

STATE OF ALABAMA)
MONTGOMERY COUNTY)

ENVIRONMENTAL COVENANT

KNOW ALL MEN BY THESE PRESENTS: That pursuant to the Alabama Uniform Environmental Covenants Act, §§ 35-19-1 through 35-19-14, Code of Alabama 1975, as amended, (the "Act") and the ADEM Administrative Code of Regulations promulgated thereunder, the City of Montgomery, (hereinafter "Grantor") grants this Environmental Covenant, which constitutes a servitude arising under an environmental response project that imposes activity and/or use limitations, to the City of Montgomery, (hereinafter "Grantee" or "Holder"), to-wit:

WHEREAS, the Grantor is the owner of certain real property known as City of Montgomery, located at or nearby the right-of-way on the north side of Washington Avenue, in the City of Montgomery, Montgomery County, Alabama (the "Property").

WHEREAS, the Property is more particularly described as follows:

Approximately 154 feet from the northeast intersection of South Lawrence Street and Washington Avenue. Approximately 25 feet from the back of curb to the north right-of-way line of Washington Avenue. Approximately 3,850 square feet.

WHEREAS, the Grantor has been informed that the soil vapor and/or groundwater beneath the Property is now or may in the future be included in or near the Capital City Plume Site area, an area in the City of Montgomery that has indicated contamination by tetrachloroethene ("PCE") in groundwater/soil vapor and/or trichloroethene ("TCE") in soil vapor only; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by placing restrictions on the Property; and

WHEREAS, Grantor knows and understands that it does not own the groundwater beneath the Property, but has the right to a reasonable use thereof; and

WHEREAS, further information concerning the Capital Plume Site may be obtained by contacting:

Chief, Land Division
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110
(334) 271-7700

NOW, THEREFORE, Grantor hereby grants this Environment Covenant to the named Holder, and declares that the Property shall hereinafter be bound by, held, sold, used, improved, occupied, leased, hypothecated, encumbered, and/or conveyed subject to the requirements set forth below:

1. **DEFINITIONS**

“Grantor” means the City of Montgomery, owner of the Property, its successors and assigns in interest.

2. **USE RESTRICTIONS**

Residential use of this property is prohibited. Current use of this Property shall be maintained as sidewalk and right of way only. The use of, access of, interference with, and/or consumption of the groundwater beneath the Property is hereby forever in perpetuity prohibited without the prior written approval from ADEM.

3. **GENERAL PROVISIONS**

A. **Restrictions to Run with the Land.** This Environmental Covenant runs with the land pursuant to §35-19-5, Code of Alabama 1975, as amended; is perpetual unless modified or terminated pursuant to the terms of this Covenant or §35-19-9, Code of Alabama 1975, as amended, is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof; inures to the benefit of and passes with each and every portion of the Property; and binds the Owner, the Holders, all persons using the land, all persons, their heirs, successors and assigns having any right, title or interest in the Property, or any part thereof who have subordinated those interests to this Environmental Covenant, and all persons, their heirs, successors and assigns who obtain any right, title or interest in the Property, or any part thereof after the recordation of this Environmental Covenant.

B. **Notices Required.** In accordance with §35-19-4(b), Code of Alabama 1975, as amended, the Grantor shall send written notification pursuant to Section “H” below, upon any of the following events affecting the property subject to this covenant: Transfer of any interest, any proposed changes in the use of the property, any applications for building permits, or any proposals for site work that could affect the subsurface areas. Said notification shall be sent within fifteen (15) days of the listed event.

C. **Registry/Recordation of Environmental Covenant; Amendment; or Termination.** Pursuant to §35-19-12(b), Code of Alabama 1975, as amended, this Environmental Covenant and any amendment or termination thereof, shall be contained in the ADEM Registry of Environmental Covenants. After an environmental covenant, amendment, or termination is filed in the registry, a notice of the covenant, amendment, or termination may be recorded in the land records in lieu of recording the entire covenant in compliance with §35-19-12(b). Grantor shall be responsible for filing the Environmental Covenant within thirty (30) days of the final required signature.

D. Right of Access. The Owner hereby grants to ADEM and any other named Holder, its agents, contractors and employees, the right of access to the Property for implementation or enforcement of this Environmental Covenant.

E. Representations and Warranties. Grantor hereby represents and warrants as follows:

(i) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided, and to carry out all obligations hereunder.

(ii) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered; *or* the Grantor has identified all other parties that hold any interest or encumbrance affecting the Property and has notified such parties of the Grantor's intention to enter into this Environmental Covenant.

(iii) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under, any other agreement, document, or instrument to which Grantor is a party, by which Grantor may be bound or affected;

(iv) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property;

(v) That this Environmental Covenant does not authorize a use of the Property which is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

F. Compliance Enforcement. In accordance with §35-19-11(b), Code of Alabama 1975, as amended, the terms of the Environmental Covenant may be enforced by the parties to this Environmental Covenant; any person to whom this Covenant expressly grants power to enforce; any person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the Covenant; or a municipality or other unit of local government in which the real property subject to the Covenant is located, in accordance with applicable law. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall limit the regulatory authority of ADEM under any applicable law with respect to the environmental response project.

G. Modifications/Termination. Any modifications or terminations to this Environmental Covenant must be made in accordance with §§ 35-19-9 and 35-19-10, Code of Alabama 1975, as amended.

H. Notices. Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

ADEM
 Chief, Land Division
 A.D.E.M.
 1400 Coliseum Boulevard
 Montgomery, AL 36110

GRANTOR
 City Engineer
 City of Montgomery
 P.O. Box 1111
 Montgomery, AL 36101-1111

I. No Property Interest Created in ADEM. Pursuant to §35-19-3(b), Code of Alabama 1975, as amended, the rights of ADEM under the Act or under this Environmental Covenant, other than a right as a holder, is not an interest in the real property subject to the covenant, nor does the approval by ADEM of this Environmental Covenant create any interest in the real property.

J. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

K. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Alabama.

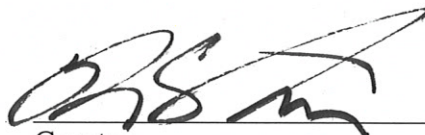
L. Recordation. In accordance with §35-19-8(a), Code of Alabama 1975, as amended, Grantor shall have this Environmental Covenant, and any amendment or termination thereof, recorded in Montgomery County, Alabama within fifteen (15) days after the date of the final required signature.

M. Effective Date. The effective date of this Environmental Covenant shall be the date the fully executed Environmental Covenant is recorded in accordance with Paragraph "L" above.

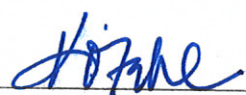
N. Distribution of Environmental Covenant. In accordance with §35-19-7, Code of Alabama 1975, the Grantor shall, within fifteen (15) days of filing this Environmental Covenant, have a recorded and date stamped copy of same distributed to each of the following: (1) Each person who signed the covenant; (2) Each person holding a recorded interest in the property; (3) Each person in possession of the property; (4) Each municipality or other unit of local government in which the property is located; and (5) Any other person required by ADEM to receive a copy of the covenant. However, the validity of this Environmental Covenant will not be affected by the failure to provide a copy of the Covenant as herein provided.

O. Party References. All references to ADEM, the Grantor, or other applicable parties, shall include successor agencies, departments, divisions, heirs, executors and/or administrators.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 6th day of September, 2019.



Grantor
As Mayor of Montgomery

9/6 2019
APPROVED AS TO FORM


City Attorney

STATE OF ALABAMA)
MONTGOMERY COUNTY)

I, THE UNDERSIGNED Notary Public in and for said County and State, hereby certify that Todd Strange, whose name as Grantor and as Mayor of Montgomery, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 16th day of September, 2019.




Denetra F. Shannon
Notary Public

My Commission Expires: October 25, 2022

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT


This Environmental Covenant is hereby approved by the State of Alabama, Department of Environmental Management.

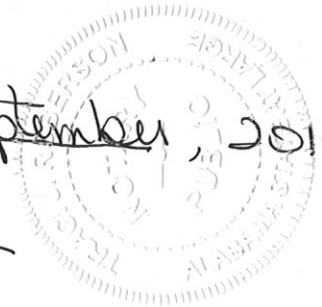
Dated September 11, 2019

By: 
Chief, Land Division
Alabama Department of Environmental
Management

State AL
County Montgomery

On this 11 day of September, 2019


notary



Comm. expires 1-30-23

STATE OF ALABAMA)
MONTGOMERY COUNTY)

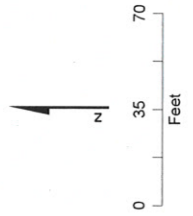
I hereby certify that the foregoing Environmental Covenant has been recorded in the property records of Montgomery County, Alabama at Deed Book 5287, Page 872.

Dated September 20, 2019

By: *Shante Goldsmith*
Clerk, Office of Probate Judge



FIGURE 1
 Washington Avenue Environmental Covenant
 Downtown Environmental Assessment Project
 Montgomery, AL



Note:
 Parcel is industrial/commercial use unless
 otherwise indicated.

- LEGEND**
- Monitoring Well
 - Site Boundary
 - Parcel Boundary
 - Environmental Covenant

STATE OF ALA. MONTGOMERY CO.
 I CERTIFY THIS INSTRUMENT WAS FILED ON
 RLPY 05287 PG 0872-0879 2019 Sep 20 09:40AM
 STEVEN L. REED

INDEX	\$5.00
REC FEE	\$20.00
CERT	\$1.00
CHARGE-OTHER TOTAL	\$26.00

Clock: #102 09:44AM