

**Notice of City Council Regular Meeting  
AGENDA**

**June 8, 2021 at 6:00 PM**

**NOTICE TO THE PUBLIC IS HEREBY GIVEN** in accordance with the order of the Office of the Governor issued March 16, 2020, the City Council will conduct its City Council Regular Meeting scheduled for **6:00 PM on Tuesday, June 8, 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 June 8, 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/88477334954> and using **Meeting ID: 884 7733 4954**. They may also join by calling (346) 248-7799 and entering the **Meeting ID: 884 7733 4954**.

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.***

**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE TO FLAGS**

**VISITOR/CITIZENS FORUM:**

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must be recognized by the Mayor. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers along with the time allowed per speaker may be limited.

**CONSENT AGENDA:**

- 1.** Matters related to the approval of the May 25, 2021 Regular Meeting Minutes.
- 2.** Accept resignation of Keri May for Place 2 on the Planning & Zoning Commission and begin application process for replacement and appointment of that position.

**CONSIDERATION AND POSSIBLE ACTION:**

- 3.** Receive a presentation on the Annual Service and Assessment Plan for the City of Montgomery Public Improvement District No. 1.
- 4.** Consideration and possible action regarding adoption of the following Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY ACCEPTING AND APPROVING AN ANNUAL UPDATE TO THE SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR CITY OF MONTGOMERY PUBLIC IMPROVEMENT DISTRICT NO. 1; PROVIDING FOR PAYMENT OF THE

ANNUAL INSTALLMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; AND PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

5. Consideration and possible action regarding an Amendment to the Encroachment and Maintenance Agreement between the City of Montgomery and First Hartford Realty Corporation for monument signage at the Shoppes at Montgomery.
6. Consideration and possible action regarding a variance request to the vegetative setback requirements of Section 78-162(a) of the City Code of Ordinances for Commercial Reserve "D" in Town Creek Crossing Section One as submitted by LeFevre Development, Inc.

**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.

**POSSIBLE ACTION FROM EXECUTIVE SESSION:**

**COUNCIL INQUIRY:**

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

**ADJOURNMENT**

/s/Susan Hensley

Susan Hensley, City Secretary

I certify that the attached notice of meeting was posted on the bulletin board at City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas, on June 4, 2021 at 3:00 p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

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*This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodations.*

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**MINUTES OF REGULAR MEETING**

**May 25, 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
	T.J. Wilkerson	City Council Place # 3
	Julie Davis	City Council Place # 4
	Byron Sanford	City Council Place # 5

Absent:

Also Present:	Richard Tramm	City Administrator
	Dave McCorquodale	Assistant City Administrator
	Susan Hensley	City Secretary
	Alan Petrov	City Attorney

**INVOCATION**

T.J. Wilkerson gave the Invocation.

**PLEDGE OF ALLEGIANCE TO FLAGS**

**VISITOR/CITIZENS FORUM:**

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**CONSENT AGENDA:**

1. Matters related to the approval of the May 11, 2021 Regular Meeting Minutes.
2. Consideration and possible action regarding adoption of a Banking Resolution for all City of Montgomery Banking Accounts.

Julie Davis moved to accept the Consent Agenda cumulatively as presented. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

**CONSIDERATION AND POSSIBLE ACTION:**

3. Consideration and possible action regarding affirming approval of funding Economic Development Grant request that was approved by Montgomery Economic Development Corporation for \$20,000.

Mr. Tramm said this item was presented at the MEDC meetings of April 19 and May 17, 2021, and was also the subject of a Public Hearing at MEDC on May 17, 2021. Mr. Tramm said this item is coming to the City Council to affirm the MEDC approval action because the approval is for an item over \$10,000.

Mr. Tramm said enclosed are the same items that were presented to the MEDC Board of Directors for its consideration on May 17, 2021. Mr. Tramm said these include a narrative attempting to quantify financial value for supporting the project, as well as some description for value within the project that may not be easily quantifiable. Mr. Tramm said also included is a recent newspaper article regarding "Breaking Strongholds," an addendum to the standard MEDC Performance Agreement outlining several special conditions applying to this item and other supporting documents.

Mr. Tramm said the item was approved by the MEDC Board on May 17, 2021, with \$10,500 of the \$20,000 funds being budgeted from the Economic Development Grant category and \$9,500 from Consulting (Professional Services) funds within the MEDC budget. Mr. Tramm said those funds for the Consulting (Professional Services) were originally budgeted for the MEDC to have tourism-related videos produced and that did not happen because of the pandemic. Mr. Tramm said part of the items that will be conducted by the requestor of the

grant will be to produce a 2.5-minute tourism-related video using the actors who are in the film. Mr. Tramm said that will be provided to the City for the City's use and they will also use it for their promotion of the City as well. Mr. Tramm said also to be delivered by the grant requestor to the City will be several still digital images from their filming that will include scenic and iconic sites from within the City they can use in promoting the City for tourism and development purposes. Mr. Tramm said the third item they will deliver separately will be a photoshoot that will be arranged in the City with the actors.

Mr. Tramm said while on the surface this was a \$20,000 grant request that was approved, generally speaking with a grant, you see money going out and you do not immediately see money coming back in and hope the long-term return will be seen. Mr. Tramm said with this grant there is at least \$15,000 worth in value coming back to the City in the tourism-related areas which are items the MEDC had budgeted for and intended to carry out but did not. Mr. Tramm said the tie-in with MEDC's participation would be economic marketability as well as tourism. Mr. Tramm said if he does not take anything but the \$20,000 and apply that to the project, we would be reaching people at a far lower cost than what we already use on social media and feels that is the value City Council should consider. Mr. Tramm said on top of that the project is intended to help people and bring awareness to and show options for suicide prevention. Mr. Tramm said he thinks it is something that is just so difficult to quantify and this is where he originally saw it as being a worthy project that addresses quality of life issues which does fit in with the MEDC's interests.

Mr. Tramm said Mr. Tim Weaver with Reflective Life Ministries was in attendance to give a brief introduction and answer any questions City Council may have.

Mr. Weaver thanked City Council for allowing him to share the information regarding the production. Mr. Weaver said he is an actor in the show but also takes care of the marketing and development of the fundraiser for the show. Mr. Weaver said they have raised over \$400,000 and they are asking for a \$20,000 grant. Mr. Weaver said he would like to personally appeal to the business owners, residents, and City Council on a different level and that is the impact they are trying to add for the show which is to preserve life. Mr. Weaver said essentially they are combating teen suicide and depression. Mr. Weaver said while it is entertainment and they believe they have created something very entertaining, there is a bigger impact they are

looking for and that is to shine a light on very dark issues. Mr. Weaver said every city in the county has been impacted by teen suicide. Mr. Weaver said because it is such a dark issue there is not a lot of people talking about it and believes it is something they have to attack from multiple angles. Mr. Weaver said they are attacking it in the media. Mr. Weaver said there is very real destructive media going on and this is just the opposite. Mr. Weaver said they believe it is going to tell a story of hope and they are going to ultimately be able to save lives through this show. Mr. Weaver said they are also creating materials such as workbooks which can be used for six to eight-week studies that go along with the show so that a church, booster group, or high school club that wanted to watch this tv series, could also use the workbook and take a group of people through the study and learn about teen suicide and depression. Mr. Weaver said that combined with entertainment and through the message in the show, they are going to be able to do a lot of good through this.

Mayor Countryman said when she was at the MEDC meeting when Mr. Weaver gave his presentation, he brought up a very interesting fact about Stranger Things. Mayor Countryman asked Mr. Weaver to share that with City Council.

Mr. Weaver said they looked for a show that would be comparable to the age group and the town that it is filmed in and they found a town called Jackson, Georgia. Mr. Weaver said the town in the show actually takes place in Indiana, but because it is filmed in Jackson, Georgia the Stranger Things show which is on Netflix, they realized this tourism phenomenon where people are driving to the locations where the show is filmed to see where the film is produced. Mr. Weaver said they believe they have a very real opportunity because the City is very iconic and the shots they have chosen to use in the film stand out as it is a very neat-looking town. Mr. Weaver said they believe the show they are creating is edgy and relevant and it will attract an audience just like that town has. Mr. Weaver said there are local restaurants that have Stranger Things items on the menus and they retail shirts there. Mr. Weaver said it has driven a ton of tourism in the town. Mr. Weaver said their show was just presented to Netflix last Friday so they probably will not have results until the end of June or early July, but they are very excited about the opportunity.

Mr. Tramm said Breaking Strongholds has already been entered in at least 13 or 15 film festivals or more and they were named a semifinalist at the Waco Family & Faith International

Film Festival and selected for Kingdomwood International Film Festival. Mr. Tramm said just recently at the Dreams Come True Film Festival they were nominated in seven separate categories including best feature film and two actors were nominated for best lead actor and two actresses were nominated for best lead actress, in addition to the other categories. Mr. Tramm said they won awards at the Branson International Film Festival for the best television series, and they won awards in four categories including best television and web film for content at the Content Film Festival.

Julie Davis said she does not think there is any question it is a worthy cause, but stated she has a couple of questions. Julie Davis asked if the 2.5-minute commercial they are going to make would be more generic geared so it can be used exclusively for the City of Montgomery. Julie Davis said she knows they are talking about using it as a marketing tool at the beginning of the movie and then for us to market their shows, but she worries about the MEDC goal being to further the economic development. Julie Davis asked if it is going to be geared more toward what MEDC originally set out to do or are we gearing it more toward the theme of the show.

Mr. Weaver said the way they have presented this would be a tourism and marketing video for the City and they would use it to help promote that for the City as a partnership. Mr. Weaver said it would be very City focused and they would include iconic shots and maybe some goat shots, but it would certainly include some of the iconic locations they use in the tv series so it is tied in directly with the show and this would be for the City.

Mayor Countryman said if you have not seen the trailer there are shots downtown so it is going to bring people downtown which is one of their big drivers. Mayor Countryman said people still go to Smithville, Texas to take pictures of the water tower from Hope Floats. Mayor Countryman said there are still economic drivers decades later.

Julie Davis said on the MEDC grant application she did notice it is typical of a \$5,000 grant and this is a \$20,000 grant so let us say that we fully expect for this to be successful because they have a standing reputation for it to be successful, but what is to say that two years from now they are coming back again asking for an additional \$20,000 or more, are we going to set a limit or MEDC set a limit of what they can continue to come back and ask for.

Mr. Tramm said part of the reason for setting the limit is just to avoid large requests. Mr. Tramm said MEDC does reserve the right to consider larger requests. Mr. Tramm said they have a budget they are generally bound to and \$10,000 or more has to come to City Council first for approval. Mr. Tramm said City Council as well as the Mayor has oversight for the approval of the budget within the fiscal year. Mr. Tramm said as to what would stop them from coming back in the future, anyone could apply and that becomes a judgment for MEDC as to they have already approved the grant why would they want to approve more, and is there merit there or is there not. Mr. Tramm said he thinks that should be considered individually. Mr. Tramm said certainly not in his experience and he does not think before his experience MEDC has approved a second grant for any entity and does not know why it would start. Julie Davis asked if there was any kind of policy as far as capping the amount of the award for so many years. Mr. Tramm said no and that is up to the Board itself to put in place and to make that determination. Mayor Countryman said if it draws half a million people to our town in two years then come on back.

Kevin Lacy asked Mr. Weaver about the credits on the show and how would he know exactly where Breaking Strongholds was filmed once this goes to Netflix. Mr. Weaver said the City will have a location credit in every episode and in the opening sequence they will show iconic shots of Montgomery including the statement "Birthplace of the Texas Flag". Mr. Weaver said there will be identification in every episode at the front of every episode to include multiple monument signs and it is very distinguishable. Mr. Weaver said the City will be upfront in the show every episode.

Kevin Lacy asked Mr. Tramm if MEDC was planning on doing something similar before and how much is set aside and approved for that from last year. Mr. Tramm said in the overall category for professional services there was \$49,000 budgeted which was not all for making videos, it was in marketing, tourism, and social media of which as he recalls, around \$15,000 to \$20,000 was intended for videos. Mr. Tramm said while this was not exactly what was intended, he thinks it was fully in the spirit of what was intended.

T.J. Wilkerson asked if they have many faith-based sponsors. Mr. Weaver said they do and most of the individuals and businesses have gotten behind this and the four churches who have sponsored the show have done it because of the message. Mr. Weaver said the message is he



plays a detective in the show and his son is on the edge of taking his life and the opening shot of the show is him up against a noose. Mr. Weaver said over the eight episodes he walks away from that idea and finds hope in Christ and a new passion for life. Mr. Weaver said there is a lot of other things that are addressed and while it is entertainment, the message is strong. T.J. Wilkerson said he saw the one that was shown at the Montgomery High School and at the end there was a hotline number people could call. Mr. Weaver said there is a suicide hotline at the end of every episode. T.J. Wilkerson said he knows he said earlier it is kind of dark, especially the scene shown from Montgomery, and if he is on the verge it is not going to entice him to stand under the clock. Mr. Weaver said they are dealing with dark topics on the show but their message is there is hope and that is upfront very early in the show so it is an inspiring message and also entertaining. T.J. Wilkerson asked if Montgomery County is still number two behind Smith County and Bell County. Mr. Weaver said he knows Montgomery County is up there and believes it is next to Travis County, which he thinks was number one in teen suicides.

Kevin Lacy asked what the rating for the show is as far as the appropriate age. Mr. Weaver said it will be rated PG-13. Mr. Weaver said they consulted with suicide research centers for the way to present this and they cannot present this too graphically because they know it has negative effects and he has some research that shows it glorifies suicide and caused an increase in suicide. Mr. Weaver said there is a show called Thirteen Reasons Why and it had horrible effects. Mr. Weaver said their show is the exact opposite of that show.

Kevin Lacy asked what specifically will the \$20,000 be used for. Mr. Weaver said it will be used for post-production. Mr. Weaver said right now they have one episode filmed and it is the one they take to film festivals. Mr. Weaver said they have three more episodes that have been filmed but not post-produced so they have to do all the editing and just editing of one episode is \$10,000. Mr. Weaver said this would cover the editing for two episodes post-production.

Byron Sanford said he is having a hard time finding any reason not to but with that said, \$20,000 is a lot of money. Byron Sanford said he thinks Mr. Tramm and the staff did a good job of presenting the efficiency of the business, the marketing, and the return aspect. Byron Sanford said if they were to try and accomplish anything close to this magnitude it would be far more costly. Byron Sanford said he appreciates that fact and being a minister he is going

to do everything he can to get behind it and his church has also talked about it. Byron Sanford said he has an article from July that Judge Mack was involved in. Byron Sanford said the COVID-19 was not the cause, but it could be a springboard type of thing and his church has been concerned about that. Byron Sanford said they do need to have a way to reach out to kids and people that are hurting. Byron Sanford said he voted for it and he is very strongly in favor of this.

Julie Davis moved to accept the request as presented. T.J. Wilkerson seconded the motion, the motion carried with 4-Ayes and 1-Nay vote by Carol Langley. (4-1)

4. Consideration and possible action regarding adoption of the following Resolution:

A RESOLUTION OF THE CITY COUNCIL OF MONTGOMERY, TEXAS SUPPORTING THE CITY OF MONTGOMERY'S APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION'S 2021 TRANSPORTATION ALTERNATIVES SET-ASIDE (TA) CALL FOR PROJECTS. *(MLK, Clepper and Bessie Price Owens Sidewalks)*

Mr. Tramm said the City has submitted for two sidewalk funding projects under TxDOT's 2021 Transportation Alternatives Program. Mr. Tramm said a Resolution by the governing body supporting the project application is required as part of the process. Mr. Tramm said Mr. McCorquodale is the one pursuing this grant through TxDOT.

Mr. McCorquodale said he first learned about these programs through TxDOT two years ago. Mr. McCorquodale said what TxDOT does every two years is alternate this program, which is the Transportation Alternatives, and by alternative, they mean alternative to an automobile. Mr. McCorquodale said they fund projects that are what TxDOT calls "On System" which is on their roads or "Off System" which would be on our City streets. Mr. McCorquodale said in two more years they will offer the Safe Route to School Program and alternate those two programs every two years. Mr. McCorquodale said the Safe Route to School is 100 percent grant-funded or TxDOT funded and the Transportation Alternatives, which is this project is 80 percent TxDOT funded and 20 percent is a local match. Mr. McCorquodale said one important thing to note is the City pays for costs upfront.

Mr. McCorquodale said they looked at two projects. Mr. McCorquodale said one was on MLK just north of the City limits down to Homecoming Park and the other is just north of downtown

from Prairie Street and the Clepper intersection around to the bottom of the hill on Bessie Price Owens. Mr. McCorquodale said this is something they have to have as part of the application and if we did not want to support this we would stop the application here.

Julie Davis asked if there is any way to do the sidewalk down MLK to Bessie Price Owens as the 100 percent as the transportation to schools since it is going right to Lincoln Elementary. Mr. McCorquodale said when they work on Safe Route to School Programs any sidewalk can be built in the City and would qualify for the Safe Route to School program. Mr. McCorquodale said in order to do the 100 percent they would have to wait two years and apply in that cycle of funding. Mr. McCorquodale said he believes the radius is two and a half miles to the school. Mr. McCorquodale said any sidewalk they build is just a matter of waiting every four years for the Safe Route to School Program because it is on a two-year alternating cycle.

Julie Davis asked if they are considering a project from MLK to Clepper any time soon and what she hears Mr. McCorquodale saying is two years from now the City can apply for 100 percent funding from MLK to Clepper because that would give a safe route to school for the rest of the kids that may not walk that direction but we are building it to walk the other direction. Mr. McCorquodale said exactly and that would work in both ways and obviously, that is a much longer project with a higher price tag but certainly one of those you want to maximize 100 percent.

Julie Davis asked if on the other project there is a way to extend the sidewalk up Clepper to FM 149. Mr. McCorquodale said if that is the direction City Council would like to go with that it can be amended. Mr. McCorquodale said this was a preliminary application and the detailed application is due in two weeks which they can make those types of adjustments. Mr. McCorquodale said they stopped at Prairie because it connected to another small sidewalk that should be rebuilt. Julie Davis said she worries about the parade route and that is always the parade route at Clepper and when those cars are coming and going in any direction she has personally been one who has had to jump into the ditch to get off the roadway because there is no right of way to walk on. Julie Davis said if we went all the way up to Jim's Hardware which is where you can expect all the parade participants to park and to the back of the old elementary school that would give a sidewalk between the two so that no matter where one parked you could walk to the parade and walk back safely. Mayor Countryman said if her

math is correct, that is only \$81,000 that the City would pay for both of these projects which is fantastic.

Mayor Countryman said on Bessie Price Owens there is already a sidewalk although not 100 percent. Mr. McCorquodale said the issue with that sidewalk is when the contractor did the curb cut for the driveways they took out the five feet of the driveway on either side of the driveway and did whatever they needed to do to transition as opposed to building the driveway to conform to the sidewalk. Mr. McCorquodale said in all fairness the sidewalk had already settled a bit and with it being around the library and Memory Park it is certainly something that has been on the City's radar. Mr. McCorquodale said they have known they need to do something and this allows them to do that.

Julie Davis asked if time is factored into the application process preparation for \$45,000. Julie Davis said under the funding summary there are the current fiscal year expenses which would be \$4,500 in application preparation but has your time been factored into that too. Mr. McCorquodale said yes that is what he thinks it would cost them. Mr. Tramm said Mr. McCorquodale is quite enthusiastic about certain projects around the City and when it gets to be something that addresses mobility and development those are areas he puts a lot of effort behind.

Mr. Tramm said he also wanted to emphasize the \$4,500 is for the expenses that would be expected this fiscal year. Mr. Tramm said if awarded these projects, the bulk of the expenses would go into the next two fiscal years. Mr. Tramm said they are not talking about a budget item for this year but about the expense, they will go ahead and plan in future years. Julie Davis said even those application expenses are reimbursed. Mr. McCorquodale said that is correct.

Kevin Lacy asked what would be the possibility of them seeing what it would look like with a sidewalk going all the way to FM 149 as well as to Racetrack Lane. Mr. McCorquodale said TxDOT would probably get them on trying to change too much of the scope. Mr. McCorquodale said the reason they did not go that whole way is because back to the original discussion with TxDOT and the FM 149 improvements, the slopes there as you go down along on FM 149 make it to where the solution is not something that is called a sidewalk whether it is called a shared-use path or called some type of a lane or path. Mr. McCorquodale said it is

just if you have a steep hill you cannot build a flat sidewalk on it. Mr. McCorquodale said to answer the question, to expand the sidewalk that much TxDOT would probably tell the City no. Mr. McCorquodale said getting that 100 percent funding is the next bite of the apple. Mr. McCorquodale said one of their thoughts behind not going for that is not knowing what TxDOT is going to do on FM 149, it is just they did not explore it this time and did not want to end up spending too much money because they do have a budget.

Julie Davis asked Mayor Countryman if she thought in two years we would have a better understanding of the downtown improvements and the roundabout at that same intersection. Mayor Countryman said she does and if you look at the Comprehensive Plan it goes to Prairie which is part of the historical district. Mayor Countryman asked Mr. McCorquodale if the sidewalk was on the south side or north side of Clepper. Mr. McCorquodale said the south side.

T.J. Wilkerson asked what about the sidewalk on MLK and how would that work because isn't that a County road. Mr. McCorquodale said TxDOT will fund an off-system sidewalk and their off-systems are the City's streets. Mr. McCorquodale said where he made the case to them on the MLK sidewalk was that TxDOT does not know yet what they are going to do on FM 149 and while they figure it out, the City is going to build this nice sidewalk on MLK ready to connect just as soon as they have their plans settled. Mr. McCorquodale said it is now starting to impact Anders Branch and will have a big impact because if they try to build a sidewalk over this now we are going to have to build a bridge and trying to build a bridge you are looking at \$400,000 trying to get a pedestrian bridge across the creek. Mr. McCorquodale said if they can do those Anders Branch improvements that they talked about with the GLO funds using the bridge in TxDOT's words was essentially a culvert that does not have a bottom. Mr. McCorquodale said one of the differences in the summary of costs with these two projects it is reasonably close to the same length and slopes and things they are dealing with. Mr. McCorquodale said one of the big differences is having to extend the culvert there on MLK so if they had to do it on a larger scale down on FM 149 it would not be 20 percent of the project. Mr. McCorquodale said 20 percent of the project would be much more than he could ask the City for.

Julie Davis said Mr. McCorquodale has the projects presented in two ways. Julie Davis asked if they take MLK first and then Clepper second or have it presented where they do both

simultaneously and asked what is his recommendation. Mr. McCorquodale said he would try and do them both at once because there will be a three-year window to spend the money after being awarded the money. Mr. McCorquodale said if they needed to break it out the sooner they do it the sooner they would get their money back.

Julie Davis asked if the grant is two years from now or are they are contingent upon this grant being completed to get the next grant. Mr. McCorquodale said no they stand alone but if they were rejected on one of these, they could fine-tune it and submit it again under the Safe Route to School Program.

Julie Davis moved to accept this Resolution as presented and move forward with both simultaneously if possible. Byron Sanford seconded the motion, the motion carried unanimously. (5-0)

5. Consideration and possible action regarding the award of the contract for “Water and Sewer Operations and Maintenance Services” and authorize the City Administrator to execute the contract.

Mr. Tramm said the City’s RFP’s for Water and Sewer Operations and Maintenance Services were due on May 6, 2021. Mr. Tramm said the Director of Public Works and the Public Works Foreman were the primary reviewers of the bids submitted.

Mr. Mike Muckleroy, Director of Public Works said they reviewed the bids and compared four companies with each other but it is not apples to apples on all four. Mr. Muckleroy said two of the companies did not provide the full bid they asked for. Mr. Muckleroy said what they asked for was base operations and any preventative maintenance to be included on all facilities. Mr. Muckleroy said the two companies that included all the information were H2O Innovation and Inframark. Mr. Muckleroy said the other two companies are low prices and you may think why was the higher price chosen, but that is because those are only for basic services and they did not provide any preventative maintenance, which is a large portion of the contract. Mr. Muckleroy said the two being compared are Inframark and H2O Innovation. Mr. Muckleroy said he is making the recommendation to stay with H2O Innovation. Mr. Muckleroy said what they were currently paying for basic services and preventative

maintenance together is \$103,000 a year. Mr. Muckleroy said the price is going up a little bit, but that price also includes adding four lift stations.

Mr. Muckleroy said one of the main factors on the decision to stay with H2O Innovation was cost and materials. Mr. Muckleroy said they are proposing 10 percent on their cost plus on all materials, whereas Inframark was at 15 percent. Mr. Muckleroy said H2O is also proposing zero percent markup on disinfectant chemicals, which is where they are at now and Inframark was 15 percent. Mr. Muckleroy said H2O also proposed a \$3,000 maximum on cost-plus so if it hits the 3,000 mark and basically it gets a free review and it passes straight through to them for direct pay.

Mr. Muckleroy said another factor was grease trap inspections. Mr. Muckleroy said he liked the \$45 a month versus \$60 a month as those are direct costs that are passed on to business owners and that was a significant factor. Mr. Muckleroy said H2O was his recommendation.

Mr. Muckleroy said he did add some wording in the new contract just like what was done to the mowing contract. Mr. Muckleroy said it is a three-year contract that will come back every year for City Council review.

Kevin Lacy asked why is there such a big difference in H2O's cost per hour for equipment as opposed to the other business. Mr. Muckleroy said the shoring is \$100 per use, Hays is \$50 per use and the others are by the hour. Mr. Muckleroy said they are going to charge the City \$100 if they show up for half a day and it is going to be a flat rate. Mr. Muckleroy said the whole equipment section is a rarity to be billed for anyone because they try to do all leaks in-house and these charges are going to fall under commercial tap fees which are being paid for by the builder so it would not be a direct cost to the City anyway. Mr. Muckleroy said he does not know why their prices are a little more than the other company. Mr. Muckleroy said the bottom section is more of a utility crew coming in to fix a major leak or something like that, which Public Works does in-house. Kevin Lacy said he understands where H2O Innovation is \$100 per use period and the other business would charge \$25 for four hours.

Mayor Countryman said they are paying \$103,000 now and this proposal is \$113,340 so for \$10,000 are they are going to check four more of the lift stations every month. Mr. Muckleroy

said three times per week. Mr. Muckleroy said this is not just a revision of their original price, it is a completely new proposal. Mr. Muckleroy said they were able to bring down some of the prices of the preventative maintenance, for instance, the cooling tower where it was originally bid at a certain amount of dollars and they figured out within the last couple of years they could bring the price down knowing exactly what they were doing and how much time it is going to take. Mr. Muckleroy said some areas dropped and some went up for normal inflation but this is what the bottom dollar ended up being.

Carol Langley moved to authorize the City Administrator to execute the contract for Water and Sewer Operations and Maintenance Services to H2O Innovation. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

6. Consideration and possible action regarding the appointment of Ward, Getz & Associates LLP as City Engineer, and approval of a professional services agreement with Ward, Getz & Associates, LLP for engineering services.

Mr. Tramm said since the City Council meeting of May 11, 2021, he has worked with Ward, Getz & Associates to work out a professional services agreement under which they would take over the duties of City Engineer and perform the primary engineering duties of the City. Mr. Tramm said this agreement has also been reviewed by the City Attorney.

Mr. Tramm said with the approval of the above recommendation by City Council, he will work with both Ward, Getz & Associates (WGA), and Jones Carter towards an organized transition of the engineering services for the City. Mr. Tramm said this transition would identify which items will transition immediately, which items will transition in the future over a phased schedule, and which items will remain with Jones Carter until either completion or indefinitely.

Mr. Tramm said under the advice of the City Attorney, they would not need to take any specific action related to Jones Carter. Mr. Tramm said the action to name a new City Engineer replaces the previous one and the contract they had in place with Jones Carter will allow them to continue to utilize them on certain projects as appropriate for the foreseeable future.



Julie Davis said she would like to point out again that this is still contradictory to the vote on April 27, 2021, and on May 11, 2021. Julie Davis said she thought they were getting an additional bid from the RFQ's from January and that Mr. Tramm would come back and present City Council with an option of three similar to what Mr. Muckleroy just did regarding water and sewer and that they could collectively decide on Ward & Getz. Julie Davis said it is a \$368,000 annual budget and we have spent \$52,000 with Jones Carter this month alone. Julie Davis said it has nothing to do with the fact her husband works for another civil engineering firm. Julie Davis said it has to do with the fact that it would have been nice as the City Administrator for City Council to be presented the information very much like Mr. Muckleroy just did and treated as if they read the minutes.

Mr. Tramm said he is sorry she had the impression that he was forcing a singular firm on City Council. Mr. Tramm said he believes what he did is exactly the direction he was given at the last meeting, and realizes it was different than the direction that came out from the previous meeting. Mr. Tramm said the difference between the two is that they had an election and a change on City Council and there was also one Council Member who was not here for the April meeting, which is why he considered presenting the item again to City Council and received a different direction. Julie Davis said they still had the majority vote on April 27, 2021, and it was made by the City Council that is still present on this Board right now. Julie Davis said with that aside, it was still a directive from this City Council to Mr. Tramm that was approved by this City Council. Mr. Tramm said yes and he was given different directions at the following meeting, so he could only follow one directive. Mr. Tramm said if City Council would rather he do something different, then he needs to get that direction tonight and he will be happy to do that.

Mayor Countryman said she feels like they just went through the whole vetting process in January and because of the personnel, they chose Jones Carter because of who presented. Mr. Chris Roznovsky brought his A-game and is sure he had Mrs. Katherine Vu behind him, but at the end of the day they did not choose the shingle above their head where they work. Mayor Countryman said she thinks Mr. Roznovsky and Mrs. Vu have done an excellent job and in a critical time, they know where everything is. Mayor Countryman said she has repeated this before at another meeting, so she will not go into all the details, however, if things do not work out, we can easily divorce from the company. Mayor Countryman said they believe in Mr.

Roznovsky as he has done a great job and Mr. Roznovsky and Mrs. Vu are a great team and have done well for the City. Mayor Countryman said with some new faces on City Council she thinks it is important to keep some consistency and if you do not do your job you go away.

Byron Sanford said he is new on City Council and he heard before he was elected some of the prior conversations and it seemed to him there was consistency in the fact that there was confidence in the people over the organization, and he is very familiar with that in management. Byron Sandford said you go with someone you are comfortable and confident in, but he is also an ex-coach and you have u-haul on speed dial in case something does not work out. Byron Sanford said he thinks something he heard earlier which is wise and prudent is when you enter into an agreement you need to review it every year and he likes that concept.

Julie Davis said this is nothing towards Mr. Roznovsky or Mrs. Vu, this is significantly just that their RFQ process was really poor even in January there was no disclosure from Mr. Tramm of the seven firms that were bidding and they received no information like we just received from Mr. Muckleroy this evening. Julie Davis said Mr. Muckleroy laid it all on the line and said here is everything and they did all of their due diligence. Julie Davis said they have not seen that from Mr. Tramm.

Mr. Tramm said what happened with the RFQ process for the engineering firms was it was set up differently. Mr. Tramm said it was set up by City Council, which was before the elections and he had advised City Council at some point who those seven firms were that were originally submitted, but that was left to him and a couple of the department heads to review and make a City selection and bring that back to City Council. Mr. Tramm said he believes that was a consistent process. Mr. Tramm said under advice from the City Attorney since that process was done back in January, the City had already reviewed the firms recently and that is why we did not need to go through the full RFQ process now. Mr. Tramm said he is here just trying to present to City Council what he believes that it wants and if City Council does not want this firm and wants a different process, City Council should advise him of that and he will do it differently.

Kevin Lacy said in his job working for the bank they built a bank from one branch to \$10 billion a day off one premise of the people bank with people. Kevin Lacy said he is a firm believer in that and he agrees with the move City Council is about to make right now.

Julie Davis asked if this means the contract date is set in January for renewal or will they revisit this in May of next year. Mayor Countryman said she thinks they give them a full calendar year to show us how their performance measures up. Mr. Tramm said if they move forward with the contract with them the contract date becomes what they decide.

Julie Davis asked what happens with the Jones Carter contract that is already still in effect that they are not getting rid of. Julie Davis asked do they renew that one in January, this one in May, and have two that they go back and forth on and what happens to the RFQ process then. Mr. Tramm said the City Council in the past had not annually renewed the professional services agreements. Mr. Tramm said it was something he recommended that the City Council do at a minimum of every three years, if not sooner. Mr. Tramm said this is the last of his recommendation to City Council going back before the pandemic when they review every single one of the professional firms that worked for the City. Mr. Tramm said this is a process that in a year or so he will say they need to start going out for these. Mr. Tramm said with the utility operations company they determined not to change operations with the City Engineer previously and his recommendation was to stay with Jones Carter in January but it was heavily presented on the relationship they had with Mr. Roznovsky and Mrs. Vu which changed all dynamics in his opinion, which is why it came back to City Council.

Julie Davis said what she hears Mr. Tramm saying is that in one year they are going to do RFQ's again, but the contract is written for three years, so is this going to be a matter of record that in one year they are going to come back and revisit this or are they going to keep going for three years and not look at anything. Mayor Countryman said if they can do three years, let us do three years. Mr. Tramm said he would be happy to lock them in, but in the contract their prices are up for annual renewal, which is a standard professional agreement and he believes all firms should be reviewed annually. Mr. Tramm said there is a difference between being reviewed as a firm and going out for an RFQ and doing interviews with various firms. Mr. Tramm said he would say for professional services they should do that for all firms at least every three years going through a full RFQ process and make them fight for the work. Mr.

Tramm said annually he thinks you should review the companies that you have. Mr. Tramm said he also thinks the City Attorney should be subject to an RFQ after three years. Mr. Tramm said previously in his career he worked 17 years for a company that worked for local governments and at that time he put his services up for review any time necessary and believes this company should do the same. Mayor Countryman said it happens in the private sector too. Mr. Tramm said they should be reviewed wherever they are in this every year, but he would not do an RFQ process.

Mr. Chris Roznovsky, Engineer with Ward, Getz & Associates, LLP introduced several department heads of Ward, Getz & Associates, LLP and then Mrs. Katherine Vu and himself who went to Ward, Getz & Associates, LLP which is a new name and new face and that is why he wanted everyone here to be introduced and get to know everyone because it takes more than just Mrs. Vu and himself as it is with Jones Carter. Mr. Roznovsky introduced Mr. Ken Sheblak who is in their hydrology department, Mr. T. Wayne Holcomb with the Gradient Group, which is a sister company of Ward, Getz & Associates, LLP which has a very heavy traffic and transportation focus, Mr. Jerry Ince is in charge of the water and wastewater group and they do a lot of the permit renewals with GPS, water, wastewater plants, and Mr. Ryan Getz, CEO of Ward, Getz & Associates, LLP.

Mr. Ryan Getz said he founded Ward, Getz & Associates, LLP in 2007. Mr. Getz said they are a professional services company. Mr. Getz said he understands their number one asset is the people and you should be reviewed. Mr. Getz said he got where he is today by being reviewed over and over again. Mr. Getz said it is an honor being here and he appreciates City Council taking the time to discuss this. Mr. Getz said if you are looked at over and over again you cannot hide a lot of stuff and it comes out pretty quick.

Carol Langley asked Mr. Getz if he graduated from Montgomery High School. Mr. Getz said yes he did.

Julie Davis asked Mr. Tramm if he could send the percentages they currently have with Jones Carter so that a year from now when they are looking at percentages that were just approved here they can compare something side by side. Mr. Tramm said yes.

Kevin Lacy moved to designate Ward, Getz & Associates, LLP as City Engineer and approval of a professional services agreement with Ward, Getz & Associate, LLP for engineering services. Carol Langley seconded the motion, the motion carried with 4-Ayes and 1-Nay vote by Julie Davis. (4-1)

### **DEPARTMENTAL REPORTS:**

7. City Administrator's Report for April 2021 – Mr. Tramm presented his report to City Council. Mr. Tramm said as a reminder the City Council meetings are recorded and streamed live. Mr. Tramm said it has been a long-term goal of City Council that they have the meetings recorded and kept on the website which he believes becomes a valuable resource for people to view. Mr. Tramm said they started the pandemic with a lot of people watching the meetings live and over months that number dwindled downward and what they learned was there were not fewer people watching, fewer people were watching live, and more came to realize those meetings had been recorded and posted and they could watch meetings on their schedule. Mr. Tramm said those recorded meetings are valuable to the public in that not everyone can come to this building at the scheduled time when City Council meets and not everyone can watch it streamed at the same time but they can certainly watch it at a time they choose to which he believes is a valuable service they provide to the community.

Mr. Tramm said going forward in the future starting with the next mail out, they will be including on utility bills and late notices a QR code where individuals with a smartphone can scan it and get to the login screen for their water account either to make payments or to look up the information. Byron Sanford asked if it cost the customers anything for that service. Mr. Tramm said there is not a cost to the customers. Mr. Tramm said the City, through the MEDC, has a subscription for QR codes and unless they go over 40,000 scans this year it will not change the subscription. Mr. Tramm said they do get a monthly report of scans with QR codes and while they do not know individually who is scanning, they can see the total that is scanned for the month and he can report those numbers back to City Council.

Mr. Tramm said the City's Administrative and Police Departments are working together on updating a permitting form for festival events.

Mr. Tramm said while the City is working with MISD and Emergency Services District #2 on disaster planning as a larger group effort, the City is also looking at some equipment needs in terms of messaging as well as backup power. Mr. Tramm said he is thinking within the next month they will approach City Council to approve items that are outside of the budget but what they believe they will need for disaster planning. Mr. Tramm said City Council may remember they purposefully kept a conservative budget because there was a lot of unknowns, and fortunately the economy has done better than anticipated in the City, and he believes the money existed and the City has collected, they just have yet to budget some of those funds. Mr. Tramm said they will have the money for those items, they just have to assign it. Mayor Countryman asked if they would be able to get the communications and the equipment in place and ready before hurricane season. Mr. Tramm said he does not know what the timeline would be on that but they will have the information when they present it. Mayor Countryman said she thinks generators have a two-year waiting period. Mr. Tramm said he assumes the answer would be different for different pieces of equipment, but even when it comes to messaging, they are looking at more than one option. Mr. Tramm said some things can be distributed high tech and some can be distributed by lower-tech but you need to be able to diversify the way you reach out to the people. Julie Davis asked if they are talking about short or long-term. Mr. Tramm said long-term. Mr. Tramm said in terms of messaging they are looking at items that can be used in more than one way and not something that is going to sit here waiting for a hurricane or disaster but something that has usage beyond just a disaster application. Julie Davis asked what do they do in the short term and do they have resources for an emergency shelter since they know the Community Center is not going to work out or just partner with the school and send people back to Walden. Mayor Countryman said they have people working on emergency plans since all of that happened and they will share that information shortly. Mr. Tramm said from their perspective parts of the hurricane season that are going to be worse for them are going to be later in the year. Mr. Tramm said it is not just hurricanes as they saw a winter storm disaster that was outside of what is normally seen here in our lifetimes. Mr. Tramm said they are trying to be in a position to be as broad as possible in response. Mr. Tramm said the City has two heavy use vehicles. Mr. Tramm said they do not have a lot of flood problems in the City but they do have some issues and the City has that on hand already. Mr. Tramm said they do have some backup power generation. Mr. Tramm also said they cannot plan for every emergency but they will do their best job to plan for as many as possible. Mr. Tramm said that is why they are having monthly meetings with MISD and the ESD so at

a minimum they are communicating, but if they had something happen next week, they are in a better position to respond than they were three months ago. Mr. Tramm said their primary focus is going to be communication and thinks they have it pretty well down with the coordination of working with those other entities.

Mr. Tramm said on the development side both residential and commercial developments continue throughout the City on the east end and Kenrock Development finally received long-anticipated plans from Wendy's that will be on the east side. Mr. Tramm said also on the east side in The Shoppes of Montgomery Panda Express is in the process of building and Auto Zone is getting closer to completion.

Mr. Tramm said there are no new updates on the state of Town Creek Crossing but they are moving forward with their construction activity and he believes by July they will be ready to start home construction. Mr. Tramm said the last section of the Hills of Town Creek was approved and will start moving forward. Mr. Tramm said there is no specific update for the Kammerer Tract. Mr. Tramm said those are all signs of different parts of the City where residential activity is moving forward. Mr. Tramm said 19 homes were completed during the calendar year through April 30, 2021.

Mr. Tramm said on mobility TxDOT has the contract for the right turn lane on SH 105 but he does not have the construction time on this project.

Mr. Tramm said if he goes to the utility report the collections are starting to increase with the weather and the water increases which for the next billing cycle the utilities will include the QR codes that will be on both the regular billing and late notices that are sent out.

Mr. Tramm said building and other permits continue to be issued for all phases starting with construction through completion. Mr. Tramm said it is not just because there have been homes completed, there are homes throughout the construction process and the water use level is showing less on those reports. Mr. Tramm said you will see a big jump for the last month of Memory Park compared to last year. Mr. Tramm said Memory Park's irrigation system has improved.

Julie Davis asked if the apartments going up on FM 1097 are tax credit or HUD. Mr. Tramm said he does not know but will inquire about it.

Julie Davis said she thought Panda Express was going in between Starbucks and the strip center but it looks like they are turning dirt on the west side of Starbucks and asked if that will be Panda Express going in that location. Mr. Tramm said that is correct. Mr. Tramm also said the apartments being built on FM 1097 will be market-rate apartments.

T.J. Wilkerson asked what happened to Discount Tire and asked if they were still coming to Montgomery. Mr. Tramm said they are still waiting to hear from them. Mr. Tramm said as a reminder, Wendy's was originally submitted over two years ago and it was just about a month ago they received new plans.

Julie Davis asked where Wendy's was going to be located. Mr. Tramm said over near Pet Supply Plus.

Julie Davis said she did hear a Taco Bell was coming just outside the City limits at Commerce Road and SH 105. Mr. Tramm said he heard that but since it is outside the City limits he has no information on that.

T.J. Wilkerson asked if they are going to be adding more apartments. Mr. Tramm said he does not know of any more than just those. Mr. Roznovsky said they only own that tract but he has heard recently another developer is looking at more apartments on Plez Morgan. Mr. Roznovsky said that has not been approached to the City yet but it has been mentioned. Mr. Roznovsky said it is on the opposite side of the street closer to Old Iron Works right next to the creek. Mr. Roznovsky said it is a seven-acre tract and one that with the GLO funds you are partnering with them to buy some land for a pond to offset that drainage. Mr. Roznovsky said he had a meeting with the property broker on that tract and he is saying they are looking at it for apartments. Mayor Countryman asked if they would have any control over that. Mr. Roznovsky said he would need to go back and look because Plez Morgan was the dividing line, but he cannot remember now but wants to say the PDD encompasses both sides of the street. Mayor Countryman asked what happens if it does encompass the other side of the street. Mr. Roznovsky said the apartments are not subject to the zoning because it is zoned in the



PDD. Mr. Roznovsky said the PDD will still apply for our inspection control. Julie asked if that expires in 2030. Mr. Roznovsky said yes there were three different agreements.

T.J. Wilkerson asked if they going to do something on Buffalo Springs across from where Mr. Philip Lefevre is developing and are they going to clean off the properties and do something there. Mr. Tramm said it took several calls to get them to put fencing there around the property. Mr. Tramm said the land has just been cleared and they have not presented any plans to them.

Julie Davis asked Mr. Muckleroy if any sprinklers have been turned off at Memory Park. Mr. Muckleroy said they are off now and any time they have several days of rain they always manually turn the sprinklers off for all the systems.

8. Public Works Report for April 2021 – Mr. Muckleroy, Public Works Director said on the waterside of the report they repaired a two-inch service line on SH 105, installed a three-inch extension on a hydrant at the entrance to Kroger's off Lone Star Parkway, and relocated a meter on Scenic Hills Drive.

Mr. Muckleroy said on the wastewater side they cleared debris from a manhole in Town Creek Crossing and completed two work orders for sewer-stop ups.

Mr. Muckleroy said on the streets/drainage side they set a new culvert at 612 Worsham Street and painted additional footage of the fire lane on Emma's way.

Mr. Muckleroy said on the building and equipment maintenance they straightened one of the flagpoles at the Community Center and completed 18 work orders for general City Hall maintenance.

Mr. Muckleroy said on the parks and recreation side they replaced the main rotten porch beam on the Jardine Cabin at Fernland Park and the docents reported 838 visitors and provided 63 tours for the month.

Mr. Muckleroy said they attended a meeting with Verizon to discuss downtown Wi-Fi needs and completed 26 work orders for general maintenance issues.

Byron Sanford asked why at 154 Scenic Hills Drive the meter was relocated. Mr. Muckleroy said what happens sometimes in the development stage a developer will come in build a neighborhood and all the meters are set in place and as they build the individual houses especially on a cul-de-sac it ends up where the meter may need to be shifted a bit. Mr. Muckleroy said the builder notifies them and pays the fee upfront for them to come out and relocate it.

Mr. Muckleroy said they received reports from the Buffalo Springs area of feral hog issues. Mr. Muckleroy called the Texas Department of Wildlife and the City of Conroe where they run a full wild hog eradication program dedicated to trapping and disposing of hogs. Mr. Muckleroy said they ordered a trap which arrived today and he is working on a right of entry for the neighborhood. Mr. Muckleroy said the piece of property they are going to put the trap on is owned by the POA so it is easy to access. Mr. Muckleroy said they will need them to sign legal documents which are with the City Attorney for review. Mr. Muckleroy said hopefully within the week they will be able to set the trap up and start catching wild hogs.

9. Police Report for April 2021 – Chief Solomon said their first CERT (Community Emergency Response Team) training will begin. Chief Solomon said that is going to go a long way in helping them prepare for these disasters and hurricanes and will begin in July. Chief Solomon said they already have 30 people signed up for the class which will take place at City Hall.

Chief Solomon said he wanted to congratulate Lieutenant Joe Belmares who just completed LMC (Leadership of Montgomery County) and he attended his graduation. Chief Solomon said his team took on four projects and one of those projects was CASA which is the Child Advocate of Montgomery County. Chief Solomon said the team went in and redid the entire building. Chief Solomon said Lieutenant Belmares was very proud of the work they did. Chief Solomon said the kids were very happy and this is where kids go when they are no longer safe at home. Chief Solomon congratulated Lieutenant Belmares for completing the project.

Mayor Countryman said she was again receiving compliments for Chief Solomon's team and officers and in particular Officer Lucy Saah. Mayor Countryman said she continuously receives compliments and congratulated Chief Solomon and his team and said she appreciated his leadership and all they do. Chief Solomon said they have a very good group of men and

women and they do a great job. T.J. Wilkerson said he also wanted to thank all the officers and the work that they do.

Carol Langley asked how many officers are in the department. Chief Solomon said there are 15.

10. Court Report for April 2021 – Mrs. Kimberly Duckett, Court Administrator said they collected \$40,808.03 in April with 114 citations for that month.

Mrs. Duckett said the Court is going to be preparing for the Citizens Academy tomorrow and in the upcoming months she is going to be preparing for the RAD (Rape Aggression Defense) training. Mrs. Duckett said she is the instructor along with Officer Griffin and they will be with Montgomery County preparing for this so they can start in the upcoming months of handling their own RAD training in the City of Montgomery.

Mayor Countryman said she wanted to commend her staff as she was in her office not too long ago and during the pandemic, there were a lot of citations going out and the Court was collecting them according to the collections which is a great job. Mayor Countryman said at least people are paying their fines and warrants. Mrs. Duckett said yes they are.

Julie Davis said she noticed tickets are down but revenue is significantly up. Mrs. Duckett said the tickets for that month do not fluctuate the month of collections. Mrs. Duckett said they have previous warrants that help funnel into their monthly collections.

11. Utility/Development Report for April 2021 – See Mr. Tramm’s City Administrator’s report.
12. Water Operations Report for April 2021 – Mayor Countryman congratulated Mr. Mike Williams on having their contract renewed.

Mr. Mike Williams, Vice President of H2O Innovation said there were four district alerts and were all due to power-related issues. Mr. Williams said by the time they arrived on site on all four occasions the normal power was running so they reset all the monitoring systems and did not find any issues at that time. Julie Davis asked if the City pays extra for them to come out and reset the monitoring systems or is that included in their contract. Mr. Williams said emergency jobs are extra. Julie Davis asked if there is a way for something like this that is simple enough for Public Works to be able to reset it or you could teach them how to do it. Mr.

Williams said that is something they can discuss, but if there are bigger issues with the plants there on site it would be better for properly licensed personnel to take care of it.

Mr. Williams said the daily effluent total for the period was 5,714,000 gallons. Mr. Williams said the daily peak flow on March 21, 2021, was 348,000 gallons and the daily average flow was 184,300 gallons with 46 percent of permitted capacity.

Mr. Williams said all effluent monitoring samples for the month of April were in compliance.

Mr. Williams said for the water report they pumped a total of 10,837,000 gallons, flushing at 318,000 which brings it to a 96 percent accountability. Mr. Williams said there were 1,013 connections reported through the Beacon System.

Julie Davis asked if Mr. Williams foresees any capacity issues with all the rain there has been this month. Mr. Williams said no as the City's permit is based on a running average for the month so even if there is a lot of rain you will trend up with that, but overall your average will keep you in capacity. Mr. Williams said with as much space as there is right now he is not worried about it.

Julie Davis asked if he foresees any issue within the next year with the chlorine shortage. Mr. Williams said he does not foresee any issues because the only time they use that type of chlorine is to do some cleaning. Mr. Williams said the disinfection chlorine they checked with their manufacturer and they have not had any issues, it is the chlorine gas and they checked with their liquid bleach wholesaler and they have no issues transporting it.

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

Mr. Lasky said the account balances for the general fund are currently at seven and a half months of reserve.

Mr. Lasky said the MEDC fund has two years of reserve and the utility fund is less than a year's worth of reserve.

Mayor Countryman asked if the hotel occupancy tax fund is the tax the City is putting away when they receive it. Mr. Lasky said the only ones he knows of are for the Caroline House. Mayor Countryman said she is seeing there is a balance there and asked what are we doing

with that money. Mr. Tramm said right now it is just accumulating and there are limits on what they can use from that fund. Mr. Tramm said since they do not have a specific target for it they are just letting it accumulate.

Mr. Lasky said for the cash flow for the general fund they did receive a sales tax of \$215,206. Mr. Lasky said it is the lowest they have seen for the fiscal year, but it is still good for being over \$200,000. Mr. Lasky thinks some of it had to do with the freeze that happened back in February because that was February's collections and that was probably the reason why for a bit of a dip in that number, but for the other numbers it has been relatively steady.

Mr. Lasky said a couple of things they did for the month was pay the TWC and filed 941 quarterly for April. Mr. Lasky said the one expenditure that stands out for this month is the State Comptroller for just under \$44,000 for State criminal costs. Mr. Lasky said everything else was steady for April.

Mr. Lasky said for the budget they received \$161,000 of that \$215,000 in sales tax for April, the rest of it for MEDC. Mr. Lasky said they did receive the May numbers and since it was a quarterly filing month they received \$440,000 for May with \$330,000 going into the general fund and \$110,000 going into the MEDC fund.

Mr. Lasky said for the total revenues what he typically does is take out the Home Grant stuff because it is more of a one-time thing and they are about \$375,000 over and that is doing very well. Mr. Lasky said he knows that they do have the extra money they plan to spend on different projects and repairs that he knows will be taking place over time.

Mr. Lasky said on the expense side everything for seven months' worth is looking very steady and after calculating everything they are just less than \$1,000 under and they are right at that number for total expenses which is very good for seven months' worth of budgeted revenues and expenses.

Kevin Lacy asked about the Home Grants. Mr. Tramm said there was a long-term project the City participated in that led toward government money being used to build several homes and he believes four homes were built in the community. Mr. Tramm said they do have some names that have requested interest should there be more funds available in the program in the future. Mr. Tramm said if anyone knows of anyone that might qualify they are accumulating a list for

those names and if there is another opportunity that becomes available they will pursue that again.

Mr. Lasky said they did transfer \$160,000 from the MEDC fund to the capital projects fund which went toward the Downtown Waterline Project. Mr. Lasky said they also had Pay Estimate #3 being paid from the capital projects funding of \$207,382.50. Mr. Tramm said the \$160,000 paid toward the Downtown Waterline Project was an item that was in MEDC's annual budget.

Julie Davis asked if there was a reason that all the legal fees were billed quarterly and then monthly as well. Julie Davis said they were both March and then October and February were all billed this month too. Mr. Tramm said they were backlogged and then all billed at one time.

14. Engineer's Report for April 2021 – Mr. Donald Durgin, Operations Manager with Jones Carter said they will be happy to help with the transition back with Mr. Roznovsky and Ward, Getz & Associates, LLP and they will do a fine job for the City.

Mr. Durgin said a couple of weeks back there were questions regarding how soon they were going to be able to finish the Waterline Project. Mr. Durgin said the performance date is scheduled to end June 13, 2021, and there may be a couple of rain delays but they are going to wrap up on SH 105 and then finish up on FM 149 which should be right about that time.

Mr. Tramm said it seemed they were doing really well on schedule until all the rain came along. Mr. Tramm said his observation was they were really getting on top of the project and managing their time pretty well. Mr. Durgin said they have approved Pay Estimate No. 4 for \$135,400.50.

Mr. Durgin said regarding the Baja Road Water and Drainage Improvements, there were some one-year punch list items the contractor was not doing. Mr. Durgin said the issue on this is that the grant funding has not been turned into the City just yet, but the contractor is not going to finish until he gets paid for his final payments. Mr. Durgin said they are recommending the City go ahead and pay the contractor to finish the punch list items and the grant funding will follow suit.

Julie Davis asked if the grant funding was more than what the City still owes. Mr. Roznovsky said the grant money that is due back to the City covers the last construction pay estimate, grant

administration, and some engineering, and it has already been paid out of the last grant draw so there should be money that will go to the City's account that does not have to be paid out because it is reimbursing the cost. Mayor Countryman asked if they have made a little bit of money. Mr. Roznovsky said no it is just the City already paid the invoices and the only thing that has not been paid ahead was the last pay estimate to the contractor.

Mr. Durgin said for Water Plant No. 3 they held the pre-construction meeting on May 12, 2021, and notice to proceed will be issued this week and they are expecting to return the contracts soon.

Julie Davis asked if there is any update on the Kammerer tract. Mr. Roznovsky said he knows they closed on it and he had a meeting with the developer a few weeks ago. Mr. Roznovsky said the Discount Tire site is the tract next to Christian Brothers, and Discount Tire sold to Texas First Bank and they will be building a branch on that site.

Julie Davis moved to accept the Departmental Reports as presented. Byron Sanford seconded the motion.

Discussion: T.J. Wilkerson asked if they are still doing a speed study on FM 1097. Mr. Tramm said they will be as he has an engineering proposal for that project under review right now.

The motion carried unanimously. (5-0)

### **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.

Julie Davis said there was a fire hydrant at Caroline and FM 149 at the entrance to Wings Over Montgomery that has a giant hose attachment hooked onto it. Julie Davis asked if there is a way to have it removed and asked why it is there. Mr. Muckleroy said it is a hydrant meter. Mr. Muckleroy said when a contractor comes into town and they need to get water they come in and put a deposit down and rent a hydrant meter and they put it at a place of their choosing. Mayor Countryman said they had issues of contractors stealing water so they had to regulate them.

**ADJOURNMENT**

Kevin Lacy moved to adjourn at 7:47 p.m. Julie Davis seconded the motion, the motion carried unanimously. (5-0)

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

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



Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> June 8, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Admin	<b>Prepared By:</b> Dave McCorquodale

**Subject**

Accept resignation of Keri May for Place 2 on the Planning & Zoning Commission and begin application process for replacement and appointment of that position.

**Recommendation**

Authorize City staff to accept applications for Place 2 on the Montgomery Planning & Zoning Commission.

**Discussion**

The Planning & Zoning Commission is made up of five city residents appointed by the City Council. A Commissioner is moving out of the City limits, requiring her to resign her seat. The unfilled term for Place 2 expires on October 1, 2022, and the appointee will serve out the remainder of the term.

The typical process includes advertising the open position and receiving applications for 3-4 weeks. After receiving applications, staff provides the applications to City Council who appoints an applicant to fill the open position. The proposed timeline is:

June 8: City Council authorizes application process

June 9 – July 7: Advertise for position on City website and LED sign

July 13: City Council reviews applications and appoints a new P&Z Commissioner

An excerpt from the Zoning Ordinance related to the P&Z Commission is attached for reference.

**Approved By**

Asst. City Administrator	Dave McCorquodale	Date: 06/02/2021
City Administrator	Richard Tramm	Date: 06/02/2021

hold public hearings on that report before submitting a final report to the city council. The city council may not hold a public hearing until it receives the final report of the planning and zoning commission. The city council may not take action on the matter until it receives the final report of the planning and zoning commission. Before the 10<sup>th</sup> day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.

(d) A public hearing shall be held by the city council before adopting any proposed supplement, amendment or change. Notice of such hearing shall be given by publication two times in the official publication of the city stating the time and place of such hearing, which time shall not be earlier than 15 days from the first day of such publication.

(e) Unless such proposed amendment, supplement or change has been approved by the city planning commission or if a protest against such amendment, supplement or change has been filed with the 20 percent or more, either of the area of the lots included in such proposed change, or those immediately adjacent in the rear thereof, extending 200 feet therefrom, or of those directly opposite thereto extending 200 feet from the street frontage of such opposite lots, such amendments, supplements or change shall not become effective except by a three-fourths vote of the city council.

**Secs. 98-37—98-44. Reserved.**

## DIVISION 2. PLANNING AND ZONING COMMISSION

### **Sec. 98-45. Creation and purpose.**

A planning and zoning commission is hereby created in order to accomplish the following purposes:

- (1) To identify community needs and to advise the city council of their short-range and long-range implications for the total development of the city;
- (2) To recommend achievable community goals as a basis for long-range planning and development programs;
- (3) To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals;
- (4) To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies; and
- (5) To comply with the provisions of chapters 78 and 98 of the Code of Ordinances of the City of Montgomery concerning enforcement and application of the provisions of said chapters.

**Sec. 98-46. Membership and appointment.**

The planning and zoning commission shall be composed of five qualified individuals. These individuals shall be residents of the city, and be registered to vote in city elections. The city council will consider for appointment to the commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings. It is the intent of the city council that members shall, by reason of their diversity, constitute a commission, which is broadly representative of the community. For purposes of planning, the membership is encouraged to regularly include non-voting individuals, as may be appropriate, at their meetings to provide specific areas of expertise. Any member of the commission who has two consecutive absences without justification may be removed from the commission by the city council and the vacancy treated as an unexpired term. Any member of the commission may be removed for just cause upon recommendation from the chairman of the commission and approval of the city council and the vacancy treated as an unexpired term. At least one member of the commission shall be a member of the board of adjustment.

**Sec. 98-47. Terms of office.**

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

**Sec. 98-48. Organization.**

The commission shall, in each October, elect a chairperson and vice-chairperson from among its members before proceeding to any other matters of business. The commission shall elect a secretary and such other officers, as it deems necessary, either from its membership or from staff representatives assigned by the chief executive of the city to work with the commission. The commission shall meet regularly and shall designate the time and place of its meetings. The commission shall conduct meetings, adopt its own rules of procedure and keep a record of its proceedings consistent with the provisions of this ordinance and the requirements of law.

**Sec. 98-49. Duties and powers.**

The planning and zoning commission is hereby charged with the duty and invested with the authority to:

- (1) Inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the State of Texas and of the city.

- (2) Formulate and recommend to the city council for its adoption a comprehensive plan for the orderly growth and development of the city and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.
- (3) Make recommendations to the city council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in Vernon's Texas Civil Statutes, as amended, authorizing cities to pass regulations. All powers granted under said statutes are specifically adopted and made a part hereof.
- (4) Exercise all powers of a commission as to approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats as set out in Vernon's Texas Civil Statutes and/or the city's subdivision ordinance(s).
- (5) Study and recommend on the location, extension and planning of public rights-of-way, parks or other public places, and on the vacating or closing of same.
- (6) Study and make recommendations concerning the capital improvements program, including the construction of public buildings, bridges, viaducts, street fixtures and other structures and appurtenances. Study and recommend on the design or alteration and on the location or relocation of works of art, which are, or may become, the property of the city.
- (7) Initiate, in the name of the city, for consideration at public hearings all proposals: (1) for the opening, vacating or closing of public rights-of-way, parks or other public places; (2) for the original zoning of annexed areas; and (3) for the change of zoning district boundaries on an area-wide basis. No fee shall be required for the filing of any such proposal in the name of the city.
- (8) Formulate and recommend to the city council for its adoption policies and regulations consistent with the adopted comprehensive plan governing the location and/or operation of utilities, public facilities and services owned or under the control of the city.
- (9) Review and make recommendations concerning the annexation of land into the city.
- (10) Keep itself informed with references to the progress of city planning in the United States and other countries and recommend improvements in the adopted plans of the city.
- (11) Submit each month a progress report to the city council summarizing its activities, major accomplishments, and a proposed work program. The report shall also contain the attendance record of all members and the identity of commission officers.
- (12) Develop a working knowledge of applicable regulations governing the execution of the duties of the commission and perform these duties in a fair, honest and consistent manner.

(13) Administer and enforce the city's Zoning Ordinance.

**Sec. 98-50. Meeting and quorum.**

(a) A quorum shall be a majority of the Members of the commission.

(b) A motion may be made by any member other than the presiding officer.

(c) A motion to approve any matter before the commission or to recommend approval of any request requiring city council action shall require a majority of favorable votes of the members present provided a quorum is present.

**Sec. 98-51. Disqualification from voting.**

(a) A member shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property under appeal, or that he will be directly affected by the decision of the commission.

(b) A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the vote of the member on his application, other than in the public hearing.

**ARTICLE III. DISTRICTS AND ZONING MAP**

**DIVISION 1. GENERALLY**

**Sec. 98-61. Establishment of districts and boundaries.**

(a) For the purposes of this chapter, the city is hereby divided into six districts as follows:

District R-1	Single-Family Residential District
District R-2	Multifamily Residential District
District B	Commercial District
District ID	Industrial District
District I	Institutional District
District PD	Planned Development District

(b) The location and boundaries of the districts established in this section are shown upon the official zoning map. The zoning map, together with all notations, references and other information shown thereon and all amendments thereto, shall be as much a part of this chapter as if fully set forth and described in this chapter. The zoning map, property attested, is on file in the office of the city secretary. Any zoning regulations cannot supersede valid deed restrictions, but shall supplement any such restrictions.

**Sec. 98-62. Official zoning map.**

The official zoning map of the city shall be kept in the office of the city secretary. The official map shall be kept current and the copies thereof, therein provided for, by entering on such maps any changes which the city council may from time to time order by amendments to the zoning ordinance and map. The city secretary, on the adoption of the

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> June 8, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Admin	<b>Prepared By:</b> Dave McCorquodale

**Subject**

Receive a presentation on the Annual Service and Assessment Plan for the City of Montgomery Public Improvement District No. 1.

**Recommendation**

Receive the presentation.

**Discussion**

Mallory Craig with the law firm Coats|Rose will attend the meeting to deliver the presentation and answer questions from the City Council. Public Improvement Districts, or PID’s, are a type of Special Purpose District generally used by developers to finance infrastructure. Properties within the PID are assessed a fee annually and collected by the County Tax Collector. The County then returns the collected fees to the City for disbursement to the developer. The City serves as a “clearing house” between the County and the developer, reviewing the collection plan and reimbursement amount annually to ensure it follows the PID framework.

<b>Approved By</b>		
Asst. City Administrator	Dave McCorquodale	Date: 06/04/2021
City Administrator	Richard Tramm	Date: 06/04/2021

# MEMORANDUM

**TO:** City of Montgomery

**FROM:** Mallory Craig

**DATE:** June 08, 2021

**RE:** Yearly Steps for Levying Assessment and Disbursing Funds

---

1. The City has adopted a Service and Assessment Plan (“SAP”), wherein the City will levy each year on buildings constructed within the City of Montgomery Public Improvement District No. 1 (“PID”) an assessment calculated pursuant to the SAP. In addition, the City has entered into a reimbursement agreement with Mike Ogerchock pursuant to which Mike is to construct certain public infrastructure to serve the land inside the PID and the City will reimburse Mike for such costs from the assessments levied within the PID.

2. Mike has constructed the first phase of the infrastructure in the PID at a cost of \$2,059,524.31. For 2020, the City levied and collected \$38,814.40 of assessments on the buildings within the PID and deducted \$450.00 as costs of collection and paid the remainder to Mike as a credit against the amount owed.

3. Each year, the county requests the assessment roll to be submitted before June 30<sup>th</sup>. Our office has received the update on the construction of any new buildings within the PID and whether such new construction has triggered assessments being levied on additional property within the PID. We have updated the assessment roll and the SAP to reflect what, if any, new construction has occurred and have forwarded the updated assessment roll to the county. The updated SAP is being presented for Council approval. If there has been no new construction within the PID, but if there were, the updated SAP would reflect the tax id number of the new construction and the assessment to be levied on the new construction.

4. At such time as the 2021 assessments are paid into the City (March, 2022), the City should deduct its costs relative to collecting the assessments and pay the remainder to Mike against the outstanding balance. This will continue each year until all of the land is improved in the PID (and the assessments paid on each building) or until Mike is paid in full. A disbursement tracking chart is provided to the City yearly to monitor the remaining funds due to Mike.

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> June 8, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Admin	<b>Prepared By:</b> Dave McCorquodale

**Subject**

Consideration and possible action regarding adoption of the following Ordinance:

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

**Recommendation**

Adopt the ordinance as presented.

**Discussion**

The Ordinance formalizes the City's acceptance and approval of the Service and Assessment Plan for City of Montgomery PID No. 1.

**Approved By**

Asst. City Administrator	Dave McCorquodale	Date: 06/04/2021
City Administrator	Richard Tramm	Date: 06/04/2021



# MEMORANDUM

**TO:** City Council,  
City of Montgomery, Texas

**FROM:** Mallory Craig

**DATE:** June 8, 2021

**RE:** City of Montgomery Public Improvement District No. 1 – Annual Update to Service and Assessment Plan

---

Attached is the 2021 Annual Update (the “Update”) to the Service and Assessment Plan, adopted by the City of Montgomery (the “City”) on March 24, 2015, relating to the City of Montgomery Public Improvement District No. 1 (the “PID”). Pursuant to Section 372.013(b), Texas Local Government Code (the “Act”), the City may update the Service and Assessment Plan each year to reflect (i) monies spent on behalf of the PID, and (ii) the Annual Installment of the Assessments levied by the PID.

The Update reflects that the Assessments have been triggered on 8.9425 acres since the initial adoption of the Service and Assessment Plan. These Assessments will run for 15 years from September 1, 2017.

We are requesting the City Council approve the Update to reflect triggered 8.9425 acres, for a total assessment of \$38,814.40 for 2021.

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

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

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

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

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

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

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

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

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

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

WHEREAS, after the adoption of the Service and Assessment Plan, a portion of the property included within the boundaries of P.I.D. No. 1 has been developed and triggered the collection of the annual installment of the Assessments on 8.9425 acres;

WHEREAS, pursuant to the Act, the Municipality has caused the preparation of an annual update of the Service and Assessment Plan and the Assessment Roll (the "Annual Service Plan") for the purpose of determining the annual budget for improvements and for making updates to the Assessment Roll to reflect the installment of Assessments to be collected for 2021;

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

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

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

Section 1. Terms.

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

Section 2. Findings.

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

(a) The Annual Service Plan should be approved;

(b) The Assessment Roll in the form attached as Appendix C to the Annual Service Plan (the "Assessment Roll") should be approved as the assessment roll for the P.I.D. No. 1 for the 2021 tax year; and

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

Section 3. Assessment Plan.

The Annual Service Plan is hereby accepted and approved.

Section 4. Assessment Roll.

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

Section 5. Severability.

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

Section 6. Effective Date.

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

PASSED, APPROVED, AND ADOPTED, this 8th day of June, 2021.

City of Montgomery

\_\_\_\_\_  
Mayor

Attest:

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

(SEAL)

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

**CITY OF MONTGOMERY**  
**PUBLIC IMPROVEMENT DISTRICT NO. 1**  
**SERVICE AND ASSESSMENT PLAN**

*As updated*  
*June 8, 2021*

CITY OF MONTGOMERY  
PUBLIC IMPROVEMENT DISTRICT NO. 1

SERVICE AND ASSESSMENT PLAN

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List of Appendixes

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



Section I  
PLAN DESCRIPTION AND DEFINED TERMS

A. Introduction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section II  
PROPERTY INCLUDED IN THE PID

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

Table II-A  
Proposed Commercial Development

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

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

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

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

Section III  
DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS

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

372.003. Authorized Improvements

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

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

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

Table III-A  
Estimated Authorized Improvement Costs

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

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

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

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

**On-site Improvements**

The on-site roadway improvements include:

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

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

The on-site storm sewer collection system improvements include

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

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

**Off-site Improvements**

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

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

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

Table III-B  
Allocation of the Authorized Improvement Costs

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

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

#### Section IV SERVICE PLAN

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

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

Table IV-A shows the sources.

Table IV-A  
Sources and Uses of Funds

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

This sources and uses of funds table is subject to revision and the actual sources and uses of funds for any line item may be different than shown above. The sources and uses of funds shown in Table 1V-A shall be updated each year in the Annual Service Plan Update to reflect any budget revisions or actual costs of the Authorized Improvements.

**B. Annual Costs and Indebtedness**

The annual projected costs and annual projected indebtedness is shown by Table 1V-B. The annual projected costs and indebtedness is subject to revision and shall be updated each year in the Annual Service Plan Update to reflect any changes in the PID Costs expected for each year and the cumulative amounts owed to the Developer. Notwithstanding the preceding, the Developer shall be reimbursed solely from the net proceeds (after payment of all costs of the City) of the Assessments which will be significantly less than total projected costs of the Authorized Improvements.

Table IV-B  
Annual Projected Costs and Indebtedness

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

*[Remainder of page left intentionally blank]*



## Section V ASSESSMENT PLAN

### A. Introduction

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

### B. Special Benefit

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

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

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

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

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

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

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

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

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

C. Assessment Methodology

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

TABLE V-A  
Assessment per Improved Acre

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

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

*[Remainder of page left intentionally blank]*

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

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

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

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

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Section VI  
TERMS OF THE ASSESSMENTS

A. Amount of Assessments

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

B. Reallocation of Assessments

1. Subdivision

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

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

Where the terms have the following meanings:

- A = the Assessment for each new subdivided Parcel
- B = the Assessment for the Parcel prior to subdivision
- C = the estimated number of units to be built on each newly subdivided Parcel
- D = the sum of the estimated number of units to be built on all of the new subdivided Parcels

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

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

2. Consolidation

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

C. Mandatory Prepayment of Assessments

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

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

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

D. Reduction of Assessments

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

E. Payment of Assessments

1. Payment in Full

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

## 2. Payment in Annual Installments

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

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

### F. Collection of Annual Installments

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

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

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

Section VII  
THE ASSESSMENT ROLL

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

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

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

Section VIII  
MISCELLANEOUS PROVISIONS

A. Administrative Review

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

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



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

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

#### B. Termination of Assessments

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

#### C. Amendments

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

#### D. Administration and Interpretation of Provisions

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

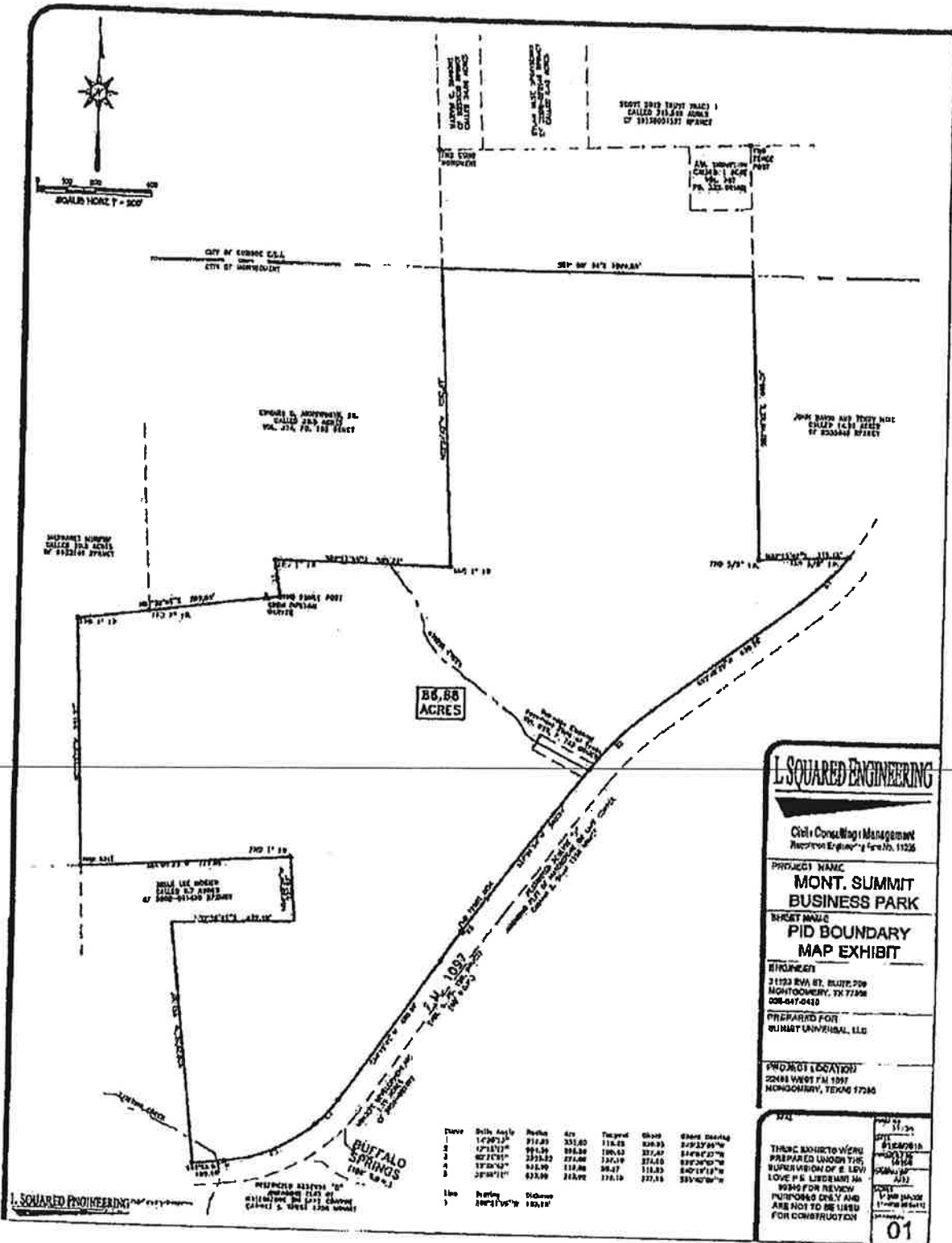
#### E. Severability

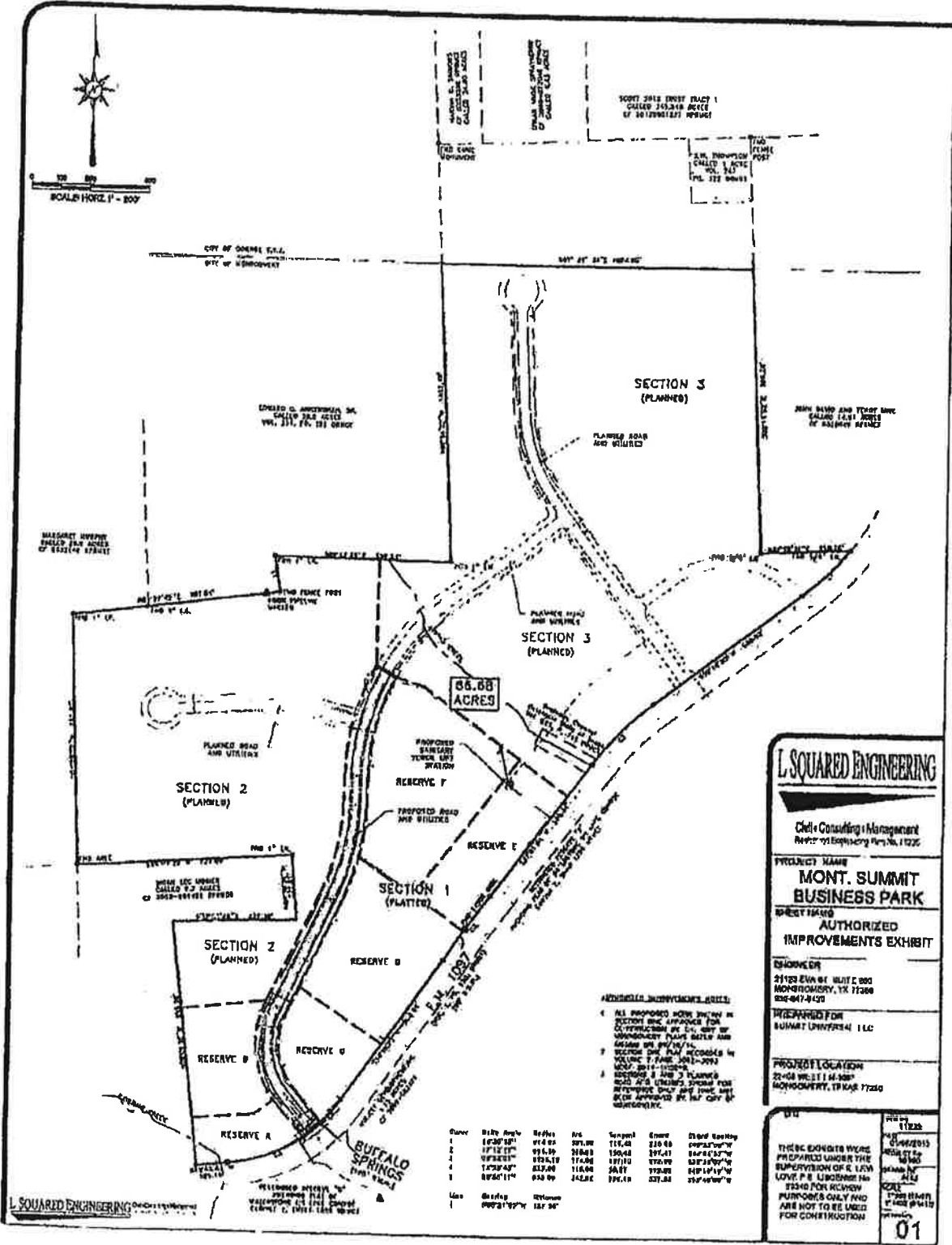
If any provision, section, subsection, sentence, clause or phrase of this Service and Assessment Plan or the application of same to an Assessed Parcel or any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Service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

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

Appendix A

MAP OF PID No. 1





**L. SQUARED ENGINEERING**

Civil • Consulting • Management  
Professional Engineering No. 11222

**PROJECT NAME**  
MONT. SUMMIT BUSINESS PARK

**SHEET NAME**  
AUTHORIZED IMPROVEMENTS EXHIBIT

**DRAWN BY**  
21123 EWA BY: WJTC:BOO  
MONTGOMERY, TX 77308  
832-847-9420

**PREPARED FOR**  
SUMMIT UNIVERSITY, LLC

**PROJECT LOCATION**  
22-48 WEST 14-300  
MONTGOMERY, TEXAS 77260

**DATE**  
11/28/15

**SCALE**  
AS SHOWN

**NOTES**  
THIS EXHIBIT WAS PREPARED UNDER THE SUPERVISION OF R. L. JENKINS, P.E., LICENSE NO. 12540 FOR REVIEW PURPOSES ONLY AND ARE NOT TO BE USED FOR CONSTRUCTION.

**01**

Appendix B

ESTIMATED COSTS OF AUTHORIZED IMPROVEMENTS

### **On-Site Improvements**

The on-site roadway improvements include

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

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

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

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

### **Off-site Improvements**

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

Montgomery PID # 1		Estimated Phase 2 Costs	Estimated Phase 3 Costs	Project Total
Phase 1 costs				
Earthwork & Mobilization	\$ 5,130.00			
Legal & Insurance, Bond	\$ 76,175.01	\$29,200	\$36,500	
Engr, legal, surveying, clearing & dirtwork	\$ 344,770.70	\$95,181.36	\$166,850	
Randy Roan Const. Roadway, Water & sewer lines, lift station	\$ 1,278,167.09	\$793,178	\$1,605,393	
Sitework & landscape				
Hydromulching	\$ 73,752.90			
Platting & Surveying	\$ 42,839.84			
Utility work	\$ 48,755.59			
New Devl. Costs: project mgt., Gas line, power lines, Geotech, Communication lines, Boring, SWPP, inspection	\$ 184,763.63	\$73,405	\$144,699	
Total Phase 1	\$ 2,054,354.76	990,964.36	\$1,953,442	\$ 4,998,761.12

Appendix C

ASSESSMENT ROLL

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

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

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

2021 Annual Installment for Triggered Parcels

Quick Ref	Bdg #	Property ID	Address Line 1	Zip Code	Legal Description	Acres	PID Rate	Triggered Acres	City Admin. Fee	2021 Annual Installment
<b>R450269</b>	<b>B-1</b>	<b>7271-00-00200</b>	15349 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 2, RES B (BLDG B-1 SUITE 101-104), ACRES 0.5655	0.5655	2426.06	0.5655	\$50.00	<b>\$2,476.06</b>
<b>R450271</b>	<b>D</b>	<b>7271-00-00400</b>	22394 FM 1097 W	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES D, ACRES 4.221	4.221	18108.60	4.2210	\$50.00	<b>\$18,158.60</b>
<b>R450273</b>	<b>F-1</b>	<b>7271-00-00600</b>	15498 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-1, SUITE 101-104), ACRES 0.696	0.696	2985.92	0.6960	\$50.00	<b>\$3,035.92</b>
<b>R471619</b>	<b>F-2</b>	<b>7271-00-00601</b>	15522 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-2, SUITE 201-204), ACRES 0.696	0.696	2985.92	0.6960	\$50.00	<b>\$3,035.92</b>



<b>R471620</b>	<b>F-3</b>	<b>7271-00-00602</b>	15584 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-3, SUITE 301- 303), ACRES 0.517	0.517	2217.99	0.5170	\$50.00	<b>\$2,267.99</b>
<b>R471621</b>	<b>F-4</b>	<b>7271-00-00603</b>	15636 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-4, SUITE 401- 403), ACRES 0.517	0.517	2217.99	0.5170	\$50.00	<b>\$2,267.99</b>
<b>R471622</b>	<b>F-5</b>	<b>7271-00-00604</b>	15514 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-5, SUITE 501- 503), ACRES 0.517	0.517	2217.99	0.5170	\$50.00	<b>\$2,267.99</b>
<b>R471623</b>	<b>F-6</b>	<b>7271-00-00605</b>	15556 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-6, SUITE 601- 603), ACRES 0.517	0.517	2217.99	0.5170	\$50.00	<b>\$2,267.99</b>
<b>R471625</b>	<b>F-8</b>	<b>7271-00-00607</b>	15618 SUMMIT BUSINESS PARK DR	77356	S727100 - Montgomery Summit Business Park, BLOCK 1, RES F (BLDG F-8, SUITE 801- 804), ACRES 0.696	0.696	2985.92	0.696	\$50.00	<b>\$3,035.92</b>
						18.092	57569.12	8.9425	\$450.00	\$38,814.40
									<b>Total 2021 Assessm ent:</b>	<b>\$38,814.40</b>

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> June 8, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Admin	<b>Prepared By:</b> Dave McCorquodale

**Subject**

Consideration and possible action regarding an Amendment to the Encroachment and Maintenance Agreement between the City of Montgomery and First Hartford Realty Corporation for monument signage at the Shoppes at Montgomery.

**Recommendation**

Approve the Amendment conditional upon receiving the executed document from the developer.

**Discussion**

In September 2020, the City approved an Encroachment and Maintenance Agreement with the developer of the Shoppes at Montgomery. This Agreement allows the developer to build their monument signs near SH105 / Eva Street within a City utility easement located along the front of their property. The purpose of the Agreement is two-fold:

- 1) Provides City approval for the signs to be built in the easement as long as the signs do not conflict with City utilities.
- 2) The developer agrees to hold the City harmless if the signs are ever damaged or removed in the course of work done to City utilities.

The 2020 Agreement included (4) signs. The developer has recently requested to add (5) signs to the Agreement, completing all of the development signage. This is a standard agreement form that has been used previously for various developments in the City. All (5) signs will still require permitting and inspections. The contractor will be water-jetting the foundations to prevent damage to utilities.

The City Engineer has provided a memo recommending approval of the Agreement conditional upon submittal of plans at permitting and coordination with Public Works during installation. The City Attorney has also reviewed the Agreement and has no objections. Staff has no objections and recommends approval of the Agreement.

**Approved By**

Asst. City Administrator	Dave McCorquodale	Date: 06/02/2021
City Administrator	Richard Tramm	Date: 06/02/2021



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

May 7, 2021

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

Re: Proposed Monument Sign Encroachment Agreement No. 2  
 The Shoppes at Montgomery Retail Plaza  
 The City of Montgomery

Dear Mayor and Council:

We recommend the City enter into an encroachment agreement with Developer, First Hartford Realty Corporation, to allow the construction of five (5) additional monument signs within the City's utility easement.

The agreement should be of the same character and requirements as the previous agreement and should protect the city against damage to the signs in case the City must work within the easement. The sign locations are shown in the enclosed exhibit. Please note that the public sanitary sewer force main shown on the enclosed exhibit is abandoned and is therefore not a cause for concern regarding clearance.

We recommend the following additional conditions because the sign details are not known at this time:

- The Developer must submit a set of construction plans showing the encroachments are not in conflict with existing public water and sanitary sewer lines. The plans must also be approved by the City Engineer prior to proceeding with construction of the monument signs.
- During construction, the contractor is responsible for coordinating with Public Works to verify the location of the existing public utilities and must ensure a minimum 4-foot horizontal clearance between the foundation and the edge of the waterline pipe.

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

Sincerely,

A handwritten signature in blue ink that reads 'Don Durgin'.

Don Durgin, PE  
 Engineer for the City

DD/wsl

K:\W5841\W5841-0900-00 General Consultation\MEMO to Council RE Shoppes Sign Encroachment Agreement 5.3.2021.doc

Enc: Encroachment Agreement Request Letter  
 Monument Sign Site Plan  
 Monument Sign Foundation Plan

Cc (via email): Mr. Richard Tramm – City of Montgomery, City Administrator  
 Mr. Dave McCorquodale – City of Montgomery, Assistant to the City Administrator  
 Ms. Susan Hensley – City of Montgomery, City Secretary  
 Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney

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

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

**FIRST AMENDMENT TO ENCROACHMENT AND MAINTENANCE AGREEMENT**

**THIS FIRST AMENDMENT TO ENCROACHMENT AND MAINTENANCE AGREEMENT** ("Amendment") is made this 25<sup>th</sup> of May 2021, between the **CITY OF MONTGOMERY, TEXAS** ("City") and **FIRST HARTFORD REALTY CORPORATION**, a Delaware corporation ("Owner").

**RECITALS**

City and Owner entered into a Encroachment and Maintenance Agreement in September 2020 ("Original Agreement"); and

The parties wish to amend the Original Agreement for the purpose of installing, placing and maintaining five (5) additional monument signs within the City public utility easement, subject to all other provisions of the Original Agreement.

**NOW, THEREFORE**, be it mutually agreed, by City and Owner as follows:

1. Consent to Encroachment. Subject to the above recitals, and the terms of the Original Agreement, City hereby consents and allows Owner to install, place and maintain five (5) additional monument signs within the City public utility easement. See attached hereto as Exhibit "A" a depiction of the location of the five (5) additional monument signs.
2. Definition of Property. The term Property as used in the Original Agreement is expanded to include Reserves A, B, D and E as shown on the attached Exhibit "A."
3. Agreement in Effect. All terms and conditions of the Original Agreement not specifically changed by this Amendment shall remain in full force and effect.
4. Effective Date. This Amendment shall be effective on May 25, 2021.

**CITY OF MONTGOMERY, TEXAS**

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

**ATTEST:**

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

**STATE OF TEXAS §**

**COUNTY OF MONTGOMERY §**

Before me on this day, personally appeared **SARA COUNTRYMAN, MAYOR** of the **CITY OF MONTGOMERY, TEXAS**, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the instrument was the act of the City, and that she executed the instrument as the act of said City for the purposes and consideration expressed therein, by proper authority, and in the capacity stated in the instrument.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE**, this \_\_\_\_ day of \_\_\_\_\_, 2021.

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

**FIRST HARTFORD REALTY CORPORATION**

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

Name: \_\_\_\_\_

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

**STATE OF TEXAS** §

**COUNTY OF HARRIS** §

Before me on this day, personally appeared \_\_\_\_\_, \_\_\_\_\_ of the **FIRST HARTFORD REALTY CORPORATION**, a Delaware corporation, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the instrument was the act of the corporation, and that he/she executed the instrument as the act of said corporation for the purposes and consideration expressed therein, by proper authority, and in the capacity stated in the instrument.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE**, this \_\_\_\_ day of \_\_\_\_\_, 2021.

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

**After recording, return to:**  
City of Montgomery, Texas  
Attention: Susan Hensley, City Secretary  
101 Old Plantersville Road  
Montgomery, Texas 77316

EXHIBIT A

(location of the five (5) additional monument signs)

DATE:	
ISSUE:	
No:	

FOR EXHIBIT  
ONLY  
NOT FOR  
CONSTRUCTION

DRAWN	SWG
CHECKED	SWG
DATE	04/05/21
SHEET TITLE	MONUMENT SITE PLAN

ALL DRAWN AND WRITTEN INFORMATION  
APPEARING HEREIN SHALL NOT BE  
DUPLICATED, DISCLOSED, OR OTHERWISE  
USED WITHOUT THE WRITTEN CONSENT  
OF DEVELOPMENT SERVICES, INC.

SHEET  
**SP-2**

**BUFFALO**

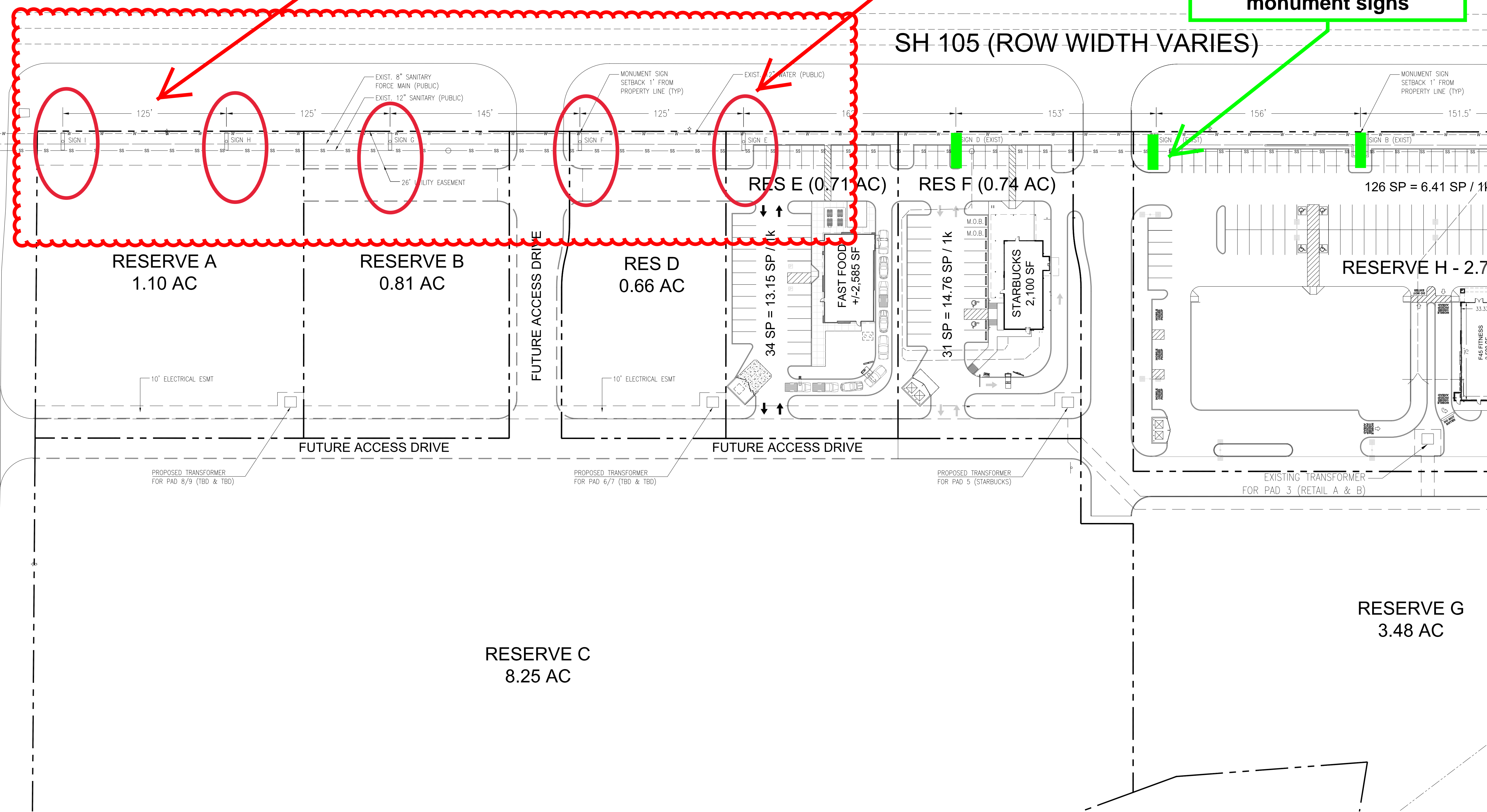
**BUFFALO SPRINGS ROAD**

**Spacing and number of signs  
complies with Sign Ordinance**

**5 requested  
monument signs**

**4 previously approved  
monument signs**

**SH 105 (ROW WIDTH VARIES)**





**DEVELOPMENT SERVICES, INC.**

**Texas Registration #F-002239  
900 Town & Country Lane, Suite 220  
Houston, Texas 77024  
O: 713-647-9211 F: 713-647-9113**

April 5, 2021

City of Montgomery  
101 Old Plantersville Road  
Montgomery, Texas 77316

Re: The Shoppes at Montgomery  
Encroachment & Maintenance Agreement  
For Monument Signage on Eva Street Frontage

On behalf of the Developer, First Hartford Realty Corporation, we are requesting an Encroachment and Maintenance Agreement for five (5) Future Monument Signs E-I at the above referenced development.

Please find attached a Sign Location Plan Exhibit and Foundation Plan for the proposed Monument Signs.

Respectfully Submitted,

*Steven W. Griggs*

Steven W. Griggs, P.E.

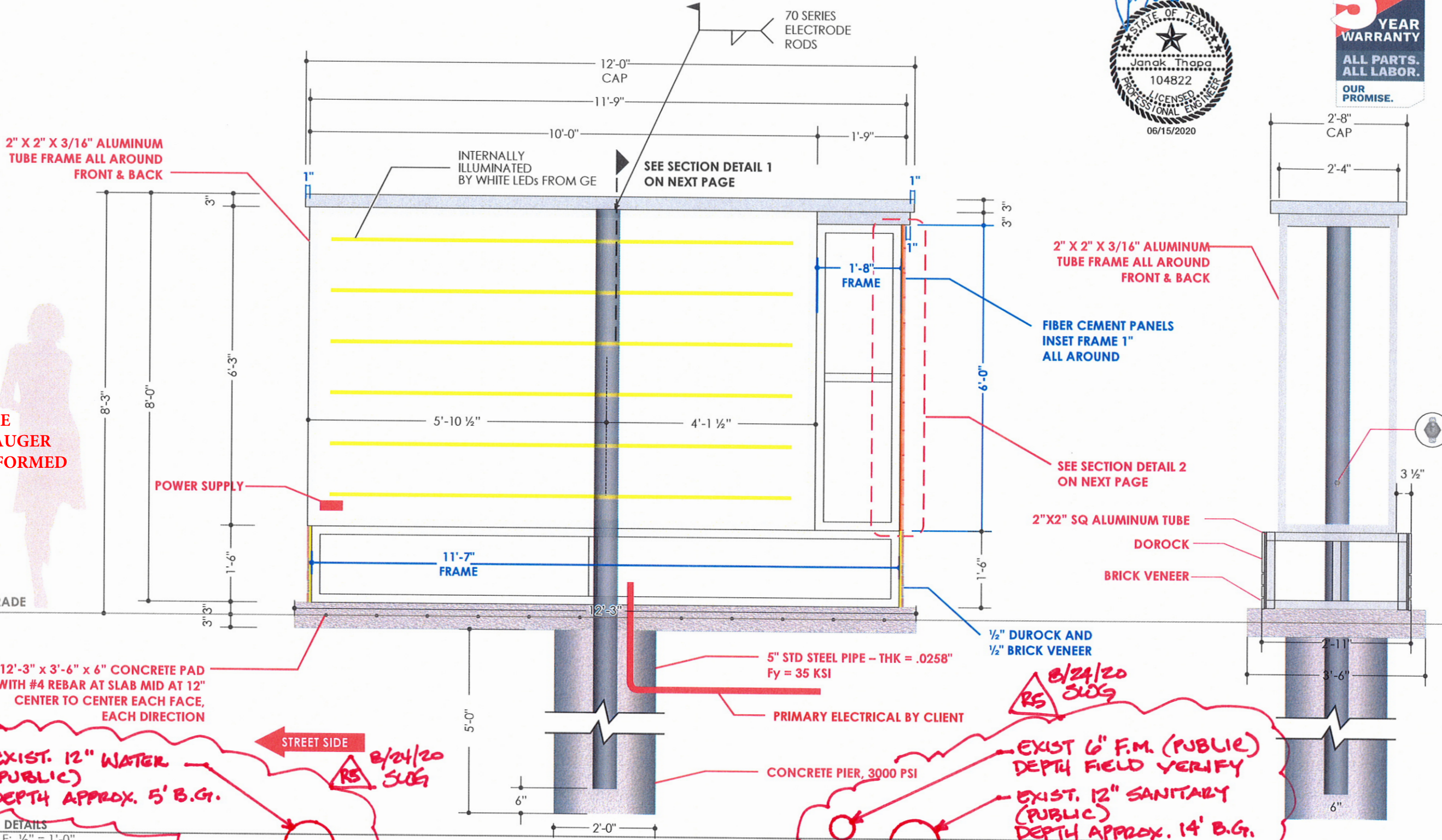
SIGNS A, B, C, D

**PLEASE NOTE**  
**CUSTOMER MUST PROVIDE**  
 DEDICATED DIRECT 120-277 VOLT 20 AMP CIRCUIT(S) CONSISTING OF DESIGNATED PRIMARY, NEUTRAL AND GROUND CONDUCTORS WITHIN 6' OF CENTER OF SIGN LOCATION FOR WALL MOUNTED SIGNS OR AT BASE FOR FREESTANDING SIGNS

ELECTRICAL LOAD:  
 1.15 AMPS / .14 kVA (@120V) - PER SIGN  
 DEDICATED 120-277V 20 AMP CIRCUIT(S):  
 1 PER SIGN

SIGNCO AMERICA MUST BE NOTIFIED OF "OTHER VOLTAGES" PRIOR TO MANUFACTURE

TIME CLOCK MUST BE INSTALLED BY CUSTOMER'S ELECTRICIAN OR G.C. OTHERWISE IT WILL VOID WARRANTY



**CONCRETE PIER TO BE HYDRO-JETTED, NO AUGER DRILLING TO BE PERFORMED**

**EXIST. 12" WATER (PUBLIC) DEPTH APPROX. 5' B.G.**

**EXIST. 6" F.M. (PUBLIC) DEPTH FIELD VERIFY**

**EXIST. 12" SANITARY (PUBLIC) DEPTH APPROX. 14' B.G.**

8/24/20 RS SUG

7938 WRIGHT RD • HOUSTON, TX 77041 • 713-661-1500  
 www.SigncoAmerica.com

CLIENT	THE SHOPPES AT MONTGOMERY	DRAWING	0:114-PROJECTS\T SCA20 3437
ADDRESS	20175 EVA STREET	DESIGNER	OUN
CITY/ STATE	MONTGOMERY, TX. 77356	SALES REP	GLORIA BAKER
DATE	07.06.2020	PROJECT MGR	PATTY HICKS

REVISIONS	070620 MV	SOLD FINAL	APPROVALS
R2	6.1.2020 - UPDATE QTY, ADD SITE PLAN - OUN	CLIENT	
R3	6.15.2020 - ADD IT NOTES - OUN	LANDLORD	
R4	6.16.2020 - ADD ENG. STAMPS & CALCS - OUN	SALES REP	

**NEW CONSTRUCTION** **PAGE 7**

**UL SPECIFICATIONS** ALL ELECTRIC SIGNS AND PRODUCTS MANUFACTURED BY SIGNCO AMERICA ARE BUILT ACCORDING TO UL STANDARDS

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN.

Montgomery City Council  
**AGENDA REPORT**

<b>Meeting Date:</b> June 8, 2021	<b>Budgeted Amount:</b> N/A
<b>Department:</b> Admin	<b>Prepared By:</b> Dave McCorquodale

**Subject**

Consideration and possible action regarding a variance request to the vegetative setback requirements of Section 78-162(a) of the City Code of Ordinances for Commercial Reserve “D” in Town Creek Crossing Section One as submitted by LeFevre Development, Inc.

**Recommendation**

Consider the information and approve or deny the variance request.

**Discussion**

The developer is requesting this variance based on the expectation that a departure from the text of Subdivision Ordinance will allow for greater adherence to the spirit of the Ordinance. The primary reason given for the request is the elevation change between the commercial and residential properties. The commercial reserve is approximately 7-feet higher than the future home slabs. By allowing the vegetative buffer on the residential lots – which have been made correspondingly larger to account for the vegetative buffer being added to them – the fence between the properties can be built at the top of the slope where it will provide the greatest amount of screening for the homeowners.

The variance process is described by Section 78-28 of the City Code:  
*“When a subdivider or developer can show that a provision of this chapter would cause unnecessary hardship if strictly adhered to, or where because of some condition peculiar to the site or the unique nature of the development compliance with this chapter is not consistent with or required by good engineering and planning practices, and if in the opinion of the city council, planning and zoning commission and the city engineer, a departure from this chapter may be made without destroying the intent of this chapter, the city council may authorize a variance.”*

The Planning & Zoning Commission considered the request on June 1<sup>st</sup> and recommend approval of the request. The City Engineer and City staff have no objections to the request.

**Approved By**

Asst. City Administrator	Dave McCorquodale	Date: 06/02/2021
City Administrator	Richard Tramm	Date: 06/02/2021

# PLANNING & ZONING COMMISSION OPINION OF FINDINGS

TO: MONTGOMERY MAYOR AND CITY COUNCIL

FROM: PLANNING & ZONING COMMISSION

CC: RICHARD TRAMM, CITY ADMINISTRATOR

SUBJECT: OPINION OF THE PLANNING & ZONING COMMISSION REGARDING A VARIANCE REQUEST TO THE VEGETATIVE SETBACK REQUIREMENTS OF SECTION 78-162(a) OF THE CITY CODE OF ORDINANCES FOR COMMERCIAL RESERVE "D" IN TOWN CREEK CROSSING SECTION ONE.

Mayor and Members of City Council,

Pursuant to Section 78-28 of the City of Montgomery Code of Ordinances ("the Code"), the Montgomery Planning and Zoning Commission met on June 1, 2021 to consider a variance request from LeFevre Development, Inc. The Subdivision Ordinance requires commercial properties to include a 25-foot vegetative setback when abutting single-family residential properties. In the request, the developer has proposed to locate a vegetative setback on the residential properties instead of the commercial property and has increased the depth of each of these residential lots by 25 feet to accommodate the setback. After considering the request and significant elevation change between the commercial and residential properties, the Planning & Zoning Commission recommended approval of the variance request at its June 1<sup>st</sup> meeting.

Submitted on behalf of the Planning & Zoning Commission,



Dave McCorquodale  
Assistant City Administrator and Director of Planning & Development



June 2, 2021

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

Re: Variance Request  
Town Creek Crossing Section 1  
City of Montgomery

Dear Mayor and Council:

As you are aware, Philip LeFevre and Hilliary Dumas ("the Developer") are proceeding with construction of Town Creek Crossing, Section 1 at the corner of Lone Star Parkway and Buffalo Springs Drive. The Developer is requesting the following variance from the City's 2004 Code of Ordinances:

- Section 78-162: The 2004 Code of Ordinances requires a vegetative setback of 25' in width to be maintained where commercial, multifamily, industrial, church, public building or school properties abut a single-family residential property. The Developer is stating the ordinance does not specifically require the setback to be located on the non-single-family residential property, but it is typically not placed on the residential property. The Developer is requesting a variance to allow the 25' wide vegetative setback to be placed on the residential lot in lieu of the adjacent commercial reserve.

Enclosed you will find the request for variance as submitted by the engineer for the development. We offer no objections to the Developer's request on the basis of the significant elevation difference between the commercial reserve and adjacent single family residential properties, and the lot size adjustment that is proposed to account for adjusting the location of the vegetative buffer.

Approval of the requested variances does not constitute plat approval and only allows the Developer to further refine the proposed final plat, which will require the full review and approval of the City.

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

Sincerely,

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

Chris Roznovsky, PE  
Engineer for the City

Variance Request – Town Creek Crossing Section 1  
Honorable Mayor and City Council  
City of Montgomery  
Page 2 of 2  
June 2, 2021

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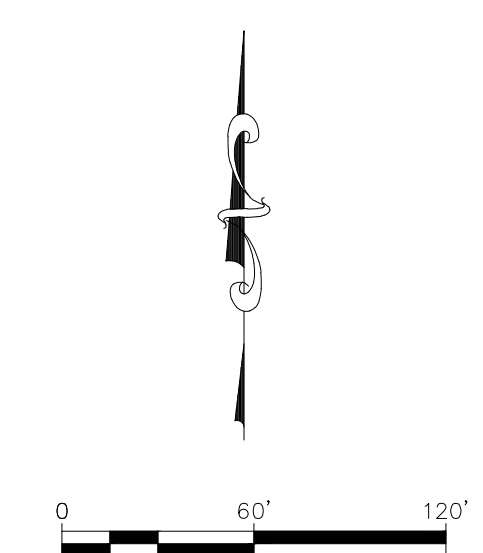
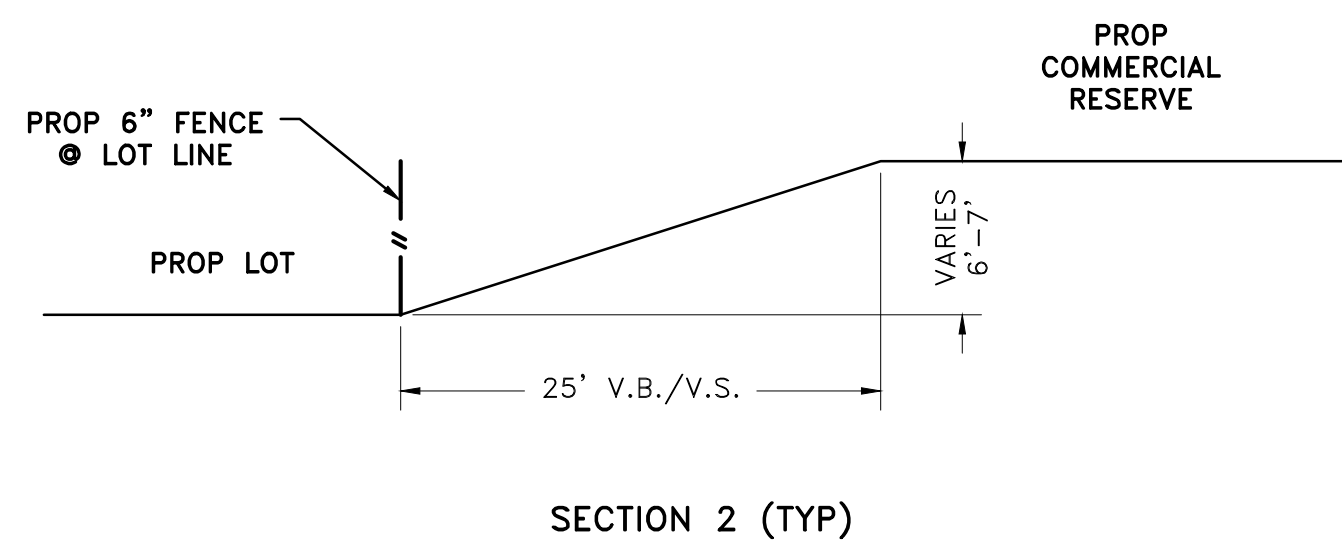
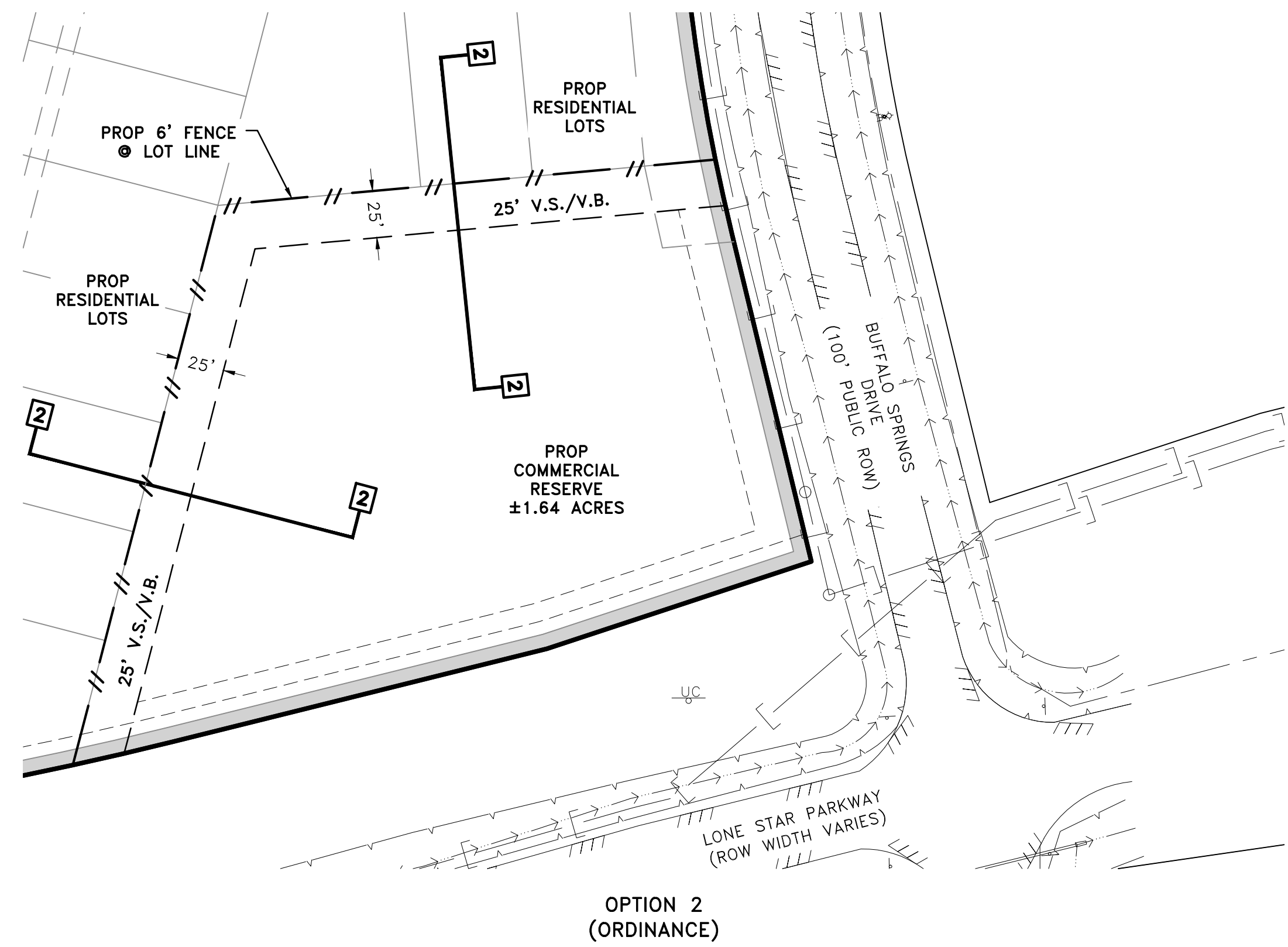
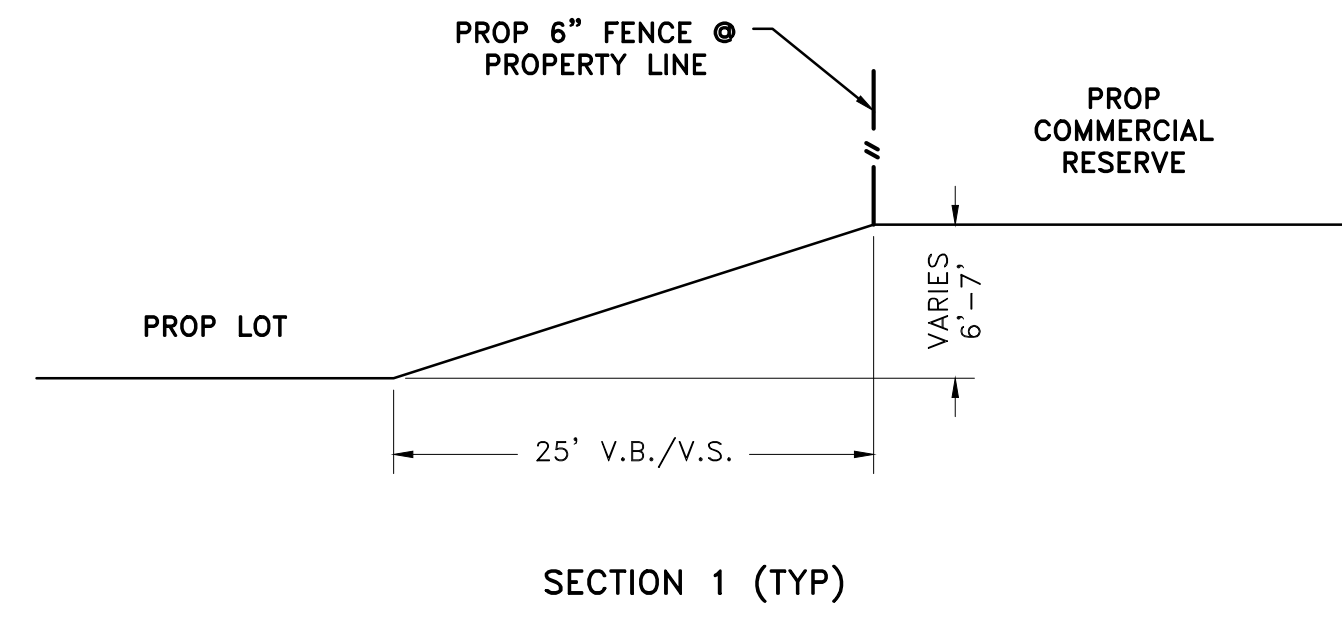
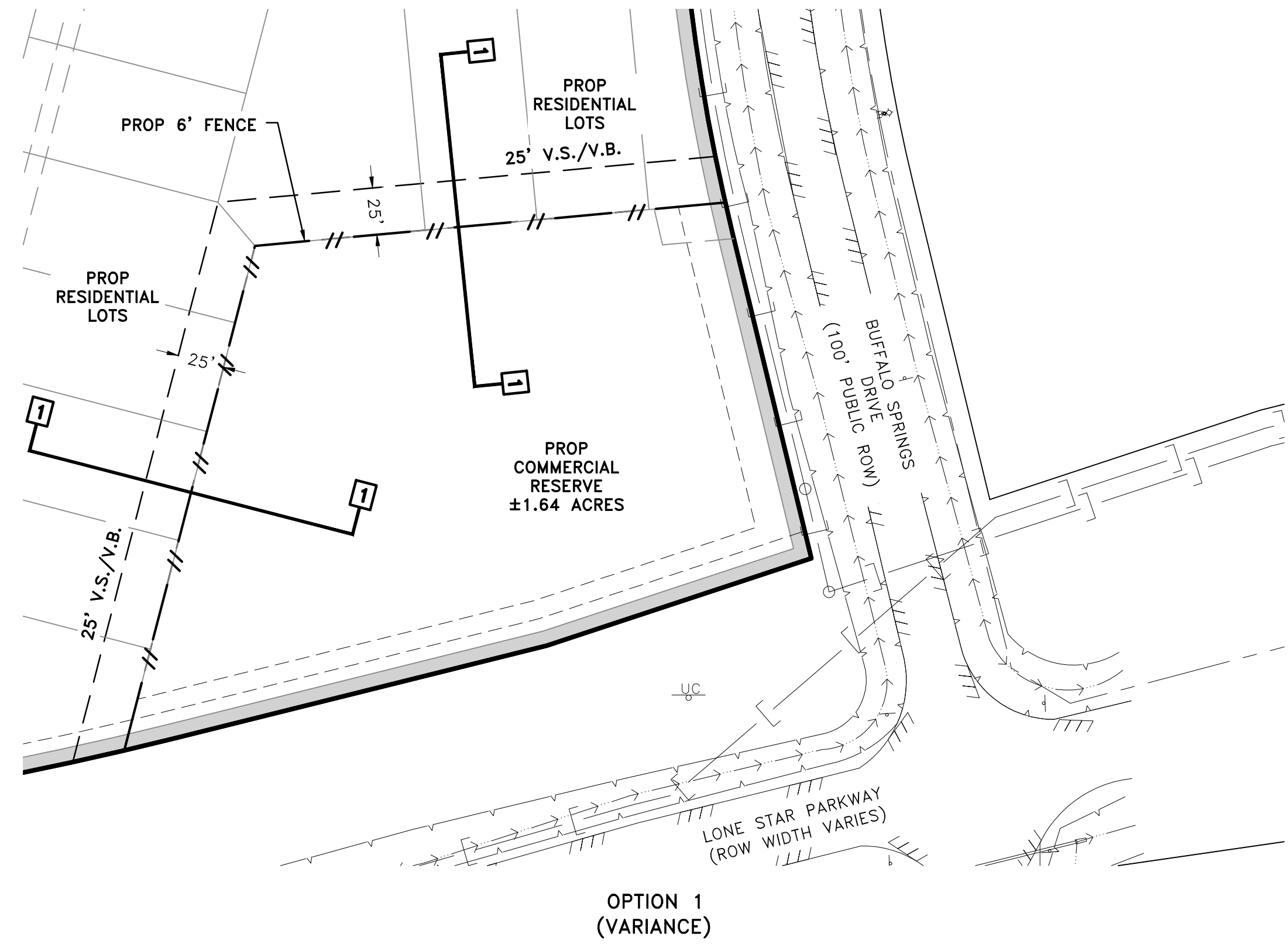
CVR/kmv

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Enclosures: Variance Request

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

S:\ENGINEERING PROJECTS\10583 - TOWN CREEK CROSSING\103 CAD\DESIGN SET\EXHIBITS\COMMERCIAL EXHIBIT.DWG Jun. 2, 2021 - 2:47 PM



**L SQUARED ENGINEERING**  
 MUNICIPAL COMMERCIAL RESIDENTIAL  
 WWW.L2ENGINEERING.COM  
 MAIN OFFICE: 3307 W. DAVIS STREET #1100, CONROE, TEXAS 77384  
 OFFICE: 836-687-0520  
 21122 EVA STREET #200, MONTGOMERY, TEXAS 77356

TOWN CREEK CROSSING

V.S./V.B. VARIANCE EXHIBIT

06/02/2021

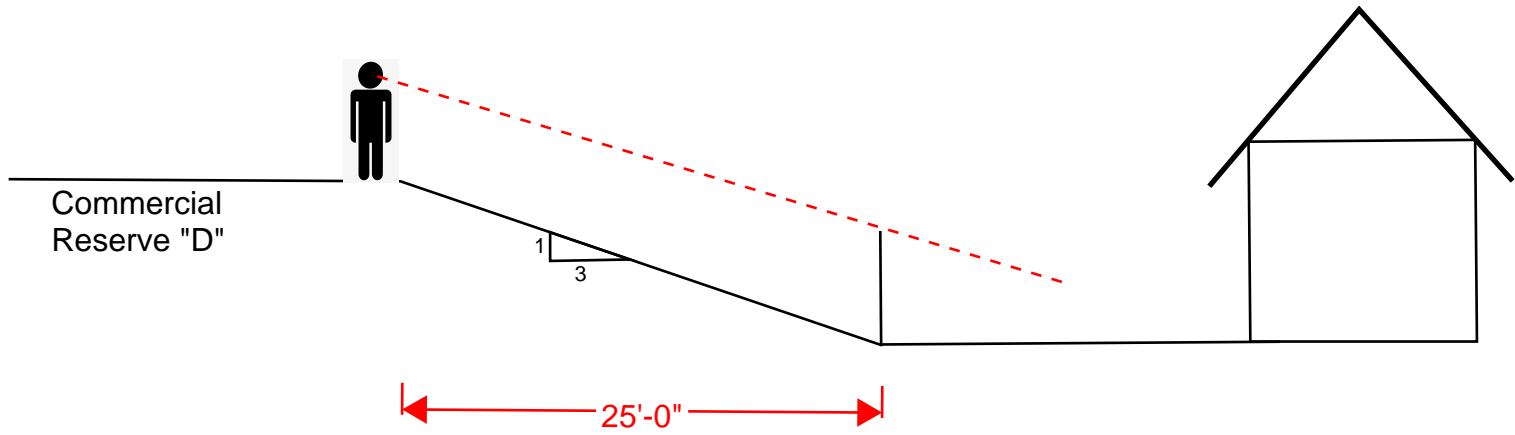
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PROJECT	10583	TDLR	**
DRAWN	MAB	CHECKED	XX
SCALE	SHEET		1
1" = 60' (24x36)			
1" = 120' (11x17)			

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

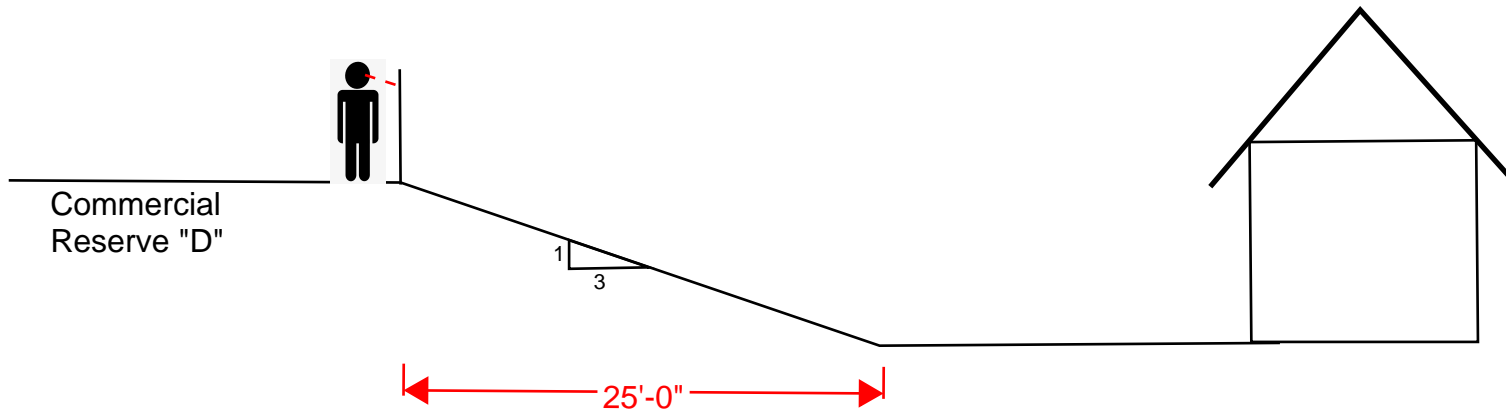
E. LEVI LOVE, PE #99340  
 OR  
 JONATHAN WHITE, PE #127058

FOR REVIEW PURPOSES ONLY  
 NOT FOR CONSTRUCTION

Current



Proposed







21123 Eva Street, Suite 200  
Montgomery, TX 77356  
P: 936-647-0420 F: 936-647-2366  
www.L2Engineering.com

May 25, 2021

City of Montgomery  
C/o Dave McCorquodale  
101 Old Plantersville Road  
Montgomery, TX 77316

RE: Variance request for Town Creek Crossing regarding Vegetative Setbacks and Barriers

Mr. McCorquodale,

According to Section 78-162 of the 2002 City of Montgomery Code of Ordinances, a vegetative setback of 25' in width is required to be maintained at all times where commercial, multifamily, industrial, church, public building or school properties abut any single-family residential property. The ordinance is not specific to require the setback be located on the commercial lot, it simply states there a 25' setback is required; however, the 25' setback is typically situated on the commercial or multifamily property. We request that the 25' setback be situated on the residential lot in lieu of the commercial reserve.

There will still be a 25' buffer between Commercial Reserve D and the residential lots behind it, the setback will just be fixed on the residential lot. A fence will be placed on the common boundary line (approximately 7' higher in grade than the finished floor of the homes) and there will be a 3:1 side slope for transitional grading within the 25' vegetative setback on the residential lots. The residential lot depths were also increased in size by 25' to accommodate this setback.

Please feel free to contact me at 936-647-0420 if you have any questions or concerns.

Thank you,

Jonathan White, PE  
L Squared Engineering  
Senior Project Manager, Partner  
936-647-0420  
Jwhite@L2engineering.com

Attachments: Variance Application, Preliminary Plat





# Variance Request Application

City of Montgomery  
101 Old Plantersville Road  
Montgomery, Texas 77316  
(936) 597-6434

Upon completion return application to [shensley@ci.montgomery.tx.us](mailto:shensley@ci.montgomery.tx.us)

### Contact Information

Property Owner(s): LeFevre Development Inc.

Address: 780 Clepper, Suite 100 Montgomery, TX Zip Code: 77356

Email Address: plefevre@lefc0-inc.com Phone: 936-597-5200

Applicants: L Squared Engineering

Address: 3307 W Davis Street, Suite 100 Conroe, TX 77304

Email Address: Jwhite@L2Engineering.com Phone: 936-647-0420

### Parcel Information

Property Identification Number (MCAD R#): R392827, R405109, R392828

Legal Description: Tracts 1-H, 1-L, and 1-J within the John Corner Survey, Abstract 8

Street Address or Location: Northwest corner of Buffalo Springs Drive and Lone Star Parkway

Acreage: 125.192 Present Zoning: PD Present Land Use: Vacant

### Variance Request

Applicant is requesting a variance from the following:

City of Montgomery Ordinance No.: 2002- Section(s): 78-162

Ordinance wording as stated in Section (78-162 ):  
Required vegetative barrier or setbacks

Detail the variance request by comparing what the ordinance states to what the applicant is requesting:

See request letter

**Signatures**

Owner(s) of record for the above described parcel:

Signature: William Amas Date: 5/25/21

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Note: Signatures are required for all owners of record for the property proposed for variance. Attach additional signatures on a separate sheet of paper.*

**\*Additional Information\***

The following information must also be submitted:

Cover letter on company letterhead stating what is being asked. [ ]

A site plan.

All applicable fees and payments.

The application from must be signed by the owner/applicant. If the applicant is not the owner, written authorization from the owner authorizing the applicant to submit the variance request shall be submitted.

**Date Received**

*Office Use*