

ENVIRONMENTAL COVENANT

The City of Montevallo, (hereinafter "Grantor") grants an Environmental Covenant (hereinafter "Covenant") this _____ day of _____, 2023, to the following entities pursuant to The Alabama Uniform Environmental Covenants Act, Ala. Code §§ 35-19-1 to 35-19-14 (2014 Cum. Supp.) (hereinafter "the Act" or "Act"), and the regulations promulgated thereunder: the Alabama Department of Environmental Management and the identified holders or other applicable parties: None.

WHEREAS, the Grantor was the owner of certain real property located in the City of Montevallo, Alabama, identified as the Former Victory Building, situated at 555 Main Street, in Shelby County, Alabama, (hereinafter "the Property"). The property was conveyed to Grantor by deed dated 02/25/2019, and recorded in the Office of the Judge of Probate for Shelby County, Alabama, Instrument Number 20190225000058160 (3 pages);

WHEREAS, the Property is more particularly described as the following:

For APN/Parcel ID(s): 27-5-21-3-304-022.000: Lots 15, 16, 17, 42, and 43 according to the present plan and survey of the town of Montevallo, as recorded with the State of Alabama, County of Shelby;

Legal description is provided as Exhibit A.

WHEREAS, this instrument is an Environmental Covenant developed and executed pursuant to the Act and the regulations promulgated thereunder;

WHEREAS, hazardous substances, including, but not limited to the following:

- Arsenic concentrations exceeding the EPA RSL of 3.0 milligrams per kilogram (mg/kg), or parts per million (ppm), for industrial usage in soil.
- Hexavalent Chromium concentrations exceeding the EPA RSL of 0.3 mg/kg for residential soil. The concentrations were below the EPA RSL of 6.0 mg/kg for industrial use.

were identified on the Property on or about the time of conveyance;

WHEREAS, such the following hazardous substances remain on the Property:

- Arsenic concentrations exceeding the EPA RSL of 3.0 milligrams per kilogram (mg/kg), or parts per million (ppm), for industrial usage in soil.
- Hexavalent Chromium concentrations exceeding the EPA RSL of 0.3 mg/kg for residential soil. The concentrations were below the EPA RSL of 6.0 mg/kg for industrial use.

WHEREAS, pursuant to the Brownfield Redevelopment and Cleanup Program, the Property and Grantor were accepted into the Voluntary Cleanup Program as Site # 461-117-23010 and the Former Victory Building, 555 Main Street, Montevallo, Alabama prior reports (Phase I ESA, Phase II ESA, Supplemental Phase II ESA) submitted with the VCP Application by Atlas Technical Consultants, LLC dated September 25, 2023, (the "Report")

were deemed complete and approved by ADEM on or about October 2, 2023;

WHEREAS, pursuant to the approved Report, the Grantor agreed to implement this Environmental Covenant as an institutional control to address the presence of Contaminants of Concern on the Property;

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by placing restrictions on the Property to reduce the risk to human health to below the target risk levels for those hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants that remain on the Property;

WHEREAS, further information concerning the release/disposal and the activities to correct the effects of the release/disposal may be obtained by contacting Chief, Land Division, Alabama Department of Environmental Management ("ADEM"), or his or her designated representative, at 1400 Coliseum Boulevard, Montgomery, Alabama, 36110; and

WHEREAS, the Administrative Record concerning the Property is located at:

Shelby County Probate Office
112 North Main Street
Columbiana, Alabama 35051

and

Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110

NOW, THEREFORE, Grantor hereby grants this Environmental Covenant to ADEM and the identified Holders, and declares that the Property shall hereinafter be bound by, held, sold, used, improved, occupied, leased, hypothecated, encumbered, and/or conveyed subject to the following requirements set forth in paragraphs 1 through 3 below:

1. DEFINITIONS

Owner. "Owner" means the GRANTOR, its successors and assigns in interest.

2. USE RESTRICTIONS

The following activities shall not take place on the identified Property without first obtaining written approval from ADEM through modification of this covenant:

- Use of groundwater for potable purposes is prohibited.
- Use of the property for residential purposes is prohibited.
- Use of the property for a school or daycare is prohibited.
- Excavation of any contaminated soils without an ADEM approved soil management plan is prohibited.

3. **GENERAL PROVISIONS**

- A. **Restrictions to Run with the Land.** This Environmental Covenant runs with the land pursuant to Ala. Code §35-19-5 (2014 Cum Supp.); is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to Ala. Code §35-19-9 (Cum Supp. 2014); 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 Ala. Code §35-19-4(b) (2014 Cum Supp.), the Owner shall send written notification, pursuant to Section J, below, following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the Property. Said notification shall be sent within fifteen (15) days of each event listed in this Section.
- C. **Registry/Recordation of Environmental Covenant; Amendment; or Termination.** Pursuant to Ala. Code §35-19-12(b) (2014 Cum Supp.), this Environmental Covenant and any amendment or termination thereof, shall be contained in ADEM's registry for 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 upon this Environmental Covenant.
- D. **Right of Access.** The Owner hereby grants ADEM; ADEM's agents, contractors and employees; the Owner's agents, contractors and employees; and any Holders the right of access to the Property for implementation or enforcement of this Environmental Covenant.
- E. **ADEM Reservations.** Notwithstanding any other provision of this Environmental Covenant, ADEM retains all of its access authorities and rights, as well as all of its rights to require additional land/water use restrictions, including enforcement authorities related thereto.
- F. **Representations and Warranties.** Grantor hereby represents and warrants to the other signatories hereto:

- 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;
- iii) That the Grantor has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Grantor's intention to enter into this Environmental Covenant;
- iv) 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;
- v) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property;
- vi) 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.

G. **Compliance Enforcement.** In accordance with Ala. Code §35-19-11(b) (2014 Cum Supp.), 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. The parties hereto expressly agree that ADEM has the power to enforce this Environmental Covenant. 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 restrict ADEM, or the Grantor, from exercising any authority under applicable law.

- H. **Modifications/Termination**. Any modifications or terminations to this Environmental Covenant must be made in accordance with Ala. Code §§35-19-9 and 35-19-10 (2014 Cum Supp.).
- I. **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
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110

Grantor

City of Montevallo,
2109 Natalie Lane
Birmingham, Alabama 35244
Attn: Warren Bailey, Managing Member

Holder(s) or Other Applicable Party(ies)

Not Applicable

- J. **No Property Interest Created in ADEM**. This Environmental Covenant does not in any way create any interest by ADEM in the Property that is subject to the Environmental Covenant. Furthermore, the act of approving this Environmental Covenant does not in any way create any interest by ADEM in the Property in accordance with Ala. Code §35-19-3(b) (2014 Cum. Supp.).
- K. **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.
- L. **Governing Law**. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Alabama.
- M. **Recordation**. In accordance with Ala. Code §35-19-8(a) (2014 Cum. Supp.), Grantor shall record this Environmental Covenant and any amendment or termination of the Environmental Covenant in every county in which any

portion of the real property subject to this Environmental Covenant is located. Grantor agrees to record this Environmental Covenant within fifteen (15) days after the date of the final required signature upon this Environmental Covenant.

- N. **Effective Date.** The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded, in accordance with Ala. Code §35-19-8(a) (2014 Cum. Supp).
- O. **Distribution of Environmental Covenant.** Within fifteen (15) days of filing this Environmental Covenant, the Grantor shall distribute a recorded and date stamped copy of the recorded Environmental Covenant in accordance with Ala. Code §35-19-7(a) (2014 Cum Supp.). However, the validity of this Environmental Covenant will not be affected by the failure to provide a copy of the Covenant as provided herein.
- P. **ADEM References.** All references to ADEM shall include successor agencies, departments, divisions, or other successor entities.
- Q. **Grantor References.** All references to the Grantor shall include successor agencies, departments, divisions, or other successor entities.
- R. **Other Applicable Party(ies).** All references to Other Applicable Party(ies) shall include successor agencies, departments, divisions, or other successor entities.

Property owner has caused this Environmental Covenant to be executed pursuant to The Alabama Uniform Environmental Covenants Act, on this ____ day of _____, 2023.

IN TESTIMONY WHEREOF, the parties have hereunto set their hands this the day and year first above written.

City of Montevallo,

This Environmental Covenant is hereby approved by the City of Montevallo, Alabama this ____ day of _____, 2023.

By: _____

Name & Title

Grantor

STATE OF _____)

COUNTY OF _____)

I, _____, a _____ in and for said County in said State or Commonwealth, hereby certify that _____, whose name as _____ [title] of _____ [Grantor] 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, (s)he, as such officer and with full authority executed the same voluntarily for and as the act of said corporation.

Given under my hand this the ____ day of _____, 2023

Notary Public: _____

My Commission Expires: _____

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

This Environmental Covenant is hereby approved by the State of Alabama this ____ day of _____, 2023.

By: _____

Stephen A. Cobb
Chief, Land Division
Alabama Department of Environmental Management

State of Alabama}

Montgomery, County}

I, the undersigned Notary Public in and for said County and State, hereby certify that Stephen A. Cobbs, whose name as Chief, Land Division, Alabama Department of Environmental Management 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 approved the same voluntarily on the day the same bears date and with full authority to do so.

Given under my hand and official seal this ____ day of _____, 2023.

Notary Public

My Commission Expires: _____

STATE OF ALABAMA

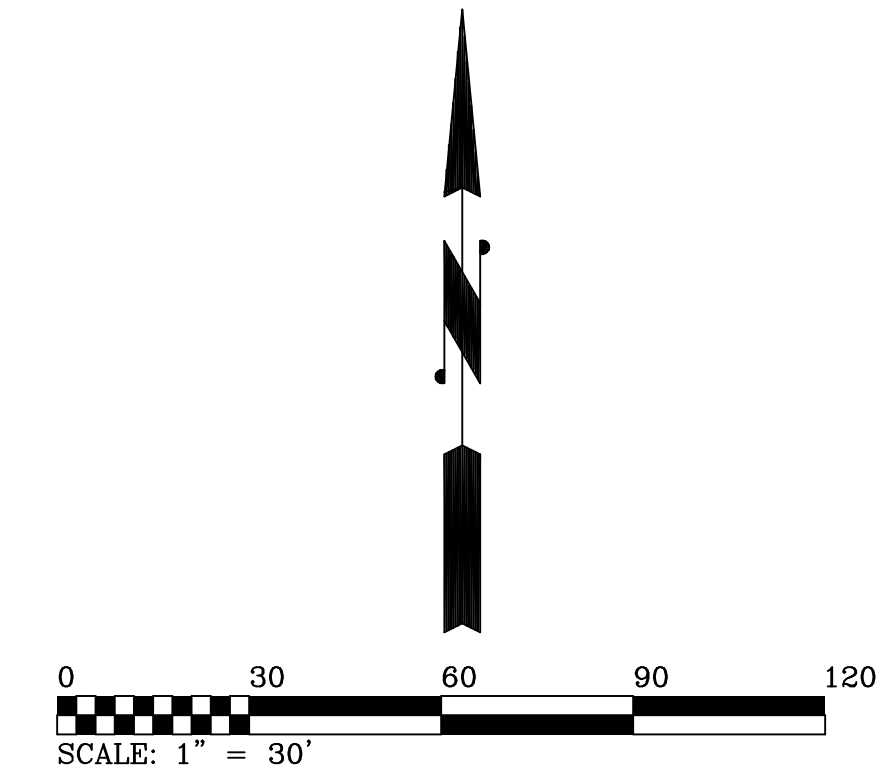
COUNTY OF SHELBY

I, _____, Clerk of the Shelby
County Court, do certify that the foregoing Environmental Covenant [*and, if applicable,*
attached Subordination Agreement] was lodged in my office for record, and that I have
recorded it, this ___ day of _____, 2023 in the Deed Recordation Book _
_____ on Page_____.

County Clerk

EXHIBIT A

BOUNDARY SURVEY
MAIN STREET MONTEVALLO
 SITUATED IN THE SOUTHWEST QUARTER OF
 SECTION 21, TOWNSHIP 22 SOUTH, RANGE 3 WEST
 SHELBY COUNTY, AL



Legal Description

A portion of Lots 15, 16 and 17, according to the Original Plan of Montevallo, in the Southwest 1/4 of Section 21, Township 22 South, Rang 3 West, Shelby County, Alabama, being more particularly described as follows:

BEGINNING at the intersection of the western right of way line of Shelby Street and the southern right of way line of Valley Street, said point also being the northern most point of said Lot 17, thence along said southern right of way of Shelby Street South 38° 07' 49" East for a distance of 300.08 feet to the northern right of way of Alabama State Highway No 119 (AKA Broad Street, AKA Main Street); thence leaving Shelby Street, along State Highway South 51° 35' 18" West for a distance of 96.00'; Thence leaving said Highway right of way North 38° 11' 30" West for a distance of 96.17 feet; Thence South 51° 31' 15" West for a distance of 1.00 feet; Thence North 38° 07' 19" West for a distance of 79.38 feet; Thence South 51° 33' 03" West for a distance of 78.00 feet; Thence north 38° 13' 12" West for a distance of 125.06 feet to the southern right of way line of Valley Street; Thence along said Valley Street right of way North 51° 44' 11" East for a distance of 174.97 feet to the POINT OF BEGINNING of the Parcel herein described. Said Parcel Containing 0.89 Acres, more or less.

STATE OF ALABAMA
 COUNTY OF SHELBY

I, J. CLAYTON LYNCH, A REGISTERED LAND SURVEYOR IN THE STATE OF ALABAMA, HEREBY STATE THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF ALABAMA, TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

J. Clayton Lynch
 J. Clayton Lynch, P.L.S.
 AL. Reg. No. 34331
 DATED: 04-26-2023



SURVEYOR'S NOTES

- Type of Survey** - This is a Boundary Survey of the "Subject Property," made on the ground under the supervision of an Alabama Registered Land Surveyor. This survey was conducted for the purpose of a Boundary Survey only, and is not intended to delineate the regulatory jurisdiction of any federal, state, regional or local agency, board, commission or other similar entity. The "Subject Property" refers to the property described hereon. Boundary corners have been found or set as indicated hereon.
- Bearings and Datum** - Bearings are based on "Grid North," in accordance with the State Plane Coordinates for the State of Alabama, Zone West, from the North American Datum of 1983 (NAD83), Vertical Datum: NAVD 88.
- Overhead and Subsurface Features** - Subsurface features such as underground utilities, septic tanks, underground encroachments, underground mines, and/or subsurface building foundations were not measured or located as a part of this survey. Notice is hereby given that the appropriate utility location service (e.g. "One Call," "Call 811," or "Call-Before-You-Dig"), should be notified forty-eight (48) hours in advance of any excavation at this site.
- Title Report** - This survey was conducted without the benefit of an abstract of title, title report, or title opinion, therefore, there may be other easements, rights-of-way, setback lines, agreements, reservations, restrictions, or other similar matters of public record, not depicted on this survey.
- Scaled Data** - Attention is directed to the fact that this survey may have been reduced or enlarged in size due to reproduction. In addition, some features have not been drawn to scale, but have been drawn relative to each other for purposes of clarity. This is especially true with regard to fences and other features close to boundary lines. These factors should be taken into consideration when obtaining scaled data.
- Dates, Signature and Seal** - The date of field survey, (below), is the last time that either field or office personnel were on the site and the last direct knowledge that this surveyor has of site conditions. Date of plat preparation (below) and date of signature (below), have no relationship to actual site conditions as depicted on this map. THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND RAISED OR "BLUE" SEAL OF A LICENSED LAND SURVEYOR.

FLOOD ZONE INFORMATION

According to the Flood Insurance Rate Map Published by the Federal Management Agency for Montevallo, Shelby County, Alabama (community no. 010349), map number 01117C0501E, effective date February 20, 2013. This property is situated in zone "X" unshaded according to the federal insurance administration "Flood Hazard Boundary Map".



PROJECT No:	23007
OWNER:	CITY OF MONTEVALLO
DATE:	4/26/2023
CHECKED BY:	JCL
DRAWN BY:	JCL
ADDRESS:	MAIN STREET, MONTEVALLO, ALABAMA 35115

SCALE:	1"=30'
BOUNDARY SURVEY	PID 27 5 21 3 304 022.000
	PID 27 5 21 3 304 023.000
	PID 27 5 21 3 304 024.000
	PID 27 5 21 3 304 025.000
	PID 27 5 21 3 304 026.000
	SHELBY COUNTY, AL

Southern Cross Surveying, LLC	21074 Highway 25	Columbiana, AL 35051	Phone: 205-685-5300
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FIELD WORK: 04/12/2023

