



Notice of City Council Regular Meeting

November 12, 2024 at 6:00 PM

NOTICE IS HEREBY GIVEN that a Meeting of the Montgomery City Council will be held on **Tuesday, November 12, 2024, at 6:00 PM** at the City of Montgomery City Hall, 101 Old Plantersville Road, Montgomery, Texas.

THIS MEETING WAS POSTED PURSUANT TO THE TEXAS OPEN MEETING ACT
V.T.C.A. GOVERNMENT CODE CHAPTER 551.

Members of the public may download the agenda packet and view the meeting live on the City's website under Agenda/Minutes and then select **Live Stream Page** (located at the top of the page). The meeting will be recorded and uploaded to the City's website.

CALL TO ORDER

INVOCATION

PLEDGES OF ALLEGIANCE

PUBLIC FORUM

The City Council will receive comments from the public on any matters within the jurisdiction of the City of Montgomery, Texas. Speakers will be limited to three (3) minutes each and must sign-in prior to the meeting being called to order. Please note that the City Council's discussion, if any, or subjects for which public notice has not been given, are limited to statements of specific factual responses and recitation of existing policy.

PUBLIC HEARING

- 1.** Convene into a Public Hearing to receive comments on a Special Use Permit application for a paramedical and fine-line tattooing business located at 14375 Liberty Street.

REGULAR AGENDA

- 2.** Approval of the October 22, 2024 Regular Meeting Minutes.
- 3.** Consideration and possible action on AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO SHEA SYKORA FOR USE THE PROPERTY LOCATED AT 14375 LIBERTY STREET, SUITE 105, MONTGOMERY, TEXAS 77356, FOR A MICROPIGMENTATION, PARAMEDICAL, AND FINE-LINE TATTOO BUSINESS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.
- 4.** Consideration and possible action on AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF MONTGOMERY, TEXAS, SPECIAL ELECTION HELD ON THE 5TH DAY OF NOVEMBER, 2024, 1) FOR THE CREATION OF THE MONTGOMERY CRIME CONTROL AND PREVENTION DISTRICT; AND 2) EXTENDING THE TERM OF OFFICE FOR MAYOR AND COUNCIL FROM TWO YEARS TO FOUR YEARS.

5. Consideration and possible action approving projects to be funded from the American Rescue Plan Act funds.
6. Consideration and possible action on AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 86, TRAFFIC AND VEHICLES, ARTICLE VII, TOWING SERVICES, TO UPDATE THE DEFINITIONS, FEE SCHEDULE, WRECKER SERVICE ROTATION LIST GUIDELINES; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING AN ENFORCEMENT CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND OPEN MEETING; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR OTHER RELATED MATTERS.
7. Second reading and possible action on A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS, APPROVING AN EXPENDITURE TO CONTRIBUTE TO THE CONSTRUCTION OF A WATER MAIN FOR MONTGOMERY INDEPENDENT SCHOOL DISTRICT'S CAREER AND TECHNICAL EDUCATION (CTE) CAMPUS DEVELOPMENT; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.
8. Consideration and possible action on authorizing the city engineer to proceed with the off-site, public Sanitary Sewer Improvements project pursuant to the Development Agreement Between the City of Montgomery and Morning Cloud Investments for The Crossing at Montgomery single-family residential development (Dev. No. 2403).
9. Consideration and possible action on cancelling the November 26, 2024 and December 24, 2024 Regular City Council Meetings (holiday weeks).

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.

EXECUTIVE SESSION

Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, Section(s):

Sections 551.071(consultation with attorney)

551.072 (deliberation regarding real property)

551.074 - (personnel matters) - city administrators employment contract

ACTION FROM EXECUTIVE SESSION

ADJOURNMENT

This notice of meeting was posted on the website and bulletin board at City Hall of the City of Montgomery, Texas, a place convenient and readily accessible to the general public at all times. This notice was posted at on November 8, 2024 at 5:00 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

/s/ Dave McCorquodale

Assistant City Administrator

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 accommodation.

Montgomery City Council
AGENDA REPORT

Meeting Date: November 12, 2024	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Convene into a Public Hearing to receive comments on a Special Use Permit application for a paramedical and fine-line tattooing business located at 14375 Liberty Street.

Recommendation

Hold the Public Hearing and consider any comments received.

Discussion

The applicant is requesting an SUP for paramedical tattooing (covering scars and post-surgery marks, etc.) and fine-line artistic tattooing (done with a single needle and includes wording/script, small shapes, etc., but not filling in with color) in addition to microblading/permanent makeup.

Listen to any comments received from the public and consider when deliberating action on the SUP Ordinance agenda item.

Approved By

Assistant City Administrator & Planning & Development Director	Dave McCorquodale	Date: 10/18/2024

PLANNING & ZONING COMMISSION RECOMMENDATION AND REPORT

TO: MONTGOMERY MAYOR AND CITY COUNCIL

FROM: MONTGOMERY PLANNING & ZONING COMMISSION

SUBJECT: REPORT CONCERNING A SPECIAL USE PERMIT APPLICATION FOR A MICROBLADING BUSINESS LOCATED AT 14375 LIBERTY STREET, SUITE 105, MONTGOMERY, TEXAS 77356

Mayor and Members of City Council,

Pursuant to Sections 98-27 and 98-88 of the City of Montgomery Code of Ordinances (“the Code”), the Montgomery Planning and Zoning Commission met on July 2, 2024 to consider an application from Shea Sykora for a Special Use Permit for a microblading, paramedical, and fine-line tattoo business to be located at 14375 Liberty Street, Suite 105, Montgomery, Texas 77356.

After reviewing the request and studying the matter, the Commission thereby found:

- No perceived negative effects to the character and development of the neighborhood are posed by the business.
- By a 3-1 vote of the members present and pursuant to Section 98-27 of the Code, the Planning and Zoning Commission hereby presents this Report recommending approval of the Special Use Permit subject to all the terms, provisions, and limitations of the Ordinance granting the Special Use Permit. Bill Simpson, Tom Czulewicz, and John Fox voted in favor of the motion with Merriam Walker dissenting.

Submitted on behalf of the Planning & Zoning Commission,

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

**City Council Regular Meeting
MINUTES
October 22, 2024, at 6:00 PM**

CALL TO ORDER

Mayor Countryman called the meeting to order at 6:00 p.m.

Present:	Sara Countryman	Mayor
	Casey Olson	Mayor Pro Tem
	Carol Langley	City Council Place #1
	Cheryl Fox	City Council Place #4
	Stan Donaldson	City Council Place #5

Also Present:	Dave McCorquodale	Director of Planning & Development
	Maryann Carl	Finance Director
	Diana Titus	Deputy City Secretary
	Alan Petrov	City Attorney
	Katherine Vu	City Engineer

INVOCATION

Councilmember Stan Donaldson gave the invocation.

PLEDGE OF ALLEGIANCE TO FLAGS

Pledges to the American and Texas Flag were conducted.

PUBLIC FORUM

Stephanie Brody, a representative for the Houston Tool Bank, a disaster response and recovery nonprofit organization introduced herself. She wanted to let the Council know they have opened their Conroe neighborhood location hub that offers tool lending in the time of disaster. Not only do they have the tools on site but also have for a small fee that can be waived will come out and deliver them to the neighborhood hubs. The location is the Tree of Life Lutheran Church. She said if tours are available they are welcome to come and see. They have added new tools and have upgraded some of the facilities in the church. They have also added tables and chairs, pop up tents, utility trailers, yard games, and projectors.

CONSENT AGENDA

1. Approval of the September 24, 2024 Regular Meeting Minutes.

Councilmember Stan Donaldson thanked staff for the minutes. He said he appreciates them as they are excellent but all the voting records are incorrect. Where there is a 5-0 vote it needs to change to 4-0 and if there is a 4-1 vote it needs to change to 3-1 as there are only four people voting.

2. Approval of the October 8, 2024 Regular Meeting Minutes.

Councilmember Stan Donaldson said it is the same issue with item #2.

Mayor Countryman asked if there was a nay vote did he know if the proper person was recognized. Councilmember Stan Donaldson said yes.

Councilmember Casey Olson asked Mr. McCorquodale if after those corrections can they bring those back for approval. Mr. McCorquodale said or you can approve them with the corrections that will be made.

Councilmember Stan Donaldson made a motion to approve consent agenda items #1 and #2 with the proper corrections for the votes. Councilmember Casey Olson seconded the motion. All in favor. **Motion Passed (4-0).**

3. Approval of the 2024 3rd Quarter Investment Report.

Councilmember Casey Olson made a motion to approve item #3 as presented. Councilmember Carol Langley seconded the motion. All in favor. **Motion Passed (4-0).**

REGULAR AGENDA

4. Consideration and possible action on AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING THE ZONING CLASSIFICATIONS AS DEFINED IN THE CITY CODE OF ORDINANCES CHAPTER 98, "ZONING," FOR A 15.46-ACRE TRACT SITUATED IN THE B. RIGSBY SURVEY, ABSTRACT NUMBER 31, MONTGOMERY COUNTY, TEXAS LOCATED AT THE NORTHWEST CORNER OF LONE STAR PARKWAY AND LIBERTY STREET, MONTGOMERY, TEXAS FROM "ID"-INDUSTRIAL, AS FOUND ON THE CITY'S OFFICIAL ZONING MAP, TO 7.77-ACRES OF "B" COMMERCIAL AND 7.69-ACRES OF "R2" MULTI-FAMILY RESIDENTIAL ZONING DISTRICT CLASSIFICATIONS; AND TO AMEND THE OFFICIAL ZONING MAP; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON PASSAGE AND PUBLICATION.

Mr. McCorquodale said this item was tabled from the last Council meeting. To answer any questions, consulting City Engineers are here as are property owners.

Councilmember Casey Olson asked if they rezone this do they still have to bring the plat back. Ms. Vu said that is correct. She said this rezoning gives them the parameters and requirements that they review the plat by setbacks, etc.

Councilmember Stan Donaldson asked if the proposed detention pond correction is going to be part of the 25-foot setback. They are putting it as a buffer between the business. Councilmember Casey Olson said it will be in the plat correction when he brings the plat back. Ms. Vu said that would be separate from this rezoning tonight. That would all be shown on the plat as a drainage reserve and on the plans itself. Mayor Countryman asked Councilmember Stan Donaldson if he is basing that on his vote this evening. Councilmember Stan Donaldson said no. Ms. Vu said there is a 25-foot buffer that is required between commercial and single-family that would be maintained as required. She said the rezoning that is in front of Council tonight essentially establishes

that 25-foot buffer requirement. Right now it is zoned industrial and rezoning it to commercial tells them they have to have that 25-foot buffer between the two. She said they will review their plat against these requirements for commercial and multi-family and how they are abutting single-family and how they are abutting each other. It gives them their perimeters for the plat.

Merriam Walker, a Board Member on the Planning and Zoning Commission said when this was brought before them they had an open meeting, a public hearing with citizens that lived in that general area. There was a couple who had expressed that some of that land belonged to them. The Commission said they need to talk with the owners that have it now. They did ask that this be changed due to the overwhelming approval of the citizens who did not want it industrial, they wanted it commercial and residential. There was one couple that brought up that in that area they are talking about they owned that property. Ms. Walker said before this passes she wanted to bring this to someone's attention to make sure that has been clarified. She does not know if that will happen once Council changes the zone and the plat is brought to you, but she wanted to make it very apparent. She said it will be in their minutes for them to approve next month but she wanted the City Council to know as well. Mayor Countryman said they were here at Council's last meeting so that was outstanding. Mayor Countryman thanked Ms. Walker for that.

Mayor Countryman asked if we know where those boundaries are and is this rezoning their boundaries too. Mr. McCorquodale said there were two points and thinks they need to clarify which property discrepancy you are talking about. Ms. Walker said she did not know. Mr. McCorquodale asked if it was this project boundary. Ms. Walker said yes. Mr. McCorquodale asked if it was the Portleys'. Ms. Walker said yes. Mr. McCorquodale said they told him after the meeting that Ms. Carol helped them with the paperwork back long ago. He said the new owners they own the property. They did a title search on the property and they own the property outright. There is no reason to doubt that the real estate work has been done both on the owner which was Larry Jacobs on his side or the new owners. There is no reason to think they do not own the property. Mayor Countryman said there was no doubt, there was certainly a question though and we want to make sure that it was done properly so they do not have to come back and do that. She said she does remember that and had not received an update and does not know if everyone else had because that was brought up during the Planning and Zoning meeting and also the last meeting. Mr. McCorquodale said at the Planning and Zoning meeting they were told it is a private issue they would talk about and that is what two of them said. The owner's representative had asked and said he would love to get their information so they could work this out. Essentially what the City was left with was a verbal allegation that the property owner has the deed and they were not intending on doing any research beyond that. It is not the role of the City. Councilmember Carol Langley said to her knowledge they never got it recorded and so they never paid any taxes on it. She said the title search should have brought it up if it was belonging to them.

Councilmember Carol Langley asked if after tonight's meeting are they setting the public hearing for the rezoning or that has to come back and when do the letters go out to all the property owners. Mr. McCorquodale said they tabled that action and it was a different zoning request than what they were looking at last night. Councilmember Carol Langley asked if the letters already went out to all the property owners within the 200-feet. Councilmember Casey Olson said yes they did the public hearing at the

last meeting. Mr. McCorquodale said he does not have the public hearing report in front of him but they mailed out 60 letters. He does not recall the date they published the notice but they met all the requirements for it. Councilmember Stan Donaldson said they had the public hearing at the last meeting. Councilmember Carol Langley said she just wanted to verify for sure.

Mr. Petrov, City Attorney arrived at the meeting at 6:14 p.m.

Councilmember Casey Olson moved to approve the ordinance to rezone the property as requested. Councilmember Stan Donaldson seconded the motion. **Motion Passed (4-0).**

5. Consideration and possible action on a petition by Roger Scott for certain private property to be released from the City's Extraterritorial Jurisdiction (ETJ).

Mr. Petrov said this is a petition filed pursuant to State law which was amended last legislative session to allow land owners to petition to remove themselves from the ETJ. They recommend that you take no action on this in which case it becomes effective under the law.

Councilmember Stan Donaldson moved to take no action on agenda item #5. Councilmember Cheryl Fox seconded the motion. **Motion Passed (4-0).**

6. Consideration and possible action on a petition by Homeplace Lands LLC for certain private property to be released from the City's Extraterritorial Jurisdiction (ETJ).

Councilmember Stan Donaldson moved to take no action on agenda item #6. Councilmember Casey Olson seconded the motion. **Motion Passed (4-0).**

7. Consideration and possible action authorizing the Police Department to sell unused equipment to Cut and Shoot PD for \$1,500.00.

Chief Solomon said the equipment they are wanting to sell to Cut and Shoot, the Getac laptops they stopped using in 2022 because of functionality, price, and repairs. He said when it came to repairs it cost about \$900 to send them back so they have not used them and have gone with Dell. He said Cut and Shoot would like to buy five of those laptops for \$1,500.

Councilmember Stan Donaldson moved to accept agenda item #7 as presented. Councilmember Casey Olson seconded the motion. **Motion Passed (4-0).**

8. First reading of A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS, APPROVING AN EXPENDITURE TO CONTRIBUTE TO THE CONSTRUCTION OF A WATER MAIN FOR MONTGOMERY INDEPENDENT SCHOOL DISTRICT'S CAREER AND TECHNICAL EDUCATION (CTE) CAMPUS DEVELOPMENT; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Mr. McCorquodale said City Council approved funding \$75,000 of the project cost associated with a watermain installation on MISD's CTE campus. He said the EDC considered that during their budget time they want to fund it. They have to advertise

their project for 60 days to allow for a protest during which time this resolution, the caption of it is read twice. Mr. Petrov said basically it is the process to allow EDC funding to occur. Mr. McCorquodale said this is just carrying out the Council action to run the waterline and EDC is paying for it. Mr. McCorquodale said no action is needed.

9. Consideration and possible action on calling a Public Hearing to be held on December 10, 2024 regarding adoption of building permit fees.

Mr. McCorquodale said there has been recent discussion about the readoption of permit fees. HB 1922 causes them to expire after 10 years. Tonight's action is only to call the hearing for December 10th to seek comments.

Councilmember Carol Langley moved to consider and take action on calling a Public Hearing to be held on December 10th at City Hall at 6:00 p.m. on the adoption of building permit fees. Councilmember Casey Olson seconded the motion. **Motion Passed (4-0).**

10. Consideration and possible action on awarding of the FM 1097 Sanitary Sewer Improvements construction project.

Ms. Vu said this project is along FM 1097 and they have been talking about it for a while. Ms. Vu said over the last six weeks or so they have been proceeding under emergency authorization to solicit bids for this project meaning they can reach out to contractors directly and ask for a bid on this project. They have reached out to a total of eight contractors. Initially they had reached out to four or five and received no response from those five. They discussed with staff and decided to go ahead and proceed with standard public bidding of this project, open it up to the general bidding forum and see who would submit a bid on it. While they were doing public bidding they also reached out to three additional contractors still operating under that emergency authorization just to see who would give them a price for the project. They did receive one price back from a solicited contractor. A couple days later they went ahead and opened bids from the public bidding. During the public bidding they received eight bids separate and apart from the eight contractors they had reached out to originally. Those bid results are enclosed in your packet on page 78. The low base bid was Bull G construction in the amount of \$103,254 and 30 calendar days. They put time in here as part of their bid as well so they bid 30 calendar days. Ms. Vu said this is between the one that they received as a solicitation and the public bidding Bull G provided the lowest base bid for that \$103,254 with 30 calendar days. Their estimate for this project and what they had included whenever they were discussing capital project budget was about \$175,000. Mayor Countryman asked does that mean they have room for \$74,000 worth of change orders. Ms. Vu said not necessarily. Mayor Countryman said \$101,000 to \$232,000 was the range and the \$175,000 would be almost in the middle. Councilmember Casey Olson said the only way they can do a change order is if what they originally tell them you want they change otherwise they are under contract by bid.

Councilmember Stan Donaldson asked what does the supplemental bid include because it goes up. Ms. Vu said they had put a supplemental bid in there as they wanted to include a couple of items that may be needed but potentially will not be needed. When you are bidding a project whatever is included in your base bid is essentially this is going to happen as part of the project. They included some supplemental items so that

they could go ahead and establish pricings for items that may be needed. Things you would include in supplemental would be well pointing or additional coordination because of the creek that they are working in. It outlines that price from the very beginning that way they are not three quarters of the way through and then hoping they get a decent price on it. Mayor Countryman asked if this will be their third or fourth project with them. Ms. Vu said third. She said the first was sanitary sewer rehab phase two, Old Plantersville waterline which is about to get started, and then this will be project number three. Councilmember Stan Donaldson asked if Ms. Vu is asking them for approval to give the bid out to Bull G. Ms. Vu said they are asking Council to award the project to Bull G Construction and authorize them to prepare the contracts. Councilmember Stan Donaldson asked at what price. Ms. Vu said \$103,254.

Councilmember Casey Olson moved to award construction of FM 1097 Sanitary Sewer Improvements project to Bull G Construction LLC for the amount of \$103,254 and a 30-day calendar days to achieve final completion. Councilmember Stan Donaldson seconded the motion. **Motion Passed (4-0).**

11. Consideration and possible action on the Certificate of Substantial Completion for the Buffalo Springs Drive & SH-105 Traffic Signal project.

Ms. Vu said this is not necessarily acceptance just substantial completion which establishes the one-year warranty period. They are proposing that period begin on September 24th which is when the signal was turned on and deemed to be functional which is how they determine substantial completion. One question that Councilmember Casey Olson had asked last time was what were the pricing of the contracts when they originally awarded it versus where they are ending up. They have not issued final pay estimates on either the signal or the roadway because they are still addressing final punch list items but for the road project the original contract amount was \$663,116.25 and they ended up with \$658,000 and change so about \$4,500 less than the original contract amount. For the signal the original amount was \$409,203.12. They are expecting to end up at \$400,358.17 so about \$9,000 less. Councilmember Casey Olson said they came in under budget just shy of \$60,000 so that is great. Ms. Vu said between construction and engineering on both of these projects. The agreement with Home Depot had a \$2 million limit and construction and engineering on both of these has kept them underneath that limit. She said their recommendation is to approve the certificate of substantial completion.

Councilmember Casey Olson moved to approve the Certificate of Substantial Completion and beginning the one-year warranty period with a commencement date of September 24, 2024. Councilmember Cheryl Fox seconded the motion. **Motion Passed (4-0).**

12. Consideration and possible action on the Certificate of Substantial Completion and Certificate of Acceptance for the Montgomery Bend Sanitary Sewer Lift Station project.

Ms. Vu said this is related to specifically the lift station generator for Montgomery Bend. If you recall previously the rest of this lift station has been deemed substantially complete and accepted by the City less the generator portion. They were waiting on a permanent natural gas connection for the generator before they were wanting to accept it. That connection has been made and they are ready to accept the generator itself at

the lift station. Mayor Countryman asked if they are using CenterPoint Energy or LDC. Ms. Vu said CenterPoint Energy. Ms. Vu said they attended a startup inspection yesterday for the generator itself to check how it runs. There were no issues at that time and so they have no objections to the City accepting the generator and beginning the one-year warranty period beginning yesterday October 21, 2024.

Councilmember Casey Olson moved to approve the Certificate of Substantial Completion and the Certificate of Acceptance and also begin the one-year warranty period with a commencement date of October 21, 2024. Councilmember Stan Donaldson seconded the motion. **Motion Passed (4-0).**

13. Consideration and possible action on the Certificate of Substantial Completion and Certificate of Acceptance for Montgomery Bend Section Two public infrastructure.

Ms. Vu said accepting the generator allows Section Two of Montgomery Bend to be accepted. They inspected this project while it was being constructed and also held a final inspection. They have addressed all of the punch list items. They were waiting on the generator to be accepted before they were willing to allow Section Two to be accepted and now at this time they recommend beginning the one-year warranty period on October 21, 2024 and accepting the infrastructure. This would allow building permits to start being applied for and homes to be constructed in Section Two.

Councilmember Casey Olson moved to approve the Certificate of Substantial Completion and the Certificate of Acceptance and begin the one-year warranty period with a commencement date of October 21, 2024. Councilmember Carol Langley seconded the motion. **Motion Passed (4-0).**

DEPARTMENTAL REPORTS

14. Finance Report

Ms. Carl said all revenue for fiscal year 2024 has been recorded and reflected in this report however as you know expenses for fiscal year 2024 will continue to roll in over the next couple of weeks so the ending expenses for fiscal 2024 the period of September will continue to change until they get through audit. When you look at that report just know that revenues are all accounted for but expenses are not basically because anything that was done in September they are still getting those bills but they are September expenses.

Ms. Carl wanted to point out when they talked about where they would see the closing of the accounts. In the pooled cash report you will see (page 91 in the packet) in the middle section of that report under cash in bank the accounts that were closed under current balance all have a zero. Those balances were transferred over to the top account in that line, the pulled cash operating and this is where you will see that information.

Mayor Countryman said her and Councilmember Carol Langley attended TML and discussed the finance directors and fraud in one of the classes they attended. She said she knows Ms. Carl works from home and asked her if she is on a private network or how is she ensuring that no one is looking at our financials. Ms. Carl said when she works remote she has a computer the City provides her with a secure connection

through our IT company OCS that gives her access to her desktop computer. It is a work computer connected to her work computer. She does not use her home computer.

15. PD & CE September Report

Mayor Countryman asked Chief Solomon on his events coming up Light up the Park is not mentioned on December 7th and asked if they are not having police presence there. Chief Solomon said they will definitely have somebody there.

Ms. Tilley, Code Enforcement Officer asked if Council had any question regarding her report.

Councilmember Casey Olson interjected that since they came in under budget on their street they originally budgeted about 18 months to repay, they should have it done if Home Depot does what they originally told them in 16 months so that is good.

There were no questions for Ms. Tilley from Council.

16. Municipal Court Report

Ms. Duckett, Court Administrator said the citations for September were 145 and the revenue was \$32,090.14. She said she went ahead and added her fiscal year report which was \$391,222.53. Mayor Countryman said her new tactics clearly are working and you have received almost \$80,000 more in year over year so whatever you learned it is paying off.

17. Public Works Report

Mayor Countryman said she did a record request for the pavilion and they did not get a permit for it. Mr. Muckleroy said no. Mayor Countryman asked if they are going to get a permit. Mr. Muckleroy said yes it is in the works now.

Mayor Countryman asked who picks up trash on the side of the road. Mr. Muckleroy said the mowing crew picks it up unless it is on Lone Star Parkway. Mayor Countryman said on Prairie Street she has seen for three weeks now huge, twisted tea cans and some other stuff that is on part of the City's property. Mr. Muckleroy said the mowing company picks up the trash but they do it on their right-of-way mowing schedule and now that we are getting into winter and mowing is slowing down he will have to check when the last time they came by was. He said if they see something of course they will stop and pick it up but it is in the mowing contract to pick all of it up.

18. Utility Operations Report

Mr. Phillip Wright said there was 95 percent accountability on the water and they pumped 16 million gallons this last month. They did the well reports this last month and the wells are looking to be in good shape. The wastewater treatment plant looks good and is in compliance. He said the error on the Lone Star did not get corrected this last month because he was out of town but he did send a corrected copy to Mr. Muckleroy. There is 18 percent on the Jasper aquifer and 43 percent on the Catahoula. Mayor Countryman asked if the 38 and 92 is not correct. Mr. Lucas said the corrected numbers are 18.53 percent on the Jasper and 43.68 percent on the Catahoula. Councilmember Stan Donaldson asked if the 15 million is going to be changed. Mayor Countryman said no. The percentages of what we are using in each of the wells. If you look on page 133, total pumpage says we are 38.11 percent for the Jasper and 92.82

percent for the Catahoula so it is actually 18.53 instead of 38 and it is 43.68 instead of 92.

19. City Engineer's Report

Ms. Vu said she is going to refer Council to the separate engineers report that was passed out. There were some issues with what ended up in the packet. The last page and the exhibit were blank with how they came through coming from their end and they did not catch it until today. They are providing everyone with a full and clean copy and none of the content has changed at all from what was in the packet.

Ms. Vu said they did receive the first pay estimate for water plant number two for the contractor. There are photos of the new access driveway that has been constructed. Before it was extremely overgrown and essentially not navigable. This is a great improvement and will now allow for the rest of construction to proceed. They are expecting the well driller to move on site within the next couple of weeks to begin plugging the old well and start drilling the new well. Councilmember Stan Donaldson asked how they are going to plug up the old well. Ms. Vu said there will be a full rig for both operations. It is smaller machinery for the plugging than it is for the actual drilling itself but it is still very large equipment.

Both of the sanitary sewer rehabilitation projects are kind of in the same spot. They are waiting on those final CCTV videos from the contractor so they can confirm just from the inside of the pipe if the work was done adequately and then they are ready to issue final payment and do a final walkthrough on both of those projects.

They are still working to address all punch list items for Old Plantersville force main extension with a special focus on site restoration. They are holding final payment until it has all been adequately and substantially addressed.

They have contracts with them tonight ready for execution on Old Plantersville waterline extension and are working to schedule a preconstruction meeting and issue notice to proceed either later this week or next week.

Ms. Vu said they received three statements of qualifications for item #10 water plant no. 4 from engineering firms two weeks ago. They are reviewing those packets received and are planning on discussing that with staff on Friday morning and will come to Council with their recommendation for who to proceed with.

Ms. Vu stated they did receive another pay estimate again for Buffalo Springs Drive Road reconstruction. As she mentioned earlier this is not the final pay estimate as they are still addressing their final punch list items. They are substantially complete so they are just getting on them about the final punch list items.

A pay estimate was received for the Buffalo Springs Drive & SH-105 traffic signal but not the final one at this point in time.

One thing Ms. Vu wanted to identify on the plan reviews is the Lone Star Ridge plans shown is the Taylor Morrison development. They advised them that their development will be called Lone Star Ridge.

They did receive the first draft of Montgomery Bend Section 3 and 4 final plat last week or the week before. Her and Zach reviewed those this morning and they will be getting that back out likely tomorrow.

Ms. Vu said Hills of Town Creek Section 5 is proceeding very nicely and they are continuing to inspect the work they are doing.

The next items are related to Montgomery Bend lift station and Montgomery Bend Section 2. Redbird Meadows is proceeding with their construction as well for water sanitary drainage and paving of their initial three sections.

Ms. Vu stated in regard to access management along SH-105 from Grimes County line to Shepperd Street they are continuing to coordinate with TxDOT weekly on this determining exactly which projects can be gone in with other development projects that are being done such as sanitary relocation for the lift station 5 project and putting together those final numbers for the utility relocations that will need to be done and get those ready to bring to you when the work needs to be constructed. They are trying to work with TxDOT on getting a final time line on when does it absolutely have to be done to try and get funding squared away and look at other options if there is potential for other funding mechanisms for these relocations as well.

Councilmember Casey Olson moved to accept the September 2024 departmental reports as presented. Councilmember Cheryl Fox seconded the motion. **Motion Passed (4-0).**

COUNCIL INQUIRY

Councilmember Casey Olson asked when the special events coordinator will be starting. Mr. McCorquodale stated Thursday. Councilmember Casey Olson asked if the city secretary starts the first week in November. Mr. McCorquodale said November 5th.

Mayor Countryman said as she mentioned earlier her and Councilmember Carol Langley went to TML and learned quite a bit. She encouraged councilmembers if they are able to go it was highly informative and a great place to collaborate with peers. She said what they learned is there are six generations in the workforce and it is crazy how the workforce is getting older and there is going to be a lot more jobs. The biggest bump in labor force growth in coming years will be from those in the age of 75 and older where overall employment is projected to nearly double by 2033. They learned a lot about finance for the cities and where there could be holes. They talked about work from home and could not find any city that has a work from home policy that everyone comes to their job at the city hall and they also learned how retention and culture are big. She said they are going to send them the slides if anyone is interested.

Mayor Countryman continued the trash cans downtown have become a really big eye sore and she has had taxpayers complaining. She asked if they can get something going to where they have a centralized trash place that is buffered where all the businesses can put their trash in just to clean up. Councilmember Cheryl Fox added and not at the community building. Mr. McCorquodale said he would refer to Mr. Petrov on any guidance he has. He mentioned a downtown group had proposed a central dumpster at least for the small shops that generally have less than a trash cart. Mr. Petrov said he has cities that have adopted screening requirements. Mr. McCorquodale asked if he

was able to give folks a while to comply and then move forward. Mr. Petrov said it is usually a phased in approach. Mr. McCorquodale asked about those who have been around a long time and are grandfathered in. Councilmember Casey Olson said laws change. Mayor Countryman said laws do change and they have to get current. She said she thinks restaurants should have a little bit of an exception. There are two restaurants on SH-105 that have their trash cans on SH-105 and it is not a good look. She said if there is a way they can have them at least take it off the main highway and screen it. Cozy Grape was supposed to screen theirs but they never moved it. She said it is just not appealing. Councilmember Cheryl Fox said in the parking lot across from the community building it just sits right out there. Mayor Countryman said it is an eye sore. She said she wants to see how they can start addressing this and actually take action on it and get it done because she thinks it would do a lot for the aesthetics. Mr. McCorquodale said he and Mr. Palmer will both work with the attorneys on coming up with something that will address these and the ones that are there that just need some help. Mayor Countryman said they own that property where the LED sign is that is all the way up and maybe they put a screen there as it is somewhat centrally located and just put a screen at the corner of Caroline and McCown on the southeast corner.

Councilmember Carol Langley said she wants to remind everyone about the historic marker dedication ceremony at Mr. Ryan Londeen's house on Saturday at 10:00 a.m. She said if she is not mistaken EDC helped him purchase the marker. It will be a nice gesture for the City to have that marker revealed as it has had a purple cloth over it and has had it for a couple of weeks. Mayor Countryman added also on Saturday their Halloween trick-or-treating will be downtown from 3-6pm.

Councilmember Carol Langley said she has been asked by a few people on College Street when did she think the bridge was going to be worked on and if she knew of a plan or date. She asked who would she talk to about this. Councilmember Casey Olson said they have it on their capital budget for 2025 but they have not passed the capital budget yet. Mr. McCorquodale said there is an item coming to Council at the next meeting with the idea of in meeting with the ARPA consultant they had mentioned a couple meetings ago from GrantWorks that project is a really nice discrete one along with another one and Council will have a lot of options of when that would go if they get funding and end up using the ARPA funding for it, it would seem to be sooner than later.

EXECUTIVE SESSION

Adjourn into Closed Executive Session as authorized by the Texas Open Meetings Act, Chapter 551 of the Government Code, Section(s):

No items at time of publication.

ACTION FROM EXECUTIVE SESSION

ADJOURNMENT

Councilmember Stan Donaldson moved to adjourn the meeting. Councilmember Casey Olson seconded the motion. **Motion Passed (4-0).**

The meeting was adjourned at 6:54 P.M.

Date Approved: _____

Submitted by: _____
Diana Titus, Deputy City Secretary

Mayor Sara Countryman

Montgomery City Council
AGENDA REPORT

Meeting Date: November 12, 2024	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Consideration and possible action on AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO SHEA SYKORA FOR USE THE PROPERTY LOCATED AT 14375 LIBERTY STREET, SUITE 105, MONTGOMERY, TEXAS 77356, FOR A MICROPIGMENTATION, PARAMEDICAL, AND FINE-LINE TATTOO BUSINESS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.

Recommendation

Staff has no objections to the request and recommends approval of Ordinance as presented.

Discussion

Issue:

Ms. Shea Sykora is the owner of Little House of Brows located in the historic downtown. As part of a relocation to another suite in the same building, Ms. Sykora contacted the city. She has a letter from the City dated 2021 confirming she had an SUP for microblading/cosmetic tattooing, though staff does not find record of an SUP being approved. It appears the letter was provided to her in error, and she needs to obtain an SUP to comply with zoning regulations.

Ms. Sykora is requesting an SUP for paramedical tattooing (covering scars and post-surgery marks, etc.) and fine-line artistic tattooing (done with a single needle and includes wording/script, small shapes, etc., but not filling in with color). The P&Z Commission’s role in the process is to study the request and provide a study and recommendation to City Council, who after a public hearing, will consider the request.

Rules:

Sec. 98-88(a) - Table of Permitted Uses and Special Uses.

[The Table of Permitted Uses – omitted here for brevity – provides various land uses that are allowed by right in each zoning district. The State of Texas includes microblading and fine-line tattooing in the same category as traditional tattooing for license purposes. Tattoo parlor is found within the Table of Permitted Uses, and also requires City Council approval through an SUP].

Sec. 98-88(b) Any use not specifically permitted in this table or in the use regulations of each district set out below, shall require a special use permit (see section 98-27, special use permits).

Sec. 98-27. - Special Use Permits.

- (a) **The city council, by an affirmative four-fifths vote, may by ordinance grant a special permit** for special uses in any district, for those uses listed under "CC" in the table of permitted uses in section 98-88, or which are otherwise not expressly permitted by this chapter, and may impose appropriate conditions and safeguards, including a specified period of time for the permit, to

Montgomery City Council
AGENDA REPORT

protect property and property values in the neighborhood. A special use permit may be revoked or canceled by the city council upon violation of any permit granted. Before authorization of any of such special uses, the request therefor shall be referred to the Planning and Zoning Commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood.

A public hearing shall be held in relation thereto before the city council, and notice and publication of the time and place for which shall conform to the procedure prescribed in subsection (b) of this section.

- (b) A public hearing shall be held by the city council before adopting any proposed special use permit. Notice of such hearing shall be given by publication one time in a newspaper of general circulation in the city stating the time and place of hearing, which time shall not be earlier than 15 days from the date of publication.

Conclusion:

Staff agrees with the Planning & Zoning Commission’s recommendation to approve the Special Use Permit request that limits operations to paramedical and fine-line tattooing. City Council recently approved the renewal of a similar SUP for microblading and omitted several staff-recommended provisions from the SUP:

- No limitation to number of employees
- No requirement to be bonded or insured
- No special inspections of the property
- No 5-year expiration date of SUP

As such, staff recommends approval of the Ordinance as presented.

Approved By		
Assistant City Administrator & Planning & Development Director	Dave McCorquodale	Date: 10/18/2024

ORDINANCE NO. 2024-

AN ORDINANCE OF THE CITY OF MONTGOMERY, TEXAS, GRANTING A SPECIAL USE PERMIT TO SHEA SYKORA FOR USE THE PROPERTY LOCATED AT 14375 LIBERTY STREET, SUITE 105, MONTGOMERY, TEXAS 77356, FOR A MICROPIGMENTATION, PARAMEDICAL, AND FINE-LINE TATTOO BUSINESS; ESTABLISHING CERTAIN TERMS, CONDITIONS AND LIMITATIONS; PROVIDING FOR PENALTY, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the City of Montgomery has received a request from Shea Sykora for a special use permit pursuant to Section 98-33 of the Code of Ordinances of the City of Montgomery, Texas, authorizing the use of a portion of the herein below referenced real property as a micropigmentation tattoo business; and

WHEREAS, the matter was referred to the City of Montgomery Planning and Zoning Commission for consideration and recommendation, and the Planning and Zoning Commission, after due notice, did consider and conduct a Public Hearing held on July 2, 2024 and make a final report on the request for the special use permit, as provided by Section 98-33 (a) of the Code of Ordinances; and

WHEREAS, the City published the notice of public hearing required by the City of Montgomery Zoning Ordinance and laws of the State of Texas applicable thereto; and

WHEREAS, the City Council, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the proposed special use permit, on November 12, 2024; and

WHEREAS, the City Council, after determining that all legal requirements of notice and hearing have been met, is of the opinion and finds that the requested special use of the property described herein is authorized by Section 98-33 of the Code of Ordinances; and

WHEREAS, the City Council further finds that the granting of a special use permit to Shea Sykora will not have an adverse effect on the City’s comprehensive zoning plan or on the character and development of the neighborhood in which the property is situated, so long as the City imposes appropriate conditions and safeguards;

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

SECTION 1. Grant of Permit. A special use permit is hereby granted to Shea Sykora to use the property located at 14375 Liberty Street, Suite 105, Montgomery, Texas 77356 (the “Premises”), for a micropigmentation, fine-line, and paramedical tattoo business. The special use permit is granted upon and subject to the terms, provisions and limitations

specified in Section 2.

SECTION 2. Terms, Provisions and Limitations. The special use permit herein granted is expressly subject to the following terms, provisions and limitations, each of which is hereby deemed to be a condition precedent to the grant and continued effectiveness of the permit:

- (a) All the services shall be conducted on the Premises exclusive of paramedical tattoo services provided in a licensed medical facility.
- (b) The Premises shall be kept clean and attractive and shall not create a nuisance in any regard.
- (c) Shea Sykora has submitted and shall continuously maintain a license in good standing with the Department of State Health Services while offering services under this special use permit.
- (d) No articles or materials used in connection with the micropigmentation business shall be stored outside of the Premises.
- (e) This special use permit does not waive, amend, abrogate or affect any law, rule or regulation, including any ordinance of the City of Montgomery. Shea Sykora shall comply with all ordinances of the City of Montgomery.
- (f) In the event of a violation of the terms and provisions of this special use permit, and the continuation of such violation after ten (10) days written notice from the City to Shea Sykora, at the option of City Council, this permit shall be revoked and shall be of no further force or effect. Such revocation will be effective and final, immediately upon action by City Council.
- (g) This permit is issued only to Shea Sykora and is not assignable without City Council permission.

SECTION 3. Any person, firm, or corporation violating a provision of this Ordinance, upon conviction, is guilty of an offense punishable as provided in the Montgomery Code of Ordinances, as amended, by a fine not to exceed two thousand dollars (\$2,000.00); and each day or portion thereof during which the violation is committed, continued or permitted shall be a separate offense.

SECTION 4. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable and the invalidity of any section, clause or provision or part or portion of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 5. This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this 12th day of November, 2024.

CITY OF MONTGOMERY, TEXAS

By: _____
Sara Countryman, Mayor

ATTEST:

By: _____
Dave McCorquodale
Assistant City Administrator

APPROVED AS TO FORM:

By: _____
Alan Petrov, City Attorney

DRAFT

Montgomery City Council
AGENDA REPORT

Meeting Date: November 12, 2024	Fiscal Impact: None
Department: Administration	Prepared By: G. Palmer

Subject

Consideration and possible action on AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF MONTGOMERY, TEXAS, SPECIAL ELECTION HELD ON THE 5TH DAY OF NOVEMBER, 2024, 1) FOR THE CREATION OF THE MONTGOMERY CRIME CONTROL AND PREVENTION DISTRICT; AND 2) EXTENDING THE TERM OF OFFICE FOR MAYOR AND COUNCIL FROM TWO YEARS TO FOUR YEARS.

Recommendation

Move to adopt the Ordinance as proposed

Discussion

In accordance with the State of Texas Election Code (SEE TEC 67.003, (2019)), the City must adopt an Ordinance calling for the canvassing of the election returns within a certain period of time.

SEE <https://www.sos.texas.gov/elections/forms/canvassing-and-post-election-requirements-presentation.pdf>

Approved By

City Administrator	Gary Palmer	Date: November 08, 2024

ORDINANCE NO. 24-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF MONTGOMERY, TEXAS, SPECIAL ELECTION HELD ON THE 5TH DAY OF NOVEMBER, 2024, 1) FOR THE CREATION OF THE MONTGOMERY CRIME CONTROL AND PREVENTION DISTRICT; AND 2) EXTENDING THE TERM OF OFFICE FOR MAYOR AND COUNCIL FROM TWO YEARS TO FOUR YEARS.

WHEREAS, on August 13, 2024, the City Council of the City of Montgomery, Texas, approved and adopted Ordinance No. 24-_____ ordering a Special Election for the Creation of the Montgomery Crime Control And Prevention District; and Ordinance No. 24-_____ ordering a Special Election for Extending The Term of Office for Mayor and Council from two years to four years; and

WHEREAS, it is hereby found and determined that the notice of the Election was duly given in the form, manner, and time required by law, and was in all respects legally held in accordance with applicable laws of the State of Texas and the proceedings calling and governing the holding of such Election; and

WHEREAS, the presiding judge and/or alternate judge have tallied the votes of the Election and have provided the results to the City Council of the City of Montgomery, Texas.

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

Section 1. THAT the recitals contained herein are true and correct.

Section 2. THAT _____ ballots were cast during early voting and on election day in the Election as follows:

Election: Proposition A*	Precinct	Precinct	Precinct	Precinct	Precinct	Total
For						
Against						
Under Votes:						
Total Ballots Cast:						

***PROPOSITION A:**

THE CREATION OF THE MONTGOMERY CRIME CONTROL AND PREVENTION DISTRICT DEDICATED TO CRIME REDUCTION PROGRAMS, THE ADOPTION OF A PROPOSED SALES AND USE TAX AT A RATE OF 1/4 OF 1%, AND TO MAINTAIN THE SAME OVERALL SALES TAX RATE IN THE CITY, THE REDUCTION OF THE SALES AND USE TAX CURRENTLY LEVIED BY THE MONTGOMERY ECONOMIC DEVELOPMENT CORPORATION FROM A RATE OF 1/2 OF 1% TO 1/4 OF 1%.

Election: Proposition B**	Precinct	Precinct	Precinct	Precinct	Precinct	Total
For						
Against						
Under Votes:						
Total Ballots Cast:						

****PROPOSITION B:**

SHOULD THE TERM OF OFFICE OF THE MAYOR AND CITY COUNCIL BE EXTENDED FROM TWO (2) YEARS TO FOUR (4) YEARS WITH A TRANSITION OF THREE (3) YEAR TERMS BEGINNING WITH THE MAY 2025 ELECTIONS AND FOUR (4) YEAR TERMS FOR EACH SUBSEQUENT ELECTION.

Section 3. THAT the City Council of the City of Montgomery, Texas, has examined the Official Canvass Report as certified by the presiding judge and/or alternate judge and finds no irregularities. A copy of the Official Canvass Report is attached hereto as Exhibit “A.”

Section 4. THAT the Election was held in conformity with the provisions of the *Texas Election Code*, and the results of the election as stated herein are approved and adopted.

Section 5. THAT this Ordinance shall be preserved in the permanent records of the City of Montgomery, Texas.

PASSED, APPROVED and ADOPTED this ____ day of November, 2024.

SIGNED:

Sara Countryman, Mayor

ATTEST:

Diana Titus, Assistant City Secretary

APPROVED AS TO FORM:

Alan P. Petrov
City Attorney

EXHIBIT A

Official Canvass Report

ELECTION CODE

TITLE 6. CONDUCT OF ELECTIONS

CHAPTER 67. CANVASSING ELECTIONS

Sec. 67.001. APPLICABILITY OF CHAPTER. This chapter applies to each general or special election conducted in this state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 67.002. CANVASS OF PRECINCT RETURNS. (a) Except as otherwise provided by law, the precinct election returns for each election shall be canvassed by the following authority:

(1) for an election ordered by the governor or by a county authority, the commissioners court of each county in which the election is held; and

(2) for an election ordered by an authority of a political subdivision other than a county, the political subdivision's governing body.

(b) The canvass of precinct returns shall be conducted in accordance with this chapter except as otherwise provided by this code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 67.003. TIME FOR LOCAL CANVASS. (a) Repealed by Acts 2017, 85th Leg., R.S., Ch. 992 (H.B. 929), Sec. 3, eff. September 1, 2017.

(b) Except as provided by Subsection (c), each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority's presiding officer not later than the 11th day after election day and not earlier than the later of:

(1) the third day after election day;

(2) the date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or

(3) the date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

(c) In an election described by Section 65.051(a-1), the time for the local canvass may be set not later than the 14th day after election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 22, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 31, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 42, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 1316, Sec. 17, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 1, Sec. 3, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 7, eff. October 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 891 (H.B. 985), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 992 (H.B. 929), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 992 (H.B. 929), Sec. 3, eff. September 1, 2017.

Sec. 67.004. PROCEDURE FOR LOCAL CANVASS. (a) At the time set for convening the canvassing authority for the local canvass, the presiding officer of the canvassing authority shall deliver the sealed precinct returns to the authority. The authority shall open the returns for each precinct and canvass them as provided by this section. Two members of the authority constitute a quorum for purposes of canvassing an election.

(b) The canvassing authority shall prepare a tabulation stating for each candidate and for and against each measure:

- (1) the total number of votes received in each precinct; and
- (2) the sum of the precinct totals tabulated under Subdivision

(1).

(b-1) The tabulation in Subsection (b) must also include for each precinct the total number of voters who cast a ballot for a candidate or for or against a measure in the election. The secretary of state shall prescribe any procedures necessary to implement this subsection.

(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority. The authority shall attach or include as part of the tabulation the report of early voting votes by precinct received under Section 87.1231.

(d) The canvassing authority may compare the precinct returns with the corresponding tally list. If a discrepancy is discovered between the vote totals shown on the returns and those shown on the tally list for a precinct, the presiding judge of the precinct shall examine the returns and tally list and make the necessary corrections on the returns.

(e) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the tabulation to the custodian of the local election register unless it is entered directly in the election register. The custodian shall preserve the tabulation for the period for preserving the precinct election records.

(f) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the precinct returns, tally lists, and early voting precinct report used in the canvass to the general custodian of election records. The custodian shall preserve them for the period for preserving the precinct election records.

(g) The presiding officer of the canvassing authority shall note the completion of the canvass in the minutes or in the recording required by Section [551.021](#), Government Code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 114, Sec. 10, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 1.01, 2.51; Acts 1991, 72nd Leg., ch. 554, Sec. 22, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 23, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 32, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. [2309](#)), Sec. 1.14, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 86 (H.B. [1001](#)), Sec. 1, eff. September 1, 2017.

Sec. 67.005. DETERMINING OFFICIAL RESULT OF ELECTION NOT CANVASSED AT STATE LEVEL. (a) Except as provided by Subsection (b), the official result of an election that is not canvassed at the state level is determined from the canvass of the precinct returns conducted by the local canvassing authority.

(b) In an election in which there is more than one local canvassing authority but no canvass at the state level, the official result is determined in the manner prescribed by the law providing for the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 67.006. LOCAL ELECTION REGISTER. (a) An election register shall be maintained for each local canvassing authority.

(b) For each election, the election register must contain in tabulated form the information required to appear in the tabulation of precinct results prepared by the local canvassing authority.

(c) The general custodian of election records for the elections canvassed by a local canvassing authority is the custodian of the authority's election register.

(d) On receipt of the local canvassing authority's tabulation of votes, the custodian shall make the appropriate entries in the election register.

(e) The election register shall be preserved as a permanent record.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 67.007. COUNTY ELECTION RETURNS. (a) For each election for a statewide, district, county, or precinct office, a statewide measure, or president and vice-president of the United States, the county clerk of each county in the territory covered by the election shall prepare county election returns.

(b) The county election returns shall state, for each candidate and for and against each measure, the total number of votes received in the county as stated by the local canvassing authority's tabulation of votes.

(c) The county clerk shall certify the county returns.

(d) Not later than 24 hours after completion of the local canvass, the county clerk shall deliver to the secretary of state, in the manner directed by the secretary, the county returns.

(e) The county clerk shall retain a copy of the county returns for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1130 (H.B. 2628), Sec. 1, eff. September 1, 2019.

Sec. 67.008. SEPARATE COUNTY RETURNS FOR GOVERNOR AND LIEUTENANT GOVERNOR. (a) In addition to the returns required by Section 67.007, each county clerk shall prepare separate county election returns of an election for the office of governor or lieutenant governor that contain the same information as the returns for those offices prepared under Section 67.007.

(b) The returns shall be delivered to the secretary of state as provided by Section 67.007.

(c) The secretary of state shall retain the returns until the first day of the next regular legislative session, when the secretary shall deliver the returns to the speaker of the house of representatives.

(d) The county clerk shall retain a copy of the county returns for the offices of governor and lieutenant governor for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1130 (H.B. 2628), Sec. 2, eff. September 1, 2019.

Sec. 67.009. FORMS AND INSTRUCTIONS FOR COUNTY RETURNS. (a) Before each election for which county election returns are required, the secretary of state shall deliver to each county clerk in the territory covered by the election two copies of the officially prescribed form for reporting county election returns. The secretary shall also deliver two copies of the official form for the separate returns for the offices of governor and lieutenant governor, if applicable.

(b) With the delivery of the official county returns forms, the secretary of state shall deliver written instructions on the preparation and delivery of the county election returns.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1130 (H.B. 2628), Sec. 3, eff. September 1, 2019.

Sec. 67.010. COUNTY RETURNS CANVASSED BY GOVERNOR. (a) The county election returns for an election for a statewide office other than governor or lieutenant governor, a statewide measure, a district office, or president and vice-president of the United States shall be canvassed by the governor.

(b) When this code refers to the presiding officer of the final canvassing authority, the secretary of state is considered to be the presiding officer when the final canvassing authority is the governor.

(c) The canvass of county returns shall be conducted in accordance with this chapter except as otherwise provided by this code.

(d) The presiding officer may make a clerical correction to the officially canvassed returns based on any authorized amended county canvass filed with the presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 18(a), eff. Sept. 1, 1987; Acts 1989, 71st

Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 7, eff. September 1, 2009.

Sec. 67.011. COUNTY RETURNS CANVASSED BY LEGISLATURE. (a) The county election returns for an election for the office of governor or lieutenant governor shall be canvassed by the legislature and the official result declared by the speaker of the house of representatives in accordance with Article IV, Section 3, of the Texas Constitution.

(b) If a county's election returns are incomplete or missing, the legislature may substitute the secretary of state's tabulation for that county or may obtain the necessary information from the county. On request of the legislature, the secretary of state or the county shall promptly transmit the information to the legislature by the most expeditious means available.

(c) On completion of the canvass, the speaker of the house of representatives shall deliver the county returns to the secretary of state, who shall retain them for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 24, eff. Sept. 1, 1993.

Sec. 67.012. TIME FOR CANVASS BY GOVERNOR. (a) The governor shall conduct the state canvass at the time set by the secretary of state:

(1) not earlier than the 15th or later than the 30th day after election day; or

(2) for an election described by Section 65.051(a-1), not earlier than the 18th or later than the 33rd day after election day.

(b) The secretary of state shall post, on the secretary of state's Internet website, a notice of the date, hour, and place of the canvass at least 72 hours before the canvass is conducted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 6(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 728, Sec. 25, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 891 (H.B. 985), Sec. 4, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1052 (H.B. 933), Sec. 8, eff. September 1, 2019.

Sec. 67.013. PROCEDURE FOR CANVASS BY GOVERNOR. (a) At the time set for the state canvass, the secretary of state shall deliver the county returns to the governor.

(b) The secretary of state shall prepare a tabulation stating for each candidate and for and against each measure required to be canvassed by the governor:

- (1) the total number of votes received in each county; and
- (2) the sum of the county totals tabulated under Subdivision (1).

(c) At the canvass of an election in which the office of governor or lieutenant governor is voted on, the secretary of state shall prepare a separate tabulation on the candidates for governor and lieutenant governor, indicating for each candidate the information required by Subsection (b).

(d) The governor shall certify the tabulations.

(e) The secretary of state shall retain the county election returns used in the canvass and the tabulations for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989.

Sec. 67.014. DETERMINING OFFICIAL RESULT OF ELECTION CANVASSED AT STATE LEVEL. The official result of an election canvassed by the governor or by the legislature is determined from the canvass of the county returns conducted by that authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989.

Sec. 67.015. STATE ELECTION REGISTER. (a) An election register shall be maintained for the governor.

(b) Except as provided by Subsection (e), for each election the election register shall contain in tabulated form the information required to appear in the tabulations of the county results prepared by the secretary of state.

(c) The secretary of state is the custodian of the election register for the governor.

(d) After each canvass conducted by the governor, the secretary of state shall make the appropriate entries in the election register.

(e) If a discrepancy exists between the legislature's canvass of the election for governor or lieutenant governor and the register entries pertaining to either of those offices that are made from the secretary of state's tabulation, the secretary shall make the entries in the register necessary to make it correspond to the legislature's canvass.

(f) The election register shall be preserved as a permanent record of the state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989.

Sec. 67.016. CERTIFICATE OF ELECTION. (a) After the completion of a canvass, the presiding officer of the local canvassing authority shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority's canvass.

(b) The governor shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by the canvass conducted by the governor.

(c) A certificate of election must contain:

- (1) the candidate's name;
- (2) the office to which the candidate is elected;
- (3) a statement of election to an unexpired term, if applicable;
- (4) the date of the election;
- (5) the signature of the officer preparing the certificate; and
- (6) any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

(d) After the canvass of a presidential election, the secretary of state shall prepare a certificate of election for each presidential elector candidate who is elected.

(e) The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to Section [212.0331](#).

(f) A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

(g) This section does not apply to the offices of governor and lieutenant governor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 2, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 1144, Sec. 1, eff. Sept. 1, 2001.

Sec. 67.017. REPORTING PRECINCT RESULTS TO SECRETARY OF STATE. (a) After each election for a statewide office or the office of United States representative, state senator, or state representative, a district office, a county office, or a precinct office, the county clerk shall prepare a report of the number of votes, including early voting votes cast by mail and early voting votes cast by personal appearance, received in each county election precinct for each candidate for each of those offices. In a presidential election year, the report must include the number of votes received in each precinct for each set of candidates for president and vice-president of the United States.

(b) The county clerk shall deliver the report to the secretary of state not later than the 30th day after election day in an electronic format prescribed by the secretary of state.

(c) The report may be:

- (1) an electronic copy of the precinct returns;
- (2) an electronic copy of the tabulation prepared by the local canvassing authority; or
- (3) in any other electronic form approved by the secretary of state.

(d) The secretary of state shall preserve a report received under this section for 10 years unless the secretary prepares a written tabulation of the information contained in the report received. In that case, the secretary shall preserve the original report for two years and the tabulation for 10 years after receipt of the original report.

(e) After the applicable preservation period prescribed by Subsection (d) expires, the secretary of state shall transfer the report or tabulation to the state library.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 2(c), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 114, Sec. 11, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.52; Acts 1991, 72nd Leg., ch. 554, Sec. 23, eff. Sept. 1, 1991. Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.15(a), eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1131 (H.B. 2640), Sec. 1, eff. September 1, 2019

Putting It All Together

For November 5, 2024 Election:

- **Monday, Friday, November 8, 2024:** First day to canvass (if no more ballots can be counted)
- **Tuesday, November 12, 2024:** Last day that certain ballots can arrive or be accepted and still be valid
- **Monday, November 18, 2024:** Deadline for EVBB to qualify and count all ballots
- **Tuesday, November 19, 2024:** Last day to canvass



Montgomery City Council
AGENDA REPORT

Meeting Date: November 12, 2024	Budgeted Amount: See Below
Department: Administration	Prepared By: Maryann Carl

Subject

Consideration and possible action approving projects to be funded from the American Rescue Plan Act funds.

Recommendation

Approve the two projects presented below.

Discussion

As a recap, the City received a total of \$337,654.89 in ARPA funds and these funds must be obligated by December 31, 2024, or the City will be required to return the money to the Federal Government.

City staff and engineers have been working with GrantWorks to identify Capital Projects from our current list that meet the eligibility criteria for funding under the American Rescue Plan Act.

The following two projects under Priority 2 of the attached 2025 CIP Snapshot meet the criteria and are presented for approval:

- College Street Drainage Improvements, estimated cost of \$250,000**

These ARPA funds will be used to construct a drainage system along the City of Montgomery's College Street. With the impact of flooding along the street, the City will be able to effectively channel the flow of flood water with newly constructed drainage ditches. As both an emergency relief mitigation response and general government service, this project will provide the City's residents with floodwater control and abatement.
- Water Plant No. 3 Booster Pump Addition, estimated cost of \$125,000**

These ARPA funds will be used to purchase and install a booster pump at the City of Montgomery's Water Plant No. 3 to improve the water pressure within the City's water system. As a general government service and infrastructure need, the booster pump will improve the delivery of drinking and potable water to the City's water system.

Approved By		
Finance Director	Maryann Carl	Date: 11/7/2024
City Administrator	Gary Palmer	Date: 11/7/2024

**City of Montgomery
FYE 2025 CIP Snapshot
07/09/2024**

Priority	Project	Construction Costs	Total Costs	City Portion	Developer Portion	\$ Amount Eligible for Impact Fee Funding
1	Water Plant No. 2 Improvements ^{2,4,5}	\$ 2,449,950	\$ 2,679,450	\$ 2,679,450	\$ -	\$ 696,657
	FM 1097 Sanitary Sewer Replacement ²	\$ 146,000	\$ 189,800	\$ 189,800	\$ -	\$ -
	Water Plant No. 4 - Design Only ¹	\$ 400,000	\$ 400,000	\$ 400,000	\$ -	\$ 400,000
	Town Creek WWTP 0.3 MGD - Design Only ¹	\$ 600,000	\$ 600,000	\$ 600,000	\$ -	\$ 600,000
	East Lone Star Parkway Waterline Extension (MISD) ¹	\$ 224,400	\$ 224,400	\$ 75,000	\$ 149,400	\$ 75,000
Priority 1 Total Fiscal Costs		\$ 3,820,350	\$ 4,093,650	\$ 3,944,250	\$ 149,400	\$ 1,771,657
2	College St. Drainage Improvements	\$ 180,000	\$ 250,000	\$ 250,000	\$ -	\$ -
	Water Plant No. 3 Booster Pump Addition	\$ 125,000	\$ 165,000	\$ 165,000	\$ -	\$ 165,000
	Town Creek Drainage Improvements	TBD	\$ -	\$ -	\$ -	\$ -
	City Wide Drainage Assessment	\$ 35,000	\$ 35,000	\$ 35,000	\$ -	\$ -
Priority 2 Total Fiscal Costs		\$ 340,000	\$ 450,000	\$ 450,000	\$ -	\$ 165,000
3	Water Plant No. 2 Bleach Conversion ¹	\$ 170,000	\$ 221,000	\$ 221,000	\$ -	\$ -
	Water Plant No. 3 Bleach Conversion ¹	\$ 170,000	\$ 221,000	\$ 221,000	\$ -	\$ -
	Lift Station No. 3 Phase 1 Improvements ²	\$ 125,000	\$ 162,500	\$ 162,500	\$ -	\$ -
Priority 3 Total Fiscal Costs		\$ 465,000	\$ 604,500	\$ 604,500	\$ -	\$ -
4	Buffalo Springs Roadway and Signal Improvements (Home Depot) ³	\$ 1,437,695	\$ 1,437,695	\$ -	\$ 1,437,695	\$ -
	Old Plantersville Waterline (Redbird Meadows Development)	\$ 722,000	\$ 979,200	\$ -	\$ 979,200	\$ -
	Lift Station No. 5 Phase 1 Improvements ² (Tri-Pointe Development)	\$ 1,193,000	\$ 1,550,900	\$ 1,054,612	\$ 496,288	\$ -
	West Lone Star Parkway Waterline Loop (Tri-Pointe Development)	\$ 337,000	\$ 404,000	\$ -	\$ 404,000	\$ -
	Tri Pointe Waterline Upsizing	\$ 85,000	\$ 85,000	\$ 85,000	\$ -	\$ -
	Morning Cloud Force Main Extension (Morning Cloud Development)	\$ 490,000	\$ 637,000	\$ -	\$ 637,000	\$ -
Priority 4 Total Fiscal Costs		\$ 4,264,695	\$ 5,093,795	\$ 1,139,612	\$ 3,954,183	\$ -
TOTAL FISCAL YEAR COSTS		\$ 10,241,945	\$ 12,275,040	\$ 9,638,712	\$ 4,103,583	\$ 1,936,657

Priority Level	Project Costs
1 Required to maintain normal City operations	\$4,093,650
2 Suggested projects that reduce risk of future failure/necessary upgrade	\$450,000
3 Recommended project that does not implicate capacity	\$604,500
4 Set aside money/Developer driven	\$5,093,795

Impact Fee Balance	
Current Balance As Of 6/5/2024	\$726,484
Projected Balance with Additional Deposits for FY 2025	\$2,664,834
Projected Remaining Balance After FY 2025 Eligible Expenses	\$728,177

Montgomery City Council
AGENDA REPORT

Meeting Date: November 12, 2024	Budgeted Amount: N/A
Department: Police Department	Prepared By: Anthony Solomon

Subject

Consideration and possible action on **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 86, TRAFFIC AND VEHICLES, ARTICLE VII, TOWING SERVICES, TO UPDATE THE DEFINITIONS, FEE SCHEDULE, WRECKER SERVICE ROTATION LIST GUIDELINES; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING AN ENFORCEMENT CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND OPEN MEETING; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR OTHER RELATED MATTERS.**

Recommendation

Approve the resolution as presented.

Discussion

The Police Department is updating the Towing Services ordinance to include the specific permit application fee amounts and update the maximum allowable fees charged by wrecker companies, as per the 2023 biennial adjustment. Guidelines have been reorganized. This will make the ordinance more readable and understandable.

Approved By

Chief of Police	Anthony Solomon	Date: November 7, 2024
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ORDINANCE NO. 2024-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 86, TRAFFIC AND VEHICLES, ARTICLE VII, TOWING SERVICES, TO UPDATE THE DEFINITIONS, FEE SCHEDULE, WRECKER SERVICE ROTATION LIST GUIDELINES; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING AN ENFORCEMENT CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND OPEN MEETING; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR OTHER RELATED MATTERS.

WHEREAS, the City of Montgomery, Texas (“City) is a Type A General Law Municipality; and,

WHEREAS, the State of Texas, Occupations Code Chapter 2308 authorizes a municipality to regulate private operators of a tow truck engaged in the practice of vehicle towing and booting within the areas regulated by the municipality for traffic and parking; and,

WHEREAS, the City Council of the City of Montgomery, Texas (“City Council”) previously adopted Ordinance No. 2011-13 establishing towing services rules and regulations; and then adopted Ordinance No. 2021-09 amending the rotation guidelines and definitions; and,

WHEREAS, the City Police Department seeks to further update the City’s towing services regulations in the City’s Code of Ordinances to address necessary updates in definitions, fees, guidelines, and related matters; and,

WHEREAS, the provisions herein are necessary to preserve consumer protection, fair pricing, safe operations and uniform fairness in the operation of towing services within the City’s jurisdiction, and to protect the public’s interest; and,

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

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

SECTION 2. Amendment to the City of Montgomery Code of Ordinances. In accordance with Chapter 1 of the City of Montgomery Code of Ordinances the following provision is hereby amended in its entirety to read as follows:

Article VII. – TOWING SERVICES

Sec. 86-236. - Definitions.

The following words, terms, and phrases, when used in this article, shall have meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this article. The word "person" means any human being or legal entity and includes a corporation, a partnership, and an incorporated or unincorporated association. Definitions or terms not set out below are defined in 16 Tex. Admin. Code 85.10 and 86.10 (2018).

Abandoned motor vehicle has the same meaning as assigned by Section 683.002, Texas Transportation Code.

City means the City of Montgomery, Texas.

Consent tow means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or an incident management tow, a traffic incident that involves the vehicle or a private property tow.

Driver's license has the same meaning as assigned by Section 521.001, Texas Transportation Code.

Incident management tow means any tow of a vehicle in which the wrecker is summoned to the scene of a traffic accident or incident, including the removal of a vehicle, commercial cargo, and commercial debris from a collision or incident scene.

Junked vehicle has the same meaning as assigned by Section 683.071, Texas Transportation Code.

Nonconsent tow means any tow of a motor vehicle that is not a consent tow, including an incident management tow, and a private property tow. Examples include, but are not limited to, vehicles involved in traffic crashes, traffic hazards, arrests, vehicles of evidentiary value, and abandoned vehicles on public or private property.

Private property tow means any tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

Public roadway means a public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

Special circumstance tow means a rotation tow that is a result of an incident lead by a City of Montgomery Peace Officer, such as a pursuit or a vehicle recovery beyond the city's boundaries. The tow may result in extensive tow miles or special tools/equipment required for recovery.

TDLR means the Texas Department of Licensing and Regulation.

Tow truck means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term tow truck does not include vehicles defined by Section 2308.002 (11) of the Texas Occupations Code.

Vehicle Storage Facility (VSF) means a garage, parking lot, or other facility owned or operated by a person other than a governmental entity for storing or parking 10 or more vehicles per year without the consent of the vehicle owner.

Wrecker service means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in the State of Texas.

Sec. 86-237. – Wrecker service rotation list guidelines.

The City Council, in collaboration with the City Police Chief, hereby adopts and establishes guidelines specifically for wrecker services that have voluntarily requested and agreed to be included in the city's

voluntary wrecker service rotation list. These guidelines exclusively apply to the voluntary wrecker service rotation list and are appended to the ordinance from which this section originates, labeled as exhibit 'A,' and incorporated herein by reference for all purposes. A current copy of these guidelines will be maintained on file in the office of the City Secretary and the office of the Chief of Police. Any individual desiring participation in the voluntary wrecker service rotation list must submit an application packet (which includes fees and supplemental required documentation) to the City Police Department, expressing their intent to be placed on the voluntary rotation list, and must fully adhere to all terms and conditions outlined in the guidelines.

Sec. 86-238. – Offenses.

A person, firm, or corporation commits an offense if:

- (1) a person intentionally or knowingly solicits a non-consent tow in any manner, directly or indirectly, on the streets of the city involving any motor vehicle that is damaged as the result of a collision on a public street; or,
- (2) a person, firm, or corporation arrives at the scene or enters the scene of a traffic collision, traffic incident or other area under the control of a peace officer without the permission of the peace officer, to perform a nonconsent tow of a motor vehicle without first being contacted by the city police department; or,
- (3) a person, firm, or corporation directly or indirectly solicits, on streets located in the city, towing services, including towing, removing, repairing, wrecking, storing, trading, selling, or purchasing related to a vehicle that has been damaged in a collision to the extent that it cannot be normally and safely driven.

Sec. 86-239. Affirmative defense.

It is an affirmative defense to prosecution under any provision of this article that:

- (1) the tow truck is owned by the motor vehicle owner of the vehicle being towed, carried, or otherwise transported by the tow truck; or,
- (2) the motor vehicle being towed, carried or otherwise transported by the tow truck was originally picked up or loaded onto the tow truck at a specific location within the city; or,
- (3) the motor vehicle was being towed by the tow truck pursuant to a request by the lien holder of the motor vehicle; that the towing was incidental to a lawful repossession of the vehicle; and that the tow truck driver has complied with all requirements of this section which would be applicable if the lien holder were the vehicle owner of the vehicle being towed.
- (4) the motor vehicle was not disabled as a result of a collision.

Sec. 86.240. – Violation; penalties.

In any prosecution for a violation of this article, proof that the tow truck was present at the scene of an accident shall constitute prima facie evidence that the tow truck driver was operating or causing to be operated the tow truck to solicit business, but the person charged shall have the right to introduce evidence to prove that the motor vehicle owner requested a tow truck to come to the scene or that a police officer requested the tow truck for the vehicle owner.

Any person, firm, or corporation violating any provision of this article or failing to comply with any requirement of this article will be guilty of a misdemeanor, and subject to a fine as provided in the City of Montgomery Code of Ordinance Chapter 1, Section 1-13.

SECTION 3. Severability clause. If any section, subsection, sentence, clause, phrase or portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such portion shall

be deemed a separate, distinct, and independent provision, and such holding shall not affect any of the remaining provisions of this ordinance.

SECTION 4. Repealing clause. All other ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance on all ordinances or sections of the City Code not specifically amended or repealed shall remain in full force and effect.

SECTION 5. Effective date. Because this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Texas Local Government Code §52.011 (Type A), which date is expected to be _____.

PASSED AND APPROVED by the City Council of the City of Montgomery, Texas, on this _____th day of _____, 2024.

CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTEST:

_____, City Secretary

APPROVED AS TO FORM:

Alan P. Petrov, City Attorney

EXHIBIT A

CITY OF MONTGOMERY (TEXAS) POLICE DEPARTMENT VOLUNTARY WRECKER SERVICE ROTATION LIST GUIDELINES

The following guidelines apply to wrecker services voluntarily requesting placement on the City of Montgomery Police Department Voluntary Wrecker Service Rotation List (“Rotation List”). These guidelines pertain exclusively to the Rotation List.

These guidelines may be amended at any time, for any reason, at the sole discretion of the City of Montgomery Chief of Police. Current participants on the Rotation List will receive fifteen (15) days’ notice via regular mail to the address listed on their application.

I. Definitions.

The following words, terms, and phrases, when used in this article, shall have meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this article. The word "person" means any human being or legal entity and includes a corporation, a partnership, and an incorporated or unincorporated association. Definitions or terms not set out below are defined in 16 Tex. Admin. Code 85.10 and 86.10 (2018).

Abandoned motor vehicle has the same meaning as assigned by Section 683.002, Texas Transportation Code.

City means the City of Montgomery, Texas.

Consent tow means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or an incident management tow, a traffic incident that involves the vehicle or a private property tow.

Driver’s license has the same meaning as assigned by Section 521.001, Texas Transportation Code.

Impoundment means if doors, windows, convertible tops, hatchbacks, sunroofs, trunks, or hoods are broken or inoperative, materials such as plastic or canvas tarpaulins must be used to ensure the protection of the stored car. To charge the impoundment fee, the vehicle storage facility (VSF) must also do at least one of the following:

- conduct a written inventory of any unsecured personal property contained in the car; or
- remove and store all such property for which safekeeping is necessary, and specifies such removal and storage on the written inventory; or
- obtain the motor car registration information for the car from the Texas Department of Motor Vehicles or analogous state agency.

Incident management tow means any tow of a vehicle in which the wrecker is summoned to the scene of a traffic accident or incident, including the removal of a vehicle, commercial cargo, and commercial debris from a collision or incident scene.

Junked vehicle has the same meaning as assigned by Section 683.071, Texas Transportation Code.

Nonconsent tow means any tow of a motor vehicle that is not a consent tow, including an incident management tow, and a private property tow. Examples include, but are not limited to, vehicles involved in traffic crashes, traffic hazards, arrests, vehicles of evidentiary value, and abandoned vehicles on public or private property.

Private property tow means any tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

Public roadway means a public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

Special circumstance tow means a rotation tow that is a result of an incident lead by a City of Montgomery Peace Officer, such as a pursuit or a vehicle recovery beyond the city's boundaries. The tow may result in extensive tow miles or special tools/equipment required for recovery.

TDLR means the Texas Department of Licensing and Regulation.

Tow truck means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term tow truck does not include vehicles defined by Section 2308.002 (11) of the Texas Occupations Code.

Vehicle Storage Facility (VSF) means a garage, parking lot, or other facility owned or operated by a person other than a governmental entity for storing or parking 10 or more vehicles per year without the consent of the vehicle owner.

Wrecker service means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in the State of Texas.

II. Wrecker service provider qualifications.

- A. Any wrecker service provider requesting to be added to the Rotation List must have an established wrecker service with its primary business office and vehicle storage facility located within the city limits of the City of Montgomery or its extra territorial jurisdiction.
- B. Two or more wrecker service providers sharing common ownership may not appear more than once on the Rotation List. For this purpose, two or more wrecker service providers are considered to be under common ownership if: 1) one wrecker service provider is a wholly owned subsidiary of the other; or 2) the wrecker service provider shares a common place of business within the city and/or have one or more common owners.
- C. All wrecker service providers must own and/or operate a licensed vehicle storage facility (VSF) to be placed on the Rotation List and may not "share" a storage lot with other wrecker service providers resulting in more than one wrecker service provider storing vehicles in a common location.

- D. Any vehicle being towed as a result of the Rotation List will be towed to a City approved VSF and may not be moved from that VSF.
- E. Wrecker service must provide 24-hour service, 7 days a week.
- F. Wrecker service must have a phone number that will be answered 24 hours a day, 7 days a week.

III. Wrecker service provider application packet; procedure.

A person or other legal entity interested in participating on the Rotation List within the city must submit a written application to the Montgomery Police Department. The application form is attached hereto. The application form provided by the Montgomery Police Department must be completed and signed by the applicant or the legal representative of the wrecker service. The application must be accompanied by all required documentation and fees as specified herein.

By submitting an application to the Montgomery Police Department for inclusion on the Rotation List, a wrecker service provider agrees to participate in the Rotation List established in these guidelines, adhere to all federal, state, and local laws, and uphold the terms and conditions outlined herein, as well as comply with Title 16, Chapters 85 and 86 of the Texas Administrative Code and the guidelines set forth in Chapter 2308 of the Texas Occupations Code.

- A. Submit a completed and signed Voluntary Wrecker Service Rotation List application packet. A complete packet must include the following:
 - 1. Voluntary Wrecker Service Rotation List application, including but not limited to the following supplemental information:
 - Proof of State of Texas license to operate a vehicle storage facility at the address listed on the application.
 - Statement: storage lot will maintain twenty-four-hour-on-duty service for the release of motor vehicles
 - Proof of either Worker's Compensation or Occupational Insurance for each wrecker service driver.
 - 2. Wrecker Service Vehicle application, including but not limited to the following supplemental information:
 - Nonrefundable, nonproratable application fee of \$100 for each wrecker service vehicle to be used in the City. This shall constitute a registration of the specific vehicle and no other vehicle may be used without the written approval of the Montgomery Police Department.
 - Present proof of ownership of each vehicle(s).
 - Present proof of State of Texas Certificate of registration of each vehicle(s).
 - Present proof of public liability and property damage policy or certificate of insurance issued by a casualty insurance company authorized to do business in the state of Texas and the form approved by the board of insurance commissioners of the state of Texas with the coverage provision insuring the public from loss or damage that may arise for any person or property by reason of the operation of a wrecker of such company and providing that the amount of recovery of each wrecker shall be in limits of not less than the following sums:
 - o \$300,000 For damages arising out of bodily injury to or death of one person in any one accident.
 - o \$100,000 for injury to or destruction of property in any one accident

3. Wrecker Service Driver application, including but not limited to the following supplemental information:
- Nonrefundable, nonproratable application fee of \$15 for each wrecker service driver.
 - Proof of current Texas Driver's License.
 - Criminal background check.
 - Fingerprint card for each applicant.
 - Two (2) current photos for each applicant (front and profile).

- B. Every year, a new Rotation List will be opened for ALL current participants and those requesting to participate must submit a new application with supporting documents and fees during the enrollment period. The enrollment period for the new Rotation List will be from January 2nd to February 2nd of the enrollment year. (The initial enrollment year was January 2012.)

All application packets are due within the enrollment period for possible participation on the Rotation List for the year term. Application packets submitted after the enrollment period will not be accepted.

- C. A participant's position and placement on the Rotation List is not transferrable.
- D. The Rotation List shall include a maximum of five (5) wrecker services.
- E. In the event the wrecker service desires to change, replace or add a vehicle(s) during the enrollment year, a new Wrecker Service Vehicle application packet must be completed (including fee).
- F. In the event the wrecker service desires to change, replace, or add a driver during the enrollment year, a new Wrecker Service Driver application must be completed (including fee).

IV. Wrecker service provider; duties and responsibilities.

- A. Each approved Rotation List wrecker service provider has a duty to respond to the scene within twenty (20) minutes from the first call from the City of Montgomery Police Department.
- B. A Rotation List wrecker service provider who is summoned and fails to respond to the scene within twenty (20) minutes from the first call placed by the City of Montgomery Police Department, at the discretion of the requesting City of Montgomery Police Officer, will be passed over and the next Rotation List wrecker service provider will be summoned.
- C. It is a violation of these guidelines if another wrecker service attempts to substitute and to perform the duties of the originally summoned wrecker service.
- D. If a Rotation List wrecker service provider who is summoned and fails to respond (up to 4 times within a 30-day period) to the scene within twenty (20) minutes, the violating wrecker service provider may be stricken from the Rotation List for a term to be determined by the Chief of Police or his designee.
- E. All vehicles towed as a result of a rotation call will be towed to the City of Montgomery approved VSF for that wrecker service on file with Montgomery Police Department.

- F. At the discretion of the City of Montgomery Police Officer on scene and with the exception of those vehicles which are part of an ongoing law enforcement investigation, a vehicle owner may request a particular tow location. The Rotation List wrecker service driver will agree to take the vehicle to that location designated by the vehicle owner. The address where the vehicle is taken must match the address on the Montgomery Police Department Tow Slip. If the location where the vehicle owner requests the vehicle towed is closed, the vehicle will be taken to the city approved VSF.
- G. It is the responsibility of the Rotation List wrecker service provider to ensure the City of Montgomery Police Officer is provided with the most current and accurate detailed information regarding a towed vehicle's location.
- H. Before any towed vehicle is transferred/transported from one location to another, the wrecker service must give the owner or owner's representative notice of the fee to be charged for such transfer. Any removal/transfer of a vehicle from a vehicle storage facility must be done in compliance with Title 16, §85.710 of the Texas Administrative Code.
- I. A wrecker service summoned from the Rotation List to remove a junked vehicle, as set forth by municipal court order will submit the fee to the city of Montgomery. The fee will be in accordance with the fees set forth herein. The junked vehicle will be delivered to a salvage yard or other location for destruction as provided by the municipal court order and state law and the wrecker driver is required to notify Montgomery Police Department of what location the vehicle was taken. If the wrecker service chooses to take the junked vehicle to a salvage yard with no charge billed for the service to the City, the wrecker service waives said tow fee, the wrecker service will remain next on the voluntary wrecker rotation list. In order to do so, the wrecker service will notify the requesting Montgomery Police Officer of this election.
- J. All vehicle storage facilities (VSF) will comply with the guidelines and laws set forth by the Texas Department of Licensing and Regulation, Title 16, Chapter 85 of the Texas Administrative Code, by voluntarily participating on the Rotation List, all participants hereby authorize a duly authorized representative of the Chief of Police to inspect their VSF. All VSF facilities are required to have all signs posted in accordance with §85.706 of the Texas Administrative Code.
- K. For safety and efficiency reasons, all wrecker services participating on the Rotation List are required to have the following safety devices and tools on each truck: 5 lb fire extinguisher, size appropriate shovel, broom, size appropriate bucket, and appropriate amount of sand. By participating on the Rotation List all participants hereby authorize any member of the Montgomery Police Department to inspect the tow trucks used for the required safety devices and tools.
- L. Any wrecker service, by voluntarily requesting to participate on Rotation List hereby authorizes the Chief of Police or his designee to review all tow slips and receipts pertaining to the tows initiated by the use of the Rotation List. Upon notice, the wrecker service will provide the tow slips and receipts for inspection to the Montgomery Police Department within ten (10) days.
- M. Each wrecker service will notify dispatch if they will not be responding to a scene or will be out of service for any extended length of time.

V. Voluntary Wrecker Rotation List

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

VI. Wrecker service vehicle; technical requirements.

In accordance with 16 Tex. Admin. Code §86.1000 –

- (a) Each tow truck shall:
 - (1) have a legible manufacturer's data plate indicating the capacity of the boom, the winch or the carry mechanism; or
 - (2) have a document in the truck from the manufacturer stating the capacity of the boom, the winch and the carry mechanism.
- (b) Every hydraulic line on each tow truck must be free of leaks and be in good working condition free of defects.
- (c) The winch must not exceed the capacity of the boom or leak oil.
- (d) The cables must be as specified by the manufacturer and be in good condition, within manufacturer guidelines.

In accordance with 16 Tex. Admin. Code §86.701 –

- (a) A tow truck TDLR permit holder must display on each TDLR permitted tow truck:
 - (1) the TDLR permit holder's name;
 - (2) the TDLR permit holder's publicly listed telephone number;
 - (3) the city and state where the TDLR permit holder is located; and
 - (4) the TDLR permit number for the tow truck.
- (b) The information required to be displayed must be:
 - (1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and
 - (2) permanently affixed in conspicuous places on both sides of the tow truck.

VII. Wrecker service driver; City permit.

A City of Montgomery Wrecker Driver identification card will be issued at the discretion of the Chief of Police or his designee after a review of the driver application, including the supporting documents and the applicant's criminal background check.

Upon approval, the City of Montgomery Wrecker Driver identification card must be worn and visible at all times when operating in the City of Montgomery.

A City of Montgomery Wrecker Driver identification card may be revoked by the Chief of Police or his designee for any violation of the law, the Rotation List guidelines, driver misconduct, or any other action or inaction deemed inappropriate by the Chief of Police or his designee.

VIII. Wrecker service driver; technical requirements.

In accordance with 16 Tex. Admin. Code §86.1001 –

- (a) Towing operators, as a condition of their TDLR license must comply with the protective clothing policy.
- (b) Towing operators must wear a reflective vest, shirt, or reflective jacket at all times while working outside the tow truck; the reflective vest, shirt, or reflective jacket must meet the ANSI/ISEA requirements for high visibility safety apparel at all times when using or assisting in the use or operation of a licensed tow truck on a road or road related area.
- (c) When performing towing operations, all tow truck operators must carry and openly display the appropriate TDLR issued original towing operator license.

IX. Towing fees; other charges.

An approved wrecker service provider summoned from the Rotation List is authorized to collect a maximum fee from the motor vehicle owner. Such maximum fee is applicable regardless of whether or not the vehicle is towed from public or private property and shall be considered complete compensation for all services rendered in connection with the performance of the tow, cleanup, and removal of wreckage debris resulting from an accident involving the towed vehicle. No additional fees, charges, costs, etc. may be attached to the towing of the vehicle.

- A. Light duty motor vehicle tow for an accident-related incident - \$250.00
- B. Light duty motor vehicle tow for an arrest-related incident - \$200.00
- C. Fuel surcharge will not be charged by the wrecker service unless the cost of fuel exceeds \$4.00 per gallon (in the City of Montgomery, Texas) for a period of thirty (30) days at which time the City of Montgomery Chief of Police or his designee MAY issue written authorization to the wrecker services on the Rotation List for a fuel surcharge.
- D. If a motor vehicle owner requests for a specific wrecker service provider, it will be at the discretion of the on-scene police officer. The vehicle owner requesting a specific wrecker service provider is responsible for all fees incurred.
- E. If a motor vehicle owner requests a Rotation List wrecker service provider to tow their vehicle to a location other than the City approved VSF (except for those vehicles involved in an ongoing law enforcement investigation), the tow fee is \$250.00 (accident related incident) or \$200.00 (arrest related incident). The Rotation List wrecker service provider may assess a fuel charge not to exceed \$5.00 per mile for towed miles outside the City of Montgomery limits.
- F. Daily storage fee. Per the 2023 biennial adjustment, the maximum amount that a VSF may charge for a daily storage fee is as follows:
 - (1) Vehicle that is 25 feet or less in length: \$22.85.
 - (2) Vehicle that exceeds 25 feet in length: \$39.99.
- G. Impoundment fee. Per the 2023 biennial adjustment, the maximum amount that a VSF may charge for an impoundment fee is \$22.85. If the VSF charges a fee for impoundment, the written bill for services must specify the exact services performed for that fee and the dates those services were performed.

X. Special circumstances.

If a tow requires special circumstances in and/or for towing the vehicle, the driver will provide whatever services are required and the wrecker service owner will call the Chief of Police designee the next day and explain the special circumstances to request additional charges which may be approved solely at the discretion of the designee of the Chief of Police.

XI. Compliance

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

RESOLUTION NO. 2024 - _____

A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS, APPROVING AN EXPENDITURE TO CONTRIBUTE TO THE CONSTRUCTION OF A WATER MAIN FOR MONTGOMERY INDEPENDENT SCHOOL DISTRICT’S CAREER AND TECHNICAL EDUCATION (CTE) CAMPUS DEVELOPMENT; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Montgomery Economic Development Corporation ("EDC") is a Type B Economic Development Corporation, of the City of Montgomery, Texas (the "City"), organized and operated pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, Subsection 505.158, Texas Local Government Code, requires that a Type B Corporation authorized by a city with a population of 20,000 or less that approves a project requiring an expenditure of \$10,000 or more may not undertake the project until the governing body of the city adopts a resolution authorizing the project after giving the resolution at least two separate readings; and

WHEREAS, Subsection 505.158(a), Texas Local Government Code defines an authorized "project" for a Type B Economic Development Corporation created by a city with a population of 20,000 or less to include expenditures found by the corporation's board of directors to promote new or expanded business development; and

WHEREAS, pursuant to Section 501.073, Texas Local Government Code, the City will approve all programs and expenditures of the EDC and annually review the financial statements of the corporation; and

WHEREAS, the Board of Directors of the EDC has approved a \$75,000.00 contribution toward the construction and oversizing of a City water main related to Montgomery Independent School District’s CTE campus development; and

WHEREAS, the City Council found that the project would promote new or expanded business enterprises in and near the City of Montgomery; and

WHEREAS, the action authorized by this Resolution is in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out of the authority granted by law to the City and the EDC;

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

I.

The City Council hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the Council hereby incorporates such recitals as a part of this Resolution.

II.

This Resolution shall be and is hereby cumulative of all other resolutions of the City and this resolution shall not operate to repeal or affect any such other resolutions except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this resolution, in which event such conflicting provisions, if any, in such other resolution or resolutions are hereby repealed.

III.

If any section, subsection, sentence, clause or phrase of this resolution shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this resolution.

IV.

This resolution shall become effective and be in full force and effect from and after the date of passage and adoption by the City Council of the City of Montgomery, Texas, and upon approval thereof by the Mayor of the City of Montgomery, Texas and publication hereof as prescribed by law.

PASSED AND ADOPTED by the City Council of the City of Montgomery, Texas this ____ day of _____, 2024.

THE CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTESTED TO:

Diana Titus, Assistant City Secretary

APPROVED AS TO FORM:

City Attorney

**Montgomery City Council
AGENDA REPORT**

Meeting Date: November 12, 2024	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Second reading and possible action on A RESOLUTION OF THE CITY OF MONTGOMERY, TEXAS, APPROVING AN EXPENDITURE TO CONTRIBUTE TO THE CONSTRUCTION OF A WATER MAIN FOR MONTGOMERY INDEPENDENT SCHOOL DISTRICT’S CAREER AND TECHNICAL EDUCATION (CTE) CAMPUS DEVELOPMENT; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Recommendation

After the ordinance caption has been read and deliberation concluded, staff recommends a motion to adopt the Resolution as presented.

Discussion

This is the second required reading of the Resolution authorizing the MEDC to expend \$75,000 in funds on behalf of the city related to the city’s commitment to fund a portion of the MISD’s cost for a water main extension required by city ordinance. The first reading of the ordinance was at the 10/22 meeting. Staff’s memo text from that meeting is included below for reference:

The City Council approved funding \$75,000 of the project cost associated with a watermain installation on MISD’s CTE campus that is currently under construction along Lone Star Parkway. As discussed at the time, this segment of waterline plays a necessary role in the overall design and operation of the city’s water system.

As you are aware, the city’s operating budget does not include unallocated funds for this type of expense. In reviewing options, staff discussed the project with the MEDC Board to determine if this aligned with their goals and resources. The MEDC Board approved funding the project at their 8/20/24 meeting.

Legal guidance for the project type and expense amount is to approve it through a resolution given two readings at separate meetings. Tonight is the first reading. The second reading and subsequent action will be at the 11/12 City Council meeting. Legal notice of the City Council’s consideration of the resolution was published in the Conroe Courier on 10/18/24.

Approved By

Assistant City Administrator & Planning & Development Director	Dave McCorquodale	Date: 10/18/2024

Montgomery City Council
AGENDA REPORT

Meeting Date: November 12, 2024	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Consideration and possible action on authorizing the city engineer to proceed with the off-site, public Sanitary Sewer Improvements project pursuant to the Development Agreement Between the City of Montgomery and Morning Cloud Investments for The Crossing at Montgomery single-family residential development (Dev. No. 2403).

Recommendation

Staff recommends authorizing the city engineer to proceed with the project as presented.

Discussion

The engineer’s memo is attached. As a reminder, this project includes improvements to the city’s sewer system to serve the development. This project is 100% developer funded (design and construction).

Approved By		
Assistant City Administrator & Planning & Development Director	Dave McCorquodale	Date: 11/08/2024



The Crossing at Montgomery Sanitary Sewer Improvements City of Montgomery

Request: Council Authorization on November 12, 2024

This proposal is submitted pursuant to and in accordance with that certain Professional Services Agreement dated May 25, 2021, by and between Ward, Getz & Associates, LLP and the City of Montgomery (the “City”).

WGA understands that the City has defined terms in a Development Agreement (the “Agreement”) with Morning Cloud Investments, for the Developer to deposit funds for the sanitary sewer improvements needed to serve the proposed single-family development. Due to the existing utilities, and site location, we recommend the construction of a lift station and force main extension along Old Dobbin Plantersville Road and SH 105, discharging into an existing manhole. Due to the increased flow into the existing gravity lines, the developer will also be responsible for upsizing a stretch of 8-inch gravity sewer to 12-inch lines. We understand that included in the Agreement, will be the dedication of all easements needed for the gravity sanitary sewer and force main routes. WGA recommends moving forward with the scope below for the sanitary sewer improvements project to serve the proposed, and adjacent developments.

SCOPE OF WORK

- *Preliminary Phase Services*
 - *Preliminary sizing analysis of proposed lift station to determine force main size.*
 - *WGA will coordinate with the Developer of the single-family development and City staff to determine a suitable connection point for the proposed force main.*
 - *WGA will coordinate with the Developer of the single-family development and City staff to determine a suitable lift station site.*
 - *WGA will create a preliminary sanitary sewer layout for the proposed gravity sanitary sewer extension and force main, and coordinate with the City’ staff and the City’s operator Hays Utility Services (“Hays”) to delineate the most appropriate alignment.*
 - *Coordinate with adjacent property owners and surveyor to obtain and required easements.*
 - *Coordinate with TxDOT as needed for any utilities and other work performed in the right-of-way of SH105.*
 - *Determine final scope of work with the Developer and City staff.*
- *Lift Station Design Services*
 - *Conduct monthly progress meetings, up to a maximum of five (5) meetings during the final design phase.*
 - *Perform unit process calculations consistent with TCEQ Chapter 217 requirements for lift station design. Document calculations and any proposed variances to TCEQ rules for regulatory approvals.*
 - *Prepare drawings, specifications, and layouts of improvements to be constructed for design milestone (50% and 100%) submittal and for the final construction contract documents.*



- *Prepare application for and obtain TCEQ approval for the project.*
- *Final Construction Contract Documents: The plans and specifications will be finalized based on one set of compiled comments from Client. Engineer will seal and sign the completed documents. Engineer shall update plans and specifications with any final comments prior to finalizing for construction.*
- *Prepare revised opinion of probable construction cost for the 50% and 100% design completion levels.*

- *Gravity Sanitary Sewer & Force Main Design Services*
 - *Update scope and engineer's opinion of probable construction cost as needed.*
 - *WGA will develop drawings and specifications for the successful construction of the sanitary sewer extensions and force main. Design changes initiated by the City or the Developer after the design is complete may result in a request for additional authorization. Also, additional authorization may be requested for any TxDOT required design requirements due to work being performed within their right-of-way.*

- *Construction Administration*
 - *Coordinate advertising for bids, hold a pre-bid conference, answer questions from bidders, hold bid opening, prepare bid tabulation, and prepare recommendation of award.*
 - *Prepare construction contracts and coordinate execution of the same.*
 - *Issue notice to proceed and hold pre-construction meeting.*
 - *Review of construction submittals and RFIs.*
 - *Preparation of pay estimates, change orders, and other associated construction documents.*
 - *General oversight and coordination of construction contracts.*
 - *Review and approval of project material submittals.*

- *Field Project Representation*
 - *Onsite inspection by a Field Project Representative for approximately 6 hours per week (including travel time) during active construction for the duration of the projected contract period of performance (270 calendar days.)*
 - *Onsite inspection by the project team throughout the duration to attend periodic site visits, final walkthrough inspections, etc.*

- *Reimbursable Expenses*
 - *Includes surveying services to be performed by a subconsultant.*
 - *Includes geotechnical services to be performed by a subconsultant.*
 - *Includes electrical design services for the Lift Station to be performed by a subconsultant.*
 - *Includes structural engineering design services for the Lift Station to be performed by a subconsultant.*
 - *Includes construction materials testing, advertising expenses, and other reimbursable expenses.*
 - *Coordination and fees associated with work performed within TxDOT right-of-way.*



The cost to perform the scope of services described above is as follows:

Preliminary Phase	\$ 9,000	(Time and Material)
Lift Station Design	\$ 45,000	(Time and Material)
Gravity San. Sewer & Force Main Design	\$ 60,000	(Time and Material)
Bid Phase	\$ 6,000	(Time and Material)
Construction Administration	\$ 52,000	(Time and Material)
Field Project Representation	\$ 51,000	(Time and Material)
Reimbursable Expenses	\$ 109,600	(Time and Material)

WGA requests the City’s authorization to proceed with the design of the sanitary sewer improvements project along Old Dobbin Plantersville Road and SH-105 on a time and materials basis, as described above, for a total estimated cost of \$332,600.

SCHEDULE

Authorization to Proceed	1 Calendar Day*
Preliminary (Survey, Easement & TxDOT Discussions)	45 Calendar Days
Design	90 Calendar Days
Approvals & Permitting	60 Calendar Days**
Bid Phase	30 Calendar Days
Contracts	21 Calendar Days
Construction	270 Calendar Days
TOTAL DURATION	517 Calendar Days

*If approved, the effective start date is the day after authorization is received.
** Timeline is based on projects with similar scope and is contingent on TxDOT review time.

Accepted by Client

Regards,

Chris Roznovsky, P.E.
Practice Leader

Signature

Printed Name and Title

Date



**Engineer's Opinion of Probable Cost
Force Main Extension and Sanitary Sewer Improvements**

10/18/2024

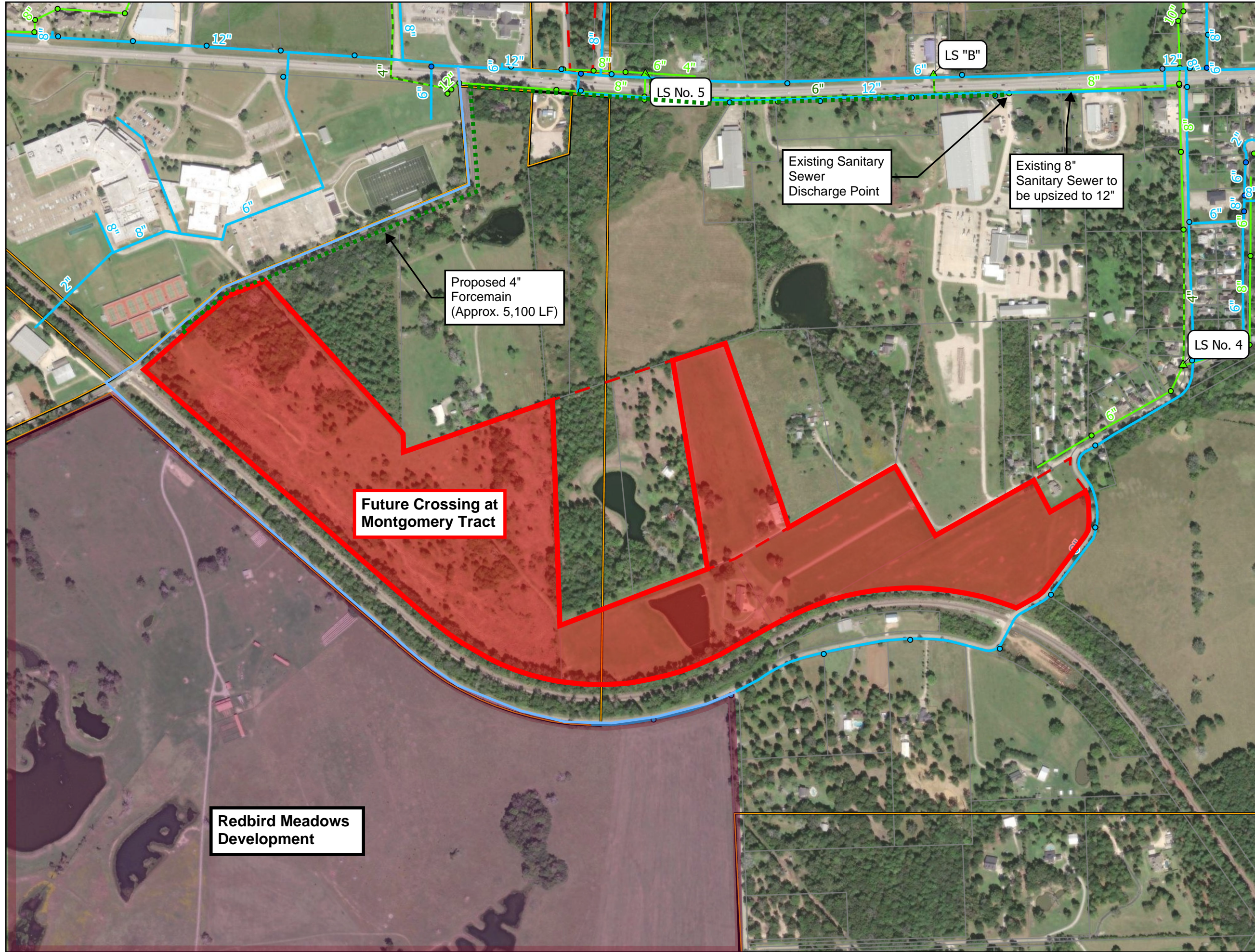
Item No.

	Description	Quantity	Unit	Unit Price	Cost
General					
1	Mobilization, Bonds, and Insurance (5%)	1	LS	\$ 62,000	\$ 62,000
2	Construction Staking (3%)	1	LS	36,000	36,000
3	Site Preparation & Restoration	1	LS	20,000	20,000
4	Trench Safety System	6,480	LF	1	6,480
5	SWPPP	1	LS	7,500	7,500
6	Traffic Control	1	LS	25,000	25,000
Force Main					
7	4-Inch C900 Sanitary Sewer Force Main (Open Cut)	5,150	LF	40	206,000
8	Additional Cost for Trenchless Construction (4-inch FM)	400	LF	100	40,000
9	8-Inch Steel Casing for 4-Inch Force Main	400	LF	100	40,000
10	Connection to Existing Manhole	1	EA	2,500	2,500
11	Air Release Manhole	2	EA	10,000	20,000
Gravity Sanitary Sewer					
12	Pipe Burst 8-Inch to 12-Inch	930	LF	220	204,600
13	20-Inch Steel Casing for 12-Inch Gravity	200	LF	280	56,000
14	Service Lead Reconnections	3	EA	2,500	7,500
15	Core & Boot Conn. to Existing Manhole	1	EA	2,000	2,000
Lift Station					
16	Pumps	1	LS	75,000	75,000
17	Piping, Valving, and Meters, Etc.	1	LS	66,000	66,000
18	Wet Well and Misc. Structural	1	LS	220,000	220,000
19	Electrical and Instrumentation	1	LS	77,000	77,000
20	Standby Generator	1	LS	115,000	\$ 115,000

Construction Subtotal	\$ 1,289,000
Contingencies (15%)	\$ 194,000
Preliminary Design	\$ 9,000
Lift Station Design	\$ 45,000
Sanitary Sewer Line Design	\$ 60,000
Construction Administration and Bid Phase Services	\$ 58,000
Field Project Representation	\$ 51,000
Reimbursible Expenses (Survey, Geotechnical, Etc.)	\$ 109,600
TOTAL PROJECT COST	\$ 1,815,600

Notes:

- This estimate is based on my best judgement as a design professional familiar with the construction industry. We cannot and do not guarantee that bids will not vary from this cost estimate.



Legend

- Jurisdictional Boundary
- Parcel Boundary
- Montgomery ETJ
- Montgomery City Limits
- Subject Tract

Water Infrastructure

- wMain
- wLateral
- wControlValve
- wFittings
- wHydrant

Sanitary Sewer Infrastructure

- Lift Station
- Treatment Plant
- ssGravityMain
- ssManhole
- ssPressurizedMain

THE CROSSING AT MONTGOMERY SANITARY SEWER IMPROVEMENTS

City of Montgomery
Proposed Development



Disclaimer: This product is offered for graphical purposes only and may not be suitable for legal, engineering, or surveying purposes. The information shown on this exhibit represents the approximate location of property, municipal boundaries or facilities.



Montgomery City Council
AGENDA REPORT

Meeting Date: November 12, 2024	Budgeted Amount: N/A
Department: Admin	Prepared By: Dave McCorquodale

Subject

Consideration and possible action on cancelling the November 26, 2024 and December 24, 2024 Regular City Council Meetings (holiday weeks).

Recommendation

Staff recommends a motion to cancel the November 26th and December 24th meetings as presented.

Discussion

The city has typically cancelled the 2nd regular City Council meetings for November and December due to the Thanksgiving and Christmas holidays. Staff recommends cancelling the 11/26 & 12/24 2024 Regular City Council Meetings.

Approved By		
Assistant City Administrator & Planning & Development Director	Dave McCorquodale	Date: 11/08/2024