



AlaFile E-Notice

38-CV-2023-900255.00

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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

DAVID F. DEL VECCHIO ET AL V. BOARD OF COMMISSIONERS OF THE CITY OF DO
38-CV-2023-900255.00

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CARLA H. WOODALL
CIRCUIT COURT CLERK
HOUSTON COUNTY, ALABAMA
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DOTHAN, AL, 36302

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IN THE CIRCUIT COURT OF HOUSTON COUNTY, ALABAMA

**DAVID F. DEL VECCHIO, PEGGY
R. DEL VECCHIO, MICHAEL DEL
VECCHIO, WILLIAM P. NOVACK,
TARA NOVACK, and ANTHONY
KEITH,**

Plaintiffs/Petitioners,

v.

Civil Action No.
CV-2023-900255.00

**BOARD OF COMMISSIONERS OF
THE CITY OF DOTHAN, ALABAMA
and CITY OF DOTHAN, ALABAMA,**

Defendants/Respondents.

_____ /

THIRD AMENDED COMPLAINT

NATURE OF ACTION

1. This is an action for certiorari review, declaratory relief, and attorney fees, concerning the failure of the Board of Commissioners of the City of Dothan, Alabama (hereinafter, “the Board”) to fully comply with applicable statutory and constitutional requirements related to the Board’s July 5, 2023 approval of the City’s proposed “expansion to the facility boundary to the Dothan Landfill to approximately 506 acres.”

JURISDICTION AND VENUE

2. This action arises under Code of Alabama 1975, §§ 22-27-2 (as amended by Act No. 2020-30, §1 (eff. June 1, 2020)), 22-27-48 (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)), and 22-27-48.1 (as amended by Act No. 2017-366, §2 (eff. May 24, 2017));¹ 42 U.S.C. §§ 1983 and 1988; U.S. Const. amend. XIV, § 1; and Art. I, § 13, Ala. Const. 2022.

3. This Court has jurisdiction under Art. VI, § 142(b), Ala. Const. 2022, and Code of Alabama 1975, §§ 6-6-222 and 6-6-500.

4. This Court is the appropriate venue for this action under Code of Alabama 1975, § 6-3-7.

PARTIES

5. The Board is the governing body of the City of Dothan, Alabama. Pursuant to Code of Alabama 1975, §§ 22-27-48 (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)), and 22-27-48.1 (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)), the affected local governing body, in this case the Board, is authorized to approve or disapprove the site of a proposed new or modified existing solid waste management

¹ These statutory provisions, attached hereto at Attachment A, were in effect on July 5, 2023.

facility within its jurisdiction and must comply with all applicable statutory and constitutional procedural requirements in doing so. On July 5, 2023, the Board approved the City’s proposed expansion to the facility boundary to the Dothan Landfill to approximately 506 acres. AR 74:862-868.²

6. The City of Dothan, Alabama (hereinafter, “the City”), acting through its Public Works Department, prepared and submitted an application to the Board for approval of a proposed expansion of the Dothan Landfill. The City is joined as a defendant because the application claims an interest relating to the subject of this action and is so situated that the disposition of this action in the City’s absence may as a practical matter impair or impede the City’s ability to protect that interest. Rule 19(a), Ala. R. Civ. P.

7. David F. Del Vecchio and Peggy R. Del Vecchio own and reside on 44 acres of property in the City of Dothan, Houston County. Their property adjoins the southern boundary of the approximately 506-acre

² Citations to the Administrative Record are AR [Court Document Number]:[Bates Page Number (last three digits)]. Citations to the Administrative Record Addendum are ARA [Court Document Number]:[Bates Page Number (last four digits)].

facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the approximate location of their property and its proximity to the approximately 506-acre facility boundary approved by the Board on July 5, 2023.

8. Michael Del Vecchio owns and resides on 10.0 acres of property located in the City of Dothan, Houston County. His property adjoins the southern boundary of the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the approximate location of his property and its proximity to the approximately 506-acre facility boundary approved by the Board on July 5, 2023.

9. William P. Novack and Tara Novack own and reside on 1.0 acre of property located in the City of Dothan, Houston County. Their property is approximately 645 feet from the southern boundary of the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the approximate location of their property and its proximity to the approximately 506-acre facility boundary approved by the Board on July 5, 2023.

10. Anthony Keith resides on 0.65 acre of property located in the City of Dothan, Houston County. The property on which he resides is approximately 2,075 feet from the southern boundary of the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the approximate location of the 0.65 acre of property on which he resides and its proximity to the approximately 506-acre facility boundary approved by the Board on July 5, 2023.

STANDING ALLEGATIONS

11. On May 6, 2019, the Alabama Department of Environmental Management renewed the City's Solid Waste Disposal Facility Permit for the continued operation of an existing 78-acre solid waste management facility and modified the City's Solid Waste Disposal Facility Permit to authorize the construction and operation of a new 20.6-acre municipal solid waste disposal area and a new 15.0-acre construction and demolition solid waste disposal area. David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, William P. Novack, and Tara Novack filed a challenge to the permit modification before the Alabama Environmental

Management Commission on June 4, 2019. On June 12, 2020, the Commission approved the permit issued by the Department. David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, William P. Novack, and Tara Novack appealed the Commission's decision to the Montgomery County Circuit Court on July 10, 2020. The Circuit Court affirmed the Commission's decision on February 2, 2021. David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, William P. Novack, and Tara Novack appealed the Circuit Court's decision to the Alabama Court of Civil Appeals on March 15, 2021. On October 8, 2021, the Alabama Court of Civil Appeals reversed the decision of the Montgomery County Circuit Court. Lewis v. Ala. Dep't of Env'tl. Mgmt., 363 So. 3d 1008 (Ala. Civ. App. 2021). On March 31, 2022, the Montgomery County Circuit Court issued an Order on Remand which reversed the Commission's approval of the May 6, 2019 modification of the City's Solid Waste Disposal Facility Permit. On April 1, 2022, the Alabama Department of Environmental Management informed the City that it may not dispose of solid waste in the 20.6-acre municipal solid waste disposal area or in the 15.0-acre

construction and demolition solid waste disposal area as authorized in the May 6, 2019 Solid Waste Disposal Facility Permit.

12. The property owned by David F. Del Vecchio and Peggy R. Del Vecchio is approximately 1,310 feet from the southern boundary of an existing 78-acre solid waste management facility situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of their property and its proximity to the existing 78-acre solid waste management facility.

13. David F. Del Vecchio observed that solid waste disposal activities at the existing 78-acre solid waste management facility prior to June 2014 were continuous during every weekday (except when the facility was closed). He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with frequent offensive odors that were carried south from the facility to his property by northerly winds. The offensive odors smelled to him like garbage and chemicals. The offensive odors caused him to keep his house windows closed and to remain indoors. He also observed that the disposal activities at the existing 78-acre solid waste management

facility prior to June 2014 coincided with his observation of frequent airborne dust (particulate matter) that was carried south from the facility to his property by northerly winds. This fine dust would settle on his car and truck requiring frequent washing. Biting flies were attracted to the settled dust. He also observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 resulted in the attraction of buzzards and coyotes to the facility. He could see the buzzards at the facility. The buzzards flew over his property all the time. They would roost and defecate on his fences requiring the fences to be cleaned and painted periodically. They defecated in the tanks used by his cattle for drinking water requiring those tanks to be cleaned periodically. He also observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 resulted in loud and disturbing noises from vehicle and equipment back-up alarms, slamming truck tailgates, and bulldozers and compactors operating at the facility which traveled to his property. These noises would begin at 6:30 a.m. and continue all day. These noises were an annoyance to him and reduced his peaceful enjoyment of his property.

14. David F. Del Vecchio observed that solid waste disposal activities at the existing 78-acre solid waste management facility decreased dramatically from June 2014 through June 2020. He recalls that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with buzzards continuing to be present on and over the facility and on and over his property where they continued to defecate on his fences.

15. Peggy R. Del Vecchio observed that solid waste disposal activities at the existing 78-acre solid waste management facility prior to June of 2014 were continuous during every weekday (except when the facility was closed). She observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with frequent offensive odors that were carried south from the facility to her property by northerly winds. These odors smelled to her like rotting food and meat and occasionally like chemicals. The odors gave her headaches and burned her eyes. Sometimes the odors made her nauseated. She operated a day care at her home for more than twenty years and there were days when the odors from the facility were so

wretched and strong that she could not let the children out on her back porch. Sometimes she would let the children out on her back porch and they would start coughing and complain that their eyes hurt and she would have to bring them inside. There were some nights that she couldn't sit on her back porch when the weather was nice because the odors were bad. She observed that the disposal activities at the existing 78-acre solid waste management facility prior to June of 2014 coincided with buzzards flying above the landfill and landing on the landfill. She saw buzzards fly from the landfill and land on her fence, sometimes twenty to twenty-five in number. After a while the buzzards would fly back to the landfill. She also observed that the disposal activities at the existing 78-acre solid waste management facility prior to June of 2014 coincided with the presence of a lot of nasty, biting flies on her property. She also observed that the disposal activities at the existing 78-acre solid waste management facility prior to June of 2014 coincided with coyotes howling at night from the direction of the landfill. She also observed that the disposal activities at the existing 78-acre solid waste management facility prior to June of 2014 coincided with frequent airborne dust

(particulate matter) that was carried south from the landfill to her property by northerly winds. She also observed that the disposal activities at the existing 78-acre solid waste management facility prior to June of 2014 resulted in loud and disturbing noises from vehicle and equipment back-up alarms, slamming truck tailgates, and bulldozers and compactors operating at the facility which traveled to her property.

16. Peggy R. Del Vecchio observed that solid waste disposal activities at the existing 78-acre solid waste management facility decreased dramatically from June 2014 through June 2020. She observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with fewer days when offensive odors were present on her property. She also observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with less airborne dust coming from the landfill to her property and a decrease in the number of buzzards and biting flies on her property. She also observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020

coincided with a reduction in loud and disturbing noises coming from the landfill to her property.

17. The property owned by Michael Del Vecchio is approximately 1,310 feet from the southern boundary of an existing 78-acre solid waste management facility situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of his property and its proximity to the existing 78-acre solid waste management facility.

18. Michael Del Vecchio observed that solid waste disposal activities at the existing 78-acre solid waste management facility prior to June 2014 were continuous every weekday (except when the facility was closed). He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with frequent (almost every day) offensive odors that were carried south from the facility to his property by northerly winds. The offensive odors smelled to him like rotting garbage, sometimes like sewage, and sometimes like chemicals. The offensive odors caused him to keep his house windows closed; to avoid going outdoors; to cease riding his four-

wheeler and horse; to cease having outdoor barbecues; and to cease outdoor entertainment of friends. In addition, the offensive odors required him to operate his air conditioning system for longer periods of time. He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with frequent airborne dust (particulate matter) that was carried south from the facility to his property by northerly winds. The airborne dust occurred every day when the facility was in operation, even during weekends. The airborne dust resulted in the deposition of particulate matter on his cars, porch, and patio furniture requiring that they be constantly cleaned. One of his daughters developed respiratory problems which were aggravated by the airborne dust and she required medical attention, treatment, and expense.

He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 resulted in the attraction of buzzards, seagulls, and coyotes to the facility. He witnessed forty to fifty buzzards flying over his property, many of which would land on his house, on his fences, and in his trees. The buzzards defecated on his house, fences, and cars. The buzzards killed a healthy newborn calf

belonging to him and his father. Biting flies were attracted to something in the dust that was deposited on his cars, porch, and patio furniture and they often bit him. He could hear coyotes at the facility late at night and they would sometimes venture out and come onto his property. He has seen and shot coyotes on his property. Two calves owned by him and his father were killed at night by predators he believes to have been coyotes. He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 resulted in frequent loud and disturbing noises from vehicle and equipment back-up alarms, slamming truck tailgates, and bulldozers and compactors operating at the facility and traveling to his property. The noises would start early in the morning and continue all day long. The noise from slamming tailgates caused him to awaken from sleep.

19. Michael Del Vecchio observed that solid waste disposal activities at the existing 78-acre solid waste management facility decreased dramatically from June 2014 through June 2020. He observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with

less frequent (only once or twice a week) offensive odors being carried south from the facility to his property by northerly winds. The odors were particularly noticeable on hot days. He was able, however, to engage in outdoor activities. He also observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with less frequent airborne dust (particulate matter) being carried south from the facility to his property by northerly winds. This resulted in less deposition of particulate matter on his cars, porch, and patio furniture and less frequent cleaning of his cars, porch, and patio furniture. He also observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with fewer buzzards and seagulls over and on his property and less feces on his house, fences, and cars; no biting flies on his property; fewer sitings of coyotes on his property; and less nighttime howling of coyotes from the direction of the facility. He also observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with less frequent loud and disturbing noises from vehicle and equipment

back-up alarms, slamming truck tailgates, and bulldozers and compactors operating at the landfill. However, disturbing noises were not completely absent during this period.

20. The property owned by William P. Novack and Tara Novak is approximately 1,950 feet from the southern boundary of an existing 78-acre solid waste management facility situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of their property and its proximity to the existing 78-acre solid waste management facility.

21. William P. Novack observed that solid waste disposal activities at the existing 78-acre solid waste management facility prior to June 2014 were continuous every weekday (except when the facility was closed). He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with frequent offensive odors that were carried south from the facility to his property by northerly winds. He observed that these odors had a really nasty, rotten smell. He enjoys restoring an antique car he owns but he couldn't go outdoors because he couldn't stand the horrible smell. He didn't have family

barbecues or parties at his house because of the smell. He suffered sneezing, runny nose, headache, and sometimes shortness of breath because of the odors. He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with frequent airborne dust (particulate matter) that was carried south from the landfill to his property by northerly winds. The dust was deposited on his truck, car, and house. He also observed that the dust smelled. He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 resulted in the attraction of buzzards. He observed buzzards flying over and landing on the facility. Buzzards would also land on power lines, trees, and fences on his property and defecate at those locations, sometimes on his truck and car. He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with his observation of coyotes, wild dogs, flies, gnats, and mosquitos on his property. He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 resulted in loud and disturbing noises from vehicle and equipment back-up alarms and

slamming truck tailgates at the landfill which traveled to his property. He works a night shift and has to sleep during the day. The noise from the landfill would disturb his sleep.

22. William P. Novack observed that solid waste disposal activities at the existing 78-acre solid waste management facility decreased dramatically from June 2014 through June 2020. He observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with reduced offensive odors being carried south from the facility to his property by northerly winds. He observed that the offensive odors occurred only occasionally on hot days. The absence of offensive odors on most days allowed him to resume restoration of his antique car. He observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with fewer buzzards flying over his property and landing on his trees, power lines and fences. As a result there were less feces deposited on his property. He observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through

June 2020 coincided with only rare occurrences of airborne dust (particulate matter) being carried south from the facility to his property by northerly winds. The rare occurrences resulted in significantly less particulate matter deposits on his vehicles, porch, and house. The decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with only occasional loud and disturbing noises from vehicle and equipment back-up alarms and slamming truck tailgates at the facility traveling to his property.

23. Tara Novack observed that solid waste disposal activities at the existing 78-acre solid waste management facility prior to June 2014 were continuous every weekday (except when the facility was closed). These disposal activities coincided with frequent offensive odors being carried south from the existing 78-acre solid waste management facility to her property by northerly winds. She observed that these odors were nasty, rancid, putrid odors that smelled to her like rotting garbage and sometimes a strong offensive chemical odor. The odors caused her to suffer headaches, frequent dizziness and light-headedness, occasional

nausea and nasal drainage, and infrequent vomiting. Because of these reactions, she had to curtail all of her outdoor activities, including gardening, barbecuing, nature watching, and playing with children. She had to keep the house windows closed and enclosed the porch to make a sunroom because of the offensive odors. She observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with frequent airborne dust (particulate matter) that was carried south from the facility to her property by northerly winds. The dust caused her to sneeze; caused her eyes to water; and sometimes caused her to cough. The dust would be deposited on her car, grill, lawn mower, and back porch which she had to clean often. She observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 resulted in the attraction of buzzards, coyotes, and wild dogs to the facility which often traveled to her property. She observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with loud and disturbing noises from vehicle and equipment back-up alarms, slamming truck tailgates, and bulldozers and compactors operating at the landfill.

These noises were daily and all day. These noises disturbed her and her dogs.

24. Tara Novack observed that solid waste disposal activities at the existing 78-acre solid waste management facility decreased dramatically from June 2014 through June 2020. She observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with a decrease in the frequency and intensity of offensive odors being carried south from the facility to her property by northerly winds. As a result, she was able to engage in some outdoor activities like car washing, gardening, family cookouts, and sitting on the porch, although occasionally she couldn't because the odors were bad. She observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with less frequent and less severe airborne dust (particulate matter) being carried from the facility to her property by northerly winds, although the dust was not eliminated altogether. She also observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through

June 2020 coincided with her observation that fewer buzzards, flies, and gnats on her property. She could still hear coyotes howling at the facility and she observed wild dogs on her property. She observed that the decreased disposal activities at the existing 78-acre solid waste management facility from June 2014 through June 2020 coincided with less frequent loud and disturbing noises from the facility, although when present, the noise volume was the same as before.

25. The property on which Anthony Keith resides is approximately 2,400 feet from the southern boundary of an existing 78-acre solid waste management facility situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of the property on which he resides and its proximity to the existing 78-acre solid waste management facility.

26. Anthony Keith observed that solid waste disposal activities at the existing 78-acre solid waste management facility prior to June 2014 were continuous every weekday (except when the landfill was closed). He observed that these disposal activities coincided with frequent offensive, awful, foul odors that were carried south-southwest from the facility to the

property on which he resides by north-northeasterly winds. To him, the odors smelled like rotten garbage. He could not sit on his porch when the odors were present. He kept the house windows closed to prevent the odors from entering the house. He did not hang laundry on an outdoor clothes line because of the odors. He did not have outdoor barbecues because of the odors. He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 coincided with frequent airborne dust (particulate matter) that was carried south-southwest from the direction of the facility to the property on which he resides by north-northeasterly winds. The visible airborne dust that came from the direction of the landfill would settle on his patio, roof, driveway, cars, and grass. He observed that the disposal activities at the existing 78-acre solid waste management facility prior to June 2014 resulted in the attraction of buzzards to the facility. He has seen buzzards flying around the facility's waste disposal area and sitting on the facility's waste disposal area. On some days he saw dozens of buzzards on his property. When present, the buzzards defecated on his property.

27. Anthony Keith observed that solid waste disposal activities at the existing 78-acre solid waste management facility decreased dramatically from June 2014 through June 2020. He observed that the decreased disposal activities at the 78-acre solid waste management facility from June 2014 through June 2020 coincided with a substantial reduction in offensive odors that were carried south-southwest from the facility to his property by north-northeasterly winds. During this time period, he was able to enjoy sitting on his porch and enjoy outdoor barbecues and fish fries. He cannot recall any airborne dust (particulate matter) that was carried south-southwest from the direction of the facility to his property by north-northeasterly winds during June 2014 through June 2020. He observed that the decreased disposal activities at the 78-acre solid waste management facility from June 2014 through June 2020 coincided with a substantial reduction in the number buzzards that would land on his property and the number of times that he would see any on his property.

28. The property owned by David F. Del Vecchio and Peggy R. Del Vecchio is approximately 315 feet from the southern boundary of a

proposed new 20.5-acre municipal solid waste disposal area situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of their property and its proximity to the proposed new 20.5-acre municipal solid waste disposal area.

29. David F. Del Vecchio observed a dramatic increase in solid waste disposal activities in or about August 2020, this time in a portion of the proposed new 20.5-acre municipal solid waste disposal area. This increase in disposal activities continued until April 1, 2022.

30. On April 1, 2022, David F. Del Vecchio observed that solid waste disposal activities in a portion of the proposed new 20.5-acre solid waste disposal area had ceased. This cessation coincided with the March 31, 2022 entry of an order by the Montgomery Court Circuit Court which reversed the Alabama Environmental Management Commission's approval of a May 6, 2019 Alabama Department of Environmental Management permit modification. The cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre solid waste disposal area has continued to the present day. David F. Del Vecchio observed that

the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre solid waste disposal area coincided with the almost complete absence of offensive odors and airborne dust (particulate matter) being carried south from the landfill to his property by northerly winds. He observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre solid waste disposal area coincided with an almost complete absence of loud and disturbing noises coming from vehicle and equipment back-up alarms, slamming truck tailgates, and bulldozers and compactors operating in a portion of the proposed new 20.5-acre municipal solid waste disposal area.

31. Peggy R. Del Vecchio observed a dramatic increase in solid waste disposal activities in or about August 2020, this time in a newly constructed portion of the proposed new 20.5-acre municipal solid waste disposal area. This increase in waste disposal activities continued until April 1, 2022. She observed that the increase in waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area coincided with an increase in offensive odors and airborne dust (particulate matter) being carried south from the landfill to her property

by northerly winds; an increase in the number of buzzards she saw on her property; and an increase in the loud and disturbing noises she heard from vehicle or machinery back-up alarms and slamming tailgates at the landfill.

32. On April 1, 2022, Peggy R. Del Vecchio observed that solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area had ceased. This cessation coincided with the March 31, 2022 entry of an order by the Montgomery Court Circuit Court which reversed the Alabama Environmental Management Commission's approval of a May 6, 2019 Alabama Department of Environmental Management permit modification. The cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area has continued to the present day. Peggy R. Del Vecchio observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area coincided with the almost complete absence of offensive odors and airborne dust (particulate matter) being carried south from the

landfill to her property by northerly winds; and the almost complete absence of loud and disturbing noises from the landfill.

33. The property owned by Michael Del Vecchio is approximately 380 feet from the southern boundary of a proposed new 20.5-acre municipal solid waste disposal area situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of his property and its proximity to the proposed new 20.5-acre municipal solid waste disposal area.

34. Michael Del Vecchio observed a dramatic increase in solid waste disposal activities in or about August 2020, this time in a portion of the proposed new 20.5-acre municipal solid waste disposal area. This increase in disposal activities continued until April 1, 2022. Michael Del Vecchio observed that this increase in solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with more frequent offensive odors being carried south from the landfill to his property by northerly winds. Once again, the offensive odors smelled like rotting garbage,

sometimes like sewage, and sometimes like chemicals. Once again, the offensive odors caused him to keep his house windows closed; to avoid going outdoors; to cease riding his four-wheeler and horse; to cease having outdoor barbecues; and to cease outdoor entertainment with friends. Once again, the offensive odors required him to operate his home air conditioning system for longer periods of time. He observed that the increase in solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with more frequent occurrences of airborne dust (particulate matter) being carried south from the disposal area to his property by northerly winds. Once again, the airborne dust resulted in the deposition of particulate matter on his cars, porch, and patio furniture requiring that they be constantly cleaned. He observed that the increase in solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 resulted in the attraction of more buzzards, seagulls, coyotes, and biting flies. Once again, these buzzards, seagulls, coyotes, and biting flies invaded his property. He observed that the increase in solid waste

disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 resulted in more frequent and louder disturbing noises from vehicular and equipment back-up alarms, slamming truck tailgates, and bulldozers and compactors. These noises caused him to awaken from sleep, frightened his cattle and horses, and rattled his house windows.

35. On April 1, 2022, Michael Del Vecchio observed that solid waste disposal activities in a portion of the proposed new 20.5-acre solid waste disposal area had ceased. This cessation coincided with the March 31, 2022 entry of an order by the Montgomery Court Circuit Court which reversed the Alabama Environmental Management Commission's approval of a May 6, 2019 Alabama Department of Environmental Management permit modification. The cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area has continued to the present day. Michael Del Vecchio observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with less frequent (only once or twice a week)

offensive odors being carried south from the disposal area to his property by northerly winds. Once again, he was able to engage in outdoor activities. He observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with no airborne dust (particulate matter) being carried south from the landfill onto his property by northerly winds and no deposition of particulate matter on his cars, porch, and patio furniture. He observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with a dramatic reduction in the number of buzzards invading his property. He still saw some buzzards in his trees and flying over his property. He observed that there were hardly any buzzard feces on his fences. He observed that there were no seagulls. He observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with minimal loud and disturbing noises from vehicle and equipment back-up alarms, slamming truck tailgates, and bulldozers and compactors.

36. The property owned by William P. Novack and Tara Novack is approximately 980 feet from the southern boundary of a proposed new 20.5-acre municipal solid waste disposal area situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of their property and its proximity to the proposed new 20.5-acre municipal solid waste disposal area.

37. William P. Novack observed a dramatic increase in solid waste disposal activities in or about August 2020, in a portion of the proposed new 20.5-acre municipal solid waste disposal area. This increase in solid waste disposal activities continued until April 1, 2022. He observed that the increase in solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with an increase in offensive odors that were carried south from the disposal area to his property by northerly winds. He observed that the offensive odors were equal to or a little worse than they had ever been. He observed that the offensive odors caused him to cease engaging in outdoor activities again and keep house windows closed

again. He observed that the increase in solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with an increase in the frequency of airborne dust (particulate matter) being carried south from the landfill to his property by northerly winds. The resulting deposition of particulate matter on his vehicles, porch, and house was just as bad as it had ever been. He observed that the increase in solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with a definite increase in the buzzard population that roosted on his property. He also observed an increase in the sitings of coyotes and wild dogs on his property. He observed that the increase in solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with an increase in loud and disturbing noises from vehicle and equipment back-up alarms and slamming truck tailgates. These noises were the worst they had ever been because disposal activities were closer to his property. It interfered with

his daytime sleep to such a degree that he considered that he might have to move.

38. On April 1, 2022, William P. Novack observed that solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area had ceased. This cessation coincided with the March 31, 2022 entry of an order by the Montgomery Court Circuit Court which reversed the Alabama Environmental Management Commission's approval of a May 6, 2019 Alabama Department of Environmental Management permit modification. The cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre solid waste disposal area has continued to the present day. He observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with a substantial reduction in offensive odors being carried south from the disposal area to his property by northerly winds. He observed the presence of offensive odors only occasionally on hot days. During this time period he was able to engage in outdoor activities again. He observed that the cessation of solid waste disposal activities in a portion of the proposed

new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with a substantial reduction in airborne dust (particulate matter) being carried south from the disposal area onto his property by northerly winds. Dust deposition on his property during this period had been virtually eliminated. He observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with a reduction in the buzzard population on his property. The number of buzzards were not near the number they had previously been; they were not on his roof as much and not in his back yard as much. He observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with a reduction in the loud and disturbing noises from vehicle and equipment back-up alarms and slamming truck tailgates operating in and around the proposed new 20.5-acre municipal solid waste disposal area. The noise was not nearly as bad as it had been in the past, but was still present.

39. Tara Novack observed a dramatic increase in solid waste disposal activities in or about August 2020, this time in a portion of a

proposed new 20.5-acre municipal solid waste disposal area. This increase in disposal activities continued until April 1, 2022. Tara Novack observed that the increase in solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with more frequent offensive odors being carried south from the disposal area to her property by northerly winds. Once again, she had to curtail all her outdoor activities, including gardening, outdoor barbecuing, nature watching, and playing with children. Once again, she had to keep the house windows closed because of the offensive odors. Tara Novack observed that the increase in solid waste disposal activities in the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with increased airborne dust (particulate matter) that were carried south to her property by northerly winds. Once again, the dust caused her to sneeze; caused her eyes to water; and caused her to sometimes cough. Once again, the dust was deposited on her grill, lawn mower, and back porch which she had to clean often. Tara Novack observed that the increase in solid waste disposal activities in a portion of the proposed new 20.5-acre

municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with an increased number of buzzards on her property. She observed an estimated fifty buzzards on her house and numerous buzzards in the sky above her property. Tara Novack observed that the increase in solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area from August 2020 to April 1, 2022 coincided with an increase in loud and disturbing noises from vehicle and equipment back-up alarms, slamming truck tailgates, and bulldozers and compactors operating in and around the proposed new 20.5-acre municipal solid waste disposal area. These noises hindered her ability to engage in work-related telephone conversations.

40. On April 1, 2022, Tara Novack observed that solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area had ceased. This cessation coincided with the March 31, 2022 entry of an order by the Montgomery Court Circuit Court which reversed the Alabama Environmental Management Commission's approval of a May 6, 2019 Alabama Department of Environmental Management permit modification. The cessation of solid waste disposal

activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area has continued to the present day. Tara Novack observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with a reduction in offensive odors being carried south from the disposal area to her property by northerly winds. She doesn't recall any offensive odors during this time period. Tara Novack observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with a reduction in the airborne dust (particulate matter) that was carried south from the disposal area onto her property by northerly winds. Nevertheless, she still saw airborne dust and there continued to be dust deposition on the car. Tara Novack observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with a reduction in flies, gnats, and wild dogs on her property. However, she continued to see dozens of buzzards in the sky above her property and in her trees and she saw coyotes in her front yard. Tara Novack observed

that a deer was killed on her property by a predator she believes was one or more coyotes. Tara Novack observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with less frequent noise from vehicle and equipment back-up alarms and some tailgate banging, although the volume was the same as before.

41. The property on which Anthony Keith resides is approximately 2,415 feet from the southern boundary of a proposed new 20.5-acre municipal solid waste disposal area situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of the property on which he resides and its proximity to the proposed new 20.5-acre municipal solid waste disposal area.

42. Anthony Keith observed a dramatic increase in solid waste disposal activities in or about August 2020, this time in a portion of the proposed new 20.5-acre municipal solid waste disposal area. This increase in disposal activities continued until April 1, 2022. This increase

coincided with increased odors, increased airborne dust, and increased numbers of buzzards at his property.

43. On April 1, 2022, Anthony Keith observed that solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area had ceased. This cessation coincided with the March 31, 2022 entry of an order by the Montgomery Court Circuit Court which reversed the Alabama Environmental Management Commission's approval of a May 6, 2019 Alabama Department of Environmental Management permit modification. The cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area has continued to the present day. Anthony Keith observed that the cessation of solid waste disposal activities in a portion of the proposed new 20.5-acre municipal solid waste disposal area after April 1, 2022 coincided with the absence of any offensive odors and airborne dust (particulate matter) that were carried south-southwest from the disposal area by north-northeasterly winds to his property.

44. The property owned by David F. Del Vecchio and Peggy R. Del Vecchio is approximately 1,825 feet from the southern boundary of a

proposed new 14.1-acre construction and demolition solid waste disposal area situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of their property and its proximity to the proposed new 14.1-acre construction and demolition waste disposal area.

45. The property owned by Michael Del Vecchio is approximately 2,570 feet from the southern boundary of a proposed new 14.1-acre construction and demolition solid waste disposal area situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of his property and its proximity to the proposed new 14.1-acre construction and demolition waste disposal area.

46. The property owned by Michael P. Novack and Tara Novak is approximately 2,840 feet from the southern boundary of a proposed new 14.1-acre construction and demolition solid waste disposal area situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of

their property and its proximity to the proposed new 14.1-acre construction and demolition waste disposal area.

47. The property on which Anthony Keith resides is approximately 4,620 feet from the southern boundary of a proposed new 14.1-acre construction and demolition solid waste disposal area situated within the approximately 506-acre facility boundary approved by the Board on July 5, 2023. Attachment B accurately depicts the location of the property on which he resides and its proximity to the proposed new 14.1-acre construction and demolition waste disposal area.

48. David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, William P. Novack, and Tara Novack do not believe that the proposed new 14.1-acre construction and demolition waste disposal area has commenced operation yet. Nevertheless, they fear that vehicle traffic on unpaved roads to and from the proposed new 14.1-acre construction and demolition waste disposal area will cause airborne dust (particulate matter) to travel to their properties and that vehicle and equipment backup alarms and slamming truck tailgates will cause loud and disturbing noises to travel to their properties.

49. Prior to the June 12, 2023 public hearing on the proposed addition of a 20.5-acre municipal solid waste disposal area and 14.1-acre construction and demolition solid waste disposal area, and expansion of the existing facility boundary to approximately 506 acres, David F. Del Vecchio, Peggy R. Del Vecchio, and Michael Del Vecchio, did not receive any notices from the Board or City that included a description of the criteria the Board would consider in determining whether to approve or disapprove the City's proposal. As a result, they were ill-prepared to present meaningful comments to the Board before the close of the comment period on June 12, 2023.

50. David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, Tara Novack, and Anthony Keith each attended the June 12, 2023 public hearing on the proposed addition of a 20.5-acre municipal solid waste disposal area and 14.1-acre construction and demolition waste disposal area, and expansion of the existing facility boundary to approximately 506 acres. They expected and wanted the hearing to be conducted by the Board, not City officials, so that the Board members

could hear their concerns first hand and observe their credibility and distress.

51. Following the Board's July 5, 2023 approval of the expansion of the existing facility boundary to approximately 506 acres, the City proposes to file an application with the Alabama Department of Environmental Management to renew and modify its Solid Waste Disposal Facility Permit to authorize it to construct and operate the proposed new 20.5-acre municipal solid waste disposal area and proposed new 14.1-acre construction and demolition solid waste disposal area and to expand the existing facility boundary to 506 acres. If the Alabama Department of Environmental Management renews and modifies the City's Solid Waste Disposal Facility Permit as the City has proposed, David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, William P. Novack, Tara Novack, and Anthony Keith will suffer the same or greater injuries as they suffered with operation of the existing 78-acre solid waste management facility and limited operation of a portion of the proposed new 20.5-acre municipal solid waste disposal area.

52. If the Court grants the relief requested herein, the Board's July 5, 2023 approval of the expansion of the existing 78-acre facility boundary to approximately 506 acres will be quashed and/or declared to be void. Absent a valid approval of a new or modified existing solid waste management site or the site of a new or modified existing solid waste management facility by the Board, the Alabama Department of Environmental Management may not consider the City's application for a permit to construct and operate the proposed new 20.5-acre municipal solid waste disposal area or the proposed new 14.1-acre construction and demolition solid waste disposal area, or expand the existing facility boundary to approximately 506 acres. See Code of Alabama 1975, § 22-27-48(b) (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)) (The department may not consider a permit application for a new facility or modified existing facility unless the solid waste management site has received approval by the local governing body pursuant to Section 22-27-48 and/or 22-27-48.1). Absent a permit, the proposed new 20.5-acre municipal solid waste disposal area and proposed new 14.1-acre construction and demolition solid waste disposal area may not commence

operation. In that event, the injuries which David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, William P. Novack, Tara Novack, and Anthony Keith seek to avoid will be prevented.

**PETITION FOR CERTIORARI REVIEW
OF BOARD'S JULY 5, 2023 APPROVAL OF AN
APPROXIMATELY 506-ACRE "FACILITY BOUNDARY"**

**Statement of Facts in Support
of Petition for Certiorari Review**

53. The City currently has an active Solid Waste Disposal Facility Permit (No. 35-06) issued by the Alabama Department of Environmental Management. AR 74:725, AR 74:730, AR 74:741, and AR 74:743-744.

54. In a letter dated April 1, 2022, from the Alabama Department of Environmental Management, the Department stated as follows:

On March 31, 2022, the Circuit Court of Montgomery County vacated its previous order and reversed the Order of the Alabama Environmental Management Commission approving the modification of the City of Dothan's Solid Waste Disposal Facility permit (35-06). This ruling means that until the City obtains a permit for the new cells, the City may not dispose of solid waste in Cells L6 - L8 of the MSW Landfill nor the C/D Landfill.

AR 74:725, 74:730, AR 74:741 and AR 74:743-744.

55. Steven Burgess, Environmental Services Manager for the City, stated at a June 12, 2023 public hearing as follows:

If local government approval is provided by the City of Dothan Commission, the City of Dothan will proceed with the submission of the completed permit application package to the Alabama Department of Environmental Management, or ADEM, to renew and modify Permit Number 35-06.

AR 80:068.

56. On March 31, 2023, Tommy J. Wright, Public Works Director for the City, submitted an application to the Board for approval of a proposed expansion of the Dothan Landfill. AR 70:001-006, ARA 92:0059-0061, ARA 98:0162-0167, ARA 228:0835-0840.

57. The March 31, 2023 application shows a proposed facility size of 522.19 acres, including an existing municipal solid waste disposal area of 53.6 acres, an existing inactive construction and demolition disposal area of 4.0 acres, a proposed municipal solid waste disposal area of 20.5 acres, and a proposed construction and demolition disposal area of 14.1 acres. AR 70:006, ARA 98:0167, ARA 228:0840.

58. The March 31, 2023 application includes the following statements:

In accordance with the Alabama Solid Waste and Recyclable Materials Management Act (“ASWRMMA”), as well as Alabama Code §§ 22-27-48 and 22-27-48.1, this application for approval from the governing body of the City of Dothan (the “City”) includes all of the information required to be submitted under Alabama law. As specified in Alabama Code § 22-27-28.1(c) [sic: 22-27-48.1(c)] regarding the siting of a new solid waste management facility, this application includes the following information:

- (1) A written document addressing each of the criteria described in subsection (c) of Section 22-27-48.
- (2) The applicant’s experience of owning or operating other solid waste facilities.
- (3) Information relating to the applicant’s financial resources, including, but not limited to, any investors or corporate affiliates of the applicant.
- (4) Any pending and past civil or criminal actions taken by a governmental entity against the applicant or its owners or operators, investors, or affiliates.
- (5) Any other information the applicant deems relevant or that may assist the governing body in making a decision whether to approve or disapprove the application.

I. Alabama Code § 22-27-48(c) Criteria.

* * *

(4) The costs and availability of public services, facilities and improvements required to support a proposed facility and protect public health, safety and the environment;

Since the Dothan Landfill is an existing facility, the proposed expansion is not anticipated to require additional investment in public services; facilities and improvements beyond the infrastructure already in the area. The Dothan Landfill has sufficient water and sewer service on-site to allow for continued operation in a cost-effective manner and in a manner consistent with the requirements of the Alabama Department of Environmental Management (“ADEM”) and the United States Environmental Protection Agency (“EPA”). Employees of the Dothan Landfill are trained and knowledgeable regarding the proper operation and maintenance of a solid waste management facility and are familiar with the requirements of the existing permit issued by ADEM.

Additionally, the ongoing financial mechanisms of the City, which are required for the proper operation and maintenance, closure, and post-closure care for the Dothan Landfill, are already in place and established.

(5) The impact of a proposed facility on public safety and provisions made to minimize the impact on public health and safety; and

Ensuring the facility is protective of public health is within ADEM’S statutory authority. The City and its employees are familiar with and committed to operating and maintaining the Dothan Landfill in accordance with the existing permit and the current regulations adopted by ADEM. The Dothan Landfill has been designed in accordance with ADEM regulations to be protective of public health and safety, and the proposed modification of the Dothan Landfill has been developed in accordance with ADEM regulations governing the design, operation, closure, and post-closure care of the Dothan Landfill.

(6) The social and economic impacts of a proposed facility on the affected community, including changes in property values, and social or community perception.

The Dothan Landfill is an existing facility adjacent to other City services and has been in operation for a number of years. Based upon the requirements of ADEM, the proposed modification is not anticipated to impact surrounding properties within the community in the vicinity of the Dothan Landfill.

II. The Applicant's Experience of Owning or Operating Other Solid Waste Facilities.

Not applicable.

III. Information Relating to the Applicant's Financial Resources.

The City has sufficient financial resources to ensure the proper construction, operation, maintenance, closure, and post-closure care of the Dothan Landfill. Financial resources for the Dothan Landfill are included in the budgets presented to and approved by the City Commission.

IV. Pending and Past Civil or Criminal Actions Taken by a Governmental Entity Against the Applicant.

The City recently completed work required under an Administrative Order on Consent with EPA and ADEM to address alleged deficiencies regarding the operation of the City's sanitary sewer system.

V. Any Other Information Relevant to this Application.

A complete copy of the City's current draft application to ADEM for the proposed modification of the Dothan Landfill is attached to this letter for the City Commission's consideration and to be made available to the public during the public participation process required under the Alabama law.

AR 70:001-004, ARA 92:0059-0061, ARA 98:0162-0164, ARA 228:0835-0838.

59. The March 31, 2023 application does not identify the costs and availability of public services, facilities, and improvements required to support the proposed new 20.5-acre municipal solid waste disposal area and proposed new 14.1-acre construction and demolition solid waste disposal area (and contiguous land, structures and other appurtenances used for the disposal of solid waste) and to protect public health, safety, and the environment. AR 70:002-003, ARA 92:0060-0061, ARA 98:0163-0164, ARA 228:0836-0837.

60. The March 31, 2023 application does not identify the impact of the proposed new 20.5-acre municipal solid waste disposal area and proposed new 14.1-acre construction and demolition solid waste disposal area (and contiguous land, structures and other appurtenances used for the disposal of solid waste) on public safety and provisions made to

minimize the impact on public health and safety. AR 70:003, ARA 92:0061, ARA 98:0164, ARA 228:0837.

61. The March 31, 2023 application does not identify the social and economic impacts of a proposed new 20.5-acre municipal solid waste disposal area and proposed new 14.1-acre construction and demolition solid waste disposal area (and contiguous land, structures and other appurtenances used for the disposal of solid waste) on the affected community, including changes in property values, and social or community perception. AR 70:003, ARA 92:0061, ARA 98:0064, ARA 228:0837.

62. On April 4, 2023, the Board met in regular session with the following members present: Mayor Mark Saliba, Associate Commissioners Kevin Dorsey, Aristotle O. Kirkland, John Ferguson, Gantt Pierce, and David L. Crutchfield. Associate Commissioner Bradley Bedwell was absent. AR 70:007.

63. At the April 4, 2023 meeting of the Board, the Board considered adoption of Resolution No. 2023-119 but did not discuss or determine whether the March 31, 2023 application submitted to the Board

by Tommy J. Wright, Public Works Director for the City, is complete. AR 70:012-013; AR 70:017-024.

64. On April 4, 2023, the Board adopted Resolution No. 2023-119.

The Resolution resolved as follows:

Section 1. That the City of Dothan proceed with all steps necessary to carry out the proposed expansion to the facility boundary of the Dothan Landfill.

Section 2. That the City of Dothan is authorized to provide notice to adjacent property owners of the proposed action.

Section 3. That the City of Dothan is authorized to provide notice to the public of the public awareness meeting scheduled for May 8, 2023, at Andrew Belle Recreation Center.

Section 4. That the City of Dothan is authorized to provide notice to the public of the public hearing scheduled for June 12, 2023, at the Dothan Opera House.

Section 5. That the application fee required to be submitted to the City under Alabama Code § 22-27-48(d) for the proposed expansion to the facility boundary of the Dothan Landfill be waived.

AR 70:017-024; ARA 92:0062-0063, ARA 228:0834-0841.

65. Resolution No. 2023-119 does not reflect Board approval of a time for the City to conduct a public awareness session on the siting of a proposed new or modified existing solid waste management facility or

proposed expansion of an existing facility boundary. AR 70:017-024; ARA 92:0062-0063, ARA 228:0834-0841.

66. The City of Dothan, Alabama determined that David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, and Kara Del Vecchio are owners of property adjacent to the approximately 522-acre facility boundary proposed by the City. AR 70:025; AR 70:040, ARA 96:0149, ARA 230:0844.

67. On April 5, 2023, Tommy J. Wright, Public Works Director for the City, provided the following notice to David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, and Kara Del Vecchio:

Please let this letter serve as notice of the City of Dothan's request to the Dothan City Commission to grant approval (Host Government Approval) regarding a proposed modification and expansion of the Solid Waste Disposal Facility Permit for the above-referenced landfill. In accordance with the Alabama Solid Waste and Recyclable Materials Management Act (ASWRMMA), as well as Alabama Code §§ 22-27-48 and 22-27-48.1, the City of Dothan has set a public comment period and has scheduled a public awareness meeting and public hearing on the request for Host Government Approval.

The public comment period, which provides the opportunity to offer written comments regarding the request for Host Government Approval, will run from April 5, 2023, to June 12, 2023. The public awareness meeting will be held on Monday,

May 8, 2023, from 6:00 PM until 7:00 PM, at the Andrew Belle Recreation Center located at 1270 Lake Street, Dothan, AL 36303. During the public awareness session, the City of Dothan will provide general information on the design and operation of the proposed modification and expansion and will address questions by members of the affected community. Finally, the public hearing, which will allow interested parties to make oral or written comments into the public hearing record, will be held on Monday, June 12, 2023, from 5:00 PM until 7:00 PM, at the Dothan Opera House located at 115 N. Saint Andrews Street, Dothan, AL 36303.

After consideration of all written comments, the public hearing record, the requirements of ASWRMMA, the criteria described in Alabama Code § 22-27-48(c), and all other applicable regulations, the Dothan City Commission will decide whether to grant Host Government Approval for the proposed modification and expansion.

Should you have any questions, please call Public Works Department at 334-615-4420.

AR 70:030-033.

68. The April 5, 2023 notice provided to adjacent property owners David F. Del Vecchio, Peggy R. Del Vecchio, and Michael Del Vecchio was not provided by the Board. AR 70:030-033.

69. The April 5, 2023 notice provided to adjacent property owners David F. Del Vecchio, Peggy R. Del Vecchio, and Michael Del Vecchio do not contain a description of the criteria, as provided in Code of Alabama

1975, § 22-27-48(c), that the Board will consider in determining whether to approve the site of a proposed new or modified existing solid waste management facility or proposed expansion of an existing facility boundary. AR 70:030-033.

70. The April 5, 2023 notice provided to adjacent property owners David F. Del Vecchio, Peggy R. Del Vecchio, and Michael Del Vecchio specifies a time for the public awareness session that was not approved by the Board. AR 70:017-024.

71. On or about April 5, 2023, the City displayed on its website (at <https://www.dothan.org/DocumentCenter/View/9166/Public-Notice-for-Proposed-Landfill-Expansion>) the following notice:

Please let this serve as notice of the City of Dothan's request to the Dothan City Commission to grant approval (Host Government Approval) regarding a proposed modification and expansion of the Solid Waste Disposal Facility Permit for the above-referenced landfill. In accordance with the Alabama Solid Waste and Recyclable Materials Management Act (ASWRMMA), as well as Alabama Code §§ 22-27-48 and 22-27-48.1, the City of Dothan has set a public comment period and has scheduled a public awareness meeting and public hearing on the request for Host Government Approval.

The public comment period, which provides the opportunity to offer written comments regarding the request for Host Government Approval, will run from April 5, 2023, to June 12,

2023. The public awareness meeting will be held on Monday, May 8, 2023, from 6:00 PM until 7:00 PM, at the Andrew Belle Recreation Center located at 1270 Lake Street, Dothan, AL 36303. During the public awareness session, the City of Dothan will provide general information on the design and operation of the proposed modification and expansion and will address questions by members of the affected community. Finally, the public hearing, which will allow interested parties to make oral or written comments into the public hearing record, will be held on Monday, June 12, 2023, from 5:00 PM until 7:00 PM, at the Dothan Opera House located at 115 N. Saint Andrews Street, Dothan, AL 36303.

After consideration of all written comments, the public hearing record, the requirements of ASWRMMA, the criteria described in Alabama Code § 22-27-48(c), and all other applicable regulations, the Dothan City Commission will decide whether to grant Host Government Approval for the proposed modification and expansion.

Should you have any questions, please call Public Works Department at 334-615-4420.

AR 70:034-035.

72. The on or about April 5, 2023 notice displayed on the City's website does not contain a description of the criteria, as provided in Code of Alabama 1975, § 22-27-48(c), that the Board will consider in determining whether to approve the site of a proposed new or modified existing solid waste management facility or proposed expansion of an existing facility boundary. AR 70:034.

73. The on or about April 5, 2023 notice displayed on the City's website specifies a time for the public awareness session that was not approved by the Board. AR 70:017-024.

74. On April 7, 2023, a notice was published in the *Dothan Eagle* which states:

Please let this serve as notice of the City of Dothan's request to the Dothan City Commission to grant approval (Host Government Approval) regarding a proposed modification and expansion of the Solid Waste Disposal Facility Permit for the above-referenced landfill. In accordance with the Alabama Solid Waste and Recyclable Materials Management Act (ASWRMMA), as well as Alabama Code 22-27-48 and 22-27-48.1, the City of Dothan has set a public comment period and has scheduled a public awareness meeting and public hearing on the request for Host Government Approval.

The public comment period, which provides the opportunity to offer written comments regarding the request for Host Government Approval, will run from April 5, 2023, to June 12, 2023. The public awareness meeting will be held on Monday, May 8, 2023, from 6:00 PM until 7:00 PM, at the Andrew Belle Recreation Center located at 1270 Lake Street, Dothan, AL 36303. During the public awareness session, the City of Dothan will provide general information on the design and operation of the proposed modification and expansion and will address questions by members of the affected community.

Finally, the public hearing, which will allow interested parties to make oral or written comments into the public hearing record, will be held on Monday, June 12, 2023, from 5:00 PM

until 7:00 PM, at the Dothan Opera House located at 115 N. Saint Andrews Street, Dothan, AL 36303.

After consideration of all written comments, the public hearing record, the requirements of ASWRMMA, the criteria described in Alabama Code 22-27-48(c), and all other applicable regulations, the Dothan City Commission will decide whether to grant Host Government Approval for the proposed modification and expansion.

Should you have any questions, please call Public Works Department at 334-615-4420.

AR 70:036-037.

75. The April 7, 2023 notice published in the *Dothan Eagle* does not contain a description of the criteria, as provided in Code of Alabama 1975, § 22-27-48(c), that the Board will consider in determining whether to approve the site of a proposed new or modified existing solid waste management facility or proposed expansion of an existing facility boundary. AR 70:036.

76. The April 7, 2023 notice published in the *Dothan Eagle* specifies a time for the public awareness session that was not approved by the Board. AR 70:017-024.

77. On April 25, 2023, R. Daniel Wells, Chief Operating Officer of CDG, Inc. and principal engineer for the solid waste management facility

proposed by the City, issued an eight-page “Addendum No. 1” to the City’s proposed revisions to the Operations Manual portion of the City’s permit application to the Alabama Department of Environmental Management. AR 70:038-050, AR 74:751-763, AR 80:047-050, ARA 96:0147-0158, ARA 230:0842-0854.

78. “Addendum No. 1” shows a revised facility size of 506.67 acres. AR 70:045; AR 74:758, ARA 96:0154, ARA 230:0849. “Addendum No. 1” explains that the reduced facility size is the result of the sale of property to Houston County. AR 70:038, AR 74:751, ARA 96:0147, ARA 230:0842.

79. “Addendum No. 1” shows an existing municipal solid waste disposal area of 53.6 acres, an existing inactive construction and demolition disposal area of 4.0 acres, a proposed municipal solid waste disposal area of 20.5 acres, and a proposed construction and demolition disposal area of 14.1 acres. AR 70:045, AR 74:758, ARA 96:0154, ARA 230:0849.

80. “Addendum No. 1” includes the following diagrams: a “Boundary Survey of Dothan Landfill,” AR 74:760, AR 80:047, ARA

86:0002, ARA 96:0156, ARA 230:0851, ARA 232:0856;³ a “Facility Layout,” AR 74:761, AR 80:048, ARA 86:0003, ARA 96:0157, ARA 230:0852, ARA 232:0857;⁴ and a “Waste Disposal Layout,” AR 74:762, AR 80:049, ARA 86:0004, ARA 96:0158, ARA 230:0853, ARA 232:0858.⁵

81. The “Boundary Survey of Dothan Landfill” designates “New Parcel 1” as 207.342 AC± (all lying east of Ennis Road) and “New Parcel 2” as 298.330 AC± (all lying west of Ennis Road). AR 74:760, AR 80:047, ARA 86:0002, ARA 96:0156, ARA 230:0851, ARA 232:0856.

82. The “Facility Layout” identifies no site of a proposed new or modified existing solid waste management facility in the 207.342 AC± “New Parcel 1” (east of Ennis Road); no land, structures, or other appurtenances used for the disposal of solid waste proposed to be located in the 207.342 AC± “New Parcel 1” (east of Ennis Road); and no waste disposal areas proposed to be located in the 207.342 AC± “New Parcel 1”

³ The “Boundary Survey of Dothan Landfill” dated April 24 is reproduced and appended hereto in Attachment C.

⁴ The “Facility Layout” dated April 25, 2023 is reproduced and appended hereto as Attachment D.

⁵ The “Waste Disposal Layout” dated April 25, 2023 is reproduced and appended hereto as Attachment E.

(east of Ennis Road). AR 74:761, AR 80:048, ARA 86:0003, ARA 96:0157, ARA 230:0852, ARA 232:0857.

83. The “Facility Layout” and “Waste Disposal Layout” identify a an “Existing MSW Cell L-1” of 10.1 acres, an “Existing MSW Cell L-2” of 9.6 acres, an “Existing MSW Cell L-3” of 15.0 acres, an “Existing MSW Cell L-4” of 15.0 acres, and an existing “Inactive C/D Cell L-5” of 3.9 acres located in the 298.330 AC± “New Parcel 2” (west of Ennis Road). AR 74:761-762, AR 80:048-049, ARA 86:0003-0004, ARA 96:0157-0158, ARA 230:0852-0853, ARA 232:0857-0858. The total acreage of these waste disposal areas is 53.6 acres.

84. The “Facility Layout” identifies a number of existing structures and other appurtenances used for the disposal of solid waste located in the 298.330 AC± “New Parcel 2” (west of Ennis Road) that are closely situated to the 53.6-acre waste disposal area. These include “Existing Offices,” “Existing Scales/Scalehouse,” “Existing Entrance,” “Existing All-Weather Access Road,” and “Sediment Pond No. 1.” The acreage of land occupied by these structures and appurtenances is not

indicated on the “Facility Layout.” AR 74:761, AR 80:048, ARA 86:0003, ARA 96:0157, ARA 230:0852, ARA 232:0857.

85. The “Facility Layout” and “Waste Disposal Layout” identify an “Existing (Inactive) MSW Cell L-6” of 8.3 acres, a “Future MSW Cell L-7” of 7.1 acres, and a “Future MSW Cell L-8” of 5.1 acres in the 298.330 AC± “New Parcel 2” (west of Ennis Road). AR 74:761-762, AR 80:048-049, ARA 86:003-0004, ARA 96:0157-0158, ARA 230:0852-0853, ARA 232:0857-0858. The total acreage of this proposed municipal solid waste disposal area is 20.5 acres.

86. The “Facility Layout” identifies a number of structures and appurtenances to be used for the disposal of solid waste located in the 298.330 AC± “New Parcel 2” (west of Ennis Road) that are closely situated to the 20.5-acre disposal area. These include “Existing Concrete Access Road” and “Proposed Sediment Pond No. 2.” The acreage of land occupied by these structures and appurtenances is not indicated on the “Facility Layout.” AR 74:761, AR 80:048, ARA 86:0003, ARA 96:0157, ARA 230:0852, ARA 232:0857.

87. The “Facility Layout” and “Waste Disposal Layout” identify a “Proposed C/D Disposal Area” of 14.1 acres located in the 298.330 AC± “New Parcel 2” (west of Ennis Road). AR 74:761-762, AR 80:048-049, ARA 86:0003-0004, ARA 96:0157-0158, ARA 230:0852-0853, ARA 232:0857-0858.

88. The “Facility Layout” identifies one existing structure or appurtenance proposed to be used for the disposal of solid waste in the 298.330 AC± “New Parcel 2” (west of Ennis Road) that is closely situated to the 14.1-acre disposal area. This is “Existing Sediment Pond No. 3.” The acreage of land occupied by this structure or other appurtenance is not indicated on the “Facility Layout.” AR 74:761, AR 80:048, ARA 86:0003, ARA 96:0157, ARA 230:0852, ARA 232:0857.

89. The “Facility Layout” identifies areas of land that are not used or proposed to be used for the disposal of solid waste in the 298.330 AC± “New Parcel 2” (west of Ennis Road). These include a “Delineated Wetland,” a “100' Wetland Buffer,” a “100' Waste Buffer,” a “100' APCO Easement,” two “Closed Landfill[s],” and an “Active Borrow Material Area.” The acreage of these areas, and other areas not used or proposed

to be used for the disposal of solid waste, is not identified in the “Facility Layout.” AR 74:761, AR 80:048, ARA 86:0003, ARA 96:0157, ARA 230:0852, ARA 232:0857.

90. On or about May 9, 2023, two identical notices were displayed on the City’s website (at <https://www.dothan.org/DocumentCenter/View/9305/2023-Proposed-Landfill-Modification-and-Expansion?bidId=> and <https://www.dothan.org/DocumentCenter/View/9166/Public-Notice-for-Proposed-Landfill-Expansion>) which state:

Please let this serve as notice of the City of Dothan’s request to the Dothan City Commission to grant approval (Host Government Approval) regarding a proposed modification and expansion of the Solid Waste Disposal Facility Permit for the above-referenced landfill. In accordance with the Alabama Solid Waste and Recyclable Materials Management Act (ASWRMMA), as well as Alabama Code §§ 22-27-48 and 22-27-48.1, the City of Dothan has set a public comment period and has scheduled a public hearing on the request for Host Government Approval.

The public comment period, which provides the opportunity to offer written comments regarding the request for Host Government Approval, will run from April 5, 2023, to June 12, 2023. The public hearing, which will allow interested parties to make oral or written comments into the public hearing record, will be held on Monday, June 12, 2023, from 5:00 PM until 7:00 PM, at the Dothan Opera House located at 115 N. Saint Andrews Street, Dothan, AL 36303.

After consideration of all written comments, the public hearing record, the requirements of ASWRMMA, the criteria described in Alabama Code § 22-27-48(c), and all other applicable regulations, the Dothan City Commission will decide whether to grant Host Government Approval for the proposed modification and expansion.

Should you have any questions, please call Public Works Department at 334-615-4420.

AR 80:051-053.

91. The May 9, 2023 notices displayed on the City's website do not contain a description of the criteria, as provided in Code of Alabama 1975, § 22-27-48(c), that the Board will consider in determining whether to approve a site of a proposed new or modified existing solid waste management facility or proposed expansion of an existing facility boundary. AR 80:051-053.

92. On May 9, 2023, Tommy J. Wright, Public Works Director of the City of Dothan, provided the following notice to adjacent property owners David F. Del Vecchio, Peggy R. Del Vecchio, and Michael Del Vecchio:

Please let this letter serve as notice of the City of Dothan's request to the Dothan City Commission to grant approval ("Host Government Approval") regarding a proposed modification and expansion of the Solid Waste Disposal

Facility Permit for the City of Dothan Sanitary Landfill (Permit No. 35-06) (the “Landfill”). The proposed modification includes the expansion of the facility boundary to approximately 506 acres. The Landfill has a currently permitted disposal footprint of 53.6 acres. The proposed modification would increase the disposal footprint to 74.1 acres and add a Construction/Demolition disposal area of 14.1 acres where the City of Dothan currently disposes of vegetative debris.

In accordance with the Alabama Solid Waste and Recyclable Materials Management Act (“ASWRMMA”), as well as Alabama Code § 22-27-48, the City of Dothan has set a public comment period and has scheduled a public hearing on the request for Host Government Approval. The public comment period, which provides the opportunity to offer written comments regarding the request for Host Government Approval, will run from April 5, 2023, to June 12, 2023. The public hearing, which will allow interested parties to make oral or written comments into the public hearing record, will be held on Monday, June 12, 2023, from 5:00 PM until 7:00 PM, at the Dothan Opera House located at 115 N. Saint Andrews Street, Dothan, Alabama 36303.

The local solid waste management plan, permit application package, and landfill modification plans are available for viewing by the public Monday through Friday, from 8:00 AM to 4:00 PM at the Dothan Civic Center, located at 126 N. St. Andrews Street, Dothan, AL, Public Works Department, Room 303. The public may submit written comments during the public comment period by emailing them to publicworks@dothan.org. For questions or to obtain comment forms, please contact Bart Barefoot, Public Works Department at (334) 615-4402. Comment forms are also available online at www.dothan.org.

After consideration of all written comments, the public hearing record, the requirements of ASWRMMA, the criteria described in Alabama Code § 22-27-48(c), and all other applicable regulations, the Dothan City Commission will decide whether to grant Host Government Approval for the proposed modification and expansion.

AR 80:054-059.

93. The May 9, 2023 notice provided to adjacent property owners David F. Del Vecchio, Peggy R. Del Vecchio, and Michael Del Vecchio do not contain a description of the criteria, as provided in Code of Alabama 1975, § 22-27-48(c), that the Board will consider in determining whether to approve the City’s proposal to expand the existing facility boundary to 506 acres, increase the municipal solid waste disposal area to 74.1 acres, and add a construction/demolition waste disposal area of 14.1 acres.

94. On May 10, 2023, a notice was published in the *Dothan Eagle* which states:

Please let this serve as notice of the City of Dothan’s request to the Dothan City Commission to grant approval (“Host Government Approval”) regarding a proposed modification and expansion of the Solid Waste Disposal Facility Permit for the City of Dothan Sanitary Landfill (Permit No. 35-06) (the “Landfill”). The proposed modification includes the expansion of the facility boundary to approximately 506 acres. The Landfill has a currently permitted disposal footprint of 53.6 acres. The proposed modification would increase the disposal

footprint to 74.1 acres and add a Construction/Demolition disposal area of 14.1 acres where the City of Dothan currently disposes of vegetative debris.

In accordance with the Alabama Solid Waste and Recyclable Materials Management Act ("ASWRMMA"), as well as Alabama Code 22-27-48, the City of Dothan has set a public comment period and has scheduled a public hearing on the request for Host Government Approval. The public comment period, which provides the opportunity to offer written comments regarding the request for Host Government Approval, will run from April 5, 2023, to June 12, 2023. The public hearing, which will allow interested parties to make oral or written comments into the public hearing record, will be held on Monday, June 12, 2023, from 5:00 PM until 7:00 PM, at the Dothan Opera House located at 115 N. Saint Andrews Street, Dothan, Alabama 36303.

The local solid waste management plan, permit application package, and landfill modification plans are available for viewing by the public Monday through Friday, from 8:00 AM to 4:00 PM at the Dothan Civic Center, located at 126 N. St. Andrews Street, Dothan, AL, Public Works Department, Room 303. The public may submit written comments during the public comment period by emailing them to publicworks@dothan.org. For questions or to obtain comment forms, please contact Bart Barefoot, Public Works Department at (334) 615-4402. Comment forms are also available online at www.dothan.org.

After consideration of all written comments, the public hearing record, the requirements of ASWRMMA, the criteria described in Alabama Code 22-27-48(c), and all other applicable regulations, the Dothan City Commission will decide whether to grant Host Government Approval for the proposed modification and expansion.

AR 80:060-061.

95. The May 10, 2023 notice published in the *Dothan Eagle* does not contain a description of the criteria, as provided in Code of Alabama 1975, § 22-27-48(c), that the Board will consider in determining whether to approve the City’s proposal to expand the existing facility boundary to 506 acres, increase the municipal solid waste disposal area to 74.1 acres, and add a construction/demolition waste disposal area of 14.1 acres. AR 80:060.

96. On May 17, 2023, a notice was printed in the *Dothan Eagle* which states:

Please let this serve as notice of the City of Dothan’s request to the Dothan City Commission to grant approval (“Host Government Approval”) regarding a proposed modification and expansion of the Solid Waste Disposal Facility Permit for the City of Dothan Sanitary Landfill (Permit No. 35-06) (the “Landfill”). The proposed modification includes the expansion of the facility boundary to approximately 506 acres. The Landfill has a currently permitted disposal footprint of 53.6 acres. The proposed modification would increase the disposal footprint to 74.1 acres and add a Construction/Demolition disposal area of 14.1 acres where the City of Dothan currently disposes of vegetative debris.

In accordance with the Alabama Solid Waste and Recyclable Materials Management Act (“ASWRMMA”), as well as Alabama Code 22-27-48, the City of Dothan has set a public

comment period and has scheduled a public hearing on the request for Host Government Approval. The public comment period, which provides the opportunity to offer written comments regarding the request for Host Government Approval, will run from April 5, 2023, to June 12, 2023. The public hearing, which will allow interested parties to make oral or written comments into the public hearing record, will be held on Monday, June 12, 2023, from 5:00 PM until 7:00 PM, at the Dothan Opera House located at 115 N. Saint Andrews Street, Dothan, Alabama 36303.

The local solid waste management plan, permit application package, and landfill modification plans are available for viewing by the public Monday through Friday, from 8:00 AM to 4:00 PM at the Dothan Civic Center, located at 126 N. St. Andrews Street, Dothan, AL, Public Works Department, Room 303. The public may submit written comments during the public comment period by emailing them to publicworks@dothan.org. For questions or to obtain comment forms, please contact Bart Barefoot, Public Works Department at (334) 615-4402. Comment forms are also available online at www.dothan.org.

After consideration of all written comments, the public hearing record, the requirements of ASWRMMA, the criteria described in Alabama Code 22-27-48(c), and all other applicable regulations, the Dothan City Commission will decide whether to grant Host Government Approval for the proposed modification and expansion.

AR 80:062-063.

97. The May 17, 2023 notice published in the *Dothan Eagle* does not contain a description of the criteria, as provided in Code of Alabama

1975, § 22-27-48(c), that the Board will consider in determining whether to approve the City's proposal to expand the existing facility boundary to 506 acres, increase the municipal solid waste disposal area to 74.1 acres, and add a construction/demolition waste disposal area of 14.1 acres. AR 80:062.

98. On or about May 19, 2023, a notice was displayed on the City's website (at <https://www.dothan.org/DocumentCenter/View/9329/Notice---Host-Government-Approval-PDF?bidId=>) which states:

Please let this serve as notice of the City of Dothan's request to the Dothan City Commission to grant approval ("Host Government Approval") regarding a proposed modification and expansion of the Solid Waste Disposal Facility Permit for the City of Dothan Sanitary Landfill (Permit No. 35-06) (the "Landfill"). The proposed modification includes the expansion of the facility boundary to approximately 506 acres. The Landfill has a currently permitted disposal footprint of 53.6 acres. The proposed modification would increase the disposal footprint to 74.1 acres and add a Construction/Demolition disposal area of 14.1 acres where the City of Dothan currently disposes of vegetative debris.

In accordance with the Alabama Solid Waste and Recyclable Materials Management Act ("ASWRMMA"), as well as Alabama Code § 22-27-48, the City of Dothan has set a public comment period and has scheduled a public hearing on the request for Host Government Approval. The public comment period, which provides the opportunity to offer written comments regarding the request for Host Government

Approval, will run from April 5, 2023, to June 12, 2023. The public hearing, which will allow interested parties to make oral or written comments into the public hearing record, will be held on Monday, June 12, 2023, from 5:00 PM until 7:00 PM, at the Dothan Opera House located at 115 N. Saint Andrews Street, Dothan, Alabama 36303.

The local solid waste management plan, permit application package, and landfill modification plans are available for viewing by the public Monday through Friday, from 8:00 AM to 4:00 PM at the Dothan Civic Center, located at 126 N. St. Andrews Street, Dothan, AL, Public Works Department, Room 303. The public may submit written comments during the public comment period by emailing them to publicworks@dothan.org. For questions or to obtain comment forms, please contact Bart Barefoot, Public Works Department at (334) 615-4402. Comment forms are also available online at www.dothan.org.

After consideration of all written comments, the public hearing record, the requirements of ASWRMMA, the criteria described in Alabama § 22-27-48(c), and all other applicable regulations, the Dothan City Commission will decide whether to grant Host Government Approval for the proposed modification and expansion.

AR 80:064-065.

99. The on or about May 19, 2023 notice displayed on the City's website does not contain a description of the criteria, as provided in Code of Alabama 1975, § 22-27-48(c), that the Board will consider in determining whether to approve the City's proposal to expand the existing

facility boundary to 506 acres, increase the municipal solid waste disposal area to 74.1 acres, and add a construction/demolition waste disposal area of 14.1 acres. AR 80:064.

100. On June 12, 2023, City officials conducted a public hearing to receive public comments on its proposal to expand the existing facility boundary to 506 acres, increase the municipal solid waste disposal area to 74.1 acres, and add a construction/demolition waste disposal area of 14.1 acres. AR 80:066-108, AR 82:109-110, ARA 92:0080-0093, ARA 94:0094-0124.

101. The June 12, 2023 hearing was conducted by Tommy J. Wright, Director of the City's Public Works Department, Bart Barefoot, Assistant Director of the City's Public Works Department, Steven Burgess, Manager of the Environmental Services Division of the City's Public Works Department, and R. Daniel Wells, Chief Operating Officer of CDG, Inc. AR 80:067, AR 80:069, AR 80:073, ARA 92:0081, ARA 92:0083, ARA 92:0087.

102. The list of attendees at the June 12, 2023 public hearing show only one member of the Board in attendance – David Crutchfield. AR 82:111-113, ARA 92:0064-0068.

103. The June 12, 2023 public hearing was not held by the Board. AR 80:066-108, AR 82:109-110, ARA 92:0080-0093, ARA 94:0094-0124.

104. On July 5, 2023, the Board met in regular session. The following members were present: Mayor Mark Saliba, Associate Commissioners Kevin Dorsey, Aristotle O. Kirkland, John Ferguson, Gantt Pierce, and David L. Crutchfield. Associate Commissioner Bradley Bedwell was absent. AR 74:862.

105. On July 5, 2023, the Board voted to approve Resolution No. 2023-210. Resolution No. 2023-210 approved the expansion of the existing facility boundary of the Dothan Landfill to approximately 506 acres. Resolution No. 2023-210 did not approve the site of any new or modified existing solid waste management facility. AR 74:867-868, ARA 92:0062-0063.

106. Resolution No. 2023-210 was passed in a 4-2 vote without discussion. Voting for approval were Mayor Mark Saliba, and Associate

Commissioners John Ferguson, Gantt Pierce, and David L. Crutchfield. Voting against approval were Associate Commissioners Kevin Dorsey and Aristotle O. Kirkland. AR 74:863, AR 74:867-868, ARA 92:0062-0063, video recording (at <https://www.youtube.com/watch?v=XEmyV-6pcR0>).

**GROUND SUPPORTING JUDGMENT
QUASHING THE BOARD’S JULY 5, 2023 APPROVAL
OF AN APPROXIMATELY 506-ACRE “FACILITY BOUNDARY”**

**First Ground
Board’s Failure to Approve Site of a New or
Modified Existing Solid Waste Management Facility**

107. Plaintiffs incorporate by reference paragraphs 53 through 57, 77 through 89, and 104 through 106 hereof.

108. Code of Alabama 1975, §§ 22-27-48(c) (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)) authorizes the Board to approve or disapprove a “new solid waste management site” or a “modified existing solid waste management site.” Code of Alabama 1975 § 22-27-43 provides that “[a]ll terms used in this article shall be defined as such terms are defined in Section 22-27-2.” Code of Alabama 1975, § 22-27-2 (as amended by Act No. 2020-30, §1 (eff. June 1, 2020)) does not define the term “solid waste management site.”

109. “[T]he rule is well recognized that in the construction of a statute, the legislative intent is to be determined from a consideration of the whole act with reference to the subject matter to which it applies and the particular topic under which the language in question is found. The intent so deduced from the whole will prevail over that of a particular part considered separately.” Ala. Dep’t of Revenue v. Greenetrack, Inc., 369 So. 3d 640, 650 (Ala. 2022) (quoting LEAD Educ. Found. v. Ala. Educ. Ass’n, 290 So. 3d 778, 788 (Ala. 2019), in turn quoting Blair v. Greene, 18 So. 2d 688, 689 (1944)). Reading the provisions of Code of Alabama 1975, §§ 22-27-48 and 22-27-48.1 as a whole, it is evident that the legislative intent of the term “solid waste management site” is “the site of a solid waste management facility.” See, e.g., See § 22-27-48(g) (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)) (any decision by the local governing body to approve or disapprove “the siting of a new solid waste management facility” shall be made in accordance with § 27-22-48.1); § 22-27-48.1(b) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) (the local governing body shall make a discretionary decision to approve or disapprove “the siting of a new solid waste management facility” in

accordance with § 22-27-48.1); § 22-27-48.1(c) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) (any person or entity seeking approval from the local governing body for “the siting of a new solid waste management facility” shall also submit specified information in its application); § 22-27-48.1(h) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) (the local governing body shall make a decision to approve or disapprove “the siting of a new solid waste management facility”); § 22-27-48(i) (as amended by Act No. 2022-338, § 1 (eff. July 1, 2022) (this section shall not apply to an application received by a local governing body for a “proposed new solid waste management facility”); § 22-27-48(b) (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)) (ADEM may not consider a permit application for a “new facility” unless the solid waste management site has received approval pursuant to Section 22-27-48.1 by the affected local governing body); § 22-27-48(i) (as amended by Act No. 2022-338, § 1 (eff. July 1, 2022) (this section shall not apply to an application received by a local governing body for a “modification of an existing permitted solid waste management facility”); § 22-27-48(b) (as amended by Act No. 2022-338, § 1 (eff. July 1, 2022)) (ADEM may not

consider a permit application for a modified permit for a “facility” unless the solid waste management site has received approval pursuant to Section 22-27-48 by the affected local governing body); § 22-27-48(b) (as amended by Act No. 2022-338, § 1 (eff. July 1, 2022) (ADEM may not consider a permit application for a modified permit for a “facility” unless the solid waste management site has received approval pursuant to Section 22-27-48 by the affected local governing body); § 22-27-48(i) (as amended by Act No. 2022-338, § 1 (eff. July 1, 2022) (this section shall not apply to an application received by a local governing body for a “modification of an existing permitted solid waste management facility”).

110. A “solid waste management facility” includes a “facility” the purpose of which is the disposal of solid waste. Code of Alabama 1975, § 22-27-2(37) (as amended by Act No. 2020-30, §1 (eff. June 1, 2020)). A “facility” is “[a]ll contiguous land, structures, and other appurtenances used for the . . . disposal of solid waste . . . including, but not limited to, waste disposal areas and waste disposed therein.” Code of Alabama 1975 § 22-27-2(10) (as amended by Act No. 2020-30, §1 (eff. June 1, 2020)). Thus, a “solid waste management facility” includes more than waste

disposal areas. It also includes “[a]ll contiguous land, structures, and other appurtenances used for the . . . disposal of solid waste.”

111. The phrase “land, structures, and other appurtenances” is a compound noun phrase containing three distinct nouns – “land,” “structures,” and “appurtenances.” The word “used” is the past participle form of the verb “use.” See Bryan A. Garner, Garner’s Modern English Usage 1229 (5th ed. 2022) (A past participle is “[a] nonfinite verb form ending usu. [usually] in *-ed*, *-en*, or *-t* . . . * * * [P]ast participles may function adjectively <proven fact> <used books>.”). The phrase “used for the . . . disposal of solid waste” is a participial phrase that functions as an adjective to describe the three nouns in the antecedent compound noun phrase – “land,” “structures,” and “appurtenances.” See id. at 1231 (A participial phrase is “[a] phrase consisting of a participle and a modifier or complement and functioning as an adjective. • The phrase may appear before or after the subject.”); United States v. Hendrickson, 949 F.3d 95, 98-99 (3rd Cir. 2020) (the past participle “used” in the phrase “phone or other device used by a user of a commercial mobile service . . . in connection with such service” serves as an adjective to describe a type of

device). Thus, contiguous land, structures, and other appurtenances must be used for the disposal of solid waste to be part of a “facility” and “solid waste management facility.” Any contiguous land, structures, or other appurtenances that are not used for the disposal of solid waste are not part of a “facility” or “solid waste management facility.”

112. The Board exceeded its authority under Code of Alabama 1975, §§ 22-27-48 (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)) and 22-27-48.1 (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) by approving the proposed expansion to the facility boundary of the Dothan Landfill to approximately 506 acres, rather than approving the site of a “new solid waste management facility” or the site of a “modified existing solid waste management facility.” Accordingly, such approval is due to be quashed.

Second Ground
Board Exceeded its Authority by including
New Parcel 1 in its Approved Facility Boundary

113. Plaintiffs incorporate by reference paragraphs 53 through 57, 77 through 82, 104 through 106, and 108 through 111 hereof.

114. No sites of new or modified existing solid waste facilities are proposed to be located in the 207.342 acres of “New Parcel 1.” The Board exceeded its authority under Code of Alabama 1975, §§ 22-27-48 (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)) and 22-27-48.1 (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) by approving the expansion of the existing facility boundary of the Dothan Landfill to include “New Parcel 1.”

115. Accordingly, the Board’s July 5, 2023 approval of the expansion of the existing facility boundary of the Dothan Landfill to approximately 506 acres is due to be quashed.

**Third Ground
Board Exceeded its Authority by Including All
of New Parcel 2 in its Approved Facility Boundary**

116. Plaintiffs incorporate by reference paragraphs 53 through 57, 77 through 81, 83 through 89, 104 through 106, and 108 through 111.

117. The site of an existing solid waste management facility is included in the 298.330 acres of “New Parcel 2.” This facility includes an existing solid waste disposal area of 53.6 acres and contiguous land, structures, and other appurtenances used for the disposal of solid waste

(e.g., “Existing Offices,” “Existing Scales/Scalehouse,” “Existing Entrance,” “Existing All-Weather Access Road,” and “Sediment Pond No. 1”).

118. The sites of two new solid waste management facilities are proposed in the 298.330 acres of “New Parcel 2.” These facilities include a proposed new 14.1-acre construction and demolition solid waste disposal area and any contiguous land, structures, and other appurtenances used for the disposal of solid waste (e.g., “Existing Sediment Pond No. 3”); and a proposed new 20.5-acre municipal solid waste disposal area and any contiguous land, structures, and other appurtenances used for the disposal of solid waste (e.g., “Existing Concrete Access Road” and “Proposed Sediment Pond No. 2”).

119. Much of the land in “New Parcel 2” is not a site of a proposed new or modified existing “solid waste management facility” (e.g., “Delineated Wetland,” “100' Wetland Buffer,” “100' Waste Buffer,” a “100' APCO Easement,” Two “Closed Landfill[s],” and an “Active Borrow Material Area”).

120. The Board’s July 5, 2023 approval of the expansion of the existing facility boundary of the Dothan Landfill to approximately 506

acres exceeded its authority under Code of Alabama 1975, §§ 22-27-48 (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)) and 22-27-48.1 (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) because the boundary includes portions of “New Parcel 2” that are not a site of a proposed new or modified existing “solid waste management facility.”

121. Accordingly, the Board’s July 5, 2023 approval of the expansion of the existing facility boundary of the Dothan Landfill to approximately 506 acres is due to be quashed.

**Fourth Ground
Board Exceeded its Authority by Formally
Receiving City’s Incomplete Application**

122. Plaintiffs incorporate paragraphs 53 through 64, 77, 78, 80, 85 through 88, 104 through 106, 108 through 111 hereof.

123. Code of Alabama 1975, § 22-27-48.1(b) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) provides that “[t]he governing body of a county or municipality shall make a discretionary decision to approve or disapprove the siting of a new solid waste management facility in accordance with this section.”

124. A “solid waste management facility” includes a facility the purpose of which is the disposal of solid waste. Code of Alabama 1975, § 22-27-2(37) (as amended by Act No. 2020-30, §1 (eff. June 1, 2020)). A “facility” is “[a]ll contiguous land, structures, and other appurtenances used for the . . . disposal of solid waste . . . including, but not limited to, waste disposal areas and waste disposed therein.” Code of Alabama 1975 § 22-27-2(10) (as amended by Act No. 2020-30, §1 (eff. June 1, 2020)).

125. A “solid waste management facility” is new if it did not exist before the effective date of Code of Alabama § 22-27-48.1 (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)).

126. The proposed 14.1-acre construction and demolition waste disposal area and any contiguous land, structures, and other appurtenances used for the disposal of solid waste is a proposed solid waste management facility that did not exist prior to May 24, 2017 and therefore a “new solid waste management facility.”

127. The proposed 20.5-acre municipal solid waste disposal area and any contiguous land, structures, and other appurtenances used for the disposal of solid waste is a proposed solid waste management facility that

did not exist prior to May 24, 2017 and therefore a “new solid waste management facility.”

128. Code of Alabama 1975, § 22-27-48.1(c) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) requires that “[a]ny person or entity seeking approval from the governing body of a county or municipality for the siting of a new solid waste management facility shall also submit to the governing body as part of its application . . . all of the following information: (1) A written document addressing each of the criteria described in subsection (c) of Section 22-27-48. * * *

129. Code of Alabama 1975, § 22-27-48(c) (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)) includes the following criteria:

* * *

(4) Costs and availability of public services, facilities, and improvements required to support a proposed facility and protect public health, safety, and the environment.

(5) The impact of a proposed facility on public safety and provisions made to minimize the impact on public health and safety.

(6) The social and economic impacts of a proposed facility on the affected community, including changes in property values, and social or community perception.

130. Code of Alabama 1975, § 22-27-48.1(d) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) provides that “[a]fter an applicant has submitted a complete application, including the items required in subsection (c), to the governing body of a county or municipality in which the proposed facility is to be located, the local governing body shall formally receive the application at its next regularly scheduled meeting. At this time, the public comment period begins.”

131. The Board has no authority to formally receive an application unless the applicant has submitted a complete application.

132. The administrative record shows that the Board did not make an express determination that the City’s March 31, 2023 application submitted to the Board by Tommy J. Wright, Public Works Director for the City, is complete.

133. The administrative record does not support that the City’s March 31, 2023 application submitted to the Board is complete with respect to the criteria in Code of Alabama 1975, § 22-27-48(c)(4) to - 48(c)(6) (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)).

134. The Board exceeded its authority under Code of Alabama 1975, § 22-27-48.1(d) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) by formally receiving the City's March 31, 2023 incomplete application on April 4, 2023.

135. Receipt of a complete application by the Board is an unfulfilled legal prerequisite to the conduct of further legal proceedings by the Board on the City's March 31, 2023 application and to the Board's approval or disapproval of the site of a new solid waste management facility.

136. Accordingly, the Board's July 5, 2023 approval of the expansion of the existing facility boundary of the Dothan Landfill to approximately 506 acres is due to be quashed.

**Fifth Ground
Board Failed to Provide Adjacent Property
Owners with Notice of Receipt of City's Application**

137. Plaintiffs incorporate by reference paragraphs 53 through 57, 66 through 68, 77, 80, 85 through 88, 104 through 106, 108 through 111, and 123 through 127 hereof.

138. Code of Alabama 1975, § 22-27-48.1(e)(1) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) provides:

Not more than 10 days after the formal receipt of an application, the local governing body, at the expense of the applicant, shall provide the following notice that an application for local approval of a new solid waste management facility has been received:

* * *

a. Notice to each owner whose property is adjacent to a proposed site, sent by certified mail.

* * *

139. The Board did not provide adjacent property owners David F. Del Vecchio, Peggy R. Del Vecchio, and Michael Del Vecchio the notice required by Code of Alabama 1975, § 22-27-48.1(e)(1) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)).

140. There is no substantial evidence in the administrative record to support the Board's compliance with Code of Alabama 1975, § 22-27-48.1(e)(1) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)).

141. Compliance with Code of Alabama 1975, § 22-27-48.1(e)(1) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) is an unfulfilled legal prerequisite to the Board's approval or disapproval of the site of a new solid waste management facility.

142. Accordingly, the Board's July 5, 2023 approval of the expansion of the existing facility boundary of the Dothan Landfill to approximately 506 acres is due to be quashed.

**Sixth Ground
Board Failed to Include a Description
of the Criteria the Board Will Consider
in Notices of Receipt of City's Application**

143. Plaintiffs incorporate by reference paragraphs 53 through 57, 66, 67, 69, 71, 72, 74, 75, 77, 80, 85 through 88, 104 through 106, 108 through 111, and 123 through 127 hereof.

144. Code of Alabama 1975, § 22-27-48.1(e) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) provides:

(1) Not more than 10 days after the formal receipt of an application, the local governing body, at the expense of the applicant, shall provide the following notice that an application for local approval of a new solid waste management facility has been received:

a. Notice to each owner whose property is adjacent to a proposed site, sent by certified mail.

b. Notice to the general public provided by all of the following means:

1. Publishing a notice in a newspaper having general circulation, if one exists, within the affected community one day per week for a two-week period.

* * *

3. Displaying a notice on the local governing body's website, if available.

(2) Any printed notice by letter, newspaper, or electronically on a website, shall contain at a minimum the following:

* * *

b. A description of the criteria the governing body will consider, as provided in subsection (c) of Section 22-27-48, in determining whether to approve or disapprove the site.

145. The April 5, 2023 notice provided to adjacent property owners David F. Del Vecchio, Peggy R. Del Vecchio, and Michael Del Vecchio did not include a description of the criteria the Board will consider, as provided in subsection (c) of Section 22-27-48 (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)), in determining whether to approve or disapprove the site of a new solid waste management facility.

146. The notices displayed on the City's website on or about April 5, 2023 did not include a description of the criteria the Board will consider, as provided in subsection (c) of Section 22-27-48 (as amended by

Act No. 2022-338, §1 (eff. July 1, 2022)), in determining whether to approve or disapprove the site of a new solid waste management facility.

147. The notice published in the *Dothan Eagle* on April 7, 2023 did not include a description of the criteria the Board will consider, as provided in subsection (c) of Section 22-27-48 (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)), in determining whether to approve or disapprove the site of a new solid waste management facility.

148. There is no substantial evidence in the administrative record to support the Board's compliance with Code of Alabama 1975, § 22-27-48.1(e)(1) and -48.1(e)(2) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)).

149. Compliance with Code of Alabama 1975, § 22-27-48.1(e)(1) and -48.1(e)(2) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) is an unfulfilled legal prerequisite to the Board's approval or disapproval of the site of a new solid waste management facility.

150. Accordingly, the Board's July 5, 2023 approval of the expansion of the existing facility boundary of the Dothan Landfill to approximately 506 acres is due to be quashed.

**Seventh Ground
Board Failed to Approve Time
of Public Awareness Session**

151. Plaintiffs incorporate by reference paragraphs 53 through 57, 62 through 65, 67, 70, 71, 73, 74, 76, 77, 80, 85 through 88, 104 through 106, 108 through 111, and 123 through 127 hereof.

152. Code of Alabama 1975, § 22-27-48.1(f)(1) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) provides:

Not more than 45 days after the local governing body formally receives an application, the applicant shall conduct a public awareness session in the county or municipality in which the proposed facility is to be located, during which the applicant shall provide general information on the design and operation of the proposed facility and address questions and concerns voiced by members of the affected community. The time, date, and location of the public awareness session must be approved by the local governing body. * * *

153. There is no evidence in the administrative record that the Board approved the time of the public awareness session.

154. Compliance with Code of Alabama 1975, § 22-27-48.1(f)(1) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) is an unfulfilled legal prerequisite to the Board's approval or disapproval of the site of a new solid waste management facility.

155. Accordingly, the Board's July 5, 2023 approval of the expansion of the existing facility boundary of the Dothan Landfill to approximately 506 acres is due to be quashed.

**Eighth Ground
Board Failed to Include a
Description of the Criteria the Board
Will Consider in Notices of Public Hearing**

156. Plaintiffs incorporate by reference paragraphs 53 through 57, 77, 80, 81, 85 through 88, 94, 95, 96, 97, 104 through 106, 108 through 111, and 123 through 127 hereof.

157. Code of Alabama 1975, § 22-27-48.1(g) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) provides:

Not more than 45 days after the date of the public awareness session, the local governing body shall hold at least one public hearing. Notice of the time and place of any public hearing shall be given by publication in at least one newspaper of general circulation within the affected community at least 30 days, but not more than 45 days, prior to the proposed date of the hearing. Content of the notice shall be consistent with the notice requirements in subsection (e). * * *

158. Code of Alabama 1975, § 22-27-48.1(e)(2) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) provides:

Any printed notice by letter, newspaper, or electronically on a website, shall contain at a minimum the following:

* * *

b. A description of the criteria the governing body will consider, as provided in subsection (c) of Section 22-27-48, in determining whether to approve or disapprove the site.

* * *

159. The notices of public hearing published in the *Dothan Eagle* on May 10, 2023 and May 17, 2023 did not include a description of the criteria the Board will consider, as provided in subsection (c) of Section 22-27-48 (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)), in determining whether to approve or disapprove the site of a new solid waste management facility.

160. There is no substantial evidence in the administrative record to support the Board's compliance with Code of Alabama 1975, § 22-27-48.1(g) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)).

161. Compliance with Code of Alabama 1975, § 22-27-48.1(g) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) is an unfulfilled legal prerequisite to the Board's approval or disapproval of the site of a new solid waste management facility.

162. Accordingly, the Board's July 5, 2023 approval of the expansion of the existing facility boundary of the Dothan Landfill to approximately 506 acres is due to be quashed.

Ninth Ground Board Failed to Hold Public Hearing

163. Plaintiffs incorporate by reference paragraphs 53 through 57, 77, 80, 81, 85 through 88, 100 through 106, 108 through 111, and 123 through 127 hereof.

164. Alabama Code 1975, § 22-27-48.1(g) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) provides:

Not more than 45 days after the date of the public awareness session, the local governing body shall hold at least one public hearing. * * *

165. There is no substantial evidence in the administrative record that the Board held a public hearing on the siting of a new solid waste management facility.

166. Compliance with Code of Alabama 1975, § 22-27-48.1(g) (as amended by Act No. 2017-366, §2 (eff. May 24, 2017)) is an unfulfilled legal prerequisite to the Board's approval or disapproval of the site of a new solid waste management facility.

167. Accordingly, the Board's July 5, 2023 approval of the expansion of the existing facility boundary of the Dothan Landfill to approximately 506 acres is due to be quashed.

PROCEDURAL DUE PROCESS VIOLATIONS

Claim I Insufficient Notice in Violation of U.S. Const. amend. XIV, § 1

168. Plaintiffs incorporate by reference paragraphs 5 through 57, 67, 69, 74, 75, 77 through 81, 85 through 88, 90 through 100, and 104 through 106 hereof.

169. 42 U.S.C. § 1983 provides in part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights . . . secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, . . . * * *

170. U.S. Const. amend. XIV, § 1 states in part:

* * * nor shall any State deprive any person of life, liberty, or property, without due process of law; * * *

171. Plaintiffs have a vital interest in the use and enjoyment of their properties – an interest which is protected by the Due Process Clause of U.S. Const. amend. XIV, § 1 and which is impaired by the July 5, 2023 decision of the Board to approve the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres. This boundary adjoins or in close proximity to plaintiffs’ properties.

172. Procedural due process under the Due Process Clause of U.S. Const. amend. XIV, § 1 requires prior notice reasonably calculated, under all the circumstances, to apprise plaintiffs of the impending decision by the Board to consider approval of the expansion of facility boundary of the Dothan Landfill to approximately 506 acres and to afford the plaintiffs an opportunity to present their objections thereto. The notice must be of such nature as is reasonable to convey the required information that the Board will consider in making its decision whether to approve the expansion of the facility boundary, including a description of the criteria in Code of Alabama 1975, § 22-27-48(c) (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)).

173. The omission from the notices provided to plaintiffs on April 5, 2023 and May 9, 2023, the notices displayed on the City's website on or about April 7, 2023, and the notices published in the *Dothan Eagle* on April 7, 2023, May 10, 2023, and May 17, 2023 of any description of the criteria the Board will consider in making its decision to approve or disapprove the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres reflect a policy of deliberate indifference to plaintiffs' right to constitutionally sufficient notice prior to the impairment of their vital and protected interests in the use and enjoyment of their properties.

174. The policy of deliberate indifference to providing constitutionally sufficient notice to plaintiffs has subjected plaintiffs to a deprivation of their procedural due process right secured by the Due Process Clause of U.S. Const. amend. XIV, § 1 to receive constitutionally sufficient notice prior to the impairment of their vital and protected interests in the use and enjoyment of their properties in violation of 42 U.S.C. § 1983.

Claim II
Insufficient Notice in Violation
of Art. I, § 13, Ala. Const. 2022

175. Plaintiffs incorporate by reference paragraphs 5 through 57, 67, 69, 74, 75, 77 through 81, 85 through 88, 90 through 100, and 104 through 106 hereof.

176. Art. I, § 13, Ala. Const. 2022, provides:

That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person, or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial, or delay.

177. Plaintiffs have a vital interest in the use and enjoyment of their properties – an interest which is protected by the Due Process Clause of Art. I, § 13, Ala. Const. 2022 and which is impaired by the Board’s July 5, 2023 decision to approve the expansion of the facility boundary of the Dothan Landfill to 506 acres in a location adjoining or in close proximity to plaintiffs’ properties.

178. Procedural due process under the Due Process Clause of Art. I, § 13, Ala. Const. 2022, requires prior notice reasonably calculated, under all the circumstances, to apprise plaintiffs of the impending decision by the Board to consider approval of the expansion of facility boundary of

the Dothan Landfill to approximately 506 acres and to afford the plaintiffs an opportunity to present their objections thereto. The notice must be of such nature as is reasonable to convey the required information that the Board will consider in making its decision whether to approve the expansion of the facility boundary, including a description of the criteria in Code of Alabama 1975, § 22-27-48(c) (as amended by Act No. 2022-338, §1 (eff. July 1, 2022)).

179. The omission from the notices provided to plaintiffs on April 5, 2023 and May 9, 2023, the notices displayed on the City's website on or about April 7, 2023, and the notices published in the *Dothan Eagle* on April 7, 2023, May 10, 2023, and May 17, 2023 of any description of the criteria that the Board will consider in making its decision whether to approve the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres has subjected plaintiffs to a deprivation of their procedural due process right secured by the Due Process Clause of Art. I, § 13, Ala. Const. 2022, to constitutionally sufficient notice prior to the impairment of their vital and protected interests in the use and enjoyment of their properties.

Claim III
Biased and Partial Board Members
in Violation of U.S. Const. amend. XIV, § 1

180. Plaintiffs incorporate by reference paragraphs 5 through 57, 77 through 81, 85 through 88, 100, and 104 through 106 hereof.

181. Procedural due process requires that any decision by the Board whether to approve the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres in a location that will impair plaintiffs' vital and protected interests in the use and enjoyment of their properties be entrusted only to unbiased and impartial members of the Board who are not predisposed to approve expansion of the facility boundary.

182. Prior to the Board's July 5, 2023 decision to approve the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres in a location adjoining or in close proximity to plaintiffs' properties, the Board made numerous decisions and committed large sums of money to further the expansion of the facility boundary in anticipation that the Board would later approve the expansion of the facility boundary. These included the following:

Resolution No. 2012-265 (Oct. 16, 2012): Board approved the execution of a purchase and sale agreement permitting the City to purchase approximately 182 acres from Martha G. Umphrey for the landfill expansion at \$5,000.00 per acre. Martha G. Umphrey conveyed approximately 182 acres to the City of Dothan for landfill expansion. Book 734, Page 72, Houston County Probate Office (Mar 10, 2014). Resolution approved by Mayor Pro tem Taylor Barbaree Commissioners James H. Reading, Amos M. Newsome, Jr., Albert Kirkland, Critt Snellgrove and Hamp Baxley.

Resolution No. 2014-74 (Apr 1, 2014): Board appropriated \$484,658.00 for the design and permitting of the sanitary landfill expansion by CDG Engineers & Associates. Resolution approved by Mayor Mike Schmitz and Commissioners Kevin Dorsey, Amos M. Newsome, Jr., Albert Kirkland, John Ferguson, Taylor Barbaree and Hamp Baxley.

Resolution No. 2014-216 (Aug 19, 2014): Board approved the City of Dothan Solid Waste Management Plan. Resolution approved by Mayor Mike Schmitz and Commissioners Kevin Dorsey, Amos M. Newsome, Jr., Albert Kirkland, John Ferguson, Taylor Barbaree and Hamp Baxley.

Resolution No. 2014-246 (Sep 16, 2014): Board approved the expansion to facility boundary of the Dothan landfill to approximately 536 acres. Resolution approved by Mayor Mike Schmitz and Commissioners Albert Kirkland, John Ferguson, Taylor Barbaree and Hamp Baxley.

Resolution No. 2014-268 (Oct 7, 2014): Board approved the payment of \$234,955.00 to Alabama Power Company for relocation of the Alabama Power Company transmission line for the landfill expansion. Resolution approved by Mayor Mike Schmitz and Commissioners Albert Kirkland, John Ferguson, Taylor Barbaree, and Hamp Baxley.

Resolution No. 2015-88 (Apr 7, 2015): Board authorized and directed the Mayor to execute a permit application for the City to relocate a transmission line to accommodate landfill cell development in the landfill expansion. The estimated cost for materials and design to be paid by the City to Alabama Power Company is \$234,955.00 to \$317,189.00. Resolution approved by Mayor Mike Schmitz and Commissioners John Ferguson, Beth Kenward, and Hamp Baxley.

Resolution No. 2015-89 (Apr 7, 2015): Board authorized the Mayor to convey and easement to Alabama Power Company for the relocated transmission line on landfill property. Resolution approved by Mayor Mike Schmitz and Commissioners John Ferguson, Beth Kenward, and Hamp Baxley.

Resolution No. 2015-111 (May 5, 2015): Board authorized the Mayor to execute an agreement with Alabama Power Company permitting the City to construct, operate, maintain and remove encroachments associated with the landfill expansion on easements owned by Alabama Power Company. Resolution approved by Mayor Mike Schmitz and Commissioners Albert Kirkland, John Ferguson, Beth Kenward, and Hamp Baxley.

Resolution No. 2016-9 (Jan 5, 2016): Board authorized the City to purchase credits from the Martin Creek Mitigation Bank in the amount of \$116,460.00 to mitigate wetland loss due to landfill expansion. Resolution approved by Mayor Mike Schmitz and Commissioners John Ferguson, Beth Kenward, and Steve McCarroll.

Resolution No. 2017-278 (Sep 5, 2017): Board authorized and directed the Mayor to execute an agreement with TTL, Inc. to provide well installation, piezometer/monitoring well abandonment and background sampling services for the landfill expansion project at a cost to the City of \$29,200.00.

Resolution approved by Mayor Mike Schmitz and Commissioners Kevin Dorsey, Albert Kirkland, John Ferguson, Beth Kenward, and David Crutchfield.

Resolution No. 2019-185 (Aug 6, 2019): Board authorized and directed the Mayor to execute an agreement with CDG Engineers and Associates for construction engineering and inspection services associated with the Dothan Landfill [Expansion] Cell 6 Project at a cost to the City of \$277,000.00. Resolution approved by Mayor Mark Saliba and Commissioners Kevin Dorsey, Janasky Fleming, Albert Kirkland, John Ferguson, Beth Kenward, and David Crutchfield.

Resolution No. 2019-339 (Dec 17, 2019): Board authorized and directed the Mayor to execute an agreement with TTL, Inc. to perform services to abandon ten piezometers and construct one groundwater monitoring well that is part of the monitoring network for the landfill expansion at a cost to the City of \$22,916.00. Resolution approved by Mayor Mark Saliba and Commissioners Kevin Dorsey, Janasky Fleming, Albert Kirkland, John Ferguson, Beth Kenward, and David Crutchfield.

Resolution No. 2020-25 (Jan 21, 2020): Board authorized and directed the Mayor to execute a contract with System Scale Corporation to construct Sanitary Landfill Concrete Platform Truck Scales at a cost to the City of \$127,000.00. Resolution approved by Mayor Mark Saliba and Commissioners Kevin Dorsey, Janasky Fleming, Albert Kirkland, John Ferguson, Beth Kenward, and David Crutchfield.

Resolution No. 2020-279 (Oct 20, 2020): Board authorized an increase in the contract with CDG Engineers and Associates for construction engineering and inspection services associated with the Dothan Landfill [Expansion] Cell 6 Project in the

amount of \$8,500.00 for additional work. Resolution approved by Mayor Mark Saliba and Commissioners Albert Kirkland, John Ferguson, Beth Kenward, and David Crutchfield.

Resolution No. 2023-119 (Apr 4, 2023): Board resolved that the City of Dothan proceed with all steps necessary to carry out the proposed expansion to the facility boundary of the Dothan Landfill. Resolution approved by Mayor Mark Saliba and Commissioners Albert Kirkland, John Ferguson, Gantt Pierce, and David Crutchfield.

183. The failure of the Board to require the recusal of members who, prior to the July 5, 2023 vote, had authorized and approved actions to further the expansion the facility boundary of the Dothan Landfill, reflects a policy of deliberate indifference to plaintiffs' right to a decision by unbiased and impartial members of the Board.

184. The policy of deliberate indifference to ensuring that only unbiased and impartial members of the Board would make the decision whether to approve the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres has subjected plaintiffs to a deprivation of their procedural due process right, secured by the Due Process Clauses of U.S. Const. amend. XIV, § 1 in violation of 42 U.S.C. § 1983, to have only unbiased and impartial Board members make the

decision whether to approve the expansion and impair their vital and protected interests in the use and enjoyment of their properties.

Claim IV
Biased and Partial Board Members
in Violation of Art. I, § 13, Ala. Const. 2022

185. Plaintiffs incorporate by reference paragraphs 5 through 57, 77 through 81, 85 through 88, 100, 104 through 106, and 182 hereof.

186. The failure of the Board to require the recusal of members who, prior to July 5, 2023, had authorized and approved actions to further the expansion the facility boundary of the Dothan Landfill, has subjected plaintiffs to a deprivation of their procedural due process right secured by the Due Process Clause of Art. I, § 13, Ala. Const. 2022, to have only unbiased and impartial members of the Board make the decision whether to approve the expansion and impair their vital and protected interests in the use and enjoyment of their properties.

DEMAND FOR RELIEF

Wherefore, plaintiffs demand the following relief:

A. A judgment quashing the Board’s July 5, 2023 approval of the “expansion to the facility boundary of the Dothan Landfill located at 1290

Burkett Road to approximately 506 acres” as reflected in Resolution No. 2023-210 (Attachment F);

B. A judgment declaring that the Board’s July 5, 2023 approval of the “expansion to the facility boundary of the Dothan Landfill located at 1290 Burkett Road to approximately 506 acres” as reflected in Resolution No. 2023-210 (Attachment F) is void;

C. A judgment awarding plaintiffs reasonable attorney fees as authorized by 42 U.S.C. § 1988; and

D. Any other relief to which plaintiffs may be entitled.

Respectfully submitted,

s/ David A. Ludder
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ATTACHMENT A

Code of Alabama 1975, § 22-27-2 (as amended by Act No. 2020-30, §1 (eff. June 1, 2020))

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them by this section:

(1) AGENCY. Any controlling agency, public or private, elected, appointed, or volunteer utilizing methods approved by the health department or the department for the purpose of controlling and supervising the collection or management of solid wastes or recyclable materials.

(2) ALTERNATIVE COVER. Material other than earth used to cover a landfill or sanitary landfill. An alternative cover shall be approved by the Department of Environmental Management in compliance with federal law and United States Environmental Protection Agency rules or guidance to achieve a level of performance equal to or greater than earthen cover material.

(3) ASHES. The solid residue from burning of wood, coal, coke, or other combustible material used for heating, from incineration of solid wastes, or for the production of electricity at electric generating plants.

(4) COAL COMBUSTION BY-PRODUCTS. Fly ash, bottom ash, boiler slag, or flue gas emission control by-products which result primarily from the combustion of coal or other fossil fuels at electric generating plants.

(5) COMPOSTING OR COMPOST PLANT. An officially controlled method or operation whereby putrescible solid wastes are broken down through microbic action to a material offering no hazard or nuisance factors to public health or well-being.

(6) DEPARTMENT. The Alabama Department of Environmental Management.

(7) DIRECTOR. The Director of the Alabama Department of Environmental Management or his or her designee.

(8) DISCHARGE. The accidental or intentional spilling, leaking, pumping, emitting, emptying, or dumping of solid waste, including leachate, into or on any land or water.

(9) DISPOSAL. The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including, but not limited to, ground waters.

(10) FACILITY. All contiguous land, structures, and other appurtenances used for the processing, treatment, storage, or disposal of solid waste, or the recovery of recyclable materials from solid waste, whether or not authorized or permitted, including, but not limited to, waste disposal areas and waste disposed therein.

(11) FINANCIAL ASSURANCE. A financial arrangement by the owner or operator of a municipal solid waste landfill which guarantees the availability of funds which may be used to close, provide post-closure care, or conduct corrective action at that facility if the owner or operator fails to properly execute his or her responsibilities under this article and any rules adopted by the department for closure, post-closure care, or corrective action and the terms of any permit issued for operation of that facility.

(12) GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, including wastes from markets, storage facilities, handling and sale of produce and other food products and excepting such materials that may be serviced by garbage grinders and handled as household sewage.

(13) GENERATION. The act or process of producing solid waste. Solid waste shall be considered to be generated at the point that waste

materials are first discarded or collected, regardless of any subsequent materials recovery or recycling.

(14) **HAZARDOUS WASTES.** Those wastes defined in, and regulated under, the Alabama Hazardous Waste Management and Minimization Act of 1978, as amended.

(15) **HEALTH DEPARTMENT.** An approved county or district health department, including the Alabama State Department of Public Health and the affected state and county health department.

(16) **HEALTH OFFICER.** The state or affected county health officer or his or her designee.

(17) **HOUSEHOLD WASTE.** Any solid waste, including, but not limited to, garbage, trash, and sanitary waste in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreational areas. Sanitary waste in septic tanks shall be considered as household waste only when it is disposed in a landfill or unauthorized dump and its inclusion as a household waste shall in no way prohibit or supersede the authority of the board or the department to regulate onsite sewage systems or the management of sanitary waste in septic tanks.

(18) **INCINERATOR.** A device designed to burn that portion of garbage and rubbish which will be consumed at temperatures generally ranging 1,600 degrees Fahrenheit or over. The unburned residue from an incinerator, including metal, glass, and the like shall be called ashes.

(19) **INDUSTRIAL SOLID WASTE.** Solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Chapters 22 to 30, inclusive, of this title.

(20) INNOCENT LANDOWNER. An owner of real property upon which there is located an unauthorized dump and who meets all of the following conditions:

a. The solid waste was disposed of on the property after the owner acquired title to the property or the waste was disposed of before the owner acquired title to the property and the owner lacked actual knowledge of the waste after conducting reasonable due diligence or title was acquired by bequest or devise.

b. The owner did not have knowledge that the waste was being disposed of on the property or the owner took steps, including, but not limited to, posting signs to prevent disposal on the property.

c. The owner did not participate in or consent to the disposal of solid waste on the property.

d. The owner did not receive any financial benefit from the disposal of solid waste on the property.

e. Title to the property was not transferred to the owner for the purpose of evading liability for operating an unauthorized dump.

f. The person or persons responsible for disposing of the solid waste on the property, in doing so, were not acting as an agent for the owner.

(21) LANDFILL. A method of compaction and earth or alternative cover of solid wastes other than those containing garbage or other putrescible wastes, including, but not limited to, tree limbs and stumps, demolition materials, incinerator residues, and like materials not constituting a health or nuisance hazard, where cover need not be applied on a per day used basis.

(22) MATERIALS RECOVERY FACILITY. A solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil

amendment, or any combination of those materials. A materials recovery facility shall be deemed to be a solid waste treatment facility.

(23) MEDICAL WASTE. A solid waste or combination of solid wastes which because of its infectious characteristics may either:

a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.

b. Pose a substantial present hazard or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

(24) MUNICIPAL SOLID WASTE LANDFILL. A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile. A municipal solid waste landfill may also receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, industrial solid waste, construction/demolition waste, and rubbish. A municipal solid waste landfill is a sanitary landfill.

(25) PERSON. An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, agent, agency, association, state, municipality, commission, political subdivision of a state, an interstate body, or other private or public legal entity.

(26) PRIVATE SOLID WASTE MANAGEMENT FACILITY. A solid waste management facility that is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated on-site or by the permittee.

(27) PUBLIC SOLID WASTE MANAGEMENT FACILITY. A solid waste management facility that accepts solid waste from the public generally or for a fee or any solid waste management facility that is not a private solid waste management facility.

(28) **RECOVERED MATERIALS.** Those materials which have known recycling potential; which can be feasibly recycled; which have been diverted or removed from the solid waste stream for recycling, whether or not requiring subsequent separation and processing; and which have a substantial portion that is consistently used in the manufacture of products which may otherwise be produced from raw or virgin materials. Recovered materials shall not include solvents or materials, except sawdust, bark, and paper materials that are destined for incineration, energy recovery, or any use which constitutes disposal. Recovered materials shall only be those materials for which during the calendar year, commencing on January 1, the amount of material recycled or diverted from the solid waste stream for recycling and transferred to a different site for recycling equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period.

(29) **RECOVERED MATERIALS PROCESSING FACILITY.** A facility primarily engaged in the storage, processing, and resale or reuse of recovered materials. A recovered materials processing facility is not a solid waste management facility; however, any solid waste resulting from the operation of a facility shall be subject to all applicable laws and regulations relating to solid waste and shall be deemed to be generated for purposes of reporting pursuant to solid waste reduction goals, at the point of collection of the recovered materials from which the solid waste resulted. A recovered material processing facility shall provide notification to the department according to rules adopted by the department.

(30) **RECYCLABLE MATERIALS.** Those materials which are capable of being recycled, whether or not the materials have been diverted or removed from the solid waste stream.

(31) **RECYCLING.** Any process by which materials are collected, separated, stored, recovered, or processed and reused or returned to use in the form of raw materials or products, but does not include the use of materials as a fuel, or for any use which constitutes disposal.

(32) RUBBISH. Nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves, and similar materials. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures, not less than 1,600 degrees Fahrenheit.

(33) SANITARY LANDFILL. A controlled area of land upon which solid waste is deposited and is compacted and covered with earth or an alternative cover each day as deposited, with no on-site burning of wastes, and so located, contoured, and drained that it will not constitute a source of water pollution as determined by the department.

(34) SOLID WASTE. Any garbage, rubbish, construction or demolition debris, ash, or sludge from a waste treatment facility, water supply plant, or air pollution control facility, and any other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or community activities, or materials intended for or capable of recycling, but which have not been diverted or removed from the solid waste stream. The term "solid waste" does not include recovered materials, solid or dissolved materials in domestic sewage, solid or dissolved material in irrigation return flows, or industrial discharges which are point sources subject to the National Pollutant Discharge Elimination System permits under the Federal Water Pollution Control Act, as amended, or the Alabama Waste Pollution Control Act, as amended; or source, special, nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are land applications of crop residues, animal manure, and ash resulting exclusively from the combustion of wood during accepted agricultural operations, waste from silvicultural operations, or refuse as defined and regulated pursuant to the Alabama Surface Mining Act of 1969, Article 1, commencing with Section 9-16-1, of Chapter 16 of Title 9.

(35) **SOLID WASTE DISPOSAL FACILITY.** Any landfill or part of a facility where final deposition of solid waste occurs and at which waste may remain after closure.

(36) **SOLID WASTE MANAGEMENT.** The systematic control of solid waste, including its storage, processing, treatment, recovery of materials from solid waste, or disposal.

(37) **SOLID WASTE MANAGEMENT FACILITY.** Any solid waste volume reduction plant, transfer station, material recovery facility, or other facility, the purpose of which is the storage, treatment, utilization, processing, disposal, or recovery of materials from solid waste, or any combination thereof.

(38) **UNAUTHORIZED DUMP.** Any collection of solid wastes either dumped or caused to be dumped or placed on any public or private property, whether or not regularly used, and not having a permit from the department. Abandoned automobiles, large appliances, or similar large items of solid waste shall be considered an unauthorized dump within the meaning of this article. The careless littering of a relatively few, smaller individual items such as tires, bottles, cans, and the like shall not be considered an unauthorized dump, unless the accumulation of solid waste poses a threat to human health or the environment. An unauthorized dump shall also mean any solid waste disposal site which does not meet the regulatory provisions of this article.

Code of Alabama 1975, § 22-27-48 (as amended by Act No. 2022-338, §1 (eff. July 1, 2022))

(a) In addition to any regulatory bodies, the governing body of a county or municipality has a responsibility for and the authority to assure the proper management of solid wastes generated within its jurisdiction in accord with its solid waste management plan. A governing body may assign territories and approve or disapprove disposal sites in its jurisdiction in accord with the plan approved for its jurisdiction. Approval

or disapproval of services or activities described in the local plan shall be in addition to any other approvals required from other regulatory authorities and shall be made prior to any other approvals necessary for the provision of those services, the development of a proposed facility, or the modification of permits for existing facilities.

(b) The department may not consider a permit application for a new facility unless the solid waste management site has received approval pursuant to Section 22-27-48.1 by the affected local governing body. The department may not consider an application for a modified permit for a facility unless the solid waste management site has received approval pursuant to this section by the affected local governing body.

(c) In determining whether to approve a new solid waste management site or a modified existing solid waste management site, the governing body shall consider each of the following criteria:

(1) The consistency of the proposal with the jurisdiction's solid waste management need as identified in its plan.

(2) The relationship of the proposal to local planned or existing development or the absence thereof, to major transportation arteries and to existing state primary and secondary roads.

(3) The location of a proposed facility in relationship to existing industries in the state that generate large volumes of solid waste, or the relationship to the areas projected for development of industries that will generate solid waste.

(4) Costs and availability of public services, facilities and improvements required to support a proposed facility and protect public health, safety, and the environment.

(5) The impact of a proposed facility on public safety and provisions made to minimize the impact on public health and safety.

(6) The social and economic impacts of a proposed facility on the affected community, including changes in property values, and social or community perception.

(d) The application of the plan for local approval shall be accompanied by an application fee payable to the local governing body in an amount equal to 20 percent of the permit fee required by the department, but local approval shall not apply to simple renewals of a permit which is to be otherwise unchanged. Further, there shall be no requirement for local review and approval of permit modifications for the limited purposes of changing liner and leachate collection design, changes in waste streams from within the facility's designated service area, changes in sequence of fill, changes to incorporate new technology, and changes intended to bring a facility into compliance with statutes and regulations. A renewed application for local approval submitted within 18 months of an application being denied or rejected by the local governing body shall be accompanied by an application fee payable to the local governing body in an amount equal to 50 percent of the permit fee required by the department.

(e) Any decision by the local governing body of a proposed modification of an existing solid waste management site or the proposal to contract for any services described in the solid waste management plan, shall be made in a public meeting only after public notice of such application or proposal and an opportunity for public comment is provided.

(f) In providing public notice of any proposed modification, the local government shall at a minimum hold at least one public hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the jurisdiction. Furthermore, the notice shall be given at least 30 days, but not more than 45 days, prior to the proposed date of the hearing. Each notice published in compliance with this section shall contain at a minimum a description of the proposed action to be considered, its relevance to and consistency with the local solid waste management plan, and shall identify a contact person from whom

interested persons can obtain additional information and can review copies of both the local plan and the proposal to be considered. All pertinent documents shall be available for inspection during normal business hours at a location readily accessible to the public. Within 90 days of receiving a proposal, the local governing body shall either approve or deny the modification setting forth the reasons therefor. The failure of the local governing body to act on the proposal within 90 days of receiving the modification shall constitute approval by the local governing body.

(g) Any decision by the local governing body to approve or disapprove the siting of a new solid waste management facility shall be made in accordance with Section 27-22-48.1.

(h) This section shall not apply to industrial facilities receiving wastes generated on site only or by the permittee.

(i) This section as amended by Act 2017-366 shall not apply to an application received by a local governing body prior to May 24, 2017, for a modification of an existing permitted solid waste management facility, or for a proposed new solid waste management facility.

Code of Alabama 1975, § 22-27-48.1 (as amended by Act No. 2017-366, §2 (eff. May 24, 2017))

(a) This section applies to the siting of any new solid waste management facility, as defined in Section 22-27-2.

(b) The governing body of a county or municipality shall make a discretionary decision to approve or disapprove the siting of a new solid waste management facility in accordance with this section.

(c) Any person or entity seeking approval from the governing body of a county or municipality for the siting of a new solid waste management facility shall also submit to the governing body as part of its application,

the application fee required under subsection (d) of Section 22-27-48 and all of the following information:

(1) A written document addressing each of the criteria described in subsection (c) of Section 22-27-48.

(2) The applicant's experience of owning or operating other solid waste facilities.

(3) Information relating to the applicant's financial resources, including, but not limited to, any investors or corporate affiliates of the applicant.

(4) Any pending and past civil or criminal actions taken by a governmental entity against the applicant or its owners or operators, investors, or affiliates.

(5) Any other information the applicant deems relevant or that may assist the governing body in making a decision whether to approve or disapprove the application.

(d) After an applicant has submitted a complete application, including the items required in subsection (c), to the governing body of a county or municipality in which the proposed facility is to be located, the local governing body shall formally receive the application at its next regularly scheduled meeting. At this time, the public comment period begins.

(e)(1) Not more than 10 days after the formal receipt of an application, the local governing body, at the expense of the applicant, shall provide the following notice that an application for local approval of a new solid waste management facility has been received:

a. Notice to each owner whose property is adjacent to a proposed site, sent by certified mail.

b. Notice to the general public provided by all of the following means:

1. Publishing a notice in a newspaper having general circulation, if one exists, within the affected community one day per week for a two-week period.

2. Broadcasting public service announcements submitted to a radio station that has general broadcast coverage within the affected community.

3. Displaying a notice on the local governing body's website, if available.

(2) Any printed notice by letter, newspaper, or electronically on a website, shall contain at a minimum the following:

- a. A description of the application and approval process as provided in this chapter.

- b. A description of the criteria the governing body will consider, as provided in subsection (c) of Section 22-27-48, in determining whether to approve or disapprove the site.

- c. A contact person from whom interested persons can obtain additional information and can review copies of both the local solid waste management plan and the application.

- d. A description of the location where interested persons can obtain or can review copies of both the local solid waste management plan and the application, and the time frame for public hearings and involvement.

- e. A description of how the public may submit written comments to the governing body.

- (f)(1) Not more than 45 days after the local governing body formally receives an application, the applicant shall conduct a public awareness

session in the county or municipality in which the proposed facility is to be located, during which the applicant shall provide general information on the design and operation of the proposed facility and address questions and concerns voiced by members of the affected community. The time, date, and location of the public awareness session must be approved by the local governing body. The applicant, at its own expense, shall provide notice of the public awareness session by both printed and broadcast media beginning at least 30 days prior to the session. Printed notification shall include publication in at least one newspaper having general circulation within the affected community one day per week for a two-week period. Broadcast notification shall include public service announcements on a radio station that has general broadcast coverage within the affected community. At least one representative of the local governing body shall attend each public awareness session. If any written comment or question germane to the proposed application is submitted to the applicant at the public awareness session, the applicant shall respond if practicable, in writing within 14 days to the member of the public with a copy provided to the local governing body.

(2) The applicant is solely responsible for carrying out the requirements of subdivision (1). A public awareness session is independent of and separate from a public hearing.

(g) Not more than 45 days after the date of the public awareness session, the local governing body shall hold at least one public hearing. Notice of the time and place of any public hearing shall be given by publication in at least one newspaper of general circulation within the affected community at least 30 days, but not more than 45 days, prior to the proposed date of the hearing. Content of the notice shall be consistent with the notice requirements in subsection (e). All pertinent documents shall be available for inspection during normal business hours at a location readily accessible to the public. The public may submit written comments to the local governing body at any time up to the conclusion of the last public hearing.

(h) The local governing body shall have 30 days after the public hearing to complete its review of the local solid waste management plan and, giving consideration to the criteria provided in subsection (c) of Section 22-27-48, to public input, and to other information gathered from the applicant pursuant to subsection (c), shall make a decision to approve or disapprove the siting of a new solid waste management facility. If disapproved by the governing body, the applicant may submit a new application under subsection (c).

(i) After the local governing body has granted approval of the application, the applicant shall petition the appropriate circuit court pursuant to Rule 57 of the Alabama Rules of Civil Procedure for a determination of each of the following:

(1) Whether the local governing body complied with the public comment requirements and time frames required under this section.

(2) Whether the local governing body's approval of the application is consistent with the local solid waste management plan in place pursuant to Section 22-27-47.

(3) Whether the local governing body considered the criteria provided in subsection (c) of Section 22-27-48 as presented to the body by the applicant in its application pursuant to subdivision (c)(1).

(j) The applicant shall bear all court costs, and his or her own legal expenses, relating to the filing of the petition under subsection (i).

(k) Unless the court with which a petition is filed needs additional information from the local governing body, the court shall issue a ruling not more than 60 days after the initial petition is filed; provided, however, the court may extend this date not more than 30 additional days if the court seeks additional information from the governing body.

(l) If the circuit court issues a declaratory judgment determining that the local governing body met the criteria set out in subsection (i), the

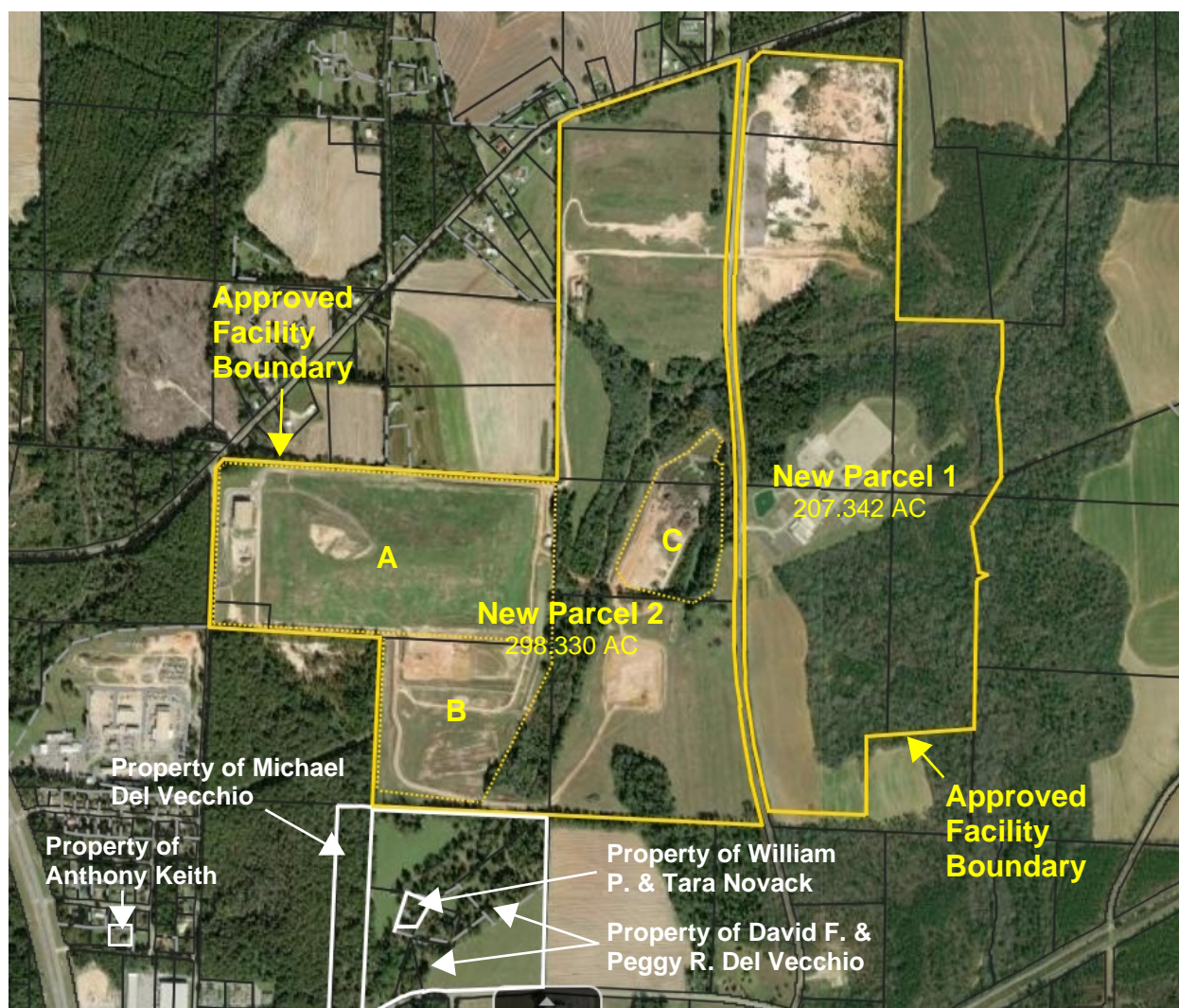
applicant may seek approval by other regulatory authorities as required by law. If the circuit court issues a declaratory judgment determining that the criteria set out in subsection (i) has not been met, the matter shall be remanded to the local governing body for further consideration consistent with the requirements of this section. The local governing body or applicant shall be afforded the opportunity to mitigate any discrepancies the court finds, provided the period during which the governing body or applicant must respond may not extend more than 90 days.

(m) This section shall not apply to industrial facilities receiving wastes generated on site only or by the permittee.

ATTACHMENT B

Proximity Map

PROXIMITY MAP



A: Existing solid waste management facility, including 49.7-acre municipal solid waste disposal area, 3.9-acre construction and demolition solid waste disposal area, and contiguous land, structures, and other appurtenances used for the disposal of solid waste.

B: Proposed solid waste management facility, including 20.5-acre municipal solid waste disposal area, and contiguous land, structures, and other appurtenances used for the disposal of solid waste.

C: Proposed solid waste management facility, including 14.1-acre construction and demolition solid waste disposal area, and contiguous land, structures, and other appurtenances used for the disposal of solid waste.

ATTACHMENT C
BOUNDARY SURVEY OF DOTHAN LANDFILL
ARA 86:0002

MEASURED CURVES						
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
C1	5613.60'	1509.01'	1504.47'	N 07°14'06" W	15°24'07"	759.08'
C2	6705.36'	841.87'	841.32'	N 02°57'02" W	7°11'37"	421.49'
C3	3890.42'	557.62'	557.14'	N 00°47'54" W	8°12'44"	279.29'
C4	1103.06'	249.54'	249.01'	N 64°28'40" E	12°57'43"	125.31'
C5	3970.42'	569.09'	568.60'	S 00°47'54" E	8°12'44"	285.03'
C6	6625.36'	831.83'	831.28'	S 02°57'02" E	7°11'37"	416.46'
C7	5693.60'	1530.51'	1525.91'	S 07°14'06" E	15°24'07"	769.90'

MEASURED LINES		
LINE	BEARING	DISTANCE
L1	S 01°12'13" E	300.31'
L2	S 09°57'38" W	251.91'
L3	S 00°03'48" W	249.89'
L4	S 05°33'21" E	179.13'
L5	S 04°22'27" E	189.21'
L6	S 26°57'05" W	487.63'
L7	S 09°06'12" E	361.04'
L8	S 74°47'44" E	106.91'
L9	S 33°04'35" W	439.41'
L10	S 00°41'42" E	220.48'
L11	S 35°01'57" E	427.40'
L12	S 00°21'16" E	653.32'
L13	S 09°17'10" W	398.92'
L14	N 87°51'25" W	13.14'
L15	N 87°51'25" W	757.01'
L16	N 14°54'33" W	56.53'
L17	N 04°54'07" W	402.06'
L18	N 37°08'00" E	135.86'
L19	N 00°28'48" E	215.03'
L20	N 80°48'14" W	84.22'
L21	S 52°52'00" E	111.33'
L22	S 04°54'24" E	404.35'
L23	S 14°54'12" E	157.68'
L24	N 88°38'18" W	363.63'
L25	N 01°58'38" E	615.03'
L26	N 00°54'05" E	618.64'
L27	N 43°57'38" E	114.73'
L49	S 74°47'44" E	58.29'
L50	N 88°21'47" W	69.05'
L51	N 88°21'47" W	4.97'

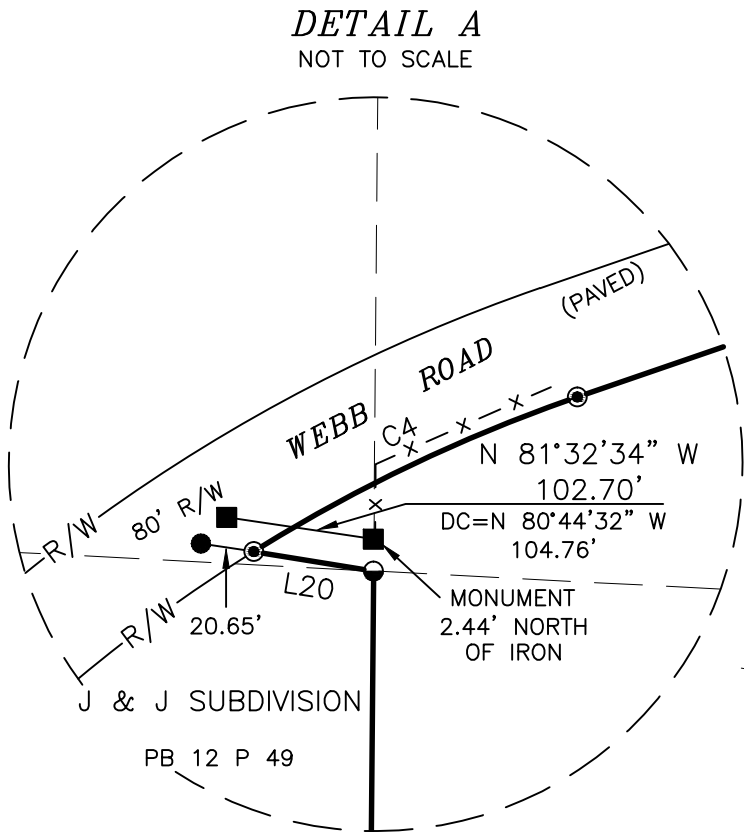
PREVIOUS SURVEY/DEED CALLS		
LINE	BEARING	DISTANCE
L1		
L2		
L3		
L4		
L5		
L6		
L7		
L8		
L9		
L10		
L11		
L12		
L13		
L14	N 87°35'55" W	13.14'
L15	N 87°35'55" W	756.85'
L16		
L17		
L18		
L19	N 00°38'28" E	215.01'
L20		
L21		
L22		
L23		
L24		
L25		
L26		
L27		

MEANDER LINE		
LINE	BEARING	DISTANCE
L28	N 80°22'13" W	142.46'
L29	N 00°52'44" E	204.14'
L30	N 05°19'51" E	189.66'
L31	N 00°41'02" E	653.00'
L32	N 35°50'01" W	215.00'
L33	N 00°52'05" E	395.46'
L34	N 24°18'41" E	347.81'
L35	N 04°28'12" W	414.05'
L36	N 05°35'41" E	348.54'
L37	N 11°19'02" E	288.07'
L38	N 02°11'58" W	87.08'
L39	N 20°54'10" E	359.25'
L40	N 56°10'14" E	153.96'
L41	S 87°45'23" E	142.01'
L42	N 88°59'11" E	25.83'
L43	N 41°45'58" E	76.09'
L44	N 79°25'43" E	156.51'
L45	S 68°30'54" E	61.50'
L46	N 23°22'48" E	166.06'
L47	S 82°51'17" E	186.82'
L48	S 83°10'43" E	198.61'

SURVEYOR'S NOTES AND REPORT

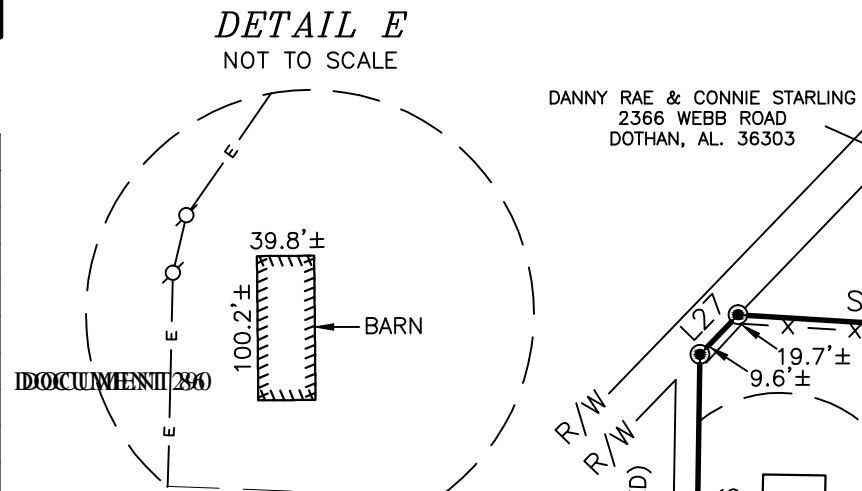
- Bearings based on a grid bearing of South 86 degrees 28 minutes 58 seconds East along a tie to a portion of the North line of the Northwest ¼ of the Northeast ¼ of Section 17, Township 3 North, Range 27 East, Houston County, Alabama from Grid North bearings based on the State Plane Coordinate System, Alabama East Zone NAD 83, by direct GPS observations, and the projection thereof.
- Description appears to contain a scrivener's error. Easement may actually be in another location.
- If no difference is shown, deed/plat call bearings and distances are the same as measured.
- Underground utilities, interior fences, roads, underground foundations, and other improvements were not located except as shown.
- Fence ties were located at points indicated on this plat. Fence may meander between these points. Some portions of this plat may be shown off scale for better presentation or clarity.
- Field work was completed August 1, 2016.
- There may be other restrictions of record not shown on this plat that may be found in the Public Records of Houston County, Alabama.
- The hereon signed surveyor has not been provided a current title opinion. There may be other recorded or unrecorded instruments or agreements that could affect the boundaries.
- This copyrighted 1 plat of survey is certified to and prepared for the sole and exclusive benefit for the entities and/or individuals listed hereon, on the most current date, and shall not be relied on by any other entities and/or individuals whatsoever. This drawing is invalid without surveyor's original signature and embossed seal.
- This survey does not determine ownership.
- This map is intended to be displayed at a scale of 1 inch equals 400 feet.

DETAIL A
NOT TO SCALE

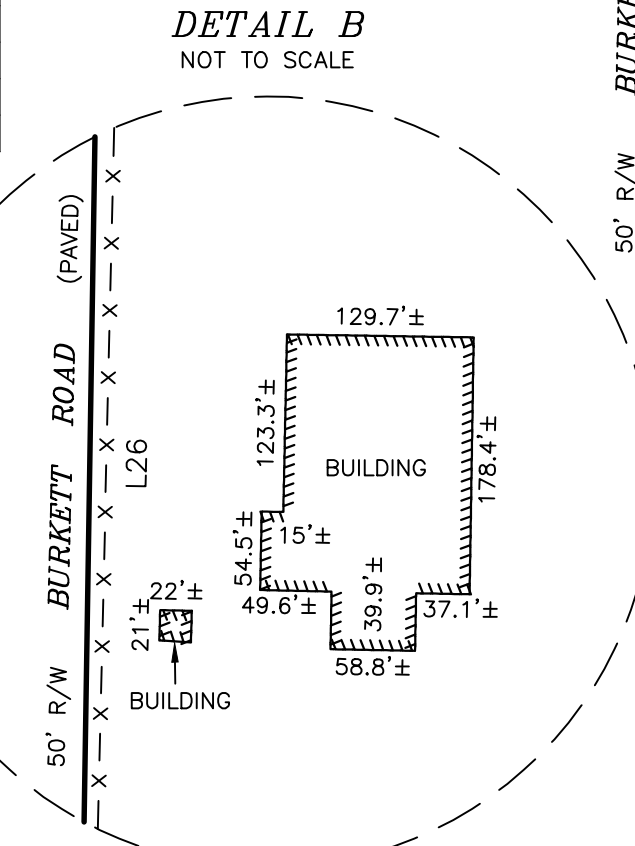


ALL PRIVATE AND COUNTY R/W MONUMENTATION FOR WEBB ROAD APPEARS TO BE A 60' R/W. HOWEVER PER DEEDS R/W IS 80' (DB 261 P 701)

DETAIL E
NOT TO SCALE



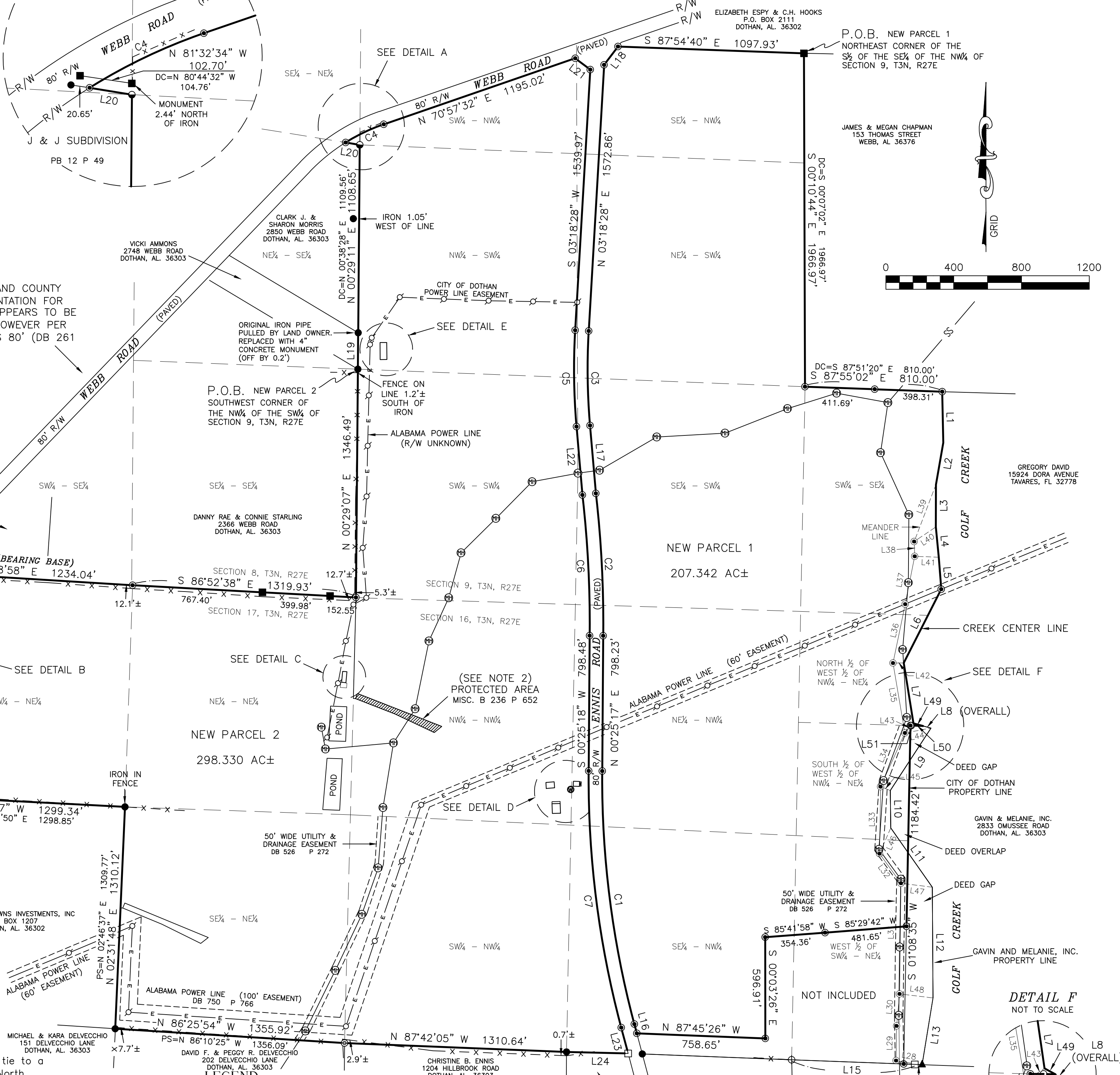
DETAIL B
NOT TO SCALE



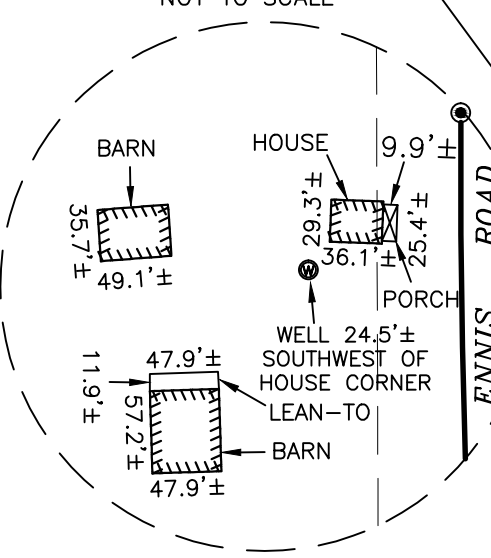
- LEGEND
- SET ½" IRON PIPE AND CAP
 - ⊙ STAMPED BRANTON, CA75LS
 - ⊙ FOUND ½" IRON PIPE AND CAP
 - ⊙ STAMPED BRANTON 13186
 - FOUND ½" IRON PIPE AND CAP
 - STAMPED CA0086
 - FOUND 4"x4" CONCRETE MONUMENT NO ID
 - FOUND 4"x4" CONCRETE MONUMENT CA0086
 - FOUND 1" IRON PIPE
 - FOUND ¾" IRON PIPE
 - FOUND ½" IRON PIPE
 - COMPUTED POINT, NOT SET
 - RIGHT OF WAY
 - OVERHEAD POWER
 - 4" WIRE FENCE, TYPE VARIES
 - STORM WATER PIPE
 - SANITARY SEWER
 - OVERHEAD TELEPHONE
 - POWER POLE
 - GUY ANCHOR
 - AC ACRES
 - DB DEED BOOK
 - DEED CALL
 - PLAT BOOK
 - PS PREVIOUS SURVEY
 - PLAT CALL/PAGE
 - ± MORE OR LESS
 - BROKEN SCALE
 - P.C. POINT OF COMMENCEMENT
 - P.O.B. POINT OF BEGINNING
 - R RADIUS
| Δ | DELTA ANGLE |
| A | ARC LENGTH |
| B | CHORD BEARING |
| Ch | CHORD LENGTH |
| OMP | CORRUGATED METAL PIPE |
| RCP | REINFORCED CONCRETE PIPE |
| TBM | TEMPORARY BENCH MARK |
| ○ | MISCELLANEOUS |
| ○ | ELEVATION NOTE |
| ○ | SANITARY SEWER MANHOLE |

A BOUNDARY SURVEY OF
CITY OF DOTHAN LANDFILL

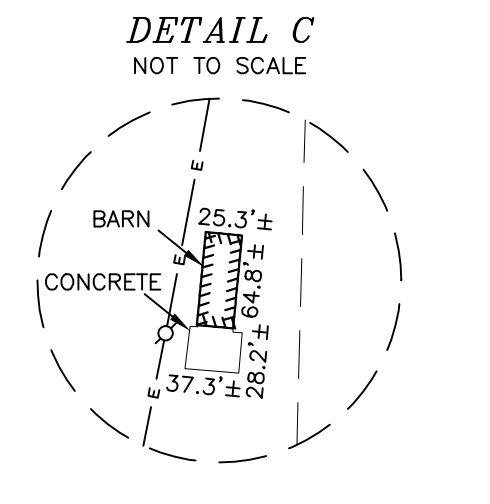
LOCATED IN SECTIONS 8, 9, 16, & 17
TOWNSHIP 3 NORTH, RANGE 27 EAST
HOUSTON COUNTY, ALABAMA



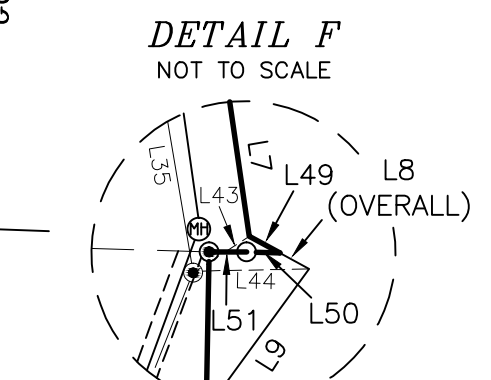
DETAIL D
NOT TO SCALE



DETAIL C
NOT TO SCALE



DETAIL F
NOT TO SCALE



CERTIFICATION

I 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 Surveying in the State of Alabama to the best of my knowledge, information, and belief.

Clint J. Shelley, PLS
Alabama Registration Number 28262-S

LEGAL DESCRIPTION: SOURCE OF TITLE DB 258 P 192, DB 349 P 231, DB 370 P 321, DB 502 P 140, DB 734 P 72
(AND BETTER DESCRIBED BY SURVEY AS FOLLOWS)

NEW PARCEL 1

One parcel of land in Houston County, Alabama as surveyed by Branton Land Surveyors as per plat dated August 4, 2016 and being more particularly described as follows: BEGINNING at an existing concrete monument marking the Northeast corner of the S½ of the SE¼ of the NW¼ of Section 9, T3N, R27E, Houston County, Alabama and from said point run S 00°10'44" E along the East line of said twenty and the East line of the NE¼ of the SW¼ of said Section 9, a distance of 1966.97 feet to a set iron pipe marking the Northwest corner of the SW¼ of the SE¼ of said Section 9; thence run S 87°55'02" E along the North line of said forty a distance of 411.69 feet to a set iron witness pipe; thence continue S 87°55'02" E along said forty line a distance of 398.31 feet to a set iron pipe in center of Golf Creek; thence run along the Center of Golf Creek the following calls: S 01°12'13" E a distance of 300.31 feet; S 09°57'38" W a distance of 251.91 feet; S 00°03'48" W a distance of 249.89 feet; S 05°33'21" E a distance of 179.13 feet; S 04°22'27" E a distance of 189.21 feet to a set iron pipe; S 26°57'05" W a distance of 487.63 feet; S 09°06'12" E a distance of 361.04 feet; S 74°47'44" E a distance of 58.29 feet to a point on the North line of the S½ of the NW¼ of the NE¼ of said Section 16; thence run N 88°21'47" W along said twenty line a distance of 69.05 feet to an existing iron pipe; thence continue N 88°21'47" W along said twenty line a distance of 4.97 feet to a set iron pipe marking the Northeast corner of the S½ of the W½ of the NW¼ of the NE¼ of said Section 16; thence run S 01°08'35" W along the East line of the W½ of the W½ of the NE¼ a distance of 1184.42 feet to a set iron pipe; thence run S 85°29'42" W a distance of 481.65 feet to a set iron pipe; thence run S 85°41'58" W a distance of 354.36 feet to a set iron pipe; thence run S 00°03'26" E a distance of 596.91 feet to a set iron pipe; thence run N 87°45'26" W a distance of 758.65 feet to a set iron pipe on the Easterly R/W of Ennis Road (80' R/W); thence run N 14°54'33" W along said R/W a distance of 56.53 feet to a set iron pipe; thence run N 07°14'06" W along said R/W and curve to the right having a radius of 5613.60 feet, and a chord distance of 1504.47 feet to a set iron pipe; thence run N 00°25'17" E along said R/W a distance of 798.23 feet to a set iron pipe; thence run N 02°57'02" W along said R/W and curve to the left having a radius of 6705.36 feet, and a chord distance of 841.32 feet to a set iron pipe; thence run N 04°54'07" W along said R/W a distance of 402.06 feet to a set iron pipe; thence run N 00°47'54" W along said R/W and curve to the right having a radius of 3890.42 feet, and a chord distance of 557.14 feet to a set iron pipe; thence run N 03°18'28" E along said R/W a distance of 1572.86 feet to a set iron pipe and flare; thence run N 37°08'00" E along said R/W and flare a distance of 135.86 feet to a set iron pipe on the North line of the S½ of the SE¼ of the NW¼ of said Section 9; thence run S 87°54'40" E along the North line of said twenty a distance of 1097.93 feet to the POINT OF BEGINNING. Said parcel being located in the SE¼ of the NW¼ and the S½ of Section 9 and the N½ of Section 16, T3N, R27E, Houston County, Alabama, and contains 207.342 acres, more or less, and being SUBJECT TO an overhead power line easement and a sewer line easement.

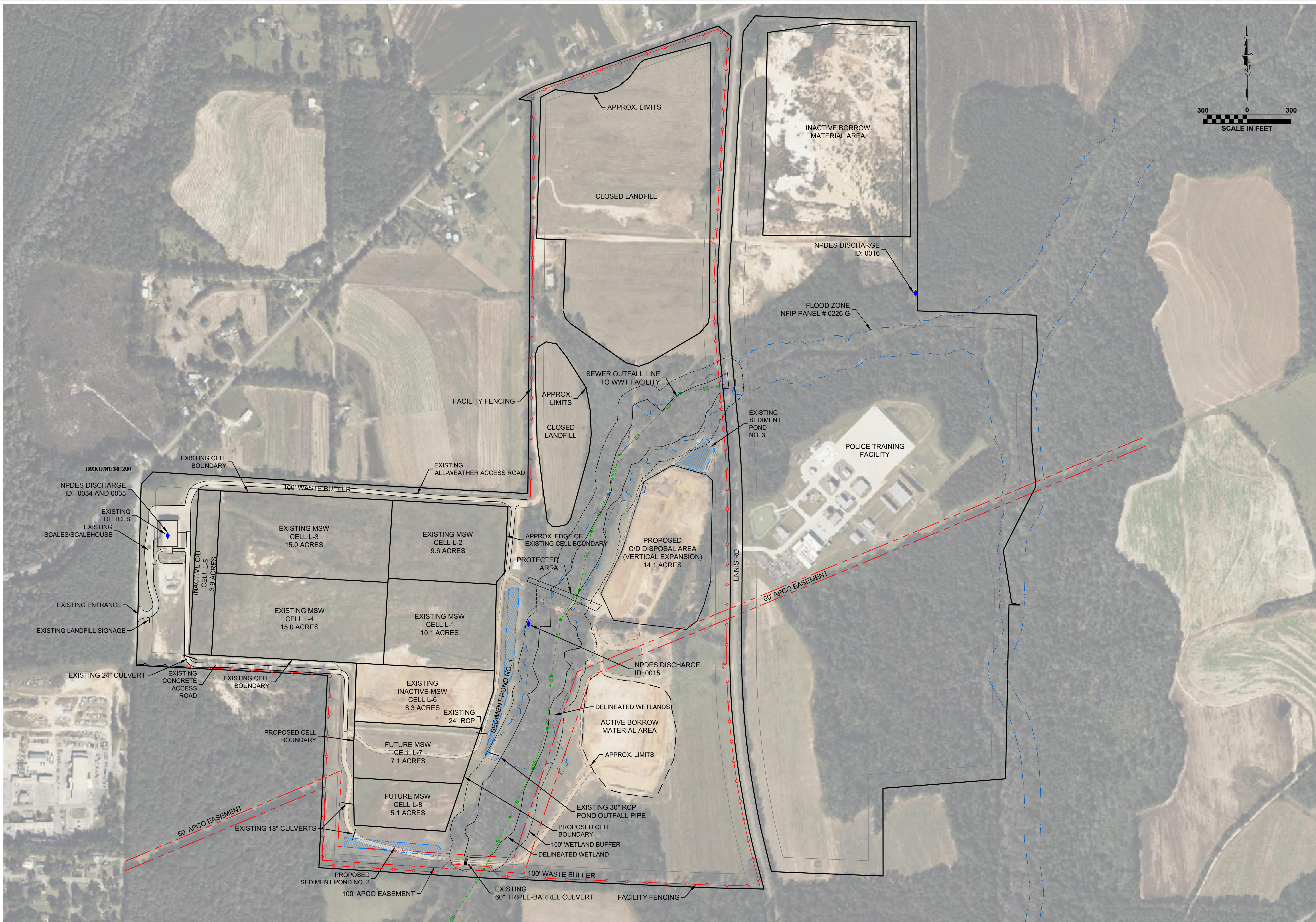
NEW PARCEL 2

One parcel of land in Houston County, Alabama as surveyed by Branton Land Surveyors as per plat dated August 4, 2016 and being more particularly described as follows: BEGINNING at an existing iron pipe marking the Southwest corner of the NW¼ of the SW¼ of Section 9, T3N, R27E, Houston County, Alabama and from said point run N 00°28'48" E along the West line of said forty a distance of 215.03 feet to an existing iron pipe; thence run N 00°29'11" E along said forty line a distance of 1108.65 feet to an existing iron pipe marking the Southeast corner of the SE¼ of the NE¼ of Section 8, T3N, R27E; thence run N 80°48'14" W along the South line of said forty a distance of 84.22 feet to a set iron pipe on the Southeasterly R/W of Webb Road (80' R/W); thence run N 64°28'40" E along said R/W and curve to the right having a radius of 1103.06 feet, and a chord distance of 249.01 feet to a set iron pipe; thence run N 70°57'32" E along said R/W a distance of 1195.02 feet to a set iron pipe and flare on the Westerly R/W of Ennis Road (80' R/W); thence run S 52°52'00" E along said R/W and flare a distance of 111.33 feet to a set iron pipe; thence run S 03°18'28" W along said R/W a distance of 1539.97 feet to a set iron pipe; thence run S 00°47'54" E along said R/W and curve to the left having a radius of 3970.42 feet, and a chord distance of 568.60 feet to a set iron pipe; thence run S 04°54'24" E along said R/W a distance of 404.35 feet to a set iron pipe; thence run S 02°57'02" E along said R/W and curve to the right having a radius of 6625.36 feet, and a chord distance of 831.28 feet to a set iron pipe; thence run S 00°25'18" W along said R/W a distance of 798.48 feet to a set iron pipe; thence run S 07°14'06" E along said R/W and curve to the left having a radius of 5693.60 feet, and a chord distance of 1525.91 feet to a set iron pipe; thence run S 14°54'12" E along said R/W a distance of 157.68 feet to an existing concrete monument on the South line of the SE¼ of the NW¼ of Section 16, T3N, R27E; thence run N 88°38'18" W along the South line of said forty a distance of 363.63 feet to an existing iron pipe marking the Southeast corner of the SW¼ of the NW¼ of said Section 16; thence run N 87°42'05" W along the South line of said forty a distance of 1310.64 feet to an existing iron pipe marking the Southeast corner of the SE¼ of the NE¼ of Section 17, T3N, R27E; thence run N 86°25'54" W along the South line of said forty a distance of 1355.92 feet to an existing iron pipe marking the Southwest corner of said forty; thence run N 02°31'48" E along the West line of said forty a distance of 1310.12 feet to an existing iron pipe marking the Southeast corner of the NW¼ of the NE¼ of said Section 17; thence run N 87°01'27" W along the South line of said forty a distance of 1299.34 feet to an existing iron pipe on the Easterly R/W of Burkett Road (50' R/W); thence run N 01°58'38" E along said R/W a distance of 615.03 feet to a set iron pipe; thence run N 00°54'05" E along said R/W a distance of 618.64 feet to a set iron pipe on the Southeasterly R/W of Webb Road (80' R/W); thence run N 43°57'38" E along said R/W a distance of 114.73 feet to a set iron pipe on the North line of said forty; thence run S 86°28'58" E along said forty line a distance of 1234.04 feet to a set iron pipe marking the Northwest corner of the NE¼ of the NE¼ of said Section 17; thence run S 86°52'38" E along the North line of said forty a distance of 767.40 feet to an existing concrete monument; thence continue S 86°52'38" E along said forty line a distance of 152.55 feet to a set iron pipe marking the Southwest corner of the SW¼ of the SW¼ of said Section 9; thence run N 00°29'07" E along the West line of said forty a distance of 1346.49 feet to the POINT OF BEGINNING. Said parcel being located in the SE¼ of the SE¼ of Section 8, the S½ of the NW¼ and the SW¼ of Section 9, the NW¼ of Section 16, and the NE¼ of Section 17, T3N, R27E, Houston County, Alabama, and contains 298.330 acres, more or less, and being SUBJECT TO an overhead power line easement and a sewer line easement.

SHEET 1

A BOUNDARY SURVEY CERTIFIED TO			
CITY OF DOTHAN			
BOUNDARY SURVEY OF DOTHAN LANDFILL			
ENNIS,WEBB, & BURKETT ROAD		DOTHAN, ALABAMA	
SCALE: 1"=400'	DATE: 8-4-16	HOUSTON	ALABAMA
BRANTON LAND SURVEYORS		110 PETTUS STREET DOTHAN, ALABAMA 36301	
CERTIFICATE OF AUTHORIZATION NUMBER CA0075-LS		OFFICE 334-792-7501 FAX 334-792-9496	
PROJECT NUMBER: 063016-1		FIELD BOOK: (PAGES)	

ATTACHMENT D
FACILITY LAYOUT
ARA 86:0003

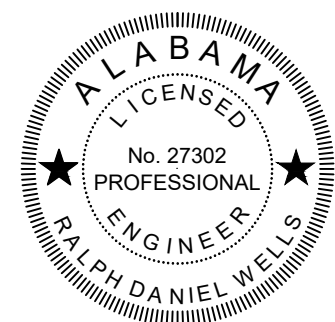


02_DothanMajorModFacilityLayout.dwg



11 W COURT SQUARE
ANDALUSIA, AL 36420
P.O. BOX 278 (36420)
PH: (334) 222-9431

FACILITY LAYOUT
MAJOR MODIFICATION PLANS
CITY OF DOTHAN
DOTHAN, ALABAMA



SCALE:	AS SHOWN
DATE:	3/21/23
REVISED	
4/25/23	
PROJECT NO: R083022298	
SHEET NO. C-102	

ATTACHMENT E
WASTE DISPOSAL LAYOUT
ARA 86:0004

03_DothanMajorModDisposalLayouts.dwg

MSW DISPOSAL AREA		
Line #	Length	Direction
L1	453.61	S3° 08' 24"W
L2	80.50	S41° 32' 12"W
L3	603.62	S1° 17' 14"W
L4	142.13	S3° 12' 39"W
L5	1005.21	S18° 55' 17"W
L6	621.55	N86° 00' 14"W
L7	460.10	N0° 51' 37"W
L8	245.34	N2° 26' 53"E
L9	396.29	N1° 38' 21"E
L10	1136.62	N86° 50' 33"W
L11	1119.37	N3° 10' 16"E
L12	2106.97	S86° 51' 36"E

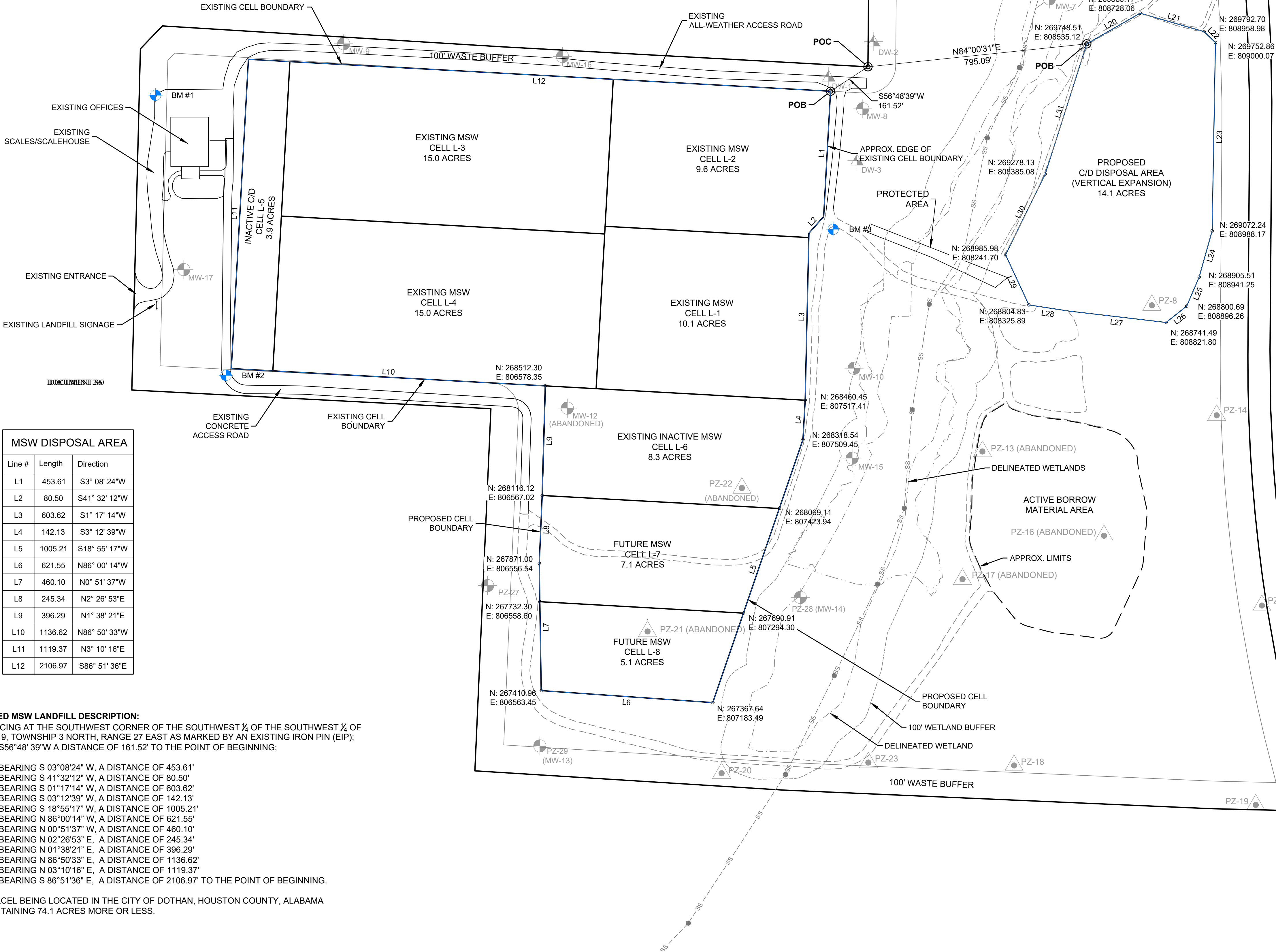
PROPOSED MSW LANDFILL DESCRIPTION:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 9, TOWNSHIP 3 NORTH, RANGE 27 EAST AS MARKED BY AN EXISTING IRON PIN (EIP); THENCE S56°48' 39"W A DISTANCE OF 161.52' TO THE POINT OF BEGINNING;

THENCE BEARING S 03°08'24" W, A DISTANCE OF 453.61'
THENCE BEARING S 41°32'12" W, A DISTANCE OF 80.50'
THENCE BEARING S 01°17'14" W, A DISTANCE OF 603.62'
THENCE BEARING S 03°12'39" W, A DISTANCE OF 142.13'
THENCE BEARING S 18°55'17" W, A DISTANCE OF 1005.21'
THENCE BEARING N 86°00'14" W, A DISTANCE OF 621.55'
THENCE BEARING N 00°51'37" W, A DISTANCE OF 460.10'
THENCE BEARING N 02°26'53" E, A DISTANCE OF 245.34'
THENCE BEARING N 01°38'21" E, A DISTANCE OF 396.29'
THENCE BEARING N 86°50'33" E, A DISTANCE OF 1136.62'
THENCE BEARING N 03°10'16" E, A DISTANCE OF 1119.37'
THENCE BEARING S 86°51'36" E, A DISTANCE OF 2106.97' TO THE POINT OF BEGINNING.

SAID PARCEL BEING LOCATED IN THE CITY OF DOTHAN, HOUSTON COUNTY, ALABAMA AND CONTAINING 74.1 ACRES MORE OR LESS.

SITE CONTROL			
Description	Northing	Easting	Elevation
BM #1	269,562.53	805,169.80	289.64
BM #2	268,550.26	805,424.15	288.93
BM #3	269,078.09	807,618.73	251.87



C/D DISPOSAL AREA		
Line #	Length	Direction
L20	222.43	N60° 09' 54"E
L21	240.29	S73° 56' 32"E
L22	57.24	S45° 53' 15"E
L23	680.73	S1° 00' 06"W
L24	173.21	S15° 43' 08"W
L25	114.07	S23° 13' 45"W
L26	95.12	S51° 30' 56"W
L27	354.50	N83° 18' 48"W
L28	145.50	N81° 16' 50"W
L29	199.76	N24° 55' 31"W
L30	325.43	N26° 08' 31"E
L31	493.73	N17° 41' 26"E

CD LANDFILL DESCRIPTION:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 9, TOWNSHIP 3 NORTH, RANGE 27 EAST AS MARKED BY AN EXISTING IRON PIN (EIP); THENCE N84° 00' 31"E A DISTANCE OF 795.09' TO THE POINT OF BEGINNING,

THENCE N60° 09' 54"E A DISTANCE OF 222.43' TO A POINT;
THENCE S73° 56' 32"E A DISTANCE OF 240.29' TO A POINT;
THENCE S45° 53' 15"E A DISTANCE OF 57.24' TO A POINT;
THENCE S01° 00' 06"W A DISTANCE OF 680.73' TO A POINT;
THENCE S15° 43' 08"W A DISTANCE OF 173.21' TO A POINT;
THENCE S23° 13' 45"W A DISTANCE OF 114.07' TO A POINT;
THENCE S51° 30' 56"W A DISTANCE OF 95.12' TO A POINT;
THENCE N83° 18' 48"W A DISTANCE OF 354.50' TO A POINT;
THENCE N81° 16' 50"W A DISTANCE OF 145.50' TO A POINT;
THENCE N24° 55' 31"W A DISTANCE OF 199.76' TO A POINT;
THENCE N26° 08' 31"E A DISTANCE OF 325.43' TO A POINT;
THENCE N17° 41' 26"E A DISTANCE OF 493.73' BACK TO THE POINT OF BEGINNING.

SAID PARCEL BEING LOCATED IN THE CITY OF DOTHAN, HOUSTON COUNTY, ALABAMA AND CONTAINING 14.1 ACRES MORE OR LESS.

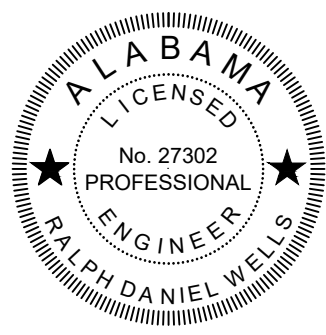
NOTES:

ALL COORDINATES SHOWN REPRESENT NAD83 ALABAMA EAST.
ALL ELEVATIONS SHOWN REPRESENT NAVD88, GEOID 12B.



11 W COURT SQUARE
ANDALUSIA, AL 36420
P.O. BOX 278 (36420)
PH: (334) 222-9431

WASTE DISPOSAL LAYOUT
MAJOR MODIFICATION PLANS
CITY OF DOTHAN
DOTHAN, ALABAMA



SCALE:	AS SHOWN
DATE:	3/21/23
REVISED	
4/25/23	
PROJECT NO:	R083022298
SHEET NO.	C-103

ATTACHMENT F

RESOLUTION NO. 2023-210 (JULY 5, 2023)

ARA 92:0062-0063

RESOLUTION NO. 2023-210

WHEREAS, the City of Dothan proposes to expand the facility boundary of the Dothan Landfill located at 1290 Burkett Road to approximately 506 acres; and

WHEREAS, the City of Dothan issued a publication in the Dothan Eagle newspaper on April 7 2023, to provide notice of a public awareness meeting to be held on May 8, 2023, to inform the public regarding the proposed expansion of the Dothan Landfill, the permit application, and the process for reviewing the permit application and submitting public comments to the City of Dothan; and

WHEREAS, the City of Dothan issued a publication in the Dothan Eagle newspaper on May 10 and May 17, 2023, to provide notice of a public hearing to be held on June 12, 2023, to accept public comment concerning the proposed facility expansion; and

WHEREAS, a public awareness meeting was held on May 8, 2023, to inform the public regarding the proposed expansion of the Dothan Landfill, the permit application, and the process for reviewing the permit application, and submitting public comments to the City of Dothan; and

WHEREAS, a public hearing was held on June 12, 2023, to accept public comment concerning the proposed facility expansion; and

WHEREAS, all comments received during the public comment period were considered by the City Commission and a written response to each comment has been prepared and considered by the City Commission; and

WHEREAS, in determining whether to recommend approval of the proposed facility expansion for the Dothan Landfill, the City Commission shall consider each of the six (6) factors as shown in Alabama Code § 22-27-48(c); and

WHEREAS, the six (6) aforementioned factors include: consistency with the solid waste management need as identified in the Solid Waste Management Plan; relationship to local planned or existing development, to major transportation arteries, and to existing state primary and secondary roads; location of existing industries that generate large volumes of solid waste or the development of industries that will generate solid waste; costs and availability of public services, facilities, and improvements to support and protect public health, safety, and the environment; minimization of impacts to public health and safety; and, social and economic impacts on the affected community.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the City of Dothan, Alabama, as follows:

Section 1. That after due consideration and review of the permit application and the information provided in response to the public awareness meeting and the public hearing, the City of Dothan finds that the proposed expansion to the facility boundary of the Dothan Landfill

located at 1290 Burkett Road to approximately 506 acres satisfies each of the six (6) factors enumerated in Alabama Code § 22-27-28(c) and hereby approves the same.

PASSED, ADOPTED, AND APPROVED this 5th day of **JULY, 2023**.

Attest:

Wendy Shiver
City Clerk

Donal Smith
Mayor

Nay
Associate Commissioner District 1

Nay
Associate Commissioner District 2

Associate Commissioner District 3

W. R. 3
Associate Commissioner District 4

W. R. 5
Associate Commissioner District 5

W. R. 6
Associate Commissioner District 6

BOARD OF CITY COMMISSIONERS

VERIFICATIONS

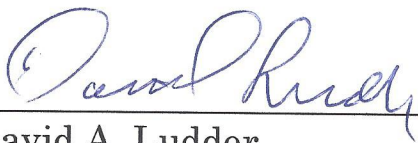
VERIFICATION

COUNTY OF LEON)
STATE OF FLORIDA) ss.

DAVID A. LUDDER, being first duly sworn, deposes and says:


1. That he is the attorney of record for the plaintiffs in this action.
2. That he has reviewed the administrative record filed with the Court by defendants (Docs. 70, 72, 74, 76, 78, 80, 82, 86, 88, 89, 92, 94, 96, 98, 100, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 139, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 164, 166, 168, 179, 170, 172, 178, 180, 182, 184, 186, 188, 190, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, and 286).
3. That he has read the Statement of Facts in Support of Petition for Certiorari Review in the foregoing Third Amended Complaint (¶¶ 53 through 106).

4. That the facts stated therein are supported by the administrative record.

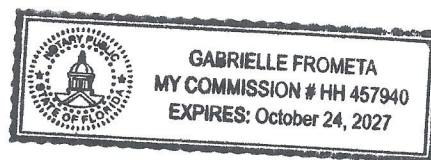


David A. Ludder

Sworn to and subscribed before me this the 9th day of Oct., 2024.



Notary Public



VERIFICATION


COUNTY OF HOUSTON)
 STATE OF ALABAMA) ss.

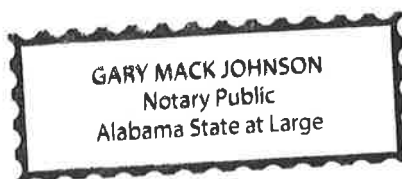
David F. Del Vecchio, being first duly sworn, deposes and says:

1. That he is a plaintiff in this action.
2. That he has read the text of paragraphs 7, 11 through 14, 28 through 44, and 48 through 52 of the foregoing Third Amended Complaint.
3. That he has personal knowledge of the facts stated in paragraphs 7, 11 through 14, 28 through 44, and 48 through 52 of the foregoing Third Amended Complaint.
4. That the facts stated in paragraphs 7, 11 through 14, 28 through 44, and 48 through 52 of the foregoing Third Amended Complaint are true and correct.


 David F. Del Vecchio

Sworn to and subscribed before me this the 8 day of October, 2024.


 Notary Public



My Commission Expires
 07/03/2028

VERIFICATION

COUNTY OF HOUSTON)
STATE OF ALABAMA) ss.

Peggy R. Del Vecchio, being first duly sworn, deposes and says:

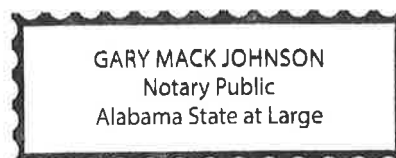
1. That she is a plaintiff in this action.
2. That she has read the text of paragraphs 7, 11, 12, 15, 16, 28, 31, 32, 44, 48, and 49 through 52 of the foregoing Third Amended Complaint.
3. That she has personal knowledge of the facts stated in paragraphs 7, 11, 12, 15, 16, 28, 31, 32, 44, 48, and 49 through 52.
4. That the facts stated in paragraphs 7, 11, 12, 15, 16, 28, 31, 32, 44, 48, and 49 through 52 are true and correct.


Peggy R. Del Vecchio

Sworn to and subscribed before me this the 8 day of Oct, 2024.



Notary Public



My commission expires
07/3/2028

VERIFICATION

COUNTY OF HOUSTON)
STATE OF ALABAMA) ss.

Michael Del Vecchio, being first duly sworn, deposes and says:

1. That he is a plaintiff in this action.
2. That he has read the text of paragraphs 8, 11, 17 through 19, 33 through 35, 45 and 48 through 52 of the foregoing Third Amended Complaint.
3. That he has personal knowledge of the facts stated in paragraphs 8, 11, 17 through 19, 33 through 35, 45 and 48 through 52.
4. That the facts stated in paragraphs 8, 11, 17 through 19, 33 through 35, 45 and 48 through 52 are true and correct.



Michael Del Vecchio

Sworn to and subscribed before me this the 8 day of Oct, 2024.



Notary Public



My Commission expires
01/03/2028

VERIFICATION

COUNTY OF HOUSTON)
 STATE OF ALABAMA) ss.

William P. Novack, being first duly sworn, deposes and says:

1. That he is a plaintiff in this action.
2. That he has read the text of paragraphs 9, 11, 20 through 22, 36 through 38, 46, 48, 51 and 52 of the foregoing Third Amended Complaint.
3. That he has personal knowledge of the facts stated in paragraphs 9, 11, 20 through 22, 36 through 38, 46, 48, 51 and 52.
4. That the facts stated in paragraphs 9, 11, 20 through 22, 36 through 38, 46, 48, 51 and 52 are true and correct.

Signature Pending

William P. Novack

Sworn to and subscribed before me this the ____ day of _____, 2024.

Notary Public

VERIFICATION

COUNTY OF HOUSTON)
 STATE OF ALABAMA) ss.

Tara Novack, being first duly sworn, deposes and says:

1. That she is a plaintiff in this action.
2. That she has read the text of paragraphs 9, 11, 20, 23, 24, 36, 39, 40, 46, 48, and 51 through 52 of the foregoing Third Amended Complaint.
3. That she has personal knowledge of the facts stated in paragraphs 9, 11, 20, 23, 24, 36, 39, 40, 46, 48, and 51 through 52.
4. That the facts stated in paragraphs 9, 11, 20, 23, 24, 36, 39, 40, 46, 48, and 51 through 52 are true and correct.

Signature Pending

Tara Novack

Sworn to and subscribed before me this the ____ day of _____, 2024.

Notary Public

VERIFICATION

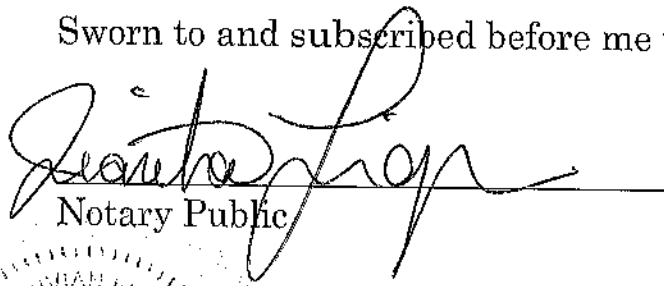
COUNTY OF HOUSTON)
STATE OF ALABAMA) ss.

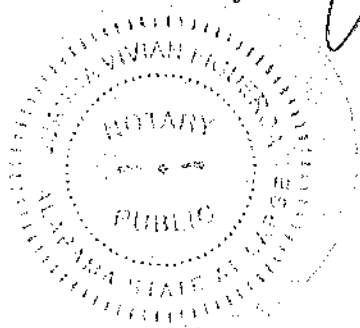
Anthony Keith, being first duly sworn, deposes and says:

1. That he is a plaintiff in this action.
2. That he has read the text of paragraphs 10, 11, 25 through 27, 41 through 43, 47, and 50 through 52 of the foregoing Third Amended Complaint.
3. That he has personal knowledge of the facts stated in paragraphs 10, 11, 25 through 27, 41 through 43, 47, and 50 through 52.
4. That the facts stated in paragraphs 10, 11, 25 through 27, 41 through 43, 47, and 50 through 52 are true and correct.


Anthony Keith

Sworn to and subscribed before me this the 8 day of Oct, 2024.


Notary Public



CERTIFICATE OF SERVICE

I hereby certify that the foregoing Third Amended Complaint was electronically filed with the Clerk of Court using the AlaFile system which will send notification of such filing to the following persons:

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Done this 9th day of October, 2024.

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