the Citizen's Police Academy. Chief Solomon said they have 10 people attending and they did not want to exceed 12 people for the first class.

Julie Davis said she knows the City has DPS, the Sheriff's office, the Constables office, and the City's officers patrolling, but when they issue a ticket within the City do those tickets go to Judge Wayne Mack's office. Chief Solomon said yes. Chief Solomon said it is also the same with the school district as most of those tickets go to Judge Mack's office. Chief Solomon said his argument is those tickets from the school district should come to City Hall.

13. Court Report for March 2021 – Mrs. Kimberly Duckett, Court Administrator said for March they have \$45,260.60 in collections and 148 citations written. Mrs. Duckett said she would like to note the City of Waller came last week to observe how Montgomery runs its court. Mrs. Duckett said at that time they had a pre-trial docket and show cause and was running Zoom at the same time. Mrs. Duckett said the City of Waller was amazed as to how smoothly the court ran. Mrs. Duckett said they will probably go and visit the City of Waller to see how their court is run. Mrs. Duckett thanked the court and bailiffs for working very hard that night as they had a full courtroom. Mayor Countryman said that says a lot about Mrs. Duckett's leadership.

Julie Davis said she noticed the money is way up for March but the tickets are not up so is the court doing heavier collections, are the tickets just more aggressive where there are multiple citations with higher fines. Mrs. Duckett said it is not necessarily that the tickets are more aggressive. Mrs. Duckett said they have figured out different ways since COVID-19 for their citations, such as community service and different ways to help out and not just collecting the money, but giving them different avenues to take care of their balance. Mr. Tramm said he wanted to mention to Mrs. Duckett and her staff they had someone comment on the City's Google review page within the last month and they left a five-star review stating the ladies

helping them were wonderful and admitting in the review that it was their fault they received a ticket. Mr. Tramm said to see someone leaving a glowing report and then admit it was their fault they received a ticket and had to go to court but the people were wonderful, really warms their hearts to see the positive side of that because the person that left the comment did not have to.

14. Utility/Development Report for March 2021 – Mr. Tramm said there are several higher dollar collection items he wants to touch base on. Mr. Tramm said one was a little over \$4,000 in collection escrow fees for Town Creek Crossing expenses. Mr. Tramm said there were two receipts of insurance claims for TML on the Police Department claim and another came from Allstate on the guardrail damage claim.

Mr. Tramm said on the City's water account they had 872 water connections and is a number that continues to climb. Mr. Tramm said as he mentioned earlier, this fall and winter they are going to take a closer look at planning their future capacities and put that in the proper place of capital planning. Mr. Tramm said this is an area where that number has been rising since he has been with the City. Mr. Tramm said there are another 30 lots in the Hills of Town Creek getting ready to become available for construction. Mr. Tramm said several homes are under construction right now which are probably filling all the lots. Mr. Tramm said the Estates of Town Creek Crossing are working on having 199 residential lots added to it by the end of this year and other developers who are looking into the possibilities of other areas. Julie Davis mentioned the Kammerer Tract closed on Friday. Mr. Tramm said that is a perfect example as there are 400 to 500 homes right there. Mr. Tramm said it is very likely within the next four or five years they are going to double that number.

Mr. Tramm said on the City account water usage in March 2021 Memory Park pumping was up from 8,000 from the last month to 28,000 and is primarily significant because the weather was starting to warm up and we went through a bit of a drought period before the recent rains. Mayor Countryman said even the Community Building is up significantly month over month as well as year over year. Mayor Countryman said she does not recall March being a heatwave. Mayor Countryman asked if it was that significant from 1,000 to 6,000. Mr. Muckleroy said the month of March was when they turned the irrigation systems back on.

15. Water Report for March 2021 – Mr. Mike Williams, Vice President of H2O Innovation said there was only one alert to report which was a leak on the well header on water tank 2 which

was found to be an air release that was replaced. Mr. Williams said they recorded 7,082,000 gallons for the wastewater plant flow detail and daily peak flow on March 2, 2021, was 346,000 gallons. Mr. Williams said the average daily flow was 228,500 gallons with a 57% of permitted capacity.

Mr. Williams said for the effluent monitoring report all samples are compliant for March with a total of one and a half inches of rain.

Mr. Williams said they pumped a total of 10.103 million gallons and had a flushing amount of 843,000 gallons which there was still a little bit over from the freeze as they started identifying leaks around the City bringing it to a 94% accountability. Mayor Countryman asked if that was what it is because they were doing well at 98%. Mr. Williams said yes that was before the freeze hit. Mr. Williams said toward the end of the week was when this timeframe started and that was when everything was thawing out. Mayor Countryman said they start to get nervous when they see that number start going down. Mr. Williams said he thinks next month will be a lot better.

Mr. Williams said the groundwater production chart shows a thirteen-month history showing where the water is coming from. Mr. Williams said the water accountability chart also shows a thirteen-month history

16. Finance Report for March 2021 – Mr. Anthony Lasky, Senior Accounting Clerk presented his report to City Council.

Mr. Lasky said there is a total of \$353,000 in CDs that were purchased for the General Fund and a total of 7.5 months of operating reserve. Mr. Lasky said MEDC has a total of 23 months reserve and the utility fund was 11 months.

Mr. Lasky said for the cash flow report for the general fund \$306,201.64 was collected in sales tax for March 2021. Mr. Lasky said there was also a last deposit received from the Home Grant of \$13,600 which offsets the administrative fees for the Home Grant. Mr. Lasky said check #31034 for AV Design Pros was for the first installment of the live stream package which was purchased. Mr. Lasky said there was also a check just under \$12,000 for yearly audit fees.

Mr. Lasky said \$215,000 was collected in sales tax for April which will show on the next report with roughly \$53,000 going toward the MEDC fund and the rest \$162,000 in the general fund.

Mr. Lasky said the ad valorem taxes collected were roughly 97% of the ad valorem as of current last year were about 93% which is a fairly decent increase. Mr. Lasky said for the sales tax there was roughly \$1.1 last year and is at \$1.4 right now which is around a 24% increase. Mr. Lasky said the fines were lower last year at around \$147,000 and is up to \$191,000 which is definitely a lot more activity which is roughly a 29% increase. Mr. Lasky said if you take out the Home Grant there is a total of around \$2.6 million excluding those funds. Mr. Lasky said if you take what was there last year which was a little over \$2 million, it is about a 29% increase in revenue and this is all during this time last year in March.

Mr. Lasky said for the expenditures there are little increases here and there, mostly 4% and 5%, and personnel around 4% of an increase. Mr. Lasky said for the contract services there is roughly around 12% of an increase from last year this time to this year. Mr. Lasky said the biggest one he wants to point out is travel and training. Mr. Lasky said it is a lot lower this year and thinks a lot of it has to do with all of the virtual training they had throughout this fiscal year and it is down considerably. Mr. Lasky said they had around \$30,000 last year around this time and currently have \$15,000.

Mr. Lasky said going through the total expenditures and taking out the \$453,000 in Home Grant expenditures there is around \$1.8 million current at around this time and are at a 4% increase if you take those expenditures out from where it was last year at this time. Mr. Lasky it will be interesting to see with the May numbers coming up because they had gotten \$450,000 back in February and this being another quarterly filing month coming up it will be interesting to see what they get. Mr. Lasky said they are doing well so far and there is over \$800,000 in this fund.

Mr. Lasky said just to point out on the Capital Projects there is only one thing going on at this time. Mr. Lasky said as Mr. Tramm did point out earlier, they did transfer from the MEDC fund to the Capital Projects fund \$160,000 that has been done and will show up on the next month's report.

Mr. Lasky said for the Downtown Waterline Improvement Project, so far \$164,000 has been recorded and they did pay so they are up to \$207,000 and are up to \$371,668.50 on that particular project at this time.

Mr. Lasky said from the income items received one item he wanted to point out was check #15279 Montgomery Fencing and Exterior was for the fence installation for \$23,975.

Mr. Lasky said regarding the budget on the water/sewer side there was about a 16% increase from last year to this year, a little over \$1 million on the income side, with most of that being just higher collections in water and sewer and tap fees. Mr. Lasky said for the expenditures it was a little bit higher as well with around a 15% increase. Mr. Laskey said they do have slightly less of a net income from last year but are still doing very well even being over \$200,000.

17. Sales Tax Report – Mr. Ryan Fortner with Sales Revenue, Inc. presented the Sales Tax Report.

Mr. Fortner said the City of Montgomery was physically inspected in July 2020. Mr. Fortner said they found 351 entities total of which 227 were sales tax county holders and that was the largest number of physical sales tax county holders they found in the district. Mr. Fortner said many of those were registered home addresses and home businesses. Mr. Fortner said the dynamic shifted from people not going into the office as much anymore but are working from home. Mr. Fortner said what they are seeing is an increase in sales taxpayers for the district but not from their physical brick and mortar and they are seeing that from all of their clients. Mr. Fortner said it is the Cloud and E-Commerce that is going to save the City going forward and they are already seeing that.

Mr. Fortner said what they do each month is look at the Comptroller of Public Accounts total active taxpayers that are coded to the district and this could include E-Commerce as well. Mr. Fortner said 5,231 active taxpayers could at one point in time make a sales tax according to a local tax rate. Mr. Fortner said the actual monthly rate for 2021 was 1,874 tax filers. Mr. Fortner said 95% to 96% were E-Commerce related.

Mr. Fortner said in April 2020 there were 1,710 taxpayers and they were happy to get those, but this year there was a 9.5% increase and we are ahead of where we were last year.

Mr. Fortner said there are two date ranges when doing sales tax. Mr. Fortner said there is the calendar year, January through December, but the main identifier is March through February the following year which indicates true dollars and cents that were spent in the district in the actual year 2021. Mr. Fortner said for the calendar year the City received \$1,217,653 and for the tax year \$521,408.



Mr. Fortner said there are the top 25 sales tax filers for 12 months combined listed and a breakdown of what those businesses contributed which was in all \$1,838,778 just in the top 25 alone.

Mr. Fortner said they took the top sales tax filers from April 2021 which is a non-quarterly filing month and broke those down and in all those top 25 businesses made 50% of the combined sales tax refunds for April.

Mr. Fortner said there were 48 businesses in April that filed local taxes above \$1,000.00 and those 48 businesses alone are 63% of the total monthly allocations.

Mr. Fortner said for the non-quarterly filing months for March and April 2021 there are not businesses such as Kroger listed, but next month will be an important filing month so there will be a higher number of sales tax filers as well as a higher filing amount.

Mr. Fortner said 96% of sales tax receipts received in 12 months come from businesses that are located in the area. Mr. Fortner said in April 99 businesses were physical brick and mortar within the City and 1,780 were E-Commerce based. Mr. Fortner said since January 1995 the City has received \$34,811,927.96. Mr. Fortner said he wanted to point out that the April 2021 allocation is incorrect and he will correct the amount and submit it to Mr. Tramm tomorrow. Mr. Fortner said \$215,206.50 was the April 2021 allocation.

Mr. Fortner said the top 25 sales tax categories in Montgomery still show supermarket and grocery services as being number one. Mr. Fortner said total allocations in all from April 2020 to April 2021 was \$5,201,451. Mr. Fortner said since we are now in 2021 we will start comparing starting in February of last year and going forward each month of where the sales tax filers were, what the dollar amounts were, and how does that compare now to during the middle of the pandemic, and what it looks like side by side. Mr. Fortner said that a new graph will be forthcoming. Mr. Fortner said what he did in April 2021 was he included February because February represents actual dollars and cents that were collected in the City that made up the April allocation. Mr. Fortner said he is going to change this going forward as he wants to be able to clearly see each month as they went through last year compared to this year. Mr. Fortner said the fiscal year to date is \$2,091,902 which puts the City at 93.98% of the budget and showing a mean allocation each month of \$304,413.00. Mr. Fortner said only four months are presented in 2021 for the monthly allocations.

Mr. Fortner said with month-to-month variance you see the quarterly filing months and when not, it will show non-quarterly filing months in red.

Mr. Fortner said for 2021 the yearly allocations show as the lowest because of not having a lot of data.

Julie Davis said on page five Amazon is listed twice with one listed as Marketplace and one as LLC services. Julie Davis asked what is the difference between the two. Mr. Fortner said he does not know individually what the differences are, but every city has Amazon and Amazon Marketplace. Mr. Fortner said he has actually seen a third Amazon in the low top 25. Mayor Countryman asked if one is maybe Amazon Prime where it is subscription-based. Mr. Fortner said yes. Julie Davis said she was surprised that two made the top 25.

18. Engineer's Report – Mr. Don Durgin, Operations Manager with Jones and Carter said he wants to ensure City Council that Jones and Carter will do everything they can to make sure the City is receiving good service and if it means a transition they will help with that as well. Mr. Durgin said they pride themselves on providing all the City's products on time through customer service. Mr. Durgin said they would love to continue being the City's Engineer.

Mr. Durgin said with the departure of the previous Engineer they have rallied some resources to come in. Mr. Durgin said he has done program management for half of his career and most recently the Engineer for East Portland County. Mr. Durgin said Mr. Wesley Lay did a lot of the work digging in and getting up to speed on making the phone calls and contacting developers. Mr. Durgin said they still have Michael in the field and they are still doing their inspections and services and hopefully they are doing a good job for the City too.

Mr. Durgin said they have some GLO grants and grant-type funding projects. Mr. Durgin said they designated Mr. Matt Breazeale who is brilliant in this area and he was able to put together some things that have been drawn out for a little while and was able to get together with GrantWorks to make sure those contracts are on the table now and being reviewed.

Mr. Durgin said regarding the Downtown Waterline Replacement Project they are about 45% complete. Mr. Durgin said they are still working with TxDOT to finalize a utility installation permit across FM 149 and are waiting for the final utility permit to come through from TxDOT. Mr. Durgin said they approved Pay Estimate No. 3 for \$207,382.00 on that contract.

Mr. Durgin said they met with one of the City's constituents in the field just to make sure the relationships go well and to make sure things were taken care of.

Mr. Durgin said they are working with GrantWorks to release funds for the Baja Road Water and Drainage Improvements, Phase I & Phase II (CDBG) Project.

Mr. Durgin said the Water Plant No. 3 contracts have been delivered to the City for City Council to sign. Mr. Durgin advised the City Attorney had approved the contracts.

Mr. Durgin said they are continuing to coordinate with GrantWorks and City Staff regarding GLO Projects to finalize the engineering contract to match the budget and beneficiaries of the grant. Mr. Durgin said since they wrote this report, they finalized those contracts and submitted them to City Staff and GrantWorks.

Mr. Durgin said the City Attorney and Surety held a conference call on April 19<sup>th</sup> regarding Lift Station No. 1. Mr. Durgin said this matter is in the hands of the attorney at this time.

Mr. Durgin said plan reviews for Panda Express are under review and they have a few comments ready to return to the engineer. Mr. Durgin said Town Creek Crossing Section 1 is expected to be complete in July 2021. Mr. Durgin said regarding the Villas of Mia Lago, Section 2 the contractor is working to address the items identified at the one-year warranty inspection. Mr. Durgin said it has been dragging on a little bit but they will contact the developer. Mayor Countryman asked who the contractor is. Mr. Durgin said he does not know who the contractor is.

Mr. Durgin said it is their understanding TxDOT completed the installation of the additional rip-rap last week regarding Town Creek and FM 149.

Mr. Durgin said they are working with the Kammerer Tract and the developer is coordinating with the PUC to decertify the tract from the CCN boundaries.

Mr. Durgin said they have a bi-weekly operations conference call scheduled for next Tuesday with City Staff and representatives from H2O Innovations.

Mr. Durgin said there is currently no action on FM 1097 and Atkins Creek (TxDOT) or FM 149 and SH-105 Right Turn Lane Projects. Mr. Durgin said the SH-105 Right Turn Lane Project is scheduled to be let in 2021.

Mr. Durgin said they are coordinating with City Staff regarding the FM 1097 Speed Study and look forward to having a chance to work with TxDOT.

Julie Davis asked Mr. Tramm if he knows when SH-105 will be back open and running because of the waterline construction. Mr. Tramm said sometime in June. Mr. Tramm said they have to get those utilities increased in order to provide the water throughout the City.

Julie Davis moved to accept the Departmental Reports as presented (Items 9-18). Tom Cronin 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.

Mayor Countryman said she went to Commissioners Court today to discuss the COVID-19 reimbursement of gross misrepresentation of the City that took place two weeks ago at their meeting. Mayor Countryman said it was recognized the City did not submit \$75,000 for COVID-19 reimbursements, but they did submit \$15,625.34. Mayor Countryman said of that \$15,625.34, \$5.94 was sales tax. Mayor Countryman said a motion was approved to receive a check of \$15,619.40 for

the City. Mayor Countryman said there also was a public apology and the vote was for one. Mayor Countryman said Commissioner Noack was opposed to the motion.

Mayor Countryman said she believes the City has been put back in a positive light at Commissioners Court and she believes they will hopefully see a check soon. Mayor Countryman said she would like to have an update when they receive the check.

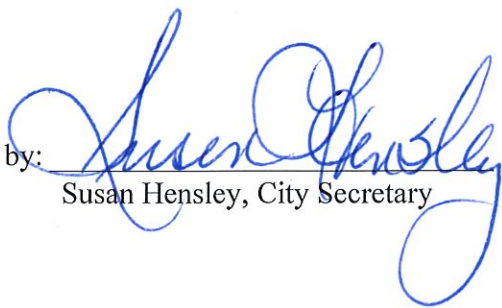
Julie Davis asked if they know where they are at with the Community Center regarding the generator before they get into hurricane season. Mayor Countryman said they have been working together on an emergency plan, the City, PD, Montgomery ISD, and Montgomery PD. Mayor Countryman said the County has told her, although their plan was failed, they were not interested in redoing a new plan or having a backup plan. Mayor Countryman said the City is now going on its own and they are going to create their own plan that does not rely upon their generator. Mayor Countryman said she believes the problem was the County did not have gas for the generator. Mayor Countryman said they are going to have an emergency plan and look at everyone west of the lake. Mayor Countryman said they have had quite a few meetings and it is progressing nicely. Mayor Countryman said they will make sure the County, the City, and all MISD parents, everyone in their area is aware of what those plans are once they are solidified. Mayor Countryman said they have discussed methods in which they are going to share those plans and thinks they will see a rate of success much higher than what they had last time.

Julie Davis asked when they make those plans, can they consider having shelter on this side of the town. Mayor Countryman said yes. Mayor Countryman said hopefully with hurricane season coming up, their goal date was June to share those plans.

### **ADJOURNMENT**

Julie Davis moved to adjourn at 7:43 p.m. Kevin Lacy seconded the motion, the motion carried unanimously. (4-0)

Submitted by:



Susan Hensley, City Secretary

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

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

**Montgomery City Council**  
**AGENDA REPORT**

<b>Meeting Date:</b> May 11, 2021	<b>Budgeted Amount:</b>
<b>Prepared By:</b> Susan Hensley, City Secretary	<b>Exhibits:</b> Ordinance Canvassing the May 1, 2021 City Election Results

<b>Subject</b>
Adoption of an Ordinance Canvassing the Results of the May 1, 2021 City Election.

Discussion

The Montgomery County Elections Administrator Suzie Harvey has provided the Certified Official Canvassing Reports for the City of Montgomery, which are attached as Exhibit “A” of the Canvassing Ordinance. There were a total of 262 votes cast with no provisional ballots.

The official canvass of the returns of the General Election held on May 1, 2021, reflects that the following named persons received the number of votes set opposite their names in the respective positions to be filled:

CITY COUNCIL, PLACE 1	
<u>Candidate</u>	<u>Votes Received</u>
Carol Langley	158
Jenny Stewart	98

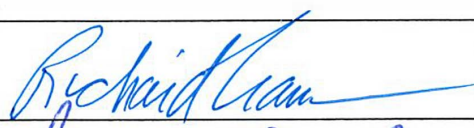
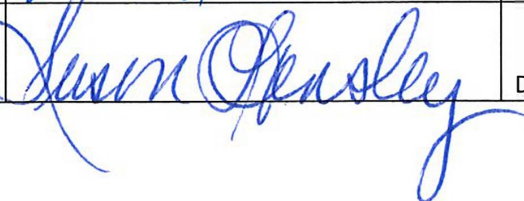
CITY COUNCIL, PLACE 3	
<u>Candidate</u>	<u>Votes Received</u>
T.J. Wilkerson	154
John Champagne, Jr.	100

CITY COUNCIL, PLACE 5	
<u>Candidate</u>	<u>Votes Received</u>
Byron Sanford	135
Thomas Cronin	114

The Certified Official Final Results of the General Election held on May 1, 2021 certify that the following persons were duly elected to their respective positions as follows:

**Carol Langley - City Council Place 1**  
**T.J. Wilkerson - City Council Place 3**  
**Byron Sanford - City Council Place 5**

<b>Approved By</b>	
City Administrator Richard Tramm	 Date: May 6, 2021
City Secretary and Director of Administrative Services	 Date: May 6, 2021

**ORDINANCE NO. 2021-****AN ORDINANCE CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF MONTGOMERY GENERAL ELECTION HELD ON MAY 1, 2021, FOR THE PURPOSE OF ELECTING THREE (3) CITY COUNCIL MEMBERS, PLACES 1, 3, AND 5, TO THE CITY COUNCIL FOR THE CITY OF MONTGOMERY, TEXAS.**

**WHEREAS**, a General Election was held in the City of Montgomery, Texas on May 1, 2021, for the purpose of electing three (3) City Council Members to the City Council, Places 1, 3, and 5; and

**WHEREAS**, said election was duly and legally held in conformity with the election laws of the State of Texas, and the results of said election have been verified and returned by the proper judges and clerks; and

**WHEREAS**, it appears that a total of 262 ballots were cast in such election; now, therefore **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS:**

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

**Section 2.** The official canvass of the returns of the General Election held on May 1, 2021, reflects that the following named persons received the number of votes set opposite their names in the respective positions to be filled:

**CITY COUNCIL, PLACE 1**

<u>Candidate</u>	<u>Votes Received</u>
Carol Langley	158
Jenny Stewart	98

**CITY COUNCIL, PLACE 3**

<u>Candidate</u>	<u>Votes Received</u>
T.J. Wilkerson	154
John Champagne, Jr.	100

**CITY COUNCIL, PLACE 5**

<u>Candidate</u>	<u>Votes Received</u>
Byron Sanford	135
Thomas Cronin	114



**Section 3.** The Certified Official Final Results, as prepared by Suzie Harvey, Montgomery County Elections Administrator, of the General Election held on May 1, 2021 is attached as heretofore as Exhibit “A” showing that the following persons were duly elected to their respective positions as follows:

**City Council Place 1**

Carol Langley

**City Council Place 3**

T.J. Wilkerson

**City Council Place 5**

Byron Sanford

**PASSED AND APPROVED** this the 11th day of May, 2021.

---

Sara Countryman, Mayor

**ATTEST:**

---

Susan Hensley, City Secretary

**APPROVED AS TO FORM:**

---

Alan P. Petrov, City Attorney



## MONTGOMERY COUNTY ELECTIONS

**P. O. Box 2646**

**Conroe, Texas 77305-2646**

**Suzie Harvey**  
***Elections Administrator***

[www.MontgomeryVotes.org](http://www.MontgomeryVotes.org)  
[election@mctx.org](mailto:election@mctx.org)

**(936) 539-7843**  
**Fax (936) 788-8340**

May 4, 2021

Re: City of Montgomery General Election

I, Suzie Harvey, Montgomery County Elections Administrator, do hereby certify that the attached pages are the final results of the City of Montgomery General Election held in Montgomery County, Texas, on May 1, 2021.



A handwritten signature in black ink, appearing to read 'Suzie Harvey'.

Suzie Harvey  
Elections Administrator

**City of Montgomery General Election Canvass Report — Total Voters — Official**  
**Montgomery County, Texas — Joint Election — May 01, 2021**

Item 2.

Page 1 of 3

05/04/2021 04:15 PM

Total Number of Voters : 3,731 of 99,396 = 3.75%

Precincts Reporting 8 of 8 = 100.00%

Number of District Voters: 262 of 1,453 = 18.03%

District Precincts Reporting 1 of 1 = 100.00%

**City of Montgomery City Council, Place 1**

Precinct	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Carol Langley	Jenny Stewart	Totals
C	156	106	262	1453	18.03%	158	98	256
Totals	156	106	262	1453		158	98	256

**City of Montgomery General Election Canvass Report — Total Voters — Official**  
**Montgomery County, Texas — Joint Election — May 01, 2021**

Item 2.

Page 2 of 3

05/04/2021 04:15 PM

Total Number of Voters : 3,731 of 99,396 = 3.75%

Precincts Reporting 8 of 8 = 100.00%

Number of District Voters: 262 of 1,453 = 18.03%

District Precincts Reporting 1 of 1 = 100.00%

**City of Montgomery City Council, Place 3**

Precinct	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	T.J. Wilkerson	John Champagne, Jr.	Totals
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C	156	106	262	1453	18.03%	154	100	254
Totals	156	106	262	1453		154	100	254

**City of Montgomery General Election Canvass Report — Total Voters — Official**  
**Montgomery County, Texas — Joint Election — May 01, 2021**

Item 2.

Page 3 of 3

05/04/2021 04:15 PM

Total Number of Voters : 3,731 of 99,396 = 3.75%

Precincts Reporting 8 of 8 = 100.00%

Number of District Voters: 262 of 1,453 = 18.03%

District Precincts Reporting 1 of 1 = 100.00%

**City of Montgomery City Council, Place 5**

Precinct	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Byron Sanford	Tom Cronin	Totals
----------	--------------------------	-----------------------------	--------------------------	----------------------	--------------------	---------------	------------	--------

C	156	106	262	1453	18.03%	135	114	249
Totals	156	106	262	1453		135	114	249

# City of Montgomery General Election Cumulative Report — Official

## Montgomery County, Texas — Joint Election — May 01, 2021

Item 2.

Page 1 of 1

05/04/2021 04:16 PM

Total Number of Voters : 3,731 of 99,396 = 3.75%

Number of District Voters: 262 of 1,453 = 18.03%

Precincts Reporting 8 of 8 = 100.00%

District Precincts Reporting 1 of 1 = 100.00%

Party	Candidate	Early		Election		Total	
City of Montgomery City Council, Place 1, Vote For 1							
	Carol Langley	105	68.63%	53	51.46%	158	61.72%
	Jenny Stewart	48	31.37%	50	48.54%	98	38.28%
	Cast Votes:	153	98.08%	103	97.17%	256	97.71%
	Over Votes:	0	0.00%	0	0.00%	0	0.00%
	Under Votes:	3	1.92%	3	2.83%	6	2.29%
City of Montgomery City Council, Place 3, Vote For 1							
	T.J. Wilkerson	95	62.50%	59	57.84%	154	60.63%
	John Champagne, Jr.	57	37.50%	43	42.16%	100	39.37%
	Cast Votes:	152	97.44%	102	96.23%	254	96.95%
	Over Votes:	0	0.00%	0	0.00%	0	0.00%
	Under Votes:	4	2.56%	4	3.77%	8	3.05%
City of Montgomery City Council, Place 5, Vote For 1							
	Byron Sanford	90	59.21%	45	46.39%	135	54.22%
	Tom Cronin	62	40.79%	52	53.61%	114	45.78%
	Cast Votes:	152	97.44%	97	91.51%	249	95.04%
	Over Votes:	0	0.00%	0	0.00%	0	0.00%
	Under Votes:	4	2.56%	9	8.49%	13	4.96%

# City of Montgomery General Election Precinct Report — Official

## Montgomery County, Texas — Joint Election — May 01, 2021

Item 2.

Page 1 of 1

05/04/2021 04:16 PM

Total Number of Voters : 3,731 of 99,396 = 3.75%

Precincts Reporting 8 of 8 = 100.00%

Number of District Voters: 262 of 1,453 = 18.03%

District Precincts Reporting 1 of 1 = 100.00%

Party	Candidate	Early		Election		Total	
Precinct C (Ballots Cast: 262)							
City of Montgomery City Council, Place 1, Vote For 1							
	Carol Langley	105	68.63%	53	51.46%	158	61.72%
	Jenny Stewart	48	31.37%	50	48.54%	98	38.28%
	Cast Votes:	153	98.08%	103	97.17%	256	97.71%
	Over Votes:	0	0.00%	0	0.00%	0	0.00%
	Under Votes:	3	1.92%	3	2.83%	6	2.29%
City of Montgomery City Council, Place 3, Vote For 1							
	T.J. Wilkerson	95	62.50%	59	57.84%	154	60.63%
	John Champagne, Jr.	57	37.50%	43	42.16%	100	39.37%
	Cast Votes:	152	97.44%	102	96.23%	254	96.95%
	Over Votes:	0	0.00%	0	0.00%	0	0.00%
	Under Votes:	4	2.56%	4	3.77%	8	3.05%
City of Montgomery City Council, Place 5, Vote For 1							
	Byron Sanford	90	59.21%	45	46.39%	135	54.22%
	Tom Cronin	62	40.79%	52	53.61%	114	45.78%
	Cast Votes:	152	97.44%	97	91.51%	249	95.04%
	Over Votes:	0	0.00%	0	0.00%	0	0.00%
	Under Votes:	4	2.56%	9	8.49%	13	4.96%

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> May 11, 2021	<b>Budgeted Amount:</b>
<b>Department:</b> Administrative	
<b>Prepared By:</b> Susan Hensley, City Secretary	<b>Exhibits:</b>
<b>Date Prepared:</b> May 3, 2021	

**Subject**

Oath of Office for Newly Elected City Council Members, Places 1, 3 and 5

**Recommendation****Discussion**

Mayor Sara Countryman will administer the Oath of Office to the newly elected City Council Members, Places 1, 3 and 5:

Place 1 – Carol Langley  
Place 3 – T.J. Wilkerson  
Place 5 – Byron Sanford

**Approved By**

City Administrator		Date: May 6, 2021
City Secretary & Director of Administrative Services		Date: May 6, 2021



Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> May 11, 2021	<b>Budgeted Amount:</b>
<b>Department:</b> Administrative	
<b>Prepared By:</b> Susan Hensley, City Secretary	<b>Exhibits:</b>
<b>Date Prepared:</b> May 3, 2021	

**Subject**

Annual election of Mayor Pro Tem as provided by Texas Local Government Code § 22.037(b).

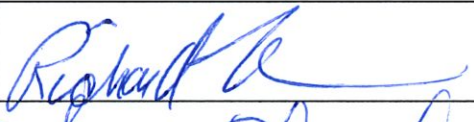

**Recommendation**

Appointment of Mayor Pro Tem is for a one year term.

**Discussion**

T.J. Wilkerson is the current Mayor Pro Tem. City Council makes the appointment.

**Approved By**

City Administrator		Date: May 6, 2021
City Secretary and Director of Administrative Services		Date: May 6, 2021

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> May 11, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Administration	<b>Prepared By:</b> Richard Tramm

**Subject**

Consideration and possible action to appoint a replacement position to the Montgomery Economic Development Corporation (MEDC) Board of Directors.

**Recommendation**

Consider and take action to appoint a replacement to Montgomery Economic Development Corporation Board of Directors to replace Tom Cronin for the term ending January 2022.

**Discussion**

Councilman Tom Cronin has been serving on the MEDC Board of Directors as one of the positions reserved for the elected officials of the City, serving a term which runs through January 2022. Councilman Cronin vacates his position on the MEDC Board of Directors with the end of his service on the City Council when his replacement is sworn in to Place 5, therefore the City Council will need to appoint a replacement from those serving in the six elected positions of City government (Mayor and City Council).

Carol Langley is currently serving in this capacity in the other position reserved for elected officials and should not be considered for this spot.

**Approved By**

		Date:
City Administrator	Richard Tramm	Date: 05/05/2021

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> May 11, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Administration	<b>Prepared By:</b> Richard Tramm

**Subject**

Consideration and possible action regarding City Engineer.

**Recommendation**

Consider and take any necessary action to direct the City Administrator regarding City Engineer and related services.

**Discussion**

While this item was discussed at the last meeting, it did not receive formal action and I would like to bring this back for clarification so I can be certain I am providing Council with the actions it would like.

As previously discussed, Jones|Carter has lost two key personnel that had worked on the City's items in their functions as City Engineer. My recommendation to Council last meeting was to allow me to approach WGA Consulting Engineers to attempt to reach an agreement for them to take over as City Engineer and to also work with Jones|Carter to agree to transition or maintain providing particular services with the City of Montgomery, and to then report back to City Council to potentially approve official action on those items.

**Approved By**

		Date:
City Administrator	Richard Tramm	Date: 05/06/2021

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> May 11, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Administration	<b>Prepared By:</b> Richard Tramm

**Subject**

Consideration and possible action on setting Exemptions for use on 2021 Notices of Appraised Value and 2021 Assessment Rolls.

**Recommendation**

Adopt property tax exemption rates of \$10,000 for Homestead Exemption, \$50,000 for Over 65 Exemption and \$70,000 for Disability Exemption for use on 2021 Notices of Appraised Value and 2021 Assessment Rolls.

**Discussion**

For both 2019 and 2020, the City has had an exemption of \$50,000 for Over 65 years of age and \$70,000 for Disability. (I did not research further back than 2019 on this item.)

The City does not currently have a Homestead Exemption. I think this period of increasing home values would be a good time for the City to consider adding a Homestead Exemption for owner occupied homes in the City that qualify for such an exemption. My recommendation is the City Council add a \$10,000 Homestead Exemption for 2021. This would result in a \$40 decrease in annual property taxes to the City on properties qualifying for homestead exemption. As a comparison, from 2019 to 2020 the tax amount due to the City based on the average homestead property increased by \$22, so a \$10,000 Homestead Exemption would effectively reduce the property taxes due by nearly twice that amount for those properties.

**Approved By**

		Date:
City Administrator	Richard Tramm	Date: 05/06/2021



## MONTGOMERY CENTRAL APPRAISAL DISTRICT

TONY BELINOSKI, RPA  
CHIEF APPRAISER

March 2, 2021

**Jurisdiction:** City of Montgomery  
Tax Assessor/Collector: Montgomery Co Tax Ofc

### Request for Verification of Exemption Information For Use on the 2021 Notices of Appraised Value and 2021 Assessment Rolls

Please indicate the current exemption amount(s) and attach a copy of the governing body's Resolution or Minutes authorizing the change(s). **MCAD MUST HAVE GOVERNING DOCUMENTS- EVEN IF EXEMPTION AMOUNTS DO NOT CHANGE.**

Exemptions:	Adopted for 2021
Homestead	
Over 65	
Disability	

- Changes or corrections must be received at MCAD **ASAP** to be included on the Preliminary Rolls. Unless changes/corrections are received by this date, we will assume our records are correct.
- Any action regarding changes in the *percentage homestead exemption* **must** be taken by the governing body **before July 1<sup>st</sup>**, Texas Property Tax Code, Section 11.13(n).

Signature of Person Completing This Form

Your Name Printed

Date

Please return verification by **ASAP** to:

Montgomery Central Appraisal District  
Attn: Jaclyn Smith  
P. O Box 2233  
Conroe TX 77305

Scanned & Emailed to: [JaclynS@MCAD-TX.ORG](mailto:JaclynS@MCAD-TX.ORG)

*SERVICE, EXCELLENCE AND EQUITY IN AD VALOREM TAX ADMINISTRATION*

(936) 756-3354 CONROE • (936) 441-2186 METRO • [www.mcad-tx.org\[website\]](http://www.mcad-tx.org[website]) • P.O. BOX 2233 • CONROE TEXAS 77305-2233

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> May 11, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Administration	<b>Prepared By:</b> Richard Tramm

**Subject**

Consider and take action on an updated ordinance regarding wrecker service and towing in the City of Montgomery.

**Recommendation**

Review and consider approval of the proposed updated ordinance for wrecker and towing services.

**Discussion**

Upon review by the City of Montgomery Police Chief and in consultation with the City Attorney, the attached proposed ordinance is provided to replace the current ordinance. This includes updating the Voluntary Wrecker Service Rotation List Guidelines provided by the Police Department, as well as the applications for both Tow Truck Companies and Tow Truck Drivers. Under this ordinance, the City will review and approve the applications of both companies and individual drivers to operate as tow truck service providers in the City.

**Approved By**

		Date:
City Administrator	Richard Tramm	Date: 05/06/2021

**ORDINANCE NO. 2021-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 86, TRAFFIC AND VEHICLES, ARTICLE VII, TOWING SERVICES, SECTION 86-236, DEFINITIONS, AND SECTION 86-237, TOWING SERVICE ROTATION LIST GUIDELINES, TO UPDATE THE CITY'S ROTATION LIST GUIDELINES FOR NON-CONSENT TOWS AND THE DEFINITIONS RELATED TO SAME; PROVIDING A SEVERANCE CLAUSE AND TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the nonconsensual towing, removal and storage of a motor vehicle presents an inherently coercive situation for the vehicle owner or operator as to the rights of persons whose vehicles may be towed, and regarding the release of the vehicle from storage; and,

**WHEREAS**, there is evidence that some wrecker services and/or storage companies have apparently taken advantage of this situation by charging an unreasonable fee for the towing and/or storage of a motor vehicle; and,

**WHEREAS**, there is a need to assure vehicle wrecker services and storage companies receive fair compensation for their services on non-consent tows; and,

**WHEREAS**, the City Council of the City of Montgomery has previously established regulations related to non-consent tows and now wishes to update the guidelines for non-consent tows as well as certain definitions related to same;

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

**SECTION 1. AMENDMENT OF CITY CODE.**

Chapter 86, Traffic and Vehicles, Article VII, Towing Services, Section 86-236, Definitions; and Section 86-237, Towing service rotation list guidelines, of the Montgomery City Code, are hereby amended and restated to read as follows:

**Section 86-236. Definitions.**

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used

in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in the Ordinance. The word "person" means any human being or legal entity and includes a corporation, a partnership, and an incorporated or unincorporated association.

*Abandoned Motor Vehicle* shall have the same meaning as assigned that term by Texas Transportation Code § 683.002.

*City* means the City of Montgomery, Texas.

*Consent Tow* shall be any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

*Junked Vehicle* shall have the same meaning as assigned to that term by Texas Transportation Code § 683.071.

*Special Circumstances Tow* a rotation tow such as a police chase out of the City of Montgomery resulting in extensive miles for the tow, or the tow requires extensive recovery. If a City of Montgomery Rotation Tow requires special circumstances in and/or for towing the vehicle, the driver will provide whatever services are required and the wrecker service owner will call the Chief of Police designee the next day and explain the special circumstances to request additional charges which may be approved solely at the discretion of the designee of the Chief of Police.

*Tow Truck* shall mean a motor vehicle or mechanical device adapted or used to tow, winch, or otherwise move motor vehicles. In accordance with Title 16, Chapter 86 of the Texas Administrative Code:

- (a) Each tow truck shall: (I) have a legible manufacturer's data plate indicating the capacity of the boom, the winch or the carry mechanism; or (2) have a document in the truck from the manufacturer stating the capacity of the boom, the winch or the carry mechanism;
- (b) Every hydraulic line on each tow truck must be free of leaks and be in good working condition free of defects;
- (c) The winch must not exceed the capacity of the boom or leak oil;
- (d) The cables must be as specified by the manufacturer and be in good condition, within manufacturer guidelines;
- (e) Each tow truck must have a copy of the annual state inspection; and
- (f) Tow trucks placed in service after May 1, 2008, must contain the original manufacturer's warning labels on the truck, truck bed, winches, and all other accessories.



*Non-Consent Tow* shall be any tow of a motor vehicle that is not a consent tow.

*Wrecker Service* shall mean an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state.

### **Section 86-237. Wrecker service rotation list guidelines.**

The City Council, in conjunction with the Police Chief for the City, hereby adopts and establishes guidelines to be effective for Wrecker Services that have voluntarily requested and agreed to be placed on the City of Montgomery's Voluntary Wrecker Service Rotation List. The guidelines are effective for the Voluntary Wrecker Service Rotation List only, and are attached to this Ordinance as Exhibit "A", and incorporated herein by reference for all purposes. A current copy of the guidelines shall be maintained on file in the office of the City Secretary. Any person who wishes to participate in the Voluntary Wrecker Service Rotation List shall file an application with the Montgomery Police Department requesting to be placed on the Voluntary Rotation List, and shall covenant and agree to all of the terms and conditions set out in the guidelines.

## **SECTION 2. SEVERABILITY CLAUSE**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect any of the remaining provisions of this Ordinance.

## **SECTION 3. REPEALING CLAUSE**

All other Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other Ordinances regulating and governing the subject matter covered by this Ordinance on all Ordinances or sections of the City Code not specifically amended or repealed shall remain in full force and effect.

## **SECTION 4. TEXAS OPEN MEETINGS ACT**

It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, of the Texas Government Code.

## **SECTION 5. EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its passage and adoption.

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2021.

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Alan P. Petrov, City Attorney

## EXHIBIT A

### CITY OF MONTGOMERY POLICE DEPARTMENT VOLUNTARY WRECKER SERVICE ROTATION LIST GUIDELINES

The following guidelines will be in effect for wrecker services that have voluntarily requested and agreed to be placed on the City of Montgomery Police Department Voluntary Wrecker Service Rotation List "Rotation List". These guidelines are effective for the Rotation List only. By filing an application with the Montgomery Police Department and requesting to be placed on the Rotation List all wrecker service providers agree to the following terms and conditions pertaining to their participation and to be in compliance with Title 16, Chapters 85 and 86 of the Texas Administrative Code. Any wrecker service provider that voluntarily participates on this Rotation List must follow the guidelines set forth herein and those as set forth in the Texas Administrative Code and Chapter 2308 of the Texas Occupations Code.

#### I. Definitions

Definitions or terms not set out below are defined in Title 16 of the Texas Administrative Code §§ 85.10 and 86.10. As used in this document, the terms below shall have the following meanings:

*"Abandoned Motor Vehicle"* shall have the same meaning as assigned that term by Texas Transportation Code §683.002.

*"Consent Tow"* shall be any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

*"Junked Vehicle"* shall have the same meaning as assigned to that term by Texas Transportation Code §683.071.

*"Special Circumstances Tow"* a rotation tow such as a police chase out of the City of Montgomery resulting in extensive miles for the tow or the tow requires extensive recovery. If a tow requires special circumstances in and/or for towing the vehicle, the driver will provide whatever services are required and the wrecker service owner will call the Chief of Police designee the next day and explain the special circumstances to request additional charges which may be approved solely at the discretion of the designee of the Chief of Police.

*"Tow Truck"* shall mean a motor vehicle or mechanical device adapted or used to tow, winch, or otherwise move motor vehicles. In accordance with Title 16, Chapter 86 of the Texas Administrative Code:

- (a) Each tow truck shall: (1) have a legible manufacturer's data plate indicating the capacity of the boom, the winch, or the carry mechanism; or (2) have a document in the truck from the manufacturer stating the capacity of the boom, the winch or the carry mechanism;

- (b) Every hydraulic line on each tow truck must be free of leaks and be in good working condition free of defects;
- (c) The winch must not exceed the capacity of the boom or leak oil;
- (d) The cables must be as specified by the manufacturer and be in good condition, within manufacturer guidelines;
- (e) Each tow truck must have a copy of the annual state inspection; and
- (f) Tow trucks placed in service after May 1, 2008, must contain the original manufacturer's warning labels on the truck, truck bed, winches, and all other accessories.

*"Non-Consent Tow"* shall be any tow of a motor vehicle that is not a consent tow.

*"Wrecker Service"* shall mean an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state.

## **II. Application for Participation on the Montgomery Police Department Voluntary Wrecker Service Rotation List:**

A person or other legal entity desiring to participate on the Rotation List within the city shall make written application to the Chief of Police on the form attached hereto. Such application shall be made upon a form provided by the Chief of Police and must be signed by the applicant or the wrecker service's legal representative. Said application shall be accompanied by all required documentation as specified herein. The application for participation is attached hereto and for all purposes is a part of these mandatory guidelines for voluntary participation on the Rotation List.

- A. By completing and signing the application and submitting the required documentation, the applicant and wrecker service agree to participate on the voluntary wrecker service rotation list established by these guidelines and acknowledge that the wrecker service will adhere to and uphold the terms and conditions set forth herein.
- B. These guidelines may be amended, at any time, for any reason at the sole discretion of the Chief of Police upon fifteen (15) days notice (sent via regular mail to the address listed in the application above) to all current participants on the wrecker service rotation list.
- C. Every year a new Rotation List will be opened for ALL participants to apply and submit documents and information for enrollment, unless a sooner period is deemed necessary by the Chief of Police, at his sole discretion. The new Rotation List will replace any and all existing or previous rotation lists. This enrollment period will be from January 2<sup>nd</sup> to February 2<sup>nd</sup> of the enrollment year. The initial enrollment year will be January 2012. All current participants and those requesting to participate on any future Rotation List will have to submit a new application,

documents, and information as determined by the Chief of Police. All documents are due by the submittal deadline for possible participation on the Rotation List for the year term. Applications, documents, and information not received in the Records Office of the Montgomery Police Department within enrollment period will be void. The maximum wrecker services on the Rotation List shall consist of five (5) wrecker services.

- D. All voluntary wrecker services requesting to be placed on the Rotation List must follow all federal, state, and local laws.

### **III. Guidelines for Qualification for City of Montgomery Voluntary Wrecker Service Rotation List:**

- A. The wrecker service must have its primary office and vehicle storage facility located within the city limits of the City of Montgomery or its extra territorial jurisdiction.
- B. The current Rotation List will consist of a maximum of five (5) wrecker services.
- C. A participant's position and placement on the Rotation List is not transferrable.
- D. Any wrecker service requesting to be added to the Rotation List must have an established Wrecker Service with its primary business office and vehicle storage facility located within the City Limits of the City of Montgomery or its extraterritorial jurisdiction.
- E. Two or more wrecker services sharing common ownership may not appear more than once on the Rotation List. For this purpose, two or more wrecker services are considered to be under common ownership if: 1) one wrecker service is a wholly owned subsidiary of the other; or 2) the wrecker services share a common place of business within the city and/or have one or more common owners.
- F. All wrecker services must own and/or operate a licensed vehicle storage facility ("VSF") to be placed on the Rotation List and may not "share" a storage lot with other wrecker services resulting in more than one wrecker service storing vehicles in a common location. Any vehicle being towed as a result of the Rotation List will be towed to a City approved VSF and may not be moved from that VSF unless being transferred only to a repair facility in accordance with Title 16, Chapters 85 and 86 of the Texas Administrative Code with the consent of the owner of the vehicle as defined in §86.10 (22).
- G. Wrecker service must provide 24-hour service, 7 days a week.
- H. Wrecker service must have a phone number that will be answered 24 hours a day, 7 days a week.
- I. Wrecker service must present proof of either Worker's Compensation or Occupational Insurance for its wrecker drivers.

#### **IV. Towing Fees**

- A. Whenever a light duty motor vehicle is towed and the wrecker service is summoned from the Rotation List (not including those tows that require the use of a heavy-duty wrecker), the wrecker service may not charge a tow fee in excess of \$250.00 for an accident related incident or \$200.00 for an arrest related incident. Such maximum charge shall be applicable regardless of whether or not the vehicle is towed from public or private property and shall be complete compensation for all services rendered in connection with the performance of the tow, cleanup, and removal of wreckage or debris resulting from an accident involving the towed vehicle. No additional fees, charges, costs, etc. may be attached to the towing of the vehicle.
- B. The provisions of these guidelines apply to "private property tows" as they are regulated in the Texas Occupations Code, which shall be limited to \$217.50.
- C. Fuel surcharge will not be charged by the wrecker service unless the cost of fuel exceeds \$4.00 per gallon (in the City of Montgomery, Texas) for a period of thirty (30) days at which time the Chief of Police or his designee MAY issue written authority to the wrecker services on the Rotation List for a fuel surcharge.
- D. Owner's request for a wrecker service will be honored at the discretion of the police officer on scene if that service can timely respond on scene within twenty-five (25) minutes of receiving the call from Montgomery Police Department Dispatch. The fee for this tow will be as set forth in Section IV., Paragraph A, above.

#### **V. Wrecker Driver Qualifications**

- A. Prior to a driver operating a wrecker for tows in connection with the Rotation List, each driver must obtain a City of Montgomery Wrecker Drivers Permit. The Application for the permit will be available from the City of Montgomery Police Department. The requirements for obtaining a City of Montgomery Wrecker Driver Permit are as follows:
  - 1. Complete all information contained on the Application;
  - 2. Provide Fingerprints;
  - 3. Provide Photos - front & profile;
  - 4. Criminal Background;
  - 5. Copy of Texas Driver's License;
  - 6. In accordance with Title 16, §86.1001 of the Texas Administrative Code all wrecker drivers must, at all times, wear "uniforms clearly marked with the tow company's name as it appears on department records"; and must "wear

reflective vest or jacket at all times while working outside the tow truck; the reflective vest or jacket" must meet Class 3 safety requirements; and

7. Driver must agree to comply, at all times, with the guidelines of the Rotation List and Title 16 of the Texas Administrative Code.

- B. City of Montgomery Wrecker Driver permits will be issued at the discretion of the Chief of Police or his designee after a review of the application and supporting documents, and the criminal background of the applicant. City of Montgomery Wrecker Driver permits may be revoked by the Chief of Police or his designee for any violation of the law, the Montgomery Wrecker Voluntary Rotation Guidelines, driver misconduct, or any other action or inaction deemed inappropriate by the Chief of Police or his designee.

## **VI. Duties and Responsibilities:**

- A. Each wrecker service included on the Rotation List will have a duty to respond when summoned from the list and to perform the rotation tow. A wrecker service so summoned that fails to respond to the scene within twenty-five (25) minutes from the first call placed to the wrecker service by City of Montgomery Police Department Dispatch or at the discretion of the requesting Montgomery Police Officer will be passed over and the next rotation wrecker service on the list will be summoned. It is a violation of these guidelines, if another wrecker service attempts to substitute and to perform the duties of the originally summoned wrecker service. In addition, if a pattern of not responding when summoned develops, or the wrecker service not responding to the scene within twenty-five (25) minutes from the FIRST CALL PLACED to the wrecker service by dispatch, the violating wrecker service may be stricken from the Rotation List for a term to be determined by the Chief of Police or his designee.
- B. If Montgomery Police Department Dispatch calls the designated phone number for the rotation wrecker service and there is no answer and upon leaving a message, the wrecker service has five (5) minutes to return the call to Dispatch. If the wrecker service fails to return the call to City of Montgomery Police Department Dispatch, the wrecker service will be passed over, and the next rotation wrecker will be called; If the FIRST CALL from dispatch is not answered and a message is left, from that FIRST CALL the wrecker service will continue to have twenty-five (25) minutes to respond to the scene from that FIRST UNANSWERED CALL.
- C. All vehicles towed as a result of a rotation call will be towed to the City of Montgomery approved VSF for that wrecker service on file with Montgomery Police Department, unless the owner designates a location to the wrecker service. Upon the vehicle owner's request of a particular tow location, the wrecker driver will agree to take the vehicle to that location designated by the vehicle owner, (with the exception of those vehicles which are part of an ongoing law enforcement investigation). The address where the vehicle is taken must match the address on the Montgomery Police Department Tow Slip. If the location where the vehicle

owner requests the vehicle towed is closed, the vehicle will be taken to the City approved VSF. This will be the responsibility of the wrecker service to ensure the officer is provided with any updated change in tow location. If the owner requests the vehicle be towed to a location other than the City approved VSF, the tow fee will remain \$250.00 for an accident related incident or \$200.00 for an arrest related incident and the wrecker service may charge per mile not to exceed \$5.00 per mile for all towed miles outside the Montgomery City Limits.

- D. Before any towed vehicle is transferred/transported from one location to another, the wrecker service must give the owner or owner's representative notice of the fee to be charged for such transfer. Any removal/transfer of a vehicle from a vehicle storage facility must be done in compliance with Title 16, §85.710 of the Texas Administrative Code.
- E. A wrecker service summoned from the Rotation List to remove a junked vehicle, as set forth by municipal court order will submit the fee to the city of Montgomery. The fee will be in accordance with the fees set forth hereinabove. The junked vehicle will be delivered to a salvage yard or other location for destruction as provided by the municipal court order and state law and the wrecker driver is required to notify Montgomery Police Department of what location the vehicle was taken. If the wrecker service chooses to take the junked vehicle to a salvage yard with no charge billed for the service to the City, the wrecker service waives said tow fee, the wrecker service will remain next on the voluntary wrecker rotation list. In order to do so, the wrecker service will notify the requesting Montgomery Police Officer of this election.
- F. All vehicle storage facilities will comply with the guidelines and laws set forth by the Texas Department of Licensing and Regulation, Title 16, Chapter 85 of the Texas Administrative Code, by voluntarily participating on the Rotation List, all participants hereby authorize a duly authorized representative of the Chief of Police to inspect their VSF. Any impound fee may not exceed \$20.00 and must be in compliance with Title 16, §85.719 of the Texas Administrative Code requiring a written inventory of any unsecured personal property, safekeeping of personal property, and obtain motor vehicle registration from the Texas Department of Transportation. All VSF facilities are required to have all signs posted in accordance with §85.706 of the Texas Administrative Code.
- G. For safety and efficiency reasons, all wrecker services participating on the Rotation List are required to have the following safety devices and tools on each truck: 5 lb fire extinguisher, size appropriate shovel, broom, size appropriate bucket, and appropriate amount of sand. By participating on the Rotation List all participants hereby authorize any member of the Montgomery Police Department to inspect the tow trucks used for the required safety devices and tools.
- H. Any wrecker service, by voluntarily requesting to participate on Rotation List hereby authorizes the Chief of Police or his designee to review all tow slips and receipts pertaining to the tows initiated by the use of the Rotation List. Upon notice,



the wrecker service will provide the tow slips and receipts for inspection to the Montgomery Police Department within ten (10) days.

- I. Each wrecker service will notify dispatch if they will not be responding to a scene or will be out of service for any extended length of time.

## **VII. The Voluntary Wrecker Rotation List:**

The Chief of Police, or his designee will maintain the Rotation List consisting of eligible wrecker services having requested in writing and by application, inclusion on the list and as approved by the Chief of Police. The Rotation List will be maintained in alphabetical order. When a tow truck is needed, a tow truck will be summoned from the first wrecker service on the Rotation List. Thereafter, a tow truck from the next wrecker service on the alphabetical list will be summoned in like fashion, advancing through the Rotation List.

## **VIII. Compliance**

If it is found that a wrecker service has violated any term of this agreement, the wrecker service may be penalized from participation on the Rotation List. Such penalization may include written warning, suspension, or removal from such Rotation List. The Montgomery Police Department will provide the violating wrecker service notice of such penalties, and the violating wrecker service will have 10 days to file a written request for a hearing before the City Council. After the passage of the 10-day period, if a hearing is not requested, the penalty will immediately go into effect. After the hearing, the City Council will make its decision.



# Application for Tow Truck Service License

for year ending in \_\_\_\_\_, \_\_\_\_\_

Item 9.

Date of Application \_\_\_\_\_

TO: CITY OF MONTGOMERY  
101 OLD PLANTERSVILLE RD.  
MONTGOMERY, TX 77316  
TEL. 936.597.6434 FAX 936.597.6437

I, \_\_\_\_\_, do hereby make application for a license to operate a tow truck service in the City of Montgomery and to be added to the City of Montgomery Tow Truck Rotation List.

**NOTICE: All spaces provided on this application MUST be filled out to the best of the applicant's knowledge. If a question does not apply, please state so by writing in N/A. The City of Montgomery reserves the right to deny an application for falsifying information or failing to provide information.**

## Business & Owner Information

True Name \_\_\_\_\_  
Trade Name \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Telephone Business \_\_\_\_\_ Home \_\_\_\_\_ Mobile \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
Owner ☐ Individual ☐ Partnership ☐ Corporation

### If Owner is an Individual, Please Provide the Following:

Name \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Business Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Telephone Business \_\_\_\_\_ Home \_\_\_\_\_ Fax \_\_\_\_\_  
Mobile \_\_\_\_\_ E-mail Address \_\_\_\_\_

### If Owner is a Partnership, Please Provide the Following:

Name \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Telephone Business \_\_\_\_\_ Home \_\_\_\_\_ Fax \_\_\_\_\_  
Mobile \_\_\_\_\_ E-mail Address \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Telephone Business \_\_\_\_\_ Home \_\_\_\_\_ Fax \_\_\_\_\_  
Mobile \_\_\_\_\_ E-mail Address \_\_\_\_\_

Business Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Business Fax \_\_\_\_\_ Business E-mail \_\_\_\_\_

**If Owner is Corporation, please provide names and addresses of partners or officers and stockholders holding more than 10% interest.**

Business Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Business Phone \_\_\_\_\_ Business Fax \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Telephone Business \_\_\_\_\_ Home \_\_\_\_\_ Fax \_\_\_\_\_  
 Mobile \_\_\_\_\_ E-mail Address \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Telephone Business \_\_\_\_\_ Home \_\_\_\_\_ Fax \_\_\_\_\_  
 Mobile \_\_\_\_\_ E-mail Address \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Telephone Business \_\_\_\_\_ Home \_\_\_\_\_ Fax \_\_\_\_\_  
 Mobile \_\_\_\_\_ E-mail Address \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Telephone Business \_\_\_\_\_ Home \_\_\_\_\_ Fax \_\_\_\_\_  
 Mobile \_\_\_\_\_ E-mail Address \_\_\_\_\_

### Number of Vehicles to be Operated Under This License

#### Vehicle No. 1

Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_  
 Serial No. \_\_\_\_\_ License No. \_\_\_\_\_

#### Vehicle No. 2

Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_  
 Serial No. \_\_\_\_\_ License No. \_\_\_\_\_

#### Vehicle No. 3

Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_  
 Serial No. \_\_\_\_\_ License No. \_\_\_\_\_

#### Vehicle No. 4

Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_  
 Serial No. \_\_\_\_\_ License No. \_\_\_\_\_

#### Vehicle No. 5

Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_  
 Serial No. \_\_\_\_\_ License No. \_\_\_\_\_

### Storage Lot Information

Location of Storage Lot \_\_\_\_\_  
 Name of Owner of Lot \_\_\_\_\_  
 24-Hour Number for Retrieval of Vehicles From Lot \_\_\_\_\_

**THIS APPLICATION MUST BE ACCOMPANIED BY AN AUTO WRECKER LICENSE FEE OF ONE HUNDRED DOLLARS (\$100.00) FOR EACH VEHICLE AND A POLICY OR CERTIFICATE OF INSURANCE OF PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE ISSUED BY A CASUALTY INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS AND THE STANDARD FORM APPROVED BY THE BOARD OF INSURANCE COMMISSIONERS OF THE STATE OF TEXAS WITH THE COVERAGE PROVISION INSURING THE PUBLIC FROM LOSS OR DAMAGE THAT MAY ARISE TO ANY PERSON OR PROPERTY BY REASON OF THE OPERATION OF A WRECKER OF SUCH COMPANY AND PROVIDING THAT THE AMOUNT OF RECOVERY OF EACH WRECKER SHALL BE IN LIMITS OF NOT LESS THAN THE FOLLOWING SUMS:**

FOR DAMAGES ARISING OUT OF BODILY INJURY TO OR DEATH OF ONE  
PERSON IN ANY ONE ACCIDENT: **\$300,000.00**

FOR INJURY TO OR DESTRUCTION OF PROPERTY IN ANY ONE ACCIDENT:  
**\$100,000.00**

**Please Attach the Following**

- ☐ **PROOF OF OWNERSHIP OF ALL TOW TRUCKS/WRECKERS**
- ☐ **CERTIFICATE OF REGISTRATION OF EACH TOW TRUCK/WRECKER FROM STATE OF TEXAS**
- ☐ **STATE LICENSE TO OPERATE A VEHICLE STORAGE FACILITY**

**I will obey the provisions of Chapter 86, Article VII of the City of Montgomery Code of Ordinances and all other ordinances and statutes applicable to "Auto Wreckers" and agree that upon failure to obey such laws that this license may be revoked and/or suspended. Any false or misleading information on this application may result in denial or suspension of said license. All the information supplied in this application is true and correct.**

Do you agree to participate in the tow truck rotation list? ☐ Yes ☐ No

\_\_\_\_\_  
Signature of Owner, Partner or Officer

\_\_\_\_\_  
Date

**FOR OFFICE USE ONLY**

Application received by _____	Date _____
Application approved by _____	Date _____
License Issued by _____	Date _____
License Expires _____	License No. _____
Refused _____	Reason for Refusal _____
City Administrator Approval _____	Date _____
City Administrator Refusal _____	Reason for Refusal _____

## CITY OF MONTGOMERY POLICE DEPARTMENT VOLUNTARY WRECKER SERVICE ROTATION LIST GUIDELINES

The following guidelines will be in effect for wrecker services that have voluntarily requested and agreed to be placed on the City of Montgomery Police Department Voluntary Wrecker Service Rotation List "Rotation List". These guidelines are effective for the Rotation List only. By filing an application with the Montgomery Police Department and requesting to be placed on the Rotation List all wrecker service providers agree to the following terms and conditions pertaining to their participation and to be in compliance with Title 16, Chapters 85 and 86 of the Texas Administrative Code. Any wrecker service provider that voluntarily participates on this Rotation List must follow the guidelines set forth herein and those as set forth in the Texas Administrative Code and Chapter 2308 of the Texas Occupations Code.

### I. Definitions

Definitions or terms not set out below are defined in Title 16 of the Texas Administrative Code §§ 85.10 and 86.10. As used in this document, the terms below shall have the following meanings:

*"Abandoned Motor Vehicle"* shall have the same meaning as assigned that term by Texas Transportation Code §683.002.

*"Consent Tow"* shall be any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

*"Junked Vehicle"* shall have the same meaning as assigned to that term by Texas Transportation Code §683.071.

*"Special Circumstances Tow"* a rotation tow such as a police chase out of the City of Montgomery resulting in extensive miles for the tow or the tow requires extensive recovery. If a tow requires special circumstances in and/or for towing the vehicle, the driver will provide whatever services are required and the wrecker service owner will call the Chief of Police designee the next day and explain the special circumstances to request additional charges which may be approved solely at the discretion of the designee of the Chief of Police.

*"Tow Truck"* shall mean a motor vehicle or mechanical device adapted or used to tow, winch, or otherwise move motor vehicles. In accordance with Title 16, Chapter 86 of the Texas Administrative Code:

- (a) Each tow truck shall: (1) have a legible manufacturer's data plate indicating the capacity of the boom, the winch, or the carry mechanism; or (2) have a document in the truck from the manufacturer stating the capacity of the boom, the winch or the carry mechanism;
- (b) Every hydraulic line on each tow truck must be free of leaks and be in good working condition free of defects;

- (c) The winch must not exceed the capacity of the boom or leak oil;
- (d) The cables must be as specified by the manufacturer and be in good condition, within manufacturer guidelines;
- (e) Each tow truck must have a copy of the annual state inspection; and
- (f) Tow trucks placed in service after May 1, 2008, must contain the original manufacturer's warning labels on the truck, truck bed, winches, and all other accessories.

*"Non-Consent Tow"* shall be any tow of a motor vehicle that is not a consent tow.

*"Wrecker Service"* shall mean an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state.

## **II. Application for Participation on the Montgomery Police Department Voluntary Wrecker Service Rotation List:**

A person or other legal entity desiring to participate on the Rotation List within the city shall make written application to the Chief of Police on the form attached hereto. Such application shall be made upon a form provided by the Chief of Police and must be signed by the applicant or the wrecker service's legal representative. Said application shall be accompanied by all required documentation as specified herein. The application for participation is attached hereto and for all purposes is a part of these mandatory guidelines for voluntary participation on the Rotation List.

- A. By completing and signing the application and submitting the required documentation, the applicant and wrecker service agree to participate on the voluntary wrecker service rotation list established by these guidelines and acknowledge that the wrecker service will adhere to and uphold the terms and conditions set forth herein.
- B. These guidelines may be amended, at any time, for any reason at the sole discretion of the Chief of Police upon fifteen (15) days notice (sent via regular mail to the address listed in the application above) to all current participants on the wrecker service rotation list.
- C. Every year a new Rotation List will be opened for ALL participants to apply and submit documents and information for enrollment, unless a sooner period is deemed necessary by the Chief of Police, at his sole discretion. The new Rotation List will replace any and all existing or previous rotation lists. This enrollment period will be from January 2<sup>nd</sup> to February 2<sup>nd</sup> of the enrollment year. The initial enrollment year will be January 2012. All current participants and those requesting to participate on any future Rotation List will have to submit a new application, documents, and information as determined by the Chief of Police. All documents are due by the submittal deadline for possible participation on the Rotation List for the year term. Applications, documents, and information not received in the

Records Office of the Montgomery Police Department within enrollment period will be void. The maximum wrecker services on the Rotation List shall consist of five (5) wrecker services.

- D. All voluntary wrecker services requesting to be placed on the Rotation List must follow all federal, state, and local laws.

### **III. Guidelines for Qualification for City of Montgomery Voluntary Wrecker Service Rotation List:**

- A. The wrecker service must have its primary office and vehicle storage facility located within the city limits of the City of Montgomery or its extra territorial jurisdiction.
- B. The current Rotation List will consist of a maximum of five (5) wrecker services.
- C. A participant's position and placement on the Rotation List is not transferrable.
- D. Any wrecker service requesting to be added to the Rotation List must have an established Wrecker Service with its primary business office and vehicle storage facility located within the City Limits of the City of Montgomery or its extraterritorial jurisdiction.
- E. Two or more wrecker services sharing common ownership may not appear more than once on the Rotation List. For this purpose, two or more wrecker services are considered to be under common ownership if: 1) one wrecker service is a wholly owned subsidiary of the other; or 2) the wrecker services share a common place of business within the city and/or have one or more common owners.
- F. All wrecker services must own and/or operate a licensed vehicle storage facility ('VSF') to be placed on the Rotation List and may not "share" a storage lot with other wrecker services resulting in more than one wrecker service storing vehicles in a common location. Any vehicle being towed as a result of the Rotation List will be towed to a City approved VSF and may not be moved from that VSF unless being transferred only to a repair facility in accordance with Title 16, Chapters 85 and 86 of the Texas Administrative Code with the consent of the owner of the vehicle as defined in §86.10 (22).
- G. Wrecker service must provide 24-hour service, 7 days a week.
- H. Wrecker service must have a phone number that will be answered 24 hours a day, 7 days a week.
- I. Wrecker service must present proof of either Worker's Compensation or Occupational Insurance for its wrecker drivers.

### **IV. Towing Fees**

- A. Whenever a light duty motor vehicle is towed and the wrecker service is summoned from the Rotation List (not including those tows that require the use of a heavy-duty wrecker), the wrecker service may not charge a tow fee in excess of \$250.00 for an accident related incident or \$200.00 for an arrest related incident. Such maximum charge shall be applicable regardless of whether or not the vehicle is towed from public or private property and shall be complete compensation for all services rendered in connection with the performance of the tow, cleanup, and removal of wreckage or debris resulting from an accident involving the towed vehicle. No additional fees, charges, costs, etc. may be attached to the towing of the vehicle.
- B. The provisions of these guidelines apply to "private property tows" as they are regulated in the Texas Occupations Code, which shall be limited to \$217.50.
- C. Fuel surcharge will not be charged by the wrecker service unless the cost of fuel exceeds \$4.00 per gallon (in the City of Montgomery, Texas) for a period of thirty (30) days at which time the Chief of Police or his designee MAY issue written authority to the wrecker services on the Rotation List for a fuel surcharge.
- D. Owner's request for a wrecker service will be honored at the discretion of the police officer on scene if that service can timely respond on scene within twenty-five (25) minutes of receiving the call from Montgomery Police Department Dispatch. The fee for this tow will be as set forth in Section IV., Paragraph A, above.

#### **V. Wrecker Driver Qualifications**

- A. Prior to a driver operating a wrecker for tows in connection with the Rotation List, each driver must obtain a City of Montgomery Wrecker Drivers Permit. The Application for the permit will be available from the City of Montgomery Police Department. The requirements for obtaining a City of Montgomery Wrecker Driver Permit are as follows:
  - 1. Complete all information contained on the Application;
  - 2. Provide Fingerprints;
  - 3. Provide Photos - front & profile;
  - 4. Criminal Background;
  - 5. Copy of Texas Driver's License;
  - 6. In accordance with Title 16, §86.1001 of the Texas Administrative Code all wrecker drivers must, at all times, wear "uniforms clearly marked with the tow company's name as it appears on department records"; and must "wear reflective vest or jacket at all times while working outside the tow truck; the reflective vest or jacket" must meet Class 3 safety requirements; and



7. Driver must agree to comply, at all times, with the guidelines of the Rotation List and Title 16 of the Texas Administrative Code.
- B. City of Montgomery Wrecker Driver permits will be issued at the discretion of the Chief of Police or his designee after a review of the application and supporting documents, and the criminal background of the applicant. City of Montgomery Wrecker Driver permits may be revoked by the Chief of Police or his designee for any violation of the law, the Montgomery Wrecker Voluntary Rotation Guidelines, driver misconduct, or any other action or inaction deemed inappropriate by the Chief of Police or his designee.

## **VI. Duties and Responsibilities:**

- A. Each wrecker service included on the Rotation List will have a duty to respond when summoned from the list and to perform the rotation tow. A wrecker service so summoned that fails to respond to the scene within twenty-five (25) minutes from the first call placed to the wrecker service by City of Montgomery Police Department Dispatch or at the discretion of the requesting Montgomery Police Officer will be passed over and the next rotation wrecker service on the list will be summoned. It is a violation of these guidelines, if another wrecker service attempts to substitute and to perform the duties of the originally summoned wrecker service. In addition, if a pattern of not responding when summoned develops, or the wrecker service not responding to the scene within twenty-five (25) minutes from the FIRST CALL PLACED to the wrecker service by dispatch, the violating wrecker service may be stricken from the Rotation List for a term to be determined by the Chief of Police or his designee.
- B. If Montgomery Police Department Dispatch calls the designated phone number for the rotation wrecker service and there is no answer and upon leaving a message, the wrecker service has five (5) minutes to return the call to Dispatch. If the wrecker service fails to return the call to City of Montgomery Police Department Dispatch, the wrecker service will be passed over, and the next rotation wrecker will be called; If the FIRST CALL from dispatch is not answered and a message is left, from that FIRST CALL the wrecker service will continue to have twenty-five (25) minutes to respond to the scene from that FIRST UNANSWERED CALL.
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the vehicle be towed to a location other than the City approved VSF, the tow fee will remain \$250.00 for an accident related incident or \$200.00 for an arrest related incident and the wrecker service may charge per mile not to exceed \$5.00 per mile for all towed miles outside the Montgomery City Limits.

- D. Before any towed vehicle is transferred/transported from one location to another, the wrecker service must give the owner or owner's representative notice of the fee to be charged for such transfer. Any removal/transfer of a vehicle from a vehicle storage facility must be done in compliance with Title 16, §85.710 of the Texas Administrative Code.
- E. A wrecker service summoned from the Rotation List to remove a junked vehicle, as set forth by municipal court order will submit the fee to the city of Montgomery. The fee will be in accordance with the fees set forth hereinabove. The junked vehicle will be delivered to a salvage yard or other location for destruction as provided by the municipal court order and state law and the wrecker driver is required to notify Montgomery Police Department of what location the vehicle was taken. If the wrecker service chooses to take the junked vehicle to a salvage yard with no charge billed for the service to the City, the wrecker service waives said tow fee, the wrecker service will remain next on the voluntary wrecker rotation list. In order to do so, the wrecker service will notify the requesting Montgomery Police Officer of this election.
- F. All vehicle storage facilities will comply with the guidelines and laws set forth by the Texas Department of Licensing and Regulation, Title 16, Chapter 85 of the Texas Administrative Code, by voluntarily participating on the Rotation List, all participants hereby authorize a duly authorized representative of the Chief of Police to inspect their VSF. Any impound fee may not exceed \$20.00 and must be in compliance with Title 16, §85.719 of the Texas Administrative Code requiring a written inventory of any unsecured personal property, safekeeping of personal property, and obtain motor vehicle registration from the Texas Department of Transportation. All VSF facilities are required to have all signs posted in accordance with §85.706 of the Texas Administrative Code.
- G. For safety and efficiency reasons, all wrecker services participating on the Rotation List are required to have the following safety devices and tools on each truck: 5 lb fire extinguisher, size appropriate shovel, broom, size appropriate bucket, and appropriate amount of sand. By participating on the Rotation List all participants hereby authorize any member of the Montgomery Police Department to inspect the tow trucks used for the required safety devices and tools.
- H. Any wrecker service, by voluntarily requesting to participate on Rotation List hereby authorizes the Chief of Police or his designee to review all tow slips and receipts pertaining to the tows initiated by the use of the Rotation List. Upon notice, the wrecker service will provide the tow slips and receipts for inspection to the Montgomery Police Department within ten (10) days.

- I. Each wrecker service will notify dispatch if they will not be responding to a scene or will be out of service for any extended length of time.

## **VII. The Voluntary Wrecker Rotation List:**

The Chief of Police, or his designee will maintain the Rotation List consisting of eligible wrecker services having requested in writing and by application, inclusion on the list and as approved by the Chief of Police. The Rotation List will be maintained in alphabetical order. When a tow truck is needed, a tow truck will be summoned from the first wrecker service on the Rotation List. Thereafter, a tow truck from the next wrecker service on the alphabetical list will be summoned in like fashion, advancing through the Rotation List.

## **VIII. Compliance**

If it is found that a wrecker service has violated any term of this agreement, the wrecker service may be penalized from participation on the Rotation List. Such penalization may include written warning, suspension, or removal from such Rotation List. The Montgomery Police Department will provide the violating wrecker service notice of such penalties, and the violating wrecker service will have 10 days to file a written request for a hearing before the City Council. After the passage of the 10-day period, if a hearing is not requested, the penalty will immediately go into effect. After the hearing, the City Council will make its decision.