

**Notice of City Council Regular Meeting
AGENDA**

April 13, 2021 at 6:00 PM

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

This meeting will be closed to 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 by 3:00 p.m. on April 13, 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/83216581626> and using **Meeting ID: 832 1658 1626**. They may also join by calling (346) 248-7799 and entering the **Meeting ID: 832 1658 1626**.

The Meeting Agenda Pack will be posted online at 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 minutes of the March 23, 2021, Regular Meeting.
- 2.** Consideration and possible action regarding completion of the one-year warranty period for the Emma's Way Extension Project.

CONSIDERATION AND POSSIBLE ACTION:

- 3.** Consideration and possible action regarding renewal of the lease agreement with Virginia Adams for the property located at the northeast corner of SH105 and FM149.
- 4.** Consideration and possible action regarding a building permit plan review fee exemption for Summit Universal, LP.
- 5.** Update regarding the City Engineer.

EXECUTIVE SESSION:

The City Council reserves the right to discuss any of the items listed specifically under this heading or for any items listed above in executive closed session as permitted by law including if they meet the qualifications in Sections 551.071(consultation with attorney), 551.072 (deliberation regarding real property),551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Government Code of the State of Texas.

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 April 9, 2021 at 12:45 p.m. I further certify that the following news media was notified of this meeting as stated above: The Courier

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.

MINUTES OF REGULAR TELEPHONE CONFERENCE/VIDEO MEETING

March 23, 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
	Tom Cronin	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.

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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.

There were no comments made.

CONSENT AGENDA:

1. Matters related to the approval of minutes of the March 9, 2021, Public Hearing and Regular Meeting.
2. Consideration and possible action regarding completion of a one-year warranty period for the Construction of Water and Drainage Improvements on Dr. Martin Luther King Jr. Drive – Phase II Project.
3. Consideration and possible action regarding completion of a one-year warranty period for the FEMA – Atkins Creek Water, Sanitary Sewer and Storm Sewer Repairs Project.

Kevin Lacy moved to approve the Consent Agenda as presented. Tom Cronin seconded the motion, the motion carried unanimously. (5-0)

CONSIDERATION AND POSSIBLE ACTION:

4. Consideration and possible action regarding the Annual Financial Audit for the year ending September 30, 2020, as prepared by Belt Harris Pechacek, LLLP.

Mrs. Darla Dear, CPA with Belt Harris Pechacek, LLLP thanked Anthony Lasky, Susan Hensley, and everyone involved in preparing documents needed to complete the Audit. Mrs. Dear stated the City received an unmodified opinion which is the highest level of assurance to be received with no material misstatements and that all disclosures have been made in the report with generally accepted accounting principles.

Mrs. Dear said from the City's perspective, page 50 is probably the single most important page of the Audit. Mrs. Dear said this is where the revenue and expenditures are for the year and the summary of the fund balance after the year-end. Mrs. Dear said she will review the General

Fund being predominately the most important out of the City's funds. Mrs. Dear said total revenues are a little over \$4.1 million, total expenditures over \$3.5 million that gave the City an excess of revenue over expenditures and a small number of transfers out so the net change in the fund balance for the year was \$473,325. Mrs. Dear said there was a nice increase in the fund balance leaving the City with an ending fund balance of \$1,724,162.

Mayor Countryman asked if this Audit covered the general fund, capital funds, Police, MEDC, Public Works, and all of the City's entities. Mrs. Dear said yes it covers all the funds, the business funds with the utilities as well. Mayor Countryman said it was a good year for the City even though one of the hardest years, which they are very thankful for. Mrs. Dear said it was very difficult for a lot of people and it was a nice positive increase in the fund balance. Mayor Countryman said she attributes that to they are a City without a lot of hospitality but with essentials like restaurants, grocery stores, and gas, and a little bit of retail so the City was able to stay open to a degree. Mayor Countryman said she thinks a lot of people supported the businesses that stayed open.

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

5. Consideration and possible action regarding the adoption of the following Ordinance:
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS
AUTHORIZING THE ISSUANCE OF "CITY OF MONTGOMERY, TEXAS, GENERAL
OBLIGATION REFUNDING BONDS, SERIES 2021"; SPECIFYING THE TERMS AND
FEATURES OF SAID BONDS; ESTABLISHING CERTAIN PARAMETERS FOR THE
SALE OF SAID BONDS; AND ENACTING PROVISIONS INCIDENT AND RELATED
TO THE ISSUANCE, DELIVERY, PAYMENT OF, AND SECURITY FOR SUCH BONDS

Mr. Tramm said due to the low interest rates available on the market, the City has an opportunity to approve a Refunding Bond Issue which will allow the City to reissue the remaining debt at a lower interest rate and realize an overall savings. Mr. Tramm said Mr. James Gilley, Executive Director of U.S. Capital Advisors who has worked with the City previously was here tonight.

Mr. Gilley said the City has the opportunity to achieve debt service savings on some of its outstanding debt. Mr. Gilley said the City had two separate bond issuances that were issued in 2012 that carry an average interest rate of 3.5 percent and based on current market interest rates they believe the City could re-fund/refinance. Mr. Gilley said they believe the City could achieve debt service savings, a true interest cost of 1.8 percent and the City could cut the bond rate in half. Mr. Gilley said that would translate to total cash flow savings of approximately \$578,000 throughout the final maturity date in 2038. Mr. Gilley said that would translate to annual cash flow savings of \$32,000. Mr. Gilley said on a present value this is a savings of 10 percent on the outstanding debt.

Mr. Gilley said the transaction they are proposing would not extend the life of the debt and the final maturity on the 2012 bonds is 2038. Mr. Gilley said the maturity would not change and the average life of the bonds would go down slightly. Mr. Gilley said they factored in all the estimated costs of the transaction into these savings and this is a net savings to the City.

Mr. Gilley said the process they are proposing is they would prepare a preliminary official statement, which is a prospectus for investors. Mr. Gilley said they would publish and advertise the sale of these bonds to investors across the country and would propose to sell the bonds in a competitive, auction-type sale where investors and underwriters across the country would have the opportunity to compete to purchase the City's bonds. Mr. Gilley said the underwriter who submits the lowest interest rate to the City would be awarded the bonds if the City so chose to do.

Mr. Gilley said the City has a legal authority to issue bonds for various purposes and one of those purposes are for refunding to achieve debt service savings. Mr. Gilley said the Ordinance before City Council's consideration today is what is known as a Parameter Funding Ordinance and essentially it preauthorizes them to move forward with preparations for the sale of the bonds and designates authority to certain pricing officers, perhaps the Mayor, the City Administrator, and Mayor Pro Tem. Mr. Gilley said it allows them on the day of the sale, if the results of the sale meet certain minimum parameters that City Council sets then it authorizes those City officials to execute a certificate that effectively issues the bonds. Mr. Gilley said the Ordinance before City Council is asking for preauthorization to set minimum parameters such as minimum savings which City Council is willing to accept and if the savings

are not met, the City is under no obligation to issue the bonds and the sale will not go through. Mr. Gilley said this is a common approach for a refund of this type and gives the City some flexibility concerning the timing of the sale because it does not need to come back to City Council to approve the bond issuance. Mr. Gilley said it does give flexibility for timing in the event of adverse market movement. Mr. Gilley said essentially this is an excellent opportunity for the City to lower its annual obligation.

Tom Cronin asked when the parameters are established, tonight or throughout the course of the firm's work with the City. Mr. Gilley said tonight, as they have proposed net present value savings of three percent and he believes there may be other stipulations such as a maximum parameter the bonds would be allowed. Mr. Gilley said there is a maximum maturity so it would not be extending the bonds. Mr. Gilley said those parameters would be set tonight.

Tom Cronin asked about the fees. Mr. Gilley said they have an existing contract with the City based on the principal amount and the current estimate is just under two percent of the total bond amount. Mr. Gilley said they are paid on a contingency basis so if the financing does not go through they are not owed any fee.

Mr. Tramm asked with the figures mentioned earlier with regard to the expected savings, were the expenses already factored into that. Mr. Gilley said that was correct and they factored all estimated costs of the transaction and their fee as the financial advisor, and there will be a fee for bond counsel and the Texas Attorney General fee for review. Mr. Gilley said they are proposing a rating fee as they plan to have the bonds rated by Standard and Poor's rating services. Mr. Gilley said the City maintains an excellent "AA" rating and he has every reason to believe the City would be able to achieve that again based on the excellent audit results. Mr. Gilley said they have estimated all these costs into the savings presented.

Mayor Countryman asked if she heard correctly there would be \$578,000 in savings between now and 2038, as well as currently the City's bonds are at 3.5 percent that will decrease to 1.8 percent. Mr. Gilley said yes those are current estimates. Mayor Countryman said that is significant and good for the City.

Mayor Countryman asked Mr. Petrov if there was a downside. Mr. Petrov said there is not a downside to this at all. Mr. Petrov said it is like refinancing your house when interest rates go down and it is good to take advantage of that. Mr. Petrov said sometimes there is a disadvantage of refinancing your house because you may have to take out a longer mortgage, but with the municipal finances they can structure it so the debt is not extended at all, and it is going to be a little bit shorter. Mr. Petrov said the City is not stretching out any payments, the interest rate is lowered, and the City is achieving net present value savings. Mr. Petrov said to put into perspective what the market says it is usually worth doing if you can achieve at least a three percent savings, and on this particular transaction it is looking like the savings is going to be in the range of 10 percent. Mr. Petrov said it is definitely a good opportunity. Mayor Countryman said it is almost too good to be true. Mr. Petrov said the interest rates out of the Federal Reserve are some of the lowest we have ever had in history and it is worth taking advantage of that.

Mayor Countryman asked if the bonds are maturing in 2038, does that bring it down a week or two or a year or two, and what does the timeframe look like. Mr. Gilley said earlier he mentioned the average life of the existing bonds would be reduced slightly. Mr. Gilley said it would go from 8.8 years to 8.7 years. Mr. Gilley said to make it clearer the final maturity on the 2012 bonds is March 1, 2038, and the structure they are proposing is the maturity would be the same on March 1, 2038. Mayor Countryman said there is no difference in dates but the upside is going from 3.5 percent to 1.8 percent and the \$578,000 in savings between now and 2038. Mr. Gilley said yes that was correct. Mayor Countryman said and that was roughly \$32,000 cash flow every year.

Mr. Gilley said the only downside is they would propose to have this rated and that rating was going to allow the City to access the market and advantageous rates and that bond rating will let investors know this is excellent paper and this is a very good credit, and the City of Montgomery is a very fast-growing and very desirable community. Mr. Gilley said it is possible that if they went along in the process and conducted the bond rating conference call, at that point the City would be obligated to pay that \$15,000 rating fee, which is their estimate for that fee. Mr. Gilley said the risk is we move forward and for some reason something happens in the market and they are not able to achieve the minimum parameter savings, which he thinks is quite unlikely, then the City would be obligated to pay that fee. Mr. Gilley said

typically these fees are paid from the bond proceeds, however, if there were adverse market movements Standard and Poor's typically would let you delay payment of the rating fee in the event they reschedule the bond sales. Mr. Gilley said the City needs to weigh the risk of having to pay the rating fee out of pocket versus the potential savings to be achieved. Mr. Gilley said he thinks it is unlikely the market would take that drastic of a turn in such a short period of time.

Mr. Gilley said they would propose the timing of the sale to be on or around May 11, 2021, and at that time, if the savings were acceptable to the City, the transaction would close 30-days later on June 11, 2021. Mayor Countryman asked if that means yes the City would like to refinance the debt services to 1.8 percent and if they could get 1.6 percent or anything less they would still proceed, or are they waiting for the 1.8 percent marker and then move forward. Mr. Gilley said what the parameter sets is if it does not achieve at least this much savings then the transaction does not go through, so anything above that you certainly want as great a result for the City as possible.

Tom Cronin asked what the minimum parameter dollar savings Mr. Gilley would recommend to the City of Montgomery if he put it in the form of a motion. Mr. Gilley said the parameter that Mr. Petrov has drafted is to provide a minimum of 3.5 percent savings and anything below that would not be accepted. Mr. Gilley said as Mr. Petrov said earlier, three percent savings is a pretty good benchmark which says this is a good deal and that is a standard parameter they like to set. Mr. Gilley said City Council can certainly set any parameter that it wants to. Mr. Gilley said the percent could stay where it is or it can be changed if desired. Mr. Gilley said they want to get as great a result for the City as possible. Tom Cronin said that gives him some good information.

Tom Cronin moved to adopt an Ordinance of the City Council of the City of Montgomery, Texas authorizing the issuance of the City of Montgomery, Texas, General Obligation Refunding Bonds, Series 2021; specifying a savings of at least three percent and the terms and features of said bonds; establishing certain parameters which is the three percent for the sale of said bonds; and enacting provisions incident and related to the issuance, delivery, payment of, and security for such bonds. Kevin Lacy seconded the motion, the motion carried unanimously. (5-0)

6. Consideration and possible action regarding adoption of a Resolution to Approve Grant Application by the Montgomery Police Department for De-Escalation Training.

Mr. Tramm said the proposed Resolution is to approve the Police Department to submit a Grant Application for De-Escalation Training which includes simulation equipment. Mr. Tramm said this simulation system will provide over 500 scenarios that the trainer will have the capability to escalate or de-escalate the situation. Mr. Tramm said the primary goal is to help officers be able to think more clearly, react, and make better choices when it comes to de-escalating situations. Mr. Tramm said this will help our officers with an extra layer of training to act with greater safety within the community. Mr. Tramm said he will also add that the Grant if awarded would cover the full cost of this equipment with no sharing from the City. Chief Solomon said even with the 500 scenarios with everything that is going on today it reduces the liability to the City and the City does not have to spend any money.

Mayor Countryman asked Chief Solomon if the Police Department has ever had this kind of training. Chief Solomon said no because these simulators are brought in and set up. Chief Solomon said years ago they were approximately \$20,000 to \$30,000 and this one is \$42,000. Chief Solomon said they went out on a Grant to get it and many agencies do not have these. Chief Solomon said he knows of agencies that do and it takes down the liability of the Police Department and the City and it gives different scenarios where officers can understand to shoot or not shoot and how to de-escalate these situations without having to shoot. Chief Solomon said it adds a lot more training to what they are doing today. Mayor Countryman said there are just a few officers still on the force from years ago and they have not been through this training so it would probably be good to have since no one has had the training.

Tom Cronin asked Chief Solomon where the training takes place. Chief Solomon said this simulator can be set up and taken down whenever they are training and it can be set up inside the Council Chambers. Chief Solomon said it comes with a full package where you can set the entire training on a wall. Chief Solomon said there are a lot of other aspects to it as far as the type of weapons. Chief Solomon said it is a huge screen that will cover one of the walls in the Council Chambers.

Tom Cronin asked where it would be stored. Chief Solomon said it will be stored in the locker room in the Police Department.

Mr. Tramm said one important feature to mention to fully emphasize is if there are situational changes in the policing world maybe situations like we have seen happen across the country last summer, these can have new parameters entered so our Police Department can keep up with potential changes to techniques that need to be implemented.

Tom Cronin moved to adopt a Resolution to Approve Grant Application by the Montgomery Police Department for De-Escalation Training. Julie Davis seconded the motion, the motion carried unanimously. (5-0)

DEPARTMENTAL REPORTS:

7. City Administrator's Report for February 2021 – Mr. Tramm presented his report to City Council. Mr. Tramm said one of the key elements coming out of the artic weather was to work on greater levels of cooperative disaster planning. Mr. Tramm said they have had several meetings with Montgomery Independent School District and Emergency Services District #2 and will be continuing those meetings as they work toward making sure there is a cooperative plan firmly in place between all of the agencies when the next emergency comes along they are greater prepared for it.

Mr. Tramm said one element coming out of those meetings is how to deliver emergency messages more efficiently to the public. Mr. Tramm said he included information on the Smart 9-1-1 System that is used by Montgomery County's 9-1-1 Emergency System and it is also information access to Montgomery County's ready MCTX application and is the format through which they send out emergency information from 9-1-1 and the County's Office of Homeland Security and Emergency Management. Mr. Tramm said signing up for the format is entirely voluntary. Mr. Tramm said what the 9-1-1 system knows is approximately 80 percent of their calls, which is increasing, come from smartphones and yet they get less information from smartphones than they get from a landline. Mr. Tramm said people who sign up can choose what information they want 9-1-1 to see. Mr. Tramm said what the City gains is the ability to send messages. Mr. Tramm said when the City is sending messages on the

City's social media about a shelter the City could also send those messages to users' cell phones in the area. Mr. Tramm said this information is going out with this month's water bill.

Mr. Tramm said the hardware work for live-streaming in the City Council Chamber, approved at the last meeting should be done shortly. Mr. Tramm said at the moment they are still expecting they will be able to bring City Council back into the meetings at City Hall and live-stream them by the first meeting in April, which they will keep City Council advised of the progress.

8. City Administrator's Development Report for February 2021 – Mr. Tramm reported that both residential and commercial projects around the City continue to move forward. Mr. Tramm said the City has been on the same pace for a while with six to seven new homes a month being completed, which continues this month.

Mr. Tramm said the ongoing projects in the City that have been previously approved in the utility system are underway and the City Engineer will provide an update on that in his report.

Mr. Tramm said the Downtown Improvement Plan is moving forward and expects an initial report to be made to the MEDC Board sometime in May.

9. Sales Tax Report for March 2021 – Reported at the end of the Departmental Reports.
10. Public Works Report for February 2021 – Mr. Tramm reported Public Works kept the facilities working during the freeze which was a lot of hard work on their part. Mr. Tramm said also Public Works assisted with cots and blankets for shelter.

Mr. Tramm said they did follow up repairs at the Park after the freeze and in February Fernland had 432 registered visitors and provided 31 tours, which was lower than the average number but is certainly consistent with what they would expect in February especially with one week essentially locked out from heavy freeze weather.

11. Police Report for February 2021 – Mr. Tramm said in comparing the total calls for February to the prior year the calls for service were up 62 percent, although the other items were generally in the same range from the previous year. Mr. Tramm said there were no major incidents to report. Mr. Tramm said April 28, 2021, the Citizen's Police Academy is planned to start.

Mr. Tramm said one specific thing he wants to mention is on the Police Department's webpage there is a business watch form to request additional patrols or have the Police Department take a closer look at specific commercial areas. Mr. Tramm said when people go on vacation the Police Department can monitor their homes during that time.

Chief Solomon said accidents have gone down and a lot of that is due to citizens calling in and telling them about the hot spots they have seen, and then the officers working those hot spots. Chief Solomon said two months ago the numbers were in double digits and this month it is down to three and last month as well. Chief Solomon said they are constantly sending out emails so people can call them to let them know where the hot spots are because it has certainly brought down the number of accidents a lot.

Mayor Countryman asked Chief Solomon if residents are using the website to report information. Chief Solomon said most people have seen it on the website but they will call the Police Department instead and they are taking those calls. Chief Solomon said by taking those calls he thinks when people see it on the website and give them a call, they can get to those locations and start looking at doing some traffic control which has also brought the accidents down considerably.

12. Municipal Court Report for February 2021 – Mr. Tramm said the Court is mostly operating remotely for active court and their daily activities are in person at City Hall. Mr. Tramm said they have been hard at work since the Court systems allowed them to move forward on virtual activities and are working hard to catch up for the times they had to be down in 2020.
13. Utility/Development Report for February 2021 – Mr. Tramm said the developer behind the Kammerer Tract made a \$10,000 escrow payment and a payment from First Hartford of \$9,616.77 was made as a fulfillment of a reimbursement portion for their 380 Agreement which has been completed.

Mr. Tramm said they are continuing through the end of March to work with individuals who have freeze-related issues that caused additional water use and waste charges. Mr. Tramm said there were 876 total water accounts which are up eight from the previous months, so the growth of the utility accounts is consistently in line with the growth of homes.

Mr. Tramm mentioned Chief Solomon wanted to add additional comments to the Police report.

14. Water Report for February 2021 – Mr. Michael Williams, Vice President of H2O Innovation presented his report to City Council.

Mr. Williams said there were four district alerts to report. Mr. Williams said the first one was a blower failure where they needed to replace the blower three motor which was original to the facility being built so there was a good life span use from that motor. Mr. Williams said the second alert was due to a leak on the temperature gauge on the well header for Water Plant 3. Mr. Williams said the last two alerts were combination district issues from the freeze.

Mr. Williams said flow for February was 5,328,000 gallons and daily peak flow was on February 15, 2021, at 303,000 gallons. Mr. Williams said between February 15th and 17th that was not average flow, due to being called out to every plant to keep the water and sewer lines running. Mr. Williams said they had to do averages, but that is a direct result of people dripping faucets to keep lines from freezing and the reason for the above-average flow on those days. Mr. Williams said the daily average flow for February is 171,800 gallons which was 43% of the permitted capacity.

Mr. Williams said all samples of the discharge limitations and effluent monitor report were in compliance for February and recorded a total of 2.5 inches of rain. Mr. Williams said they recorded total pumpage of 9,314 gallons, total flushing was 75,000 gallons, and sold amount was 8,936,000 gallons which is 97% accountability. Mr. Williams said they recorded 1,005 connections through the Badger-Beacon system.

15. Finance Report for February 2021 – Mr. Anthony Lasky, Senior Accounting Clerk said through the General Fund on the account balances report there is a total of eight months reserve, for MEDC there is two years' worth of reserve, and for the Utility Fund there is a total of 11 months' worth of reserve.

Mr. Lasky said regarding the cash flow for the General Fund checking, the City did receive two deposits for Home Grants and there will be one more deposit which was received in March which will show on the next report and that was for administrative fees for Grant Works. Mr. Lasky said the sales tax collected was just over \$450,000.

Mr. Lasky said they did receive a grand total of \$450,000. Mr. Lasky said \$337,560 is for the General Fund and the rest of it transferred to MEDC.

Mr. Lasky said they received for March a total which will show next month of just over \$306,000 which is outstanding. Mr. Lasky said for a non-quarterly month this is very awesome.

Mr. Lasky said they did update the transfers that were made from MEDC for the festivals and events from December and January for the Christmas Parade, Light Up the Park, and the Goat Naming Contest. Mr. Lasky said those revenues and expenditures offset for the most part and there will be a few more revenues on that side than expenditures, but those have been up to date as of current.

Mr. Lasky said they are a little over budget on the accounting fees because the capital asset schedules were done and it is a once-a-year type of fee that is done in the correlation of the audit.

Mr. Lasky said the bulk of the computer technology is from the live-stream setup that will be taking place going forward.

Mr. Lasky said regarding the Utility Fund there were some Lift Station 14 repairs as well as the fence that was being constructed at the Sewer Plant.

Mr. Lasky said on the final page of the report the City paid the bonds that were due on February 28, 2021, and the next payment will be due just in interest only on September 1, 2021.

Mayor Countryman said she did not see anything for the Cares Act money and asked if there was a line item for that and what the City is looking to get back. Mayor Countryman said there are items the City could put under that to get money back. Mayor Countryman asked if it was being calculated on the report because she did not see it. Mr. Lasky said he and Mr. Tramm discussed it and they came up with around \$15,000 but he has not heard anything back. Mayor Countryman asked if when they receive the money back will they list it as a regular deposit in the General Fund. Mr. Lasky said he would put it as another income item and it would show up. Mayor Countryman asked Mr. Tramm if he heard of a target date. Mr. Tramm said he did follow up with the County and as of two weeks ago they had not made action, but he is expecting to follow up with them within the next week. Mayor Countryman asked if they would let the City know if what was submitted qualified since that seems to be the hurdle.

16. Quarterly Investment Report for Period ending December 31, 2020 – Mr. Lasky said this is just a summary of all of the interest in transactions that have taken place from October 1, 2020,

through December 31, 2020. Mr. Lasky said it has the money market accounts with TexPool, along with any CDs, which the City did purchase a few CDs that will show up on the next report for the April meeting. Mr. Lasky said it also includes pledged securities that are also shown every quarter.

17. City Engineer's Report for February 2021 – Mr. Chris Roznovsky, City Engineer said the Downtown Waterline Replacement Project is underway. Mr. Roznovsky said last month they completed a lot of the work by Cedar Brake Park and currently they are working up and down Pond Street. Mr. Roznovsky said they have been making good progress on the Project. Mr. Roznovsky said there were two pay estimates in the total amount of \$164,000, which is 20 percent of the contract. Mr. Roznovsky said the contractor's period of performance ends June 13, 2021. Mr. Roznovsky said the contractor is still on schedule and there are no major issues.

Mr. Roznovsky said the CDBG Projects Phase II had no punch list items identified at the final inspection. Mr. Roznovsky said there was one punch list item further south where there was some erosion around the driveways where culvert work was done. Mr. Roznovsky said the contractors are going back to clean that up.

Mr. Roznovsky said the Water Plant No. 3 Improvements contracts have been given to Mr. Petrov, the City Attorney. Mr. Roznovsky said once the contracts have been reviewed and approved by Mr. Petrov the project will proceed forward.

Mr. Roznovsky said regarding the GLO Projects, they had a meeting with the property owner to discuss options of where the proposed detention pond would be and donation of the property. Mr. Roznovsky said they appear to be working toward a solution to be able to obtain the property for the detention pond off of Plez Morgan. Mr. Roznovsky said the land acquisition component has some movement.

Mr. Roznovsky said there are no updates for Lift Station No. 1 damages. Mr. Roznovsky said they had a call with the surety company's attorney last week to discuss the issues.

Mr. Roznovsky said one ongoing plan review is Panda Express. Mr. Roznovsky said they did receive their revised plans on March 8, 2021, and provided comments to the plans on March 15, 2021. Mr. Roznovsky said Panda Express will be located between Chick-Fil-A and McCoy's.

Mr. Roznovsky said AutoZone has also started construction on McCoy's site. Mr. Roznovsky said their plans have been approved for quite some time but were waiting to begin construction for a variety of reasons. Mayor Countryman asked if they were able to get a better aesthetically pleasing outer shell. Mr. Roznovsky said he does not know because they do not review those plans as far as the building sides and exterior goes. Mr. Roznovsky said they will follow up with Mr. Rick Hanna, Building Inspector, and Mr. Dave McCorquodale and see what transpired.

Mr. Roznovsky said plat reviews are ongoing. Mr. Roznovsky said they are platting the property, Peel Junction Investments Minor Plat, located on Old Plantersville Road south of the railroad tracks. Mr. Roznovsky said as they were going through the process they found their property line, according to records, included a portion of the road so they are granting that right-of-way as part of this and there will be a full right-of-way in that area.

Mr. Roznovsky said Hill of Town Creek Section 4 final plat was signed and is in the process of being recorded.

Mr. Roznovsky said the two other plats are Town Creek Crossing and Montgomery Shoppes Section 2 Amending Plat No. 2. Mr. Roznovsky said this amending plat is just to address the property lines for Panda Express.

Mr. Roznovsky said both Hills of Town Creek Section 4 and Town Creek Crossing Section 1 construction is underway. Mr. Roznovsky said there will be a first final inspection for Hills of Town Creek Section 4 tomorrow morning. Mr. Roznovsky said they will also be looking at the Hills of Town Creek Section 3 in Emma's Way.

Mr. Roznovsky said Town Creek and FM 149's rip rap is still scheduled to be installed and TxDOT has confirmed they have the materials but have not had a chance to begin due to some staffing issues. Mr. Roznovsky said TxDOT is hopeful to begin in the next couple of weeks.

Mr. Roznovsky said they did have a meeting with Precinct 1 on the first of the month to review the proposed thoroughfare alignment changes regarding the Kammerer Tract. Mr. Roznovsky said additionally they have had some follow-up conversations with the County and the County's consultant for the Thoroughfare Plan update and they are going through to make sure all of what the City has on the list is also included with the update.

Mr. Roznovsky said they had a couple of calls with TxDOT concerning the FM 1097 and Atkins Creek Project regarding right-of-way and easement acquisition and the project is still scheduled to let in 2026. Mr. Roznovsky said it does not have funding yet but TxDOT is wanting to have all of the work done in advance so if there is funding available they can proceed with the project sooner.

Mr. Roznovsky said the right turn lane on FM 149 and SH-105 is still scheduled to be let in the first part of this year. Mr. Roznovsky said there is not an exact date but the last he saw TxDOT is trying to bid the project in April.

Mr. Roznovsky said they had a call with TxDOT and discussed the FM 1097 Speed Study regarding options and ways to go about it either by requesting via a resolution in getting some other support for TxDOT to do it on their timeline versus putting together a scope of what it would cost for the City to undertake. Mr. Roznovsky said they are still working through that with staff but will have more of an update in the next couple of weeks. Mr. Roznovsky said as a reminder, this was looking at the speed and the volume of the traffic coming through the City limits to FM 149 along FM 1097 and how to improve the safety of that.

Mr. Tramm said he had two things he needed to include. Mr. Tramm said he mentioned the last two months he was taking a vacation at the end of March. Mr. Tramm said as of tomorrow he will be taking a vacation and returning the following Monday after Easter.

Mr. Tramm said while going through the Departmental Reports he completely skipped the sales tax report. Mr. Tramm said Mr. Ryan Fortner is here to give the presentation on that item. Mayor Countryman said it is an exciting report too. Ms. Susan Hensley, City Secretary stated she did not see Mr. Fortner online. Mr. Tramm said the sales tax report is in the packet and he will report back with Mr. Fortner regarding scheduling a future meeting to present the report.

Mr. Tramm said on page 25 of the sales tax report there is a list of the top 25 sales tax filers over the most recent 12 months. Mr. Tramm said this information is through March 2021. Mr. Tramm said the following page shows the top 25 sales tax filers for February 2021 which is one of the quarterly filing months. Mr. Tramm said Kroger is one of the larger filers and they only file quarterly so on some of the monthly reports not all of the sales tax filers will appear. Mr. Tramm said page 7 shows by comparison January 2021 which is a non-quarterly month and February 2021 which is a quarterly filing month.

Mr. Tramm apologized for the technical issues that appeared to be on Mr. Fortner's end but he will re-coordinate with Mr. Fortner on scheduling a future meeting to present the report to City Council. Mr. Tramm also apologized for skipping the report earlier in the meeting.

Julie Davis moved to accept the Departmental Reports as presented (Items 7-17). Kevin Lacy seconded the motion, 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.

Mayor Countryman asked Mr. Tramm if they are currently in any lawsuits for misappropriation of funds. Mayor Countryman said she read through the audit report and it said everything was great. Mayor Countryman said she just wanted to double-check to make sure. Mr. Tramm said he was not advised of any such item and is not sure where you would obtain that information. Mr. Tramm said certainly if a lawsuit had been filed against the City he would be the person receiving that information and if not him, certainly the City Attorney. Mr. Tramm asked Mr. Petrov if he had heard anything regarding a lawsuit against the City. Mr. Petrov said no not at all.

Mayor Countryman said she wanted to give a great job on the new agenda format to Ms. Hensley as she liked the new format that was very easy to follow. Kevin Lacy stated it was very nice. Ms. Hensley said she was glad everyone liked it. Ms. Hensley said it will be a lot smoother and several other features will be added that come with the program.

Mayor Countryman said this weekend is the Montgomery Mudbug and Music Festival in front of Ransom's restaurant beginning at 1:00 p.m. through 10:00 p.m. Mayor Countryman said it is exciting and there are over 12,000 people that have said they are interested or are going. Mayor Countryman said hopefully the City will see a big boost in revenue for all the businesses downtown.

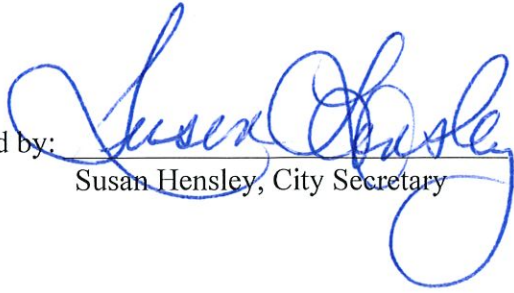
T. J. Wilkerson asked what the outcome of the dog was that was loose in the community and if they had caught it. Chief Solomon said yes, one of the kids actually caught the dog. Chief Solomon said they called animal control the next morning and they came over and picked up the dog. Chief Solomon said the dog was friendly with some people but animal control just could not catch the dog. T.J. Wilkerson said he had some people calling about it and they did not know if it was a wild dog loose in the community. Chief Solomon said the dog belonged to someone who was out of town.

Mr. Petrov introduced Caleb Villarreal who is with his office and is an attorney that started with them this month. Mr. Petrov said he has some experience with municipal law so he will be a good asset for their firm. Mr. Petrov said he asked him to attend the meeting and they are taking him around to meet all their clients. Mr. Petrov said he has already been a great asset. Mayor Countryman asked if he will be taking Mr. Petrov's spot for some meetings. Mr. Petrov said he may show up from time to time but there is not a real plan for that at the moment. Mayor Countryman said it was nice to meet Mr. Villarreal and welcomed him. Mr. Villarreal said it was nice to meet everyone and he looked forward to working with everyone.

ADJOURNMENT

Kevin Lacy moved to adjourn at 7:11 p.m. Julie Davis seconded the motion, the motion carried unanimously. (5-0)

Submitted by:



Susan Hensley, City Secretary

Date Approved: _____

Mayor Sara Countryman

Montgomery City Council
AGENDA REPORT

Meeting Date: April 13, 2021	Budgeted Amount: N/A
Prepared By: Dave McCorquodale	Exhibits: Engineer's memo

Subject

Consideration and possible action regarding completion of the one-year warranty period for the Emma's Way Extension Project.

Description



The city engineer's memo is attached, and the Public Works Director will be at the meeting to provide additional information as needed. City staff concurs with the engineer's recommendation to end the one-year warranty period.

This scope of work for this project only includes the extension of Emma's Way from the Hills of Town Creek Apartments to the dead end of the street. It does not include any interior streets of the subdivision, or the areas in Section 3 with potential drainage issues that are being evaluated separately.

Recommendation

Motion to end the one-year warranty period for the Emma's Way Extension Project.

Approved By

Asst. City Administrator	Dave McCorquodale 	Date: 04/8/2021
City Administrator	Richard Tramm 	Date: 04/8/2021



1575 Sawdust Road, Suite 400
The Woodlands, Texas 77380-3795
Tel: 281.363.4039
Fax: 281.363.3459
www.jonescarter.com

April 1, 2021

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

Re: One-Year Warranty Inspection
Construction of Emma's Way Extension (Dev. No. 1020)
City of Montgomery

Dear Mayor and Council:

Jones|Carter held the one-year warranty inspection for the referenced project on February 18, 2020 at 8:30 AM.

Based on the completion of all punch list items identified at the one-year warranty inspection, we recommend the City officially end the warranty for the project.

Should you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,

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

Chris Roznovsky, PE
Engineer for the City

K:\W5841\W5841-1020-00 Emma's Way Extension\3 Construction Phase\One Year Warranty\One-Year Warranty Release to Owner 04012021.docx

Enclosures: One-Year Warranty Inspection Punch List
cc (via email): Mr. Richard Tramm – City of Montgomery, City Administrator
Ms. Susan Hensley – City of Montgomery, City Secretary
Mr. Alan Petrov – Johnson Petrov, LLP, City Attorney

ONE YEAR WARRANTY - PUNCH LIST

Project: Emma's Way Extension
Inspection Date: 02/18/2020

Job No.: W5841-1020-00

Contractor: Spartan Direct Solutions, LLC	Construction Manager: Michael D. Carpenter
Owner: City of Montgomery	Field Project Representative: Jim Gregg
	Design Engineer: L2 Engineering

An Inspection was conducted at the above project by Jones & Carter, Inc. at 8:30 am on the above date.
 The following items are to be corrected or completed to comply with the Contract Documents:

Item No.	Description	Date Comp.	FPR Sign Off
1	Add fill and sod around fire hydrant next to C1 inlet #2	3/24	CVR
2	Remove curb inlet Z-filters from all curb inlets	3/24	CVR
3	Touch up paint on fire hydrant at Northeast corner of Emma's Way and Scenic Hills at dead end	3/24	CVR
4	Provide permanent access gate where the sanitary sewer easement crosses the fence line. Alternatively, an access easement to and through the existing gate can be granted. (Owner)	N/A	*
5	Emma's Way was not constructed per the approved plans and appears to be too low at the existing road connection. It appears that the elevation of the existing road was matched which apperas to have sunken over time. This is causing a bird bath to form and hold water. It is recommended to remove and replace the pavement installed in this contract and construct to proper elevation. The City will replace the section of the exisitng road so all drains as originally designed. Please review and let's set up a meeting/conference call to discuss.	3/24	CVR
	* Gate & fence removed.		

*This list does not relieve the Contractor from Contractual Obligations to perform work in accordance with Contract Documents.

K:\W5841\W5841-1020-00 Emma's Way Extension\3 Construction Phase\One Year Warranty\Emma's way punchlist.xls

- Attendees:** Michael Carpenter - Jones|Carter
 Jim Gregg - Jones|Carter
 Eric Standifer - City of Montgomery
 Cole Mulder - Spartan Direct Solutions, LLC
 Jonathan White - L2 Engineering
 Ethan Lott - Spartan Direct Solutions, LLC

Montgomery City Council
AGENDA REPORT

Meeting Date: April 13, 2021	Budgeted Amount: N/A
Prepared By: Dave McCorquodale	Exhibits: Lease Agreement, Infomap, Cost Summary

Subject

Consideration and possible action regarding renewal of the lease agreement with Virginia Adams for the property located at the northeast corner of SH105 and FM149.

Description

The City has leased this property since 2013 and uses it for two purposes:

- City LED sign location
- Overflow event/vendor space during festivals

The proposed lease terms are the same as the current lease:

Rent: comprised of two parts: Payment of annual ad valorem taxes and an “Additional Annual Rent Fee.” The Additional Annual Rent Fee was \$1,000 during the first lease and increased to \$2,500 during the second/current lease. The proposed lease leaves the \$2,500 Additional Annual Rent Fee unchanged.

Term: the initial lease was for a 5-year term, the second/current lease has a 3-year term. The proposed lease also has a 3-year term.

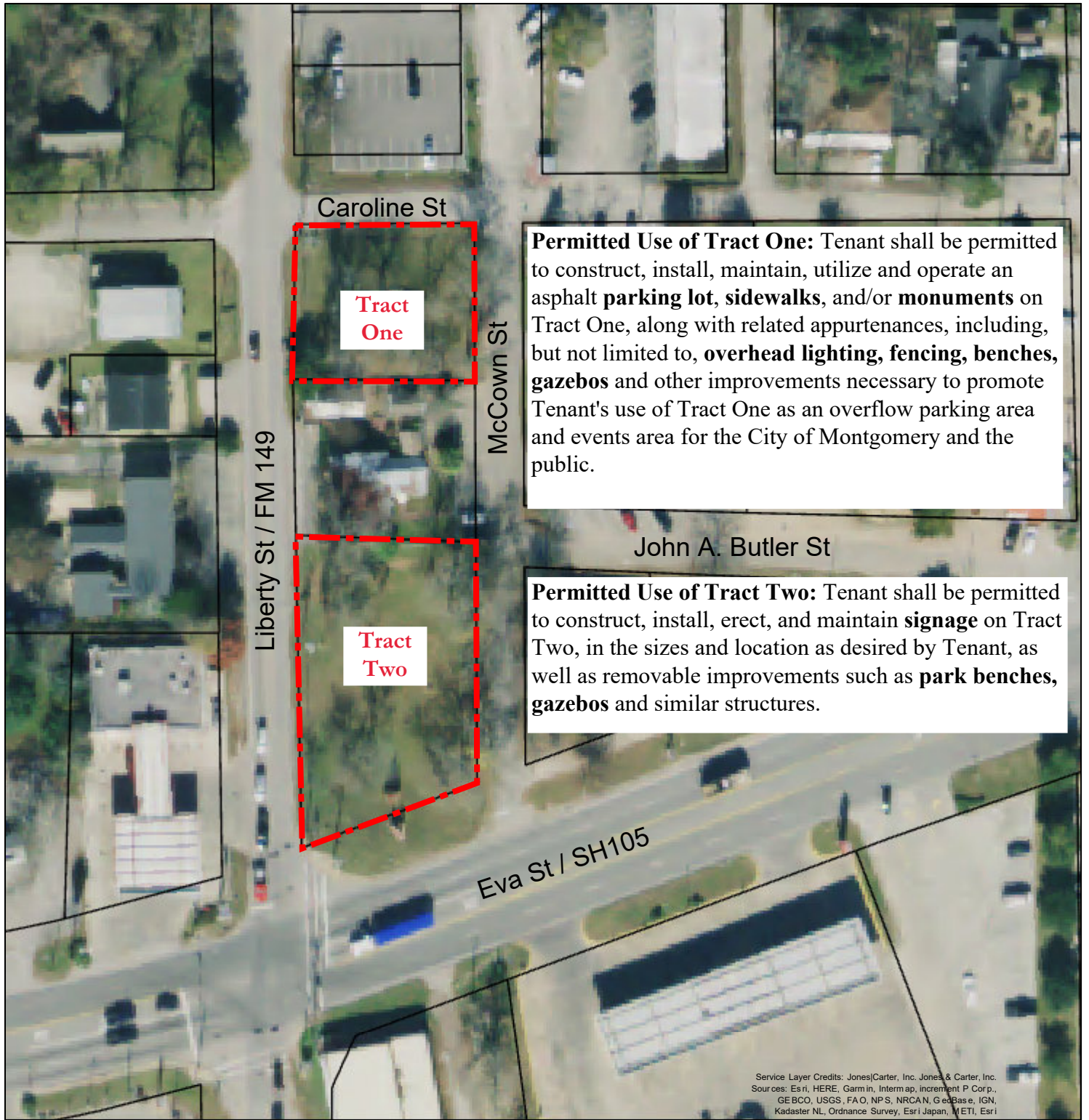
It is important to note that in order to leave the City’s LED sign in its current location, the lease must be renewed.

Recommendation

Discuss the lease renewal and act as you see fit.

Approved By

Asst. City Administrator	Dave McCorquodale <i>DM</i>	Date: 04/8/2021
City Administrator	Richard Tramm <i>RT</i>	Date: 04/8/2021



Permitted Use of Tract One: Tenant shall be permitted to construct, install, maintain, utilize and operate an asphalt **parking lot, sidewalks, and/or monuments** on Tract One, along with related appurtenances, including, but not limited to, **overhead lighting, fencing, benches, gazebos** and other improvements necessary to promote Tenant's use of Tract One as an overflow parking area and events area for the City of Montgomery and the public.

Permitted Use of Tract Two: Tenant shall be permitted to construct, install, erect, and maintain **signage** on Tract Two, in the sizes and location as desired by Tenant, as well as removable improvements such as **park benches, gazebos** and similar structures.

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

Lease Overview:

3-year lease (2021-2024)
 Leased since 2013
 5-yr initial lease; 3-yr renewal in 2018
 Rent = \$2,500/yr + property taxes (\$2,777 in 2020)



1 inch = 100 feet

Date: 3/24/2021

Adams Property Lease Cost Summary

	Property tax*	Date paid	Rent	Date Paid
2013	\$1,475.42	12/31/2013	\$1,000.00	5/20/2013
2014	\$1,662.69	5/22/2015	\$1,000.00	7/28/2014
2015	\$1,641.01	5/17/2016	\$1,000.00	5/22/2015
2016	\$3,364.70	1/31/2017	\$1,000.00	5/14/2016
2017	\$2,958.91	12/31/2017	\$1,000.00	8/11/2017
2018	\$3,195.89	3/22/2019	\$2,500.00	5/1/2018
2019	\$2,830.83	12/31/2019	\$2,500.00	4/4/2019
2020	\$2,776.88	1/29/2021	\$2,500.00	5/14/2020
2021				
2022				
2023				

Total \$19,906.33 \$12,500.00

Grand Total	\$32,406.33
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Lease Date = May 1st - April 30th

Rent = Annual ad valorem taxes for property

Additional Rent = \$2,500 / year payment

Approximately 20% of ad valorem taxes paid are returned to City.



LEASE AGREEMENT

**BY AND BETWEEN THE CITY OF MONTGOMERY, TEXAS
AND VIRGINIA LEE ADAMS**

LANDLORD: VIRGINIA LEE ADAMS
1309 BROADWAY STREET
GALVESTON, TEXAS 77550

TENANT: CITY OF MONTGOMERY, TEXAS
101 OLD PLANTERSVILLE ROAD
MONTGOMERY, TEXAS 77316

LEASED PREMISES:

Tract One: shall be that portion of the Premises lying north of the 0.25-acre tract conveyed to the Montgomery Historical Society by instrument filed under Clerk's File No. 8411306.

Tract Two: shall be that portion of the Premises lying south of the 0.25-acre tract conveyed to the Montgomery Historical Society by instrument filed under Clerk's File No. 8411306.

See Exhibit "A" attached hereto depicting Tract One and Tract Two, commonly known as 21050 Eva Street, Montgomery, Texas 77356.

TERM: Thirty-six (36) months

COMMENCEMENT DATE: May 1, 2021

TERMINATION DATE: April 30, 2024.

Landlord shall have the right to terminate this Lease by providing Tenant thirty (30) days written notice. In the event Landlord terminates this Lease prior to the Termination Date, Landlord shall reimburse Tenant the value of all improvements, modifications, additions and alterations to the Lease Premises. In the event Landlord terminates this Lease prior to Termination Date, Landlord shall reimburse Tenant an amount equal to \$208.33 multiplied by the number of months remaining in the current lease year.

RENT FEE:

- (1) Tenant shall pay to Landlord all ad valorem taxes assessed against the Leased Premises each year. Tenant shall remit payment to Landlord within thirty (30) days of presentment of said tax bill; and
- (2) Tenant shall pay to Landlord a fee in the amount of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) upon the execution of this Lease and each year on the anniversary date of the Lease.

PERMITTED USE OF TRACT ONE: Tenant shall be permitted to construct, install, maintain, utilize and operate an asphalt parking lot, sidewalks, and/or monuments on Tract One, along with related appurtenances, including, but not limited to, overhead lighting, fencing, benches, gazebos and other improvements necessary to promote Tenant's use of Tract One as an overflow parking area and events area for the City of Montgomery and the public.

PERMITTED USE OF TRACT TWO: Tenant shall be permitted to construct, post, install, erect, and maintain signage on Tract Two, in the sizes and location as desired by Tenant, as well as chattels such as park benches, gazebos and similar structures.

TENANT AGREES TO THE FOLLOWING:

1. Occupy the Leased Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Accept the condition of the Lease Premises "AS IS".
3. Obey all provisions relating to Tenant's use and occupancy of the Lease Premises and Tenant's use of any common areas and (b) any requirements imposed by utility companies serving or insurance companies covering the Lease Premises.
4. Pay all real property ad valorem taxes assessed against the Leased Premises.
5. Pay for all utility charges to the Leased Premises and any connection charges for the utilities. Tenant will pay the charges directly to the utility service provider used by Tenant and not provided by Landlord.
6. Allow Landlord to enter the Leased Premises for any reasonable purpose, including but not limited to purposes for repairs, maintenance, alterations, and showing the Leased Premises to prospective tenants and purchasers. Landlord may access the Leased Premises after Tenant's normal business hours if: (1) entry is made with Tenant's permission; or (2) entry is necessary to complete emergency repairs. Landlord will not unreasonably interfere with Tenant's business operations when accessing the Leased Premises.
7. At the time the Lease ends, Tenant will leave the Leased Premises in a clean condition free of all trash, debris, personal property, hazardous materials, and environmental contaminants.
8. Tenant may not do anything that will cause the title of the Leased Premises to be encumbered in any way.
9. Maintain in full force and effect from an insurer authorized to operate in Texas public liability insurance covering the Leased Premises in an amount that Landlord determines reasonable and appropriate. Before the Commencement Date, Tenant must provide Landlord with a copy of insurance certificates evidencing the required coverage.
10. Maintain the Leased Premises in a clean and sanitary condition including provide grounds maintenance.
11. Tenant may not use or permit any part of the Leased Premises to be used for:
 - i. any activity which is a nuisance or offensive, noisy, or dangerous;
 - ii. any activity that violates any applicable law, regulation, zoning ordinance, restrictive covenant, governmental order, owners' association rules, Landlord's rules or regulations, of this Lease;

- iii. assign this Lease or sublease any portion of the Leased Premises without Landlord's written consent;
- iv. any hazardous activity that would require any insurance premium on the Leased Premises to increase or that would void such insurance; or
- v. any activity that violates any applicable federal, state, or local law, including but not limited to those laws related to air quality, water quality, hazardous materials, wastewater, waste disposal, air emissions, or other environmental matters.

DEFAULT:

If Landlord fails to comply with this Lease within thirty (30) days after Tenant notified Landlord of Landlord's failure to comply, Landlord will be in default and Tenant may seek any remedy provided by law. If however Landlord's non-compliance, reasonably requires more than thirty (30) days to cure, Landlord will not be in default if the cure is commenced within the 30-day period and is diligently pursued.

If Tenant is in default, Landlord may: terminate Tenant's right to occupy the Leased Premises by providing Tenant with at least ten (10) days written notice.

LANDLORD AND TENANT AGREE TO THE FOLLOWING:

1. Default/Waiver/Mitigation. It is not a waiver of default if the non-defaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Lease does not preclude pursuit of other remedies in this Lease or provided by applicable law. Landlord and Tenant have a duty to mitigate damages.
2. Indemnity: Each party will indemnify and hold the other party harmless from any property damage, personal injury, suits, actions, liabilities, damages, cost of repairs or service to the Leased Premises, or any other loss caused, negligently or otherwise, by that party or that party's employees, patrons, guests, or invitees.
3. Alternative Dispute Resolution. Landlord and Tenant agree to mediate in good faith before filing a suit for damages.
4. Attorney's Fees. If either party retains an attorney to enforce this Lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.
5. Venue. Exclusive venue is in the county in which the Leased Premises are located.
6. Entire Agreement. This Lease constitutes the entire agreement of the parties concerning the Leased Premises by Landlord to Tenant. There are no representations, warranties, agreements, or promises pertaining to the lease of the Premises by Landlord to Tenant that are not in this Lease.

7. Amendment of Lease. This Lease may be amended only by an instrument in writing signed by Landlord and Tenant.
8. Limitation of Warranties. THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.
9. Notices. Any notice required or permitted under this Lease must be in writing. Any notice required by this Lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

TO LANDLORD:

Virginia Lee Adams
1309 BROADWAY STREET
GALVESTON, TEXAS 77550

TO TENANT:

City of Montgomery, Texas
Attn: City Administrator
101 Old Plantersville Rd
Montgomery, Texas 77316

10. Abandoned Property. Landlord may retain, destroy, or dispose of any property left on the Leased Premises at the end of the Lease.

LANDLORD:

VIRGINIA LEE ADAMS

TENANT:

SARA COUNTRYMAN, Mayor

ATTEST:

SUSAN HENSLEY, City Secretary

DRAFT



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

1 inch equals 100 feet

LEGEND



Date: 3/24/2021

Adams Lease Agreement - Exhibit "A" Pg. 2 of 3

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

SPECIAL WARRANTY DEED

Date: November 28, 2006

Grantor: Mary French Barrett and Kerwin B. Stone, Independent Co-Executors of the Estate of Margaret Davis Cameron, Deceased

Grantor's Mailing Address (including county):

c/o Kerwin B. Stone
390 Park Street, Suite 500
Beaumont, Jefferson County, Texas 77701

Grantee: Virginia Lee Adams, as her sole and separate property

Grantee's Mailing Address (including county):

1309 Broadway
Galveston, Galveston County, Texas 77550

Consideration: In accordance with the Last Will and Testament of Margaret Davis Cameron, admitted to probate in Cause No. 93274, in the Probate Court of Jefferson County, Texas

Property (including any improvements):

Being .9628 acre of land in the John Corner Survey, A-8, Montgomery County, Texas, and being a part of certain tracts conveyed Nat H. Davis recorded in Volume L, Page 151, and Volume M, Page 202, Deed Records: more fully described in one tract as follows:

Beginning at a ½" bolt at the intersection of the South line of Caroline Street with the East line of Liberty Street;

THENCE: N 89°49' E, 110.0 ft. to an iron rod in the West line of McCown Street and South line of Caroline Street;

THENCE: South, 361.7 ft. to an iron rod in the North line of State Highway 105;

THENCE: S 70°06' W, 116.9 ft. to an iron rod in the East line of F. M. 149 (Liberty Street);

THENCE: North, 401.1 ft. to the place of beginning and containing .9628 acre of land;

SAVE AND EXCEPT

A .25 acre of land out of said .9628 tract, which .25 acre portion was heretofore conveyed by me to said Montgomery Historical Society Charter Number 407581 by Gift Deed dated March 8, 1984.

Reservations from and Exceptions to Conveyance and Warranty:

This conveyance is made subject to the following matters, to the extent same are in effect at this time: Any and all restrictions, rights of way, liens, mortgages, reservations of oil or gas or other minerals, covenants, conditions, easements and reservations, if any, relating to the hereinabove described property, but only to the extent they are still in effect, shown of record in hereinabove mentioned County and State, and to all zoning laws, regulations and ordinances of municipal and/or

Adams Lease Agreement - Exhibit "A" Pg. 3 of 3

other governmental authorities, if any, but only to the extent that they are still in effect, relating to the hereinabove described property.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claims are by, through, or under the undersigned but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

STATE OF TEXAS
COUNTY OF MONTGOMERY

I hereby certify this instrument was filed in File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Real Property at Montgomery County, Texas.

NOV 30 2006



Mark Turnbull
County Clerk
Montgomery County, Texas

Mary French Barrett
Mary French Barrett, Independent Co-Executor
of the Estate of Margaret Davis Cameron, Deceased

Kerwin B. Stone
Kerwin B. Stone, Independent Co-Executor
of the Estate of Margaret Davis Cameron, Deceased

THE STATE OF TEXAS
COUNTY OF JEFFERSON

§
§
§

This instrument was acknowledged before me on the 14th day of November, 2006 by Mary French Barrett, Independent Co-Executor of the Estate of Margaret Davis Cameron, Deceased, on behalf of such Estate, to certify which witness my hand and seal of office.



Sue McCown
NOTARY PUBLIC, STATE OF TEXAS

THE STATE OF TEXAS
COUNTY OF JEFFERSON

§
§

This instrument was acknowledged before me on the 28 day of November, 2006 by Kerwin B. Stone, Independent Co-Executor of the Estate of Margaret Davis Cameron, Deceased, on behalf of such Estate, to certify which witness my hand and seal of office.

REGORDER'S MEMORANDUM:

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All black-outs, additions and changes were present at the time the instrument was filed and recorded.

Sue McCown
NOTARY PUBLIC, STATE OF TEXAS

FILED FOR RECORD
06 NOV 30 PM 1:49

AFTER RECORDING RETURN TO:

Virginia Lee Adams
1309 Broadway
Galveston, Texas 77550



Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

Montgomery City Council
AGENDA REPORT

Meeting Date: April 13, 2021	Budgeted Amount: N/A
Prepared By: Dave McCorquodale	Exhibits: Request letter from developer; City letter granting exemption; City Council minutes of Dec. 16, 2014; letter to Summit Universal, LP related to a recent building permit application

Subject

Consideration and possible action regarding a building permit plan review fee exemption for Summit Universal, LP.

Description

In 2014, the developer of Summit Business Park requested an exemption to plan review fees for their development. After considering the matter, City Council granted the request. Details of the request can be found in the attached letters, and a summary is as follows:

Development plans called for a total of 17 buildings using 3 building designs:

- 8 identical office buildings (Type A)
- 5 identical office/warehouse buildings (Type B)
- 4 identical office/warehouse buildings (Type C)

The developer proposed to pay the adopted plan review fees for the first of each building type and then would be charged actual cost for the remaining 14 buildings. The premise of the request was that the development would be built out on a rapid timeline and that the City Building Official would not need to conduct a thorough review of each building since they would be identical to a recent submittal.

Currently, the development is approximately 50% built out. Additionally, the City updated its building codes in 2019. The extended build out timeline of the development coupled with updated building codes has created a situation where staff cannot adhere to both the adopted City building codes and the plan review fee exemption granted by City Council in 2014.

This is the only developer granted an exemption for building permit and plan review fees in the City. Staff recommends rescinding the exemption for Summit Universal, LP to allow for equal application of City regulations and a level playing field for all builders and developers in the City.

Recommendation

Discuss the matter and consider rescinding the plan review fee exemption for Summit Universal, LP.

Montgomery City Council
AGENDA REPORT

Approved By		
Asst. City Administrator	Dave McCorquodale <i>DM</i>	Date: 04/9/2021
City Administrator	Richard Tramm <i>RT</i>	Date: 04/9/2021

November 13, 2014

City of Montgomery
P.O. Box 708
Montgomery, TX. 77356

ATTN: Mr. Ken Knight
City Administrator

RE: Building permit fee schedule for Montgomery Summit Business Park.

Dear Mr. Knight,

Per our conversation this morning, I am requesting a waiver on the plan review fee for the following conditions:

Reserve B - Office Buildings

We intend to build 8 identical buildings. We have paid the full permit fee, and plan review fee on building # 1 (Type A). Since the remaining buildings are exactly the same, additional plan review would not be required. We request a waiver on buildings # 2 thru # 8 for plan review fee only.

Reserve F – Office Warehouses

We intend to build 4 units of Type B buildings and 5 units of Type C buildings in Section 1. We have paid the full permit fee, and plan review fee on building B-1 and C-1. We request a waiver on buildings Type B #2 thru 4 and Type C # 2 thru 5 for plan review fee only.

Our goal is to develop the park in the most efficient way possible while maintaining the quality of the park. Your help in controlling our costs and granting these waivers would be greatly appreciated.

Sincerely,



Mike Ogorchock
Partner
Summit Universal, LP



CITY OF MONTGOMERY

P. O. BOX 708 MONTGOMERY, TEXAS 77356

Telephone: (936) 597-6434 / 597-6866

December 17, 2014

Mr. Mike Ogorchock
Partner
Summit Unlversal, LP
2234 FM 1097
Montgomery, Texas 77316

Dear Mr. Ogorchock;

Last night at its meeting the City Council considered your request regarding a waiver on the plan review fee or various buildings at your Summit Business Park. The Council's decision is as follows: If you will provide a letter from your Architect stating that you intend to build exactly like a previously plan approved building on each of the buildings after the first Plan Review then the city will provide a cursory Plan Review and will bill you for the actual time of the review, plus a slight city administrative expense, and you will not be liable for the full Plan Review Fee as provided in the building permit application.

For instance, on your Type A group of buildings you would pay the entire amount of the Plan Review Fee for building #1 and with your building permit application for Buildings #2 through #8 you would attach a letter from your Architect stating that the building being applied for is exactly the same as #1. The Plan would receive a cursory review by the Plan Reviewer of the city and you would be billed for the exact statement received by the city plus \$25.00 for the city administrative fee. The cursory amount, of course, will not exceed the normal amount for the Plan Review Fee. My estimate is that the cursory review will be approximately \$100-175 per building.

I believe that the reasoning of the Council for the partial waiver, rather than the full amount you requested, is that there is a remaining responsibility of the city for every building review that would cause at least a cursory review of the building plans, resulting in a cost to the city.

If you have any questions, please feel free to contact me.

Sincerely,

Jack Yates, Interim City Administrator

Exerpt from City Council Minutes of December 16, 2014

John Champagne, Kirk Jones, Jon Bickford, Dave McCorquodale and Rebecca Huss all voted for the motion.

4. Consideration and possible action on approval of closing City Hall on December 26, 2014 for the holiday

Discussion was taken on the amount of employees that would not have enough time to use a vacation day due to new employees, amount of pay for the city to close that day and all surrounding cities would be closed for the day. Dave McCorquodale made the motion to close city hall on December 26, 2014 for a holiday this year. Rebecca Huss seconded the motion. Dave McCorquodale, Rebecca Huss, Jon Bickford, John Champagne and Kirk Jones all voted for the motion.

5. Consideration and possible action on approval of wavier of plan review fee for Montgomery Summit Business Park

Discussion was taken on the fee would be half of the building permit fee, the plan review company charges by the square foot on the plans, all buildings would be the same, and the city would be responsible for the buildings. John Champagne made the motion to allow for a letter from the Architect stating that the buildings are the exactly like a previously plan approved building after the first plan review then the City will provide a cursory plan review and will bill for the actual time of the review. Dave McCorquodale seconded the motion. John Champagne, Kirk Jones, Jon Bickford, Rebecca Huss and Dave McCorquodale all voted for the motion.

EXECUTIVE SESSION:

6. Pursuant to the provisions of the Texas Open Meeting Act, Chapter 551 of the Government Code, in accordance with the authority contained in 551.074 (personnel matters) regarding City Attorney
7. 551.071 (consultation with attorney) and 551.087 (deliberation regarding economic development negotiations) regarding approval of PID agreement with Montgomery Summit Business Park and adoption of service and assessment
8. 551.071 (consultation with attorney) and 551.087 (deliberation regarding economic development negotiations) regarding a 380 agreement with Milestone

Mayor Pro Tem, Kirk Jones closed the regular meeting to convene into executive session at 7:00 p.m.

Mayor Pro Tem, Kirk Jones reconvened into regular session at 8:13 p.m.

DISCUSSION AND POSSIBLE ACTION FROM EXECUTIVE SESSION:

9. Discussion and possible action on approval of a 380 agreement with Milestone Council Member Jon Bickford commented on that he did not think everybody got everything they wanted, but the good news is we got very close, lots of work was done by a lot of people to get us here, lots and lots of analysis and therefore we got the best deal we felt we could for the city. Jon Bickford made the motion for a resolution that the prior 380 agreement on the property would be absorbed by Milestone Development of \$400,000, that a request for a grant to fund road, water and sewer improvements based on job creation by Kroger, that the new store would open by January 2018 or the agreement would be void and that the new store must be a Kroger Marketplace. Dave McCorquodale seconded the motion. Councilmember Rebecca Huss, commented that she could not support the city's financial commitment in the 380 agreement with not being comfortable with the amount and that Montgomery is a desirable location for the company and it would have likely built a grocery store without the city committing the amount and that she did not think the city needed to pay a premium to make the development happen. Jon Bickford, John Champagne, Kirk Jones and Dave McCorquodale all voted for the motion. Rebecca Huss voted against the motion.



March 22, 2021

Mr. Michael Ogorchock, Partner
Summit Universal, LP
15349 Summit Business Park Drive, Ste. 101
Montgomery, Texas 77356

RE: 2014 City Council Action granting building permit and plan review exemptions

Mr. Ogorchock,

In late 2014, Summit Universal approached the City to request an exemption to the adopted building permit plan review fees applicable to all building projects in the City. Specific details of the request included in the letter from Summit Universal, LP dated November 13, 2014 are:

- Summit Universal, LP would pay adopted fees for the plan review and building permit for Office Building #1 and receive an exemption to the plan review fee only for Office Buildings #2, 3, 4, 5, 6, 7, and 8.
- Summit Universal, LP would pay adopted fees for the plan review and building permit on Office/Warehouse Buildings B-1 and C-1, and receive an exemption to the plan review fee only for Buildings B-2, B-3, B-4, C-2, C-3, C-4, and C-5.

Conditions of City Council approval of the exemption granted on December 16, 2014 as stated in the letter from Jack Yates, Interim City Administrator dated December 17, 2014:

- Provide a letter from your Architect stating the proposed building is exactly like a previously approved building.
- In such case, the City will provide a Cursory Plan Review and charge only actual costs of the plan reviewer plus a small administrative fee.
- The City Council action, along with your request, only references the shell buildings proposed to be built by Summit Universal, LP. The buildout of individual suites is not referenced by any document.

You contend that the nature of the exemption granted by City Council allows Summit Universal, LP to submit 2014-dated drawings that do not accurately depict the proposed 2021 work. Said simply, the architectural plans and the MEP drawings do not match. The submittal does not comply with the requirement that the proposed building be exactly like a previously approved building permit. City Council granted an exemption specifically related to plan review fees for previously approved buildings, not an exemption from submitting a complete set of construction drawings.

After researching City records and meeting details of the City Council action of December 16, 2014, City staff believes there are enough substantive questions to warrant an affirmation or dissolution of the exemption granted by City Council. Notably, that all previously approved building plans were approved under a different Building Code edition than what the City currently uses. Staff intends to place the item on the April 13, 2021 meeting agenda for City Council review.

If you have any questions or need any additional information, please feel free to contact me.

Sincerely,



Dave McCorquodale, RLA, CPM
Assistant City Administrator
Director of Planning & Development

Montgomery City Council
AGENDA REPORT

Meeting Date: April 13, 2021	Budgeted Amount: N/A
Prepared By: Richard Tramm	Exhibits: N/A

Subject

Update on City Engineer.

Description

Approximately two and a half months ago, I provided City Council with my recommendation from the City Engineering RFQ process which was to continue utilizing Jones|Carter as City Engineer. As I explained to City Council, one of the primary factors in that was the volume of institutional knowledge and experience with the City's systems that was with the engineers that were assigned to the City. Last week I was notified that both of those engineers were resigning their positions with Jones|Carter and accepting positions with WGA Consulting Engineers.

My planned course of action is to review the continuing process for Jones|Carter Engineering to provide engineering services to the City, interview the firm WGA Consulting Engineers and then decide on a recommendation to City Council on the best path forward for City engineering services. During this process, I will also reconsider the recently interviewed firms in deciding on the best firm to use moving forward.

Recommendation

Provide input and direction to City Administrator on City engineering services.

Approved By

City Administrator	Richard Tramm 	Date: 04/08/2021
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