

MINUTES OF REGULAR MEETING

MONTGOMERY COUNTY COMMISSION

AUGUST 7, 2017

INFORMATION SESSION

Chairman Dean called the meeting to order at 8:07 a.m. The meeting was held at the Montgomery County Administration Building and Courthouse Annex III.

The meeting was opened with prayer led by Commissioner Singleton. All five Commissioners were present.

COMMENTS FROM SCHEDULED ATTENDEES, STAFF AND COMMISSIONERS

COMMENTS FROM ADMINISTRATOR MIMS

Administrator Mims briefed the Commission on scheduled attendees and items on the agenda.

DISCUSSION BY THE COMMISSION

Commissioner Walker request a \$2,250 education miscellaneous appropriation from her account to BOE, Dalraida Elementary School, for Principal's Discretionary Fund.

Chairman Dean requested an \$800 education miscellaneous appropriation from his account to BOE, Montgomery Public Schools, for Recognition of the Custodial and Security Staff, Attn: Donald Dotson.

The Commission agreed to add these items to the miscellaneous appropriations.

PRESENTATION BY SHERIFF DERRICK CUNNINGHAM

Sheriff Derrick Cunningham briefed the Commission regarding a Stakeholder Sharing License Agreement with the Alabama Department of Transportation regarding viewing of live video images. After discussion, the Commission agreed to place this item on the next agenda.

Sheriff Cunningham briefed the Commission regarding Amendment Number 1 to the Contract with Gulf States Distributors regarding a one (1) year extension and 5% pricing increase for footwear. After discussion, the Commission agreed to place this item on the next agenda.

Sheriff Cunningham briefed the Commission regarding Amendment Number 1 to the Contract with Stivers Ford Lincoln regarding a one (1) year extension and 5% pricing increase for oil change and tire rotation services. After discussion, the Commission agreed to place this item on the next agenda.

PRESENTATION BY CHAIRMAN STEPHEN WOERNER AND EXECUTIVE DIRECTOR ANDREW SZYMANSKI WITH THE MONTGOMERY DRAGON BOAT RACE AND FESTIVAL, INC.

Chairman Stephen Woerner and Executive Director Andrew Szymanski with the Montgomery Dragon Boat Race and Festival, Inc., briefed the Commission regarding the 2017 Montgomery Dragon Boat Festival and requested funding in the amount of \$7,500. After discussion, the Commission agreed to place on the next agenda a Budget Change Request in the amount of \$7,500 for this event.

PRESENTATION BY CHAPLAIN CURTIS BROWDER AND MICHELLE BROWDER WITH FAITH CRUSADES/MONTGOMERY RESCUE MISSION

Chaplain Curtis Browder and Michelle Browder with Faith Crusades Ministries, Inc./ Montgomery Rescue Mission briefed the Commission regarding the program and requested funding in the amount of \$50,000 for the feeding program. After discussion, Chairman Dean, Commissioner Sankey and Commissioner Singleton requested a \$500 miscellaneous appropriation from their accounts and Vice Chairman Walker and Commissioner Harris requested a \$1,000 miscellaneous appropriation from their accounts for a total of \$3,500 for this program. The Commission agreed to add these items to the miscellaneous appropriations.

PRESENTATION BY CHIEF INFORMATION AND TECHNOLOGY OFFICER LOU IALACCI

Chief Information and Technology Officer Lou Ialacci briefed the Commission regarding a Position Fill Request for an Administrative Assistant, Position Number 220017001, which was on the agenda.

PRESENTATION BY COUNTY ENGINEER GEORGE SPEAKE

County Engineer George Speake briefed the Commission regarding a Resolution for Resurfacing Pike Road from Wallahatchie Road to U.S. 80 (5.851 Miles), Project No. MCP 51-77-16. After discussion, the Commission agreed to waive rules and add this item to the agenda.

Mr. Speake briefed the Commission regarding a Resolution for Resurfacing Old Selma Road (3.9 Miles), Project No. MCP 51-81-17. After discussion, the Commission agreed to place this item on the next agenda.

Mr. Speake briefed the Commission regarding a Resolution for Resurfacing Cloverfield/Federal Road (3.0 Miles), Project No. MCP 51-82-17. After discussion, the Commission agreed to place this item on the next agenda.

Mr. Speake briefed the Commission regarding a Resolution for Resurfacing Lower Wetumpka/Anderson Road (5.3 Miles), Project No. MCP 51-83-17. After discussion, the Commission agreed to place this item on the next agenda.

Mr. Speake briefed the Commission regarding Amendment Number 1 to the Contract with Forterra Pipe & Precast regarding a one (1) year extension for concrete pipe. After discussion, the Commission agreed to place this item on the next agenda.

Mr. Speake reported that Administrator Mims, Kevin Boone, and he met with Executive Director Greg Clark and Community Development Director Leslie York with Central Alabama Regional Planning and Development Commission on August 1, 2017, in efforts to identify any possible grant funding that may be available for drainage improvements in Selbrook Subdivision. Ms. York noted that the most viable grant program available is the Community Development Block Grant (CDBG) through ADECA; however, drainage improvements carry a low priority with this program, and there is a high possibility this community will not meet the low/moderate income requirements for this and most other grant programs. Mr. Speake stated that the Engineering Department has immediate plans underway to upgrade some of the storm sewer pipes on Geary and Hinson Drives which should alleviate some of the recent flooding problems that have occurred in the vicinity of these streets. Also, a contract is being executed to have a contractor clear overgrowth from all the public drainage easements in this subdivision which will allow better drainage along the drainage ditches in these easements.

PRESENTATION BY EXECUTIVE VICE PRESIDENT OF TRANSPORTATION DAVID REED, VICE PRESIDENT OF LANDSCAPE ARCHITECTURE JOHN B. BRICKEN, III, AND CIVIL ENGINEER MAX VAUGHN WITH GOODWYN, MILLS AND CAWOOD, INC.

Executive Vice President of Transportation David Reed, Vice President of Landscape Architecture John B. Bricken, III, and Civil Engineer Max Vaughn with Goodwyn, Mills and Cawood, Inc., presented a master plan and cost estimates for the Old Selma Road Park Project. (Copy of Old Selma Road Master Plan and Cost Estimates, Agenda Pages 21-1 through 21-3, are attached to these Minutes.)

COMMENTS FROM ADMINISTRATOR MIMS, DEPUTY ADMINISTRATOR CAUTHEN AND GENERAL SERVICES DIRECTOR LAMAR ALLEN

Deputy Administrator Cauthen presented an updated list of priority list and costs for Construction, Renovation, Repair and Maintenance Projects for County-owned property. Administrator Mims presented a payment schedule for County Improvements prepared by Stifel. Administrator Mims stated that he, Deputy Administrator Cauthen and General Services Director Lamar Allen would brief the Commissioners individually regarding the projects. Deputy Administrator Cauthen stated that she would present an action list at the next meeting. Vice Chairman Walker requested an itemized list of all expenses for the Courthouse project. (Copy of List of Construction, Renovation, Repair and Maintenance Projects for County-owned property, Agenda Page 22-1, is attached to these Minutes.)

Deputy Administrator Cauthen briefed the Commission regarding Change Order Number 1 to Contract with Stallings & Sons, Inc., to replace the existing fire alarm system panels in Annex I at a cost of \$41,200.45. After discussion, the Commission agreed to waive rules and add this item to the agenda.

Administrator Mims presented a letter from Montgomery City/County Public Library Director Jaunita Owes regarding Ramer Branch Library air conditioner replacement. After discussion, the Commission agreed to place on the next agenda a Budget Change Request in the amount of \$5,978.13 for this project.

Administrator Mims presented a letter from Montgomery City/County Public Library Director Jaunita Owes regarding the Juliette Hampton Morgan Library Renovation Project Budget Update. After discussion, the Commission agreed to place this item on the next agenda.

Administrator Mims presented an email from Ray D. Rawlings with the Montgomery County Historical Society regarding Update on Job Search for New Executive Director.

Administrator Mims presented an invitation to Meet & Greet Coffee Reception with Governor Kay Ivey, Monday August 14, 2017, 8:00 a.m. – 9:00 a.m., at Loveless Academic Magnet Program (LAMP) High School at One Center, 3440 McGhee Road.

Administrator Mims presented a Memorandum from Executive Director Sonny Brasfield with ACCA regarding Proposed Amendment of the ACCA By-Laws (Legislative Committee).

Administrator Mims presented a letter Schedule of Upcoming Bids/Contract Renewals for August – October 2017.

RECESS TO EXECUTIVE SESSION

Administrator Mims presented a letter from Senior Vice President of Corporate Development Ellen G. McNair, Montgomery Area Chamber of Commerce regarding the Calling of an Executive Session to Discuss a Commerce or Trade Matter. Vice Chairman Walker made a motion to go into the Executive Session. The motion was seconded by Commissioner Sankey and unanimously approved by each Commissioner, openly giving their individual vote. Administrator Mims noted that all five Commissioners were present and that the Commission would reconvene to the Formal Session. Chairman Dean recessed the Information Session to the Executive Session. (Letter from Ellen McNair and a Checklist for Conducting Lawful Executive Sessions, Pages 23-1 and 23-2, are attached to these Minutes).

RECESS TO FORMAL SESSION

Vice Chairman Walker made a motion to recess the Executive Session. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. Chairman Dean recessed the Executive Session to the Formal Session.

FORMAL SESSION

Chairman Dean welcomed everyone to the Formal Session.

The meeting was opened with prayer led by County Extension Coordinator Jimmy Smitherman.

The Pledge of Allegiance was led by Commissioner Isaiah Sankey.

Administrator Mims called Roll to establish a quorum, and the following Commissioners were present: Chairman Dean, Vice Chairman Walker and Members Harris, Sankey and Singleton. Also present were County Attorney Thomas T. Gallion, III and County Engineer George C. Speake.

Vice Chairman Walker made a motion to approve the Minutes of the Regular Meeting of July 24, 2017. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission.

CONSENT AGENDA

Administrator Mims presented the Accounts Payable Checks and Payroll Checks Authorization for approval.

Commissioner Singleton made a motion to approve the Accounts Payable and Payroll Checks, as presented by Administrator Mims. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Accounts Payable Checks and Payroll Checks Authorization, Consent Agenda Pages 1 through 5, are attached to these Minutes.)

PUBLIC HEARING

PUBLIC HEARING REGARDING FY 2017 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATION CONSIDERATION

Chairman Dean opened the Public Hearing and asked if anyone in the audience wanted to speak regarding 2017 Community Development Block Grant Application. CARPDC Community Development Specialist Leslie York said she wanted to request consideration of a CDB grant to improve the infrastructure of the Eastwood Villa neighborhood. Ms. York said the deadline for applications is August 31. Chairman Dean thanked Ms. York and then declared the Public Hearing Closed. (Copy of Public Hearing Notice is attached to these Minutes.)

NEW BUSINESS

TAX AND AUDIT DEPARTMENT – ADOPTED AMENDED RESOLUTION REGARDING TAXPAYERS BILL OF RIGHTS

Commissioner Harris made a motion to Adopt the Proposed Amended Resolution regarding Taxpayers Bill of Rights. The motion was seconded by Commissioner Sankey and unanimously approved by the Commission. (Copies of Memorandum, Amended Resolution, Letter and Notice Of Act 2017-415, Agenda Pages 1-1 through 1-45, are attached to these Minutes.)

SUPPORT SERVICES – APPROVED AMENDMENT NUMBER 1 TO CONTRACT WITH KNOX PEST CONTROL REGARDING A ONE (1) YEAR EXTENSION FOR PEST CONTROL SERVICES, CONTRACT NO. 51901-16B-028

Vice Chairman Walker made a motion to approve Amendment Number 1 to Contract with Knox Pest Control regarding a One (1) Year Extension for Pest Control Services, Contract No. 51901-16B-028. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Contract, Agenda Pages 2-1 and 2-2, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED PAYMENT OF PROFESSIONAL DUES FOR COUNTY ADMINISTRATOR DONALD L. MIMS

Commissioner Singleton made a motion to approve Payment of Professional Dues for County Administrator Donald L. Mims. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copy of Memorandum, Agenda Page 3-1, is attached to these Minutes.

COUNTY COMMISSION – APPROVED MISCELLANEOUS APPROPRIATIONS REPROGRAMMING REQUESTS

Administrator Mims requested approval of the miscellaneous appropriations included in his memorandum dated August 7, 2017. During the County Commission Meeting this date, Chairman Dean requested that the following miscellaneous appropriation reprogramming requests be added and his fellow commissioners concurred:

From fund code 001-59320-498 (Agency, Miscellaneous Appropriations) to:

- C-2017-86: Faith Crusades Ministries, Inc., for Feeding Program - \$3,500; (Dean-\$500, Walker-\$1,000, Harris-\$1,000, Sankey-\$500 and Singleton-\$500)
- C-2017-87: Capital City Cowboys, for Purchase of Uniforms and Football Equipment for Underprivileged Youth - \$500; (Sankey)
- NC-2017-107: City of Montgomery, to be used by BONDS to Support Paterson Court Residents Council, with Funding to Promote the Community Enhancement and Beautification Programs/Projects - \$500; (Sankey)

From fund code 001-59320-494 (Commissioner's Education Miscellaneous Appropriations) to:

- BOE-2017-30: BOE, Thelma Smiley Morris Elementary School, for Principal's Discretionary Fund - \$1,500; (Sankey)
- BOE-2017-31: BOE, Highland Avenue Elementary School, for Principal's Discretionary Fund - \$1,500; (Sankey)

- BOE-2017-32: BOE, Wares Ferry Road Elementary School, for Principal's Discretionary Fund - \$2,000; (Sankey)
- BOE-2017-33: BOE, Chisolm Elementary School, for Principal's Discretionary Fund - \$1,500; (Sankey)
- BOE-2017-34: BOE, Highland Gardens Elementary School, for Principal's Discretionary Fund - \$1,500; (Sankey)
- BOE-2017-35: BOE, Fewes Secondary Acceleration Academy, for Principal Discretionary Fund - \$1,500; (Sankey)
- BOE-2017-36: BOE, Booker T. Washington Magnet High School, for Principal's Discretionary Fund - \$1,500; (Sankey)
- BOE-2017-37: BOE, Bellingrath Middle School, for Principal's Discretionary Fund - \$1,500; (Sankey)
- BOE-2017-38: BOE, Lanier High School, for Principal's Discretionary Fund - \$2,000; (Sankey)
- BOE-2017-39: BOE, Robert E. Lee High School, for Principal's Discretionary Fund - \$4,000; (Walker-\$2,000 and Sankey-\$2,000)
- BOE-2017-40: BOE, Dalraida Elementary School, for Principal's Discretionary Fund - \$2,250; (Walker)
- BOE-2017-41: Montgomery Board of Education, for Montgomery Public Schools, for Recognition of the Custodial and Security Staff, Attn: Donald Dotson - \$800; (Dean)

Commissioner Singleton made a motion to approve the Miscellaneous Appropriations Reprogramming Requests. The motion was seconded by Commissioner Sankey and unanimously approved by the Commission. (Copy of Memorandum, Agenda Pages 4-1 and 4-2, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED BID AWARD TO DAVID BULGER, INC., (DBI) FOR ANNEX II RETAINING WALL REPAIR

Vice Chairman Walker made a motion to approve the Bid Award to David Bulger, Inc., (DBI) for Annex II Retaining Wall Repair. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum, Letters, Bid and Notice of Award, Agenda Pages 5-1 through 5-6, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED BID AWARD TO CENTRAL CONTRACTING, INC., FOR VEHICLE MAINTENANCE SHOP

Commissioner Singleton made a motion to approve the Bid Award to Central Contracting, Inc., for Vehicle Maintenance Shop. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memorandum, Letter and Bid, Agenda Pages 6-1 through 6-4, are attached to these Minutes.)

ENGINEERING DEPARTMENT – APPROVED BID AWARD TO TCB CONSTRUCTION COMPANY, INC., FOR CLEARING DRAINAGE EASEMENTS IN THE SELBROOK SUBDIVISION, BID NUMBER 53101-17B-021

Commissioner Harris made a motion to approve Bid Award to TCB Construction Company, Inc., for Clearing Drainage Easements in the Selbrook Subdivision, Bid Number 53101-17B-021. The motion was seconded by Commissioner Sankey and unanimously approved by the Commission. (Copies of Memorandum, Bid and Contract, Agenda Pages 7-1 through 7-5, are attached to these Minutes.)

SUPPORT SERVICES – APPROVED AUTHORIZATION TO PURCHASE TWO TRUCKS UNDER STATE CONTRACT AT AN APPROXIMATE COST OF \$61,000 AND RELATED BUDGET CHANGE REQUEST

Commissioner Harris made a motion to approve Authorization to Purchase Two Trucks under State Contract at an approximate cost of \$61,000 and Related Budget Change Request. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Memorandum, Agenda Page 8-1, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED BUDGET CHANGE REQUEST NUMBER 55 TO INNER FAITH ECONOMIC DEVELOPMENT ASSOCIATION FOR SUMMER RECREATION PROGRAM IN THE AMOUNT OF \$5,000

Commissioner Singleton made a motion to approved Budget Change Request Number 55 to Inner Faith Economic Development Association for Summer Recreation Program in the Amount of \$5,000. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copy of Budget Change Request, Agenda Page 9-1, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED BUDGET CHANGE REQUEST NUMBER 58 TO THE SCOTT AND ZELDA FITZGERALD MUSEUM ASSOCIATION, INC., FOR OPERATING EXPENSES FOR FY2018 IN THE AMOUNT OF \$10,000

Vice Chairman Walker made a motion to approve Budget Change Request Number 58 to The Scott and Zelda Fitzgerald Museum Association, Inc., for Operating Expenses for FY2018 in the Amount of \$10,000. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copy of Budget Change Request, Agenda Page 10-1, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED BUDGET CHANGE REQUEST NUMBER 59 TO GIRLS ON THE RUN SERVING THE RIVER REGION FOR PROGRAM SUPPORT IN THE AMOUNT OF \$15,000

Vice Chairman Walker made a motion to approve Budget Change Request Number 59 to Girls on the Run Serving the River Region for Program Support in the Amount of \$15,000. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Budget Change Request, Agenda Page 11-1, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED BUDGET CHANGE REQUEST NUMBER 60 TO ALABAMA COOPERATIVE EXTENSION SYSTEM FOR THE 2017 SUCCESSFUL AGING INITIATIVE (SAI) IN THE AMOUNT OF \$2,000

Commissioner Harris made a motion to approve Budget Change Request Number 60 to Alabama Cooperative Extension System for the 2017 Successful Aging Initiative (SAI) in the Amount of \$2,000. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Budget Change Request, Agenda Page 12-1, is attached to these Minutes.)

INFORMATION SYSTEMS – APPROVED AUTHORIZATION OF PUBLIC ADMINISTRATION INTERN POSITION AND RELATED POSITION FILL REQUEST, POSITION NUMBER 220186001

Commissioner Harris made a motion to approve Authorization of Public Administration Intern Position and Related Position Fill Request, Position Number 220186001. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page 13-1, is attached to these Minutes.)

INFORMATION SYSTEMS – APPROVED POSITION FILL REQUEST (1)

1. Administrative Assistant, Position Number 220017001

Commissioner Harris made a motion to approve the Position Fill Request. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page 14-1, is attached to these Minutes.)

DETENTION FACILITY – APPROVED POSITION FILL REQUESTS (5)

1. Corrections Officer Trainee, Position Number 500419081
2. Corrections Officer Trainee, Position Number 500419175
3. Corrections Officer Trainee, Position Number 500419169
4. Corrections Officer Trainee, Position Number 500419217
5. Corrections Officer Trainee, Position Number 500419222

Commissioner Harris made a motion to approve the Position Fill Requests. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Position Fill Requests, Agenda Pages 15-1 through 15-5, are attached to these Minutes.)

SHERIFF’S OFFICE – APPROVED POSITION FILL REQUESTS (2)

1. Public Safety Communications Dispatcher, Position Number 550483001
2. Public Safety Communications Dispatcher, Position Number 550483002

Commissioner Harris made a motion to approve the Position Fill Requests. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Position Fill Requests, Agenda Pages 16-1 and 16-2, are attached to these Minutes.)

SUPPORT SERVICES – APPROVED POSITION FILL REQUEST (1)

1. Groundskeeper, Position Number 260735029

Commissioner Singleton made a motion to approve the Position Fill Request. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page 17-1, is attached to these Minutes.)

VARIOUS DEPARTMENTS – APPROVED TRAVEL/TRAINING REQUESTS (12)

DEPARTMENTS

TRAVEL/TRAINING REQUESTS

- | | |
|---------------------------|----------------------------------|
| 1. Youth Facility | Request Number 21 |
| 2. Risk Management | Request Number 16 |
| 3. Engineering Department | Request Number 9 |
| 4. Appraisal Department | Request Numbers 27, 28 and 29 |
| 5. Personnel Department | Request Number 25 |
| 6. Community Corrections | Request Number 19 |
| 7. Sheriff’s Office | Request Number 77, 78, 79 and 80 |

Vice Chairman Walker made a motion to approve Travel/Training Requests. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Travel/Training Requests, Agenda Pages 18-1 through 18-12, are attached to these Minutes.)

WAIVE RULES

Chairman Dean requested to waive rules and add the following items to the agenda, and his fellow Commissioners concurred:

ENGINEERING DEPARTMENT – ADOPTED RESOLUTION FOR RESURFACING PIKE ROAD FROM WALLAHATCHIE ROAD TO U.S. 80 (5.851 MILES), PROJECT NO. MCP 51-77-16

Vice Chairman Walker made a motion to adopt the Resolution for Resurfacing Pike Road from Wallahatchie Road to U.S. 80 (5.851 Miles), Project No. MCP 51-77-16. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Email, Memorandum, Resolution and Maps, Agenda Pages 19-1 through 19-5, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED CHANGE ORDER NUMBER 1 TO CONTRACT WITH STALLINGS & SONS, INC., TO REPLACE THE EXISTING FIRE ALARM SYSTEM PANEL IN ANNEX I AT A COST OF \$41,200.45

Vice Chairman Walker made a motion to approve Change Order Number 1 to Contract with Stallings & Sons, Inc., to Replace the Existing Fire Alarm System Panel in Annex I at a Cost of \$41,200.45. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum, Letter and Change Order, Agenda Pages 20-1 through 20-5, are attached to these Minutes.)

COMMENTS BY COMMISSIONERS AND ATTENDEES

Montgomery County Grant Writer Regina Walker said good morning and shared a brief review of the success OF Sheriff Cunningham’s Show and Tell Camp that was held Monday, July 31, 2017 through August 4, 2017 at the YMCA Camp Chandler. She described specific components added to this year’s camp, including bullying, gun safety, and general safety when parents are not present. Ms. Walker said activities included hiking, swimming, canoeing, and a visit from Critter Kids.

Mr. Crews Reaves from the Midtown Montgomery Neighborhood Alliance said good morning and inquired about access to the gravel pit near the Old Selma Road Park. Chairman Dean said entry to the gravel pit is not through the park.

Director of Thinking Big Activities William Levi Gailliard greeted the Commission and said he met with Montgomery County District Attorney Daryl Bailey. Mr. Gailliard said the meeting was excellent and he felt they were on the same page. He asked the Commission if he could be put on the Agenda for the next meeting. Mr. Gaillard displayed an example of the signs he would like place in every district signifying positive thinking. He said he attended the City Council meeting to encourage the council members and attendees to Think Bib.

Vice Chairman Walker introduced the new Executive Director of Leadership Montgomery, Ms. Cheryl Lange. She said she and Ms. Lange were in the same Leadership Montgomery class, Class XXXII. Ms. Lange said good morning to the Commission and thanked them for all their support. She said she looked forward to working with them and their continued support.

Montgomery County Probate Judge Steven Reed said good morning and congratulated Ms. Lange on her new position at Leadership Montgomery. He said he hoped she would reach out to the African Americans community to discuss diversity. Judge Reed reminded everyone that Tuesday, August 15, 2017, will be a special election. He asked the Commissioners to use their platform to encourage everyone to participate in voting.

Patterson Court Residence Chaplin Dr. Walking Jon Da’Voe-Malone said hello to the Commission and thanked them for their service. Dr. Da’Voe-Malone announced an upcoming Back-to-School event he will be co-hosting on Saturday, August 19, 2017, at 11:00 a.m. at the Alice Adams Community Center located at 609 Winnie Street. He said backpacks and school supplies will be distributed. Dr. Da’Voe-Malone said anything the Commission could do to help and assist with the event will be greatly appreciated.

Commissioner Singleton said good morning and welcomed everyone. He commended Regina Walker on the fantastic job she does, along with Sheriff Cunningham, with the youth of Montgomery. Commissioner Singleton said he was glad Sheriff Cunningham is making contact with young people at an early age in a positive manner which may prevent them from having contact in a negative manner in the future.

Commissioner Sankey said good morning and it was good to see the citizens of Montgomery. He said people over the world look at Montgomery as a model for civil and human rights in our justice system. Commissioner Sankey also thanked Regina Walker for the fine work she does in organizing the different functions for the youth of Montgomery. He said Camp Show and Tell is such a popular event that all openings fill quickly. Commissioner Sankey asked if Sheriff Cunningham might consider two camps. Ms. Walker said she was sure the Sheriff would consider a second camp if Commissioner Sankey would sponsor it.

Vice Chairman Walker said good morning and discussed the recent National Night Out. She said it was one of her favorite events, but unfortunately this year some neighborhoods did not participate this year. She encouraged her fellow Commissioners to make an effort to remind everyone to participate and she thanked the neighborhoods that did participate.

Chairman Dean greeted everyone and encouraged everyone to vote on August 15. Chairman Dean expressed concern about recent references to Montgomery being described as corrupt. He said that Montgomery is not corrupt and that he does not know of any elected City or County official who has ever been investigated or arrested for wrong doing. Chairman Dean continued to elaborate on the fine men and women of the Commission and the Commission Office. He said the Commissioners always try to do the right things.

Commissioner Harris said good morning to everyone and welcomed Cheryl Lange to Leadership Montgomery. He said he knows she has big shoes to fill but he knows she will do a good job and wished her luck. Commissioner Harris commended Sheriff Cunningham for Camp Show and Tell and all the youth activities he sponsors for the youth of Montgomery County. He said he thinks one of his favorite events is Deputy Dave Day. Commissioner Harris said Montgomery County has great law enforcement officials. He said if you break the law, Sheriff Cunningham is going to lock you up and District Attorney Daryl Bailey is going to prosecute you. Commissioner Harris said the Sheriff and the District Attorney try to get to the young people before they get into trouble and he appreciates all they do. He also said that some people try to associate the City of Montgomery with corruption but the corruption is not from City of Montgomery but up on the hill. Commissioner Harris recognized several guests in the audience and thanked them for coming. He also thanked the department heads and employees for the great work they do.

RECESS TO INFORMATION SESSION

Chairman Dean recessed the Formal Session to the Information Session.

INFORMATION SESSION

COMMENTS FROM SCHEDULED ATTENDEES, STAFF AND COMMISSIONERS

PRESENTATION BY FINANCE DIRECTOR SHERRILL THOMAS

Finance Director Sherrill Thomas made a presentation regarding the 2017-2018 Budget.

COMMENTS FROM ADMINISTRATOR MIMS

Administrator Mims informed the Commission that Environmental Materials Consultants would need to conduct a Phase II review of the 100 South Perry Street parking deck. He also stated that Goodwyn Mills and Cawood would need to do more structural reviews of the deck.

PRESENTATION BY ARCHITECT GRIFFIN HARRIS WITH PH&J ARCHITECTS, INC., DEPUTY COMMISSIONER FOR ADMINISTRATIVE SERVICES JOEL MARSH WITH THE ALABAMA DEPARTMENT OF HUMAN RESOURCES AND MINORITY BUSINESS INITIATIVE CONSULTANT CARMEN MOORE-ZEIGLER AND HENRY ZEIGLER

The Commission discussed recommendations concerning the Professional Services for the DHR Building Project. After discussion, the Commission agreed to place on the next agenda a Resolution approving Gilpin Givhan to serve as Bond Counsel, PH&J Architects, Inc., to serve as the architectural firm and The Frazer Lanier Company (70%) and Liberty Bank (30%) to serve as co-managers of this project. Chairman Dean encouraged Architect Griffin Harris with PH&J Architects, Inc., to reach out to minority contractors for the DHR building project.

ADJOURNMENT

Commissioner Harris made a motion to adjourn the meeting of the Montgomery County Commission on August 7, 2017, at 11:26 a.m. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission.

AGENDA

AUG - 7 2017

8-7-17 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 7-21-17

Check Number	To	Check Number
270122		270171
Total Checks Paid		\$406,273.74

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS
PAID ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE ACCOUNTS
PAYABLE CHECK REGISTER

AGENDA

AUG -7 2017

8-7-17 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 7-21-17

Check Number	To	Check Number
270172		270235
Total Checks Paid		\$454,946.92

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS
PAID ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE ACCOUNTS
PAYABLE CHECK REGISTER

AGENDA

AUG -7 2017

8-7-17 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 7-28-17

Check Number	To	Check Number
270236		270303
Total Checks Paid		\$143,145.88

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS
PAID ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE ACCOUNTS
PAYABLE CHECK REGISTER

AGENDA

AUG - 7 2017

8-7-17 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 7-28-17

Check Number	To	Check Number
270304		270380
Total Checks Paid		\$10,470,859.59

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS
PAID ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE ACCOUNTS
PAYABLE CHECK REGISTER

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING TRANSACTIONS WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED
8/4/17

Payroll Check Number	128421	To	Payroll Check Number	128499	\$	55,744.05
Direct Deposits					\$	864,081.31
Payroll Check Number	128500	To	Payroll Check Number	128521	\$	255,725.98
Direct Deposits					\$	398,704.60
Federal Deposits					\$	327,753.58
Total Payroll Paid					\$	1,902,009.52

INFORMATION PERTAINING TO PAYEES OF THE CHECKS AND AMOUNTS PAID
ARE MAINTAINED IN THE FINANCE DEPARTMENT IN THE PAYROLL CHECK REGISTER

Notice of Public Hearing Regarding FY 2017 CDBG Application Consideration

The Montgomery County Commission will hold a public hearing on Monday, August 7, 2017 at 9:30 AM in the Commissioners' Court on the first floor of the Montgomery County Administration Building, Courthouse Annex III located at 101 South Lawrence Street, Montgomery, AL 36104. The purpose of this hearing is to allow public comment on the County's current and future Community Development Block Grant (CDBG) program(s). The public hearing will be a time for consideration of submission of an FY 2017 CDBG application and discussion of activities viewed as the County's most pressing community development needs.

CDBG funds may be used to primarily benefit low and moderate income persons; aid in the prevention or elimination of slums and blight; or meet other urgent community needs posing a serious and immediate threat to the health or welfare of the community. Information to be presented regarding the upcoming FY 2017 grant cycle will include the amount of grant funds available, the range of eligible activities that may be undertaken, and a discussion of proposed projects for consideration of submission of an application to the State of Alabama requesting CDBG funds.

All citizens are invited and urged to attend and express their views regarding potential CDBG project consideration. Any person with a disability or communication impairment should contact the Montgomery County Commission at (334) 832-1210, if special accommodations are needed. The County will attempt to accommodate all reasonable requests.

INSTRUCTIONS TO *The Montgomery Advertiser*:

Please publish one time in the Sunday, July 30, 2017 edition as a **LEGAL AD**.

ELTON N. DEAN, SR.
CHAIRMAN

RONDA M. WALKER
VICE CHAIRMAN

DANIEL HARRIS, JR.
ISAIAH SANKEY
DOUG SINGLETON

A COUNTY OLDER THAN THE STATE

MONTGOMERY COUNTY COMMISSION

Tax & Audit Department
P.O. Box 4779
Montgomery, Alabama 36103-4779

ESTABLISHED 1816

Terri A. Henderson, CRE
Revenue Manager

Administrative and Auditing for:
Montgomery County Alabama
Sales & Use Taxes; Lodging Tax;
Gasoline Tax; and Fuel Tax

Telephone (334) 832-1697
FAX (334) 832-1223

Website www.mc-ala.org

AGENDA

AUG - 7 2017

MEMORANDUM

DATE: July 18, 2017

TO: Sherrill Thomas, Finance Director

FROM: Terri Henderson, Revenue Manager *Terri Henderson 07/18/2017*
SD 7-18-17

RE: **Proposed Amended Resolution – Taxpayers Bill Of Rights**

Please see proposed Amended Resolution – Taxpayers Bill Of Rights attached that has been submitted to our office this week via email from Constance Walker with Haskell Slaughter Young & Gallion, LLC. The proposed Amended Resolution attached includes multiple important revisions that are needed to bring our Montgomery County Taxpayers Bill Of Rights up to date since it was last amended by the Montgomery County Commission back on December 19, 2016. Many of these revisions are necessary to satisfy the requirements of Act No. 2017-415 (pursuant to SB316) which will apply to the new interest rate change that will be applicable to our sales, use, lodging and motor fuel taxes effective on August 1, 2017 and thereafter. This also includes the revisions necessary to satisfy the requirement of Act No. 2017-82 (pursuant to SB86) specific to Simplified Sellers Use Tax ("SSUT") laws.

I am forwarding this information to you for further review and would appreciate your assistance in getting this item placed on the Montgomery County Commission Agenda for Monday, July 24, 2017, or as soon as possible thereafter, for further discussion and consideration.

Thank you in advance for your assistance with this matter.

tah/attachment

RESOLUTION -TAXPAYERS BILL OF RIGHTS

A RESOLUTION REVISING UNIFORM ADMINISTRATIVE REVIEW AND APPEAL PROCEDURES FOR THE SALES, USE, AND LODGINGS TAXES AND GASOLINE AND MOTOR FUEL TAXES: THIS RESOLUTION MAY BE REFERRED TO AS THE – “TAXPAYERS BILL OF RIGHTS AND UNIFORM REVENUE PROCEDURES RESOLUTION.”

BE IT RESOLVED by the County Commission of Montgomery County, Alabama, as follows:

SECTION I: LEGISLATIVE INTENT, SCOPE, AND PROCEDURES EXCLUSIVE.

Pursuant to Ala. Code § 11-3-11.2(b) (1975), it is the intention of the Montgomery County Commission, which elected to administer and collect any local sales and use taxes or other local taxes by virtue of a Resolution dated April 19, 2002, to avail itself of the same rights, remedies, power and authority, including the right to adopt and implement the same procedures, as would be available to the State of Alabama Department of Revenue (“ADOR”) if the tax or taxes were being administered, enforced, and collected by ADOR, including, but not limited to, all rights, remedies, power and authority afforded the ADOR and all taxing authorities under the Tax Enforcement and Compliance Act, Ala. Code § 40-29-1 (1975), et. seq., and the Alabama Taxpayers’ Bill of Rights and Uniform Revenue Procedures Act, Ala. Code § 40-2A-1 (1975), et. seq. Any rules and regulations adopted or utilized by the Montgomery County Commission or its designee shall be consistent with the rules and regulations adopted through the provisions of the Alabama Administrative Procedure Act by the ADOR for the corresponding state tax. If a specific provision of the rules and regulations of the ADOR is inconsistent with a specific provision of a local act, resolution, or general law authorizing or levying a local tax, including a gross receipts tax in the nature of a sales tax, as defined in Ala. Code § 40-2A-3(8), which was enacted or adopted prior to February 25, 1997, the local act, resolution or general law provision shall prevail.

(1) *Legislative intent.* The legislative intent of this resolution is to provide equitable and uniform procedures for all taxpayers when dealing with the Montgomery County Tax and Audit Department (“Department”). This resolution is intended as a minimum procedural resolution and the Department may grant or adopt additional procedures not inconsistent with this resolution. This resolution shall be liberally construed to allow substantial justice.

(2) *Scope.* The provisions contained herein shall govern all matters administered by the Department except as otherwise provided by law or by agreement entered into pursuant to lawful authority. However, nothing herein shall be construed to apply to the assessment of ad valorem taxes on real or personal property.

(3) *Procedures exclusive.* The Department shall not be subject to the declaratory judgment, declaratory ruling or contested case provisions of the Alabama Administrative Procedures Act, Chapter 22 of Title 41, Code of Alabama (1975).

CREDIT(S): Ala. Code § 40-2A-2 (1975).

SECTION II. DEFINITIONS.

For the purposes of this Resolution, the following terms shall have the respective meanings ascribed by this section:

- (1) **ALABAMA TAX TRIBUNAL.** The Alabama Tax Tribunal as described in Ala. Code § 40-2B-1, et. seq.
- (2) **ASSOCIATE ALABAMA TAX TRIBUNAL JUDGE.** An associate judge as defined in Ala. Code § 40-2B-2.
- (3) **AUTOMOTIVE VEHICLE.** A power shovel, dragline, crawler, crawler crane, ditcher, or any similar machine which is self-propelled, in addition to self-propelled machines which are used primarily as instruments of conveyance.
- (4) **AUTHORIZED REPRESENTATIVE.** Any individual, including, but not limited to, an attorney or certified public accountant with written authority or power of attorney to represent a taxpayer before the Department or the Alabama Tax Tribunal; provided however, that nothing herein shall be construed as entitling any such individual who is not a licensed attorney to engage in the practice of law.
- (5) **BUSINESS.** All activities engaged in, or caused to be engaged in, with the object of gain, profit, benefit, or advantage, either direct or indirect, and not excepting subactivities producing marketable commodities used or consumed in the main business activity, each of which subactivities shall be considered business engaged in, taxable in the class in which it falls.
- (6) **CHIEF ALABAMA TAX TRIBUNAL JUDGE or CHIEF JUDGE.** The chief judge as defined in Ala. Code § 40-2B-2.
- (7) **COMMISSION.** The County Commission of Montgomery County, Alabama.
- (8) **DELEGATE.** When used with reference to the Director means any officer or employee of the Department duly authorized by the Director or the Montgomery County Commission, directly or indirectly, by one or more redelegations of authority, to perform the function described in the context.
- (9) **DIRECTOR.** The Revenue Manager of Montgomery County or delegate as determined by either the Montgomery County Commission or the Revenue Manager, as applicable.
- (10) **DEPARTMENT.** The Tax and Audit Department of the Montgomery County Commission, Montgomery County, Alabama, or any authorized representative thereof.
- (11) **FINAL ASSESSMENT.** The final notice of value, underpayment, or nonpayment of any tax administered by the Department.
- (12) **GROSS PROCEEDS OF SALES.** The value proceeding or accruing from the sale of tangible personal property, and including the proceeds from the sale of any property handled on consignment by the taxpayer, including merchandise of any kind and character without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest

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paid, any consumer excise taxes that may be included within the sales price of the property sold, or any other expenses whatsoever, and without any deductions on account of losses; provided, that cash discounts allowed and taken on sales shall not be included, and "gross proceeds of sales" shall not include the sale price of property returned by customers when the full sales price thereof is refunded either in cash or by credit. The term "gross proceeds of sale" shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with a business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed by any person so withdrawing the same, except property which has been previously withdrawn from business or stock and so used or consumed with respect to which property the tax has been paid because of previous withdrawal, use, or consumption, except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using, or consuming the same, and except refinery, residue, or fuel gas, whether in a liquid or gaseous state, that has been generated by, or is otherwise a by-product of, a petroleum-refining process, which gas is then utilized in the process to generate heat or is otherwise utilized in the distillation or refining of petroleum products.

In the case of the retail sale of equipment, accessories, fixtures, and other similar tangible personal property used in connection with the sale of commercial mobile services as defined herein, or in connection with satellite television services, at a price below cost, "gross proceeds of sale" shall only include the stated sales price thereof and shall not include any sales commission or rebate received by the seller as a result of the sale. As used herein, the term "commercial mobile services" shall have the same meaning as that term has in 47 U.S.C. Sections 153(n) and 332(d), as in effect from time to time.

(13) **GROSS RECEIPTS.** The value proceeding or accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character, all receipts actual and accrued, by reason of any business engaged in, not including, however, interest, discounts, rentals of real estate or royalties, and without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, any consumer excise taxes that may be included in the sales price of the property sold, or any other expenses whatsoever and without any deductions on account of losses. The term "gross receipts" shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with a business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed by any person so withdrawing the same, except property which has been previously withdrawn from business or stock and so used or consumed and with respect to which property the tax has been paid because of previous withdrawal, use, or consumption, except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale as provided in subdivision (9) and not for the personal and private use or consumption of any person so withdrawing, using, or consuming the same, and except refinery, residue, or fuel gas, whether in a liquid or gaseous state, that has been generated by, or is otherwise a by-product of, a petroleum-refining process, which gas is then utilized in the process to generate heat or is otherwise utilized in the distillation or refining of petroleum products.

(14) GROSS RECEIPTS TAX IN THE NATURE OF A SALES TAX. A privilege or license tax, imposed by a municipality or county, measured by gross receipts or gross proceeds of sale and which: (i) was in effect on or before February 25, 1997, or is an amendment to a tax which was in effect on that date; (ii) is levied against those selling tangible personal property at retail, those operating places of amusement or entertainment, those making street deliveries, and those leasing or renting tangible personal property; and (iii) is due and payable to a county or municipality monthly or quarterly.

(15) INTEREST. That amount (1% per month) computed by the Department on any overpayment or underpayment of tax, or a final assessment pursuant to Ala. Code § 40-2A-18 (1975). Beginning August 1, 2017, the applicable interest rate shall be determined pursuant to Ala. Code § 40-1-44 (1975) which incorporates the underpayment rate established quarterly by the United States Secretary of the Treasury under the authority of 26 U.S.C. § 6621.

(16) INTERNAL REVENUE SERVICE. The agency of the United States principally responsible for the determination, assessment and collection of taxes established by Title 26 of the United States Code.

(17) JEOPARDY ASSESSMENT. If a taxpayer has failed to make a tax report as required and there is a belief that the collection of a tax, fee assessment or deficiency will be jeopardized by delay, whether or not the time otherwise prescribed for making a return and paying the tax has expired; or taxpayer does or intends to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect any tax imposed by this Resolution; an immediate assessment of the tax, interest, and penalties as provided by law.

(18) NOTICE OF APPEAL. Any written notice sufficient to identify the name of the taxpayer or other party appealing, the specific matter appealed from, the basis for that appeal, and the relief sought.

(19) PENALTY. Any fee levied against a taxpayer by the Department as a result of an underpayment of taxes due or for related tax compliance or payment deficiencies, including late filing of returns, or any other instance of noncompliance or deficiency as set forth in Section X herein entitled "Civil Penalties Levied in Addition to Other Penalties Provided by Law."

(20) PERSON. Any individual, association, estate, trust, partnership, corporation or other entity of any kind.

(21) PETITION FOR REFUND. Any written request for a refund of any tax previously paid, including in the form of an amended return. Unless otherwise provided by law, the request shall include sufficient information to identify the type and amount of tax overpaid, the taxpayer, the period included and the reasons for the refund.

(22) PETITION FOR REVIEW. A written document filed with the Department in response to a preliminary assessment in which the taxpayer sets forth reasonably specific objections to the preliminary assessment.

(23) PRELIMINARY ASSESSMENT. The preliminary notice of value or underpayment of any tax administered by the Department.

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(24) PREPAID TELEPHONE CALLING CARD. A sale of a prepaid telephone calling card or a prepaid authorization number, or both, shall be deemed the sale of tangible personal property subject to the tax imposed on the sale of tangible personal property. The sale of prepaid wireless service that is evidenced by a physical card constitutes the sale of a prepaid telephone calling card, and the sale of prepaid wireless service that is not evidenced by a physical card constitutes the sale of a prepaid authorization number.

(25) PREPAID WIRELESS SERVICE. The right to use mobile telecommunications service, which must be paid for in advance and that is sold in predetermined units or dollars of which the number declines with use in a known amount, and which may include rights to use non-telecommunications services or to download digital products or digital content. Mobile telecommunications service has the meaning ascribed by Ala. Code § 40-21-120 (1975).

(26) PRIVATE AUDITING OR COLLECTING FIRM. Any person in the business of collecting, through contract or otherwise, local sales, rental, use, lodgings, gasoline, motor fuel or other taxes or license fees on behalf of Montgomery County and/or the Montgomery County Commission, or auditing any taxpayer, through the examination of books and records, on behalf of Montgomery County and/or the Montgomery County Commission. The term shall also be referred to as a third-party auditing firm, or third-party collecting firm, or a third-party administrator. The term shall not include any of the following:

a. The Alabama Department of Revenue.

b. A county or municipality that has entered into a contract or other arrangement to collect local sales, use, rental, lodgings, or other taxes or license fees on behalf of another county or municipality, or to audit a taxpayer, through the examination of books and records, on behalf of another county or municipality.

(27) PUBLICATION. A written pamphlet entitled "Your Rights As A Taxpayer" that is to be distributed to all taxpayers whose books and records are being examined by the Department, at or before the commencement of an examination, explaining in simple and nontechnical terms, the role of the Department and the rights of the taxpayer whose books and records are being examined by the Department during the examination and which shall be promptly revised from time to time to reflect any changes in the applicable law or rules.

(28) RESOLUTION. A local ordinance issued by the Montgomery County Commission. This resolution and the corresponding provisions of any codification thereof, as from time to time amended by resolution of the County Commission.

(29) RETURN. Any report, document, or other statement required to be filed with the Department for the purpose of paying, reporting or determining the proper amount of value or tax due.

(30) SALE AT RETAIL or RETAIL SALE. All sales of tangible personal property except those defined herein as wholesale sales. The quantities of goods sold or prices at which sold are immaterial in determining whether or not a sale is at retail. Sales of building materials to contractors, builders, or landowners for resale or use in the form of real estate are retail sales in whatever quantity

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sold. Sales of building materials, fixtures, or other equipment to a manufacturer or builder of modular buildings for use in manufacturing, building, or equipping a modular building ultimately becoming a part of real estate situated in the State of Alabama are retail sales, and the use, sale, or resale of building shall not be subject to the tax. Sales of tangible personal property to undertakers and morticians are retail sales and subject to the tax at the time of purchase, but are not subject to the tax on resale to the consumer. Sales of tangible personal property or products to manufacturers, quarry operators, mine operators, or compounders, which are used or consumed by them in manufacturing, mining, quarrying, or compounding and do not become an ingredient or component part of the tangible personal property manufactured or compounded are retail sales. The term "sale at retail" or "retail sale" shall also mean and include the withdrawal, use, or consumption of any tangible personal property by any one who purchases same at wholesale, except property which has been previously withdrawn from the business or stock and so used or consumed and with respect to which property tax has been paid because of previous withdrawal, use, or consumption, except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using, or consuming the same; and wholesale purchaser shall report and pay the taxes thereon. In the case of the sale of equipment, accessories, fixtures, and other similar tangible personal property used in connection with the sale of commercial mobile services, or in connection with satellite television services, at a price below cost, the term "sale at retail" and "retail sale" shall include those sales, and those sales shall not also be taxable as a withdrawal, use, or consumption of such tangible personal property.

(31) **SALE or SALES.** Installment and credit sales and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale. Provided, however, a transaction shall not be closed or a sale completed until the time and place when and where title is transferred by the seller or seller's agent to the purchaser or purchaser's agent, and for the purpose of determining transfer of title, a common carrier or the U. S. Postal Service shall be deemed to be the agent of the seller, regardless of any F.O.B. point and regardless of who selects the method of transportation, and regardless of by whom or the method by which freight, postage, or other transportation charge is paid. Provided further that, where billed as a separate item to and paid by the purchaser, the freight, postage, or other transportation charge paid to a common carrier or the U.S. Postal Service is not a part of the selling price.

(32) **SELF-ADMINISTERED COUNTY OR MUNICIPALITY.** A county or municipality that administers its own sales, use, rental, lodgings, gasoline and motor fuel taxes or other local, municipal or county taxes levied or authorized to be levied by a general or local act, or that contracts out all or part of that function to a private auditing or collecting firm. The term does not include any of the following:

a. A county or municipality that allows the ADOR to administer a sales, use, rental, or lodgings tax which is levied by or on behalf of that county or municipality.

b. A municipality or county that levies a gross receipts tax in the nature of a sales tax, as defined in Ala. Code § 40-2A-3(8). A county or municipality that both self-administers a sales, use, rental, or lodgings tax and allows the ADOR to administer a sales, use, rental or lodgings tax that is levied by or on behalf of the county or municipality is only a self-administered county or municipality with respect to those sales, use, rental or lodgings taxes that the county or municipality administers itself or for those taxes that it contracts for the collection.

(33) **STATE OF ALABAMA DEPARTMENT OF REVENUE, OR ADOR.** The department of the State of Alabama principally responsible for the determination, assessment and

collection of taxes established by Title 40 of the Alabama Code.

(34) TAX. Any amount, including applicable penalty and interest, levied or assessed against a taxpayer and which the Department is required or authorized to administer under the provisions of resolutions of the Montgomery County Commission and Alabama law.

(35) TAXPAYER. Any person subject to or liable for any tax administered by the Department; any person required to file a return with respect to, or to pay, or withhold and remit any tax administered by the Department or to report any information or value to the Department; or any person required to obtain or holding any interest in any license, permit, or certificate of title issued by the Department, or any person that may be affected by any act or refusal to act by the Department, or to keep any records required by the Montgomery County Taxpayers Bill of Rights and Uniform Revenue Procedures Resolution or any other applicable law.

(36) TAX YEAR or TAXABLE YEAR. The calendar year.

(37) WHOLESALE SALE or SALE AT WHOLESALE. Any one of the following:

- a. A sale of tangible personal property by wholesalers to licensed retail merchants, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale.
- b. A sale of tangible personal property or products, including iron ore, and including the furnished container and label of such property or products, to a manufacturer or compounder which enter into and become an ingredient or component part of the tangible personal property or products which the manufacturer or compounder manufactures or compounds for sale, whether or not such tangible personal property or product used in manufacturing or compounding a finished product is used with the intent that it becomes a component of the finished product; provided, however, that it is the intent of this section that no sale of capital equipment, machinery, tools, or product shall be included in the term "wholesale sale." The term "capital equipment, machinery, tools, or product" shall mean property that is subject to depreciation allowances for Alabama income tax purposes.
- c. A sale of containers intended for one-time use only, and the labels thereof, when containers are sold without contents to persons who sell or furnish containers along with the contents placed therein for sale by persons.
- d. A sale of pallets intended for one-time use only when pallets are sold without contents to persons who sell or furnish pallets along with the contents placed thereon for sale by persons.
- e. A sale to a manufacturer or compounder, of crowns, caps, and tops intended for one-time use employed and used upon the containers in which a manufacturer or compounder markets his products.
- f. A sale of containers to persons engaged in selling or otherwise supplying or furnishing baby chicks to growers thereof where containers are used for the delivery of chicks or a sale of containers for use in the delivery of eggs by the producer thereof to the distributor or packer of eggs even though containers used for delivery of baby chicks or eggs may be recovered for reuse.
- g. A sale of bagging and ties used in preparing cotton for market.
- h. A sale to meat packers, manufacturers, compounders, or processors of meat products of all casings used in molding or forming wieners and Vienna sausages even though casings may be recovered for reuse.
- i. A sale of commercial fish feed including concentrates, supplements, and other feed ingredients when substances are used as ingredients in mixing and preparing feed for fish raised to be sold on a commercial basis.
- j. A sale of tangible personal property to any person engaging in the business of leasing or renting tangible personal property to others, if tangible personal property is purchased for the purpose of leasing

or renting it to others under a transaction subject to the privilege or license tax levied in Article 4 of Chapter 12 of Title 40, Code of Alabama, against any person engaging in the business of leasing or renting tangible personal property to others.

k. A purchase or withdrawal of parts or materials from stock by any person licensed under Title 40, Code of Alabama, where parts or materials are used in repairing or reconditioning the tangible personal property of a licensed person, which tangible personal property is a part of the stock of goods of a licensed person, offered for sale by him, and not for use or consumption of a licensed person.

CREDIT(S): Ala. Code § 49-2A-3, Act 2014-146, § 3; Act 2016-406, § 1; Act 2015-535, § 1; Act 2017-415.

SECTION III: TAXPAYERS' BILL OF RIGHTS

(A) Rights of the taxpayer.

(1) At or before the commencement of an examination of the books and records of a taxpayer, the Department shall provide to the taxpayer the current version of Montgomery County's Publication as defined herein. The Publication shall provide, in simple and non-technical terms, a statement of the taxpayer's rights. Those rights include the right to be represented during an examination, an explanation of their appeal rights, and the right to know the criteria and procedures used to select taxpayers for an examination.

(2) At or before the issuance of a preliminary assessment, the Department shall provide to the taxpayer in simple and non-technical terms:

(a) A written description of the basis for the assessment and any penalty asserted with respect to the assessment.

(b) A written description of the method by which the taxpayer may request an administrative review of the preliminary assessment.

(3) At or before the issuance of a final assessment, the Department shall inform the taxpayer by a written statement of his or her right to appeal to the Alabama Tax Tribunal or to circuit court.

(4) Except in cases involving suspected criminal violations of the tax law, and other criminal activity, the Department shall conduct an examination of a taxpayer during regular business hours after providing reasonable notice to the taxpayer. A taxpayer who refuses a proposed time for an examination on the grounds that the proposed examination would cause inconvenience or hardship must offer reasonable alternative times and dates for the examination.

(5) At all stages of an examination or the administrative review of the examination, and in any appeal to the Alabama Tax Tribunal, a taxpayer is entitled to be assisted or represented, at his own expense, by an authorized representative. The Department shall prescribe a form by which the taxpayer may designate a person to represent him or her in the conduct of any proceedings, including collection proceedings, resulting from actions of the Department. In the absence of this form, the Department or the Alabama Tax Tribunal may accept such other evidence that a person is the authorized representative of a taxpayer as it considers appropriate. This provision shall not be construed as authorizing the practice of law before the Department, the Alabama Tax Tribunal or any court in this state by a person who is not a

licensed attorney.

(6) A taxpayer shall be allowed to make an audio recording of any in-person interview with any officer or employee of the Department relating to any examination or investigation by the Department, provided, however, the taxpayer must give reasonable advance notice to the Department of his or her intent to record and the recording shall be at the taxpayer's own expense and with the taxpayer's own equipment. The Department shall also be allowed to record any interview if the taxpayer is recording the interview, or if the Department gives the taxpayer reasonable advance notice of its intent to record the interview. The Department shall provide the taxpayer with a copy of the recording, but only if the taxpayer provides reimbursement for the cost of the transcript and reproduction of such copy. The cost shall be reasonable as prescribed by regulations issued by the Department.

(7) This section shall not apply to criminal investigations or investigations relating to the integrity of any officer or employee of the Department.

(B) Department responsibilities generally.

(1) The Department shall maintain a continuing education program to train employees of the Department and to provide them with a current knowledge of County laws and resolutions and applicable state and federal tax laws.

(2) In addition to any other information provided by law, the Director may include in the Department's periodic reports to the Commission, information about the number or kind of audits or assessments conducted in the period covered by the report.

(3) The Department shall not use the amounts of taxes assessed by an employee of the Department as:

- a. The basis of a production quota system for employees; or
- b. The basis for evaluating an employee's performance.

(4) The Department shall establish procedures for monitoring the performance of Department employees which may include the use of evaluations obtained from taxpayers.

(5) Installment Payments.

(a) The Director is authorized to enter into written agreements to allow any taxpayer to pay any tax in installment payments if the Director determines that such agreement will facilitate collection of such tax. Notwithstanding the preceding sentence, such agreements shall be entered into only regarding a tax that has been finally assessed and not appealed, and such agreements shall not exceed twelve (12) months, provided, that any such agreement may be renewed at the discretion of the Director for succeeding periods not to exceed twelve (12) months. The Director shall only be authorized to enter such an agreement with respect to a tax administered or collected by the Department.

(b) The Director may terminate, alter or modify any agreement entered into hereunder if:

(i) Information provided by the taxpayer to the Director prior to the date of such agreement was inaccurate or incomplete;

(ii) The taxpayer fails to pay any installment at the time such installment payment is due under such agreement;

(iii) The taxpayer fails to pay any other tax liability due the Department at the time such liability is due, unless the taxpayer has appealed such other liability pursuant to the terms of Montgomery County's Taxpayers Bill of Rights and Uniform Revenue Procedures Resolution;

(iv) The financial condition of the taxpayer has significantly changed;

(v) The taxpayer fails to provide a financial condition update as requested by the Director; or

(vi) The Director believes that collection of any tax to which an agreement under this provision relates is in jeopardy.

(c) The Director shall have sole authority or discretion to enter into or amend, modify or terminate any installment payment agreement provided for herein. The Director shall promulgate regulations necessary for the implementation of this provision.

(C) Department failure to comply with this section.

The failure of the Department to comply with any provision of this section shall not prohibit the Department from assessing any tax as provided in this Resolution, nor excuse the taxpayer from timely complying with any time limitations under this Resolution. However, if the Department fails to substantially comply with the provisions of this section, the Director shall, upon application by the taxpayer or other good cause shown, abate any penalties otherwise arising from the examination or assessment.

(D) Abatement of penalty.

The Department shall abate any penalty attributable to erroneous written advice furnished to a taxpayer by an employee of the Department. However, this section shall only apply if the Department employee provided the written advice in good faith while acting in his official capacity, the written advice was reasonably relied on by the taxpayer and was in response to a specific written request of the taxpayer, and the penalty did not result from the taxpayer's failure to provide adequate or accurate information.

CREDIT(S): Ala. Code § 40-2A-4 (1975); Act 2014-146, § 3.

SECTION IV. AUTHORITY TO ISSUE REVENUE RULINGS.

(A) The Director may, in addition to all other power and authority now granted by law, issue "revenue rulings" describing the substantive application of any law or regulation administered by the Department. Revenue rulings may also govern procedures applicable to the Department, and in such event, shall be called "revenue procedures." Revenue rulings shall be binding on the Department, Montgomery County and its taxing authorities only with respect to the taxpayer making the request and only with respect to the facts contained in the request. The Department attorney assigned to review the request for a revenue ruling shall consult with the taxpayer or its authorized representative, if requested by the taxpayer or authorized representative prior to issuing the revenue ruling. A revenue ruling shall constitute the Department's interpretation of the law or regulations as applied to the facts contained in the request, but only pertaining to such

particular facts as described in the request, and only to the taxpayer making the request.

(B) Revenue rulings may be issued only if no taxes have accrued with respect to the transactions, events or facts contained in the request at the time of the issuance of the ruling;

(C) Revenue rulings may be revoked or modified by the Director at any time; but any such revocation or modification shall not be effective retroactively unless one of the following has occurred:

(1) The person making the request misstated or omitted facts material to the ruling.

(2) The ruling was issued with respect to a matter involving the computation or payment of a tax that was due and payable at the time the ruling was requested.

(3) The law applied by the Director in the revenue ruling is changed in a manner to alter the Director's conclusions in the ruling and the change in the law is made effective as of the date of the ruling.

The taxpayer may petition for a hearing with the Alabama Tax Tribunal to determine the propriety, under (1), (2) or (3), of any retroactive revocation of a ruling.

(D) All revenue rulings issued by the Department shall be published, maintained as a public record, and made available by the Department for public inspection and copying, within a reasonable time following their issuance, at a reasonable cost to be determined by the Department. Prior to publication, the Department shall delete from the text of such ruling all names, addresses, titles, figures, dates, and other information which may identify the particular taxpayer who requested the ruling. If a revenue ruling contains trade secrets or other confidential information, the Department shall, upon written request of the taxpayer, delete that information prior to publication.

(E) Requests for revenue rulings shall be submitted in writing to the Director in the form and manner as prescribed by Department regulations, accompanied by a fee of \$200.00 (two-hundred dollars). The Director shall either issue or refuse to issue a ruling within 120 days after receipt of the request unless the taxpayer consents to an extension of time. If the Director refuses to issue such a ruling within the time prescribed, the \$200.00 fee shall be refunded to the taxpayer. A request may be withdrawn at any time prior to the issuance of the requested ruling, in which case there shall be no refund of the \$200.00 fee.

(F) Revenue rulings shall be issued by the Director in the name of the Montgomery County Commission.

CREDIT(S): Ala. Code § 40-2A-5; Act 2014-146, § 3.

SECTION V. COSTS OF EXAMINATION.

1. Montgomery County may not enter into any contract or arrangement for the examination of a taxpayer's books and records, written or otherwise, with a Private Auditing or Collecting Firm, if any part of the compensation or other benefits paid or payable to the Private Auditing or Collecting Firm is contingent upon or in any manner related to the amount of tax, license fee, interest, court cost, penalty, or any other item assessed against or collected from the taxpayer. Any such contract or arrangement if made or entered into, is void and unenforceable. Any assessment or preliminary assessment of taxes, license fees, penalties, court costs, interest or other items proposed or asserted by, or based upon the recommendation of, a Private Auditing or

Collecting Firm compensated under any such contract or arrangement shall be void and unenforceable. This provision does not prohibit or restrict Montgomery County from entering into contracts or arrangements for the collection of any tax, interest, court cost, or penalty when the Private Auditing or Collecting Firm has no authority to determine the amount of tax, interest, court cost, or penalty owed Montgomery County.

2. The compensation or other benefits paid or payable to any employee or other agent of a Private Auditing or Collecting Firm or to any employee or other agent of the state or county serving in the capacity of a hearings or appeals officer, including an attorney serving in that capacity, may not be contingent upon, in whole or in part, or otherwise related to in any manner, the amount of tax, license fee, interest, court cost, or penalty, or other item assessed against or collected from the taxpayer. Any contract or arrangement based, in whole or in part, on any such contingency is void and unenforceable. Any assessment or preliminary assessment of taxes, license fees, penalties, court cost, interest, or other items proposed or asserted by or upon the recommendation of a Private Auditing or Collecting Firm, compensated under such contract or arrangement, is void and unenforceable.

3. Any person violating this section, for each violation, shall have committed a Class A misdemeanor. Violators shall also forfeit any certification granted under Ala. Code § 40-2A-14. Any Private Auditing or Collecting Firm that violates (1) or (2) above shall forfeit its license issued under Ala. Code § 4-12-43.1 until such time as it and each of its examiners or other employees or agents involved in the violation meet any remedial requirements prescribed by the board created under Ala. Code § 40-2A-15. This provision may not, however, preclude employees of a Private Auditing or Collecting Firm from participating in a profit-sharing arrangement generally made available to other employees of the firm who are not engaged in examining taxpayers' books and records, provided that the formula utilized in calculating the profit-sharing allocations is based primarily on the overall profitability of the firm and secondarily on non-monetary criteria such as age or years of service.

4. Except as otherwise provided in this subsection, the Department may not assess or attempt to assess a taxpayer for any costs incurred by, or charged to Montgomery County in connection with performing an examination of the taxpayer's books and records, including lodging, meals, or mileage charges, and any assessment or proposed assessment of such costs is void and unenforceable. The Department is authorized to assess and collect from a taxpayer the reasonable costs based on the then current state government employee per diem rates incurred by, or charged to, Montgomery County in connection with performing an examination of the taxpayer's books and records, if the taxpayer received notice by certified U. S. mail, return receipt requested, at least thirty (30) days prior to the date on which the examination was to commence and the taxpayer either failed or refused to respond or did not propose a reasonable alternative date on which the examination was to commence within fifteen (15) days of receipt of notice of the pending examination, or the taxpayer and the Department agreed in writing as to an alternative date on which the examination was to commence but the taxpayer then failed or refused to permit reasonable access to its books and records on the alternative date. This section shall not apply to examinations of the books and records of a taxpayer with respect to the insurance premium license tax levied by Chapter 4A, Title 27, or examinations for gasoline or motor fuel taxes if authorized by local law in effect on July 1, 1998.

CREDIT(S): Ala. Code § 40-2A-6 (1975); Act No. 2016-406, § 1.

SECTION VI. UNIFORM REVENUE PROCEDURES.

(A) Maintenance of records; audit and subpoena authority; authority to issue regulations.

(1) In addition to all other recordkeeping requirements otherwise set out in Title 40, Code of Alabama (1975), taxpayers shall keep and maintain an accurate and complete set of records, books and other information sufficient to allow the Department to determine the correct amount of value or correct amount of any tax, license, permit or fee administered by the Department, or other records or information as may be necessary for the proper administration of any matters under the jurisdiction of the Department. The books, records and other information shall be open and available for inspection by the Department upon request at a reasonable time and location.

(2) The Department may examine and audit the records, books or other relevant information maintained by any taxpayer or other person for the purpose of computing and determining the correct amount of value or correct amount of any tax, license or fee administered by the Department, or for any other purpose necessary for the proper administration of any matter under the jurisdiction of the Department.

(3) A taxpayer, or any officer of a corporation or association, or partner of a partnership, or fiduciary of a trust, or responsible individual of any entity under a duty to maintain books and records pursuant to this subsection who fails or refuses to maintain such records and books, or permit inspection, shall be subject to contempt proceedings in the circuit court of the judicial circuit in which the person resides or has a principal place of business, and upon proof of the fact to the court, may be punished for contempt as provided in cases of contempt in circuit court.

(4) The Department may summon any witness to appear and give testimony, and summon by subpoena duces tecum any records, books or other information of any kind relating to any matter which the Department has authority to administer. The witness may be summoned by subpoena issued by the Director of the Department, any circuit judge, any magistrate, or any district judge, in the name of the Department, or by the Alabama Tax Tribunal, directed to any sheriff of Alabama or any officer of the Montgomery Police Department and returnable to the Department. The subpoena may be served in like manner as subpoenas issued out of any circuit court, or the subpoena may be served by an authorized employee of the Department or by either U. S. mail with delivery confirmation or certified mail, return receipt requested. A fee shall be paid to banking institutions, other similar entities, or any other person except the taxpayer, for copying, searching for, reproducing, and transporting any records, books, papers, or other documents requested or subpoenaed by the Department and to persons who are required to appear as a witness equal to the fee authorized to be paid by the Internal Revenue Service for similar services or appearances pursuant to Section 7610 of the Internal Revenue Code of 1986, as amended. If any witness has been subpoenaed to appear and testify or appear and produce records, books or other information, and fails or refuses to appear or testify or to produce such books, records or other information, that witness shall be subject to contempt proceedings in the circuit court of the judicial district in which the witness resides, and upon proof of such fact to the circuit court may be punished for contempt as is provided in cases of contempt in circuit court.

(5) The Department may issue forms and make reasonable regulations concerning any matter administered by the Department.

(B) Procedures governing entry of preliminary and final assessments; appeals therefrom.

(1) Entry of Preliminary Assessment; Final Assessment of Uncontested Tax; Execution of Preliminary and Final Assessments.

(a) If the Department determines that the amount of any tax as reported on a return is incorrect, or if no return is filed, or if the Department is required to determine value, the Department may calculate the correct tax or value based on the most accurate and complete information reasonably obtainable by the Department. The Department may thereafter enter a preliminary assessment for the correct tax or value, including any applicable penalty and interest.

(b) Where the amount of tax or value reported on a return is undisputed by the Department, or the taxpayer consents to the amount of any deficiency, determination of value, or preliminary assessment in writing as provided by regulation, the Department may immediately enter a final assessment for the amount of the tax or value, plus applicable penalty and interest; provided, the Department may at any time enter a final jeopardy assessment in the manner provided in subsection (5) of this section.

(c) All preliminary and final assessments issued by the Department shall be executed as provided by regulations promulgated by the Department.

(2) Time Limitation for Entering Preliminary Assessment.

Any preliminary assessment shall be entered within three (3) years from the due date of the return, or three (3) years from the date the return is filed with the Department, whichever is later, or if no return is required to be filed, within three (3) years of the due date of the tax, except as follows:

(a) A preliminary assessment may be entered at any time if no return is filed as required, or if a false or fraudulent return is filed with the intent to evade tax;

(b) A preliminary assessment may be entered within six (6) years from the due date of the return or six (6) years from the date the return is filed with the Department, whichever is later, if the taxpayer omits from the taxable base an amount properly includable therein which is in excess of 25 percent (25%) of the amount of the taxable base stated in the return.

For purposes of this paragraph:

1. The term "taxable base" means the gross income, gross proceeds from sales, gross receipts, net worth, or other amounts on which the tax paid with the return is computed; and

2. In determining the amount omitted from the taxable base, there shall not be taken into account any amount which is omitted from the taxable base stated in the return if the amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Department of the nature and amount of the item.

(c) A preliminary assessment entered pursuant to Ala. Code § 40-29-72 and § 40-29-73 (1975) may be entered within five (5) years from the due date of the return on which the underlying tax is required to be reported or within five (5) years of the date the return is filed, whichever is later.

(d) The running of the period of limitations provided herein for entering a preliminary assessment shall be suspended for the period that:

- (1) The taxpayer or the assets of the taxpayer are involved in a case under Title 11 of the United States Code, Bankruptcy, and for a period of six (6) months thereafter; or
- (2) The assets of the taxpayer are in the control or custody of a court in any proceeding, and for a period of six (6) months thereafter.

(e) The Department and the taxpayer may, prior to the expiration of the period for entering a preliminary assessment or the filing of a petition for refund, agree in writing to extend the time provided for entering the assessment or filing the petition as set forth in this Resolution. The tax may be assessed, or the petition for refund may be filed, at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(f) Additional tax may be assessed by the Department within any applicable period allowed above, even though a preliminary or final assessment has been previously entered by the Department against the same taxpayer for the same or a portion of the same tax period. No taxpayer, however, shall be subject to unnecessary examination or investigation, and only one (1) inspection of a taxpayer's books and records relating to each type of tax administered by the Department shall be made for each taxable year, unless the taxpayer requests otherwise or unless the Director, after investigation, notifies the taxpayer in writing that an additional inspection is necessary. The Director shall promulgate regulations consistent with those followed by the Internal Revenue Service with respect to second inspections of a taxpayer's books and records.

(g) The three-year statute of limitations provided by this subdivision for entering a preliminary assessment shall be extended as provided in the following sentence, for the benefit of a self-administered county such as Montgomery County in cases where: 1. the ADOR has audited a taxpayer and has entered a final assessment against the taxpayer for additional sales, use, rental or lodgings tax; 2. the taxpayer owes the same type of tax to the Department for the same tax period or periods; and 3. the taxpayer or its authorized representative has not contacted the Department or its private auditing firm, pursuant to its voluntary disclosure program, prior to the date of entry of the final assessment. In such cases, the statute of limitations shall not expire until the earlier of six (6) months from the date of entry of the final assessment or sixty (60) days following the date of mailing or transmittal by electronic mail by the ADOR to the Department or its private auditing firm of a copy of the notice of final assessment and any attachments thereto. Any tax assessed by the Department within the additional time period allowed by this subdivision shall be limited to those items changed or adjustments included in the final assessment entered by the ADOR. The Alabama Tax Tribunal, during the months of January and July of each year, shall publish a list of pending appeals and the tax or taxes at issue.

(3) Service of Preliminary Assessment Upon Taxpayer.

The preliminary assessment entered by the Department, or a copy thereof, shall be promptly mailed by the Department to the taxpayer's last known address by either first class United States mail or certified mail with return receipt requested, but at the option of the Department, the preliminary assessment may be delivered to the taxpayer by personal service.

(4) Procedure for Review of Disputed Preliminary Assessments: Entry and Notice of Final Assessment.

(a) If a taxpayer disagrees with a preliminary assessment as entered by the Department, the taxpayer may file a written petition for review with the Department within thirty (30) days from the date of mailing or personal service, whichever occurs earlier, of the preliminary assessment setting out the specific objections to the preliminary assessment. If a petition for review is timely filed, or if the Department otherwise deems it necessary, the Department shall schedule a conference with the taxpayer for the purpose of allowing the taxpayer and the Department to present their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to their respective positions.

(b) If a written petition for review:

(1) Is not timely filed, or

(2) Is properly filed, and upon further review the Department determines the preliminary assessment is due to be upheld in whole or in part, the Department may make the assessment final in the amount of tax due as computed by the Department, with applicable interest and penalty computed to the date of entry of the final assessment.

(c) If a preliminary assessment is not withdrawn or made final by the Department within five (5) years from the date of entry, the taxpayer may appeal the preliminary assessment to the Alabama Tax Tribunal or to the appropriate circuit court as provided herein for an appeal of a final assessment in subsection (b)(7).

(d) The final assessment entered by the Department, or a copy thereof, shall be mailed by the Department to the taxpayer's last known address (i) by either first class United States mail or certified mail with return receipt requested in the case of assessments of tax of five hundred dollars (\$500) or less or (ii) by certified mail with return receipt requested in the case of assessments of tax of more than five hundred dollars (\$500). In either case and at the option of the Department, the final assessment, or a copy thereof, may be delivered to the taxpayer by personal service.

(5) Jeopardy Assessment.

(a) If the Director or his/her delegate finds that a taxpayer designs quickly to depart from Montgomery County or to remove his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect any tax imposed by Montgomery County, the Director or his/her Delegate may issue notice of such finding to the taxpayer by personal service or mailing to his/her last known address, together with a demand for immediate payment of the tax declared to be in jeopardy, including penalties and additions thereto and such tax, penalty, interest and additions thereto shall be immediately due and payable. A final assessment of such tax may be entered immediately and if the assessment is not paid upon such demand of the Director, or his/her Delegate, the Director, or his/her Delegate, may forthwith issue a warrant for levy and distraint of any personal property of the taxpayer which shall be collected in the same manner and with like effect as provided in Section 40-29-20 through Section 40-29-34, Code of Alabama (1975).

(b) In the case of a tax for a current period, the Director, or his/her Delegate, may declare

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the taxable period of the taxpayer immediately terminated and may at his/her discretion estimate the tax liability based upon the best information obtainable. Notice of such finding and declaration shall be issued to the taxpayer in the same manner as in subparagraph (a) above.

(c) When a jeopardy assessment has been made as provided in subparagraph (a), the collection of all or any part of such assessment may be stayed by filing with the Director or his/her Delegate an approved bond conditioned upon the payment of the assessment together with applicable interest and costs of collection. The Director or his/her Delegate shall have sole discretion to approve or disapprove the bond, but such approval shall not be unreasonably withheld.

(d) In any proceeding in court to contest the jeopardy assessment or to enforce payment of the taxes made due and payable by virtue of the provisions of this section, the finding of the Director or his/her Delegate, made as herein provided, shall be for all purposes presumptive evidence of jeopardy.

(e) A final jeopardy assessment entered hereunder may be appealed to either the Alabama Tax Tribunal or the circuit court in the same manner as provided for appeals from final assessments.

(6) Sale of Business.

(a) Person selling out or quitting business to file return; part of purchase money to be withheld.

Any person subject to the provisions of this Resolution who shall sell out his business or stock of goods, or shall quit business, shall be required to make out the required sales tax returns within thirty (30) days after the date he sold out his business or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said taxes due and unpaid until such time as the former owner shall produce a receipt from the Department showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business, or stock of goods shall fail to withhold purchase money as above, provided the taxes shall be due and unpaid after the thirty (30) day period allowed, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner. If in such cases the Department deems it necessary in order to collect the taxes due, the Department may make a jeopardy assessment as provided herein.

(b) Final Return of retailer selling out; purchaser to retain part of purchase money.

If any retailer liable for an amount of local use tax herein required to be collected shall sell out his business or stock of goods or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting business. His successor, successors or assigns, if any, shall be required to withhold sufficient of the purchase money to cover the amount of such use taxes herein required to be collected and interest or penalties due and unpaid until such time as the former owner shall produce a receipt from the Department showing that they have been paid, or a certificate stating that no amount is due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, he shall be personally liable for the payment of the amount of such use taxes herein required to be collected by the former owner, interest and penalties accrued and unpaid by any former owner, owners or assignors.

CREDIT(S): Ala. Code § 40-29-91 (1975); Ala. Code § 40-23-25 (1975); Ala. Code § 40-23-82 (1975).

(7) Procedure for Appeal from Final Assessment.

(a) A taxpayer may appeal to the Alabama Tax Tribunal from any final assessment entered by the Department by filing a notice of appeal with the Alabama Tax Tribunal within thirty (30) days from the date of mailing or personal service, whichever occurred earlier, of the final assessment, and the appeal, if timely filed, shall proceed as herein provided for appeals to the Alabama Tax Tribunal. See Section VII of this Resolution.

(b)(1) In lieu of an appeal under (a) above, at the option of the taxpayer, the taxpayer may appeal from any final assessment to the Circuit Court of Montgomery County, Alabama, or to the circuit court of the county in which the taxpayer resides or has a principal place of business in Alabama, as appropriate, by filing notice of appeal within thirty (30) days from the date of mailing or personal service, whichever occurs earlier of the final assessment with both the Director of the Department and the clerk of the circuit court in which the appeal is filed.

(b)(2) If the appeal is to circuit court, the taxpayer, also within the 30-day period allowed for appeal, shall do one of the following:

(i) Pay the tax, interest, and any penalty shown on the final assessment.

(ii) File a supersedeas bond with the court for 125 percent (125%) of the amount of the tax, interest, and any penalty shown on the final assessment. The supersedeas bond shall be executed by a surety company licensed and authorized to do business in Alabama and shall be conditioned to pay the amount of tax, interest, and any penalties shown on the final assessment, plus applicable interest and any court costs relating to the appeal, payable to the Montgomery County Commission.

(iii) File an irrevocable letter of credit with the circuit court in an amount equal to 125 percent (125%) of the amount of the tax, interest, and any penalty shown on the final assessment. The irrevocable letter of credit shall be issued by a financial institution designated as a qualified public depository by the Board of Directors of the Security for Alabama Funds Enhancement (SAFE) Program pursuant to Chapter 14A, Title 41, Code of Alabama. The Montgomery County Commission shall be named the beneficiary of the irrevocable letter of credit. The irrevocable letter of credit shall be conditioned to pay the assessment plus applicable interest and any court costs relating to the appeal. The taxpayer may not issue an irrevocable letter of credit as to a final assessment entered against the same taxpayer.

(iv) File a pledge or collateral assignment of securities that constitute eligible collateral under Chapter 14A, Title 41, Code of Alabama in an amount equal to 200 percent (200%) of the amount of the tax, interest, and penalty shown on the final assessment. The pledge or collateral assignment shall be in favor of the Montgomery County Commission, and conditioned to pay the assessment plus applicable interest and any court costs relating to the appeal.

(v) Show to the satisfaction of the clerk of the circuit court to which the appeal is taken that the taxpayer has a net worth, on the basis of fair market value, of two hundred fifty thousand dollars (\$250,000) or less, including his or her homestead.

(b)(3) A taxpayer may appeal a final assessment to either the Alabama Tax Tribunal or to circuit court as provided herein, even though the taxpayer has paid the tax in issue prior to taking the appeal.

(c)(1) The filing of the notice of appeal with the Alabama Tax Tribunal or, in the case of

appeals to the circuit court, the filing of the notice of appeal with both the Director of the Department and the clerk of the circuit court in which the appeal is filed and also the payment of the assessment in full and applicable interest or the filing of a supersedeas bond, an irrevocable letter of credit, or a pledge or collateral assignment of securities as provided herein, are jurisdictional. Except as set forth in subparagraph (c)(2), if such prerequisites are not satisfied within the time provided for appeal, the appeal shall be dismissed for lack of jurisdiction.

(c)(2) Notwithstanding subparagraph (c)(1) above, should the circuit court determine that the taxpayer has not satisfied the requirements of subparagraph (b)(2), the circuit court shall order that the taxpayer satisfy such requirements. The taxpayer may satisfy such requirements at any time within thirty (30) days after service of the court order. No order of dismissal for lack of jurisdiction shall be entered within thirty (30) days after service of the court order, and no order of dismissal shall thereafter be entered if such requirement is satisfied within such thirty (30) day period.

(c)(3). On appeal to the circuit court or to the Alabama Tax Tribunal, the final assessment shall be prima facie correct, and the burden of proof shall be on the taxpayer to prove such assessment is incorrect.

(d)(1) The Alabama Tax Tribunal, circuit court or the appellate court on appeal may increase or decrease the assessment to reflect the correct amount due.

(d)(2) If a final assessment is reduced on appeal, any overpayment of tax paid by the taxpayer shall immediately be refunded to the taxpayer by Montgomery County or other entity to which the overpayment was distributed.

(d)(3) No court shall have the power to enjoin the collection of any taxes due on an assessment so appealed or to suspend the payment thereof.

(8) Procedure Governing Petitions for Refund; Appeals Therefrom.

(A) Petition for refund allowed, Generally.

Any taxpayer may file a petition for refund with the Department for any overpayment of tax or other amount erroneously paid to the Department or concerning any refund which the Department is required to administer. If a final assessment for the tax has been entered by the Department, a petition for refund of all or a portion of the tax may be filed only if the final assessment plus applicable interest has been paid in full prior to or with the filing of the petition for refund. The Department may also issue automatic refunds pursuant to Ala. Code § 40-29-71 (1975). In the case of a petition for refund of sales or use taxes, and any transient occupancy tax, the petition shall be filed jointly by the taxpayer who collected and paid over the tax to the department and the consumer/purchaser who paid the tax to the taxpayer. A direct petition may be filed by the taxpayer if the taxpayer never collected the tax from the consumer/purchaser, or if the tax has been credited or repaid to the consumer/purchaser by the taxpayer.

In the case of a petition for refund of sales, use, or lodgings taxes, or gasoline or motor fuel taxes, such petition must be filed jointly by the taxpayer who collected and paid over the tax to the Department and the consumer/purchaser who paid the tax to the taxpayer. A direct petition may be filed by the taxpayer if the taxpayer never collected the tax from the

consumer/purchaser, or if the tax paid has been credited or repaid to the consumer/purchaser by the taxpayer.

(B) Time limitation for filing petition for refund; automatic refund.

(1) Generally. A petition for refund shall be filed with the Department or an automatic refund issued pursuant to subparagraph (2), or a credit allowed, within (a) three (3) years from the date the return was filed, or (b) two (2) years from the date of payment of the tax, whichever is later, or, if no return was timely filed, two (2) years from the date of payment of the tax. For purposes of this paragraph, taxes paid through withholding or by estimated payment shall be deemed paid on the original due date of the return.

Where the Department determines that a taxpayer is entitled to a refund, the Department shall automatically refund to that taxpayer the amount of any excess tax so paid to Montgomery County provided, however, that the statute of limitations provisions of the applicable tax law shall apply.

(C) Department required to grant or deny refunds; time limitations.

The Department shall either grant or deny a petition for refund within six (6) months from the date the petition is filed, unless said period is extended by written agreement of the taxpayer and the Department. The taxpayer shall be notified of the Department's decision concerning the petition for refund by first class United States mail or by either United States mail with delivery confirmation or by certified mail, return receipt requested, sent to the taxpayer's last known address. If the Department fails to grant a refund within the time provided herein, then said petition for refund shall be deemed to be denied.

(D) Procedures if Refunds Granted; Credit of Refund; Payment of Other Taxes; Payment of Interest.

1. If a petition is granted, or the Department, the Alabama Tax Tribunal, or a court otherwise determines that a refund is due, the overpayment shall be refunded to the taxpayer by Montgomery County or other entity to which the overpayment was distributed. If the Department determines that a refund is due, the amount of overpayment plus accrued interest may first be credited by the Department against any outstanding final tax liabilities due and owing by the taxpayer to the Department, and the balance of any overpayment shall be refunded to taxpayer. If any refund or part thereof is credited to any other tax by the Department, the Department shall provide a written detailed statement to the taxpayer showing the amount of overpayment, the amount credited for payment to other taxes, and the amount refunded.

2. Pursuant to Ala. Code § 40-18-100 (1975) and Ala. Code § 40-18-103 (1975), the Department may set off from any income tax refund due the taxpayer by the ADOR any liquidated sum of at least \$25.00 due and owing to the Department. The Department shall, at the time of the transfer of funds from the ADOR to the Department, notify the taxpayer whose refund is sought to be set off that the transfer has been made. Such notice shall clearly set forth the name of the debtor, the manner in which the debt arose, the amount of the claimed debt, the transfer of funds to the Department and the intention to set off the refund against the debt, notice that any refund in excess of the claimed debt will be sent to the taxpayer, the taxpayer's opportunity to give written notice to contest the setoff within thirty (30) days of the date of mailing of the notice, the name and mailing address of the Department to which the

application for a hearing must be sent, and the fact that the failure to apply for such a hearing, in writing, within the 30-day period will be deemed a waiver of the opportunity to contest the setoff. In the case of a joint return or a joint refund, the notice shall also state the name of the taxpayer named in the return, if any, against whom no debt is claimed, the fact that a debt is not claimed against such taxpayer, the fact that such taxpayer is entitled to receive a refund if it is due him regardless of the debt asserted against his spouse, and that in order to obtain a refund due him such taxpayer must apply, in writing, for a hearing with the Department named in the notice within thirty (30) days of the date of the mailing of the notice. If a taxpayer fails to apply in writing for such a hearing within thirty (30) days of the mailing of such notice, he will have waived his opportunity to contest the setoff.

3. If the Association of County Commissions of Alabama (ACCA) or an entity established through the ACCA, submits a request for setoff to the ADOR on behalf of the Department, the ACCA or other organization may assess a reasonable fee, which shall be twenty-five (\$25) dollars. This fee may be assessed against the debtor and collected as the first amount setoff against any tax refund.

(E) Procedures if refund denied; appeal.

(1) A taxpayer may appeal from the denial in whole or in part of a petition for refund by filing a notice of appeal with the Alabama Tax Tribunal within two (2) years from the date the petition is denied, and the appeal, if timely filed, shall proceed as hereinafter provided for appeals to the Alabama Tax Tribunal.

(2) In lieu of appealing to the Alabama Tax Tribunal, the taxpayer may appeal from the denial of a petition for refund by filing a notice of appeal with the Circuit Court in Montgomery County, Alabama, or the circuit court of the county in which the taxpayer resides or has a principal place of business in Alabama, as appropriate, by filing the notice within two (2) years from the date the petition is denied. The circuit court shall hear the appeal according to its own rules and procedures and shall determine the correct amount of refund due, if any.

(3) If an appeal is not filed with the Alabama Tax Tribunal or the circuit court within two (2) years of the date the petition is denied, then the appeal shall be dismissed for lack of jurisdiction.

(4) This section shall apply to all appeals filed after June 15, 2007. Notwithstanding the prior sentence, in any appeal to a circuit court which is pending on June 15, 2007, and in which a supersedeas bond was filed pursuant to, and in compliance with, the requirements of this section, for double the amount of the tax, interest and any penalty shown on the final assessment, or for double the amount of the final order of the administrative law judge, such bond may be reduced to 125 percent (125%) of such amount shown on the final assessment or in the final order of the administrative law judge.

CREDIT(S): Ala. Code § 40-2A-7 (1975); Ala. Code § 40-23-25 (1975); Ala. Code § 40-23-82 (1975); Ala. Code § 40-29-91 (1975); Act 2014-146, § 3.

SECTION VII. PROCEDURES GOVERNING APPEALS TO THE ALABAMA TAX TRIBUNAL; AUTHORITY OF THE ALABAMA TAX TRIBUNAL.

A. Generally.

1. Pursuant to the Alabama Taxpayer Fairness Act, Ala. Code § 40-2B-1, et seq., the State of Alabama has established the Alabama Tax Tribunal, an independent agency with tax expertise to resolve disputes between the Department and taxpayers, prior to requiring the payment of the amounts in issue or the posting of a bond, but after the taxpayer has had a full opportunity to attempt settlement with the Department. Pursuant to Ala. Code § 40-2B-1, Montgomery County has elected to participate under the auspices of the Alabama Tax Tribunal. The Alabama Tax Tribunal shall have jurisdiction to hear and determine all appeals filed by taxpayers with the Alabama Tax Tribunal from final assessments or denied refunds in whole or in part, with respect to any sales, use, rental or lodgings taxes levied or collected by or on behalf of Montgomery County. This jurisdiction of the Alabama Tax Tribunal does not apply to appeals filed directly by a taxpayer with the circuit court from a final assessment entered by the Department or from the Department's denial in whole or in part of a claim for refund.

B. Appeals.

1. A taxpayer may appeal a final assessment or denied refund in whole or in part, of any sales, use, rental, or lodgings taxes levied by or on behalf of Montgomery County to the Alabama Tax Tribunal in accordance with the procedures, requirements and time periods provided in Ala. Code § 40-2A-7, Ala. Code § 40-2A-8, Ala. Code § 40-2B-1 et seq., and Sections VI and VII of this Resolution. The notice of appeal filed by the taxpayer shall identify the final assessment, denied refund, or other act or refusal to act by the Department which is the subject of the appeal, the position of the appealing party, the basis on which relief should be granted, and the relief sought. A notice of appeal that does not include all of the above information shall be sufficient to invoke the jurisdiction of the Alabama Tax Tribunal. The judge may require a taxpayer to file an amended notice of appeal if more information is deemed necessary.

2. Except in cases involving the denial of a claim for refund and except as provided in Alabama statutes regarding jeopardy assessments, the taxpayer shall have the right to have his or her case heard by the Alabama Tax Tribunal prior to the payment of any of the amounts asserted as due by the Department and prior to the posting of any bond.

3. Proceedings before the Alabama Tax Tribunal shall be tried de novo and without a jury.

4. Final decisions of the Alabama Tax Tribunal shall have the same force and effect as and shall be enforced in the same manner as judgments of the circuit courts in this state. The Alabama Tax Tribunal's decision shall finally decide the matters in controversy, unless any party to the matter timely appeals the decision of the Alabama Tax Tribunal to the appropriate circuit court as provided in Ala. Code § 40-2B-1, et seq.

CREDIT(S): Ala. Code § 40-2B-1, et. seq.

SECTION VIII. CONFIDENTIALITY, DISCLOSURE, AND EXCHANGE OF TAX RETURNS AND TAX INFORMATION.

(A) Except as otherwise provided in this section, it shall be unlawful for any person to print, publish or divulge, without the written permission or approval of the taxpayer, the return of any taxpayer or any part of the return, or any information secured in arriving at the amount of tax or value reported, for any purpose other than the proper administration of any matter administered by the Department, the State of Alabama or a municipality, or upon order of any court, or as otherwise allowed in this section. Statistical information pertaining to taxes may be disclosed at the discretion of the Director or his/her Delegate to the legislative or executive branch of the County or the State. Upon request, the Director or his or her Delegate may make written disclosure as to the status of compliance of entities subject to the requirements contained in Chapter

14, Code of Alabama, prior to its repeal, and Chapter 14A, Code of Alabama as applicable. A good standing certificate shall be issued to a requesting person with respect to a business entity if the entity has filed all county tax returns required under Chapter 14, prior to its repeal, and Chapter 14A, Code of Alabama, as applicable, and paid the taxes shown as payable in accordance with those returns. Any person found guilty of violating this section shall, for each act of disclosure, have committed a Class A misdemeanor.

(B) This section shall not apply to returns filed and information secured under laws of this state (1) governing the registration and titling of motor vehicles; (2) levying or imposing excise taxes or inspection fees upon the sale of, use, or other disposition of gasoline and other petroleum products, (3) governing the licensing of motor vehicle dealers, reconditioners, rebuilders, wholesalers, and automotive dismantlers and parts recyclers, (4) governing the privilege licenses as provided in Chapter 12, other than Article 4, of Title 40, Code of Alabama (1975) or (5) governing the issuance or affixing of tobacco stamps required under Chapter 25, Title 40, Code of Alabama (1975).

(C) The orders of the Alabama Tax Tribunal and all evidence, pleadings and any other information offered or submitted in any appeal before the Alabama Tax Tribunal are not subject to this section.

(D) The Director shall promulgate reasonable regulations permitting and governing the exchange of tax returns, information, records and other documents secured by the Department, with tax officers of other agencies of the State of Alabama, municipal, and county government agencies in Alabama, federal government agencies, any association of state government tax agencies, any state government tax agencies of other states and any foreign government tax agencies. However, (1) any tax returns, information, records, or other documents remain subject to the confidentiality provisions set forth in subsection (A); (2) the Department may charge a reasonable fee for providing information or documents for the benefit of the ADOR, and any other taxing authority; and (3) any exchange shall be for one or more of the following purposes:

(a) Collecting taxes due;

(b) Ascertaining the amount of taxes due from any person;

(c) Determining whether a person is liable for, or whether there is probable cause for believing such person might be liable for, the payment of any tax to a federal, state, county, municipal or foreign government agency.

(E) Nothing herein shall prohibit the use of tax returns or tax information by the Department or county tax assessing officials in the proper administration of any matter administered by the Department or county tax collecting officials. The Department or county tax official may also divulge to a purchaser, prospective purchaser, as defined pursuant to the regulations of the Department, or successor of a business or stock of goods the outstanding sales, use or rental tax liability of the seller for which the purchaser, prospective purchaser, as defined pursuant to the regulations of the Department or ADOR, or successor may be liable pursuant to Ala. Code § 40-23-25, § 40-23-80, or § 40-12-224. Furthermore, nothing in this section shall preclude the inspection of returns by agents of the ADOR or by federal or foreign state agents pursuant to by Ala. Code § 40-18-53 (1975).

(2) Upon a request by the State Treasurer, the Director may provide the State Treasurer with the names and addresses of those persons entitled to property acquired by the state under Article 2 of Chapter 12 of Title 35, the Uniform Disposition of Unclaimed Property Act. The information shall be used by the State Treasurer solely

for the purpose of administering the Uniform Disposition of Unclaimed Property Act.

(g) Nothing herein shall prohibit the exchange of information between and among county or municipal governments, provided that any exchange shall be subject to the same restrictions and criminal penalties imposed on the Department and its personnel as described in this section.

(F) In no event shall any damages, attorney fees, or court costs be assessed against the Department or Montgomery County under this section, nor shall any damages, attorney fees, or court costs be assessed against elected officials, officers, or employees of the Department or Montgomery County.

CREDIT(S): Ala. Code § 40-2A-10 (1975).

SECTION IX. VOLUNTARY DISCLOSURE PROGRAM.

A. Generally.

The Department has a Voluntary Disclosure Program to encourage businesses that are not in compliance with the Alabama tax laws to come forward voluntarily to register and bring their accounts into compliance. The Department offers the voluntary disclosure program as a *service* to the taxpayer. In order to be considered for the voluntary disclosure program, the applicant must not have been contacted by the Department or an agent of the Department, such as the Multistate Tax Commission, or a private auditing firm hired by the Department to conduct an audit on its behalf, nor filed a tax return for seven (7) years prior to the **postmark/receipt date of the** initial written request for voluntary disclosure. The Department considers contact and the filing of returns on a tax-by-tax basis. For example, if a taxpayer has registered to collect, filed a return for, or has been contacted about one type of tax, this will not prohibit the taxpayer from entering the program for other tax types.

B. Taxes Subject to Disclosure Agreements.

1. The Department will enter into an agreement for the remittance of rental taxes, and sales and use taxes.
2. In general, this program is not open to taxpayers who have at some time filed returns and/or qualified to do business and have fallen behind in their filing responsibilities.
3. The Department agrees to waive late file and late payment penalties and the taxpayer will be billed directly for interest.

C. Nexus Determination.

The Department limits prior period exposure to three (3) years or to the date nexus was established in Montgomery County. In the event that nexus was arguable or if there is no evidence that nexus existed during the three-year look back period, the representative may proceed through the normal registration process. The burden of proof regarding lack of nexus is on the taxpayer.

D. Initial Contact.

1. Initial contact must be made in a written request.
2. The taxpayer can come forward anonymously and disclose **its** name upon signing the agreement.
3. The Department will in no way seek to identify those taxpayers who wish to remain anonymous.
4. To remain anonymous when making initial contact, the taxpayer may engage representation from a tax preparer, accountant or attorney.

In order to be considered for the voluntary disclosure program, applicants must submit a letter that includes the following information:

1. The nature of business the taxpayer conducts in Montgomery County.
2. The reason for not timely filing and remitting taxes.
3. The type of entity formation (i.e., s-corporation, LLC, etc.).
4. The type of tax the taxpayer will file and remit.
5. A statement, if true, that the taxpayer has not been contacted by the Department or an agent of the Department, for seven (7) years prior to the initial written request for voluntary disclosure, nor is the taxpayer currently under audit by the Department or an agent of the Department, nor has the taxpayer filed tax returns of this type with the Department within the last seven (7) years. (A contact includes, but is not limited to, with regard to potential liability for the type of tax in question: Receipt of a nexus questionnaire, a telephone call, an audit or notice of audit by the Department or an agent of the Department, payment of tax, registration for tax, registration with the Secretary of State, request for extension of time to file, making a payment of estimated tax, the filing of a return, and non-compliance issued in response to an application for a Certificate of Good Standing by the taxpayer, or on behalf of the taxpayer).
6. The tax year end of the taxpayer, whether calendar or fiscal year end. If the taxpayer has a fiscal year end, the month and date of each year end for the look-back period must be provided.
7. A statement as to whether the taxpayer has collected and failed to remit sales and use tax in the past. If the taxpayer has collected such taxes in the past, the tax periods in which such tax were collected must be provided.
8. A statement addressing, sales and use taxes must be included. For example, taxpayers requesting a voluntary disclosure agreement for sales tax should justify why a voluntary disclosure agreement is not being requested for use tax, as well.

E. Responsibility of the Taxpayer.

To participate in the Voluntary Disclosure Program, the taxpayer must:

1. Enter into a binding agreement with the Department for at least a three-year look-back period.
2. File all returns and forms for the period(s) specifically outlined in the agreement within 90 days of the effective date of the agreement.
3. Remit all tax and interest due as agreed upon.

F. Three-Year Look-Back Period.

1. The Voluntary Disclosure Program has a mandatory three-year look-back period.
2. The three-year look-back period is calculated by determining the last three (3) tax years (or 36 months) which are past due.
3. If the taxpayer has collected sales or use tax without remitting them, the look-back period will be extended to include all periods in which sales and use tax was collected.

The effective date of the agreement is established as the date that the Department received the initial contact.

G. Disqualification.

The taxpayer may be disqualified and the agreement rendered null and void if any one of the following is found:

1. Previous contact of any kind by the Department or an agent of the Department within seven (7) years prior to the initial written request for voluntary disclosure. This includes returns filed for the tax types included in the agreement for tax periods beginning before the look-back period. (A contact includes, but is not limited to, with regard to potential liability for the type of tax identified in the agreement: Receipt of a nexus questionnaire, a telephone call, an audit or notice of audit from the Department or an agent of the Department, payment of tax, registration for tax, registration with the Secretary of State, request for extension of time to file, making a payment of estimated tax, filing of a return, and non-compliance issued in response to an application for a Certificate of Good Standing by the taxpayer, or on behalf of the taxpayer).
2. The taxpayer is currently under audit by the Department or an agent of the Department. An agent of the Department does not include another jurisdiction or taxing authority with whom the Department has entered into a reciprocal audit exchange agreement.
3. Misrepresentation of any facts set forth in the initial letter of contact.
4. Failure by the taxpayer to comply with the terms of the agreement.

H. Confidentiality.

The making and terms of the agreement will not be actively discussed with any taxing authorities or any state or governmental authority or with any person or party, except as such disclosures are in compliance with applicable confidentiality laws. The Department has certain exchange of information agreements in place that allow it to exchange tax information with other taxing authorities. The information contained in the agreement may be released as specified in the exchange of information agreements, either through a request for general information or through a request for specific information.

I. Written Requests/Proposals should be addressed to:

Attention : Revenue Manager
Montgomery County Tax and Audit Department
Post Office Box 4779
Montgomery, AL 36103

SECTION X. CIVIL PENALTIES LEVIED IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW.

(A) Failure to timely file return. If a taxpayer fails to file any return required to be filed with the Department on or before the date prescribed therefor (determined with regard to any extension of time for filing), there shall be assessed as a penalty the greater of ten percent (10%) of any additional tax required to be paid with such return or fifty dollars (\$50).

(B) Failure to timely pay tax. If a taxpayer fails to pay to the Department the correct amount of tax shown as due on a return required to be filed on or before the date prescribed for payment of the tax, determined with regard to any extension of time for payment, there shall be added as a penalty one percent (1%) of the amount of the tax due if the failure to pay is for not more than one (1) month, with an additional one percent (1%) for each additional month or fraction thereof during which failure to pay continues, not exceeding twenty-five percent (25%) in the aggregate. In lieu of the penalty provided in the immediately preceding sentence, for any tax for which a monthly or quarterly return is

required, or for which no return is required, the Department shall add a failure to timely pay penalty of ten percent (10%) of the unpaid amount shown as tax due on the return or the amount stated in the notice and demand.

If a taxpayer fails to pay to the Department any amount of any tax required to be shown on any return, which is not so shown, within thirty (30) calendar days from the date of the first notice and demand therefore, there shall be added as a penalty one percent (1%) of the amount of the tax due if the failure to pay is not for more than one (1) month, with an additional one percent (1%) for each additional month or fraction thereof during which failure to pay continues, not exceeding twenty-five percent (25%) in the aggregate. In lieu of the penalty provided in the immediately preceding sentence, for any tax for which a monthly or quarterly return is required, or for which no return is required, the Department shall add a failure to timely pay penalty of ten percent (10%) of the unpaid amount stated in the notice and demand unless payment is received within thirty (30) calendar days from the date of the first notice and demand.

(C) Underpayment due to negligence. If any part of any underpayment of tax is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to five percent (5%) of that part of the tax attributable to negligence or disregard of rules or regulations.

For purposes of this subsection, the term "negligence" includes any failure to make a reasonable attempt to comply with this Resolution of Montgomery County, Alabama, or with the provisions of Title 40, Code of Alabama (1975) as may be applicable, and the term "disregard" includes any careless, reckless or intentional disregard.

(D) Underpayment due to fraud. If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to fifty percent (50%) of that portion of the underpayment which is attributable to fraud. For purposes of this section, the term "fraud" shall have the same meaning as ascribed to the term under 26 U.S.C. Section 6663, as in effect from time to time.

(E) Frivolous return penalty. If a taxpayer files a "frivolous return," as that term is used in 26 U.S.C. § 6702, that taxpayer may be liable for a penalty of up to two-hundred fifty dollars (\$250).

(F) Frivolous appeal penalty. If any appeal provided for herein is determined to be frivolous or primarily for the purpose of delay or to impede collection of any tax, a penalty of two-hundred fifty dollars (\$250) or twenty-five percent (25%) of the tax in question, whichever is greater, shall be assessed in addition to any tax due.

(G) Penalties not exclusive. The penalties provided in this section for failure to timely file a return, failure to timely pay tax, filing a frivolous return filing a frivolous appeal, or negligence may be asserted against the same taxpayer for the same tax period. If the fraud penalty is asserted, no other penalties shall be asserted.

(H) Failure to collect and pay over tax, or attempt to evade or defeat tax.

1. Any person required to collect, truthfully account for, and/or pay over any tax provided for herein (including sales, use, and lodgings taxes and gasoline and motor fuel taxes) who willfully fails to collect such tax, or truthfully account for, and/or pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable for a penalty up to the total amount of the tax evaded, or not collected, or not accounted for and paid over. For purposes of this subsection, the term "person" includes an officer of a corporation, or a member of a partnership, who as such

officer or member is under a duty to perform the act in respect to which the violation occurs.

2. Extension of period of collection where bond is filed.

a. If, within thirty (30) days after the day on which notice and demand of any penalty under subsection 1 is made against any person, such person:

i. Pays an amount which is not less than the minimum amount required to commence a proceeding in court with respect to his/her liability for such penalty;

ii. Files a claim for refund of the amount so paid; and

iii. Furnishes a bond which meets the requirements of subsection 4; no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in subsection 3.

3. Suit must be brought to determine liability for penalty. If, within thirty (30) days after the day on which a claim for refund with respect to any penalty under subsection 1. is denied, the person described in subsection 2. fails to begin a proceeding in the appropriate court for the determination of his liability for such penalty, subsection 2. shall cease to apply with respect to such penalty, effective on the day following the close of the thirty (30) day period referred to in this subdivision.

4. The bond referred to in subsection 2. shall be in such form and with such sureties as the Department may by regulations prescribe and shall be in an amount equal to one and one-half (1½) times the amount of excess of the penalty assessed over the payment described in subsection 2.

5. The running of the period of limitations on the collection by levy or by a proceeding in court in respect of any penalty described in subsection 2. shall be suspended for the period during which the Department is prohibited from collecting by levy or a proceeding in court.

6. If the Department makes a finding that the collection of the penalty is in jeopardy, nothing in this subsection shall prevent the immediate collection of such penalty.

(I) Waiver of penalties. Notwithstanding the foregoing, no penalty shall be assessed, or if assessed, shall be waived upon a determination of reasonable cause. Reasonable cause shall include, but not be limited to, those instances in which the taxpayer has acted in good faith. The burden of proving reasonable cause shall be on the taxpayer.

(J) Discount sustained for just cause. All other provisions of the tax laws notwithstanding, the Director of the Department, upon review of the circumstances involved, may authorize continuance of a statute-allowable discount when timely payment is made, but filing is delayed for just causes.

(K) Penalty and interest assessed as tax. All penalties and interest administered by the Department shall be assessed and collected in the same manner as taxes.

(L) Bad checks. If any check, money order or other negotiable instrument, as defined by Ala. Code § 7-3-104 (1975) and Ala. Code § 13A-9-13.1(d)(1975), including electronic drafts, submitted in payment of any amount receivable under this Resolution is not duly paid, in addition to any other penalties provided by law, there shall be paid as a penalty by the person who tendered such negotiable instrument, upon notice and

demand by the Director or his/her delegate, in the same manner as tax, an amount equal to ten percent (10%) of the amount of such negotiable instrument, except that if the amount of such negotiable instrument is less than five hundred dollars (\$500), the penalty under this section shall be ten dollars (\$10) or the amount of such negotiable instrument, whichever is the lesser. This section shall not apply if the person tendered such check in good faith and with reasonable cause to believe that it would be duly paid, or settlement is made by the taxpayer within ten (10) days after notification of receipt of a bad check or negotiable instrument by the Department. Additionally, pursuant to Ala. Code § 8-8-15 (1975), the Department may charge and collect a bad check charge of not more than thirty dollars (\$30) with respect to any bad check, money order or other negotiable instrument, including electronic drafts.

CREDIT(S): Ala. Code § 40-2A-11 (1975); Ala. Code § 40-29-72 (1975); Ala. Code § 40-29-73 (1975); Ala. Code § 40-29-70 (1975); Ala. Code § 13A-9-13.1, et seq. (1975); Ala. Code § 7-3-104 (1975); Ala. Code § 8-8-15 (1975).

SECTION XI: TERMS OF CONTRACTS; TERMINATION; RENEWAL.

No contract between the Department and a private auditing or collecting firm entered into for the purpose of examining or collecting county taxes shall have a term in excess of three (3) years, including any renewal or extension options, and any contract between a the Department and a Private Auditing or Collecting Firm shall terminate automatically, whether or not it is stated in the contract, if the private auditing or collecting firm loses or forgoes its license under Ala. Code §§ 40-2A-13 or 40-2A-14 . The limitation on the term of a contract between the Department and a Private Auditing or Collecting Firm does not prohibit the negotiation of a new contract between the parties following expiration of a properly executed contract. Contracts executed on or after October 1, 2016, shall be subject to termination upon either party giving 90 days' written notice to the other party.

CREDIT(S): Act 98-191, p. 297, § 5; Act 2016-406, § 1.

SECTION XII: EXAMINATION OF TAXPAYER'S RECORDS; ADDITIONAL ASSESSMENTS; DISCLOSURE REQUIREMENTS; TAXPAYER NOTIFICATION.

(a) The Department, or an agent thereof, may not conduct an examination of a taxpayer's books and records for compliance with applicable sales, use, rental, or lodgings tax laws, or any other local tax laws, except in accordance with this section and with the Montgomery County Taxpayers' Bill of Rights and Uniform Revenue Procedures Resolution.

(b) Additional sales, use, rental, lodgings, gasoline or motor fuel tax may be assessed by the Department, within any applicable period allowed pursuant to Ala. Code § 40-2A-7(b) even though a preliminary or final assessment has previously been entered by the Department against the same taxpayer for the same or a portion of the same tax period. No taxpayer, however, shall be subject to unnecessary examination or investigation, and no more than one examination of a taxpayer's books and records by the Department relating to each type of tax shall be made every three (3) taxable years, unless the taxpayer requests otherwise or unless Montgomery County and/or the Montgomery County Commission, after investigation, notifies the taxpayer in writing that an additional examination is necessary, together with the basis or bases for the additional examination.

(c) The Department shall promulgate regulations or procedures consistent with those followed by the Internal Revenue Service with respect to second examinations of a taxpayer's books and records. Provided, however, an examination of a taxpayer's books and records may be conducted and shall not constitute an unnecessary examination pursuant to this section or Montgomery County's Taxpayers' Bill of Rights and Uniform Revenue Procedures Resolution if the examination is necessary to meet one or

more of the following criteria: (i) fulfill an obligation to another state pursuant to a Southeastern Association of Tax Administrators ("SEATA") exchange of information agreement or to the Multistate Tax Commission; (ii) follow up on leads furnished by the Multistate Tax Commission or pursuant to a SEATA exchange agreement; (iii) verify a direct or joint refund claim and to determine if there is any offsetting tax liability to be credited against or that may exceed the refund claim; (iv) secure a tax return and the tax, penalty, interest, and service charge, if any, due thereon for any reporting period for which the taxpayer has failed to file a return by the due date of the return; (v) collect any tax, penalty, interest, or service charge which the taxpayer has failed to remit within 30 days after receiving notification that the amount is due; (vi) secure a corrected return and the additional tax, penalty, interest, or service charge due thereon, if any, when the taxpayer has failed to file a corrected return and remit any additional amount due thereon within 30 days of receiving a request for a corrected return; (vii) collect any tax due based upon substantial evidence of fraud or tax evasion discovered since the prior examination, and then only if the Department explains to the taxpayer in writing the basis for the alleged fraud or tax evasion; or (viii) follow up on representations by the taxpayer that it is going out of business or the taxpayer has gone out of business.

(d) Any person examining a taxpayer's books and records on behalf of the Department shall disclose in writing, upon first contact with the taxpayer, the identity of the Department, and provide a signed and dated written authorization, or a copy of a signed and dated written authorization from the Department. Also, a copy of the contract between the person and the Department, and a statement as to whether the Department has elected out of the tax tribunal shall be provided upon first contact with the taxpayer.

(e) On or before January 15 of each year, beginning in 1999, each private auditing or collecting firm shall disclose in writing to the Department the identity of all municipalities and counties for which it at any time during the preceding calendar year performed examinations of taxpayers' books and records for compliance with applicable sales, use, rental, lodgings or other local tax laws or collected sales, use, rental, lodgings or other local taxes.

(f) A Private Auditing or Collecting Firm representing more than one (1) self-administered municipality or more than one self-administered county on the date of the first contact with a taxpayer shall examine the taxpayer's books and records for all such self-administered municipalities and counties simultaneously. A Private Auditing or Collecting Firm or its examiners or other agents may not disclose or encourage others to disclose, either directly or indirectly, to any non-client municipality or county or its agents, the fact that the firm is presently conducting an examination of the taxpayer's books and records.

(g) If a Private Auditing or Collecting Firm is engaged by a self-administered municipality or county not represented by the firm on the date of the first contact with the taxpayer, and is not in violation of subsection (f), the private auditing or collecting firm may conduct an examination of the taxpayer's books and records on behalf of the newly-represented self-administered municipality or county, but the examination may not commence until at least three (3) years following the date of completion of the previous examination, as certified in writing by the private auditing or collecting firm to the taxpayer, unless one (1) of the grounds for early examination described in subsection (c) exists, or unless the delay would result in the closing of a tax year by virtue of the applicable statute of limitations and the taxpayer fails or refuses, within a reasonable time after written request, to agree in writing to an applicable statute of limitations in favor of the newly-represented self-administered municipality or county.

(h) Whenever the Private Auditing or Collecting Firm becomes aware that a taxpayer may be owed a refund by, or may owe tax to, one or more self-administered counties or municipalities represented by the firm, the firm shall promptly notify the taxpayer in writing and, simultaneously, the respective self-administered counties and municipalities, of the reason or reasons for, and the estimated amount of, the refund due or tax owed and shall also advise the taxpayer of the general procedure by which to make a claim for refund or pay the tax. If the Private Auditing or Collecting Firm refuses or willfully fails to comply with this subsection, and the taxpayer ultimately receives a refund from or pays a tax to a self-administered county or municipality represented by the firm during the course of an examination of more than one hundred dollars (\$100) of taxes for which the firm examined the taxpayer's books and records, the firm shall forfeit its license granted pursuant to Ala. Code § 40-12-43.1 for a period of six (6) months, and each examiner who participated in the examination of the taxpayer's books and records, but did not advise the firm in writing of the possible refund due or tax liability owed at, or prior to completion of, the examination, shall forfeit his or her license granted under Ala. Code § 40-12-43.1 for a period of six (6) months. At the expiration of the suspension period, any examiner or Private Auditing or Collecting Firm desiring to reinstate their license must reapply under the provisions of Ala. Code § 40-12-43.

(i) A final assessment or forced collection action based upon an audit conducted by a Private Auditing or Collecting Firm shall not be issued and applicable to a taxpayer until signed by a public official or employee designated by the Department. This document shall not be subject to Ala. Code § 36-12-40.

(j) The Department has opted to participate in the Alabama Tax Tribunal. If however, the Department at any time does not participate in the Alabama Tax Tribunal, as per Ala. Code § 40-2B-2, the Department shall retain the services of an independent hearing or appeals officer who is not affiliated with the Private Auditing or Collecting Firm to conduct any hearings held pursuant to Ala. Code § 40-2B-2. **CREDIT(S):** Act 98-191, p. 297, § 5; Act 2016-406, § 1.

XIII. CERTIFICATION OF EXAMINERS; BONDING OF PRIVATE AUDITING OR COLLECTING FIRMS; VIOLATIONS; EXEMPTIONS; CONFIDENTIALITY REQUIREMENTS.

(a) Except as provided in subsection (c), any examiner employed by a Private Auditing or Collecting Firm to examine books and records of taxpayers on behalf of the Department shall be certified by the Alabama Local Tax Institute of Standards and Training established pursuant to Ala. Code § 40-2A-15. Any examiner employed by a Private Auditing or Collecting Firm to examine books and records of taxpayers on behalf of the Department as of July 1, 1998, shall have two (2) years from the effective date of the rules and regulations of the certification program to obtain the certification required by this subsection and may continue to conduct examinations during this two-year period.

(b) Except as provided in subsection (c), every private auditing or collecting firm as defined herein shall maintain fidelity bonds with respect to each of its examiners, in accordance with Ala. Code § 40-23-30. A Private Auditing or Collecting Firm may not employ unbonded auditors, or examiners who have failed to receive or maintain their certification under subsection (a). Any violation of this subsection of which the private auditing or collecting firm knew or should have known shall have the effect of doing all of the following:

(1) Automatically terminate any contract or arrangement between the Department and the Private Auditing or Collecting Firm.

(2) Void any assessment or proposed assessment issued by Department as a result of any examination conducted, in whole or in part, by the examiner, but shall not prohibit the Department from sending a qualified examiner to reexamine the taxpayer's books and records even though the required waiting period between examinations has not expired or the applicable statute of limitations has expired with respect to the period at issue.

(3) Cause the Private Auditing or Collecting Firm to forfeit its license granted pursuant to Ala. Code § 40-12-43.1 for a period of six (6) months.

(c) Certified public accountants and public accountants licensed by the State Board of Public Accountancy are exempt from the following requirements:

(1) To be certified by the Alabama Local Tax Institute of Standards and Training pursuant to subsection (a).

(2) To maintain fidelity bonds with respect to each of its examiners pursuant to subsection (b).

(d) At the expiration of any suspension period, any examiner or Private Auditing or Collecting Firm desiring to reinstate their license must reapply under the provisions of Ala. Code § 40-12-43.1. The requirements, restrictions, and penalties imposed by this section and § 40-2A-13 with respect to examiners shall apply equally to those who are employees, as well as those who are independent contractors, of Private Auditing or Collecting Firms.

(e) For the purposes of this section, a Private Auditing or Collecting Firm is subject to the confidentiality requirements of Ala. Code § 40-2A-10.

CREDIT(S): Act 98-191, p. 297, § 5; Act 2016-406, § 1.

XIV. GASOLINE AND MOTOR FUELS

a. Penalty for Failure to Make Monthly Reports and Keep Records – As per Act No. 54, Alabama Law, Regular Session, 1951, Section 9, if said distributor, storer, or retail dealer of motor fuel in Montgomery County shall fail to make any report or statement required by the act or shall fail to comply with any regulation of the tax within the time required for making any such report or statement, said distributor, storer, or retail dealer of motor fuel shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50.00 or more than \$300.00 for each offense.

b. Failure to Make Monthly Statements and Payments – As per Act No. 54, Alabama Law, Regular Session, 1951, Section 11, if any distributor, storer, or retail dealer shall fail to pay over the tax

to Montgomery County, the amount of the tax required by the act to be paid by such distributor, storer, or retail dealer shall be deemed delinquent within the meaning of the act and a penalty of 25% added; provided, that if in the opinion of the Department a good and sufficient cause or reason is shown for such delinquency, the penalty shall be remitted.

CREDIT(S): Act No. 54, Alabama Law, Regular Session, 1951.

XV. LODGINGS TAX: PERSONS, FIRMS, AND CORPORATIONS SUBJECT TO LODGINGS TAX.

(1) The term "lodgings tax" as used in this section shall mean the local lodgings tax levied by Montgomery County that parallels the state tax levy pursuant to Ala. Code § 40-26-1(a)(1975).

(2) The definition of the term "person" as used in this section shall be the same as the definition in Ala. Code § 40-2A-3(13).

(3) The term "transient" as used in this rule means any person to whom rooms, lodgings, or other accommodations are provided for a period of less than 180 continuous days.

(4) Except as noted, lodgings tax applies to all charges made for the use of rooms, lodgings, or other accommodations, including charges for personal property used or services furnished in the rooms, lodgings, or other accommodations, by every person who is engaged in the business of renting rooms or lodgings or furnishing accommodations to transients. The tax applies regardless of whether the person occupying such rooms or lodgings or receiving such accommodations is a resident or nonresident of the area in which such rooms or lodgings are located or in which such accommodations are furnished.

(5) The lodgings tax shall be collected by all persons engaged in the business or renting of furnishing rooms or other accommodations in any hotel, motel, rooming house, apartment house, lodge, inn, tourist cabin, tourist court, tourist home, camp, trailer court, marina, convention center, or any other place where rooms, apartments, cabins, sleeping accommodations, mobile home accommodations, recreational trailer parking accommodations, boat docking accommodations, or other accommodations are made available to travelers, tourists, or other transients.

(6) Charges made for the use of ball rooms, dining rooms, club rooms, sample rooms, conference rooms, wedding chapels, or other space located on the premises of any place where rooms or other accommodations are offered for the use of travelers, tourists or other transients, are subject to the lodgings tax. The use by civic clubs or other similar organization of banquet halls, ball rooms, or club rooms, regularly for weekly or monthly meetings will be deemed continuous occupancy of such rooms or halls by such clubs or organizations, and the taxability of the charges therefor will be determined in accordance with paragraph 11(a) below.

(7) The State of Alabama, counties and incorporated municipalities of the state, and educational institutions and agencies of the state and the counties or incorporated municipalities of the state are not exempt from lodgings tax. Accordingly, charges for rooms lodgings or other accommodations furnished to these entities are taxable whether billed directly to, and paid for directly by, the entity or paid by employees of these entities with their own funds. (Attorney General Opinion, Graddick, June 4, 1981; Ala Code § 40-2-6-1)

(8) Other states, counties and incorporated municipalities of other states, and educational institutions and agencies of other states and counties and incorporated educational institutions and agencies of other states and counties and incorporated municipalities of other states are not exempt from lodgings tax. Accordingly, charges for rooms, lodgings, or other accommodations furnished to these entities are taxable whether billed directly to, and paid for directly by, the entity or paid by employees of these entities with their own funds. (Ala. Code § 40-26-1)

(9) Exemptions from the lodgings tax are as follows:

(a) Charges for rooms, lodgings or accommodations supplied for a period of 180 continuous days or more in any one place are exempt from lodgings tax. Prior to December 1, 2001, the tax did not apply to charges for rooms, lodgings, or accommodations supplied for a period of 30 continuous days or more in any one place.

(b) Effective January 1, 2009, charges for rooms, lodgings or accommodations made in connection with a state -certified production which meets the requirements of Ala. Code § 41-7A-45 shall be exempt from the state lodgings tax. The lodgings tax exemption provided in Ala. Code § 41-7A-45 applies only to state lodgings tax. The qualified production company must pay applicable local lodgings taxes. See Lodgings Tax Rule 810-16-1-.01 State Sales, Use and Lodgings Tax Exemption for Qualified Production Companies.

(c) Charges for rooms, lodgings, or other accommodations furnished to the United States government, its departments, or its agencies are exempt from state, county, and municipal lodgings tax provided the charges are billed directly to the United States government and paid for by the United States government with government funds. The charges are exempt from lodgings tax when paid by credit card provided charges to the card are billed directly to, and paid directly by, the United States Government and are not billed to and paid by an employee who is reimbursed by the United States government. Charges for rooms, lodgings, or other accommodations furnished to federal employees in conjunction with their official duties are taxable when the federal employee pays the charges with his or her own funds or with a credit card and receives reimbursement from the United States government.

(d) Federal credit unions are exempt from state, county, and municipal lodgings tax. (21 U.S.C § 1768) This exemption applies to charges for rooms, lodgings, or other accommodations furnished to federal credit unions provided the charges are billed directly to the federal credit union and paid for by the federal credit union with the credit union's funds. The charges are exempt from lodgings tax when paid by credit card provided charges to the card are billed directly to, and paid directly by, the federal credit union and are not billed to and paid by an employee who is reimbursed by the federal credit union. Charges for rooms, lodgings, or other accommodations furnished to federal credit union employees in conjunction with their official duties are taxable when the credit union employee pays the charges with his or her own funds or with a credit card and receives reimbursement from the federal credit union.

(e) Certain foreign diplomats and consular officials are exempt from state, county, and municipal lodgings taxes pursuant to treaties and other diplomatic agreements with the United States. (U.S. Constitution, Art. VI) See Sales, Use, and Lodgings Tax Rule 810-6-3-.24.01 entitled Foreign Diplomatic and Consular Officials.

(f) The proceeds from the sale or resale of any vacation time-sharing lease plan are exempt from lodgings tax. (Ala. Code § 34-27-65)

(g) Charges for rooms, lodgings, or other accommodations furnished to entities that are exempted from the payment of any and all state, county, and municipal taxes by special act of Legislature including, but not limited to, those entities enumerated in Ala. Code § 40-9-12 are exempt from lodgings tax provided the charges are billed directly to the exempt entity and paid for by the exempt entity with the exempt entity's funds. The charges are exempt from lodgings tax when paid by credit card provided charges to the card are billed directly to, and paid directly by, the exempt entity and are not billed to and paid by an employee who is reimbursed by the exempt entity. Charges for rooms, lodgings, or other accommodations furnished to the employees of the exempt entity in conjunction with their official duties are taxable when the employee pays the charges with his or her own funds or with a credit card and receives reimbursement from the exempt entity.

(h) Charges for certain rooms, lodgings, or accommodations supplied by camps, conference centers, or similar facilities are exempt from lodgings tax. See Lodgings Tax Rule 810-6-5-.21 entitled Lodgings and Programs Provided for Children, Students, or members or Guests of Nonprofit

Organizations by Camps, Conference Centers, and Similar Facilities.

(10) The lodgings tax does not apply to sales of tangible personal property which are subject to the local sales tax. All of the supplies, furniture and fixtures used or consumed in operating such establishments as referenced in paragraph (4) are subject to the sales or use tax, whichever may apply, at the time of purchase for such use or consumption, including beds, bedding, carpets, shades, curtains, linens, uniforms, bathroom supplies, janitor supplies, fuel for heating and cooking, air conditioning equipment etc.

(11) The lodgings tax shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. Every person, firm, or corporation on whom the lodgings tax is levied shall prepare and forward to the Department, within the time fixed and prescribed by law, a lodgings tax return for each calendar month using the Mat System ONE SPOT system established by Ala. Code § 40-23-240 (1975), if the amount is over \$500, as mandated by the Department, and shall pay to the Department the amount of the tax shown to be due.

CREDIT(S): Alabama Department of Revenue, Sales and Use Tax Rules, 810-6-5-.13

XVI. CERTIFICATES OF EXEMPTION FOR PERSONS OR COMPANIES EXEMPT FROM SALES, USE AND LODGING TAXES.

(a) All persons or companies, other than governmental entities, which have statutory exemption from the payment of Alabama sales and use taxes regardless of the type of transaction or whether the tangible personal property is subject to sales and use tax or whether the accommodations are subject to lodgings tax, shall be required to annually obtain a certificate of exemption from the ADOR. This only applies to entities that have been granted a general exemption from sales, use, or lodging taxes. The requirements of this section are not triggered by the purchase of tangible personal property that is exempt from sales and use tax.

(1) For purposes of this section, the term governmental entity means the Federal Government, the State of Alabama, Alabama public schools, Alabama public universities, health care authorities, Alabama counties and municipalities, and public corporations incorporated under any of the provisions of Chapter 50 of Title 11, Chapter 50A of Title 11, Chapter 5 of Title 37, or Chapter 7 of Title 39, Code of Alabama.

(2) The term governmental entity does not include public corporations, other than those public corporations described in subdivision (1), private schools, or private universities.

(3) For purposes of this section, the term lodgings tax means Transient Occupancy Tax, levied by the ADOR, and the lodgings tax referenced in Section XIII herein.

(4) For the purposes of this section, the terms person or company shall have the same meaning as prescribed in Ala. Code § 40-23-1 (1975).

(b) Certificates of exemption shall be valid for one (1) year from the date of issuance and

shall be renewed annually each subsequent year. Any person or company that fails to obtain or renew a certificate of exemption prior to its expiration may not make tax exempt purchases or rent tax exempt accommodations after the expiration. The ADOR and Department may assess any person or company with state and local sales, use, and lodgings tax for any transaction conducted with a certificate of exemption not properly accounted for and reported as required in Ala. Code § 40-9-61 (1975). Any reports required by the ADOR shall be filed as a prerequisite to the renewal of a certificate of exemption.

(c) Any person or company that intentionally uses a certificate of exemption in violation of its intended purpose, in addition to the actual sales, use, and lodgings tax liability due, shall be subject to a civil penalty levied by the Department in an amount of not less than two thousand dollars (\$2,000) or two (2) times any state and local sales, use, and lodgings tax due for the transactions, whichever is greater, and based on the person or company's willful misuse of the certificate of exemption, may be barred from the use of any certificate of exemption for up to two (2) years.

(d) This section shall be operative for all applicable exempt persons or companies on January 1, 2016.

(e) All persons or companies, other than governmental entities as defined in Ala. Code § 40-9-60, exempt from the payment of sales, use, and lodgings tax, regardless of the type of transaction or whether the tangible personal property is subject to sales and use tax, or whether the accommodations are subject to lodgings tax, may be required to file an information report in a manner as prescribed by the Department.

(f) Any person or company that does not comply with the reporting requirements of this section and any rules promulgated thereunder, may be barred from the use of any certificate of exemption for up to six (6) months for the first offense and one (1) year for the second offense. On the third offense, the person or company shall be barred from the use of any certificate of exemption until the time as the person or company is authorized to obtain a certificate of exemption pursuant to a joint resolution by the Commission. **CREDIT(S):** Act 2015-534; Ala. Code § 40-90-60 (1975); Ala. Code § 40-9-61 (1975); Ala. Code § 40-23-1 (1975).

SECTION XVII: SIMPLIFIED SELLER USE TAX REMITTANCE ACT.

(A) DEFINITIONS: For the purpose of this section, the following terms shall have the respective meanings ascribed to them in this section:

(1) **ELIGIBLE SELLER.** An individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or other legal entity that sells tangible personal property or a service, but does not have a physical presence in this state or is not otherwise required to collect and remit state and local sales or use tax for sales delivered into the state. Such seller shall remain eligible for participation in the Simplified Use Tax Remittance Program unless the seller establishes a presence through a physical business address for the purpose of making instate retail sales within

the State of Alabama or becomes otherwise required to collect and remit sales or use tax pursuant to Ala. Code § 40-23-190 through an affiliate making retail sales at a physical business address in Alabama.

(2) LOCALITY. A county, municipality, or other local governmental taxing authority which levies a local sales and/or use tax.

(3) SIMPLIFIED SELLERS USE TAX. The eight percent (8%) tax to be collected, reported, and remitted by eligible sellers who are participating in the program pursuant to requirements and procedures established pursuant to the act.

(4) SIMPLIFIED USE TAX REMITTANCE PROGRAM or PROGRAM. The program established to provide a mechanism for eligible sellers to collect, report, and remit the simplified sellers use tax.

(5) STATE. The State of Alabama.

(B) SIMPLIFIED SELLERS USE TAX REIMTTANCE PROGRAM.

(1) The Alabama Legislature has established The Simplified Sellers Use Tax Remittance Program designed to allow an eligible seller who participates in the program to collect, report, and remit the simplified sellers use tax in lieu of the sales or use taxes otherwise due by or on behalf of Alabama customers who have purchased items from the eligible seller that were shipped or otherwise delivered into Alabama by the eligible seller. Participation in the program shall be by election of the eligible seller and only those eligible sellers accepted into the program shall collect and remit the simplified sellers use tax. Participation in the program shall not be construed as subjecting an eligible seller to franchise, income, occupation, or any other type of taxes or licensing requirements levied or imposed by the State of Alabama or the Commission.

(2) The program shall be administered by the ADOR, which shall develop and make available to the eligible seller an easily accessible, online system in which to collect, report, and remit the simplified sellers use tax. Participants in the program shall be required to collect, report, and remit the simplified sellers use tax for all sales delivered into the state as long as remaining a participant in the program. Eligible sellers may continue in the program as long as they comply with all provisions of the act and procedures adopted by the ADOR for participation in the program.

(3) In order to participate in the program, an eligible seller shall make application with the ADOR on one of its designated forms for that purpose. The application shall require, at a minimum, that the eligible seller:

(a) Certifies that he or she is an eligible seller as defined in the act.

(b) Agrees to collect, report, and remit the simplified sellers use tax for all sales delivered into the state as long as he or she remains a participant in the program.

(c) Agrees to provide the ADOR with information related to sales to Alabama customers as required by this part or requested by the ADOR.

(d) Agrees to comply with all program reporting requirements established under program procedures.

(4) Any applicant who falsely certifies on his or her application that he or she is an eligible seller with the State of Alabama shall be subject to the negligence and/or fraud penalties under procedures found in Ala. Code § 40-2A-11 (1975).

(5) The ADOR shall review all applications for participation, and where an applicant is determined to satisfy requirements to participate in the program, shall establish a simplified sellers use tax account for the eligible seller which will allow the eligible seller to report and remit all simplified sellers use tax collected pursuant to the act.

(6) A participating eligible seller shall be removed from the program if:

(a) He or she substantially fails to collect, report, and remit simplified sellers use taxes.

(b) He or she fails to submit required reports on a timely basis.

(c) Upon a determination that the seller is no longer an eligible seller.

(d) There is any other finding by the ADOR that the participant is not in compliance with the terms authorizing participation in the program.

(7) Any participant who fails to report that he or she is no longer eligible for participation in the program or falsely certifies on any report that he or she is eligible shall be subject to the negligence and/or fraud penalties under procedures found in Ala. Code § 40-2A-11 (1975). Removal from the program or assessment of the fraud or negligence penalty shall be subject to appeal rights and procedures available under applicable law.

(C) COLLECTION AND REMITTANCE; REPORTING; STATEMENT.

The simplified sellers use tax due under the program is eight percent (8%) of the sales price on any tangible personal property sold or delivered into Alabama by an eligible seller participating in the program. The collection and remittance of simplified sellers use tax relieves the eligible seller and the purchaser from any additional state or local sales and use taxes on the transaction.

The simplified sellers use tax collected by the eligible seller, at the rate of eight percent (8%), shall be electronically reported in the manner prescribed by the ADOR on or before the 20th day of the month next succeeding the month in which the tax accrues. The eligible seller shall remit the tax at the required rate or the amount of the tax collected, whichever is greater. The required monthly reporting from the eligible seller shall only include statewide totals of the simplified sellers use taxes collected and remitted, and shall not require information related to the location of purchasers or amount of sales into a specific locality. The ADOR may not require an eligible seller to report and remit the simplified sellers use tax more frequently than is required for other sellers.

No eligible seller shall be required to collect the tax at a rate greater than eight percent (8%), regardless of the combined actual tax rates that may otherwise be applicable. Additionally, no sales for which the simplified sellers use tax is collected shall be subject to any additional sales or use tax from any locality levying a sales or use tax with respect to the purchase or use of the property, regardless of the actual tax rate that might have otherwise been applicable.

The participating eligible seller shall collect the tax on all purchases delivered into Alabama unless the purchaser furnishes the eligible seller with a valid exemption certificate, sales tax license, or direct pay permit issued by the ADOR. The eligible seller shall retain all exemption certificates, sales tax licenses, or direct pay permits in its files, or in such other manner as directed by the ADOR.

The eligible seller shall provide the purchaser with a statement or invoice showing that the simplified sellers use tax was collected and is to be remitted on the purchaser's behalf. The statement shall be in a manner prescribed by the ADOR.

(D) DISCOUNT.

Eligible sellers may deduct and retain a discount equal to two percent (2%) of the simplified sellers use tax properly collected and then remitted to the ADOR in a timely manner. The ADOR is authorized to prescribe rules for administering the discount. No discount shall be allowed for any taxes which are not timely reported and remitted to the ADOR pursuant to program procedures.

(E) RULEMAKING AUTHORITY; RECORDKEEPING.

The ADOR may adopt, promulgate, and enforce reasonable rules and regulations related to the implementation, administration, and participation in the program. The ADOR shall have exclusive responsibility for reviewing and accepting applications for participation and for the administration, return processing, and review of the eligibility of sellers participating in the program. Eligible sellers participating in the program shall not be subject to audit or review by any Alabama locality. Eligible sellers shall maintain records of all sales delivered into Alabama, including copies of invoices showing the purchaser, address, purchase amount, and simplified sellers use tax collected. Such records shall be made available for review and inspection upon request by the ADOR.

The ADOR may disclose the name of eligible sellers, the effective date the eligible seller began participating in the program and, if applicable, the cease date the eligible seller ceased to participate in the program.

(F) REFUND OR CREDIT OF EXCESS TAXES PAID.

(a) Any taxpayer who pays a simplified sellers use tax through this program that is higher than the actual state and local sales or use tax levied in the locality where the sale was delivered may file for a refund or credit of the excess amount paid to the eligible seller participating in the program. A business taxpayer who has a registered consumer use tax account with the ADOR may claim credit for the overpayment of simplified use tax on their consumer use tax return in a manner prescribed by the ADOR. All other taxpayers may file a petition for refund in the manner prescribed by the ADOR. The petition for refund may only be filed once per year. In the event the amount due to be refunded in a year is less than twenty-five (\$25.00) dollars, payment of the refund may be deferred by the ADOR and combined with amounts due to be paid pursuant to subsequent annual refund petitions for a period of up to three (3) years.

(b) Any taxpayer seeking a refund or credit of excess taxes paid to an eligible seller participating in the program shall maintain records documenting the amount of simplified sellers use tax paid. Refund or credit requests shall require proper documentation of amounts paid by the taxpayer and shall be submitted to the ADOR with the petition for refund.

(c) Notwithstanding any other provision of law, interest due on any refund of taxes paid directly to the ADOR shall be paid beginning 90 days after the receipt date of the properly documented refund petition with interest accruing beginning on the 91st day.

(G) DISPOSITION OF FUNDS.

(a) The proceeds of simplified sellers use tax shall be appropriated to the ADOR, which shall retain the amount necessary to fund the administrative costs of implementing and operating the program and to cover the amounts paid for refunds authorized in Ala. Code § 40-23-196 (1975). The balance of the amounts collected shall be distributed as follows:

(1) Fifty percent (50%) to the State Treasury and allocated seventy-five percent (75%) to the General Fund and twenty-five percent (25%) to the Education Trust Fund.

(2) Twenty-five percent (25%) to each county in the state on a prorated basis according to population as determined in the most recent federal census prior to the distribution.

(3) Twenty-five percent (25%) of funds to be distributed to each municipality in the state on a prorated basis according to population as determined in the most recent federal census prior to the distribution.

(b) The distribution of the proceeds from the simplified sellers use tax paid to counties and municipalities shall occur quarterly in a manner prescribed by the ADOR.

Notwithstanding, the language in the preceding subsection (b), the ADOR may initiate monthly distributions of the proceeds from the simplified sellers use tax paid to counties and municipalities.

(H) APPLICABILITY OF PART 2.

In the event that the enactment of federal legislation removes current federal limitations

on states' ability to enforce their sales and use tax jurisdiction against businesses that lack an in-state physical presence, the provisions of the act shall be inapplicable as to any eligible seller who is not registered with the ADOR as a participant in the program at least six (6) months prior to the date of such change in law. In such event, the provisions of the act will continue to apply to any eligible seller who has been approved by the ADOR as a participant in the program at least six (6) months prior to the change in law and to any taxpayer who has paid or pays the simplified sellers use tax authorized provided the eligible seller continues to collect, report, and remit the simplified sellers use tax and otherwise complies with all procedures and requirements of the program. Eligible sellers participating in the program pursuant may continue to receive a discount of two percent (2%) on all simplified sellers use taxes properly remitted under the act and shall continue to report sales under the conditions set out in Ala. Code § 40-23-193 (1975).

(I) AMNESTY FOR CERTAIN UNCOLLECTED REMOTE USE TAX.

(a) Subject to the limitations set out in the act, an eligible seller participating in the program shall be granted amnesty for any uncollected remote use tax that may have been due on sales made to purchasers in the state for the 12-month period preceding the effective date of the eligible sellers' participation in the program.

(b) The amnesty will preclude assessment for uncollected simplified use tax together with any penalty or interest for sales made during the 12-month period prior to the effective date of the eligible seller's participation in the program.

(c) The amnesty referred to herein shall be granted to any eligible seller who applies to participate in the program following acceptance into the program by the ADOR.

(d) Amnesty is not available to an eligible seller with respect to any matter or matters for which the eligible seller has received notice of the commencement of an audit and the audit is not yet finally resolved, including any related administrative and judicial processes.

(e) Amnesty is not available for any simplified sellers use tax already paid or remitted to the state or for taxes collected by the eligible seller.

(f) Amnesty is fully effective, absent the eligible seller's fraud or intentional misrepresentation of a material fact, as long as the eligible seller continues his or her participation in the program and continues to collect, report, and remit applicable simplified sellers use tax for a period of at least 36 months.

(g) Amnesty is applicable only to simplified use tax due from an eligible seller in his or her capacity as an eligible seller and not to remote use taxes due from a seller in his or her capacity as a buyer.

CREDIT(S): Act 2015-448, § 1; Act 2016-110, § 1; **Act 2017-82.**

SECTION XVIII: ELECTRONIC ONLINE FILING.

(1) By virtue of a Resolution of the Montgomery County Commission dated February 26, 2008, all taxpayers making an individual tax payment of \$500 or more for Montgomery County sales, use and/or lodgings taxes collected on or after April 1, 2008, including applicable interest and fees, shall file and pay electronically, at that time and

for all filing periods thereafter. The Montgomery County Commission also encourages voluntary taxpayer participation for online tax payment transactions less than \$500.

(2) The system allowing taxpayers to file and remit these taxes is the Optional Network Election for Single Point Online Transactions or “ONE SPOT” established pursuant to Ala. Code § 40-23-240 (1975).

(3) To comply with the interest rate change declared in Alabama Act 2017-415, the ONE SPOT system will be updated so that any delinquent non-state administered local taxes filed through ONE SPOT (MAT) will accrue interest at the new rate set forth in Ala. Code § 40-1-44 (1975) beginning August 1, 2017 through the filing of the delinquent tax.

CREDIT(S): Ala. Code § 40-23-240 (1975); Montgomery County Commission Resolution February 26, 2008; Act 2017-415.



Haskell Slaughter & Gallion, LLC
8 Commerce Street
Suite 1200
Montgomery, Alabama 36104
t. 334.265.8573 | f. 334.264.7945

July 12, 2017

Via Electronic Mail

Terri Henderson
Montgomery County Revenue Commissioner's Office
Post Office Box 4779
Montgomery, AL 36103

RE: TBOR.

Dear Terri:

Enclosed please find additional revisions to the TBOR based on my review of Act no. 2017-82, Ala. Code § 40-9-60 (1975), and the website information on the Voluntary Disclosure Program in your email correspondence.

At your request, I am providing the attached to you in WORD format.

Sincerely,

Constance Caldwell Walker

CCW/gt
Enclosure



VERNON BARNETT
Commissioner

State of Alabama Department of Revenue

(www.revenue.alabama.gov)
50 North Ripley Street
Montgomery, Alabama 36132

JOE W. GARRETT, JR.
Deputy Commissioner

CURTIS E. STEWART
Deputy Commissioner

BRENDA R. COONE
Deputy Commissioner

MICHAEL D. GAMBLE
Deputy Commissioner

June 21, 2017

NOTICE

Act 2017-415 Relating to County and Municipal Allowable Interest Rate and Municipal Delivery Licenses and Issuance Fees

Act 2017-415 (http://revenue.alabama.gov/salestax/Act_2017-415.pdf), effective August 1, 2017, amends §11-3-11.3 and §11-51-208, removing the option for counties and municipalities to charge interest at the rate of one percent (1%) per month. The applicable interest rate to be charged by or due from the county/municipality shall be determined pursuant to §40-1-44, which links interest to the underpayment rate established quarterly by the United States Secretary of the Treasury under the authority of 26 U.S.C. §6621. The current quarterly interest rate is 4% APR (<http://revenue.alabama.gov/salestax/interest.cfm>).

To comply with this change, the ONE SPOT system will be updated so that any delinquent non-state administered (NSA) local taxes filed through ONE SPOT (MAT) where interest is currently being calculated at the 1% per month rate will continue to be calculated at 1% per month through July 31, 2017, after which the interest will be calculated at the "State rate" (linked to the Federal rate pursuant to §40-1-44) from August 1, 2017 through the filing of the delinquent tax.

EXAMPLES:

Prior to August 1, 2017 a county charges interest at 1% per month.

- The county return due June 20, 2017 is filed/paid at 2:20pm on September 15, 2017.

The combined interest calculation will be at the old 1% per month rate for the time period of June 21-July 31 and then at the "State rate" from August 1 through September 15.

- The county return due August 21, 2017 is filed/paid at 2:20pm on October 15, 2017.

Interest calculation will be at the "State rate" from August 22 through October 15.

The act also amends §11-51-194 regarding delivery licenses and issuance fees.

AGENDA

AUG - 7 2017

MEMORANDUM

TO: Donald L. Mims, County Administrator
FROM: Myrtle Singleton, Purchasing Manager *mrz*
DATE: July 18, 2017
RE: Contract No. 51901-16B-028
Pest Control Services

I request that the attached Amendment No. 1 to Knox Pest Control contract for pest control services be considered for approval on a future agenda.

Amendment No. 1 will allow the contract to be extended for one (1) year, beginning September 1, 2017 and ending on August 31, 2018.

Knox Pest Control would like to increase pricing by 1.129% in accordance with the terms of the contract. All other provisions of the contract shall remain the same.

This contact extension has been coordinated with Derrick Cunningham, Sheriff and Lamar Allen, General Services Director.

Attachment

**Montgomery County Commission
Purchasing Department
P. O. Box 1667
Montgomery, AL 36102**

**Amendment
To
Contract # 51901-16B-028**

Amendment No. 1

Contract with Knox Pest Control for Pest Control Services is hereby extended for one (1) year, beginning September 1, 2017 and ending August 31, 2018.

Prices will increase by 1.129%, in accordance with the contract.

All other provisions of the contract remain the same.

WITNESS:

KNOX PEST CONTROL

BY: _____

TITLE: _____

WITNESS:

MONTGOMERY COUNTY COMMISSION

BY: _____

TITLE: _____

ELTON N. DEAN, SR.
CHAIRMAN
RONDA M. WALKER
VICE CHAIRMAN

DANIEL HARRIS, JR.
ISAIAH SANKEY
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA
ADMINISTRATOR
FLORENCE M. CAUTHEN
DEPUTY ADMINISTRATOR
334.832.1210
FAX: 334.832.2533
TDD: 334.265.3568
WWW.MC-ALA.ORG

AGENDA

AUG - 7 2017

July 6, 2017

MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*
County Administrator

SUBJECT: Payment of Professional Dues

For many years, Elected Officials and Supervisors have authorized the payment of professional dues for employees who were attorneys or Certified Public Accountants.

As a CPA, I attend Continuing Professional Education courses regarding changes in governmental accounting standards. Membership in the Alabama Society of CPAs and the American Institute of Certified Public Accountants allows the county to receive discounts on CPE courses up to \$80 per course.

These courses have helped me stay current on governmental accounting standards that the Examiners of Public Accounts utilize in their audit of the County Commission.

I am requesting for the County Commission to authorize payment or reimbursement to Donald L. Mims for the 2017-2018 professional dues to the Alabama Society of CPAs (\$190.00) and the America Institute of Certified Public Accountants (\$265.00).

Should you have any questions, please contact me.

/tn

Attachment

- A COUNTY OLDER THAN THE STATE -

P.O. Box 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1210

ELTON N. DEAN, SR.
CHAIRMAN
RONDA M. WALKER
VICE CHAIRMAN

DANIEL HARRIS, JR.
ISAIAH SANKEY
DOUG SINGLETON



DONALD L. MIMS, CPA, MPA
ADMINISTRATOR
FLORENCE M. CAUTHEN
DEPUTY ADMINISTRATOR
334.832.1210
FAX: 334.832.2533
TDD: 334.265.3568
WWW.MC-ALA.ORG

AGENDA

AUG - 7 2017

August 7, 2017

MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims, County Administrator *DLM*

SUBJECT: Miscellaneous Appropriations Reprogramming Requests

I am requesting authority to reprogram the following from fund code 001-59320-498 (Agency, Miscellaneous Appropriations) and to sign the contracts:

- C-2017-80: That's My Child Youth Organization, for Program Expenses - \$2,000; (Walker)
- C-2017-81: AUM Dixie Baseball and Softball League, for Travel Costs to the Dixie Baseball State Tournaments - \$1,000; (Singleton)
- C-2017-82: Montgomery Area Council on Aging, for Community Services Programs, Including Operating Expenses - \$1,000; (Harris)
- C-2017-83: Shepherd's Ministries, Inc., for Christmas Program for Underprivileged Children - \$500; (Singleton)
- C-2017-84: Montgomery Ravens, Inc., for Purchase of Uniforms and Football Equipment for Underprivileged Youth - \$1,000; (Singleton)

MEMORANDUM
Montgomery County Commission
August 7, 2017
Page 2

From fund code 001-59320-494 (Commissioner's Education Miscellaneous Appropriations) to:

****BOE-2017-25:** Rescind Appropriation to BOE, Robert E. Lee High School, for Band Practice Field - \$4,000; (Walker)

NOTE: This Project fell through.

BOE-2017-27: BOE, Jefferson Davis High School, for the Basketball Program's Travel Expenses - \$1,000; (Singleton)

BOE-2017-28: BOE, Robert E. Lee High School, for Principal's Discretionary Fund for the Basketball Team - \$500; (Walker)

BOE-2017-29: BOE, Goodwyn Middle School, for Principal's Discretionary Fund - \$2,000; (Walker)

****Rescind**

DLM/tll

AGENDA

AUG - 7 2017

July 20, 2017

MEMORANDUM

TO: Montgomery County Commission

FROM: Florence M. Cauthen 
Deputy Administrator

SUBJECT: Annex II Retaining Wall Bid Award

Per the recommendation of Goodwyn, Mills and Cawood Professional Engineer Max Vaughn, I request that the contract for repair of the Annex II retaining wall be awarded to David Bulger, Inc. (DBI)

DBI was the sole bidder on the project and submitted a bid of \$192,744.68. Two adjoining property owners have engaged DBI to extend the retaining wall repair to the south wall. As a result of the expanded scope of work, DBI negotiated a reduction in total bid price of \$7,500 and included in that price all costs associated with Geotechnical testing (estimated at \$12,000.)

I request that award of the negotiated bid of \$185,244.68 and related contracts be placed on the next agenda.

Attachment

DAVID BULGER, INC.

3904 BIRMINGHAM HIGHWAY
MONTGOMERY, AL 36108
P. 334.264.0450 F.334.264.1901

July 19, 2017

Max Vaughn, P.E.
Goodwyn, Mills, Caywood
2660 EastChase Lane
Suite 200
Montgomery, AL 36117

Dear Mr. Vaughn,

This letter serves as an amendment to the bid document submitted by David Bulger, Inc. (D.B.I) on June 8th, 2017 pertaining to the *S. Perry & Washington Ave. Retaining Wall Improvements* project.

Contingent to the increase in the overall scope of work, resulting from the owners of adjoining properties contractual obligation to continue the proposed retaining wall, D.B.I. amends the initial bid of One Hundred & Ninety Two Thousand, Seven Hundred Forty Four Dollars and Sixty Eight Cents (\$192,744.68) with Montgomery County as follows;

- o Negotiated reduction in total bid price of \$7,500.00
- o D.B.I. to include in scope of project all costs associated with Geotechnical testing.

Sincerely,



Gareth Evans,
Vice President

Enclosure: Bid Form

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

<u>Item</u>	<u>Qty.</u>	<u>Unit</u>	<u>Description</u>	<u>Total Price</u>
1	1	LS	Lump Sum Bid shall include mobilization, demolition, erosion control, traffic control, retaining wall, excavation, grading, asphalt paving and any other item shown or referenced in the plans and specifications.	\$ <u>185,244⁶⁸</u>
TOTAL BID				\$ <u>185,244⁶⁸</u>

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

Bonds required under Paragraph 6.01 of the General Conditions will be based on the Contract Price.

Total number of calendar days to substantially complete the Work: 60 days.

Liquidated Damages Rate (from Agreement): \$500.00/day.

Bonds required under Paragraph 6.01 of the General Conditions will be based on the Contract Price.

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete within 60 calendar days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 70 calendar days after the date when the Contract Times commence to run.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security;
 - B. List of Proposed Subcontractors;
 - C. List of Proposed Suppliers;
 - D. List of Project References;



GOODWYN | MILLS | CAWOOD

July 19, 2017

Mr. Elton N. Dean, Sr.
Chairman
Montgomery County Commission
101 S. Lawrence Street
Montgomery, AL 36104

RE: S. PERRY STREET & WASHINGTON AVENUE RETAINING WALL IMPROVEMENTS
FOR THE MONTGOMERY COUNTY COMMISSION
GMC PROJECT NO. CMGM-160086

Dear Mr. Dean:

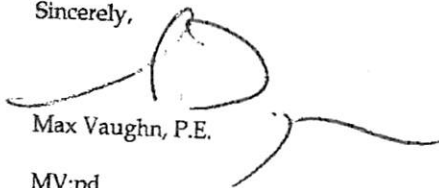
Goodwyn, Mills & Cawood, Inc. has reviewed the bid submitted on June 8, 2017 for the referenced project.

The sole bidder was David Bulger, Inc. from Montgomery, AL. Goodwyn, Mills & Cawood, Inc. recommends award of the contract to David Bulger, Inc. in the amount of \$185,244.68. We have enclosed a bid tabulation for your files.

If the award is made, please sign the three (3) copies of the Notice of Award and return all copies to our office for further processing as soon as possible.

Should you have any questions, please call.

Sincerely,



Max Vaughn, P.E.

MV:pd

Enclosures

xc: Mr. Donnie Mims; Montgomery County Commission
Mrs. Florence Cauthen, Deputy Admin.; Montgomery County Commission
File CMGM160086 BD

GOODWYN, MILLS AND CAWOOD, INC.
2660 EastChase Lane, Suite 200
Montgomery, AL 36117
Tel 334.271.3200 Fax 334.272.1566
GMCNETWORK.COM

ARCHITECTURE
ENGINEERING
ENVIRONMENTAL
GEOTECHNICAL
INTERIOR DESIGN
LANDSCAPE
PLANNING
SURVEYING
TRANSPORTATION

5-4

**TABULATION OF BIDS
S. PERRY STREET & WASHINGTON AVENUE
RETAINING WALL IMPROVEMENTS
FOR THE MONTGOMERY COUNTY COMMISSION**

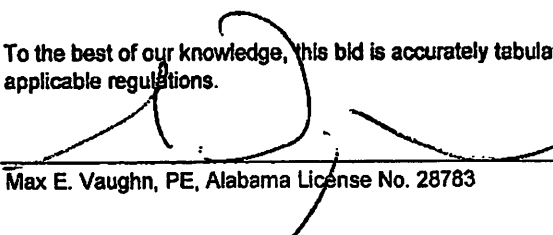
GMC PROJECT NO. CMGM-160086

BID OPENING: THURSDAY, JUNE 8, 2017 @ 10:00 A.M.

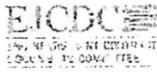
David Bulger, Inc.
Montgomery, AL

<u>Item</u>	<u>Qty.</u>	<u>Unit</u>	<u>Description</u>	<u>Total Price</u>
1	1	LS	Lump Sum Bid shall include mobilization, demolition, erosion control, traffic control, retaining wall, excavation, grading, asphalt paving and any other item shown or referenced in the plans and specifications.	\$ 185,244.68
TOTAL BID \$				185,244.68

To the best of our knowledge, this bid is accurately tabulated and was accepted in accordance with applicable regulations.



Max E. Vaughn, PE, Alabama License No. 28783



NOTICE OF AWARD

Date of Issuance:

Owner: Montgomery County Commission

Engineer: Goodwyn, Mills & Cawood, Inc.

Bidder: David Bulger, Inc.

Bidder's Address: 3904 Birmingham Hwy.
Montgomery, AL 36108

Owner's Contract No.:

Engineer's Project No.: CMGM-160086

Contract Name: S. Perry St. & Washington Ave.

Retaining Wall Improvements

TO BIDDER:

You are notified that Owner has accepted your Bid dated [bid opening of June 8, 2017] for the above Contract, and that you are the Successful Bidder and are awarded the Contract.

The Contract Price of the awarded Contract is: \$185,244.68

[3] unexecuted counterparts of the Agreement accompany this Notice of Award.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Engineer [3] counterparts of the Agreement, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security *[e.g., performance and payment bonds]* and insurance documentation as specified in the Instructions to Bidders and General Conditions, Articles 2 and 6.

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: MONTGOMERY COUNTY COMMISSION

By: Elton N. Dean, Sr.

Title: Chairman

Contractor: DAVID BULGER, INC.

By: David Bulger

Title: President

EJCDC® E-519, Notice of Award.

Prepared and published 2013 by the Engineers Joint Contract Documents Committee.

Page 1 of 1

5-6

AGENDA

AUG - 7 2017

June 15, 2017

MEMORANDUM

TO: Montgomery County Commission

FROM: Florence M. Cauthen 
Deputy Administrator

SUBJECT: Vehicle Maintenance Shop Bid Award

Per the recommendation of Architect Barry Robinson, I request that the contract for construction of a vehicle maintenance shop on Terminal Road be awarded to the low bidder Central Contracting, Inc., with a base bid of \$1,605,000 plus unit pricing of \$25.00 per cubic yard for undercut and replacement of existing fill soil and \$9.00 per square yard for geotextile stabilization fabric.

I request that award of the bid to Central Contracting, Inc., and related contracts be placed on the next agenda.

Attachment

Robinson and Associates Architecture, Inc.



906 South Perry Street
Montgomery, AL 36104
(334) 269-5590
(334) 269-0556 Fax

AIA # 30146597
NCARB # 50419

Licensed In:
Alabama # 4672
Florida # 16588
Georgia # 9606
Mississippi # 3247

June 8, 2017

Lamar Allen, Director General Services
Montgomery County Commission
Via: Hand Deliver

RE: Montgomery County Commission Sheriff Maintenance Shop-Montgomery, Alabama
(Recommendation Letter) –R&AA Project # 16-001

Mr. Allen,

We have reviewed the proposed bid by Central Contracting Inc. and recommend that their bid be accepted for the work required as delineated in the construction documents for the above captioned project. I have reviewed the project budget and recommend the following resources be allocated for construction.

\$ 1,605,000.00(Base Bid)

\$ 27,800.00 ADD ALTERNATE #1(optional)

\$25.00/ Cubic yard (Undercut and replacement of existing fill soil-Unit price)

\$9.00/ Square yard (Geotextile Stabilization Fabric-Unit price)

We ask that you immediately issue a letter of award to Central Contracting, Inc. and cc me. This will release the contractor and Robinson & Associates to start the contract process.

Please do not hesitate to contact me should you have any questions, comments or desire to discuss.

Sincerely,

Wm. Barry Robinson, AIA
Robinson and Associates Architecture, Inc.

CERTIFIED TABULATION OF BIDS

PROJECT: MONTGOMERY COUNTY COMMISSION
SHERIFF MAINTENANCE SHOP
Montgomery, Alabama

RAA PROJECT No. 16-001

AS TABULATED BELOW, BIDS WERE RECEIVED:
DATE: JUNE 8, 2017 TIME 2:00 PM

PLACE: Montgomery County Commission
101 South Lawrence Street, Montgomery, AL 36104

CONTRACTOR	LICENSE NO.	SURETY	BASE BID	ADD ALT #1	UNIT PRICES	REMARKS
Bullard-Cook, Inc. John Bullard 624 South Perry Street Montgomery, AL 36104 (334)356-4271 bids@bullardcook.com						DID NOT SUBMIT BID
Central Contracting, Inc. Ryan McGraw 205 Jeanett Barrett Blvd Wetumpka, AL 36092 (334)567-2400 ryan@centralcontractinginc.com	15592	Fidelity and Deposit Company of Maryland	\$1,605,000.00	\$27,800.00	\$25.00 C.Y. \$9.00 S.Y.	
CRL-Lovelady Construction, LLC Fran L. Bruner 890 Ravenwood Drive Selma, AL 36701 (334)418-8187 fran@crllovelady.com	41819	Hartford Fire Insurance Company	\$1,714,000.00	\$23,000.00	\$22.00 C.Y. \$7.70 S.Y.	Deduct from Base Bid -\$30,000.00
Construction One, Inc. John Palmer 1702 Forest Avenue Montgomery, AL 36106 (334)834-7180 jrpalmer@charter.net	11539	Travelers Casualty and Surety Company of America	\$1,622,277.00	\$28,764.00	\$25.00 C.Y. \$10.00 S.Y.	

CONTRACTOR	LICENSE NO.	SURETY	BASE BID	ADD ALT #1	UNIT PRICES	REMARKS
Frasier-Ousley Construction David Ousley 1105 Singleton Drive Selma, AL 36701 (334)872-3496 dousley@frasier-ousley.com	9207	The Ohio Casualty Insurance Company	\$1,688,400.00	\$26,500.00	\$22.00 C.Y. \$8.00 S.Y.	
Holley Henley Builders, Inc. Hoyt Henley P.O. Drawer 210097 Montgomery, AL 36121 (334)272-2988 hoyt@holleyhenley.com	8465	FCCI Insurance Company	\$1,684,000.00	\$39,380.00	\$20.00 C.Y. \$5.00 S.Y.	
Steve Odom Construction, Inc. Randy Odom 388 Bozie Road Deatsville, AL 36022 (334)361-8035 krodom86@gmail.com	21135	United Fire & Casualty Company	\$1,661,000.00	\$26,000.00	\$22.00 C.Y. \$9.00 S.Y.	
Wyatt Sasser Construction Timmy Walker 28007 Babbie Road Andalusia, AL 36421 (334)493-4348 timmywalker87@gmail.com	48893	U.S. Specialty Insurance Company	\$1,674,000.00	\$11,000.00	\$25.00 C.Y. \$9.00 S.Y.	

I certify that the above bids were received sealed and were publicly opened and read aloud at the time and place indicated and that this is a true and correct tabulation of all bids received for this project.

Sworn and subscribed before me this 8th day of June 2017

Notary Public

L.S.

By: ROBINSON & ASSOCIATES ARCHITECTURE, INC.

Typed or printed Name and title of Architect or Engineer

Signature

AGENDA

AUG - 7 2017

MEMORANDUM

TO: Donald L. Mims, County Administrator

FROM: Tammy Turner, Buyer II *TT*

DATE: July 19, 2017

RE: Invitation to Bid No. 53101-17B-021
Clearing Drainage Easements in Selbrook Subdivision

Request that approval of award on the above referenced Invitation to Bid to the only bid received TCB Construction Company, Inc., for \$89,446.00, be placed on a future agenda. (Copy of spreadsheet attached.)

Coordination of award made with George Speake, County Engineer.

Attachment

**Purchasing Department
Montgomery County Commission**

ABSTRACT FOR BIDS:				BID # 1		BID # 2		BID # 3		BID # 4		BID # 5	
INVITATION TO BID NO: 53101-17B-021				TCB Construction Co. 5913 Hwy. 53 Poplarville, MS 39470 Attn: Jennifer Fagan (228)255-1141									
DATE ISSUED: JUNE 25, 2017													
DATE OPENED: JULY 18, 2017													
ENGINEERING DEPARTMENT													
TERMS OF PAYMENT / DISCOUNT:													
DELIVERY DATE:													
ITEM NO.	DESCRIPTION OF ITEM	Units	QTY	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT	UNIT PRICE	EXTENDED AMOUNT
1	Clearing - 40 ft.	Ea	1	\$4,100.00	\$4,100.00								
	Wide Drainage Easement												
2	Clearing - 30 ft.	Ea	1	\$7,380.00	\$7,380.00								
	Wide Drainage Easement												
3	Clearing - 20 ft.	Ea	1	\$69,912.00	\$69,912.00								
	Wide Drainage Easement												
4	Clearing - 15 ft.	Ea	1	\$2,330.00	\$2,330.00								
	Wide Drainage Easement												
5	Clearing - 10 Ft.	Ea	1	\$5,724.00	\$5,724.00								
	Wide Drainage Easement												
TOTAL BID AMOUNTS					\$89,446.00								

Notes:

4 VENDORS ATTENDED MANDATORY PRE-BID MEETING

Page 1

Clearing of Drainage Easements in Selbrook

7-2

CONTRACTUAL AGREEMENT

THIS AGREEMENT made and entered into this 7th day of August, 2017, by and between the Montgomery County Commission, party of the first part (hereinafter called the County), and TCB Construction Company, Inc., party of the second party (hereinafter called the Contractor).

W I T N E S S E T H

WHEREAS, the County desires Clearing Drainage Easements in Selbrook Subdivision, hereinafter more particularly described, and the Contractor desires to furnish and deliver all the materials and to do and perform all the work and labor for the said purpose;

NOW, THEREFORE, in consideration of the premises, the mutual covenants herein contained and the sum of One Dollar (\$1.00) by each of the parties to the other in hand paid, the receipt whereof is hereby acknowledged; the parties hereto agree as follows:

1. The Contractor promises and agrees to furnish and deliver all the materials to do and perform all the work and labor required to be furnished and delivered; done and performed in and about the improvement of property in Montgomery County known as:

Project No. MC-1-2017 same to be Bid No. 53101-17B-021 in strict and entire conformity with the provisions of the Contract, and the Notice to Contractors and the Proposal, and the Plans and Specifications (including Special Provisions) prepared or approved by the Chairman of the County Commission, the originals of which are on file in the office of the County Engineer and which said Plans and Specifications, Notice to Contractors, and Proposal are hereby made a part of this Agreement fully and to the same effect as if the same had been set forth at length in the body of this Agreement.

2. The County agrees and promises to pay to the Contractor for said work, when completed in accordance with the Provisions of this Contract, the price as set forth in said Proposal amounting to Eighty Nine Thousand, Four Hundred and Forty Six Dollars and 00/100----
-----\$89,446.00.

(\$89,446.00) payments to be made as provided in said Specifications upon presentation of the proper certificates and upon the terms set forth in the said Specifications and pursuant to the terms of this Contract.

3. The said work shall be done in accordance with the laws of the State of Alabama under the direct supervision, and to the entire satisfaction of the Chairman of the County Commission or his representatives.

4. The decision of said Chairman of the County Commission upon any question connected with the execution of this Agreement or any failure or delay in the prosecution of the work by said Contractor shall be final and conclusive.
5. Montgomery County Commission and TCB Construction Company, Inc. reserves the right to cancel this contract with a (30) day written notice, at any time during the contract due to non-compliance of the contract by TCB Construction Company, Inc., and/or Montgomery County Commission.
6. That TCB Construction Company, Inc. agrees to protect, defend, indemnify and hold the Montgomery County Commission and its employees, agents, officers and servants free and harmless from any and all losses, claims, liens, not limited to, the amounts of judgements, penalties, interests, court costs, legal fees, and all other expenses incurred by the County arising in favor of any party, including employees of TCB Construction Company, Inc., death or damages to property without limitation by enumeration, all other Claims or demands of every character but only on the proportion of and to the extent such losses, claims, liens, demands and cause of action arise out of the negligent acts or omissions of contractor, its employees, agents and officers. TCB Construction Company, Inc. agrees to investigate, handle, respond to, provide defense for and defend any such Claims, demand, or suits at its sole expense. TCB Construction Company, Inc. also, agrees to bear all other costs and expense related thereto, even if the claim or claims alleged are groundless, false or fraudulent.
7. Dispute Resolution: If a dispute arises out of or relates to this Agreement or it breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The locations of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama between the Montgomery County Commission and TCB Construction Company, Inc.
8. By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

9. IN WITNESS WHEREOF, the MONTGOMERY COUNTY COMMISSION as caused these present to be executed by Elton N. Dean, Sr. Chairman, and TCB Construction Company, Inc., the Contractor, has hereto set his hand and seal this day and year above written.

WITNESS:

MONTGOMERY COUNTY COMMISSION

BY: _____

Elton N. Dean, Sr.

Chairman

WITNESS:

TCB CONSTRUCTION COMPANY, INC.

BY: _____

Contractor

Printed Name

TITLE: _____

AGENDA

AUG - 7 2017

July 20, 2017

MEMORANDUM

TO: Montgomery County Commission

FROM: Lamar Allen 
General Services Director

SUBJECT: Support Services Vehicles

Support Services has five trucks ranging in age from 9 to 21 years. Two of the newer vehicles, 2002 Dodge Ram and 2005 Ford, are parked pending estimated repairs of \$14,000. I do not recommend repairing, nor do our service providers. The two trucks can be replaced at a cost of \$61,000 under State contract.

One of these trucks is used by Grounds to haul mowers and other equipment and is **critical** to our operations in the peak of mowing season. I request authorization to purchase two new trucks under State contract at an approximate cost of \$61,000.

Attachment

**MONTGOMERY COUNTY COMMISSION
BUDGET CHANGE REQUEST**

Request Number: 58

AGENDA

AUG - 7 2017

DEPARTMENT:

County Commission Appropriations

REQUESTED BY: Donald L. Mims 7/24/17
Elected Official/Dept. Head Date

FINANCE REVIEW:

REVIEWED BY: Sherrill Thomas 7/24/17
Finance Director Date

COMMISSION APPROVAL PROCESSING:

Briefing Memo ☐
Agenda ☒

COUNTY COMMISSION APPROVAL:

Administrator Date

ACCOUNT NAME	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
The Scott & Zelda Fitzgerald Museum Asso. Inc.	001-57600.450	10,000	10,000	20,000
Donation Revenue	001-40000.47701	(420,064)	(10,000)	(430,064)
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
TOTAL		(\$ 410,064)	\$ 0	(\$ 410,064)

JUSTIFICATION: To budget an appropriation to the Scott and Zelda Fitzgerald Museum Association, Inc.

MONTGOMERY COUNTY COMMISSION

BUDGET CHANGE REQUEST

Request Number: 59

AGENDA

AUG - 7 2017

DEPARTMENT:

County Commission Appropriations

REQUESTED BY: Donald L. Mims

7/24/17

Elected Official/Dept. Head

Date

FINANCE REVIEW:

REVIEWED BY: Sherrill Thomas

7/24/17

Finance Director

Date

COMMISSION APPROVAL PROCESSING:

Briefing Memo

Agenda

✓

COUNTY COMMISSION APPROVAL:

Administrator

Date

ACCOUNT NAME	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
Girls On the Run	001-58100.498	0	15,000	15,000
Donation Revenue	001-40000.47701	(430,064)	(15,000)	(445,064)
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
TOTAL		(\$ 430,064)	\$ 0	(\$ 430,064)

JUSTIFICATION: To budget an appropriation to Girls on the Run serving the River Region for program support.

**MONTGOMERY COUNTY COMMISSION
BUDGET CHANGE REQUEST**

Request Number: 60

AGENDA

AUG - 7 2017

DEPARTMENT:

County Commission Appropriations

REQUESTED BY: Donald L. Mims

7/24/17

Elected Official/Dept. Head Date

FINANCE REVIEW:

REVIEWED BY: Sherrill Thomas

7/24/17

Finance Director Date

COMMISSION APPROVAL PROCESSING:

Briefing Memo

Agenda

☐
☒

COUNTY COMMISSION APPROVAL:

Administrator

Date

ACCOUNT NAME	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
Alabama Cooperative Extension System	001-58200.498	2,300	2,000	4,300
Donation Revenue	001-40000.47701	(445,064)	(2,000)	(447,064)
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
				0
TOTAL		(\$ 442,764)	\$ 0	(\$ 442,764)

JUSTIFICATION: To budget an appropriation to the Alabama Cooperative Extension System for the 2017 Successful Aging Initiative.

POSITION FILL REQUEST- UNBUDGETED

AGENDA

AUG - 7 2017

DEPARTMENT: Information Systems
DEPARTMENT HEAD: Lou Ialacci
SUPERVISOR: Alfred Jones

POSITION INFORMATION:

Position Title Public Administration Intern
Position Number 220186001
Pay Grade A04 Pay Range \$28,765
Proposed Effective Date August 8, 2017
Type of Hire (☒) New (☐) Promotional
Type of Appointment (☐) Permanent (☒) Temporary

JUSTIFICATION:

Temporary help to remove old voice and data cabling and assist with the installation of current technology cabling and equipment to increase bandwidth for security of County buildings and the Sheriff's Office network/infrastructure.

Lou Ialacci
Department Head

Date July 10, 2017

FINANCIAL IMPACT:

The current IT budget has a position vacancy which will cover the \$3,600 estimated cost.

Sherrill Thomas
Finance Director

Date July 10, 2017

ADMINISTRATIVE REVIEW/COMMENTS:

County Administrator

Date

AUG - 7 2017

POSITION FILL REQUEST- BUDGETED VACANCY

DEPARTMENT: Information Systems
 DEPARTMENT HEAD: Lou Ialacci
 SUPERVISOR: County Commission

POSITION INFORMATION:

Position Title Administrative Assistant
 Position Number 220017001
 Pay Grade A05 Pay Range \$32,318 - \$48,286
 Proposed Effective Date October 1, 2017
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Lou Ialacci
 Department Head

Date 08/03/2017

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring
 Employee Benefit Manager

Date 08/03/2017

Sherrill Thomas
 Finance Director

Date 8/03/2017

ADMINISTRATIVE APPROVAL:

 County Administrator

Date _____

POSITION FILL REQUEST- BUDGETED VACANCY

AUG - 7 2017

DEPARTMENT: M. C. Sheriff's Office - Detention Facility
 DEPARTMENT HEAD: Derrick Cunningham, Sheriff
 SUPERVISOR: Wanda Robinson, Colonel

POSITION INFORMATION:

Position Title Corrections Officer Trainee
 Position Number 500419081 (Replacement of Charles Brown)
 Pay Grade PCT Pay Range \$30,096
 Proposed Effective Date 8/28/2017
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham

Department Head

Date 8/1/2017

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date 8/3/2017

Sherrill Thomas

Finance Director

Date 8/3/2017

ADMINISTRATIVE APPROVAL:

County Administrator

Date _____

POSITION FILL REQUEST- BUDGETED VACANCY

AUG - 7 2017

DEPARTMENT: M. C. Sheriff's Office - Detention Facility

DEPARTMENT HEAD: Derrick Cunningham, Sheriff

SUPERVISOR: Wanda Robinson, Colonel

POSITION INFORMATION:

Position Title Corrections Officer Trainee

Position Number 500419175 (Replacement of Jordan Ivey)

Pay Grade PCT Pay Range \$30,096

Proposed Effective Date August 28, 2017

Type of Hire (☒) New (☐) Promotional

Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham

Department Head

Date August 1, 2017

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date August 1, 2017

Sherrill Thomas

Finance Director

Date 8/02/2017

ADMINISTRATIVE APPROVAL:

County Administrator

Date _____

POSITION FILL REQUEST- BUDGETED VACANCY

AUG - 7 2017

DEPARTMENT: M.C. Sheriff's Office - Detention Facility
 DEPARTMENT HEAD: Derrick Cunningham, Sheriff
 SUPERVISOR: Wanda Robinson, Colonel

POSITION INFORMATION:

Position Title Corrections Office Trainee
 Position Number 500419169 (replacement of Harry Calloway)
 Pay Grade PCT Pay Range 30,096
 Proposed Effective Date 8/28/2017
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham

Department Head

Date August 1, 2017

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date August 1, 2017

Sherrill Thomas

Finance Director

Date 8/02/2017

ADMINISTRATIVE APPROVAL:

County Administrator

Date _____

POSITION FILL REQUEST- BUDGETED VACANCY

AGENDA

AUG - 7 2017

DEPARTMENT: M. C. Sheriff's Office - Detention Facility
DEPARTMENT HEAD: Derrick Cunningham, Sheriff
SUPERVISOR: Wanda Robinson, Colonel

POSITION INFORMATION:

Position Title Corrections Officer Trainee
Position Number 500419217 (Replacement of Curtisia Benjamin)
Pay Grade PCT Pay Range \$30,096
Proposed Effective Date August 14, 2017
Type of Hire (☒) New (☐) Promotional
Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham

Department Head

Date July 31, 2017

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date July 31, 2017

Sherrill Thomas

Finance Director

Date 8/1/2017

ADMINISTRATIVE APPROVAL:

County Administrator

Date

AUG - 7 2017

POSITION FILL REQUEST- BUDGETED VACANCY

DEPARTMENT: M.C. Sheriff's Office - Detention Facility
 DEPARTMENT HEAD: Derrick Cunningham, Sheriff
 SUPERVISOR: Wanda Robinson, Colonel

POSITION INFORMATION:

Position Title Corrections Office Trainee
 Position Number 500419222 (replacement of Justin Thrift)
 Pay Grade PCT Pay Range 30,096
 Proposed Effective Date 8/28/2017
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham

Department Head

Date August 1, 2017

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date August 1, 2017

Sherrill Thomas

Finance Director

Date 8/02/2017

ADMINISTRATIVE APPROVAL:

County Administrator

Date _____

AUG - 7 2017

POSITION FILL REQUEST- BUDGETED VACANCY

DEPARTMENT: Montgomery County Sheriff's Office
 DEPARTMENT HEAD: Derrick Cunningham, Sheriff
 SUPERVISOR: Kevin Murphy, Chief Deputy

POSITION INFORMATION:

Position Title Public Safety Communications Dispatcher
 Position Number 550483002 (Replacement of Christopher Koontz)
 Pay Grade A05 Pay Range \$32,318 - \$48,286
 Proposed Effective Date August 14, 2017
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham

Department Head

Date July 28, 2017

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date August 1, 2017

Sherrill Thomas

Finance Director

Date 8/02/2017

ADMINISTRATIVE APPROVAL:

 County Administrator

Date _____

AUG - 7 2017

POSITION FILL REQUEST- BUDGETED VACANCY

DEPARTMENT: Montgomery County Sheriff's Office
 DEPARTMENT HEAD: Derrick Cunningham, Sheriff
 SUPERVISOR: Kevin Murphy, Chief Deputy

POSITION INFORMATION:

Position Title Public Safety Comm Dispatcher
 Position Number 550483001 (Replacement of Cynthia Miles)
 Pay Grade A05 Pay Range \$32,318 \$48,286
 Proposed Effective Date August 14, 2017
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham

Department Head

Date July 28, 2017

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date August 1, 2017

Sherrill Thomas

Finance Director

Date 8/02/2017

ADMINISTRATIVE APPROVAL:

 County Administrator

Date _____

POSITION FILL REQUEST- UNBUDGETED

AGENDA

AUG - 7 2017

DEPARTMENT: Support Services
 DEPARTMENT HEAD: Lamar Allen
 SUPERVISOR: Pat Litchfield

POSITION INFORMATION:

Position Title Groundskeeper
 Position Number 260735029
 Pay Grade S06 Pay Range \$27,921 - \$41,718
 Proposed Effective Date 8/7/2017
 Type of Hire (☐) New (☒) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

JUSTIFICATION:

Keith Smith was hired as a Service Maintenance Worker II in training as a Groundskeeper. He has completed training and his position should be upgraded to a Groundskeeper.

Lamar Allen
 Department Head

Date 7/17/2017

FINANCIAL IMPACT:

The 2017 budget will cover the cost through savings from two vacant positions.
 The 2018 budget increase will be approximately \$1,200.

Sherrill Thomas
 Finance Director

Date 7/17/2017

ADMINISTRATIVE REVIEW/COMMENTS:

County Administrator

Date

Montgomery County Commission
Travel / Training Request Approval
Request # 21

AGENDA

AUG - 7 2017

Date: August 2, 2017
To: Donald L. Mims, Administrator
From: Beverly Riddle Wise
Re: Approval for the following travel:

Destination: Orange Beach, Alabama
Departure Date: September 13, 2017 Return Date: September 15, 2017
Conference Leave (Days / Hours): 3 days
Purpose of Travel: Attend the Annual Juvenile Probation Officers Conference

Traveler (s) Name: 1. Preston Frazier 4. Jamie Burnett, Leigh Smith
2. Jeannie Tapley 5. Jimmy Rogers, Kim Parham
3. Shannon Silva, Ann Sikes 6. Ebony Raine

Check Mode of Transportation: County Vehicle ☒ Commercial Air ☐
Private Vehicle ☒ Other (Specify)
Total (est.) Cost: \$4,725.00 Advance Registration Required: \$1,125.00
Department Name: Youth Facility Fund Name: 001-52603-265
Additional Comments: Check for advanced registration should be made payable to the Alabama
Judicial College Education Fund.

To: Beverly Riddle Wise
From: Donald L. Mims, Administrator
The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$4,725.00 and advance registration of \$1,125.00 is authorized.

To be completed by the Finance Department	
Fund Code:	<u>001-52603.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$10,000.00</u>
Approved Requests:	<u>\$4,053.53</u>
Budget Available:	<u>\$5,946.47</u>
Current Requests:	<u>\$4,725.00</u>
Budget Balance:	<u>\$1,221.47</u>

Donald L. Mims, Administrator



Reviewed by: S. Thomas

Date: 8/2/17

cc: Finance Director / Buyer

18.1

Montgomery County Commission
Travel / Training Request Approval
Request # 16

AGENDA

AUG - 7 2017

Date: July 25, 2017
To: Donald L. Mims, Administrator
From: Scott Kramer
Re: Approval for the following travel:

Destination: Tarrytown, NY
Departure Date: October 18, 2017 Return Date: October 21, 2017
Conference Leave (Days / Hours): (3) Days
Purpose of Travel: to attend the STATES' 2017 Annual Members Meeting

Traveler (s) Name: 1. Scott Kramer 4. _____
2. _____ 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☐ Commercial Air ☒
Private Vehicle ☐ Other (Specify) ☐

Total (est.) Cost: \$0.00 Advance Registration Required: \$0.00

Department Name: Risk Management Fund Name: Liability

Additional Comments: *** All Expense will be Paid by STATES***

To: Scott Kramer

From: Donald L. Mims, Administrator

The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$0.00 and advance registration of \$0.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>007-51120.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$15,000.00</u>
Approved Requests:	<u>\$3,275.01</u>
Budget Available:	<u>\$11,724.99</u>
Current Requests:	<u>\$0.00</u>
Budget Balance:	<u>\$11,724.99</u>

Donald L. Mims, Administrator



Reviewed by: S. Thomas

Date: 7/27/17

cc: Finance Director / Buyer

Montgomery County Commission
Travel / Training Request Approval
Request # 9

AGENDA

AUG - 7 2017

Date: 7/25/2017
To: Donald L. Mims, Administrator
From: George Speake, County Engineer
Re: Approval for the following travel:

Destination: Springfield, Missouri
Departure Date: September 11, 2017 Return Date: September 15, 2017
Conference Leave (Days / Hours): 5 Days
Purpose of Travel: Attend the National Roadside Vegetation Management Association
Annual Conference

Traveler (s) Name: 1. Danise Nettles 4. _____
2. _____ 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☐ Commercial Air ☐
Private Vehicle ☒ Other (Specify) ☐

Total (est.) Cost: \$1,775.00 Advance Registration Required: \$175.00
Department Name: Engineering Department Fund Name: 111-53600.265
Additional Comments: Lodging \$568.02 Registration \$175.00
Meals \$375.00
Mileage \$656.98

To: George Speake, County Engineer
From: Donald L. Mims, Administrator
The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$1,775.00 and advance registration of \$175.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>111-53600.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$10,000.00</u>
Approved Requests:	<u>\$6,993.00</u>
Budget Available:	<u>\$3,007.00</u>
Current Requests:	<u>\$1,775.00</u>
Budget Balance:	<u>\$1,232.00</u>

Donald L. Mims, Administrator

Reviewed by: S. Thomas
Date: 7/26/17
cc: Finance Director / Buyer

Montgomery County Commission
Travel / Training Request Approval
Request # 27

AGENDA

AUG - 7 2017

Date: July 26, 2017
To: Donald L. Mims, Administrator
From: Clay Henley, Chief Appraiser
Re: Approval for the following travel:

Destination: Orange Beach, AL
Departure Date: August 10, 2017 Return Date: August 10, 2017
Conference Leave (Days / Hours): 1 Day
Purpose of Travel: 2017 AAAO Summer Conference

Traveler (s) Name: 1. Jeremy Calloway 4. _____
2. Jimmy Garnett 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☐ Commercial Air ☐
Private Vehicle ☒ Other (Specify) ☐

Total (est.) Cost: \$561.86 Advance Registration Required: \$200.00
Department Name: Appraisal Fund Name: Reappraisal
Additional Comments: REG: \$200.00 Mileage: \$211.86(Carpooling) Meals: \$150
TOTAL EST. COST: \$561.86

To: Clay Henley, Chief Appraiser
From: Donald L. Mims, Administrator

The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$561.86 and advance registration of \$200.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>120-51958.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$30,000.00</u>
Approved Requests:	<u>\$18,106.66</u>
Budget Available:	<u>\$11,893.34</u>
Current Requests:	<u>\$561.86</u>
Budget Balance:	<u>\$11,331.48</u>

Donald L. Mims, Administrator

Reviewed by: S. Thomas

Date: 7/27/17

cc: Finance Director / Buyer

Montgomery County Commission
Travel / Training Request Approval
Request # 28

AGENDA

AUG - 7 2017

Date: July 31, 2017
To: Donald L. Mims, Administrator
From: Clay Henley, Chief Appraiser
Re: Approval for the following travel:

Destination: Montgomery, AL
Departure Date: November 13, 2017 Return Date: November 17, 2017
Conference Leave (Days / Hours): 5 Days
Purpose of Travel: Advanced Mapping

Traveler (s) Name: 1. Faith Wilson 4. _____
2. _____ 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☐ Commercial Air ☐
Private Vehicle ☒ Other (Specify) ☐

Total (est.) Cost: \$325.00 Advance Registration Required: \$325.00

Department Name: Appraisal Fund Name: Reappraisal

Additional Comments: REG: \$325.00

TOTAL EST. COST: \$325.00

Cost will be Incurred in the 2018 Budget

To: Clay Henley, Chief Appraiser

From: Donald L. Mims, Administrator

The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$325.00 and advance registration of \$325.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>120-51958.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$30,000.00</u>
Approved Requests:	<u>\$18,106.66</u>
Budget Available:	<u>\$11,893.34</u>
Current Requests:	<u>\$561.86</u>
Budget Balance:	<u>\$11,331.48</u>

Donald L. Mims, Administrator



Reviewed by: S. Thomas

Date: 8/1/17

cc: Finance Director / Buyer

Montgomery County Commission
Travel / Training Request Approval
Request # 29

AGENDA

AUG - 7 2017

Date: August 2, 2017
To: Donald L. Mims, Administrator
From: Clay Henley, Chief Appraiser
Re: Approval for the following travel:

Destination: Orange Beach, AL
Departure Date: August 8, 2017 Return Date: August 11, 2017
Conference Leave (Days / Hours): 4 Days
Purpose of Travel: 2017 AAAO Summer Conference

Traveler (s) Name: 1. J'Varra McCall Martin 4. _____
2. _____ 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☐ Commercial Air ☐
Private Vehicle ☒ Other (Specify) ☐

Total (est.) Cost: \$1,391.23 Advance Registration Required: \$250.00
Department Name: Appraisal Fund Name: Reappraisal
Additional Comments: REG: \$250 MEALS: \$300 MILEAGE: \$211.86 HOTEL: \$629.37
TOTAL EST. COST: \$1391.23

To: Clay Henley, Chief Appraiser
From: Donald L. Mims, Administrator
The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$1,391.23 and advance registration of \$250.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>120-51958.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$30,000.00</u>
Approved Requests:	<u>\$18,106.66</u>
Budget Available:	<u>\$11,893.34</u>
Current Requests:	<u>\$1,953.09</u>
Budget Balance:	<u>\$9,940.25</u>

Donald L. Mims, Administrator

Reviewed by: S. Thomas
Date: 8/2/17
cc: Finance Director / Buyer

18-6

Montgomery County Commission
Travel / Training Request Approval
Request # 25

AGENDA

AUG - 7 2017

Date: August 1, 2017
To: Donald L. Mims, Administrator
From: Carmen Douglas, Personnel Director
Re: Approval for the following travel:

Destination: Orange Beach, AL
Departure Date: 9/28/2017 Return Date: 10/1/2017
Conference Leave (Days / Hours): 2 Days
Purpose of Travel: to attend the AL SHRM Strategy in the Sand

Traveler (s) Name: 1. Carmen Douglas 4. _____
2. _____ 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☐ Commercial Air ☐
Private Vehicle ☒ Other (Specify) ☐
Total (est.) Cost: \$601.86 Advance Registration Required: \$100.00
Department Name: Personnel Fund Name: Merit System
Additional Comments: \$211.86 - Mileage; \$140.00 - Hotel; \$150.00 - Meals; \$100.00 - Registration

To: Carmen Douglas, Personnel Director
From: Donald L. Mims, Administrator
The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$601.86 and advance registration of \$100.00 is authorized.

To be completed by the Finance Department	
Fund Code:	<u>123-51961.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$25,000.00</u>
Approved Requests:	<u>\$17,199.51</u>
Budget Available:	<u>\$7,800.49</u>
Current Requests:	<u>\$601.86</u>
Budget Balance:	<u>\$7,198.63</u>

Donald L. Mims, Administrator

Reviewed by: S. Thomas
Date: 8/2/17
cc: Finance Director / Buyer

Montgomery County Commission
Travel / Training Request Approval
Request # 19

AGENDA

AUG - 7 2017

Date: August 1, 2017
To: Donald L. Mims, Administrator
From: Paul Brown, Executive Director
Re: Approval for the following travel:

Destination: 1224 Eastern Blvd Montgomery, AL
Departure Date: August 25, 2017 Return Date: August 25, 2017
Conference Leave (Days / Hours): 1 day
Purpose of Travel: To attend the NAMI State Conference

Traveler (s) Name: 1. Paul Brown 4. _____
2. _____ 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☒ Commercial Air ☐
Private Vehicle ☐ Other (Specify) ☐

Total (est.) Cost: \$0.00 Advance Registration Required: \$0.00

Department Name: Community Corrections Fund Name: Community Corrections

Additional Comments: _____

To: Paul Brown, Executive Director

From: Donald L. Mims, Administrator

The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$0.00 and advance registration of \$0.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>124-52960.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$10,500.00</u>
Approved Requests:	<u>\$9,223.88</u>
Budget Available:	<u>\$1,276.12</u>
Current Requests:	<u>\$0.00</u>
Budget Balance:	<u>\$1,276.12</u>

Donald L. Mims, Administrator



Reviewed by: S. Thomas

Date: 8/1/17

cc: Finance Director / Buyer

18-8

Montgomery County Commission
Travel / Training Request Approval
Request # 77

AGENDA

AUG - 7 2017

Date: July 31, 2017
To: Donald L. Mims, Administrator
From: Sheriff Derrick Cunningham
Re: Approval for the following travel:

Destination: Memphis, TN
Departure Date: August 22, 2017 Return Date: August 25, 2017
Conference Leave (Days / Hours): 4 days
Purpose of Travel: attend Police Fleet Forum

Traveler (s) Name: 1. Jon Briggs 4. _____
2. Jason Brosius 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☒ Commercial Air ☐
Private Vehicle ☐ Other (Specify) ☐

Total (est.) Cost: \$1,800.00 Advance Registration Required: \$0.00

Department Name: Montgomery County Sheriff's Office Fund Name: 749-52110.499

Additional Comments: _____

To: Sheriff Derrick Cunningham

From: Donald L. Mims, Administrator

The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$1,800.00 and advance registration of \$0.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>749-52110.499</u> (ex: 000-00000-000)
Description:	<u>Administrative Expense</u>
Current Budget:	<u>\$361,500.00</u>
Approved Requests:	<u>\$120,084.35</u>
Budget Available:	<u>\$241,415.65</u>
Current Requests:	<u>\$1,800.00</u>
Budget Balance:	<u>\$239,615.65</u>

Donald L. Mims, Administrator



Reviewed by: S. Thomas

Date: 8/1/17

cc: Finance Director / Buyer

18-9

Montgomery County Commission
Travel / Training Request Approval
Request # 78

AGENDA

AUG -7 2017

Date: July 31, 2017
To: Donald L. Mims, Administrator
From: Sheriff Derrick Cunningham
Re: Approval for the following travel:

Destination: Glynco, GA
Departure Date: August 14, 2017 Return Date: August 24, 2017
Conference Leave (Days / Hours): 9 Days
Purpose of Travel: attend FLETC Leadership Course

Traveler (s) Name: 1. Juan Jerry 4. _____
2. _____ 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☒ Commercial Air ☐
Private Vehicle ☐ Other (Specify) ☐

Total (est.) Cost: \$100.00 Advance Registration Required: \$0.00

Department Name: Montgomery County Sheriff's Office Fund Name: 749-52110.499

Additional Comments: _____

To: Sheriff Derrick Cunningham

From: Donald L. Mims, Administrator

The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$100.00 and advance registration of \$0.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>749-52110.499</u> (ex: 000-00000-000)
Description:	<u>Administrative Expense</u>
Current Budget:	<u>\$361,500.00</u>
Approved Requests:	<u>\$120,084.35</u>
Budget Available:	<u>\$241,415.65</u>
Current Requests:	<u>\$1,900.00</u>
Budget Balance:	<u>\$239,515.65</u>

Donald L. Mims, Administrator



Reviewed by: S. Thomas

Date: 8/1/17

cc: Finance Director / Buyer

18-10

Montgomery County Commission
Travel / Training Request Approval
Request # 79

AGENDA

AUG - 7 2017

Date: July 26, 2017
To: Donald L. Mims, Administrator
From: Sheriff Derrick Cunningham
Re: Approval for the following travel:

Destination: Camp Shelby, Mississippi
Departure Date: August 11, 2017 Return Date: August 14, 2017
Conference Leave (Days / Hours): 2 days
Purpose of Travel: attend RCTA Gracie Survival Tactics Course

Traveler (s) Name: 1. Steven Wallace 4. _____
2. Demetrice Dupree 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☒ Commercial Air ☐
Private Vehicle ☐ Other (Specify) ☐

Total (est.) Cost: \$50.00 Advance Registration Required: \$0.00

Department Name: Montgomery County Sheriff's Office Fund Name: 749-52110.499

Additional Comments: only expected expense might be fuel, refreshment fee(s), student social fee

To: Sheriff Derrick Cunningham

From: Donald L. Mims, Administrator

The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$50.00 and advance registration of \$0.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>749-52110.499</u> (ex: 000-00000-000)
Description:	<u>Administrative Expense</u>
Current Budget:	<u>\$361,500.00</u>
Approved Requests:	<u>\$120,084.35</u>
Budget Available:	<u>\$241,415.65</u>
Current Requests:	<u>\$1,950.00</u>
Budget Balance:	<u>\$239,465.65</u>

Donald L. Mims, Administrator



Reviewed by: S. Thomas

Date: 8/1/17

cc: Finance Director / Buyer

18-11

Montgomery County Commission
Travel / Training Request Approval
Request # 80

AGENDA

AUG - 7 2017

Date: August 1, 2017
To: Donald L. Mims, Administrator
From: Sheriff Derrick Cunningham
Re: Approval for the following travel:

Destination: Anniston, AL
Departure Date: September 10, 2017 Return Date: September 15, 2017
Conference Leave (Days / Hours): 5 Days
Purpose of Travel: attend CDP (Center for Domestic Preparedness) Conference

Traveler (s) Name: 1. Courtney Ward 4. _____
2. _____ 5. _____
3. _____ 6. _____

Check Mode of Transportation: County Vehicle ☒ Commercial Air ☐
Private Vehicle ☐ Other (Specify) ☐

Total (est.) Cost: \$100.00 Advance Registration Required: \$0.00

Department Name: Montgomery County Sheriff's Office Fund Name: 749-52110.499

Additional Comments: only expected expense will be fuel for county vehicle

To: Sheriff Derrick Cunningham

From: Donald L. Mims, Administrator

The above request is app. 8/7/17 reimbursement of actual and necessary expenses in the
approximate amount of \$100.00 and advance registration of \$0.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>749-52110.499</u> (ex: 000-00000-000)
Description:	<u>Administrative Expense</u>
Current Budget:	<u>\$361,500.00</u>
Approved Requests:	<u>\$120,084.35</u>
Budget Available:	<u>\$241,415.65</u>
Current Requests:	<u>\$2,050.00</u>
Budget Balance:	<u>\$239,365.65</u>

Donald L. Mims, Administrator



Reviewed by: S. Thomas

Date: 8/1/17

cc: Finance Director / Buyer

1812

AUG - 7 2017

Tammy Nix

From: George Speake
Sent: Monday, July 31, 2017 3:31 PM
To: Tammy Nix
Cc: Kevin Boone
Subject: Resolution for Project No. MCP 51-77-16 (Resurfacing Pike Road from Wallahatchie Road to U.S. 80)

Tammy:

I left a Commission agenda resolution with you this afternoon concerning the Pike Road resurfacing project. If possible we would like for subject resolution to be considered as a waived rules item in order for ALDOT to award this bid within the short timeframe they have allowed. Additional information is as follows:

- On 7/24/2017 the Commission approved an 80 Fed./20 Co. funding agreement with ALDOT in the amount of \$1,925,585.92 for resurfacing Pike Road from Wallahatchie Road to U.S. 80
- At the 7/28/2017 ALDOT letting bids were received for this project, and the low bid was \$1,512,123.65
- This resolution will reduce the 80 Fed./20 Co. funding agreement with ALDOT from \$1,925,585.92 to \$1,600,000.00
- Approval of this resolution to reduce the funding agreement amount would allow us to reprogram the excess \$325,585.92 in MPO funds to another MPO project
- There is a critical timeframe associated with this request because ALDOT typically awards these type projects to the low bidder within about two weeks after the letting date

George C. Speake, P.E., P.L.S.
Montgomery County Engineer
P.O. Box 1667
Montgomery, AL 36102-1667
Email: georgespeake@mc-ala.org
Telephone: (334) 832-2551

ELTON N DEAN, SR.
Chairman

Rhonda M. Walker
Vice Chairman

Daniel Harris, Jr.

Isaiah Sankey

Doug Singleton



GEORGE C. SPEAKE, PE, PLS
COUNTY ENGINEER
KEVIN A. BOONE, PE
ASSISTANT COUNTY ENGINEER
334.832.1310
FAX: 334.832.7190

WWW.MC-ALA.ORG

ENGINEERING DEPARTMENT

July 31, 2017

MEMORANDUM

TO: Donald L. Mims
County Administrator

FROM: George C. Speake
County Engineer *George C. Speake*
7/31/2017

SUBJECT: Approval of Resolution for Project No. MCP 51-77-16
Resurfacing Pike Road (5.851 miles)

Please place on the agenda of the next regular meeting of the Montgomery County Commission the approval of the Resolution for Project No. MCP 51-77-16 as referenced above.

If approved, please have two copies with original signatures executed and returned to this office for further processing. If you have any questions, please contact Kevin Boone at 832-1342.

GCS/kb
Attachments
C: File

RESOLUTION

COUNTY OF MONTGOMERY

Project No. MCP 51-77-16

STATE OF ALABAMA

WHEREAS, the County Commission of Montgomery County, Alabama, is desirous of constructing or improving, by force account, by contractor or both, a section of road included in the Montgomery County Road System and described as follows:

Resurfacing Pike Road (CR-85) from Wallahatchie Road (CR-83) north to US 80 for a length of 5.851 miles.

Link Node and Location maps are attached.

WHEREAS, the County requests the total funding amount for the County-wide agreement between the State and the County covering all costs associated with this project be lowered to the sum of \$1,600,000.00.

WHEREAS, the County agrees to all of the provisions of any agreement which has been executed or will be executed covering the construction of the project.

Done at the regular session of the County Commission of Montgomery County, this ____ day of _____, 2017.

Montgomery County Commission
Governing Body

Elton N. Dean, Sr., Chairman

Ronda M. Walker, Vice Chairman

Isaiah Sankey, Member

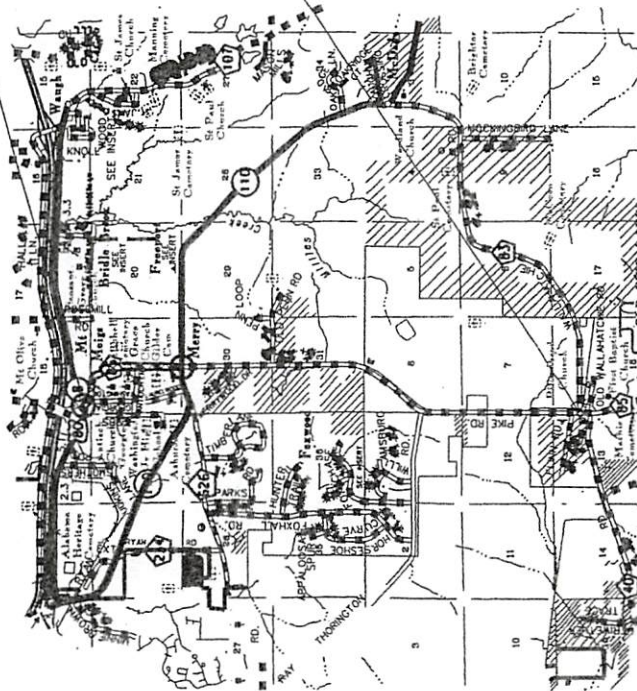
Daniel Harris, Member

Doug Singleton, Member

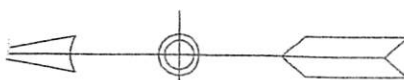
MONTGOMERY COUNTY

LOCATION: (A)CR-85 (PIKE RD.) FROM WALLAHATCHIE ROAD CR-83 NORTH TO US 80.

PIKE RD. CO. RD. 85
(5.880 MILES)
310+47
END PROJECT/WORK
0+00
BEGIN PROJECT/WORK



T-16-N
T-15-N

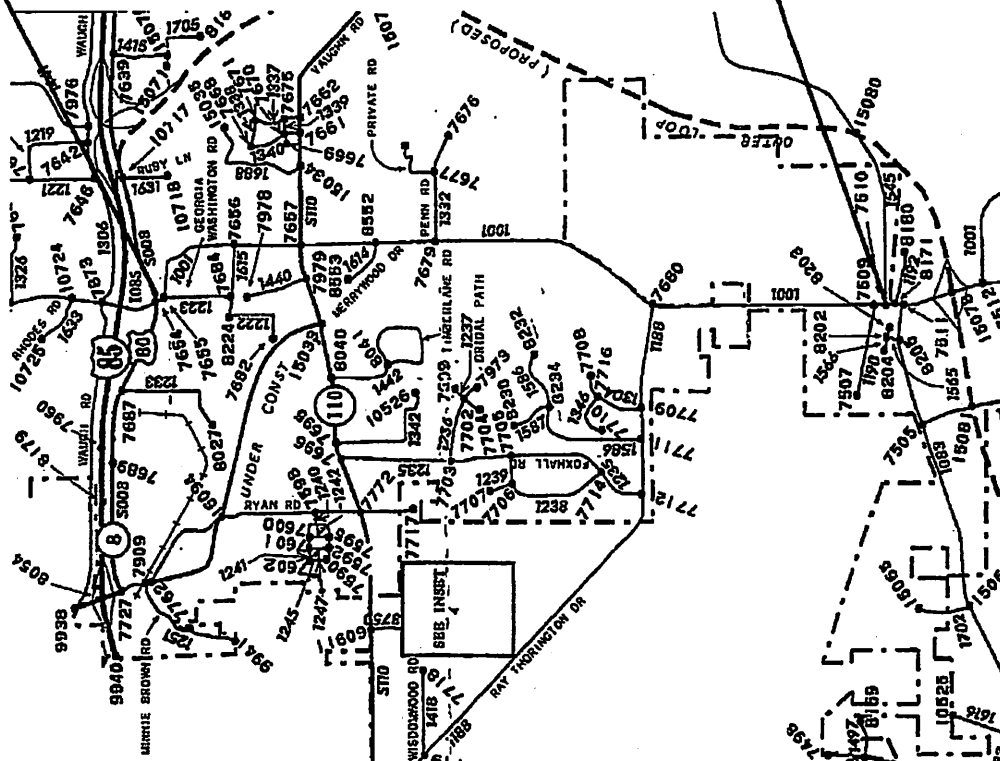


R-19-E | R-20-E

19.4

**END PROJECT/ WORK
310+47**

BEGIN PROJECTWORK
0+00



AGENDA

AUG - 7 2017

August 2, 2017

MEMORANDUM

TO: Montgomery County Commission

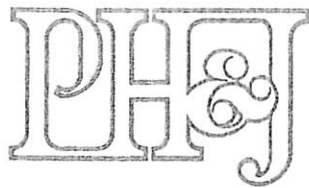
FROM: Florence Cauthen
Deputy Administrator 

SUBJECT: Annex I Sheriff's Dispatch & First Floor Renovations

Please find attached a recommendation from PH&J to replace the existing fire alarm system panels in Annex I at a cost of \$41,200.45. During the most recent certification of the system, the system generated numerous error messages that were able to be resolved, but similar problems occurred when the contractor attempted to add devices for the dispatch area. The contractor believes there is a significant risk of failure of the entire system with the addition of devices required in the renovation.

The contractor stated that he will not be responsible for the system failure and/or any costs or impacts related to the system failure, fire watches or building closure that might be required if this happens.

I request that rules be waived to approve Change Order Number 1 to expedite the necessary upgrade of the existing fire alarm system panels in Annex I.



architects inc.

Founded 1957 • Pearson, Humphries & Jones Architects

807 SOUTH McDONOUGH STREET • MONTGOMERY, AL 36104-5080 POST OFFICE BOX 215-36101
Tel 334/265-8781 / Fax 334/265-9208 • Email: phjarch@bellsouth.net • Website: www.phjarchitects.com

Renis O. Jones, Jr., FAIA
Harrell G. Gandy, AIA

J. Roland Pond, AIA
Renis O. Jones, III, AIA

E. Griffin Harris, AIA
Patrick T. Addison, AIA

Saturday, July 29, 2017

Mrs. Florence Cauthen, Deputy Administrator
Montgomery County Commission
Post office Box 1667
Montgomery, Alabama 36102-1667

Re: Montgomery County Courthouse Annex 1 -
Sheriff's Dispatch & First Floor Renovations - Change Order
Request for Upgrading Annex 1 Fire Alarm Panels

PH&J No: 1208-GVO - City of Montgomery Reference # 16147

Florence,

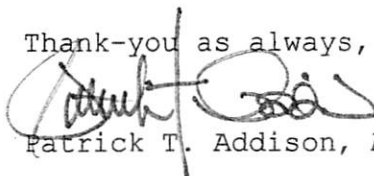
I have received the contractor's proposal for to replace the existing fire alarm system panels at the Montgomery County Courthouse - Annex 1 building that has been identified by the County's existing fire alarm vender, Harris Communications as needing to be replaced. Replacement panels for this systems model is now out of date and replacement panels and modules are no longer available.

We have reviewed the proposal and find in to be a fair and reasonable amount for the work requested. I therefore request this needed work be added by change order to this project.

Included is Change Order #1 for the above referenced project to add this fire alarm system replacement to Stallings & Sons, General Contractors, Inc. existing contract at Annex 1. This will allow your existing fire alarm system vender to make the replacement and at the same time incorporate the needed adds to the system to cover the Sheriff's new dispatch area.

If you have any additional question, please call.

Thank-you as always,



Patrick T. Addison, AIA

CC: Donnie Mims, Lamar Allen, Sherrill Thomas

AIA Document G701™ – 2001

Change Order

PROJECT (Name and address): Montgomery County Courthouse Annex 1 Sheriff's Dispatch & First Floor Renovations PH&J #1208GVO	CHANGE ORDER NUMBER: 001 DATE: July 31, 2017	OWNER: ☒ ARCHITECT: ☐ CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐
TO CONTRACTOR (Name and address): Stallings & Sons, Inc. PO Box 70040 Montgomery, AL 36107	ARCHITECT'S PROJECT NUMBER: CONTRACT DATE: September 21, 2016 CONTRACT FOR: General Construction	

THE CONTRACT IS CHANGED AS FOLLOWS:
 (Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

Add: Replace Building Fire Alarm System Panels.....\$41,200.45

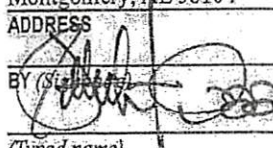
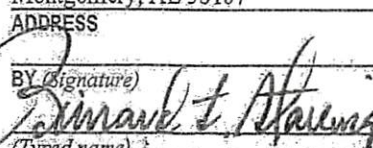
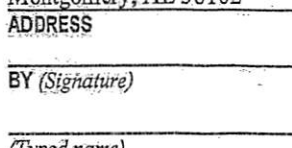
TOTAL.....\$41,200.45

The original Contract Sum was	\$	1,983,362.00
The net change by previously authorized Change Orders	\$	0.00
The Contract Sum prior to this Change Order was	\$	1,983,362.00
The Contract Sum will be increased by this Change Order in the amount of	\$	41,200.45
The new Contract Sum including this Change Order will be	\$	2,024,562.45

The Contract Time will be increased by Twenty One (21) days.
 The date of Substantial Completion as of the date of this Change Order therefore is

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

PH&J Architects, Inc. ARCHITECT (Firm name) 807 South McDonough Street Montgomery, AL 36104 ADDRESS BY (Signature)  (Typed name) Patrick Addison, Vice President	Stallings & Sons, Inc. CONTRACTOR (Firm name) PO Box 70040 Montgomery, AL 36107 ADDRESS BY (Signature)  (Typed name) RICHARD F. STALLINGS Jeff Stallings, Secretary/Treasurer PRESIDENT DATE	Montgomery County Commission OWNER (Firm name) PO Box 1667 Montgomery, AL 36102 ADDRESS BY (Signature)  (Typed name) Elton Dean Sr., Chairman DATE
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Travelers Casualty and Surety Company of America

Renee Ellis
 Attorney-in-Fact

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User Notes:

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20-3



POWER OF ATTORNEY

Farmington Casualty Company
 Fidelity and Guaranty Insurance Company
 Fidelity and Guaranty Insurance Underwriters, Inc.
 St. Paul Fire and Marine Insurance Company
 St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
 Travelers Casualty and Surety Company
 Travelers Casualty and Surety Company of America
 United States Fidelity and Guaranty Company

Attorney-In Fact No. 228023

Certificate No. 007200272

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Billie Jo Sanders, Paul B. Scott Jr., Renee Ellis, Thomas J. Gentile, David J. Durden, and Milton A. Kopf

of the City of Montgomery, State of Alabama, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 24th day of April, 2017.

Farmington Casualty Company
 Fidelity and Guaranty Insurance Company
 Fidelity and Guaranty Insurance Underwriters, Inc.
 St. Paul Fire and Marine Insurance Company
 St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
 Travelers Casualty and Surety Company
 Travelers Casualty and Surety Company of America
 United States Fidelity and Guaranty Company



State of Connecticut
 City of Hartford ss.

By: Robert L. Raney
 Robert L. Raney, Senior Vice President

On this the 24th day of April, 2017, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
 My Commission expires the 30th day of June, 2021.



Marie C. Tetreault
 Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

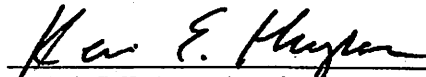
FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 14 day of August, 20 17.


Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

AUG - 7 2017

Old Selma Road Montgomery County Park

ITEM NO.	ITEM DESCRIPTION	QTY	UNIT	CONTRACT AMOUNT	
				UNIT PRICE	TOTAL AMOUNT
	Asphalt Road (4261 SY)				
1	Unclassified Excavation	7000	CY	8.00	\$56,000.00
2	Bottomless Culvert	4	EA	25,000.00	\$100,000.00
3	825B Aggregate Road Base (8" Thick)	4,261	SY	\$ 14.00	\$59,654.00
4	424B Asphalt Binder Layer (2" Thick)	516	TON	\$ 110.00	\$56,713.91
5	424A Asphalt Wearing Surface (1" Thick)	258	TON	\$ 110.00	\$28,356.96
6	Curb	3,700	LF	\$ 11.00	\$40,700.00
	Asphalt Road Total				\$341,424.87
	Gravel Road and Parking (7640 SY)				
7	Unclassified Excavation	7000	CY	8.00	\$56,000.00
8	Bottomless Culvert	1	EA	25,000.00	\$25,000.00
9	825B Aggregate Road Base (8" Thick)	7,640	SY	\$ 14.00	\$106,960.00
	Gravel Road Total				\$187,960.00
	6' Gravel Trail (2022 SY)				
10	Unclassified Excavation	1000	CY	8.00	\$8,000.00
11	825B Aggregate Road Base (6" Thick)	2,022	SY	\$ 12.00	\$24,264.00
	Gravel Trail Total				\$32,264.00
	8' Asphalt Walking Trail (4970 SY)				
12	Unclassified Excavation	2,000	CY	\$ 8.00	\$16,000.00
13	825B Aggregate Road Base (6" Thick)	4,970	SY	\$ 12.00	\$59,640.00
14	424A Asphalt Wearing Surface (2" Thick)	600	TON	\$ 110.00	\$66,000.00
	Walking Trail Total				\$141,640.00
	Parking Lot (2226 SY)				
15	Unclassified Excavation	2,800	CY	\$ 8.00	\$22,400.00
16	825B Aggregate Base (6" Thick)	2,226	SY	\$ 12.00	\$26,712.00
17	424B Asphalt Binder Layer (2" Thick)	300	TON	\$ 110.00	\$33,000.00
18	424A Asphalt Wearing Surface (1" Thick)	150	TON	\$ 110.00	\$16,500.00
19	Curb	550	LF	\$ 11.00	\$6,050.00
	Parking Lot Total				\$104,662.00
	Pond (5 ac)				
20	Unclassified Excavation	38185	CYIP	4.00	\$152,740.00
21	Compacted Fill	38185	CYIP	1.00	\$38,185.00

Old Selma Road Montgomery County Park

ITEM NO.	ITEM DESCRIPTION	QTY	UNIT	CONTRACT AMOUNT	
				UNIT PRICE	TOTAL AMOUNT
22	Water Well	1	EA	\$ 40,000.00	\$40,000.00
23	Environmental Mitigation	1	LS	\$ 160,000.00	\$160,000.00
	Pond Total				\$390,925.00
	Utilites				
24	6" Water Main w/ Bends	3,687	LF	\$ 15.00	\$55,305.00
25	12" Steel Casing w/ Spacers (Class II Installation)	60	LF	\$ 200.00	\$12,000.00
26	Fire Hydrant	5	EA	\$ 3,500.00	\$17,500.00
27	6" Gate Valve	5	EA	\$ 1,500.00	\$7,500.00
28	Miscellaneous Piping for Pavillion	1	EA	\$ 7,500.00	\$7,500.00
29	Septic System w/ Drain Fields	1	LS	\$ 30,000.00	\$30,000.00
	Utilites Total				\$129,805.00
	Electrical				
30	Overhead Power	1	LS	\$ 100,000.00	\$100,000.00
	Electrical Total				\$100,000.00
31	Pavilions	1	LS	\$ 350,000.00	\$350,000.00
	Miscellaneous				
32	6' Chain Link Fence	6,550	LF	\$ 25.00	\$163,750.00
33	Playground	1	LS	\$ 25,000.00	\$25,000.00
34	Entrance Sign	1	LS	\$ 4,000.00	\$4,000.00
35	Maintenance Building	1	LS	\$ 15,000.00	\$15,000.00
36	Erosion Control	1	LS	\$ 15,000.00	\$15,000.00
	Miscellaneous Total				\$222,750.00
	USACE Individual Permit				\$40,000.00
	Grand Total				\$2,041,430.87



GMC

OLD SELMA ROAD MASTER PLAN

Construction Projects and Asset Purchases

AGENDA**AUG - 7 2017****In Progress/Committed**

Vehicle Maintenance Shop	1,600,000	
Annex II-Retaining Wall repair (in progress)	175,000	
Perry Street Parking Deck (County share)	<u>750,000</u>	2,525,000

Immediate/Critical

New Jail		
Replace 63 showers (replacement of one shower as test in progress)	1,000,000	
Old Jail		
Strip, clean and prep all existing paint and paint with appropriate epoxy paint;		
Polish existing concrete floors and replace rusted door frames;		
Renovate kitchen	4,000,000	
Annex II-Weatherization, replacement of windows and storefront, interior paint and carpet, roof repair	1,000,000	
Greil Building-weatherization	400,000	
CareHere-weatherization, handicap restroom	120,000	
350 Adams Avenue-roof, interior and exterior paint, carpet, bathroom	175,000	
Annex III-weatherization, parking deck separation, water membrane	700,000	
Carnegie-Up-grade all existing sump-pumps at basement entrance areaways, install new sump-pumps at all basement window wells, install generator to support sump-pumps at building during power outage and isolate building from existing underground City's storm water system	<u>100,000</u>	7,495,000

Neglected Repair and Maintenance

Courthouse-update interiors (paint, carpet, lighting); relocate jury assembly to basement; reconfigure existing space for conference and meeting rooms for witnesses, mediation, etc.; add weather vestibule; upgrade elevators	9,100,000	
Scott Street Parking Deck-upgrade elevators, membrane, paint	<u>1,255,000</u>	10,355,000

Other

Annex I-replace remaining mechanical, electrical (critical for IT), plumbing, lighting as has been done throughout the rest of Annex I; renovate south end of 2 nd floor for IT and Engineering; update security lobby; upgrade elevators; upgrade interior finishes in cafeteria	<u>4,316,000</u>	<u>4,316,000</u>
--	------------------	------------------

TOTAL**24,691,000****Optional**

Carnegie Building-interior repairs and renovations; upgrade elevators; renovate bathrooms	1,200,000	
Herron Street-repair retaining wall, replace HVAC, update interior finishes, Replace roof	250,000	

Future Projects

Old Selma Road Park
Terminal Road Park
South Montgomery County Property
Courthouse-complete renovation and addition

22-1

Aug 3, 2017

Members of the Montgomery County Commission
101 S. Lawrence Street
Montgomery, AL 36104

Re: Opinion on Applicability of Executive Session

Dear Montgomery County Commission Members:

We are requesting for Chamber representatives to appear before the Montgomery County Commission on Monday August 7, 2017 in executive session. Please be advised that we have reviewed the commerce or trade matter which the Montgomery County Commission proposes to discuss in executive session. It is our opinion that an executive session is authorized for this discussion under Section 7(a)(7) of Act No. 2005-40, and an open meeting will have a detrimental effect upon the competitive position of the Montgomery County Commission.

Pursuant to Section 7(a)(7) of Act No. 2005-40, a copy of this letter should be attached to the minutes of the County Commission meeting wherein the body considers a motion to convene an executive session to discuss this matter.

Sincerely,



Ellen G. McNair, CEcD
Senior Vice President
Corporate Development



ATTACHMENT E:

A Checklist for Conducting Lawful EXECUTIVE SESSIONS

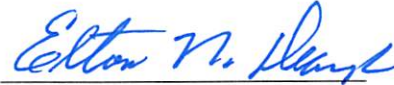
	For Reference, See	
☐ 1. Convene An Open Meeting	Page 21	Section IV (A) 1
☐ 2. Enter a motion stating the reason for the Executive Session. <i>Executive Sessions may only be called for one of the following reasons:</i> - General Reputation and Character, Job Performance, or Salaries / Compensation - Formal Complaints or Charges Against an Individual or Legal Entity - Discussion with the Government Body's Attorney - Security Plans and Measures - Criminal Investigation and the Identity of an Undercover Agent or Informer - Negotiations to Buy / Sell / Lease Real Property - Preliminary Negotiations in Trade Competition - Negotiations Between The Body and a Group of Public Employees - Discuss and Vote Upon a Public or Contested Case Hearing	Page 21 Page 21 Page 23 Page 23 Page 24 Page 25 Page 25 Page 26 Page 27 Page 27	Section IV (A) 2 Section IV (B) 1 Section IV (B) 2 Section IV (B) 3 Section IV (B) 4 Section IV (B) 5 Section IV (B) 6 Section IV (B) 7 Section IV (B) 8 Section IV (B) 9
☐ 3. Receive a Written or Oral Declaration (if necessary). - Written Declarations are required for these Executive Sessions: - Discussion with the body's attorney concerning options for, and ramification of, litigation, mediation, or arbitration. - Discussions that would disclose the identity of an undercover informant or that focus on criminal investigations of non-public officials. - Discussions concerning the negotiations between the body and a group of public employees. - It is required that a designated person certify that the Executive Session is warranted for these specific reasons before the body votes to go into Executive Session.	Page 20	Section IV (A) 4
☐ 4. Vote to go into Executive Session - The vote must be open/public; and - Each member must openly give his/her individual vote.	Page 20	Section IV (A) 4
☐ 5. Enter a Statement Concerning Reconvention	Page 21	Section IV (A) 5

ADJOURNMENT

There being no further business to come before the Commission at this time, the meeting stood adjourned until Monday, August 21, 2017, at 8:00 in the morning.



Administrator



Chairman