

MINUTES OF REGULAR MEETING

MONTGOMERY COUNTY COMMISSION

DECEMBER 19, 2016

INFORMATION SESSION

Chairman Dean called the meeting to order at 8:04 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 Sankey. 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

Vice Chairman Walker requested a \$1,500 miscellaneous appropriation from her account to the Alabama Baseball Coaches Association for Programs.

Vice Chairman Walker requested a \$2,500 miscellaneous appropriation from her account to the Montgomery Area Council on Aging for Programs.

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

COMMENTS FROM ADMINISTRATOR MIMS

Administrator Mims noted that the Alabama Dance Theatre would make their presentation to the Commission on Tuesday, January 17, 2017. The Commission agreed.

Administrator Mims presented a Retirement Resolution honoring Juvenile Court Administrator Bruce R. Howell for 32 years of service to the County. After discussion, the Commission agreed to waive rules and add this item to the agenda.

DISCUSSION BY THE COMMISSION

Chairman Dean recommended the reappointment of Commissioner Dan Harris and Ms. Carolyn Millender as Board Members to the Montgomery County Community Punishment and Corrections Authority. After discussion, the Commission agreed to waive rules and add these reappointments to the agenda.

COMMENTS FROM DEPUTY ADMINISTRATOR CAUTHEN

Deputy Administrator Cauthen briefed the Commission regarding a Bid Award to Pierce Roofing, Inc., for Scott Street Parking Deck roof repair. After discussion, the Commission agreed to waive rules and add this item to the agenda.

Deputy Administrator Cauthen briefed the Commission regarding a Bid Award to Montgomery Armored Car Services, Inc., for armored car service, Bid Award Number 51100-17B-004. After discussion, the Commission agreed to waive rules and add this item to the agenda.

Deputy Administrator Cauthen briefed the Commission regarding a Written Notice of Renewal of the Lease Agreement with East Montgomery Investment Company for the Probate-Revenue East Office. Vice Chairman Walker requested a copy of the lease. After discussion, the Commission agreed to place this item on the next agenda.

PRESENTATION BY PRINCIPAL BOOKER T. MCMILLIAN WITH MLK ELEMENTARY SCHOOL AND PRESIDENT/CEO STEVE GOLDSBY WITH INTEGRATED COMPUTER SOLUTIONS, INC.

Principal Booker T. McMillian with MLK Elementary School requested funding for playground equipment for the school. Principal McMillian stated that the project is estimated to cost \$75,000. President/CEO Steve Goldsby with Integrated Computer Solutions, Inc. (ICS), informed the Commission that ICS will fund \$10,000 of the project. No action was taken by the Commission.

PRESENTATION BY FINANCE DIRECTOR SHERRILL THOMAS

Finance Director Sherrill Thomas requested authorization of a Public Administration Intern position and related Position Fill Request. After discussion, the Commission agreed to place this item on the next agenda.

PRESENTATION BY DIRECTOR OF RISK MANAGEMENT SCOTT KRAMER

Director of Risk Management Scott Kramer briefed the Commission regarding Amendment Number 3 to Agreement – Sharing of On-Site Primary Care Clinics with the City of Montgomery, Alabama and Montgomery Water Works and Sanitary Sewer Board concerning Participation and Location of Workers Compensation and Occupational Health Services. After discussion, the Commission agreed to place this item on the next agenda.

Mr. Kramer discussed a request from Mayor Todd Strange to enter into a \$15,000 professional services agreement with Maze Marshall as Montgomery ADA Compliance Coordinator for a period of six months with the option of renewal. He stated that Mr. Marshall would evaluate the existing infrastructure and facilities to determine ADA Compliance. After discussion, the Commission agreed for Mr. Marshall to visit with them at a future meeting.

PRESENTATION BY EXECUTIVE DIRECTOR PAUL BROWN WITH COMMUNITY CORRECTIONS

Executive Director Paul Brown with Community Corrections presented a Report concerning a review of felony sentencing from May-October 2016, in response to a request from the County Commission. (Copy of Report, Agenda Pages 19-1 through 19-4, is attached to these Minutes.)

Mr. Brown presented the Census and Fiscal Report for November 2016 for Community Corrections.

PRESENTATION BY GENERAL SERVICES DIRECTOR LAMAR ALLEN AND REALTOR FRANK THOMAS WITH FRANK THOMAS AND ASSOCIATES, LLC

General Services Director Lamar Allen updated the Commission regarding estimated repairs to the parking deck at 100 South Perry Street. (Copy of Cost Estimate, Agenda Pages 20-1 through 20-16, is attached to these Minutes.)

Realtor Frank Thomas with Frank Thomas and Associates, LLC, stated that \$500,000 is the asking price for the parking deck.

PRESENTATION BY SHERIFF DERRICK CUNNINGHAM

Sheriff Derrick Cunningham briefed the Commission regarding a Position Fill Request for Administrative Support Associate (CO0013), Position Number 500013232 from the Detention Facility. After discussion, the Commission agreed to place this item on the next agenda.

He also briefed the Commission regarding a Position Fill Request for Deputy Sheriff Corporal (CO0429), Position Number 550429131 from the Sheriff's Office. After discussion, the Commission agreed to place this item on the next agenda.

COMMENTS FROM DEPUTY ADMINISTRATOR CAUTHEN

Deputy Administrator Cauthen presented recommended changes to the Position Fill Request form and Budget Change Request form and related approval process. After discussion, the Commission agreed to waive rules and add these recommended changes to the agenda.

PRESENTATION BY CHIEF INFORMATION AND TECHNOLOGY OFFICER LOU IALACCI

Chief Information and Technology Officer Lou Ialacci stated that he did not have anything to report to the Commission at this time. He thanked the Commission for their support in 2016.

PRESENTATION BY COUNTY ENGINEER GEORGE SPEAKE

County Engineer George Speake briefed the Commission regarding Amendment Number 1 to a Contract with Osburn Association, Inc., for traffic signage & supplies, Contract Number 53104-16B-005. After discussion, the Commission agreed to place this item on the next agenda.

Administrator Mims presented a letter from the Alabama Department of Transportation (ALDOT) regarding the selection of Mr. Steve Graben as the New Southeast Region Engineer.

Administrator Mims inquired as to whether Mr. Speake had received a response from ALDOT regarding the Commission's request to lower the speed limit at the intersection of Alabama Highway 126 and Wares Ferry Road. Mr. Speake stated that they have not received a report.

PRESENTATION BY JUVENILE COURT ADMINISTRATOR BRUCE R. HOWELL WITH THE YOUTH FACILITY

Juvenile Court Administrator Bruce R. Howell presented a Position Fill Request for Juvenile Court Administrator (CO00314), Position Number 900314041 from the Youth Facility. After discussion, the Commission agreed to waive rules and add this item to the agenda.

PRESENTATION BY PUBLIC AFFAIRS DIRECTOR DIDI HENRY

Public Affairs Director DiDi Henry briefed the Commission on upcoming events.

COMMENTS FROM ADMINISTRATOR MIMS

Administrator Mims presented an email from Public Information & External Affairs Director Michael Briddell with the City of Montgomery regarding a board member appointment to the Central Alabama Aging Consortium (CAAC). Commissioner Doug Singleton volunteered to serve on the board. After discussion, the Commission agreed to place this appointment on the next agenda.

Administrator Mims presented a Non-Profit Agency Funding Request from The Coach Chapman Foundation. After discussion, Vice Chairman Walker agreed to discuss this request with the organization.

Administrator Mims presented a brochure and request for funding regarding I AM MORE THAN...PUT YOURSELF IN THEIR SHOES, The Creative Extremist Museum & Student Travel Center. Commissioner Sankey agreed to discuss this request with the organization.

Administrator Mims presented the ACCA District Meetings Schedule. He noted that Montgomery County is scheduled to meet on Thursday, January 19, 2017 at Marriott Legends at Capitol Hill, Prattville, Alabama.

Administrator Mims presented the NACO Legislative Conference, Washington, D.C., Schedule for February 25 – March 1, 2017.

Administrator Mims presented the ACCA County Days at the Legislature Schedule. He noted that Montgomery County is scheduled for Wednesday, March 29, 2017, to lobby the Alabama State House.

Administrator Mims presented the ACCA 2017 Calendar of Events.

Administrator Mims presented the Schedule of Upcoming Bids/Contract Renewals.

Administrator Mims presented the Service of Process Fee (Sheriff Process Fee) Collection for December 2016.

Administrator Mims presented the Revenue Reports for November 2016 from Tax and Audit Department.

Administrator Mims presented the Population Report for November 2016 for the Mac Sim Butler Detention Facility.

DISCUSSION BY THE COMMISSION

Chairman Dean recommended naming the Flatwood Community Center the “Jiles Williams, Jr. Community Center”. The Commission agreed to discuss this recommendation at the next meeting.

RECESS TO FORMAL SESSION

Chairman Dean recessed the Information Session to the Formal Session.

FORMAL SESSION

Chairman Dean welcomed everyone to the Formal Session.

The meeting was opened with prayer led by Bishop Jimmy Lee Sawyer, Pastor of Mathew Church of God, at the request of Commissioner Harris.

The Pledge of Allegiance was led by Chairman Dean.

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 Tyrone C. Means and County Engineer George C. Speake.

Vice Chairman Walker made a motion to approve the Minutes of the Regular Meeting of December 5, 2016. The motion was seconded by Commissioner Harris and unanimously approved by the Commission.

CONSENT AGENDA

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

Commissioner Sankey 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 6, are attached to these Minutes.)

NEW BUSINESS

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

Vice Chairman Walker made a motion to Adopt Amended Resolution regarding Taxpayers Bill of Rights. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copy of Proposed Amended Resolution-Taxpayers Bill of Rights, Agenda Pages 1-1 through 1-43, are attached to these Minutes.)

PIKE ROAD VOLUNTEER FIRE PROTECTION AUTHORITY – APPROVED BOARD MEMBER APPOINTMENT

Commissioner Sankey made a motion to appoint Colonel Jim Miller to the Pike Road Volunteer Fire Protection Authority with a term expiring March 1, 2021. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum, Letter, Colonel Miller's Biographical information and Board Members' Appointment Page, Agenda Pages 2-1 through 2-4, are attached to these Minutes.)

MONTGOMERY COUNTY PARKS AND RECREATION BOARD – APPROVED BOARD MEMBER APPOINTMENT

Commissioner Harris made a motion to appoint Andre' Howard to the Montgomery County Parks and Recreation Board with a term expiring December 4, 2021. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum, and Board Members' Appointment Page, Agenda Pages 3-1 and 3-2, are attached to these Minutes.)

SHERIFF'S OFFICE – APPROVED AMENDMENT NUMBER 1 TO CONTRACT WITH GULF STATE DISTRIBUTORS, INC., FOR EMERGENCY EQUIPMENT (CONTRACT NUMBER 52110-16B-008)

Commissioner Sankey made a motion to approve Amendment Number 1 to Contract with Gulf State Distributors, Inc., for Emergency Equipment (Contract Number 52110-16B-008.) The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies Memorandum, and Contract, Agenda Pages 4-1 and 4-2, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED MISCELLANEOUS APPROPRIATIONS REPROGRAMMING REQUESTS

Administrator Mims requested approval of the miscellaneous appropriations included in his memorandum dated December 19, 2016. During the County Commission Meeting, Chairman Dean requested that the following miscellaneous appropriation reprogramming requests be added and his fellow Commissioners concurred:

C-2017-27: Alabama Baseball Coaches Association Inc, for the Montgomery Miracle League - \$1,500.00; (Walker)

C-2017-28: MACOA for Community Services Programs - \$2,500.00; (Walker)

Vice Chairman Walker made a motion to approve Miscellaneous Appropriations Reprogramming requests. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copy of Memorandum, Agenda Pages 5-1 and 5-2, are attached to these Minutes.)

COUNTY COMMISSION APPROPRIATIONS – APPROVED BUDGET CHANGE REQUEST NUMBER 17 TO EMPOWERING COMMUNITIES HELPING OURSELVES (ECHO) IN THE AMOUNT OF \$10,000

Commissioner Harris made a motion to approve Budget Change Request Number 17 to Empowering Communities Helping Ourselves (ECHO) in the amount of \$10,000. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copy of Budget Change Request, Agenda Page 6-1, is attached to these Minutes.)

COUNTY COMMISSION APPROPRIATIONS – APPROVED BUDGET CHANGE REQUEST NUMBER 18 TO LIGHTHOUSE COUNSELING CENTER, INC., IN THE AMOUNT OF \$60,000

Commissioner Harris made a motion to approve Budget Change Request Number 18 to Lighthouse Counseling Center, Inc., in the amount of \$60,000. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Budget Change Request, Agenda Page 7-1, is attached to these Minutes.)

VARIOUS DEPARTMENTS – APPROVED BUDGET CHANGE REQUEST NUMBER 2,
BOARD OF REGISTRARS AND BUDGET CHANGE REQUEST NUMBER 2,
ENGINEERING DEPARTMENT

Commissioner Singleton made a motion to approve Budget Change Request Number 2, Board of Registrars and Budget Change Request Number 2, Engineering Department. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copy of Budget Change Request, Agenda Pages 8-1 and 8-2, are attached to these Minutes.)

YOUTH FACILITY – APPROVED POSITION FILL REQUESTS

Administrator Mims requested approval of the position fill requests from the Youth Facility included in the memorandum dated December 13, 2016.

Commissioner Sankey made a motion to approve the Position Fill Requests. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Memorandum and Position Fill Requests, Agenda Pages 9-1 through 9-3, are attached to these Minutes.)

REVENUE COMMISSIONER’S OFFICE – APPROVED POSITION FILL REQUEST

Administrator Mims requested approval of the position fill request from the Revenue Commissioner’s Office included in the memorandum dated November 29, 2016.

Commissioner Harris made a motion to approve the Position Fill Request. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Position Fill Request, Agenda Pages 10-1 and 10-2, are attached to these Minutes.)

DETENTION FACILITY – APPROVED POSITION FILL REQUEST

Administrator Mims requested approval of the position fill request from the Detention Facility included in his memorandum dated December 15, 2016.

Commissioner Singleton made a motion to approve the Position Fill Request. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Memorandum and Position Fill Request, Agenda Pages 11-1 and 11-2, are attached to these Minutes.)

VARIOUS DEPARTMENTS – APPROVED TRAVEL/TRAINING REQUESTS (8)

DEPARTMENTS

TRAVEL/TRAINING REQUESTS

1. County Commission
2. Tax and Audit
3. Sheriff’s Office

Request Numbers 9 and 10
Request Number 4
Request Number 13

- | | | |
|----|------------------------|-------------------------|
| 4. | Risk Management | Request Numbers 3 and 4 |
| 5. | Community Corrections | Request Number 5 |
| 6. | Probate Judge's Office | Request Number 2 |

Vice Chairman Walker made a motion to approve Travel/Training Requests (8). The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Travel Training Requests, Agenda Pages 12-1 through 12-8, 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:

YOUTH FACILITY – APPROVED POSITION FILL REQUEST FOR JUVENILE COURT ADMINISTRATOR (CO00314), POSITION NUMBER 900314041

Commissioner Harris made a motion to approve Position Fill Request for a Juvenile Court Administrator (CO00314), Position Number 900314041. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page13-1, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED BID AWARD TO PIERCE ROOFING, INC., FOR SCOTT STREET PARKING DECK ROOF REPAIR

Vice Chairman Walker made a motion to approve Bid Award to Pierce Roofing, Inc., for Scott Street Parking Deck Roof Repair. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Memorandum, Letter and Bid Tabulation, Agenda Pages 14-1 through 14-3, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED BID AWARD TO MONTGOMERY ARMORED CAR SERVICES, INC., FOR ARMORED CAR SERVICE, BID AWARD NUMBER 51100-17B-004

Commissioner Sankey made a motion to approve Bid Award to Montgomery Armored Car Services, Inc., for Armored Car Service, Bid Award Number 51100-17B-004. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Bid Tabulation, Agenda Pages 15-1 and 15-2, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED CHANGES TO POSITION FILL REQUEST FORM AND BUDGET CHANGE REQUEST FORM AND RELATED APPROVAL PROCESS AS PRESENTED IN MEMORANDUM FROM DEPUTY ADMINISTRATOR FLORENCE CAUTHEN DATED DECEMBER 13, 2016.

Vice Chairman Walker made a motion to approve changes to Position Fill Request Form and Budget Change Request Form and Related Approval Process as Presented in Memorandum from Deputy Administrator Florence Cauthen dated December 13, 2016. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Memorandum, Position Fill Request-Budgeted Vacancy Form, Position Fill Request Unbudgeted Position Form and Budget Change Request Form, Agenda Pages 16-1 through 16-4 are attached to these Minutes.)

MONTGOMERY COUNTY COMMUNITY PUNISHMENT AND CORRECTIONS AUTHORITY – APPROVED BOARD MEMBER REAPPOINTMENTS

Vice Chairman Walker made a motion to reappoint Carolyn Millender and Daniel Harris to the Montgomery County Community Punishment and Corrections Authority with terms expiring December 1, 2019. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Board Members' Appointment Page, Agenda Pages 17-1 and 17-2, are attached to these Minutes.)

COUNTY COMMISSION – ADOPTED RETIREMENT RESOLUTION HONORING JUVENILE COURT ADMINISTRATOR BRUCE R. HOWELL FOR 32 YEARS OF SERVICE TO THE COUNTY

Commissioner Harris made a motion to adopt Retirement Resolution Honoring Juvenile Court Administrator Bruce R. Howell for 32 years of Service to the County. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Retirement Resolution, Agenda Pages 18-1 and 18-2, are attached to these Minutes.)

COMMENTS BY COMMISSIONERS AND ATTENDEES

Juvenile Court Administrator Bruce Howell thanked the Commission for honoring him with the resolution and said it had been a pleasure working at the Youth Facility. He said he has faced some health issues, but is happy to say that he only has two more radiation treatments. Mr. Howell said that it was time for him to go and let somebody else take over as administrator.

Marion Giles, a retiree of the Montgomery County Youth Facility, said good morning and said that she enjoyed working with Mr. Howell for approximately 30 years. She thanked the Commission for its support of the Youth Facility. Ms. Giles said that she had an opportunity to attend the Camellia Bowl game and it was great. She also stated that she has faith in the Commission and that she wished them a Merry Christmas and prosperous New Year in 2017.

Montgomery County Probate Judge Steven Reed introduced himself and also introduced Probate Court Supervisor Vanessa Evans. Judge Reed stated that Ms. Evans was retiring after 35 years of service. Judge Reed also said that Ms. Evans had been in the supervisory capacity for 10 of those 34 years where she exemplified excellent and positive leadership skills. He then presented her with a plaque from the Montgomery County Probate Office for her years of service.

Montgomery County Probate Court Supervisor Vanessa Evans said that it had been an honor to work in the Probate Office and that she will miss it, but it was time to go.

Bishop Jimmy Lee Sawyer of Mathew Church of God greeted everyone and thanked Chairman Dean and the Commission for all their help. He said since April he had experienced nothing but kindness from the Commission in helping him try to correct the traffic problems in Pike Road. Bishop Sawyer said he looks forward to working with Commissioner Sankey because his church is located in Commissioner Sankey's district. He then wished everyone a prosperous New Year.

Mr. William Levi Gailliard said good morning to everyone and stated that he was excited because 2016 had been a great year. He said that Chairman Dean once said to him that he was so far ahead of us. Mr. Gailliard said for over 25 years he has been in every school spreading the word to "Think Big." He stated that he had come to the Commission twice in 2016 to request funding and both times had been a success. He said he looks forward to continuing to bring the idea to "Think Big" to Montgomery County and to working with the Commission in 2017.

Commissioner Singleton said good morning to everyone and asked Ms. Jane James of the Pike Road Volunteer Fire Department to stand and be recognized. He stated that Ms. James was the founding mother of the volunteer fire department and will soon be retiring.

Commissioner Sankey said that it was good to see everyone and was thankful for all the joy in the world. He thanked Public Affairs Manager DiDi Henry for helping him in his first weeks as a commissioner. He stated that he would like for love to go forward and Think Big.

Melinda Williams of Congresswoman Terri Sewell's Office introduced students from Forest Avenue School who attended the Commission Meeting to learn about county government as part of their Portfolio of Alabama History.

Vice Chairman Walker said good morning to everyone and said that she was glad to have the privilege to serve the people of Montgomery County. Vice Chairman Walker also stated that she was glad and happy that Christmas falls on a Sunday this year.

Chairman Dean thanked everyone for coming. He said he wanted to thank all the Department Heads and all the employees because he feels as if we are the best in the state of Alabama. He stated that he voted to give the Volunteer Fire Departments money because they work hard and work well with the Sheriff's Office. He said that he was glad to be a part of a City and County that is growing. Chairman Dean wished everyone a Merry Christmas and a Happy New Year.

Commissioner Harris greeted everyone and said that he would just echo what has already been said. He said that he believes the Commission gets better and better each year because of the hard work of department heads and all county employees. Commissioner Harris said this year was a special year because the county celebrated its 200th Birthday. He said it was an innovative year of celebrations and thanked DiDi Henry and all Montgomery County employees who helped make the celebration successful. Commissioner Harris thanked Juvenile Court Administrator Mr. Bruce Howell and wished him well.

ADJOURNMENT

Vice Chairman Walker made a motion to adjourn the meeting of the Montgomery County Commission on December 19, 2016, at 10:06 a.m. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission.

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 11-23-16

Check Number	To	Check Number
265712		265770
Total Checks Paid		\$373,794.94

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

AGENDA

DEC 19 2016

12-19-16 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 12-2-16

Check Number	To	Check Number
265771		265815
Total Checks Paid		\$122,366.17

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

AGENDA

DEC 19 2016

12-19-16 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 12-2-16

Check Number	To	Check Number
265816		265890
Total Checks Paid		\$554,312.25

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

12-19-16 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 12-9-16

Check Number	To	Check Number
265891		265940
Total Checks Paid		\$39,634.58

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

AGENDA

DEC 19 2016

12-19-16 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 12-9-16

Check Number	To	Check Number
265941		266047
Total Checks Paid		\$866,953.87

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

AGENDA**DEC 19 2016**

CHECKS ARE DATED
12/9/16

Payroll Check Number	126855	To	Payroll Check Number	126923	\$ 49,282.36
Direct Deposits					\$ 903,160.59
Payroll Check Number	126924	To	Payroll Check Number	126946	\$ 262,937.11
Direct Deposits					\$ 411,826.24
Federal Deposits					\$ 345,976.36
Total Payroll Paid					\$ 1,973,182.66

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

ELTON N. DEAN, SR.
CHAIRMAN

RONDA M. WALKER
VICE CHAIRMAN

DANIEL HARRIS, JR.
ANDREW D. HALL
JILES WILLIAMS, JR

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

DEC 19 2016

MEMORANDUM

DATE: November 30, 2016

TO: Sherrill Thomas, Finance Director

FROM: Terri Henderson, Revenue Manager *Terri Henderson SD 11/30/16*

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 August 18, 2014. Many of these revisions are necessary to satisfy the requirements of Act No. 2016-406 (pursuant to SB335) which will apply to our sales, use and lodging taxes, taxpayer appeals and to third-party auditing firms and third-party collecting firms effective January 1, 2017 and thereafter.

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, December 5, 2016, 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 this 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

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 computed as one percent (1%) per month on any overpayment or underpayment of tax, or pursuant to Ala. Code § 40-2A-18 on a final assessment.

(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.

(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 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.

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 shall ~~may~~ include in the Department's ~~annual~~ periodic reports to the Commission, information about the number or kind of audits or assessments conducted in the year 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 months, provided, that any such agreement may be renewed at the discretion of the Director for succeeding periods not to exceed twelve 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.

~~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 for the services of to the Private examining Auditing or Collecting Firm conducting the examination is contingent upon or otherwise in any manner related to the amount of tax, license fee, interest, court cost, or 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 examining 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 examining 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 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 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 their 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

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 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 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.

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 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 article, 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 article, the terms person or company shall mean any individual, firm, copartnership, association, corporation, receiver, trustee, or any other group or combination acting as a unit and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(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 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. 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) 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.

(e) 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 be subject to requirements for collecting and remitting 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, provided the seller was a participant in the program for at least six (6) months prior to establishing such physical presence or filing obligation.

(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 and shall include the eligible seller's program account number issued by the ADOR upon the eligible seller's approval as a participant in the program.

(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.

(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.

(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.

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 "ONESPOT" established pursuant to Ala. Code § 40-23-240 (1975).

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

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ISAIAH SANKEY
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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

DEC 19 2016

December 15, 2016

MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*
County Administrator

SUBJECT: Board Member Appointment to Pike Road Volunteer Fire Protection Authority

The Montgomery County Commission, at its meeting on December 5, 2016, agreed to place on the next agenda the appointment of Colonel Jim Miller, with a term expiring March 1, 2021, as a board member of the Pike Road Volunteer Fire Protection Authority. Colonel Miller will replace Jane James, due to her resignation effective December 31, 2016.

I am requesting approval of this appointment.

/tn

Attachments



PIKE ROAD VOLUNTEER FIRE PROTECTION AUTHORITY

3427 Wallahatchee Rd. • P.O. Box 640099 • Pike Road, AL 36064 • (334) 271-1048

November 28, 2016

Donnie Mims, Administrator
Montgomery County Commission
P.O. Box 1667
Montgomery, AL 36102-1667

RE: RESIGNATION OF DIRECTOR JANE JAMES

Dear Mr. Mims,

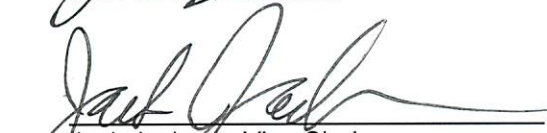
On October 24, 2016, the Pike Road Volunteer Fire Protection Authority (PRVFPA) Board of Directors regrettably voted to accept Director Jane James's resignation from the Board effective December 31, 2016. Mrs. James has served the PRVFPA with distinction for many years as a director. Her presence and contributions will be greatly missed.

Following this, the Board unanimously voted to recommend to the Montgomery County Commission that Mrs. James' replacement be Colonel Jim Miller (USAF Ret.) please see attached biography. Therefore, the PRVFPA Board of Directors recommends to the Montgomery County Commission and our County Commissioner that they accept our selection of Jim Miller as the replacement for Director Jane James.

Thank you for your consideration of the Board's recommendation.

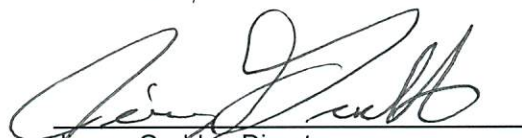
Sincerely,


Jane James, Chairman


Jack Jackson, Vice Chairman


Angie Bradsher, Secretary/Treasurer


Will Barfoot, Director


Jimmy Grubbs, Director

Cc: Doug Singleton, Commissioner
File

Colonel James R. Miller (Jim), (USAF, Ret) was born in Riverside, California, at the Corona Naval Hospital.

He graduated from the University of Pittsburgh (PITT) in 1979 with a Bachelors Degree in Economics.

Immediately following his graduation from PITT, he was commissioned a Second Lieutenant in the United States Air Force (USAF) and a Distinguished Graduate of the Reserve Officer Training Program.

While stationed at Elmendorf Air Force Base, Alaska, he earned a MLA in Psychology in 1988 from Alaska Pacific University.

He was a Distinguished Graduate from the USAF Weapons Controller School. His duties included tracking enemy aircraft worldwide and later became an instructor at that school..

In 1982, he became an Air Intelligence Officer. He held many positions as an Intelligence Officer including Deputy Director for Joint Support at the Pentagon, as well as Director Joint Military Command Center Intelligence on 9/11. His last position was the Senior Intelligence Officer on Maxwell Air Force Base.

Jim is the Co-Owner of Full Spectrum Solutions, LLC.

He was a volunteer with the Pike Road Volunteer Fire Department.

He is married to Colonel Carol Miller, (USAF, Ret). They have four sons.

Jim and Carol have been residents of Mathews, Alabama, since 1999.

Pike Road Volunteer
Fire Protection Authority

Members:

Term Expires:

David Livingston
13715 Old Pike Road
Mathews, AL 36052
Cell: 334-657-2013
Office: 334 281-6303
Jlivings41960@hotmail.com

3/1/2017

Jimmy Grubbs
10608 Old Pike Road
Mathews, AL. 36052
334-288-6051 home
334-315-7007 cell

3/1/2019



Jane James
1864 Flowers Road
Mathews, AL 36052-3003
Home: 272-1734
jamest@alum.mit.edu

3/1/2021

Charles Williamson "Will" Barfoot
HOME: 4280 Wallahatchie Road
Pike Road, AL. 36064
(Home) 334-271-0713
(Cell) 334-315-3426
WORK: 608 South Hull Street
Montgomery, AL. 36104
(Work) 334-834-3444
cwb@barfootschoettker.com

3/1/2020

Angie Bradsher
51 Waters View Drive
Pike Road, Alabama 36064
Cell: (334) 318-6274
angiebradsher@yahoo.com

3/1/2020

cc: Chris Weller (334) 241-8066
Capell and Howard P.C.

Term: 6 years

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VICE CHAIRMAN

DANIEL HARRIS, JR.
ISAIAH SANKEY
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AGENDA

DEC 19 2016

December 15, 2016

MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*
County Administrator

SUBJECT: Montgomery County Parks and Recreation Board Member Reappointment

The Montgomery County Commission, at its meeting on December 5, 2016, agreed to place on the next agenda the reappointment of Andre' Howard as a board member of the Montgomery County Parks and Recreation Board, with a term expiring December 4, 2021.

I am requesting approval of this reappointment.

DLM/tn

Attachment

Montgomery County Parks and Recreation Board

Members:

Term Expires:

* Andre' Howard
143 Wilkinson Street
Montgomery, AL 36104
Cell: (334) 462-2696
Work: (334) 265-1504
howardsphd@att.net

12/4/2016

Mark Salter
3909 Oak Street
Montgomery, AL 36104
Home: 262-4173
Work: 262-7727
Cell: 601-291-9131

12/4/2019

James B. Phillips
2139 Yarbrough Street
Montgomery, AL 36110
Home: 263-9438
Cell: 850-4667

12/4/2018

Charles Powe
19 Stone Park Trail
Pike Road, AL 36064
Cell: 334220-6579
Home: 260-9232
Email: cbigjr8590@charter.net

12/4/2020

Lynn Gowan
440 Town Lake Place
Montgomery, AL 36117
Cell: 391-4661

12/4/2017

Term: 5 years

AGENDA

DEC 19 2016

MEMORANDUM

TO: Donald L. Mims, County Administrator
FROM: Myrtle Singleton, Purchasing Manager *mls*
DATE: November 29, 2016
RE: Contract No. 52110-16B-008
Emergency Equipment

I request that the attached Amendment No. 1 to Gulf States Distributors, Inc. contract for emergency equipment be considered for approval on a future agenda.

Amendment No. 1 will allow the contract to be extended for one (1) year, beginning December 21, 2016 and ending on December 20, 2017.

Gulf States Distributors, Inc. would like to increase prices by 5% in accordance with the terms of the contract. All other provisions of the contract shall remain the same.

This contract extension has been coordinated with Derrick Cunningham, Sheriff.

Attachment

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

Amendment
To
Contract # 52110-16B-008

Amendment No. 1

Contract with Gulf States for emergency equipment, is hereby extended for one (1) year, beginning December 21, 2016 and ending December 20, 2017.

Prices will increase by 5%, in accordance with the contract.

All other provisions of the contract remain the same.

WITNESS:

GULF STATES DISTRIBUTORS, INC.

BY: _____

TITLE: _____

WITNESS:

MONTGOMERY COUNTY COMMISSION

BY: _____

TITLE: _____

ELTON N. DEAN, SR.
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AGENDA

DEC 19 2016

December 19, 2016

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-2017-26: Alabama Shakespeare Festival, for Educational Programs - \$5,000; (Harris)
- NC-2017-52: BOE, Peter Crump Elementary School, for Principal's Discretionary Fund - \$500; (Harris)
- NC-2017-53: BOE, Vaughn Road Elementary School, for Principal's Discretionary Fund - \$500; (Harris)
- NC-2017-54: BOE, Jefferson Davis High School, for Principal's Discretionary Fund - \$500; (Harris)
- NC-2017-55: City of Montgomery, to be used by BONDS to support Spring Valley/Cross Creek/Valley Village, with Funding to Promote the Community Enhancement and Beautification Programs/Projects - \$1,000; (Harris)
- NC-2017-56: City of Montgomery, to be used by BONDS to Support Carriage Hills Neighborhood Association, with Funding to Promote the Community Enhancement and Beautification Programs/Projects - \$1,000; (Harris)

- A COUNTY OLDER THAN THE STATE -

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

5-1

MEMORANDUM
Montgomery County Commission
December 19, 2016
Page 2

- NC-2017-57: City of Montgomery Parks and Recreation Department, for Old Selma Road Community Center for Senior Citizens Activities; Attn: Rufus Ellis - \$1,000; (Dean)
- NC-2017-58: BOE, Brewbaker Technology Magnet School, for Principal's Discretionary Fund for Teacher's Workshop - \$100; (Singleton)

DLM/tll

DEC 19 2016

BUDGET FORM 5

MONTGOMERY COUNTY COMMISSION BUDGET CHANGE REQUEST

REQUEST NUMBER 17

DEPARTMENT:	County Comm Appropriations	REVIEWED:	S. Thomas	12/8/2016
DATE:	12/5/2016		Finance Director	Date
REQUESTED BY:	Donald L. Mims	APPROVED:		
Elected Official/Dept. Head		Administrator		Date

ACCOUNT NAME	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
Empowering Communities Helping Ourselves (ECHO)	001-57600.470	5,000	10,000	15,000
Donation Revenue	001-40000.47701	(150,500)	(10,000)	(160,500)
TOTAL		(145,500)	0	(145,500)

To budget for an appropriation to support ECHO's free at risk after school feeding program.

DEC 19 2016

BUDGET FORM 5

MONTGOMERY COUNTY COMMISSION BUDGET CHANGE REQUEST

REQUEST NUMBER 18

DEPARTMENT:	County Comm Appropriati	REVIEWED:	S. Thomas	12/8/2016
DATE:	12/5/2016		Finance Director	Date
REQUESTED BY:	Donald L. Mims	APPROVED:		
Elected Official/Dept. Head		Administrator		Date

ACCOUNT NAME	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
Lighthouse Counseling Center	001-55500.431	19,200	60,000	79,200
Fund Balance	001.35900	0	(60,000)	
TOTAL		19,200	0	79,200

JUSTIFICATION:

Provide funding to keep the Lighthouse Counseling Center Drug Treatment Program operational in the Montgomery County Jail due to a lack of funding by the State of Alabama.

MONTGOMERY COUNTY COMMISSION BUDGET CHANGE REQUEST

REQUEST NUMBER 2

DEPARTMENT:	Board of Registrars	REVIEWED:	S. Thomas	11/28/2016
			Finance Director	Date
REQUESTED BY:	George M. Noblin	APPROVED:		
Elected Official/Dept. Head	Date	Administrator		Date

ACCOUNT NAME	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
Extra Help	001-51920-115	8,030	2,000	10,030
Overtime	001-51920-113	5,721	(2,000)	3,721
TOTAL		13,751	0	13,751

JUSTIFICATION:

To cover extra help needed to process thousands of Provisional Ballots, and Provisional/ Regular update forms to meet election certification and purge list deadlines immediately following 2016 General Election.

MONTGOMERY COUNTY COMMISSION BUDGET CHANGE REQUEST

REQUEST NUMBER 2

DEPARTMENT:	Engineering	REVIEWED: S. Thomas	11/28/16
		Finance Director	Date
REQUESTED BY:	George C. Speake	APPROVED:	
Elected Official/Dept. Head	11/21/2016	Administrator	Date

ACCOUNT NAME	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE (DECREASE)	REVISED BUDGET
Fuels & Lubricants	111-53400.212	198,770	(2,800)	195,970
Small Tools and Minor Equip	111-53400.214	2,500	2,800	5,300
TOTAL		201,270	0	201,270

JUSTIFICATION:

To realign budget for Small Tools and Minor Equipments in District III

Memo

To: Mr. Donnie Mims, Montgomery County Administrator
From: Bruce R. Howell, Juvenile Court Administrator
Date: December 13, 2016
Re: Juvenile Detention Officer Fill Requests

The Youth Facility has two detention officer vacancies which need to be filled. I am requesting that these two fill requests be placed on the December 19th formal agenda for approval to fill these vacancies.

Thank you for your consideration!

Requisition for Montgomery City County Personnel
For Recruitment, Referral of Eligible Lists, and Special Appointments

Status: Routed to County Commission
Requisition ID: 1272

Date Requisition Created: 11/17/2016 12:01:02 PM

Requisition Properties

Start Date	11/17/2016		PositionNumber	900300004
Desired Hire Date	12/19/2016		Recruitment Number	
Position Type	Prefer Position(s) to be Filled By			
Open Competitive & Reemployment	☒		Open Competitive & Reemployment	☒

Department and Class Information

Department Name	SelBudget	Job Class Code and Title
Youth Facility	☒	90 - YOUTH FACILITY ☒ CO0300 - Juvenile Detention Of ☒
Override Dept Name	Certify Register from Alternate Job Class	
Select Department	☒	Select Job Class and Job Title ☒

List Requirements

You must provide a number from 1 to 99 for the number of vacancies.

# Vac	Jurisdictions	Emp. Status
1 ☒	Montgomery County ☒	Full-Time ☒

Notes

[View Details](#)

Requisition Supporting Information

Proposed		County
Effective	12/19/2016	Payroll
Date of Hire	Pay Grade PC1	Number

Notes

COUNTY
USE ONLY
Manpower
Data Entered
By

COUNTY
USE ONLY
Manpower
Data Entered
On

Requisition for Montgomery City County Personnel
For Recruitment, Referral of Eligible Lists, and Special Appointments

Status: Routed to County Commission
Requisition ID: 1274

Date Requisition Created: 11/17/2016 3:56:06 PM

Requisition Properties

Start Date	11/17/2016		PositionNumber	900300070
Desired Hire Date	12/19/2016		Recruitment Number	
Position Type	Prefer Position(s) to be Filled By			
Open Competitive & Reemployment	☒		Open Competitive & Reemployment	☒

Department and Class Information

Department Name	SelBudget	Job Class Code and Title
Youth Facility	☒	90 - YOUTH FACILITY ☒ CO0300 - Juvenile Detention Of ☒
Override Dept Name	Certify Register from Alternate Job Class	
Select Department	☒	CO0300 - Juvenile Detention Officer ☒

List Requirements

You must provide a number from 1 to 99 for the number of vacancies.

# Vac	Jurisdictions	Emp. Status
1 ☒	Montgomery County ☒	Full-Time ☒

Notes View Details

Requisition Supporting Information

Proposed Effective Date of Hire	12/19/2016	Pay Grade PC1	County Payroll Number
Notes	 		
COUNTY USE ONLY Manpower Data Entered By	COUNTY USE ONLY Manpower Data Entered On		

JANET BUSKEY
REVENUE COMMISSIONER

ALLYSON HOLLAND
CHIEF CLERK

CLAY HENLEY
CHIEF APPRAISER
APPRAISAL DEPARTMENT

MONTGOMERY COUNTY

REVENUE COMMISSIONER'S OFFICE

P.O. Box 1667
Montgomery, AL 36102-1667
Phone: (334) 832-1250 Fax: (334) 832-1644 website: www.mc-ala.org



AGENDA

DEC 19 2016

To: Elton Dean, Chairman
Montgomery County Commission

From: Allyson Holland, Chief Clerk *A.H.*
Revenue Commissioner's Office

cc: Rhonda Walker, Vice-Chair, Dan Harris, Isaiah Sankey, Doug Singleton

Date: November 29, 2016

Re: Position Fill Requests

Our office is requesting to fill a vacancy for Revenue Branch Supervisor. The position was recently vacated due to a retirement. The East office, located on Atlanta Highway, is one of our busiest offices, especially during this tax season. This position is included in our current budget.

We respectfully request the approval of the County Commission to fill this vacancy. Thank you for your consideration in this matter.

Main Office
Downtown (Annex III)
101 S. Lawrence St
Montgomery, AL 36104

East Office
5447 Atlanta Hwy
Montgomery, AL 36109
(334) 272-9692

West Office
3075 Mobile Hwy
Montgomery, AL 36108
(334) 262-4546

Appraisal and Mapping
131 S Perry St
Montgomery, AL 36104
(334) 832-1303

10-1

Requisition for Montgomery City County Personnel
For Recruitment, Referral of Eligible Lists, and Special Appointments

Status: Routed to County Commission

Date Requisition Created: 11/29/2016 10:00:13 AM

Requisition ID: 1286

Requisition Properties

Start Date	1/2/2017		PositionNumber	800120023
Desired Hire Date	1/2/2017		Recruitment Number	-
Position Type	Promotional	☒	Prefer Position(s) to be Filled By	Select One ☒

Department and Class Information

Department Name	Revenue Commission	☒	SelBudget	80 - REVENUE COMMISSION	☒	Job Class Code and Title	CO0120 - Revenue Bran	☒
Override Dept Name	Select Department	☒	Certify Register from Alternate Job Class	Select Job Class and Job Title	☒			

List Requirements

You must provide a number from 1 to 99 for the number of vacancies.

# Vac	Jurisdictions	Emp. Status
1 ☒	Montgomery County ☒	Full-Time ☒
Notes		View Details
Vacancy Due to Retirement		

Requisition Supporting Information

Proposed	County
Effective 1/2/2017	Payroll 800120023
Date of Hire	Number

Notes

COUNTY USE ONLY Manpower Data Entered By	COUNTY USE ONLY Manpower Data Entered On

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

DEC 19 2016

December 15, 2016

MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*
County Administrator

SUBJECT: Position Fill Request for Detention Facility

The Montgomery County Commission, at its meeting on December 5, 2016, agreed to place on the next agenda a Position Fill Request for Corrections Officer Trainee (CO0419)/Corrections Officer (CO0420), Position Number 500420078 from the Detention Facility.

I am requesting approval of this item.

DLM/tn

Attachment

Requisition for Montgomery City County Personnel
For Recruitment, Referral of Eligible Lists, and Special Appointments

Status: Routed to County Commission
Requisition ID: 1270

Date Requisition Created: 11/17/2016 9:19:17 AM

Requisition Properties

Start Date	11/17/2016		PositionNumber	500420078
Desired Hire Date	11/21/2016		Recruitment Number	-
Position Type	Open Competitive	☒	Prefer Position(s) to be Filled By	Open Competitive ☒

Department and Class Information

Department Name	☒	SelBudget	Job Class Code and Title
Detention Facility	☒	50 - DETENTION FACILITY ☒	CO0420 - Corrections Office ☒
Override Dept Name	☒	Certify Register from Alternate Job Class	
Select Department	☒	Select Job Class and Job Title	☒

List Requirements

You must provide a number from 1 to 99 for the number of vacancies.

# Vac	Jurisdictions	Emp. Status
1 ☒	Montgomery County ☒	Full-Time ☒

Notes View Details

Requisition Supporting Information

Proposed Effective Date of Hire	11/21/2016	Pay Grade	PC1-1	County Payroll Number
Notes	Replacement of Johnshay McGuire position #078			
COUNTY USE ONLY	COUNTY USE ONLY			
Manpower Data Entered By	Manpower Data Entered On			

Montgomery County Commission
Travel / Training Request Approval

Appendix C

Request # 9

AGENDA

DEC 19 2016

Date: December 7, 2016
To: Donald L. Mims, Administrator
From: Donald L. Mims, Administrator
Re: Travel / Training Request

Request approval to be granted for the following:

Destination: Prattville, Alabama
Departure Date: April 19, 2017 Return Date: April 20, 2017
Conference Leave (Days / Hours): 2 Days
Purpose of Travel: to attend the ACCA Financial Administration Course

Traveler (s) Name: 1. Isaiah Sankey 4. _____
2. _____ 5. _____
3. _____ 6. _____

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

Total (est.) Cost: \$224.56 Advance Registration Required: \$190.00
Department Name: County Commission Fund Name: General
Additional Comments: Registration - \$190.00 Mileage \$34.56

To: Donald L. Mims, Administrator
From: Donald L. Mims, Administrator

The above request is app. 12/19/16 reimbursement of actual and necessary expenses in the
approximate amount of \$224.56 and advance registration of \$190.00 is authorized.

<i>To be completed by the Finance Department</i>		
Fund Code:	<u>001-51100.265</u>	(ex: 000-00000-000)
Description:	<u>Registration & Training</u>	
Current Budget:	<u>\$22,500.00</u>	
Approved Requests:	<u>\$4,195.15</u>	
Budget Available:	<u>\$18,304.85</u>	
Current Requests:	<u>\$224.56</u>	
Budget Balance:	<u>\$18,080.29</u>	

Donald L. Mims, Administrator

Reviewed by: S. Thomas
Date: 12/8/2016
cc: Finance Director / Buyer

12-1

Revised October 12, 2005

Montgomery County Commission
Travel / Training Request Approval

Appendix C

Request # 10

AGENDA

DEC 19 2016

Date: December 7, 2016

To: Donald L. Mims, Administrator

From: Donald L. Mims, Administrator

Re: Travel / Training Request

Request approval to be granted for the following:

Destination: Prattville, Alabama

Departure Date: March 23, 2017

Return Date: March 24, 2017

Conference Leave (Days / Hours): 2 Days

Purpose of Travel: to attend the ACCA Road and Bridges Course

Traveler (s) Name: 1. Isaiah Sankey 4. _____
2. _____ 5. _____
3. _____ 6. _____

Check Mode of Transportation:

County Vehicle

☐
☒

Commercial Air

☐
☐

Private Vehicle

Other (Specify)

Total (est.) Cost: \$224.56

Advance Registration Required: \$190.00

Department Name: County Commission

Fund Name: General

Additional Comments: Registration - \$190.00 Mileage \$34.56

To: Donald L. Mims, Administrator

From: Donald L. Mims, Administrator

The above request is app. 12/19/16 reimbursement of actual and necessary expenses in the approximate amount of \$224.56 and advance registration of \$190.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>001-51100.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$22,500.00</u>
Approved Requests:	<u>\$4,195.15</u>
Budget Available:	<u>\$18,304.85</u>
Current Requests:	<u>\$449.12</u>
Budget Balance:	<u>\$17,855.73</u>

Donald L. Mims, Administrator



Reviewed by: S. Thomas

Date: 12/8/2016

cc: Finance Director / Buyer

12-2

Revised October 12, 2005

Montgomery County Commission
Travel / Training Request Approval

Appendix C

Request # 4

Date: December 12, 2016
To: Donald L. Mims, Administrator
From: Terri Henderson, Revenue Manager
Re: Travel / Training Request

AGENDA
DEC 19 2016

Request approval to be granted for the following:

Destination: Birmingham, Alabama (Hyatt Regency Birmingham)

Departure Date: February 22, 2017 Return Date: February 24, 2017

Conference Leave (Days / Hours): 3 Days

Purpose of Travel: Attend GFOAA 33rd Annual Conference
Qualifies for 16 CPE Hours toward CRE 2017 certification requirement
Registration fee includes the \$50 annual membership for regular members.

Traveler (s) Name: 1. Terri Henderson 4. _____
2. _____ 5. _____
3. _____ 6. _____

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

Total (est.) Cost: \$850.36 Advance Registration Required: \$300.00

Department Name: Tax & Audit Fund Name: 001-51800-265

Additional Comments: Registration \$300 Lodging \$265 Mileage \$99.36. Meals \$150 Parking \$36

Earlybird Registration Fee of \$300.00 has to be paid in advance before 2/16/2016.

To: Terri Henderson, Revenue Manager
From: Donald L. Mims, Administrator

The above request is app. 12/19/16 reimbursement of actual and necessary expenses in the
approximate amount of \$850.36 and advance registration of \$300.00 is authorized.

<i>To be completed by the Finance Department</i>		
Fund Code:	<u>001-51800.265</u>	(ex: 000-00000-000)
Description:	<u>Registration & Training</u>	
Current Budget:	<u>\$11,250.00</u>	
Approved Requests:	<u>\$1,094.36</u>	
Budget Available:	<u>\$10,155.64</u>	
Current Requests:	<u>\$850.36</u>	
Budget Balance:	<u>\$9,305.28</u>	

Donald L. Mims, Administrator

Reviewed by: S. Thomas

Date: 12/12/2016

cc: Finance Director / Buyer

12-3

Revised October 12, 2005

Montgomery County Commission
Travel / Training Request Approval

Appendix C

Request # 13

AGENDA

DEC 19 2016

Date: December 14, 2016
To: Donald L. Mims, Administrator
From: Sheriff Derrick Cunningham
Re: Travel / Training Request

Request approval to be granted for the following:

Destination: Washington, DC
Departure Date: February 3, 2017 Return Date: February 7, 2017
Conference Leave (Days / Hours): 3 Days
Purpose of Travel: attend NSA Winter Conference

Traveler (s) Name: 1. Sheriff Cunningham 4. _____
2. _____ 5. _____
3. _____ 6. _____

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

Total (est.) Cost: \$2,400.00 Advance Registration Required: \$550.00

Department Name: Sheriff's Office Fund Name: 001-52110.265

Additional Comments: _____

To: Sheriff Derrick Cunningham
From: Donald L. Mims, Administrator

The above request is app. 12/19/16 reimbursement of actual and necessary expenses in the
approximate amount of \$2,400.00 and advance registration of \$550.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>001-52110.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$25,000.00</u>
Approved Requests:	<u>\$8,614.60</u>
Budget Available:	<u>\$16,385.40</u>
Current Requests:	<u>\$2,400.00</u>
Budget Balance:	<u>\$13,985.40</u>

Donald L. Mims, Administrator

Reviewed by: S. Thomas

Date: 12/14/2016

cc: Finance Director / Buyer

12-4

Revised October 12 2005

Montgomery County Commission
Travel / Training Request Approval

Appendix C

Request # 3

AGENDA

DEC 19 2016

Date: December 14, 2016
To: Donald L. Mims, Administrator
From: Scott Kramer, Risk Manager
Re: Travel / Training Request

Request approval to be granted for the following:

Destination: Huntsville, Al
Departure Date: September 13, 2017 Return Date: September 14, 2017
Conference Leave (Days / Hours): 2 Days
Purpose of Travel: to attend 2017 Worker's Compensation Seminar

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: \$437.30 Advance Registration Required: \$120.00

Department Name: Risk Management Fund Name: Liability

Additional Comments: Mileage- \$203.30 Lodging - \$114.00 Registration \$120

To: Scott Kramer, Risk Manager
From: Donald L. Mims, Administrator

The above request is app. 12/19/16 reimbursement of actual and necessary expenses in the
approximate amount of \$437.30 and advance registration of \$120.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>007-51100.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$15,000.00</u>
Approved Requests:	<u>\$939.80</u>
Budget Available:	<u>\$14,060.20</u>
Current Requests:	<u>\$437.30</u>
Budget Balance:	<u>\$13,622.90</u>

Donald L. Mims, Administrator

Reviewed by: S. Thomas

Date: 12/14/2016

cc: Finance Director / Buyer

12-5

Revised October 12, 2005

Montgomery County Commission
Travel / Training Request Approval

Appendix C

Request # 4

AGENDA
DEC 19 2016

Date: December 14, 2016
To: Donald L. Mims, Administrator
From: Scott Kramer, Risk Manager
Re: Travel / Training Request

Request approval to be granted for the following:

Destination: Birmingham, Al
Departure Date: June 7, 2017 Return Date: June 8, 2017
Conference Leave (Days / Hours): 2 Days
Purpose of Travel: to attend 2017 Worker's Compensation Seminar

Traveler (s) Name: 1. Judy Singley 4. _____
2. _____ 5. _____
3. _____ 6. _____

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

Total (est.) Cost: \$355.44 Advance Registration Required: \$120.00
Department Name: Risk Management Fund Name: Liability
Additional Comments: Mileage- \$98.44 Lodging - \$137.00 Registration - \$120.00

To: Scott Kramer, Risk Manager
From: Donald L. Mims, Administrator

The above request is app. 12/19/16 reimbursement of actual and necessary expenses in the
approximate amount of \$355.44 and advance registration of \$120.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>007-51100.265</u> (ex: 000-00000-000)
Description:	<u>Registration & Training</u>
Current Budget:	<u>\$15,000.00</u>
Approved Requests:	<u>\$939.80</u>
Budget Available:	<u>\$14,060.20</u>
Current Requests:	<u>\$792.74</u>
Budget Balance:	<u>\$13,267.46</u>

Donald L. Mims, Administrator

Reviewed by: S. Thomas
Date: 12/14/2016
cc: Finance Director / Buyer

12-6

Revised October 12, 2005

Montgomery County Commission
Travel / Training Request Approval

Appendix C

Request # 5

Date: December 6, 2016
To: Donald L. Mims, Administrator
From: Paul Brown, Executive Director
Re: Travel / Training Request

AGENDA
DEC 19 2016

Request approval to be granted for the following:

Destination: 1000 Riverchase Galleria Birmingham, AL

Departure Date: January 19, 2017 Return Date: January 19, 2017

Conference Leave (Days / Hours): one day

Purpose of Travel: To attend the Mental Health Summit: A Matter of Time

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: \$75.00 Advance Registration Required: \$0.00

Department Name: Community Corrections Fund Name: Community Corrections

Additional Comments: Meals

To: Paul Brown, Executive Director

From: Donald L. Mims, Administrator

The above request is app. 12/19/16 reimbursement of actual and necessary expenses in the
approximate amount of \$75.00 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>\$9,000.00</u>	
Approved Requests:	<u>\$2,175.00</u>	
Budget Available:	<u>\$6,825.00</u>	
Current Requests:	<u>\$75.00</u>	
Budget Balance:	<u>\$6,750.00</u>	

Donald L. Mims, Administrator

Reviewed by: S. Thomas

Date: 12/7/2016

cc: Finance Director / Buyer

12-7

Revised October 12, 2005

Montgomery County Commission
Travel / Training Request Approval

Appendix C

Request # 2

AGENDA

DEC 19 2016

Date: December 5, 2016

To: Donald L. Mims, Administrator

From: Steven L. Reed

Re: Travel / Training Request

Request approval to be granted for the following:

Destination: Prattville, AL

Departure Date: January 11, 2017 Return Date: January 12, 2017

Conference Leave (Days / Hours): 2 days

Purpose of Travel: To attend Alabama Licensing Officials Conference

Traveler (s) Name: 1. Kim Brown/Virginia Davis 4. Brenda Robinson
2. Adriane Harris/Michele Glenn 5. Arvetta Harris/Alesia Miles
3. Melissa Steward/Keisha Wright 6. Sharonda Davis

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

Total (est.) Cost: \$1,890.00 Advance Registration Required: \$1,250.00

Department Name: Probate Fund Name: 783-51350.265

Additional Comments: _____

To: Steven L. Reed

From: Donald L. Mims, Administrator

The above request is app. 12/19/16 reimbursement of actual and necessary expenses in the
approximate amount of \$1,890.00 and advance registration of \$1,250.00 is authorized.

<i>To be completed by the Finance Department</i>		
Fund Code:	<u>783-51350.265</u>	(ex: 000-00000-000)
Description:	<u>Registration & Training</u>	
Current Budget:	<u>\$3,000.00</u>	
Approved Requests:	<u>\$0.00</u>	
Budget Available:	<u>\$3,000.00</u>	
Current Requests:	<u>\$1,890.00</u>	
Budget Balance:	<u>\$1,110.00</u>	

Donald L. Mims, Administrator

Reviewed by: S. Thomas

Date: 12/5/2016

cc: Finance Director / Buyer

12-8

Revised October 12, 2005

DEC 19 2016**Requisition for Montgomery City County Personnel**
For Recruitment, Referral of Eligible Lists, and Special Appointments**Status:** Routed to County Dept Head/Elected Official
Requisition ID: 1294**Date Requisition Created:** 12/5/2016 11:19:29 AM**Requisition Properties**

Start Date 12/5/2016  Position Number 900314041

Desired Hire Date 1/1/2017  Recruitment Number  -

Position Type
Open Competitive ☒ Prefer Position(s) to be Filled By
Open Competitive ☒

Department and Class Information**Juvenile Court Administrator**

Department Name
Youth Facility ☒ SelfBudget Job Class Code and Title
90 - YOUTH FACILITY ☒ CO0314 - Juvenile Court Admin ☒

Override Dept Name
Select Department ☒ Certify Register from Alternate Job Class
Select Job Class and Job Title ☒

List Requirements

You must provide a number from 1 to 99 for the number of vacancies.

Vac Jurisdictions Emp. Status
1 ☒ Montgomery County ☒ Full-Time ☒

Notes

replacing Bruce R. Howell

[View Details](#)**Requisition Supporting Information**

Proposed
Effective Date of Hire 1/1/2017  Pay Grade A14
(\$82,224 - \$122,851) County
Payroll
Number

Notes

COUNTY
USE ONLY
Manpower
Data Entered
By

COUNTY
USE ONLY
Manpower
Data Entered
On

DEC 19 2016

December 13, 2016

MEMORANDUM

TO: Montgomery County Commission

FROM: Florence M. Cauthen 
Deputy Administrator

SUBJECT: Bid Award of Scott Street Parking Deck Roof Repair

Per the attached letter of recommendation from Goodwyn Mills and Cawood, I request that rules be waived to award the bid for repair of the Scott Street parking deck roof to Pierce Roofing, Inc., and to enter into a related construction contract in the amount of \$31,250.

Attachment



December 5, 2016

Ms. Florence Cauthen
MONTGOMERY COUNTY COMMISSION
Courthouse Annex Building
101 South Lawrence Street
Montgomery, AL 36104

REFERENCE: **CERTIFIED BID TABULATION
BID RECOMMENDATION**

PROJECT: SCOTT STREET PARKING DECK
FOR MONTGOMERY COUNTY COMMISSION
GMC PROJECT NO. AMGM160024

Dear Ms. Cauthen:

Bids were received for the above referenced project on Thursday, December 1, 2016 at 2:00 pm at the Montgomery County Commission office. We received five (5) bids. A certified Bid Tabulation is attached for your review along with the original Bid Proposals.

Based upon our review of the bid documents, Pierce Roofing, submitted the low Base Bid of \$31,250.00. If the Owner's Budget will allow it, we would recommend awarding the project to Pierce Roofing Inc. Upon your direction we will proceed with contract preparation.

Please do not hesitate to call if you have any questions. We look forward to the start of construction on this project.

Sincerely,

Freddie E. Lynn, Jr., AIA
Senior Vice President

FEL/ml

Attachment

cc: Chris Murphy
Steve Pendley

December 1, 2016

2:00 PM

Page 1 of 1

BASE BID:
For construction complete as shown and specified

TOTAL:

AMERSON ROOFING 505 N. Main Street Aurora, AL 36502 AL LICENSE NO.: 18200 BID BOND BY: The Charnell Insurance Co. NOTATIONS: None ITEMS RECEIVED ☒ PROPOSAL FORM ☒ BID BOND ☒ ATTACHMENT A ☒ ATTACHMENT B ☒ ATTACHMENT C ☒ E-VENUE ☒ ACKNOWLEDGED ADDENDUMS 1-1	CENTRAL ALABAMA METAL & ROOFING P.O. Box 210579 Montgomery, AL 36121 AL LICENSE NO.: 10783 BID BOND BY: Travelers Casualty & Surety Co. NOTATIONS: None ITEMS RECEIVED ☒ PROPOSAL FORM ☒ BID BOND ☒ ATTACHMENT A ☒ ATTACHMENT B ☒ ATTACHMENT C ☒ E-VENUE ☒ ACKNOWLEDGED ADDENDUMS 1-1	CROSS ROOFING, INC. 3001 Fifth Street Meridian, MS 39301 AL LICENSE NO.: 38301 BID BOND BY: Travelers Casualty & Surety Co. NOTATIONS: None ITEMS RECEIVED ☒ PROPOSAL FORM ☒ BID BOND ☒ ATTACHMENT A ☒ ATTACHMENT B ☒ ATTACHMENT C ☒ E-VENUE ☒ ACKNOWLEDGED ADDENDUMS 1-1	PIERCE ROOFING 452 County Road 41 Prichard, AL 36907 AL LICENSE NO.: 38204 BID BOND BY: The Guarantee Co. of North America NOTATIONS: None ITEMS RECEIVED ☒ PROPOSAL FORM ☒ BID BOND ☒ ATTACHMENT A ☒ ATTACHMENT B ☒ ATTACHMENT C ☒ E-VENUE ☒ ACKNOWLEDGED ADDENDUMS 1-1
BIDS \$44,488 NOTATIONS SUB-TOTALS \$44,488	BIDS \$58,400 NOTATIONS SUB-TOTALS \$58,400	BIDS \$107,000 NOTATIONS SUB-TOTALS \$107,000	BIDS \$31,250 NOTATIONS SUB-TOTALS \$31,250
TOTAL: \$44,488	TOTAL: \$58,400	TOTAL: \$107,000	TOTAL: \$31,250

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.

Freddie E. Lynn, Jr.
Freddie E. Lynn, Jr., AIA
Alabama Registration No. 3658

Sworn before me this 2nd day of December 2016.

Melissa Lee
Melissa Lee
My commission expires: April 22, 2019



SOUTHERN ROOFING COMPANY 2551 Lower Wetumpka Road Montgomery, AL 36104 AL LICENSE NO.: BID BOND BY: NOTATIONS: NO BID RECEIVED ITEMS RECEIVED ☒ PROPOSAL FORM ☒ BID BOND ☒ ATTACHMENT A ☒ ATTACHMENT B ☒ ATTACHMENT C ☒ E-VENUE ☒ ACKNOWLEDGED ADDENDUMS 1-1	STANDARD ROOFING OF MONTGOMERY P.O. Box 1309 Montgomery, AL 36102 AL LICENSE NO.: 21718 BID BOND BY: Western Surety Company NOTATIONS: NONE ITEMS RECEIVED ☒ PROPOSAL FORM ☒ BID BOND ☒ ATTACHMENT A ☒ ATTACHMENT B ☒ ATTACHMENT C ☒ E-VENUE ☒ ACKNOWLEDGED ADDENDUMS 1-1	AL LICENSE NO.: BID BOND BY: NOTATIONS: ITEMS RECEIVED ☒ PROPOSAL FORM ☒ BID BOND ☒ ATTACHMENT A ☒ ATTACHMENT B ☒ ATTACHMENT C ☒ E-VENUE ☒ ACKNOWLEDGED ADDENDUMS 1-1	AL LICENSE NO.: BID BOND BY: NOTATIONS: ITEMS RECEIVED ☒ PROPOSAL FORM ☒ BID BOND ☒ ATTACHMENT A ☒ ATTACHMENT B ☒ ATTACHMENT C ☒ E-VENUE ☒ ACKNOWLEDGED ADDENDUMS 1-1
BIDS No Bid Received NOTATIONS SUB-TOTALS	BIDS \$64,849 NOTATIONS SUB-TOTALS \$64,849	BIDS NOTATIONS SUB-TOTALS	BIDS NOTATIONS SUB-TOTALS
TOTAL:	TOTAL: \$64,849		

BASE BID:
For construction complete as shown and specified

TOTAL:

DEC 19 2016

MEMORANDUM

TO: Donald L. Mims, County Administrator

FROM: Myrtle Singleton, Purchasing Manager *MLS*

DATE: December 13, 2016

RE: Invitation to Bid No. 51100-17B-004
Armored Car Service

Request that rules be waived and approve of award on the above referenced Invitation to Bid, to the only bidder, Montgomery Armored Car Services, Inc., in the amount of \$18,928.56, be placed on the agenda December 19, 2016.

This contract will be from January 1, 2017 and ending December 31, 2017, with the option to renew for two (2) years in one year periods. A price escalation may be allowed, but shall not exceed 5% per year.

Coordination of award made with Terri Henderson, Revenue Manager and William Flowers, Chief Clerk of Probate.

Attachment

December 19, 2016 - Minutes of Regular Meeting
Montgomery County Commission

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15-2

AGENDA

DEC 19 2016

December 13, 2016

MEMORANDUM

TO: Montgomery County Commission

FROM: Florence M. Cauthen *fm*
Deputy Administrator

SUBJECT: Position Fill Requests and Budget Changes

The automated recruitment and selection software used by Personnel does not provide a printer-friendly requisition, previously referred to as a position fill request. The attached position fill request forms have been developed for department heads to complete prior to initiating the automated requisition in order to provide the Commissioners with the requisition information in an easy to read format.

The "Position Fill Request – Budgeted Vacancy" is intended to be used when a department has a vacant position that is included in the budget. The form would be used to fill a "routine" vacancy created by resignation, retirement or termination of an employee. It requires approval by the employee benefit manager, the finance director and the administrator.

The "Position Fill Request – Unbudgeted Position" is intended to be used when a department wants to create a new position or fill a position that is not included in the budget. It includes sections for justification of the request by the department head, financial notes by the finance director, and review by the administrator.

Department heads have expressed concern about the delay in filling a **budgeted vacancy** caused by the current approval process for position fill requests: noon deadline for briefing memo on Wednesday prior to commission meeting; review during information session; and approval at next meeting. If an employee gives a two week notice on Friday before a commission meeting, a department head may have to wait five to six weeks to **begin** the recruitment process.

The delay in filling a budgeted vacancy can be minimized if the position fill request for a budgeted vacancy goes straight to the agenda, with approval by the finance director and the administrator, as does a travel request.

A department's operation is also impacted by the same process for approval of budget changes that **realign** (do not grow) a department's operating budget. If a budget change that realigns the operating budget (for example, moves money from office supplies to postage) is approved by the finance director and the administrator, it could also go straight to the agenda and avoid a delay of several weeks. The revised budget change that is attached allows the administrator to direct a budget change to the briefing memo or the agenda.

I hope the revised position fill requests provide information in a format that is clear and concise. I appreciate your consideration of the revised forms and changes in the approval process for vacant budgeted positions and budget changes that realign a department's operating budget.

POSITION FILL REQUEST- BUDGETED VACANCY

DEPARTMENT:

DEPARTMENT HEAD:

SUPERVISOR:

POSITION INFORMATION:

Position Title

Position Number

Pay Grade/Salary Range

Proposed Effective Date

Type of Appointment

() Permanent () Temporary

DEPARTMENT APPROVAL:

Department Head

Date _____

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Employee Benefit Manager

Date _____

Finance Director

Date _____

ADMINISTRATIVE REVIEW:

County Administrator

Date _____

Revised 12/14/2016

POSITION FILL REQUEST- UNBUDGETED POSITION

DEPARTMENT:

DEPARTMENT HEAD:

SUPERVISOR:

POSITION INFORMATION:

Position Title

Position Number

Pay Grade/Salary Range

Proposed Effective Date

Type of Appointment

() Permanent

() Temporary

JUSTIFICATION:

Department Head

Date _____

FISCAL IMPACT:

Finance Director

Date _____

ADMINISTRATIVE REVIEW/COMMENTS:

County Administrator

Date _____

12/14/2016

16-3

Request Number: _____

COUNTY COMMISSION APPROVAL: _____

Administrator Date

ELTON N. DEAN, SR.
CHAIRMAN

DANIEL HARRIS, JR.
VICE CHAIRMAN

ANDREW D. HALL
RONDA M. WALKER
JILES WILLIAMS, JR.

A COUNTY OLDER THAN THE STATE

MONTGOMERY COUNTY COMMISSION

P.O. BOX 1667
MONTGOMERY, ALABAMA 36102-1667

ESTABLISHED 1816

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

DEC 19 2016

November 3, 2016

MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*
County Administrator

SUBJECT: Montgomery County Community Punishment & Corrections Authority Board
Appointments

Attached is a list of Board Members of the Montgomery County Community Punishment & Corrections Authority. Please note that the terms of Carolyn Millender and Daniel Harris will expire December 1, 2016.

I am requesting that the Commission discuss these appointments at the next meeting.

DLM/tn

Attachment

Montgomery County Community Punishment & Corrections Authority

Members:**Term Expires:**

Robert E. L. (Bobo) Gilpin
 Kaufman Gilpin McKenzie Thomas Weiss, PC
 P.O. Drawer 4540
 Montgomery, Alabama 36103-4540
 Direct Dial: 334-409-2236
 Email: rgilpin@kgmlegal.com

12/1/2018

* Carolyn Millender
 3552 Dee Drive
 Montgomery, AL 36116
carmil1908@knology.net
 Home: 281-2108 Cell: 313-1653

12/1/2016

* Daniel Harris
 3857 Colline Drive
 Montgomery, AL 36106
 Home: (334) 239-7351

12/1/2016

Frank Brown, Chairman
 PO Box 6101
 Montgomery, AL 36106-6101
 Cell: 224-2281 Work: 353-4609

12/1/2018

James E. Williams
 P.O. Drawer 5130
 Montgomery, AL 36103
 Home: 834-4746 Work: 263-6621

12/1/2018

Perry O. Hooper, Jr.
 4525 Executive Park Drive, Suite #202
 Montgomery, AL 36116
 Work: 334-409-3119
 Cell: 334-391-0554
perryo@paolmarins.com

12/1/2018

Larry Edward Spencer
 6414 Philadelphia Hill
 Montgomery, AL 36117
 Phone: 270-5538
lspencer@alasu.edu

12/1/2018

District Attorney Daryl Bailey
 Work: 832-2550

12/1/2016

Sheriff Derrick Cunningham
 Work: 832-2593

12/1/2018

Sheriff
 District Attorney
 All others

4 year term
 6 year term
 3 year term

17-2



Office of Public Affairs
Montgomery County Commission
P.O. Box 1667
Montgomery, Alabama 36102
334.832-1270

AGENDA

DEC 19 2016

MEMORANDUM

December 13, 2016

To: Montgomery County Commission

From: DiDi Henry, public affairs director

RE: Waive Rules Request for Resolution Honoring Bruce Howell

I am requesting that the Commission waive rules to place a resolution honoring Bruce Howell upon his retirement from Montgomery County on the agenda for the December 19, 2016, meeting.

Thank you for your consideration.

Resolution

Whereas, Bruce R. Howell obtained both his bachelor of science in law enforcement and a master's degree in criminal justice from Jacksonville State University; and

Whereas, he worked for over three years at the Gadsden Police Department and was chief probation officer for approximately eight years at the Etowah County Juvenile Court; and

Whereas, Mr. Howell was employed as the Chief Probation Officer of the Montgomery County Youth Facility on July 23, 1984; and

Whereas, On October 13, 2003, his title changed to Juvenile Court Administrator; and

Whereas, Mr. Howell has overseen renovations of the youth facility, in 1992 and again in 2014-2015; and

Whereas, under his direction, the Juvenile Court received numerous grants including a restitution grant, the WAIT (Weekend Adolescent Intensive Treatment) grant and several that provided community-based treatments for youth; and

Whereas, Mr. Howell was elected by the Alabama Chief Probation Officers' Association as their current representative on the State of Alabama Department of Youth Services Board of Directors; he also serves as a board member of the Alabama State Advisory Board for the juvenile justice court division and the Montgomery Area Mental Health Authority Board; and

Whereas, through his leadership, Mr. Howell has led county employees by example with his wit and his wisdom, and through his friendship and service; through his compassion and his stand for justice, he has influenced the lives of countless children who have gone through his facility,

NOW, THEREFORE, BE IT RESOLVED, that the Montgomery County Commission does hereby congratulate Bruce R. Howell upon his retirement from Montgomery County with 32 years of dedication and service and wish him much success and happiness as he begins this new chapter of his life.

We hereby certify that the above Resolution was adopted
by the Montgomery County Commission
on this, the 19th day of December, 2016.

CHAIRMAN ELTON N. DEAN, SR.

VICE CHAIRMAN RONDA M. WALKER

COMMISSIONER DANIEL HARRIS, JR.

COMMISSIONER ISAIAH SANKEY

COMMISSIONER DOUG SINGLETON

**MONTGOMERY COUNTY COMMUNITY
PUNISHMENT AND CORRECTIONS AUTHORITY**
301 ADAMS AVENUE • P.O. BOX 1667
MONTGOMERY, AL 36102-1667

AGENDA

DEC 19 2016

November 22, 2016

Review of Felony Sentencing May-October 2016

This Report is submitted in response to a request from the County Commission to track Felony Jail/Prison cases sentenced by the Montgomery County Circuit Court and in answer to the question as to what percentage of eligible inmates are placed in Community Corrections the following information was derived:

- There were a total of 168 cases that we initially screened as potential referrals to Community Corrections (CCP). This was based on the criminal charge or eventual charge for which the defendant could enter a plea.
- 85 cases were found not eligible or reimbursable for CCP, however, the Court did place 2 of these offenders on CCP instead of Probation for aggravating circumstances. All other ineligible offenders are not shaded (white)
- We requested from the Courts and received 9 offenders from the Department of Corrections as Institutional Diversions (Shaded in blue)
- We received a total of 54 eligible offenders directly from the Courts (Front-End shaded green)
- The 22 remaining cases (shaded pink) were tracked as potentially eligible but received other sentences – 5 of which would have qualified for CCP (a-e below)
 - a. 1 case had 6 prior felonies and the Judge decided that it was time to sentence this defendant to prison
 - b. 1 case had a prior Robbery 1st Degree and the Judge rejected the Public Defender's CCP request
 - c. 1 case had 3 concurrent felony offenses and the Judge rejected CCP but indicated an early ADOC release to CCP was possible
 - d. 1 case had repeatedly failed community-based drug treatment and was sentenced to ADOC to complete a drug program.
 - e. 1 case had 3 concurrent felony offenses and was declared a Habitual Offender and was sentenced to 154 months in prison.
- Virtually all of the remaining cases (17) were either serving other sentences in ADOC, the Federal Penitentiary, or had other jurisdictional holds or warrants barring placement on CCP.

There were 57 eligible and reimbursable inmates identified of which we received 52 for a 91% rate of eligible referrals. We also received two additional inmates which did not qualify for reimbursement from ADOC based on the Court's discretion.

I am available to discuss these results in detail with the Commission at the Commission's December 19th information session.

PAUL BROWN - EXECUTIVE DIRECTOR
(334) 832-7730 • FAX (334) 832-7176

JAIL/PRISON DIVERSION • DRUG COURT • COUNTY PROBATION • E.V.E.N. DOMESTIC VIOLENCE PROGRAM
GPS ELECTRONIC OFFENDER MONITORING • COMMUNITY SERVICE RESTITUTION • PRE-TRIAL RELEASE

19-1

Montgomery County Community Corrections Review of Case Placements

Received or Date of Sentence	Case #	Judge	Guidelines?/Result	Other Eligible	Charge	Placed on CCP?	NOTES: Or If Eligible and not CCP - Reason for Other Placement
5/3/2016	15-128	Hobbs	Institutional Diversion	N	Possession - Controlled Substance	Y	24 Months CCP
5/4/2016	15-631	Griffin	Y/Out	N	Poss Forged Instrument 2nd	Y	NR - Placed by the Ct. In lieu of Probation - Aggravating Circumstances
5/10/2016	14-532	Gaines	Institutional Diversion	N	4 Counts: TOP and Receiving	Y	18 Months Remaining - Reimbursed
5/17/2016	16-151	Reese	Y/Out	N	Poss. Control Substance	N - Probation	
5/17/2016	16-169	Reese	N	<10 Point	Assault 2nd Degree	N - Probation	
5/17/2016	16-215	Reese	N	N	Trafficking in Synth Drug	N - Probation	
5/17/2016	15-1436	Shashy	N	<10 Point	ISORNA Violation	N - Probation	Placed on non-reporting Probation
5/17/2016	15-374	Hardwick	Institutional Diversion	N	YOAA - Pistol W/O License & PCS	Y	9 Months CCP
5/18/2016	16-231	Griffin	Y/In	CCP/Prison	Burg. 3rd	Y	24 Months CCP
5/20/2016	16-69	Hardwick	Y/In	CCP/Prison	7 Counts: TOP, Burg. & PCS	Y	115 Months CCP - (24 Months Reimbursed)
5/26/2016	16-870	Hardwick	Y/In	CCP/Prison	Poss. Controlled Substance	Y	65 Months CCP - (24 Months Reimbursed)
5/24/2016	16-445	Shashy	Y/In	CCP/Prison	Theft Property 1st	N - DOC	6 Prior Felonies over 8 Years - First Prison Sentence
5/25/2016	16-292	Shashy	Y/In	CCP/Prison	FUCC X 18, TOP2 X4, Escape	Y	16 Months CCP
5/26/2016	15-25	Hardwick	Institutional Diversion	N	3 Counts: Identity Theft	Y	50 Months Remaining - (24 Months Reimbursed)
6/7/2016	16-485/12-1267	Reese	Y/In	CCP/Prison	Poss. Controlled Substance	Y	24 Months CCP
6/7/2016	16-126	Reese	Y/Out	N	Poss. Controlled Substance	N-Probation	
6/7/2016	16-223	Reese	Y/Out	N	Unlawful Distribution of C. S.	N-Probation	
6/7/2016	15-905	Reese	N	N	Misdemeanor	N-Probation	Unsupervised Court Probation
6/7/2016	15-682	Reese	N	N	Misdemeanor	N-Probation	Unsupervised Court Probation
6/7/2016	13-1317	Reese	N	N	Misdemeanor	N-Probation	Unsupervised Court Probation
6/7/2016	15-1073	Shashy	Y/Out	N	Poss. Controlled Substance	N-Probation	Unsupervised Court Probation
6/7/2016	15-1061	Shashy	Y/Out	N	Theft of Property 1st	N-Probation	3 months Supervised then 9 months Unsupervised Court Probation
6/9/2016	15-844	Reese	Y/In	CCP/Prison	Delivery Controlled Substance	Y	36 months CCP - To be presented to Judge Hobbs for Inst. Release Request
6/9/2016	15-839	Reese	N	N	Trafficking - Drugs	N-Probation	
6/9/2016	15-841	Reese	N	N	Conspiracy to Traffic CS	N-Probation	
6/9/2016	15-846	Reese	N	N	Trafficking - Drugs	N-Probation	
6/9/2016	15-847	Reese	N	N	Trafficking - Drugs	N-Probation	
6/9/2016	15-848	Reese	Y/In	CCP/Prison	Delivery Controlled Substance	Y	31 Months CCP - followed by 2 Years Probation
6/9/2016	15-849	Reese	N	N	Trafficking - Drugs	N-Probation	
6/9/2016	15-850	Reese	N	N	Conspiracy to Traffic CS	N-Probation	
6/9/2016	15-851	Reese	N	N	Trafficking - Drugs	N-Probation	
6/9/2016	15-856	Reese	Y/In	CCP/Prison	Delivery Controlled Substance	Y	15 years CCP
6/9/2016	15-858	Reese	N	N	Trafficking - Drugs	N-Probation	
6/9/2016	15-1311	Reese	Y/Out	N	Theft of Property	N-Probation	18 months probation
6/9/2016	16-242	Reese	N	N	Misdemeanor POM	N-Probation	Unsupervised Court Probation
6/9/2016	16-250	Reese	Y/In	CCP/Prison	Theft of Property	Y	76 Months CCP
6/9/2016	16-345	Reese	N	<10 Point	Assault 3rd Degree	N-Probation	Voluntary Guidelines
6/10/2016	16-19	Gaines	N	<10 Point	Assault 2nd Degree	Y	NR - Placed by the Ct. In lieu of Probation or DOC
6/14/2016	15-840	Reese	Y/In	CCP/Prison	Conspiracy to Possess C.S.	Y	CCP
6/14/2016	15-845	Reese	N	N	Conspiracy to Traffic CS	N - DOC	
6/14/2016	16-220	Reese	N	<10 Point	Theft by Fraud	N - Probation	
6/14/2016	16-230	Reese	Y/Out	N	Poss. Marijuana 1st	N - Probation	
6/14/2016	16-5067	Reese	N	N	POM - Misdemeanor	N	City Appeal
6/16/2016	13-106	Hardwick	Institutional Diversion	N	Possession Forged Instrument 2	Y	Need DOC Release from CCP - Time has been exceeded - Consec. To Concurrent
6/17/2016	16-95	Gaines	Y/In	Y	Burglary - 3rd Degree	Y	To Transfer to Dallas Co., AL CCP
6/17/2016	16-593	Shashy	Y/In	CCP/Prison	Fraud Use of Credit Card	Y	12 months CCP
6/15/2016	16-287	Shashy	N	N<10 Point	Certain Persons Proh. Weapon	Y	NR - 36 months CCP
6/21/2016	16-360	Hobbs	Y/In	CCP/Prison	Theft of Property 1st	Y	19 months CCP & 1 year State Probation
6/23/2016	16-240	Hobbs	Y/In	CCP/Prison	Poss. Forged Instrument 2nd	Y	24 months CCP
6/23/2016	16-595	Hobbs	Y/In	CCP/Prison	Poss. Controlled Substance	Y	18 months CCP
6/23/2016	16-224	Hobbs	Y/In	CCP/Prison	Burglary 3rd Degree	Y	80 months CCP
6/28/2016	DC 15-2255-6	Reese	Y/In	CCP/Prison	Distributing and PCS	N - DOC/Fed	To Serve Concurrent with Federal Prison Sentence
6/28/2016	16-756&582	Reese	Y/In	CCP/Prison	PCS X2	N-DOC	To Serve Concurrent with Current ADOC Sentence
6/28/2016	16-755	Reese	Y/In	CCP/Prison	POM 1st and Pistol W/O License	Y	13 Months CCP
6/28/2016	16-751	Reese	Y/In	CCP/Prison	Poss. Controlled Substance	Y	18 months CCP

6/28/2016	15-2008	Reese	Y/Out	N	Poss. Controlled Substance	N-Probation	13 months Probation
6/28/2016	16-295	Reese	Y/Out	N	Poss. Controlled Substance	N-Probation	Departed G-Lines Sentenced W/ Butler Co. Prison Sentence - 13 Mos. DOC
6/28/2016	16-742	Reese	Y/In	CCP/Prison	Poss. Controlled Substance	Y	12 months CCP
6/30/2016	16-612	Reese	Y/In	CCP/Prison	Poss. Controlled Substance	Y	18 months CCP
6/30/2016	16-755	Reese	Y/In	CCP/Prison	Poss. Maria. 1st	Y	13 months CCP
7/1/2016	16-297	Gaines	Y/In	CCP/Prison	Possession Forged Instrument	Y	80 Months CCP
7/6/2016	11-1250	Hardwick	Institutional Diversion	N	Theft of Property 2nd	Y	8 months CCP
7/7/2016	16-771	Reese	Y/Out	N	Poss. Marij. 1st	N-Probation	12 months Probation
7/7/2016	16-767	Reese	Y/Out	N	Distribution Marij.	N-Probation	24 months Probation
7/7/2016	16-772	Reese	Y/In	CCP/Jail/Prison	Poss. Controlled Substance	N-DOC	Reduced to Misdemeanor - 1 yr concurrent W/DOC Robbery Prison Sentence
7/7/2016	16-776	Reese	Y/Out	N	Poss. Marijuana 2nd	N-Probation	12 months Probation
7/7/2016	16-796	Reese	Y/Out	N	Poss. Marij. 1st	N-Probation	12 months Probation
7/7/2016	16-769	Reese	Y/In	N	Poss. Marij. 1st	N	Placed back on Probation for 12 months - Revocation was Pending - not Revoked
7/7/2016	16-489	Reese	Y/In	N	Poss. Marijuana 2nd	N	Reduced to Misdemeanor - 1 Y. Co. Jail - for Treatment - Felony Hold Elmore Co.
7/12/2016	16-632	Shashy	Y/In	CCP/Prison	Poss. Forged Instrument - 2nd	Y	16 Months CCP
7/12/2016	15-1008	Shashy	Y/Out	Probation	Trafficking Marijuana	N-Probation	Probation - Pending Federal Court Prosecution
7/12/2016	15-1277	Shashy	Y/In	CCP/Prison	Delivery Controlled Substance	Y	3 years CCP - followed by 1 yr Probation
7/14/2016	15-269	Reese	Y/In	CCP/Prison	Poss. Marijuana 2nd	N-DOC/Fed	To Serve Concurrent with Federal Prison Sentence
7/14/2016	16-775	Reese	Y/In	CCP/Prison	Possession of Marijuana	Y	13 Months CCP
7/14/2016	15-1330	Reese	Y/Out	N	Forgery 2nd	N-Probation	Probation and Referral to VA Hospital
7/14/2016	16-777	Reese	Y/Out	N	Possession Controlled Substance	N-Probation	Probation
7/14/2016	16-536	Reese	Y/Out	N	Possession of Forged Instrument	N	Youthful Offender Status Granted - 1yr Unsupervised Probation
7/14/2016	16-780	Reese	Y/Out	N	Possession Controlled Substance	N-Probation	Probation
7/14/2016	16-790	Reese	Y/Out	N	Trafficking Opium	N-Probation	Probation
7/14/2016	16-798	Reese	Y/Out	N	Receiving Controlled Substance	N-Probation	Probation
7/14/2016	16-781	Reese	Y/Out	N	Distribution Controlled Substance	N-Probation	Probation
7/19/2016	16-247	Reese	Y/Out	N	Theft of Property 2nd	N-Probation	Probation
7/19/2016	16-413	Reese	Y/In	CCP/Prison	Receiving Stolen Property 1st	Y	10 months CCP
7/19/2016	16-428	Reese	Y/Out	N	Possession Marijuana. 1st	N-Probation	Probation
7/19/2016	16-774	Reese	Y/Out	N	Possession Marijuana 1st	N-Probation	Probation
7/19/2016	16-782	Reese	Y/Out	N	Possession Marijuana 1st	N-Probation	Youthful Offender Status Granted - Probation
7/19/2016	16-783	Reese	Y/In	CCP/Prison	Possession Controlled Substance	Y	18 Months CCP
7/19/2016	16-784	Reese	Y/Out	N	Possession Controlled Substance	N-Probation	Probation - Transfer to Mobile County
7/19/2016	16-803	Reese	Y/In	CCP/Prison	Possession Controlled Substance	Y	24 months CCP
7/19/2016	16-413	Reese	Y/In	CCP/Prison	Receiving Stolen Property 1st	Y	18 months CCP
7/21/2016	16-153	Griffin	Y/In	CCP/Prison	Theft of Property 1st	Y	12 CCP - Followed by 24 months Probation
7/21/2016	16-121	Griffin	Y/In	CCP/Prison	Possession of Controlled Substance	Y	8 months CCP - Followed by 24 months Probation
7/27/2016	16-811	Shashy	Y/In	CCP/Prison	Possession of Controlled Substance	Y	13 Months CCP
7/27/2016	15-138	Shashy	Y/In	CCP/Prison	Theft of Property 2nd	Y	12 Months CCP
8/2/2016	09-1341 & 15-844	Reese & Hobbs	Institutional Diversion	N	Distribution and Possession C.S.	Y	36 Months CCP
8/11/2016	15-871	Hardwick	N	>10 Point	D.V. Strangulation	N	Deferred to Complete EVEN D.V. Program
8/11/2016	16-291	Hardwick	Y/In	CCP/Prison	POM 1 and POM II	N	To Serve Concurrent with Current ADOC Sentence
8/11/2016	16-717	Reese	Y/In	CCP/Prison	POM 1	Y	15 months CCP
8/12/2016	16-804	Shashy	Y/In	CCP/Prison	Theft of Property 3rd	Y	15 Months CCP
8/15/2016	16-254	Gaines	Y/In	CCP/Prison	POM 1st and Pistol W/O License	Y	24 months CCP - followed by 12 Months Probation
8/16/2016	16-777	Reese	Y/In	CCP/Prison	Possession Forged Instrument	Y	32 Months CCP
8/16/2016	16-328	Griffin	Institutional Diversion	N	TOP 3rd & Illegal Poss C-Card	Y	To serve balance of 12 Months on CCP
8/16/2016	16-237	Reese	N	< 10 Point	Assault 2nd w/ firearm	N-Probation	Sentenced to ADOC
8/16/2016	16-400	Reese	N	< 10 Point	SORNA Violation	N-Probation	3 yr ADOC Reverse Split to Probation
8/16/2016	16-609	Reese	Y/Out	N	Poss Marij. 1st	N-Probation	Probation
8/16/2016	16-706	Reese	N	Y 10 Point	Crim. Mischief - (reduced to Misd)	N-Probation	Probation
8/16/2016	16-761	Reese	Y/Out	N	Theft of Property 2nd	N-Probation	Probation
8/23/2016	16-512	Reese	N	>10 Point	Rape 2nd Degree	N	Sentenced to ADOC 78 Months - Concurrent with another Prison Sentence
8/23/2016	16-991	Reese	Y/In	CCP/Prison	Poss. Controlled Substance	N	Sentenced to ADOC 15 Months - Along with A Probation Violation
8/24/2016	16-207	Shashy	Y/Out	N	Theft of Property 2nd	N-Probation	3 months Supervised Probation - 9 months Unsupervised Probation
8/25/2016	16-399	Reese	Y/In	CCP/Prison	Poss. Controlled Substance	Y	15 Months CCP
8/30/2016	15-282	Shashy	Y/Out	N	Theft 1st - Reduced to Misd. Theft	N-Probation	6 months Supervised Probation & 6 months Unsupervised Probation
8/31/2016	16-735	Shashy	N	<10 Point	Fel. D.V. - Reduced to Assault 3rd	N	1 yr County Jail - with 90 Days Lighthouse TX in jail
9/7/2016	16-493	Griffin	Y/Out	N	Burg. 3rd Reduced to Crim. Trespass 2	N	12 months unsupervised Probation
9/7/2016	16-475	Griffin	Y/Out	N	Theft of Property 2nd X3	N-Probation	Probation - Length to be determined
9/7/2016	16-476	Griffin	Y/In	CCP/Prison	Theft of Property 2nd	N	115 months ADOC - Concurrent with 60 months ADOC Case

9/7/2016	16-216	Griffin	Y/Out	N	Poss. Controlled Substance C2	N-Probation	24 months Probation - Referred to MH Court
9/9/2016	16-477	Gaines	Y/In	CCP/Prison	Theft of Property 2nd	Y	12 months CCP
9/14/2016	16-583	Gaines	N	N	Throwing Deadly or Dangerous Obj.	N-Probation	24 months Probation
9/14/2016	14-883	Higgins	N	N	Possession of Marijuana 1	N	Unsupervised Probation
9/14/2016	14-880	Higgins	N	N	Possession of a Controlled Substance	N	Unsupervised Probation
9/14/2016	14-856	Higgins	N	N	Possession of a Controlled Substance	N	Unsupervised Probation
9/14/2016	14-858	Higgins	N	N	Possession of Marijuana 1	N	Unsupervised Probation
9/16/2016	16-469	Gaines	Y/In	N	Possession Forged Instrument 2	Y	12 Months CCP - 2 years Probation
9/16/2016	16-200	Gaines	N	<10 Point	Leaving Scene Accident With Injury	N	2 Years ADOC - SAP Program - 3 years Supervised Probation
9/16/2016	16-613	Gaines	Y/In	CCP/Prison	B & E Veh. - 2X, TOP - 2nd	N	154 Months ADOC - Habitual Offender
9/16/2016	16-954	Gaines	Y/In	CCP/Prison	Theft of Property 1st	Y	61 Months CCP
9/16/2016	16-965	Gaines	Y/Out	N	Possession Marijuana - 1st	N-Probation	12 Months Court Supervised Probation
9/16/2016	16-535	Gaines	Y/Out	N	Possession Marijuana - 1st	N-Probation	12 Months Probation
9/16/2016	16-233	Gaines	Y/Out	N	Discharge Gun into Occupied Bldg.	N-Probation	12 months Probation
9/19/2016	12-521	Gaines	Institutional Diversion	N	FUCC, TOP II, B & E Veh. X3	Y	12 months CCP
9/21/2016	16-1004	Griffin	N	Y > 10 Point	Robbery # X2, Top 3rd, Burglary 3rd	Y	115 Months CCP
9/21/2016	16-1039	Shashy	Y/In	N	Receiving Stolen Property 1st	N	Sentenced to Substance Abuse Treatment in ADOC
9/21/2016	16-1014	Griffin	Y/Out	N	Possession Marijuana 1st	N-Probation	24 months Probation - Transferred to Madison Co.
9/21/2016	16-948	Griffin	Y/Out	N	B & E Vehicle	N-Probation	YO Status Granted - 24 months Probation
9/21/2016	16-832	Griffin	Y/Out	N	Possession Marijuana 1st	N-Probation	Concurrent w/Mobile Co. Probation - Supervised in Mobile Co.
9/22/2016	14-1387	Hardwick	Y/In	N	FUCC, ID Theft, Theft of Property	N	24 Months ADOC - May be a Candidate for Early Release on CCP
9/22/2016	16-111	Hardwick	Y/In	N	Trafficking in Stolen ID's	N	5 years ADOC - Pending Murder Case in Chilton County
9/22/2016	16-5	Hardwick	N - Ineligible	N	Trafficking in Heroin	N	Reduced to PCS - 24 months County Jail
9/22/2016	16-546	Hardwick	Y/In	N	Possession of Controlled Substance	N-Probation	18 mos. Probation - Transfer Probation out of State (CCP cases cannot transfer)
9/22/2016	16-294	Hardwick	N	N	Assault X2, Eluding X2, Att. Disarm LEO	N	60 months ADOC - Concurrent
9/22/2016	15-1077	Hardwick	N	N	Assault 1st Degree - Eluding with Injury	N	3 years ADOC
9/22/2016	13-1211	Hardwick	N	<10 point	Arson Reduced to Criminal Mischief	N-Probation	5 years Probation
9/26/2016	16-842	Reese	Y/Out	N	Possession Marijuana - 1st	N-Probation	12 Months Probation
9/26/2016	16-979	Reese	Y/Out	N	Possession of Forged Instrument	N	Unsupervised Probation
9/27/2016	16-446	Reese	N	<10 Point	SORNA Violation	N	2 years Unsupervised Probation
9/27/2016	16-1021	Reese	Y/Out	N	Theft of Property	N-Probation	6 Months Probation
9/27/2016	16-478	Reese	N	<10 Point	Assault 2nd - Reduced to Assault 3rd	N-Probation	12 months Probation
10/4/2016	16-614	Shashy	N & Y	Y/Reduced	Robbery 1 (2 Counts) Reduced to TOP 1	Y	Sentenced to 18 Months CCP - 1 yr Unsupervised Probation
10/5/2016	14-392	Griffin	Y/In	N	Receiving Stolen Property 1st	Y	61 months CCP
10/5/2016	16-1045 & 637	Griffin	Y/In	CP/Prison	Burglary 3rd X2	Y	18 months CCP - 3 years Probation
10/7/2016	16-674	Gaines	Y/In	Y - YO	Youthful Offender	Y	18 months CCP - 18 months Probation
10/7/2016	16-958	Gaines	Y/In	Y	Possession of Controlled Substance	Y	24 months CCP - followed by 36 Months Probation
10/7/2016	16-486	Gaines	Y/In	CCP/Prison	Distribution of Controlled Substance	Y	17 months CCP - 24 months Probation
10/12/2016	16-514.7	Shashy	N	N	SORNA Violation	N-Probation	Probation - Pending Sexual Abuse Case
10/12/2016	15-1254	Shashy	Y/In	N	Possession of Marijuana 1st	N	Already on Probation in Dallas Co. - Placed on Probation and Transferred
10/13/2016	16-1237	Reese	Y/In	N	Distribution of Controlled Substance	N	Sentenced to ADOC 114 Months - Concurrent with another Prison Sentence
10/14/2016	15-556 & 1138	Gaines	Y/In	N	Chem Endangerment-Child & Poss FI	Y	Sentenced to 36 months CCP
10/20/2016	15-410	Gaines	Y/In as YO	N	Robbery 1st - YO	Y	Complete 2 year MDCF Sentence on CCP
10/26/2016	16-893	Griffin	Y/In	N	Theft of Property 2nd	N	Sentenced Concurrent with Existing ADOC Sentence
10/26/2016	16-894	Griffin	Y/Out	N	Theft of Property 2nd	N-Probation	24 months Probation
10/26/2016	16-1023	Griffin	Y/Out	N	SORNA Violation	N-Probation	12 months Probation
10/26/2016	16-1016	Griffin	Y/Out	N	Possession Controlled Substance	N-Probation	12 Months Probation & Transfer to Autauga County
10/26/2016	15-302	Griffin	Y/Out	N	Break & Enter Vehicle	N-Probation	46 Months Probation
10/26/2016	16-738	Griffin	Y/Out	N	Break & Enter Vehicle	N-Probation	36 Months Probation
10/26/2016	16-993	Reese	Y/Out	N	Obstruction of Justice	N-Probation	12 months Probation
10/31/2016	16-1031	Reese	Y/In	N	Theft of property, 2nd	N	Sentenced to ADO - Had a Prior Robbery 1st - Judge Ordered 22 months ADOC
10/31/2016	16-1129	Reese	N	N <10 Point	Domestic Violence 3rd	N	24 Months Probation
Color Code Legend:							
Green Indicates the Offender was Placed on Community Corrections - "NR" (3 cases) in the NOTES section indicates the case is not paid by ADOC - A Judge occasionally Departs from the Guidelines for Cause							
Pink Cases were at first screening appear to be eligible for Community Corrections - Some cases were already serving time or had Federal time.							
The sections left White are cases for which the offender was screened and found not eligible for Community Corrections - Mostly due to the Charge being ineligible or not meeting Guidelines for CCP/Prison							
The blue shaded cases are cases which the Court agreed to release the defendant early from Prison to serve the remainder of their sentence on Community Corrections							



AGENDA

DEC 19 2016

December 14, 2016

Mr. Lamar Allen
Montgomery County Commission
101 South Lawrence St.
Montgomery, AL 36104

SUBJECT: Perry Street Parking Deck

Lamar,

Stallings and Sons, Inc. respectfully submit this budget price of \$610,000.00 for the requested elevator repairs, code upgrades, and painting of the subject parking deck. Listed below is a description of the included:

- New Code Compliant Elevator Controller
- New Pumping Unit
- New Hydraulic Oil
- New Vandal Resistant Car Fixtures (#4 Stainless Steel)
- New Vandal Resistant Hall Fixtures (#4 Stainless Steel)
- New Door Equipment (Car and Hall)
- New Wiring (Car and Hoistway)
- New Hoistway Doors (Painted)
- New Car Top Inspection Station and Alarm Bell
- Complete Clean Down of the Elevator Hoistway
- State Inspection
- Clean, Prime, and Paint all Surfaces
- Sump Pump in Pit
- Electrical Allowance for Elevator and Lighting Repairs
- Thru Wall A/C for Equipment Room
- Misc. Concrete Repairs
- Traffic Controller with Traffic Arms

1140 Newell Parkway • Montgomery, AL 36110

P.O. Drawer 70040 • Montgomery, AL 36107-0040 • (334) 244-2093 • Fax (334) 244-2099

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- General Conditions
- Clean Up
- No Architectural or Engineering Fees Included

Alternates:

- If the cab needs to be replaced please add \$27,600.00 (Material and Labor).
- If the jack needs to be replaced please add \$30,000.00 (Material and Labor). We are pretty sure that the only thing the jack might need is a new packing and that is covered in the base price.

Should you have any questions or need any additional information, please feel free to call.

Stallings and Sons, Inc.



Jeff Stallings

Observation Report



P.O. BOX 100
8805 CO. RD 40E
Lowndesboro, AL 36752
P: 334-265-0206 F: 334-265-0207
www.blackburneng.com

To: Tracy Bassett
From: Jack Daniels
Date: 9-12-16
Subject: 100 South Perry Street Parking Deck

Observation Date:	9-9-16
Site Conditions:	Normal

Comments:

A site visit was made to 100 South Perry Street Parking Deck to observe the structural condition of the parking deck. The purpose of the site visit was to walk through and observe the deck and determine any potential structural issues associated with the parking deck. No demolition was made during the observation so the only parts of the structure observed were those exposed to view.

At the time of the observation there appeared to be significant cracking in both of the exterior CMU stairwells. This may be seen pictures #1, #2 and #3. The end wall of the parking deck also had cracking in the CMU particularly near the top of the parapet. This cracking may be seen in pictures # 4 and #5. I recommend that both of the exterior CMU stairwells and the exterior CMU elevator shaft be replaced with new construction due to the significant cracking in the existing CMU. I also recommend that the exterior CMU end wall of the parking deck be replaced. At the time of the observation vegetation had overgrown across the top of the CMU parapet causing some of the blocks to be completely loose. This may be seen in picture #6. This vegetation needs to be removed and the loose blocks do need to be removed immediately so they are not a threat to fall. Note this this CMU wall is most likely a shear wall for the parking deck and will have to be replaced in sections. At the time of the observation, the steel structure for the parking deck appeared to have quite a bit of rust due to exposure to the environment and water intrusion. These typical conditions may be seen in pictures #7 thru #11. I recommend that all of the rust and loose paint be removed and all of the steel beams and deck be repainted or coated with a rust inhibiting coating. Most of the areas where the deck

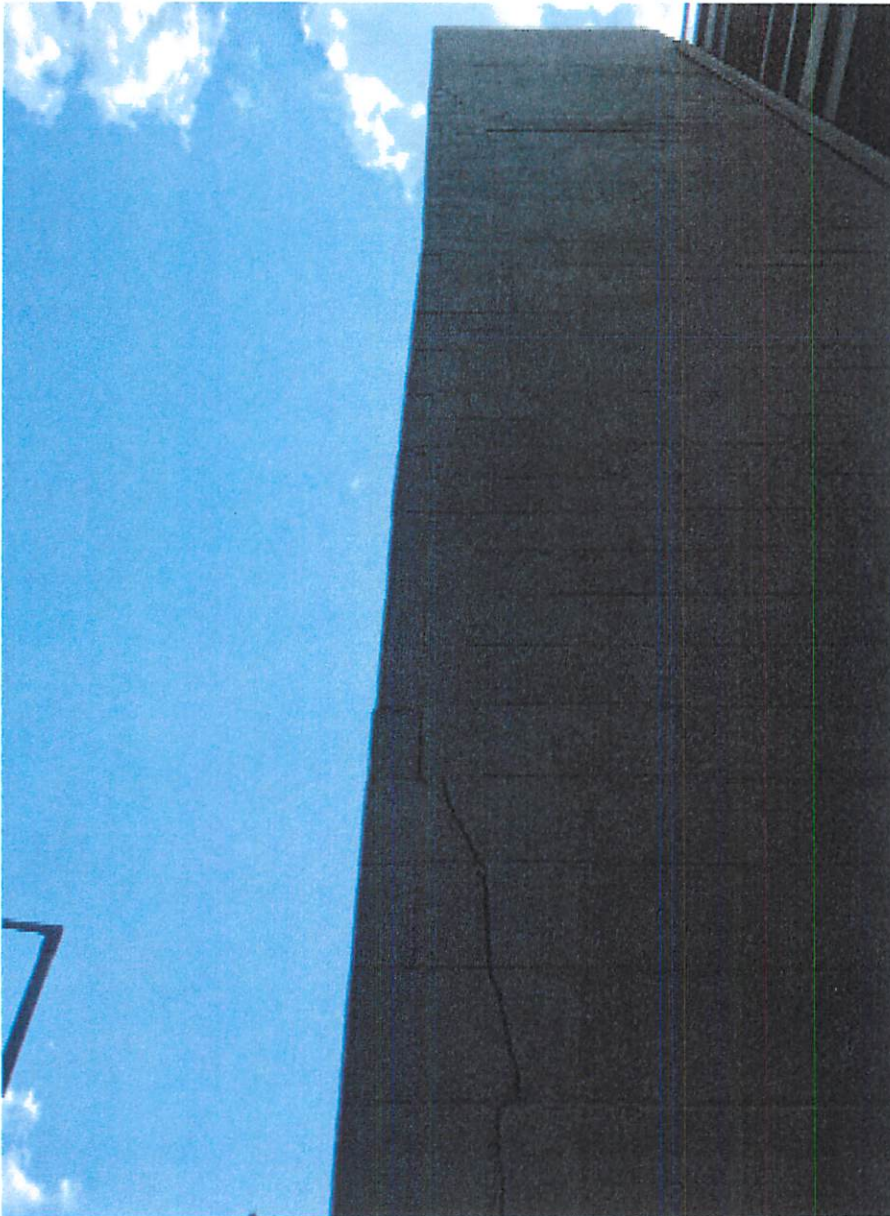
Blackburn Daniels O'Barr, Inc., P.O. Box 100, Lowndesboro, Alabama 36752
Phone: (334) 265-0206, Fax (334) 265-0207

20-3

was rusted was near roof drains. It appears that the roof drains are not functioning properly and are leaking causing the deck to corrode in these areas. I recommend that the roof drains be cleaned out to make sure they are functioning properly. On the top level there are several visible cracks in the slab over beam lines. This is where you would expect the slab to crack since the top of the slab is in tension over the beam line. This may be seen in picture #12. I recommend that as a minimum the top level slab if not all levels have a sealant material applied such that these cracks do not allow water intrusion to the lower levels.

Note that Blackburn Daniels O'Barr is not the structural engineer of record for this parking deck and no structural analysis was performed on the parking deck. Our recommendations are based only on the observations made. Blackburn Daniels O'Barr assumes not responsibility for the original design and construction of this parking deck.

Thank you for the opportunity to provide our services, if any question arise from this observation report please contact our office.



Picture #1. Stairwell CMU cracks



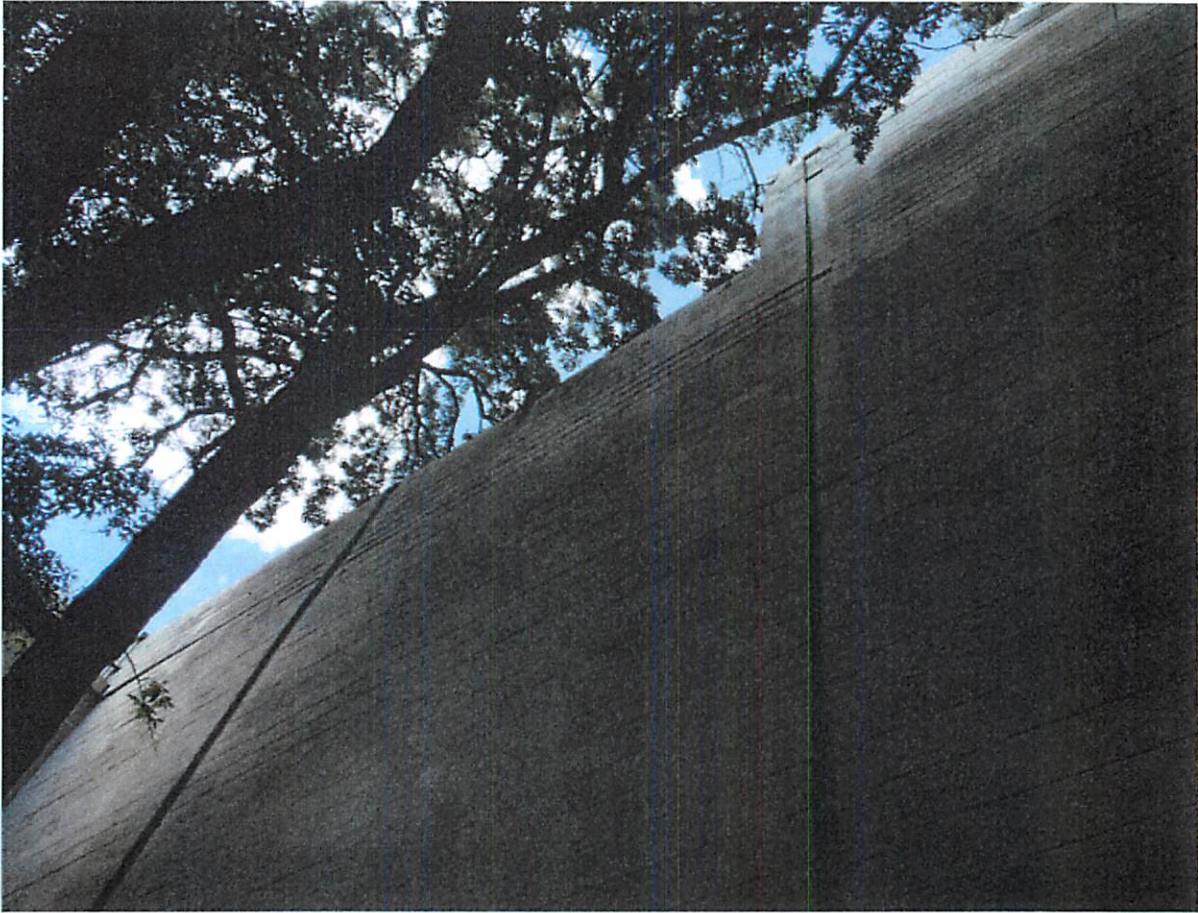
Picture #2. Stairwell CMU cracks



Picture #3. Stairwell/elevator shaft CMU cracks



Picture #4. Cracking in CMU end wall



Picture #5. Cracking in parapet of CMU end wall.



Picture #6. Overgrown vegetation



Picture #7. Rust on steel beam



Picture #8. Rust on steel beam



Picture #9. Rust on steel beam



Picture #10. Rust on steel beam and corroded steel deck.



Picture #11. Rusty deck and beam



Picture #12. Crack in top level over a beam line.

ADJOURNMENT

There being no further business to come before the Commission at this time, the meeting stood adjourned until Tuesday, January 3, 2017, at 8:00 in the morning.



Administrator



Chairman