

MINUTES OF REGULAR MEETING

MONTGOMERY COUNTY COMMISSION

FEBRUARY 25, 2020

INFORMATION SESSION

Chairman Dean called the meeting to order at 3:37 p.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 DEPUTY ADMINISTRATOR CAUTHEN

Deputy Administrator Cauthen briefed the Commission on scheduled attendees and items on the agenda.

DISCUSSION BY THE COMMISSION

The Commission discussed a funding request regarding the 2020 Montgomery County Sheriff's Office Community Program Events. After discussion, the Commission agreed to place on the next agenda a Budget Change Request in the amount of \$22,500 for these events.

Commissioner Harris discussed a letter from the Montgomery County Extension Office requesting \$2,000 for the Alabama A&M University's Annual STEM Day. After discussion, the Commission agreed to appropriate \$2,000 from its joint designated revenue account for this event.

Vice Chairman Walker, Commissioner Harris, Commissioner Sankey and Commissioner Singleton requested to add additional items to the miscellaneous appropriations for agencies, education and designated revenue accounts that were on the agenda.

PRESENTATION BY DIRECTOR OF RISK MANAGEMENT HOLLY LEVERETTE

Director of Risk Management Holly Leverette presented an Unbudgeted Position Fill Request for Retired RSA Employee. After discussion, the Commission agreed to place this item on the next agenda.

Mrs. Leverette informed the Commission that CareHere has partnered with the County to offer a Wellness Challenge. She inquired as to whether the Commission would support granting time off as an incentive. Chairman Dean and Commissioner Harris requested additional information

regarding the incentives. They also stated that County Attorney Means would have to issue an opinion regarding the issue.

PRESENTATION BY PERSONNEL DIRECTOR CARMEN DOUGLAS AND SENIOR PERSONNEL ANALYST ROBBIE ESTES

Personnel Director Carmen Douglas introduced Senior Personnel Analyst Robbie Estes to the Commission. Mr. Estes updated the Commission regarding recruitment for a County Administrator. He noted that as of today there are only three qualified applicants. The Commission agreed that the Personnel Department should continue accepting applications until there are five qualified applicants. Commissioner Harris stated that he would like the position to be posted on the County website and he would post it on his Facebook page.

PRESENTATION BY CHIEF INFORMATION AND TECHNOLOGY OFFICER LOU IALACCI

Chief Information and Technology Officer Lou Ialacci thanked the Commission for getting started on the renovations of Annex I.

PRESENTATION BY COUNTY ENGINEER GEORGE SPEAKE

County Engineer George Speake discussed a Flood Damage Prevention Ordinance that FEMA is requiring the County to adopt as a condition of continued eligibility in the National Flood Insurance Program (NIFP). He asked if the Commission would approve this ordinance item in order to comply with FEMA's March 6, 2020 deadline. After discussion, the Commission agreed to waive rules and add this item to the agenda.

Mr. Speake advised the Commission that bids were opened for the County's FY 2020 road resurfacing project on February 19, 2020. The successful bidder was Asphalt Contractors, Inc. with a bid for \$2,582,336.50.

Additionally, he mentioned that Dozier Road was closed on Wednesday, February 19, 2020, due to flooding from the Tallapoosa River and reopened to traffic on Tuesday, February 25, 2020.

PRESENTATION BY MANAGER OF PUBLIC AFFAIRS HANNAH HAWK

Manager of Public Affairs Hannah Hawk reviewed the calendar of upcoming events with the Commissioners.

Mrs. Hawk recommended Grants Manager Reginal Walker serve as the Montgomery County Counts Coordinator. The Commission agreed with her recommendation.

PRESENTATION BY EXECUTIVE DIRECTOR CARY J. KUHLMANN WITH THE SAMARITAN COUNSELING CENTER

Executive Director Cary J. Kuhlmann with the Samaritan Counseling Center briefed the Commission regarding the organization and requested funding in the amount of \$20,000. Chairman Dean and Commissioner Singleton requested a miscellaneous appropriation in the amount of \$2,500 from each of their designated revenue accounts; Vice Chairman Walker requested a miscellaneous appropriation in the amount of \$5,000 from her designated revenue account, and Commissioner Harris requested a \$10,000 miscellaneous appropriation from his designated revenue account.

PRESENTATION BY MS. SHEARITO PETTWAY WITH THE LAGOS DEL SOL NEIGHBORHOOD AND EXECUTIVE DIRECTOR GREG CLARK WITH CENTRAL ALABAMA REGIONAL PLANNING AND DEVELOPMENT COMMISSION

Ms. Shearito Pettway with the Lagos del Sol Neighborhood requested assistance from the Commission regarding flooding issues in her neighborhood. Executive Director Greg Clark with Central Alabama Regional Planning and Development Commission explained that the max amount for a Community Development Block Grant is \$350,000 and the grant recipient must make sure this amount would complete the project. He stated that this project would be close to \$1 million to fix the drainage issues and another \$2 million for other issues for a total of \$3 million. Therefore, the \$350,000 could not complete the project. Chairman Dean requested that Goodwyn Mills and Cawood visit the neighborhood to find out what needs to be done to address the drainage and other issues and report back to the Commission.

DISCUSSION BY THE COMMISSION

Commissioner Harris discussed a letter from Executive Director Sederick Fluker with S.T.E.P. Foundation regarding their 2019 Annual Report. Commissioner Harris and Commissioner Sankey requested a \$5,000 miscellaneous appropriation from each of their designated revenue accounts for this program.

PRESENTATION BY SHERIFF DERRICK CUNNINGHAM

Sheriff Derrick Cunningham requested that the Commission adopt a Resolution to declare full support of Montgomery County Sheriff Derrick Cunningham and his office, his efforts to keep our citizens safe every day, and denounce any effort, such as the proposed 2020 Alabama Legislative Session legislation HB39 and SB47 as introduced, to weaken Sheriff Cunningham's ability to provide for the safety and welfare of all Montgomery County citizens. After discussion, the Commission agreed to waive rules and add this item to the agenda.

COMMENTS FROM INTERIM ADMINISTRATOR CAUTHEN

Interim Administrator Cauthen presented a Resolution to change the time and location of the April 6, 2020, County Commission Meeting to Passion Church, 6825 Wares Ferry Road,

Montgomery, Alabama. The information session will begin at 4:00 p.m. with the formal session at 5:30 p.m. The Commission agreed to place this item on the next agenda.

Interim Administrator Cauthen presented Board Member reappointments to the Pike Road Volunteer Fire Protection Authority. The Commission agreed to place these reappointments on the next agenda.

Interim Administrator Cauthen presented a proposed Memorandum of Understanding with the City of Montgomery regarding subsidizing the Fairview Farmer's Market. She stated that in 2018, the Commission contributed \$10,000. The Commission agreed to discuss this item at the next meeting.

Interim Administrator Cauthen noted that the terms of Carolyn Millender and Commissioner Harris have expired as Board Members of the Montgomery County Community Punishment and Corrections Authority. The Commission agreed to discuss these reappointments at the next meeting.

Interim Administrator Cauthen presented a letter from Board Chairman Wayne Hatcher requesting that Mr. Wallace Bush, Jr., fill the vacant position for Mr. Cecil Brendle on the Pintlala Water and Fire Protection Authority. The Commission agreed to discuss this appointment at the next meeting.

RECESS TO EXECUTIVE SESSION

Interim Administrator Cauthen presented a letter from President & CEO Anna B. Buckalew with the Montgomery Area Chamber of Commerce, regarding an executive session to discuss a commerce or trade matter. Vice Chairman Walker made a motion to go into the executive session. The motion was seconded by Commissioner Harris and unanimously approved by each Commissioner, openly giving their individual vote. Interim Administrator Cauthen noted that all Commissioners were present and that the Commission would reconvene to the Formal Session. Chairman Dean recessed the Information Session to the Executive Session. (Copies of Letter from Anna B. Buckalew and a Checklist for Conducting Lawful Executive Sessions, Agenda Pages 25-1 and 25-2, are attached to these Minutes).

RECESS TO FORMAL SESSION

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

FORMAL SESSION

Chairman Dean welcomed everyone to the Formal Session.

The meeting was opened with prayer led by the Pastor of Freewill Missionary Baptist Church, Rev. Edward J. Nettles.

The Pledge of Allegiance was led by Chairman Dean

Interim Administrator Cauthen called Roll to establish a quorum, and the following Commissioners were present: Chairman Dean and Vice Chairman Walker; Members Harris, Singleton and Sankey. Also present were County Attorney Tyrone C. Means and County Engineer George C. Speake.

COMMENTS BY ATTENDEES

Founder and Executive Director of The King's Canvas Gallery and Studio Kevin King introduced himself and shared some background about his art gallery and studio. He requested \$17, 000.00 from the Commission to assist in the partnership between local schools in providing scholarships to students. Commissioner Sankey asked Mr. King to submit a budget to the Commission.

Community Activist Chaplain Jon Da'Voe greeted the Commissioners and asked everyone to pause for a moment of silence in remembrance of NBA Basketball Legend Kobe Bryant, his daughter and the seven passengers that died in a helicopter crash on January 26, 2020. Mr. Da'Voe spoke on International Awareness World AIDS Day. He asked the Commission if they would address the issue of giving more recognition to the World AIDS Day which is celebrated December 1st of each year.

Site Coordinator of The Dannon Project Jay C. Coleman said good evening to everyone and gave some background information about The Dannon Project. Mr. Coleman stated that the organization is the number one re-entry programs in America and invited the Commissioners to their grand opening on Friday, February 28, 2020, at 6:00 p.m. Mr. Coleman requested \$25,000 from the Commission to purchase a van to transport clients to appointments such as court hearings, job training, etc. He said that he has submitted all paperwork to the County Administrator's office. Commissioner Harris asked Mr. Coleman if he had contacted anyone else for assistant, and Mr. Coleman stated he had not. Commissioner Harris suggested he makes a request to the City of Montgomery.

Commissioner Singleton asked the date and time of the event, and Mr. Coleman stated it will be on Friday, February 28, 2020 at 6:00 p.m.

APPROVAL OF MINUTES

Commissioner Harris made a motion to approve the Minutes of the Regular Meeting of February 11, 2020. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission.

CONSENT AGENDA

Interim County Administrator Cauthen presented the Accounts Payable Checks and Payroll Checks Authorization for approval. Vice Chairman Walker made a motion to approve the Accounts Payable and Payroll Checks, as presented by Interim County Administrator Cauthen. The motion was seconded by Commissioner Harris and unanimously approved by the

Commission. (Copy of Accounts Payable Checks and Payroll Checks Authorization, Consent Agenda Page 1, is attached to these Minutes.)

PUBLIC HEARING

PUBLIC HEARING REGARDING RESOLUTION PERTAINING TO AN INCREASE IN AN AD VALOREM TAX IN THE MONTGOMERY SCHOOL TAX DISTRICT

Chairman Dean opened the Public Hearing regarding Resolution Pertaining to an Increase in an Ad Valorem Tax in the Montgomery School Tax District. Numerous citizens spoke on the tax increase. Approximately 95% of the speakers were in favor of the tax increase, with 4% opposed and approximately 1% undecided. Montgomery Public School Board Member Dr. Lesa Keith and Montgomery County Public School Superintendent Dr. Ann Roy Moore addressed the Commission. After everyone had spoken, Chairman Dean declared the Public Hearing closed. (Public Notice attached to these Minutes.)

PUBLIC HEARING REGARDING ALCOHOL LICENSE APPLICATION FOR LOUNGE RETAIL LIQUOR – CLASS II (PACKAGE) TO APPLICANT 31 MARKET, INC., FOR DOUBLE B PACKAGE STORE LOCATED AT 18354-A US HIGHWAY 31, HOPE HULL, ALABAMA 36043

Chairman Dean opened the Public Hearing regarding Alcohol License Application for Lounge Retail Liquor – Class II (Package) to Applicant 31 Market, Inc., for Double B Package Store located at 18354-A US Highway 31, Hope Hull, Alabama 36043. No one spoke and Chairman Dean declared the Public Hearing Closed. (Public Notice attached to these Minutes.)

NEW BUSINESS

COUNTY COMMISSION – ADOPTED RESOLUTION PERTAINING TO AN INCREASE IN AN AD VALOREM TAX IN THE MONTGOMERY SCHOOL TAX DISTRICT

Commissioner Harris made a motion to adopt the Resolution Pertaining to an Increase in an Ad Valorem Tax in the Montgomery School Tax District. The motion was seconded by Commissioner Sankey. Vice Chairman Walker and Commissioner Singleton voted in opposition and the motion carried. (Copy of Resolution, Agenda Pages 1-1 through 1-3, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED ALCOHOL LICENSE APPLICATION FOR LOUNGE RETAIL LIQUOR – CLASS II (PACKAGE) TO APPLICANT 31 MARKET, INC., FOR DOUBLE B PACKAGE STORE LOCATED AT 18354-A US HIGHWAY 31, HOPE HULL, ALABAMA 36043

Commissioner Harris made a motion to approve the Alcohol License Application for Lounge Retail Liquor – Class II (Package) to Applicant 31 Market, Inc., for Double B Package Store located at 18354-A US Highway 31, Hope Hull, Alabama 36043. The motion was seconded by

Commissioner Singleton and unanimously approved by the Commission. (Copies of Memoranda and Alcohol License Application, Agenda Pages 2-1 through 2-5, are attached to these Minutes.)

ENGINEERING DEPARTMENT – ADOPTED RESOLUTION REGARDING
RESURFACING WOODLEY ROAD (5.2 MILES), PROJECT NUMBER MCP 51-08-20

Commissioner Singleton made a motion to adopt the Resolution regarding Resurfacing Woodley Road (5.2 Miles), Project Number MCP 51-08-20. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memorandum, Resolution, and Maps, Agenda Pages 3-1 through 3-4, are attached to these Minutes.)

ENGINEERING DEPARTMENT – ADOPTED RESOLUTION REGARDING
RESURFACING MERIWETHER ROAD (4.5 MILES), PROJECT NUMBER MCP 51-09-20

Commissioner Singleton made a motion to adopt the Resolution regarding Resurfacing Meriwether Road (4.5 Miles), Project Number MCP 51-09-20. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memorandum, Resolution, and Maps, Agenda Pages 4-1 through 4-4, are attached to these Minutes.)

PROBATE JUDGE’S OFFICE – APPROVED PROPOSED 2020 LEGISLATIVE AGENDA
ITEM TO PROVIDE THAT THE JUDGE OF PROBATE OF MONTGOMERY COUNTY
WOULD BE REQUIRED TO BE AN ATTORNEY LICENSED IN THIS STATE

Vice Chairman Walker made a motion to approve the Proposed 2020 Legislative Agenda Item to Provide that the Judge of Probate of Montgomery County would be required to be an Attorney Licensed in this State. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum, and Proposed Amendment, Agenda Pages 5-1 through 5-3, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED FUNDING AGREEMENT WITH THE CITY OF
MONTGOMERY REGARDING THE GARRETT COLISEUM

Commissioner Singleton made a motion to approve a Funding Agreement with the City of Montgomery regarding the Garrett Coliseum. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memoranda, Agreement and Attorney Gallion’s Opinion, Agenda Pages 6-1 through 6-6, are attached to these Minutes.)

DETENTION FACILITY – APPROVED AMENDMENT NUMBER 2 TO CONTRACT WITH
KELLWELL FOOD MANAGEMENT, INC., REGARDING A ONE (1) YEAR EXTENSION,
BEGINNING MARCH 4, 2020 AND ENDING MARCH 3, 2021 AND A 2.5% PRICE
INCREASE FOR INMATE FOOD SERVICES, CONTRACT NUMBER 52200-19B-010

Commissioner Harris made a motion to approved Amendment Number 2 to Contract with Kellwell Food Management, Inc., regarding a One (1) Year Extension, beginning March 4, 2020 and ending March 3, 2021 and a 2.5% Price Increase for Inmate Food Services, Contract Number

52200-19B-010. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Amendment, Agenda Pages 7-1 and 7-2, are attached to these Minutes.)

SHERIFF'S OFFICE – APPROVED AMENDMENT NUMBER 2 TO CONTRACT WITH GULF STATES DISTRIBUTORS REGARDING A ONE (1) YEAR EXTENSION, BEGINNING APRIL 16, 2020 AND ENDING APRIL 15, 2021 FOR SHERIFF'S LEATHER & ACCESSORIES, CONTRACT NUMBER 52110-18B-008

Commissioner Harris made a motion to approve Amendment Number 2 to Contract with Gulf States Distributors regarding a One (1) Year Extension, beginning April 16, 2020 and ending April 15, 2021 for Sheriff's Leather & Accessories, Contract Number 52110-18B-008. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memorandum and Amendment, Agenda Pages 8-1 and 8-2, are attached to these Minutes.)

TAX AND AUDIT DEPARTMENT – APPROVED RENEWAL OF EXTERNAL AUDIT SERVICES AGREEMENT WITH RIVERTREE SYSTEMS, INC.

Commissioner Singleton made a motion to approve the Renewal of External Audit Services Agreement with Rivertree Systems, Inc. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Memorandum, Agreement and Email, Agenda Pages 9-1 through 9-12, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED CONTRACT WITH BARGANIER DAVIS WILLIAMS ARCHITECTS ASSOCIATED REGARDING RENOVATIONS TO THE FLATWOOD COMMUNITY CENTER

Commissioner Sankey made a motion to approve a Contract with Barganier Davis Williams Architects Associated regarding Renovations to the Flatwood Community Center. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum, Agreement and Attachments, Agenda Pages 10-1 through 10-9, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED CHANGE ORDER NUMBER 3 TO CONTRACT WITH HOLLEY-HENLEY BUILDERS, INC., FOR RENOVATIONS OF THE MONTGOMERY COUNTY DETENTION FACILITY BUILDING (JAIL I)

Vice Chairman Walker made a motion to approve Change Order Number 3 to Contract with Holley-Henley Builders, Inc., for Renovations of the Montgomery County Detention Facility Building (Jail I). The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Change Order, Agenda Pages 11-1 through 11-3, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED COUNTY LEVIES FOR ALCOHOL LICENSING FOR 2020-2021

Commissioner Harris made a motion to approve County Levies for Alcohol Licensing for 2020-2021. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copies of Memorandum and Document, Agenda Pages 12-1 and 12-2, are attached to these Minutes.)

COUNTY COMMISSION – APPROVED PAYMENT OF EX-OFFICIO MEMBERSHIP TO THE MONTGOMERY AREA COMMITTEE OF 100, INC., FOR CHAIRMAN DEAN

Commissioner Singleton made a motion to approve Payment of Ex-Officio Membership to the Montgomery Area Committee of 100, Inc., for Chairman Dean. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copy of Invoice, Agenda Page 13-1, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED MISCELLANEOUS APPROPRIATIONS TO AGENCIES

Interim Administrator Cauthen requested approval of the miscellaneous appropriations to agencies included in the February 25, 2020 Agenda. During the County Commission Meeting this date, Chairman Dean requested the addition of miscellaneous appropriation reprogramming requests, and his fellow Commissioners concurred.

Commissioner Harris made a motion to approve the Miscellaneous Appropriations to Agencies Reprogramming Requests. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Updated Spreadsheet, Agenda Page 14-1, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED MISCELLANEOUS APPROPRIATIONS TO EDUCATION

Interim Administrator Cauthen requested approval of the miscellaneous appropriations to education included in the February 25, 2020 Agenda. During the County Commission Meeting this date, Chairman Dean requested the addition of miscellaneous appropriation reprogramming requests, and his fellow Commissioners concurred.

Commissioner Singleton made a motion to approve the Miscellaneous Appropriations to Education Reprogramming Requests included in the February 25, 2020 Agenda. The motion was seconded by Commissioner Sankey and unanimously approved by the Commission. (Copy of Updated Spreadsheet, Agenda Page 15-1, is attached to these Minutes.)

COUNTY COMMISSION – APPROVED MISCELLANEOUS APPROPRIATIONS FROM DESIGNATED REVENUE

Interim Administrator Cauthen requested approval of the miscellaneous appropriations to designated revenue included in the February 25, 2020 Agenda. During the County Commission

Meeting this date, Chairman Dean requested the addition of miscellaneous appropriation reprogramming requests, and his fellow Commissioners concurred.

Commissioner Harris made a motion to approve the Miscellaneous Appropriations from Designated Revenue reprogramming requests included in the February 25, 2020 Agenda. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copy of Updated Spreadsheet, Agenda Page 16-1, is attached to these Minutes.)

DETENTION FACILITY – APPROVED POSITION FILL REQUESTS (2)

1. Corrections Officer Corporal, Position Number 500425167
2. Administrative Support Associate, Position Number 500013237

Commissioner Harris made a motion to approve the Position Fill Requests. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Position Fill Requests, Agenda Pages 17-1 and 17-2, are attached to these Minutes.)

RISK MANAGEMENT – APPROVED POSITION FILL REQUEST (1)

1. Risk Control Administrator, Position Number 250111002

Commissioner Singleton made a motion to approve the Position Fill Request. The motion was seconded by Vice Chairman Walker and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page 18-1, is attached to these Minutes.)

SHERIFF’S OFFICE – APPROVED POSITION FILL REQUEST (1)

1. Deputy Sheriff Trainee, Position Number 550430059

Commissioner Singleton made a motion to approve the Position Fill Request. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page 19-1, is attached to these Minutes.)

YOUTH FACILITY-DETENTION – APPROVED POSITION FILL REQUEST (1)

1. Relief Juvenile Detention Officer, Position Number 910300007

Commissioner Harris made a motion to approve the Position Fill Request. The motion was seconded by the Commissioner Singleton and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page 20-1, is attached to these Minutes.)

YOUTH FACILITY-JUVENILE COURT – APPROVED POSITION FILL REQUEST (1)

1. Court Therapist II, Position Number 930345039

Commissioner Singleton made a motion to approve the Position Fill Request. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copy of Position Fill Request, Agenda Page 21-1, is attached to these Minutes.)

VARIOUS DEPARTMENTS – APPROVED TRAVEL/TRAINING REQUESTS (6)

DEPARTMENTS

TRAVEL/TRAINING REQUESTS

- | | | |
|----|----------------------------|-------------------------|
| 1. | County Commission | Request Numbers 5 and 6 |
| 2. | District Attorney's Office | Request Number 4 |
| 3. | Tax and Audit | Request Number 5 |
| 4. | Youth Facility | Request Number 5 |
| 5. | Appraisal Department | Request Number 5 |

Commissioner Harris made a motion to approve the Travel/Training Requests. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of the Travel/Training Requests, Agenda Pages 22-1 through 22-6, are attached to these Minutes.)

WAIVE RULES

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

ENGINEERING DEPARTMENT – APPROVED FLOOD DAMAGE PREVENTION ORDINANCE

Commissioner Harris made a motion to approve a Flood Damage Prevention Ordinance. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission. (Copies of Memorandum and Flood Damage Prevention Ordinance, Agenda Pages 23-1 through 23-31, are attached to these Minutes.)

SHERIFF DEPARTMENT – ADOPTED PISTOL PERMIT RESOLUTION OPPOSING HOUSE BILL 39 AND SENATE BILL 47

Commissioner Singleton made a motion to adopt the Pistol Permit Resolution Opposing House Bill 39 and Senate Bill 47. The motion was seconded by Commissioner Harris and unanimously approved by the Commission. (Copies of Memorandum, Resolution, and Documents Agenda Pages 24-1 through 24-37, are attached to these Minutes.)

COMMENTS BY COMMISSIONERS

Commissioner Singleton began by explaining that his vote against the Ad Valorem Tax increase did not mean he was saying no to MPS students or the Montgomery County School system, but that he felt the timing was not right. Commissioner Singleton said that since the Commission

approved the vote, he will support the tax increase. He thanked everyone for attending the meeting.

Commissioner Sankey said good evening to everyone. He said he didn't see any reason to delay the vote for the tax increase. Commissioner Sankey stated that the Montgomery County students should not be punished simply because some adults decided to mismanage some school funds. He said that he was happy to support the Ad Valorem Tax. Commissioner Sankey encouraged the citizen to become more engaged in the decision-making process of the county commission. He thanked everyone for attending the meeting and reminded everyone to vote on Tuesday, March 3rd.

Vice Chairman Walker had no comment.

Chairman Dean began by saying he has been supportive of education in every aspect. He made a few comments regarding the tax increase. Chairman Dean said the tax increase for the schools is overdue. He thanked everyone for attending the meeting.

Commissioner Harris thanked everyone for attending the meeting. He stated there is never a bad time to do something good, referring to voting in favor of the Ad Valorem tax increase. Commissioner Harris said that if the approval rate of the citizens attending the meeting is any indication on how the vote will go for the tax increase in November, the tax will pass.

Chairman Dean also recognized City Council member Councilman Oronde Mitchell in the audience.

ADJOURNMENT

Commissioner Sankey made a motion to adjourn the meeting of the Montgomery County Commission on February 25, 2020, at 6:15 p.m. The motion was seconded by Commissioner Singleton and unanimously approved by the Commission.

**MONTGOMERY COUNTY COMMISSION
MEETING DATE FEBRUARY 25, 2020**

THE FOLLOWING WERE AUDITED AND ORDERED PAID

ACCOUNTS PAYABLE CHECKS DATED 2-7-20	
Check Numbers: 291569 – 291701	Total Checks Paid: \$ 1,150,562.43

ACCOUNTS PAYABLE CHECKS DATED 1-31-20	
Check Numbers: 291702 – 291839	Total Checks Paid: \$ 799,533.82

EFT's included in amounts

PAYROLL CHECKS DATED 2-14-20	
Check Numbers: 133815 – 133901	Total: \$ 122,597.45
Direct Deposits	Total: \$ 1,455,023.29
Federal Deposits	Total: \$ 302,714.02
Total Payroll Paid	Total: \$ 1,880,334.76

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

FEB 25 2020

NOTICE OF PUBLIC HEARING MONTGOMERY COUNTY COMMISSION

Notice is hereby given that a public hearing will be held on Tuesday, February 25, 2020, at 5 o'clock, p.m., at the regular meeting of the Montgomery County Commission, on the First Floor of the Montgomery County Administration Building, Annex III, located at 101 S. Lawrence Street, Montgomery, Alabama 36104, on the proposal to increase the rate at which an ad valorem tax for public school purposes may be levied on taxable property in the Montgomery School Tax District (which includes all the area lying within the boundaries of Montgomery County less and except the area lying within the corporate limits of the City of Pike Road). The present level for ad valorem taxes for public school purposes on taxable property situated within the District is 10 mills and the proposal is to increase the rate to a maximum of twenty-two (22) mills, which is equal to \$2.20 on each one hundred dollars of assessed value of taxable property. Members of the public are invited and encouraged to attend the hearing.

/s/ Elton N. Dean, Sr.

Chairman

Montgomery County Commission

NOTICE

Notice is hereby given that application has been made to the Montgomery County Commission, Montgomery, Alabama, for approval of an Alcohol License at this location, namely:

NAME: Double B Package Store

ADDRESS: 18354-A US Highway 31, Hope Hull, AL 36043

AND THAT PUBLIC HEARING ON SAID APPLICATION HAS BEEN SET BEFORE

THE COUNTY COMMISSION AT:

5:00 P.M. February 25 , 2020
 (MONTH) (DAY) (YEAR)

in the Montgomery County Courthouse and Administration Building Annex III, 101 South Lawrence Street, 1st Floor, Commission Chambers, Montgomery, Alabama.

Anyone desiring to be heard either for or against said application may appear in person at said time or may indicate his or her wishes in writing by communication addressed to the Montgomery County Commission, ATTN: Florence M. Cauthen, P.O. Box 1667, Montgomery, Alabama 36102-1667.

**Florence M. Cauthen, Interim County Administrator
Montgomery County Commission**

PUBLICATION MEDIA MONTGOMERY ADVERTISER

DATE OF PUBLICATION: On or Before February 18, 2020

PAYMENT FOR ABOVE INSERTION IS THE RESPONSIBILITY OF THE APPLICANT.

RUN ONE TIME

FEB 25 2020

RESOLUTION PERTAINING TO AN INCREASE IN AN AD VALOREM TAX IN THE MONTGOMERY SCHOOL TAX DISTRICT

The following resolution and order was introduced in writing by Chairman Dean:

BE IT RESOLVED AND ORDERED by the Montgomery County Commission (herein called "the Commission"), the governing body of Montgomery County (herein called "the County"), in the State of Alabama, as follows:

Section 1. Definitions. The following words and phrases used in this Resolution, and others evidently intended as the equivalent thereof, shall, in the absence of a clear implication herein otherwise, be given the following respective interpretations herein:

"Amendment No. 373" means that certain amendment to the Constitution that was proposed by Act No. 6 enacted at the 1978 Second Special Session of the Legislature of Alabama.

"Board" means the Montgomery County Board of Education.

"Constitution" means the Constitution of Alabama of 1901.

"District" means the special school tax district in the County, the boundaries of which have been fixed by the Board and include all the area lying within the County less and except the area lying within the corporate limits of the City of Pike Road.

"Special School Tax" means the special annual ad valorem tax for public school purposes authorized in Amendment No. 382 to the Constitution and to be levied and collected on taxable property situated in the District.

Section 2. Findings. The Commission has ascertained and does hereby find and declare as follows:

(a) The Commission is presently authorized to levy and collect, subject to the requisite approval of a majority of those voting at an election, the Special School Tax at a rate of \$.30 on each one hundred dollars (3 mills on each dollar) of assessed value pursuant to Amendment No. 382 to the Constitution.

(b) The Board has requested that the Commission increase the rate at which the Special School Tax may be levied and the Board and the Commission have agreed that the said increase should be to a maximum rate, for any tax year of the County, which is equal to \$1.85 on each one hundred dollars (18.5 mills on each dollar) of assessed value.

(c) Pursuant to a notice duly posted and published, the Commission called a special public hearing to be held at 5:00 p.m. on Tuesday, February 25, 2020, on the proposed increase in the rate at which the Special School Tax may be levied.

(d) At the said special public hearing held on February 25, 2020, all members of the public were afforded the opportunity to express their views, orally and in writing, on the proposed increase in the Special School Tax.

(e) It is necessary and desirable and in the public interest that the Commission, acting pursuant to the request of the Board, propose an increase in the rate at which the Special School Tax may be levied in accordance with Section 3 of this Resolution, subject to the conditions set forth in Section 4 of this Resolution.

Section 3. Proposed Increase in Rate of Special School Tax. Pursuant to subsection (f) of Amendment No. 373 and after the said public hearing, the Commission proposes to increase the rate at which the County may levy and collect the Special School Tax to a maximum rate, for any tax year of the County, which is equal to \$1.85 on each one hundred dollars (18.5 mills on each dollar) of assessed value.

Section 4. Proposed Increase Subject to Approval of Legislature and Electorate. The proposed increase in the rate at which the Special School Tax may be levied and collected pursuant to this Resolution is subject to (a) the approval of the Legislature to be evidenced by an act thereof, and (b) the approval of a majority of the qualified electors of the City who vote on the proposed increase at an election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373.

Commissioner _____ thereupon moved that the foregoing resolution and order be adopted, which motion was seconded by Commissioner _____ and, upon the same being put to vote, the following vote was recorded:

YEAS

NAYS

The chairman thereupon announced that the motion for the adoption of the said resolution and order had been carried.

* * *

AGENDA

FEB 25 2020



DERRICK CUNNINGHAM SHERIFF OF MONTGOMERY COUNTY

Kevin J. Murphy
CHIEF DEPUTY

January 24, 2020

MEMORANDUM

TO : Montgomery County Commission
FROM : Sheriff Derrick Cunningham
Montgomery County Sheriff's Office
SUBJECT : 31 Market, Inc.
18354 A US Hwy 31, Hope Hull, Alabama
Alcohol License Application

I have reviewed the attached application for 31 Market, Inc. I have no objection to the approval of this alcohol license.

DC/crv
encls.

SHERIFF'S OFFICE
POST OFFICE BOX 4219
MONTGOMERY, ALABAMA 36103-4219
OFFICE 334.832.4980
FAX 334.832.7113

www.MontgomerySheriff.com

DETENTION FACILITY
225 SOUTH MCDONOUGH STREET
MONTGOMERY, ALABAMA 36104
OFFICE 334.832.1386
FAX 334.265.0990

Montgomery County Sheriff's Office
Retail Liquor License Application

Business : 31 Market INC / Double B Convenience Store
Location : 18354 U.S. Highway 31, Hope Hull, AL 36043
Date : January 23, 2020
Investigator : Sergeant J. Oliver

Sergeant J. Oliver received notification from Sheriff Derrick Cunningham that an ABC Retail-Off Premises Liquor License had been applied for by MD Anwar Shadad of Montgomery, AL. The location for the application is 18354 U.S. Highway 31, Hope Hull, AL 36043. The applicant does not have a criminal record on file with the Montgomery County Sheriff's Office.

The location of the proposed business is in rural Montgomery County. The area is scarcely populated with residential homes. Contact was made with residents on Trent Lane / Big Zion Road, and none of the citizens who were present had any objection to the opening of the business.



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20191217104120107

Type License: 011 - LOUNGE RETAIL LIQUOR - CLASS II (PACKAGE) State: \$300.00 County: \$300.00

Type License: State: County:

Trade Name: DOUBLE B PACKAGE STORE Filing Fee: \$50.00

Applicant: 31 MARKET INC Transfer Fee:

Location Address: 18354 A US HWY 31 HOPE HULL, AL 36043

Mailing Address: 18354 US HIGHWAY 31 HOPE HULL, AL 36043

County: MONTGOMERY Tobacco sales: YES Tobacco Vending Machines: 0

Type Ownership: CORPORATION

Book, Page, or Document info: CORP 00374 PG0924 - 0927

Date Incorporated: 07/22/2019 State incorporated: AL County Incorporated: MONTGOMERY

Date of Authority: 12/1/2019 Alabama State Sales Tax ID: R010083925

Federal Tax ID: 84-2500296

Name:	Title:	Date and Place of Birth:	Residence Address:
MD ANWAR SHADAD 8263575 - AL	OWNER	11/17/1977 BANGLADESH	3824 CLAIBORNE CIR MONTGOMERY, AL 36116

Has applicant complied with financial responsibility ABC RR 20-X-5-.14? YES

Does ABC have any actions pending against the current licensee? NO

Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO

Has a liquor, wine, malt or brewed license for these premises ever been denied, suspended, or revoked? NO

Are the applicant(s) named above, the only person(s), in any manner interested in the business sought to be licensed? YES

Are any of the applicants, whether individual, member of a partnership or association, or officers and directors of a corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this act? NO

Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage, or distilled liquors permit or license issued under authority of this act? NO

Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate or other licensee, or from any firm, association or corporation operating under or regulated by the authority of this act? NO

Contact Person: MD ANWAR SHADAD

Business Phone: 334-538-4990

Fax:

Home Phone: 334-538-4990

Cell Phone:

E-mail: JOYCEEAMS@HOTMAIL.COM

PREVIOUS LICENSE INFORMATION:

Trade Name:

Applicant:

Previous License Number(s)

License 1:

License 2:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20191217104120107

If applicant is leasing the property, is a copy of the lease agreement attached? YES
Name of Property owner/lessor and phone number: GAINES AND INA SLADE 334-284-0337
What is lessors primary business? PROPERTY OWNER
Is lessor involved in any way with the alcoholic beverage business? NO
Is there any further interest, or connection with, the licensee's business by the lessor? NO
Does the premise have a fully equipped kitchen? NO
Is the business used to habitually and principally provide food to the public? NO
Does the establishment have restroom facilities? YES
Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? NO
Will the business be operated primarily as a package store? YES
Building Dimensions Square Footage: 2800 Display Square Footage: 722
Building seating capacity: 0 Does Licensed premises include a patio area? NO
License Structure: SHOPPING CENTER License covers: PORTION OF
Location is within: COUNTY Police protection: COUNTY

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of any law violation(s)?

Name:	Violation & Date:	Arresting Agency:	Disposition:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION

Confirmation Number: 20191217104120107



Initial each

Signature page

☒

In reference to law violations, I attest to the truthfulness of the responses given within the application.

☒

In reference to the Lease/property ownership, I attest to the truthfulness of the responses given within the application.

☒

In reference to ACT No. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

☒

In reference to Special Retail or Special Events retail license, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application.

☒

In reference to the Club Application information, I attest to the truthfulness of the responses given within the application.

☒

In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.

☒

In accordance with Alabama Rules & Regulations 20-X-5-.01(4), any social security number disclosed under this regulation shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record.

☒

The undersigned agree, if a license is issued as herein applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages.

The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the license premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him or her in connection with said licensed premises. The undersigned hereby understands that he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

☒

I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print): **MD ANWAR SHADAD**

Signature of Applicant:

Notary Name (print): **Alesia miles**

Notary Signature:

Commission expires:

4/12/2020

Application Taken:

App. Inv. Completed:

Forwarded to District Office:

Submitted to Local Government:

Received from Local Government:

Received in District Office:

Reviewed by Supervisor:

Forwarded to Central Office:

ELTON N DEAN, SR.
Chairman
Rhonda M. Walker
Vice Chairman

Daniel Harris, Jr.
Isaiah Sankey
Doug Singleton



GEORGE C. SPEAKE, PE, PLS
COUNTY ENGINEER
KEVIN A. BOONE, PE
ASSISTANT COUNTY ENGINEER
334.832.1310
FAX: 334.832.7190
WWW.MC-ALA.ORG

ENGINEERING DEPARTMENT

AGENDA

FEB 25 2020

February 4, 2020

MEMORANDUM

TO: Florence M. Cauthen
Interim County Administrator

FROM: George C. Speake
County Engineer *George C. Speake*
2/4/2020

SUBJECT: Approval of Resolution for Project No. MCP 51-08-20
Resurfacing Woodley Road (5.2 miles).

Please place on the agenda of the next regular meeting of the Montgomery County Commission the approval of the Resolution for Project No. MCP 51-08-20 as referenced above.

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

GCS/kb

Attachments

C: File

RESOLUTION

COUNTY OF MONTGOMERY

Project No. MCP 51-08-20

STATE OF ALABAMA

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

Widen, Level, Resurface, and Traffic Stripe Woodley Road (CR-39) from Mt. Zion Road (CR-39) north 5.2 miles to the Montgomery City Limits.

Link Node and Location maps are attached.

WHEREAS, the County agrees to all of the provisions of the County-wide agreement executed between the State and the County covering preliminary engineering by State forces and equipment on this project, and

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

Done at the regular session of the County Commission of Montgomery County, this ____ day of _____, 2020.

Montgomery County Commission
Governing Body

Elton N. Dean, Sr., Chairman

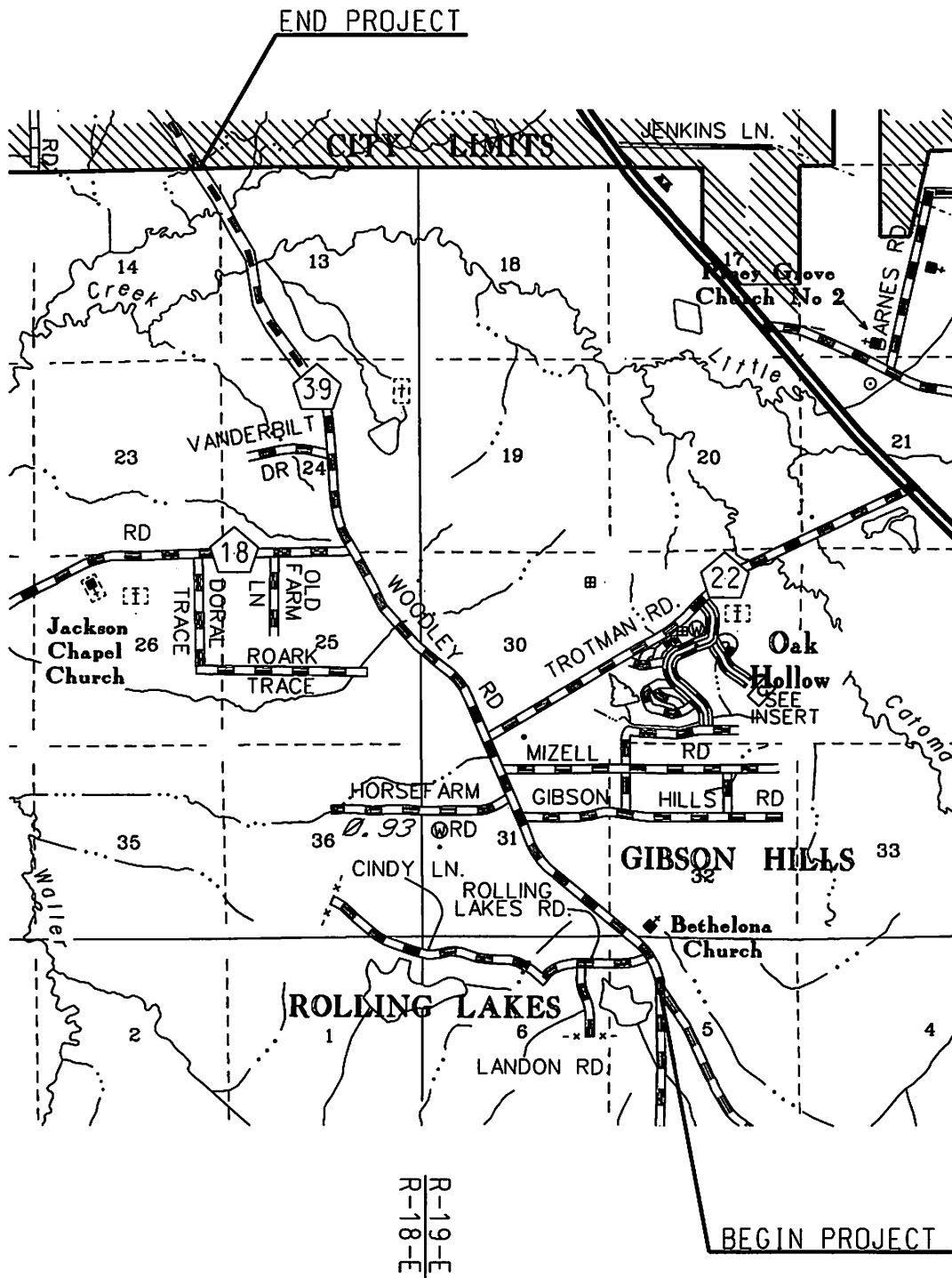
Ronda M. Walker, Vice Chairman

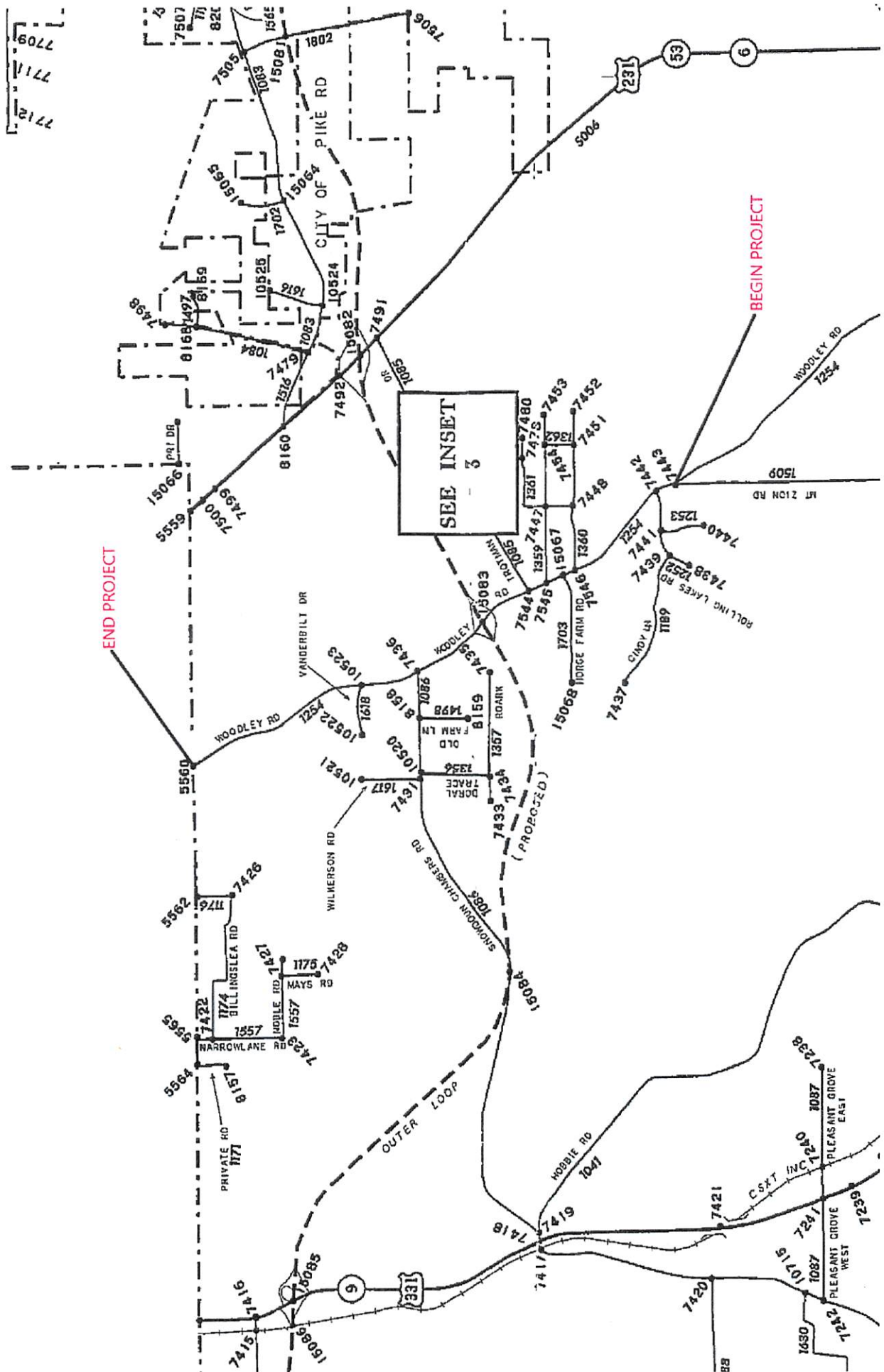
Isaiah Sankey, Member

Daniel Harris, Member

Doug Singleton, Member

WIDEN, LEVEL, RESURFACE, AND TRAFFIC STRIPE WOODLEY ROAD FROM MT. ZION ROAD NORTH 5.2 MILES TO THE MONTGOMERY CITY LIMITS.





3-4

ELTON N DEAN, SR.
Chairman
Rhonda M. Walker
Vice Chairman

Daniel Harris, Jr.
Isaiah Sankey
Doug Singleton



GEORGE C. SPEAKE, PE, PLS
COUNTY ENGINEER
KEVIN A. BOONE, PE
ASSISTANT COUNTY ENGINEER
334.832.1310
FAX: 334.832.7190
WWW.MC-ALA.ORG

ENGINEERING DEPARTMENT

February 4, 2020

AGENDA

FEB 25 2020

MEMORANDUM

TO: Florence M. Cauthen
Interim County Administrator

FROM: George C. Speake
County Engineer *George C. Speake*
2/4/2020

SUBJECT: Approval of Resolution for Project No. MCP 51-09-20
Resurfacing Meriwether Road (4.5 miles).

Please place on the agenda of the next regular meeting of the Montgomery County Commission the approval of the Resolution for Project No. MCP 51-09-20 as referenced above.

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

GCS/kb

Attachments

C: File

RESOLUTION

COUNTY OF MONTGOMERY

Project No. MCP 51-09-20

STATE OF ALABAMA

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

Widen, Level, Resurface, and Traffic Stripe Meriwether Road (CR-40) from US Highway 231 east 4.5 miles to Pike Road (CR-85).

Link Node and Location maps are attached.

WHEREAS, the County agrees to all of the provisions of the County-wide agreement executed between the State and the County covering preliminary engineering by State forces and equipment on this project, and

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

Done at the regular session of the County Commission of Montgomery County, this ____ day of _____, 2020.

Montgomery County Commission
Governing Body

Elton N. Dean, Sr., Chairman

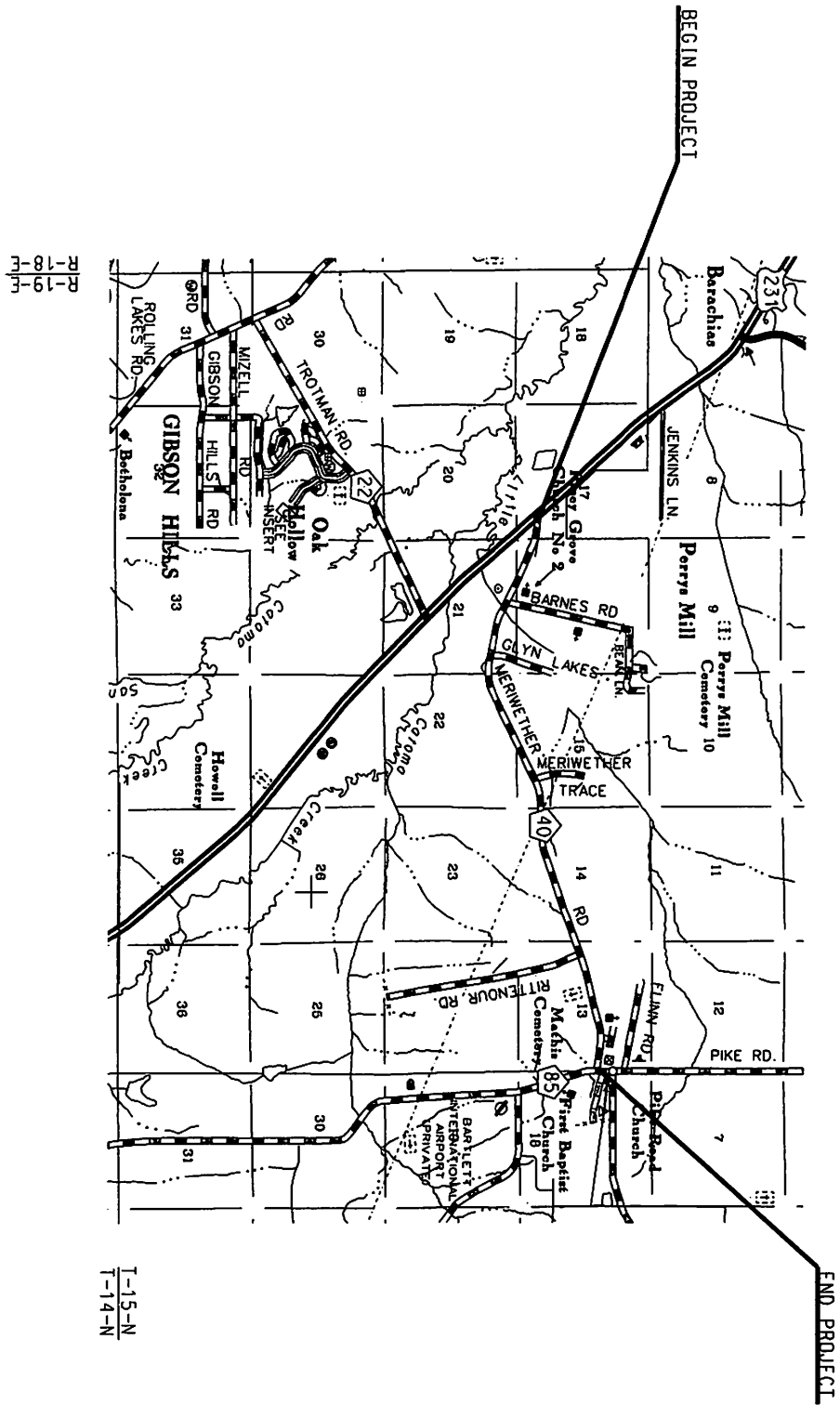
Ronda M. Walker, Vice Chairman

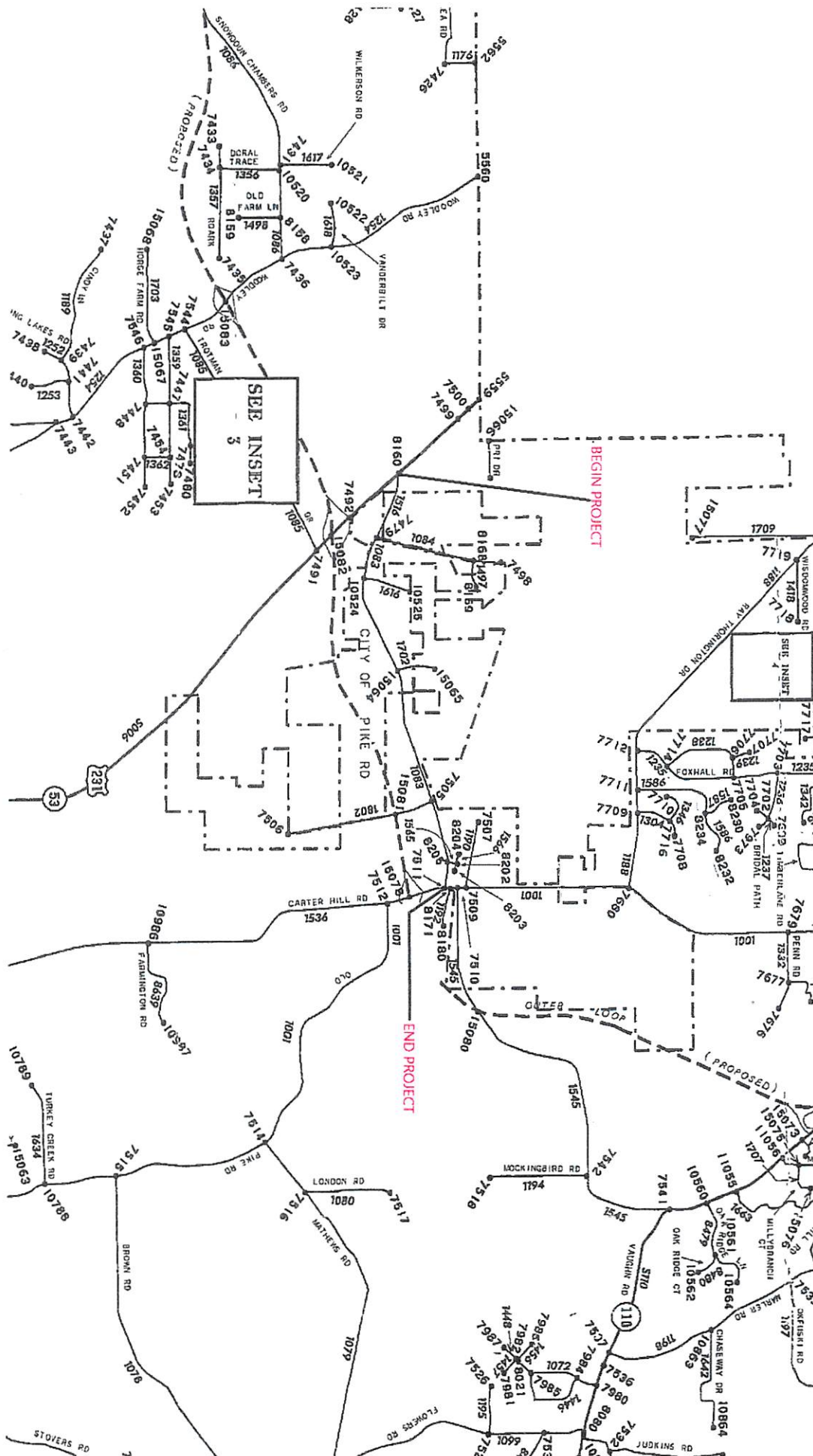
Isaiah Sankey, Member

Daniel Harris, Member

Doug Singleton, Member

WIDEN, LEVEL, RESURFACE, AND TRAFFIC STRIPE MERIWETHER ROAD FROM U.S. HIGHWAY 231 EAST 4.5 MILES TO PIKE ROAD.





4-4

FEB 25 2020

MEMORANDUM

TO: Montgomery County Commission

FROM: J C Love, III, Probate Judge

CC: Florence Cauthen, Deputy Administrator

DATE: February 5, 2020

RE: Proposed Amendment to the Constitution of Alabama for Montgomery County Judge of Probate Requirements

Respectfully, I request approval to move forward with submitting a bill to the Alabama State Legislature. The bill would propose an amendment to the Constitution of Alabama of 1901, to provide that the Judge of Probate of Montgomery County be a licensed attorney in this state. Jefferson County and Mobile County have passed legislation requiring their Probate Judges be licensed attorneys. Your support of this bill is important. A Probate Judge, who is a licensed attorney, would ensure:

- The efficient resolution of judicial matters through proper procedures like Alabama Rules of Civil Procedure and Alabama Rules of Evidence.
- Probable initiation of a mandate by the Alabama Bar Association that all Probate Judges in the state be licensed attorneys. Currently, 22 of the state's 67 Probate Judges are attorneys.
- The additional power and authority given to the office as provided by Alabama law is used in a timely, fair and just manner.

The Montgomery County Probate Judge respectfully requests the approval from the Montgomery County Commission to move forward with submitting the proposed bill to the Alabama State Legislature for consideration. If you have any questions about this request or need additional details, please let me know.

SYNOPSIS: This bill would propose an amendment to the Constitution of Alabama of 1901, to provide that the Judge of Probate of Montgomery County would be required to be an attorney licensed in this state.

A BILL
TO BE ENTITLED
AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to provide that the Judge of Probate of Montgomery County would be required to be an attorney licensed in this state.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

1 The Judge of Probate of Montgomery County shall be
2 an attorney licensed in this state effective upon the election
3 or appointment of any judge of probate after the ratification
4 of the amendment.

5 Section 2. An election upon the proposed amendment
6 shall be held in accordance with Section 284.01 of the
7 Constitution of Alabama of 1901, now appearing as Section
8 284.01 of the Official ReCompilation of the Constitution of
9 Alabama of 1901, as amended, and the election laws of this
10 state.

11 Section 3. The appropriate election official shall
12 assign a ballot number for the proposed constitutional
13 amendment on the election ballot and shall set forth the
14 following description of the substance or subject matter of
15 the proposed constitutional amendment:

16 "Relating to Montgomery County, proposing an
17 amendment to the Constitution of Alabama of 1901, to provide
18 that the Judge of Probate of Montgomery County would be
19 required to be an attorney licensed in this state.

20 "Proposed by Act _____"

21 This description shall be followed by the following
22 language:

23 "Yes () No ()."

Elton N. Dean, Sr.
CHAIRMAN

Ronda M. Walker
VICE CHAIRMAN

Daniel Harris, Jr.
Isaiah Sankey
Doug Singleton



ADMINISTRATOR
Florence M. Cauthen
DEPUTY ADMINISTRATOR

AGENDA

FEB 25 2020

February 20, 2020

MEMORANDUM

TO: Montgomery County Commission

FROM: Florence M. Cauthen *FMC*
Interim County Administrator

SUBJECT: Funding Agreement regarding Garrett Coliseum

The Montgomery County Commission, at its meeting on February 11, 2020, agreed to place on the next agenda a Funding Agreement with the City of Montgomery regarding the Garrett Coliseum.

I am requesting approval of this item.

FMC/tn

Attachment

A COUNTY OLDER THAN THE STATE

Montgomery County Commission • 101 S. Lawrence Street • P.O. Box 1667 • Montgomery, AL 36102 • www.mc-ala.org
Phone 334.832.1210 • Fax 334.832.2533 • TDD 334.265.3568

FUNDING AGREEMENT

THIS FUNDING AGREEMENT dated _____, 2020 (the "Agreement") is entered into by the **CITY OF MONTGOMERY** (the "City") and **MONTGOMERY COUNTY COMMISSION** (the "County").

RECITALS

A. The City is planning on renovating the Garrett Coliseum (collectively, the "Project") located within the City of Montgomery, Alabama.

B. The County believes that the Project will encourage and promote tourism and convention business and will generate substantial economic benefit for the County through the creation of jobs and the expansion of the County's tax base.

C. Pursuant to this Agreement, the County has agreed to make the County Contributions (defined herein) to the City to provide funds for the Project.

NOW, THEREFORE, in consideration of the respective representations and agreements herein contained, the parties hereto agree as follows:

Section 1. Findings and Determinations by the County.

The County hereby finds and determines that:

(a) The County Contributions to be made pursuant to this Agreement will benefit the people of the County to an extent that fully warrants and justifies such contributions.

(b) The County is making public funds available to the City for the purpose of promoting the economic development of the County. The County has determined that the execution and delivery of this Agreement and the consummation of the transactions described herein will promote economic development in the County as follows:

(i) The renovation and operation of the Project are in the economic interest of the County. The Project will provide an opportunity for employment of residents of the County on both a temporary and permanent basis.

(ii) The Project will provide an opportunity to attract larger and additional cultural, recreational, sports and convention activities to the County. These activities will bring more people to the restaurants, hotels and retail establishments in the County, all of which will expand the County's tax base.

(iii) The availability of quality cultural events and sporting events in the County through the continued operation of the Project will aid in the economic development of the County by providing an incentive for businesses to locate, expand or remain in the County.

Section 2. County Contributions.

After the Project begins operations, the County will contribute to the City an aggregate amount not in excess of \$500,000 as needed by the City to pay costs of operation and maintenance of the Project due to a shortfall in operations. Such funds shall be available to the City for the period

beginning on the placed in service date of the Project and continuing for five (5) years thereafter and may be drawn on by the City at such times and in such amounts (up to the aggregate \$500,000 contribution, but not more than \$150,000 in the year 2021 and not more than \$150,000 in the year 2022, not more than \$75,000 in the year 2023 and not more than \$75,000 in the year 2024 and not more than \$50,000 in the year 2025) as the City may request. The County agrees to provide such funds as soon as possible following each request, but in no event more than 30 days following each request. Notwithstanding the preceding provisions of this section , **the obligation of the County in this subsection is contingent upon the City having exhausted, at the time of each request submitted to the County, all available funds from operation of the Project (except for a 30 day operating reserve).**

Section 3. Enforcement

(a) The County acknowledges and agrees that its (i) covenants and agreements herein are binding on the County and (ii) performance of said covenants and agreements may be enforced by the City through any available legal or equitable actions in a court of competent jurisdiction.

(b) The City acknowledges and agrees that its (i) covenants and agreements herein are binding on the City and (ii) performance of said covenants and agreements may be enforced by the County through any available legal or equitable actions in a court of competent jurisdiction, including, but not limited to, specific performance with respect to the obligations of the City in Section 2 of this Agreement.

Section 4. County Not a Partner or Joint Venturer

The County is not an owner of the Project or a partner or joint venturer with the City in any respect. The County's sole obligations with respect to the City and the Project are limited to those obligations expressly undertaken in this Agreement.

Section 5. Dispute Resolution

If a dispute arises out of or relates to this agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussion and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama between the Montgomery County Commission and the City of Montgomery.

Section 6. Miscellaneous

(a) No modification, amendment or alteration of this Agreement shall be effective unless in writing and signed by the City and the County.

(b) The provisions of this Agreement shall be severable. In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining provisions hereof.

IN WITNESS WHEREOF, the City and the County have caused this instrument to be duly executed as of the date set forth above.

CITY OF MONTGOMERY

By: _____
Title: Mayor

MONTGOMERY COUNTY COMMISSION

By: _____
Title: Chairman



Haskell Slaughter Gallion & Walker, LLC
242 Winton M. Blount Loop
Montgomery, Alabama 36117
t 334 265 8573 | f 334 264 7945

TTB

MEMORANDUM

February 13, 2020

To: Florence Cauthen, Interim County Administrator
From: Thomas T. Gallion, III
Re: Funding Agreement regarding Garrett Coliseum

I have reviewed your request for an opinion dated February 5, 2020, regarding a Funding Agreement with the City of Montgomery regarding the Garrett Coliseum. I have reviewed the Agreement and during the Tuesday's Commission meeting, the Commissioners agreed upon the amount.

I opine that the Funding Agreement is acceptable. The Agreement will be binding on all parties upon execution.

I am also of the opinion that the services provided for in this agreement are in the best interest of the public health, safety, education, and general welfare of the citizens of Montgomery County. I, therefore, see no reason why this agreement should not be executed if it is the desire of the Montgomery County Commission.

50051-317

Elton N. Dean, Sr.
CHAIRMAN

Ronda M. Waller
VICE CHAIRMAN

Daniel Harris, Jr.
Isaiah Sankey
Doug Singleton



ADMINISTRATOR
Florence M. Cauthen
DEPUTY ADMINISTRATOR

February 5, 2020

MEMORANDUM

TO: Thomas T. Gallion, III
County Attorney

FROM: Florence M. Cauthen *fmc*
Interim County Administrator

SUBJECT: Funding Agreement regarding Garrett Coliseum

Attached is a Funding Agreement with the City of Montgomery regarding the Garrett Coliseum.

Please review and issue your Opinion by Friday, February 7, 2020, as to whether this Agreement is acceptable.

Thank you for your assistance.

FMC/tn

Attachment

A COUNTY OLDER THAN THE STATE

Montgomery County Commission • 101 S. Lawrence Street • P.O. Box 1667 • Montgomery, AL 36102 • www.mc-fla.org
Phone 334.832.1210 • Fax 334.832.2553 • TDD 334.265.3568

FEB 25 2020

MEMORANDUM

To: Florence M. Cauthen, Deputy County Administrator

From: Khristie Davis, Buyer *CD*

Date: January 23, 2020

RE: Contract No. 52200-19B-010
Inmate Food Services

I request that the attached Amendment 2 to Kellwell Food Management, Inc. for inmate food services be considered for approval on a future agenda.

Amendment No. 2 will allow the contract to be extended for one (1) year, beginning March 4, 2020 and ending on March 3, 2021.

Kellwell Food Management, Inc. would like to increase their price, effective April 1, 2020 by 2.5%, in accordance with the terms of the contract. All other provisions shall remain the same.

This contract extension has been coordinated with Colonel Sonja Pritchett, Detention Facility.

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

Amendment
To
Contract # 52200-19B-010

Amendment No. 2

Contract with Kellwell Food Management, Inc. for inmate food services is hereby extended for one (1) year beginning March 4, 2020 and ending March 3, 2021.

Prices will increase by 2.5%, effective April 1, 2020, in accordance with the contract.

All other provisions of the contract will remain the same.

WITNESS:

KELLWELL FOOD MANAGEMENT, INC.

BY: _____

TITLE: _____

WITNESS:

MONTGOMERY COUNTY COMMISSION

BY: _____

TITLE: _____

FEB 25 2020

INTEROFFICE MEMORANDUM

TO: Florence Cauthen, County Deputy Administrator (interim Administrator)

FROM: John Brown, Purchasing Manager 

SUBJECT: Contract No: 52110-18B-008/Sheriff's Leather & Accessories

DATE: February 5, 2020

CC:

I request the attached Amendment No. 2 to Gulf States Distributors be considered for approval on a future County Commission Agenda.

Amendment No. 2 will allow the contract to be extended for one (1) year, beginning April 16, 2020, and ending on April 15, 2021.

Gulf States Distributors, Inc. would like to decrease overall pricing by \$1,136.44. 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 # 52110-18B-008

Amendment No. 2

Contract with Gulf States Distributors, Inc. for leather and accessories is hereby extended for one (1) year, beginning April 16, 2020 and ending April 15, 2021.

Overall Pricings will decrease by \$1,136.44.

All other provisions of the contract shall remain the same.

WITNESS:

GULF STATES DISTRIBUTORS

BY: _____

TITLE: _____

WITNESS:

MONTGOMERY COUNTY COMMISSION

BY: _____

TITLE: _____

ELTON N. DEAN, SR.
CHAIRMAN

RONDA M. WALKER
VICE CHAIRMAN

DANIEL HARRIS, JR.
ISAIAH SANKEY
DOUG SINGLETON



Terri A. Henderson, CRE
Revenue Manager

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

Telephone (334) 832-1697
FAX (334) 832-1223
Website www.mc-ala.org

MONTGOMERY COUNTY COMMISSION

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

AGENDA

FEB 25 2020

MEMORANDUM

DATE: February 5, 2020

TO: Sherrill Thomas, Finance Director *ST 2/5/20*

FROM: Terri Henderson, Revenue Manager *Terri Henderson 02/05/2020*

RE: **Proposed Renewal of External Audit Examination Services Agreement**

Please note the term of our current Audit Examination Services Agreement between the Montgomery County Commission and RiverTree Systems, Inc. is set to expire on March 5, 2020. Attached is the proposed renewal Agreement for a new three (3) year term commencing on March 6, 2020. Attorney Constance Walker with Haskell Slaughter Gallion & Walker, LLC has already reviewed the proposed agreement with no other changes recommended.

Please let me know if you have questions or need any further information at this time. Otherwise, I respectfully request that this proposed renewal Agreement be included on the agenda for the Montgomery County Commission meeting on February 11, 2020, or as soon as possible thereafter, for further discussion and consideration. Thank you in advance for your consideration and assistance with this matter.

tah/attachments

STATE OF ALABAMA }

COUNTY OF MONTGOMERY }

AGREEMENT FOR EXAMINATION SERVICES

THIS AGREEMENT made and entered into on this the 6th day of March 2020 by and between the Montgomery County Commission (hereafter referred to as "COUNTY"), and **RIVERTREE SYSTEMS, INC.**, an Alabama corporation (hereinafter referred to as "**RIVERTREE**").

The COUNTY desires to provide for the collection of all local taxes and fees, regardless of the jurisdiction in which a taxpayer subject to the COUNTY'S taxing power maintains its principal office, to provide that all taxpayers are treated equally and to provide that all tax related ordinances are uniformly and consistently applied. In order to accomplish these goals and objectives, the COUNTY desires to retain the services of a company legally qualified as a "private auditing or collecting firm" as defined in the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act, Ala. Code § 40-2A-1 (1975) et seq. (hereinafter the "Taxpayers' Bill of Rights") to perform audits and examinations of such taxpayers' books and records.

RIVERTREE is qualified as a private auditing or collecting firm as defined under the Taxpayers' Bill of Rights and, as such, provides collection, examining and consulting services for local governments throughout the State of Alabama. RIVERTREE has represented to the COUNTY that (i) it is knowledgeable of all laws and regulations applicable to private auditing or collecting firms as defined in the Taxpayers' Bill of Rights; (ii) it provides its services in full compliance with all applicable laws and regulations; and

(iii) it has obtained and maintains all of the legally required certifications, fidelity bonds, and legal letters of authority to act as a private auditing or collecting firm as defined in the Taxpayers' Bill of Rights.

The COUNTY desires to retain RIVERTREE as a private auditing and collecting firm, as defined by the Taxpayer's Bill of Rights, to provide tax auditing and examination services under the terms and conditions of this Agreement.

NOW, THEREFORE, PREMISES CONSIDERED, RIVERTREE and the COUNTY hereby agree as follows:

1. **RIVERTREE SYSTEMS, Inc.** The COUNTY and RIVERTREE hereby agree that RIVERTREE will provide the following services:

- a) Identify and prepare a written list of "taxpayer candidates for examination" based on objective criteria to be agreed upon by RIVERTREE and the COUNTY in advance of such work.
- b) Pursuant to Ala. Code § 40-2A-13(d) (1975), as currently in effect or hereafter amended, upon first contact with the taxpayer, RIVERTREE shall disclose in writing the identity of the COUNTY and all other clients represented by RIVERTREE and shall provide a copy of a signed and dated written authorization from the COUNTY of RIVERTREE's representation of the COUNTY and any such other RIVERTREE client. Also, a copy of the contract between RIVERTREE and the COUNTY and a statement as to whether the COUNTY has elected out of the Alabama Tax Tribunal shall be provided upon first contact with the taxpayer. RIVERTREE further agrees to advise the taxpayer, in writing, of the hotline telephone numbers (1-855-638-7092; and 1-334-844-4706) for taxpayers to submit any complaints related to the auditing or collections activities of a private auditing or collecting firm.
- c) Inspect and examine on behalf of the COUNTY, all books, records and other documents of taxpayers assigned to be examined by the COUNTY to determine to what extent, if any, the taxpayer owes the COUNTY sales and use taxes, occupational taxes, license fees, lease rental taxes, tobacco taxes, gasoline taxes, and any other County tax, plus interest, penalties and other charges thereon, as directed by the COUNTY and in accordance with the ordinances, resolutions and regulations of the COUNTY.
- d) RIVERTREE acknowledges that Ala. Code § 40-2A-13(f) (1975) provides that when a private examining or collecting firm represents more than one county, city or town

on the date it first contacts a taxpayer, the private examining or collecting firm shall examine the taxpayer's books and records for all such counties, cities or towns simultaneously. Therefore, when conducting examinations initiated by other RIVERTREE clients, (counties or other cities and towns), RIVERTREE will include the COUNTY on the list of entities for which the examination is being conducted. In the event RIVERTREE examines a taxpayer on behalf of other RIVERTREE clients who have not enacted the same taxes as the COUNTY, then RIVERTREE's audit of such taxpayer shall include all such taxes of the COUNTY.

- e) On or before January 15 of each year, disclose in writing to the COUNTY the identities of all municipalities and counties for which it at any time during the preceding calendar year performed examination of taxpayer's books and records for compliance with applicable sales, use, rental, lodging or other local tax laws or collected sales, use, rental, lodging or other local taxes.
- f) Not disclose or encourage others to disclose, either directly or indirectly, to any non-client municipality or county or its agents, the fact it is presently conducting an examination of the taxpayer's books and records.
- g) Perform examinations of taxpayer's records in accordance with "*The Minimum Standard Examination Program*" established by the Alabama Local Tax Institute of Standards and Training (the "Minimum Standards").
- h) Report to the COUNTY that information necessary for the COUNTY to assess the taxpayer's sales and use taxes, license fees, **lease rental** taxes, and all other County taxes, plus interest, penalties and other charges thereon for transactions which RIVERTREE reasonably believes may have resulted in an obligation of the taxpayer to pay such taxes to the COUNTY.
- i) Prepare and present to the COUNTY a "Findings Report," which shall include, at a minimum, all information required to prepare a written report **under in accordance with** the Minimum Standards and a summary thereof on each examination performed. In the event RIVERTREE's audit indicates that a particular taxpayer has no tax liability to the COUNTY, RIVERTREE shall provide the COUNTY a written report including the name of the taxpayer audited, the types of tax for which the taxpayer was examined and found to have no liability, and the audit period.
- j) Provide full cooperation to the COUNTY in the preparation of any legal documents, attend any judicial, administrative, departmental, appellate or other legal hearings and be available to testify at hearings that may be required to collect any amounts due to the COUNTY from the taxpayer.
- k) Pursuant to the Ala. Code § 40-2A-1 3(h) (1975), **as currently in effect or hereafter amended**, notify the taxpayer in writing, and the COUNTY, simultaneously, if any tax overpayments are discovered and the taxpayer is due any refunds from the COUNTY,

or if the taxpayer owes any tax to the COUNTY and the estimated amount, and advise the taxpayer of the general procedure to make a claim for refund or pay a tax.

- l) Any additional or incidental services which are allowable by law and are reasonably necessary in order to carry out RIVERTREE's obligations under this Agreement.

RIVERTREE shall collect all taxes with checks payable to the MONTGOMERY COUNTY COMMISSION.

2. **Compensation.** It is understood that each RIVERTREE client will only pay a prorated portion of total audit costs when RIVERTREE is conducting examinations for multiple clients at one time. The COUNTY agrees to pay RIVERTREE its prorated portion of each audit's total audit costs which shall consist of **seventy-five dollars (\$75.00) per hour**. RIVERTREE shall be paid monthly based upon hours worked submitted to the COUNTY by the fifteenth (15th) day of the month for the month next proceeding. The parties acknowledge that **the Ala. Code § 40-2A-6 (1975)** specifically prohibits the COUNTY from entering into any contract or arrangement with a private **examining or contracting auditing or collecting** firm for the examination of a taxpayer's books on a contingency fee basis and agree that RIVERTREE's compensation under this Agreement is not in any way contingent upon or otherwise related to the amounts discovered during examinations nor contingent upon or related to amounts finally received by the COUNTY.

3. **Representations and Warranties.** RIVERTREE represents and warrants as follows:

- a. RIVERTREE is a corporation valid and existing and in good standing under the laws of the State of Alabama.
- b. As of the effective date of the Agreement, RIVERTREE and any employee, agent, or independent auditor/examiner of RIVERTREE providing services under this Agreement, shall have obtained all licenses and bonds required by applicable law and which are necessary or appropriate to perform

RIVERTREE's obligations under this Agreement, and all such licenses and bonds shall be current and in good standing, and shall be maintained throughout the term of this Agreement.

- c. RIVERTREE and its employees, agents, **representatives** and independent auditors/examiners agree to comply with all applicable current and future laws, rules and regulations applicable to all services provided by RIVERTREE under this Agreement, including, but not limited to, the Local Tax Simplification Act of 1998, the Alabama Local Tax Procedures Act of 1998 and the Taxpayers' Bill of Rights as currently in effect and hereafter amended.
- d. RIVERTREE agrees to comply with all laws and regulations relating to the employees of RIVERTREE, including, without limitation, all tax withholding requirements and worker's compensation laws.
- e. Any final assessment or forced collection action based upon an audit conducted by RIVERTREE on behalf of the COUNTY shall not be issued and applicable to a taxpayer until signed by a public official or employee designated by the COUNTY.

4. **Change in Law.** The parties agree that in the event of any conflict between the requirements of any applicable law and the terms of this Agreement, then the requirements of such applicable law shall control. If any law applicable to the services provided by RIVERTREE under this Agreement shall be amended, or otherwise changed following the effective date of this Agreement, and the COUNTY, in its sole discretion, determines that such amendment, modification or change in the law shall impair or frustrate the COUNTY'S purposes for entering into this Agreement, then the COUNTY shall have the option to terminate this Agreement as provided in Paragraph 10 below.

5. **Requirements of Examiners.** All examiners employed by RIVERTREE shall meet all requirements set forth in the Taxpayers' Bill of Rights and other current or future applicable law. At a minimum, all such examiners shall (i) be certified public accountants or accountants licensed by the State Board of Public Accountants, or (ii) be certified by the Alabama Local Tax Institute of Standards and Training, and (iii) maintain

fidelity bonds in accordance with Ala. Code § 40-23-30 (1975), as currently in effect and hereafter amended, and (iv) maintain a business license as required by Ala. Code § 40-12-2 (1975), as currently in effect and hereafter amended. If any assessment based on an audit by RIVERTREE is invalidated due to lack of proper certification of RIVERTREE's auditors RIVERTREE must either provide an audit of the assessed taxpayer conducted by a certified auditor, or reimburse the COUNTY for all amounts paid to RIVERTREE in connection with the audit.

In accordance with applicable law, RIVERTREE may not employ unbonded auditors, or examiners to perform services pursuant to this Agreement who have failed to receive or maintain their certifications in paragraph 5(i) and (ii) above. Any violation of this paragraph of which RIVERTREE knew or should have known, shall have the effect of doing all of the following:

(1) Automatically terminating this Agreement; (2) Voiding any assessment or proposed assessment issued by the COUNTY as a result of any examination conducted, in whole or in part, by the examiner, but shall not prevent the COUNTY from sending a qualified examiner to examine the taxpayer's books and records; (3) cause RIVERTREE to forfeit its license granted pursuant to Ala. Code § 40-12-43.1 (1975) for a period of six (6) months.

RIVERTREE shall indemnify and hold COUNTY harmless from any loss in revenues arising from or in connection with any invalidated assessment based upon an audit conducted by RIVERTREE if such invalidation is due to lack of proper certification of RIVERTREE 's auditors or due to any other fault of RIVERTREE.

6. **Inspection.** The COUNTY reserves the right at all reasonable times to inspect the documents, information, taxpayer examination system and procedures of RIVERTREE to ensure that RIVERTREE and its employees, agents, **representatives** and independent auditors/examiners are complying with the terms of this Agreement and all applicable laws. Any such inspection or any lack of inspection by the COUNTY, however, shall not be deemed to waive the requirements of, or excuse ~~the foregoing~~ **RIVERTREE** from complying with the terms of this Agreement and all applicable laws.

7. **Confidentiality of Tax Information.** RIVERTREE and its employees, agents, and independent auditors/examiners shall not print, publish or divulge the return of any taxpayer or any part of a return or any information or data supplied by the COUNTY or secured in arriving at the amount of the tax value reported and shall act in conformance with all current and future federal, state and local laws and regulations concerning the confidentiality of tax information, including, but not limited to, the Taxpayers' Bill of Rights (collectively, the "Confidentiality Laws"). All principals, officers, employees, **representatives** and independent auditors/examiners of RIVERTREE involved with the services provided by RIVERTREE under this Agreement, prior to undertaking such services, shall execute an agreement in form and context acceptable to the COUNTY binding such principals, officers, employees, **representatives** and independent auditors/examiners to observe the Confidentiality Laws.

8. **Independent Contractor.** The parties agree that RIVERTREE is and shall at all times be considered an independent contractor and neither it nor its employees, **representatives** or its independent auditors/examiners shall be considered employees of the COUNTY or entitled to any rights or benefits accorded to employees of the COUNTY.

RIVERTREE and the COUNTY affirm that this Agreement does not create a partnership or joint venture and that no expressed, implied or apparent rights are intended to inure to any third parties under the terms and conditions herein.

9. **Term.** This Agreement shall be effective as of the date set forth in the preamble and will continue for a period of 3 year(s) from the date unless terminated as herein provided. Pursuant of Ala. Code § 40-2A-12 (1975), **as currently in effect or hereafter amended**, this Agreement shall not be renewed or extended beyond such three (3) year term: provided, however, that the parties may negotiate a new contract concerning the subject matter of this Agreement to become effective following expiration of this Agreement.

10. **Default.** If RIVERTREE shall fail in any respect to comply with the terms of this Agreement, the COUNTY shall notify RIVERTREE in writing of the matters with regard to which default is asserted, and RIVERTREE shall have thirty (30) days to cure such default. If RIVERTREE fails to **either** cure such default within said time, then the COUNTY may terminate this Agreement at any time thereafter by giving written notice to RIVERTREE of its election to terminate at least ninety (90) days prior to the effective date of termination.

11. **Termination.** Either party may terminate this Agreement by giving the other party written notice of termination at least ninety (90) days prior to the effective date of termination. Notwithstanding the foregoing, this Agreement shall be terminated automatically, without notice, if RIVERTREE, for any reason loses or foregoes its license required under Ala. Code § 40-2A-13 (1975) or Ala. Code § 40-2A-14 (1975), **as currently in effect or hereafter amended**. RIVERTREE shall provide the COUNTY all documentation,

records, reports, and examinations as of the effective date of the termination with a final itemized statement of fees due.

12. **Assignment; Subcontracting of Services.** COUNTY acknowledges and agrees that RIVERTREE may retain auditors or examiners on an independent contractor basis to provide the services described in this Agreement and the COUNTY consents to RIVERTREE's retention of such auditors or examiners provided, however, that any such auditor or examiner must meet all criteria applicable to auditors and examiners under applicable law or under this Agreement and provided further that all terms and conditions of this Agreement, including but not limited to indemnities, applicable to services provided by RIVERTREE shall apply to any work performed by such auditors and examiners. RIVERTREE shall maintain and, upon the COUNTY'S request, shall provide to the COUNTY a list of all auditors and examiners authorized to provide services on behalf of RIVERTREE. Except as provided in this Paragraph 12, RIVERTREE shall not assign any of its rights or obligations under this Agreement or enter into an agreement with any person, entity or subcontractor to perform the obligations of RIVERTREE under this Agreement. Any such assignment or other agreement by RIVERTREE shall be null and void.

13. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama. If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in

person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Montgomery County, Alabama and governed by the laws of the State of Alabama.

IN WITNESS WHEREOF, the undersigned parties, through their duly authorized officers, have executed this Agreement on the year and day first above written.

MONTGOMERY COUNTY COMMISSION

By: _____

Title:_____

RIVERTREE SYSTEMS, INC.

PRESIDENT

Terri Henderson

From: Constance Walker <ccw@hsg-law.com>
Sent: Monday, February 3, 2020 12:23 PM
To: Terri Henderson
Cc: Constance Walker
Subject: blank draft version - from 2017 RiverTree agreement- for auditing examination services with yellow
Attachments: blank draft version - from 2017 RiverTree agreement- for auditing examination services with yellow.doc

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Terri – Attached is the RiverTree agreement with Montgomery Co. with my suggested changes. They are in yellow. Please let me know if you have any questions.
Thanks, Connie

Elton N. Dean, Sr.
CHAIRMAN

Ronda M. Walker
VICE CHAIRMAN

Daniel Harris, Jr.
Isaiah Sankey
Doug Singleton



ADMINISTRATOR
Florence M. Cauthen
DEPUTY ADMINISTRATOR

AGENDA

FEB 25 2020

February 20, 2020

MEMORANDUM

TO: Montgomery County Commission

FROM: Florence M. Cauthen
Interim County Administrator *FMC*

SUBJECT: Agreement regarding Flatwood Community Center Renovations

The Montgomery County Commission, at its meeting on February 11, 2020, agreed to place on the next agenda an Agreement with Barganier Davis Williams Architects Associated regarding renovations to the Flatwood Community Center.

I am requesting approval of this Agreement.

FMC/tn

Attachment

A COUNTY OLDER THAN THE STATE

Montgomery County Commission • 101 S. Lawrence Street • P.O. Box 1667 • Montgomery, AL 36102 • www.mc-ala.org
Phone 334.832.1210 • Fax 334.832.2533 • TDD 334.265.3568

AIA[®] Document B105[™] – 2017

Standard Short Form of Agreement Between Owner and Architect

AGREEMENT made as of the 7 day of February in the year 2020
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Montgomery County Commission
P. O. Box 1667
Montgomery, Alabama 36102

and the Architect:
(Name, legal status, address and other information)

Barganier Davis Williams Architects Associated
624 South McDonough Street
Montgomery, Alabama 36104
334-834-2038

for the following Project:
(Name, location and detailed description)

An Addition and Renovations to the Flatwood Community Center
360 Williams Drive
Montgomery, Alabama 36110

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

The Architect shall provide architectural services for the Project as described in this Agreement. The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall assist the Owner in determining consulting services required for the Project. The Architect's services include the following consulting services, if any:

See "Attachment A"

During the Design Phase, the Architect shall review the Owner's scope of work, budget and schedule and reach an understanding with the Owner of the Project requirements. Based on the approved Project requirements, the Architect shall develop a design, which shall be set forth in drawings and other documents appropriate for the Project. Upon the Owner's approval of the design, the Architect shall prepare Construction Documents indicating requirements for construction of the Project and shall coordinate its services with any consulting services the Owner provides. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities, in obtaining bids or proposals, and in awarding contracts for construction.

During the Construction Phase, the Architect shall act as the Owner's representative and provide administration of the Contract between the Owner and Contractor. The extent of the Architect's authority and responsibility during construction is described in AIA Document A105™-2017, Standard Short Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A105-2017, those modifications shall not affect the Architect's services under this Agreement, unless the Owner and Architect amend this Agreement.

ARTICLE 2 OWNER'S RESPONSIBILITIES

The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the Project, and shall establish a budget that includes reasonable contingencies and meets the Project requirements. The Owner shall provide decisions and furnish required information as expeditiously as necessary for the orderly progress of the Project. The Architect shall be entitled to rely on the accuracy and completeness of the Owner's information. The Owner shall furnish consulting services not provided by the Architect, but required for the Project, such as surveying, which shall include property boundaries, topography, utilities, and wetlands information; geotechnical engineering; and environmental testing services. The Owner shall employ a Contractor, experienced in the type of Project to be constructed, to perform the construction Work and to provide price information.

ARTICLE 3 USE OF DOCUMENTS

Drawings, specifications and other documents prepared by the Architect are the Architect's Instruments of Service and are for the Owner's use solely with respect to constructing the Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the construction of the Project, provided that the Owner substantially performs its obligations under this Agreement, the Architect grants to the Owner a license to use the Architect's Instruments of Service as a reference for maintaining, altering and adding to the Project. The Owner agrees to indemnify the Architect from all costs and expenses related to claims arising from the Owner's use of the Instruments of Service without retaining the Architect. When transmitting copyright-protected information for use on the Project, the transmitting party represents that it is either the copyright owner of the information or has permission from the copyright owner to transmit the information for its use on the Project.

ARTICLE 4 TERMINATION, SUSPENSION OR ABANDONMENT

In the event of termination, suspension or abandonment of the Project by the Owner, the Architect shall be compensated for services performed. The Owner's failure to make payments in accordance with this Agreement shall be considered substantial nonperformance and sufficient cause for the Architect to suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the Project is suspended for more than 90 days, or if the other party substantially fails to perform in accordance with the terms of this Agreement. Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

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ARTICLE 5 MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the law of the place where the Project is located. Terms in this Agreement shall have the same meaning as those in AIA Document A105-2017, Standard Short Form of Agreement Between Owner and Contractor. Neither party to this Agreement shall assign the contract as a whole without written consent of the other.

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or the Architect.

The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

ARTICLE 6 PAYMENTS AND COMPENSATION TO THE ARCHITECT

The Architect's Compensation shall be:

The Owner shall pay the Architect an initial payment of Zero (\$ 0) as a minimum payment under this Agreement. The initial payment shall be credited to the final invoice.

The Owner shall reimburse the Architect for expenses incurred in the interest of the Project, plus Zero percent (0 %).

Payments are due and payable upon receipt of the Architect's monthly invoice. Amounts unpaid N/A (0) days after the invoice date shall bear interest from the date payment is due at the rate of Zero percent (0 %), or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect.

At the request of the Owner, the Architect shall provide additional services not included in Article 1 for additional compensation. Such additional services may include, but not be limited to, providing or coordinating services of consultants not identified in Article 1; revisions due to changes in the Project scope, quality or budget, or due to Owner-requested changes in the approved design; evaluating changes in the Work and Contractors' requests for substitutions of materials or systems; providing services necessitated by the Contractor's failure to perform; and the extension of the Architect's Article 1 services beyond Twenty Four (24) months of the date of this Agreement through no fault of the Architect.

ARTICLE 7 OTHER PROVISIONS

(Insert descriptions of other services and modifications to the terms of this Agreement.)

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☒ Other: (Specify)

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

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§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.4 Other-Dispute Resolution Processes

§ 8.4.1 If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be in Montgomery, Alabama. Either party may terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to either party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution, any dispute not resolved by mediation shall be decided in the Circuit Court of Montgomery, Alabama, governed by the laws of the State of Alabama.

ARTICLE 10 MISCELLANEOUS PROVISIONS

10.9 There shall be no reduction in fee for actual services provided due to deductive Change Order items or deductive Alternates.

10.10 If a Change Order is generated, as a result of an error or omission by the Architect, there will be no cost to the Owner for A/E Fees.

10.11 Project Betterment

If, due to the Architect's error, any required item or component of the project is omitted from the Architect's construction documents, the Architect shall not be responsible for paying the actual cost to add such item or component to the extent that such item or component would have been otherwise necessary for the project or otherwise add value to betterment to the project. If due to Architect's error, the Architect will be responsible for added cost due to demolition, corrective or other rework and on upcharges for out of sequence work.

10.12 Consequential Damages

Notwithstanding any other provisions of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Owner or the Architect, their employees, agents, subconsultants or subcontractors. Consequential damages include but are not limited to loss of use and loss of profit.

10.13 Indemnification

Owner agrees to indemnify, hold harmless and defend the Architect and its Consultants from and against each and every claim made against Architect for loss of business, damages, equitable remedies, penalties, litigation expenses, attorney fees and insurance deductibles, or any combination thereof, brought against the Architect by reason of Architect's participation with the Project (as opposed to a claim based on Architect's own negligence, errors or omission) and arising out of interruption of public utilities, closing of public streets, and/or any injury to or destruction of tangible property, including the loss of use resulting from construction activities in and around the Project and other areas that must remain in use during the construction period. It is agreed and understood that the Owner, through itself and/or its Construction Manager, is responsible for providing access to restricted areas and for ensuring the proper and timely interruption and closing of public streets as applicable. The architect shall remain liable, however, for any claims brought against Architect, Owner or other based upon Architect's performance under this Agreement or in connection with this Project.

10.14 Hold Harmless

The selected vendor agrees to protect, defend, indemnify and hold the Montgomery County Commission and its employees, agents, officers and servants free from harmless from any and all losses, claims, liens, not limited to, the amounts of judgements, penalties, interest, court costs, legal fees and all other expenses incurred by the County arising in favor of any party, including employees of the successful vendor, death or

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User Notes:

(808807536)

5

damages to property and without limitation by enumeration, all other claims or demands of every character but only on the proportion of and to the extent such losses, claims or demands of every character but only on the proportion of and to the extent such losses, claims, liens, demands and causes of action arise out of the negligent acts or omissions of contractor, its employees, agents and officers. The successful vendor agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suite at its sole expense. The successful vendor also agrees to bear all other costs and expense related thereto, even if the claim or claims alleged are groundless, false or fraudulent.

This Agreement entered into as of the day and year first written above

OWNER (Signature)

Elton N. Dean, Sr. Chairman
(Printed name and title)

ARCHITECT (Signature)

Dart Davis Principal
(Printed name, title, and license number, if required)

PROJECT ARCHITECT

Johnny Raines, III, AIA, hitect

Init.

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User Notes:

(808807536)

Attachment A



**RE: Architectural Services
For an Addition and Renovations to the
Flatwood Community Center for the
Montgomery County Commission**

PROJECT SUMMARY

Barganier Davis Williams Architects Associated (BDW) will be providing architectural services the addition and renovations to the Flatwood Community Center.

The Project:

**RE: An Addition and Renovation to the
Flatwood Community Center for the
360 Williams Drive
Montgomery, Alabama**

The existing Flatwood Community Center is proposing a **500+/-** square foot addition along with some selective renovations including restroom upgrades. The proposed addition will be on the West side of the existing community center. The construction of the new addition will adhere to the required energy standards.

The addition will consist of a new kitchen (residential type appliances) with server, a continuation of open space adjacent to the existing meeting space that will have the option to partition off into a smaller meeting space and new heating/cooling system at new addition, as required. The proposed renovations will consist of updating the existing restrooms. The new addition will match the existing structure and/or painted composite boards. The roof and fascia will match and/or complement the existing elevation of the building.

(If extension design work is required for the septic system, additional services/fees may be required.)

The owner's preliminary construction budget is approximately \$ 100,000.00.

BDW BASIC ARCHITECTURAL SERVICES FEE FOR NEW ADDITION AND RENOVATIONS

Estimated Cost of Construction	Architectural Fee
\$ 85,000 to \$ 100,000	\$10,000

NOTES:

1. The Fee Schedule does not include cost for reimbursable expenses. The Reimbursement expenses are to be determined. Reimbursable expenses are defined in Exhibit B. Compensation for Basic Services is based on a percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent	(15%)
Design Development Phase	Fifteen	percent	(15%)
Construction Documents Phase	Forty Five	percent	(45%)
Bidding or Negotiations Phase	Five	percent	(5%)
Construction Phase	Twenty	percent	(20%)
TOTAL BASIC COMPENSATION	One Hundred	Percent	(100%)

PROJECT TEAM

Owner

Montgomery County Commission
101 S Lawrence Street
Montgomery, AL 36102
(334) 834-1204

Architect

Johnny Raines & Dart Davis
Barganier Davis Williams Architects Associated
624 So. McDonough Street
Montgomery, AL 36104
(334) 834-2038

Mechanical, Electrical & Plumbing, (Architect's Consultant)

Zgouvas Eiring and Associates
800 South McDonough Street
Montgomery, AL 36104

Civil

Steve Martin Engineering & Survey
2251 Gilmer Ave
Talladega, AL 36078

Electrical Engineer, (Architect's Consultant)

Phillip Johnson
Keystone Engineering Services, LLC
113 Cone Drive
Selma, AL 36701

PROJECT PROCUREMENT METHOD

The project will be advertised for bid. The Architect/Owner may choose to pre-qualify bidders.

FEB 25 2020

February 5, 2020

MEMORANDUM

TO: Montgomery County Commission

FROM: Florence M. Cauthen, Interim Administrator 

SUBJECT: Jail 1 Repairs and Renovations-Change Order Request 3

Please find attached Change Order 3 to the contract with Holley-Henley Builders, Inc., in the amount of \$80,000 for emergency repairs to the kitchen subfloor, as authorized by the Commission at its meeting on October 11, 2019. I request that approval of the Change Order be placed on the next agenda.

AIA® Document G701™ – 2017

Change Order

PROJECT: <i>(Name and address)</i> Renovations to Montgomery County Detention Facility Building 1 for Montgomery County Commission PH&J #1712GV	CONTRACT INFORMATION: Contract For: General Construction Date: January 30, 2019	CHANGE ORDER INFORMATION: Change Order Number: 003 Date: January 27, 2020
OWNER: <i>(Name and address)</i> Montgomery County Commission PO Box 1667 Montgomery, AL 36102	ARCHITECT: <i>(Name and address)</i> PH&J Architects, Inc. 807 S. McDonough Street Montgomery, AL 36104	CONTRACTOR: <i>(Name and address)</i> Holley-Henley Builders, Inc. 438-A Twain Curve Montgomery, AL 36117

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

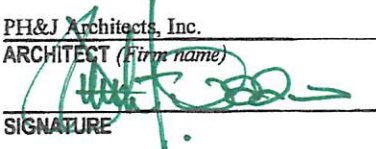
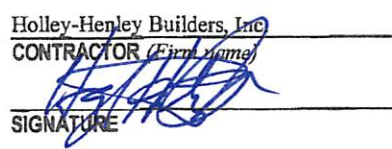
ADD: Emergency Repairs to Kitchen Subfloor.....\$80,000.00

TOTAL \$80,000.00

The original Contract Sum was	\$ 4,919,808,000.00
The net change by previously authorized Change Orders	\$ -1,285,620.84
The Contract Sum prior to this Change Order was	\$ 3,634,187.16
The Contract Sum will be increased by this Change Order in the amount of	\$ 80,000.00
The new Contract Sum including this Change Order will be	\$ 3,714,187.16
The Contract Time will be increased by Zero (0) days.	
The new date of Substantial Completion will be	

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

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

PH&J Architects, Inc. ARCHITECT <i>(Firm name)</i>  SIGNATURE Patrick Addison, Vice President PRINTED NAME AND TITLE DATE	Holley-Henley Builders, Inc. CONTRACTOR <i>(Firm name)</i>  SIGNATURE Hoyt Henley, Vice President PRINTED NAME AND TITLE 1-28-2020 DATE	Montgomery County Commission OWNER <i>(Firm name)</i> SIGNATURE Elton N. Dean, Chairman PRINTED NAME AND TITLE DATE
--	--	--

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CHANGE ORDER NUMBER THREE SUMMARY SHEET

Montgomery County Jail Renovations

PH&J #1712-GV

<u>ITEM</u>	<u>RFP #</u>	<u>DESCRIPTION</u>	<u>COST</u>	<u>DAYS</u>
A	-	Emergency Repairs to the Kitchen Subfloor	\$80,000.00	0

TOTALS

\$80,000.00 0

RFP = Request for Proposal Number



Alabama Alcoholic Beverage Control Board
Licensing and Compliance Division

2715 Gunter Park Drive West
Montgomery, AL 36109
Phone: 334-213-6300
Fax: 334-213-6322

AGENDA

FEB 25 2020

February 3, 2020

MEMORANDUM

To: All Wet County Commissions

From: Summer Childers
Licensing and Compliance Division Director

Subject: County Levies for Alcohol Licensing

Sec. 28-3A-4, Code of Alabama, requires the Alcoholic Beverage Control Board to collect all county license fees for all new license applications and renewed licenses. In order for this program to be set up for fiscal year 2020-2021, the attached form must be completed listing all amounts set by your county in column three (3). If your county does not wish to make changes to the fees for a particular license type, please indicate that by writing "no change".

Limitations of the maximum amount of county fees for the following ten (10) types of licenses have been set.

<u>Type</u>	<u>Maximum County Fee</u>
Retail Beer (On or Off Premises)	\$75.00
Retail Beer (Off Premises Only)	\$75.00
Retail Table Wine (On or Off Premises)	\$75.00
Retail Table Wine (Off Premises Only)	\$75.00
Wholesale Beer Only	\$275.00
Wholesale Table Wine Only	\$275.00
Wholesale Table Wine and Beer	\$375.00
Additional Warehouse Wine or Beer or Both	\$100.00
Importer	\$250.00
Brewpub	\$500.00

Please supply us with this information no later than **April 10, 2020**. This form must be signed by an authorized county official. Please return your completed document to Courtney.Craig@abc.alabama.gov or mail to the address above. If there are any changes in your contact information, it is your responsibility to notify the ABC Board as soon as possible.

Received by: _____

County: _____

12-1

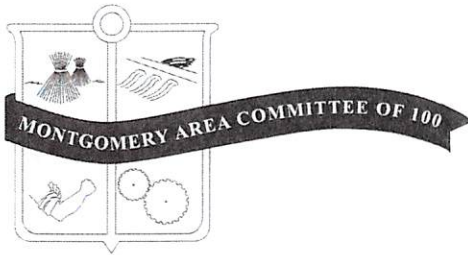
COUNTY (51) MONTGOMERY 2020-2021

	*FILING FEE	STATE LICENSE FEE	COUNTY LICENSE FEE	RENEWAL TOTAL	NEW LICENSE TOTAL
TYPE LICENSE & CODE					
010 - LOUNGE RETAIL LIQUOR - CLASS I	\$ 50.00	\$300.00	\$300.00	\$600.00	\$650.00
011 - LOUNGE RETAIL LIQUOR - CLASS II - (PACKAGE)	\$ 50.00	\$300.00	\$300.00	\$600.00	\$650.00
020 - RESTAURANT RETAIL LIQUOR	\$ 50.00	\$300.00	\$300.00	\$600.00	\$650.00
031 - CLUB LIQUOR - CLASS I	\$ 50.00	\$300.00	\$500.00	\$800.00	\$850.00
032 - CLUB LIQUOR - CLASS II	\$ 50.00	\$750.00	\$750.00	\$1,500.00	\$1,550.00
**					
040 - RETAIL BEER - (ON OR OFF PREMISES)	\$ 50.00	\$150.00	\$75.00	\$225.00	\$275.00
**					
050 - RETAIL BEER (OFF PREMISES ONLY)	\$ 50.00	\$150.00	\$75.00	\$225.00	\$275.00
**					
060 - RETAIL TABLE WINE (ON OR OFF PREMISES)	\$ 50.00	\$150.00	\$75.00	\$225.00	\$275.00
**					
070 - RETAIL TABLE WINE (OFF PREMISES ONLY)	\$ 50.00	\$150.00	\$75.00	\$225.00	\$275.00
080 - LIQUOR WHOLESALE	\$ 50.00	\$500.00	\$500.00	\$1,000.00	\$1,050.00
**					
090 - WHOLESALE BEER ONLY	\$ 50.00	\$550.00	\$275.00	\$825.00	\$875.00
**					
100 - WHOLESALE TABLE WINE ONLY - 16.5% OR LESS	\$ 50.00	\$550.00	\$275.00	\$825.00	\$875.00
**					
110 - WHOLESALE TABLE WINE & BEER COMBINED	\$ 50.00	\$750.00	\$375.00	\$1,125.00	\$1,175.00
120 - WAREHOUSE LICENSE	\$ 50.00	\$200.00	\$200.00	\$400.00	\$450.00
**					
130 - ADDITIONAL WAREHOUSE-WINE, BEER OR BOTH	\$ 50.00	\$200.00	\$100.00	\$300.00	\$350.00
140 - SPECIAL EVENTS RETAIL	\$ 50.00	\$150.00	\$150.00	N/A	\$350.00
150 - SPECIAL RETAIL LICENSE - 30 DAYS OR LESS	\$ 50.00	\$100.00	\$100.00	N/A	\$250.00
160 - SPECIAL RETAIL - MORE THAN 30 DAYS	\$ 50.00	\$250.00	\$250.00	\$500.00	\$550.00
170 - RETAIL COMMON CARRIER	\$ 50.00	\$150.00	\$150.00	\$300.00	\$350.00
200 - MANUFACTURER	\$ 50.00	\$500.00	\$500.00	\$1,000.00	\$1,050.00
**					
210 - IMPORTER	\$ 50.00	\$500.00	\$250.00	\$750.00	\$800.00
**					
220 - BREWPUB	\$ 50.00	\$1,000.00	\$500.00	\$1,500.00	\$1,550.00
230 - INTERNATIONAL MOTOR SPEEDWAY	\$ 50.00	\$300.00	\$300.00	\$600.00	\$650.00
240 - NON-PROFIT - TAX EXEMPT		\$0.00	N/A	N/A	N/A

* A \$50.00 non-refundable filing fee is charged to all new licenses.

** May not charge more than one-half of the state fee for this type of license.

SIGNED: _____
 Authorized County Official Title Date



Montgomery Area Committee of 100, Inc.
P. O. Box 79
Montgomery, AL 36101

Invoice

Honorable Elton Dean
 Montgomery County Commission
 P O Box 1667
 Montgomery, AL 36102

Date	Invoice #
1/6/2020	2485

AGENDA

FEB 25 2020

Item Code	Description	Amount
Ex-Officio	Ex-Officio Membership	750.00
Please remit upon receipt to: Montgomery Area Committee of 100 P. O. Box 79 Montgomery, AL 36101-0079		Total \$750.00

FEB 25 2020

FEB 25 2020

[illegible]

Norm McLean - 2/26/2020

14-1

MISCELLANEOUS APPROPRIATIONS FROM DESIGNATED REVENUE - Meeting Date: 2/25/2020 - CODE: 001-59320.450

[illegible]

FEB 25 2020

74

FEB 25 2020

POSITION FILL REQUEST- BUDGETED VACANCY

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

POSITION INFORMATION:

Position Title Corrections Officer Corporal
 Position Number 500425167(Replace C. Jones)
 Pay Grade PC2 Pay Range 35,097 - 52,440
 Proposed Effective Date March 2, 2020
 Type of Hire (☐) New (☒) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham Date February 10, 2020
 Department Head

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring Date 02/13/2020
 Employee Benefit Manager

Sherrill Thomas Date 2/14/2020
 Finance Director

ADMINISTRATIVE APPROVAL:

Florence M. Cauthen/tn Date 2/14/2020
Interim County Administrator

POSITION FILL REQUEST- BUDGETED VACANCY

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

DEPARTMENT HEAD: Derrick Cunningham, Sheriff

SUPERVISOR: Sonja Pritchett, Colonel

POSITION INFORMATION:

Position Title Administrative Support Associate

Position Number 500013237(Replace S. Jackson-Babers)

Pay Grade A03 Pay Range 25,630-38,294

Proposed Effective Date March 2, 2020

Type of Hire (☒) New (☐) Promotional

Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham

Department Head

Date February 18, 2020

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date 02/18/2020

Sherrill Thomas

Finance Director

Date 2/19/2020

ADMINISTRATIVE APPROVAL:

Florence M. Cauthen/tn

Interim County Administrator

Date 2/19/2020

POSITION FILL REQUEST- BUDGETED VACANCY

FEB 25 2020

DEPARTMENT: Risk Management
 DEPARTMENT HEAD: Holly Leverette
 SUPERVISOR: Holly Leverette

POSITION INFORMATION:

Position Title Risk Control Administrator
 Position Number 250111002
 Pay Grade A08 Pay Range \$45,440 - \$67,894
 Proposed Effective Date 3/2/2020
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Holly Leverette

Department Head

Date 2/19/2020

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date 02/19/2020

Sherrill Thomas

Finance Director

Date 2/19/2020

ADMINISTRATIVE APPROVAL:

Florence M. Cauthen/tn

Interim County Administrator

Date 2/19/2020

POSITION FILL REQUEST- BUDGETED VACANCY

FEB 25 2020

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

POSITION INFORMATION:

Position Title Deputy Sheriff Trainee
 Position Number 550430059 (Replace J Flowers)
 Pay Grade PST Pay Range 38,236
 Proposed Effective Date March 2, 2020
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Derrick Cunningham

Department Head

Date February 11, 2020

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring

Employee Benefit Manager

Date 02/13/2020

Sherrill Thomas

Finance Director

Date 2/14/2020

ADMINISTRATIVE APPROVAL:

Florence M. Cauthen/tn

Interim County Administrator

Date 2/14/2020

FEB 25 2020

POSITION FILL REQUEST - BUDGETED VACANCY

DEPARTMENT: Montgomery County Youth Facility
 DEPARTMENT HEAD: Brandi K. Alexander
 SUPERVISOR: Brandi K. Alexander

POSITION INFORMATION:

Position Title Relief Juvenile Detention Officer (to replace D. Staley)
 Position Number 910300007 - gender specific male
 Pay Grade PC1 Pay Range \$32,597 - \$48,705
 Proposed Effective Date March 9, 2020
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Brandi K. Alexander Date 2/11/2020
 Department Head

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring Date 02/13/2020
 Employee Benefit Manager

Sherrill Thomas Date 2/14/2020
 Finance Director

ADMINISTRATIVE APPROVAL:

Florence M. Cauthen/tn Date 2/14/2020
Interim County Administrator

FEB 25 2020

POSITION FILL REQUEST- BUDGETED VACANCY

DEPARTMENT: Youth Facility Juvenile Court
 DEPARTMENT HEAD: Ray Williams, Chief Probation Officer
 SUPERVISOR: Ray Williams, Chief Probation Officer

POSITION INFORMATION:

Position Title Court Therapist II
 Position Number 930345039
 Pay Grade A10 Pay Range \$56,189-\$83,951
 Proposed Effective Date March 10, 2020
 Type of Hire (☒) New (☐) Promotional
 Type of Appointment (☒) Permanent (☐) Temporary

DEPARTMENT APPROVAL:

Ray Williams/lp Date 02/14/2020
 Department Head

PAYROLL/FINANCE REVIEW:

Requested position is vacant and budgeted.

Lisa Herring Date 02/14/2020
 Employee Benefit Manager

Sherrill Thomas Date 2/18/2020
 Finance Director

ADMINISTRATIVE APPROVAL:

Florence M. Cauthen/tn Date 2/18/2020
Interim County Administrator

Montgomery County Commission
Travel / Training Request Approval
Request # 5

AGENDA

FEB 25 2020

Date: February 12, 2020
To: Montgomery County Commission
From: Florence Cauthen
Re: Approval for the following travel:

Destination: Orange Beach, Alabama
Departure Date: May 13, 2020 Return Date: May 14, 2020
Conference Leave (Days / Hours): 2 Days
Purpose of Travel: Attend the 2020 ACAA Annual Conference

Traveler (s) Name: 1. Florence Cauthen 4. _____
2. _____ 5. _____
3. _____ 6. _____

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

Total (est.) Cost: \$709.32 Advance Registration Required: \$210.00
Department Name: County Commission Fund Name: General Fund
Additional Comments: Registration - \$210.00 Hotel - \$196.62 Mileage - \$227.70 Meals-\$75.00

To: Florence Cauthen
From: Montgomery County Commission

The above request is app. 2/25/2020 reimbursement of actual and necessary expenses in the
approximate amount of \$709.32 and advance registration of \$210.00 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 and Training</u>
Current Budget:	<u>\$40,000.00</u>
Approved Requests:	<u>\$6,560.01</u>
Budget Available:	<u>\$33,439.99</u>
Current Requests:	<u>\$709.32</u>
Budget Balance:	<u>\$32,730.67</u>

Montgomery County Commission

Reviewed by: S. Thomas
Date: 2/14/2020
cc: Finance Director / Buyer

Montgomery County Commission
Travel / Training Request Approval

Request # 6

AGENDA

FEB 25 2020

Date: February 19, 2020
To: Montgomery County Commission
From: Florence Cauthen
Re: Approval for the following travel:

Destination: Orange Beach, Alabama
Departure Date: August 17, 2020 Return Date: August 20, 2020
Conference Leave (Days / Hours): 4 Days
Purpose of Travel: to attend the 2020 ACCA Annual Convention

Traveler (s) Name: 1. Elton Dean 4. Doug Singleton
2. Ronda Walker 5. Isaiah Sankey
3. Dan Harris 6. Florence Cauthen

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

Total (est.) Cost: \$8,996.04 Advance Registration Required: \$1,350.00
Department Name: County Commission Fund Name: General Fund
Additional Comments: Registration - \$1350.00 Hotel - \$3579.84 Mileage - \$1366.20 - Meals-\$2700.00

To: Florence Cauthen
From: Montgomery County Commission
The above request is app. 2/25/2020 reimbursement of actual and necessary expenses in the
approximate amount of \$8,996.04 and advance registration of \$1,350.00 is authorized.

To be completed by the Finance Department	
Fund Code:	<u>001-51100.265</u> (ex: 000-00000-000)
Description:	<u>Registration and Training</u>
Current Budget:	<u>\$40,000.00</u>
Approved Requests:	<u>\$6,560.01</u>
Budget Available:	<u>\$33,439.99</u>
Current Requests:	<u>\$9,705.36</u>
Budget Balance:	<u>\$23,734.63</u>

Montgomery County Commission

Reviewed by: S. Thomas
Date: 2/19/2020
cc: Finance Director / Buyer

22-2

Montgomery County Commission
Travel / Training Request Approval

Request # 4

AGENDA

FEB 25 2020

Date: February 19, 2020
To: Montgomery County Commission
From: Daryl D. Bailey, District Attorney
Re: Approval for the following travel:

Destination: Point Clear, AL
Departure Date: April 3, 2020 Return Date: April 5, 2020
Conference Leave (Days / Hours): 1 day
Purpose of Travel: Attend the ADAA Spring Extended Business Session

Traveler (s) Name: 1. Daryl Bailey 4. _____
2. _____ 5. _____
3. _____ 6. _____

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

Total (est.) Cost: \$1,370.00 Advance Registration Required: \$425.00
Department Name: District Attorney Fund Name: 001-51261.265
Additional Comments: DA Bailey requests the option of either vehicle.

To: Daryl D. Bailey, District Attorney
From: Montgomery County Commission

The above request is app. 2/25/2020 reimbursement of actual and necessary expenses in the
approximate amount of \$1,370.00 and advance registration of \$425.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>001-51261.265</u> (ex: 000-00000-000)
Description:	<u>Registration and Training</u>
Current Budget:	<u>\$4,000.00</u>
Approved Requests:	<u>\$2,625.35</u>
Budget Available:	<u>\$1,374.65</u>
Current Requests:	<u>\$1,370.00</u>
Budget Balance:	<u>\$4.65</u>

Montgomery County Commission

Reviewed by: S. Thomas
Date: 2/19/2020
cc: Finance Director / Buyer

Montgomery County Commission
Travel / Training Request Approval

Request # 5

AGENDA

FEB 25 2020

Date: 02/18/2020
To: Montgomery County Commission
From: Terri Henderson, Revenue Manager
Re: Approval for the following travel:

Destination: Prattville, AL
Departure Date: 03/06/2020 Return Date: 03/06/2020

Conference Leave (Days / Hours): 1 Day

Purpose of Travel: Attend ALTIST CRE Special Topics 1 and 2 Courses. Attendees Will
Each Earn 8 CPE Hours That Will Apply Toward Their 2020 CRE
Certification Requirements.

Traveler (s) Name: 1. RoShonda Moultrie 4. _____
2. Te'Rea Smith 5. _____
3. Terri Henderson 6. _____

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

Total (est.) Cost: \$670.20 Advance Registration Required: \$570.00

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

Additional Comments: Registration \$570 Total. Lodging \$0. Meals \$45 Total. Mileage \$55.20 Total.
ALTIST CRE Program Course Sponsored by Auburn University
overnment & Economic Development Institute.

To: Terri Henderson, Revenue Manager
From: Montgomery County Commission

The above request is app. 2/25/2020 reimbursement of actual and necessary expenses in the
approximate amount of \$670.20 and advance registration of \$570.00 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 and Training</u>
Current Budget:	<u>\$12,850.00</u>
Approved Requests:	<u>\$2,504.52</u>
Budget Available:	<u>\$10,345.48</u>
Current Requests:	<u>\$670.20</u>
Budget Balance:	<u>\$9,675.28</u>

Montgomery County Commission

Reviewed by: S. Thomas

Date: 2/19/2020

cc: Finance Director / Buyer

22-4

Montgomery County Commission
Travel / Training Request Approval
Request # 5

Date: February 12, 2020
To: Montgomery County Commission
From: Ray Williams, Chief Probation Officer
Re: Approval for the following travel:

AGENDA

FEB 25 2020

Destination: Pelham, AL
Departure Date: 4/29/2020 Return Date: 4/29/2020
Conference Leave (Days / Hours): 8 hours
Purpose of Travel: Attend the 5th Annual Alabama Adolescent & Young Adult Conference:
Emerging Issues in Substance Abuse

Traveler (s) Name: 1. Sherunda Anthony 4. _____
2. Leigh Smith 5. _____
3. _____ 6. _____

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

Total (est.) Cost: \$100.00 Advance Registration Required: \$100.00
Department Name: YF Juvenile Court Fund Name: General
Additional Comments: Registration is \$50 per person.

To: Ray Williams, Chief Probation Officer
From: Montgomery County Commission

The above request is app. 2/25/2020 reimbursement of actual and necessary expenses in the
approximate amount of \$100.00 and advance registration of \$100.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>001-52601.265</u> (ex: 000-00000-000)
Description:	<u>Registration and Training</u>
Current Budget:	<u>\$5,000.00</u>
Approved Requests:	<u>\$3,750.00</u>
Budget Available:	<u>\$1,250.00</u>
Current Requests:	<u>\$100.00</u>
Budget Balance:	<u>\$1,150.00</u>

Montgomery County Commission

Reviewed by: S. Thomas
Date: 2/14/2020
cc: Finance Director / Buyer

Montgomery County Commission
Travel / Training Request Approval
Request # 5

AGENDA
FEB 25 2020

Date: February 7, 2020
To: Montgomery County Commission
From: Clay Henley, Chief Appraiser
Re: Approval for the following travel:

Destination: Montgomery, AL
Departure Date: June 15, 2020 Return Date: June 19, 2020
Conference Leave (Days / Hours): 5 days
Purpose of Travel: Alabama Real Property Appraisal Manual

Traveler (s) Name: 1. Tyler Desselle 4. _____
2. _____ 5. _____
3. _____ 6. _____

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

Total (est.) Cost: \$300.00 Advance Registration Required: \$300.00
Department Name: Appraisal Fund Name: Reappraisal
Additional Comments: MEALS: \$0.00 LODGING: \$0.00 MILEAGE: \$0.00
REGISTRATION: \$300.00
TOTAL EST. COST: \$300.00

To: Clay Henley, Chief Appraiser
From: Montgomery County Commission
The above request is app. 2/25/2020 reimbursement of actual and necessary expenses in the
approximate amount of \$300.00 and advance registration of \$300.00 is authorized.

<i>To be completed by the Finance Department</i>	
Fund Code:	<u>120-51985.265</u> (ex: 000-00000-000)
Description:	<u>Registration and Training</u>
Current Budget:	<u>\$30,000.00</u>
Approved Requests:	<u>\$12,733.36</u>
Budget Available:	<u>\$17,266.64</u>
Current Requests:	<u>\$300.00</u>
Budget Balance:	<u>\$16,966.64</u>

Montgomery County Commission

Reviewed by: S. Thomas
Date: 2/13/2020
cc: Finance Director / Buyer

22-6

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

DANIEL HARRIS, JR.
ISAIAH SANKEY
DOUG SINGLETON



GEORGE C. SPEAKE, PE, PLS
COUNTY ENGINEER
Kevin A. Boone, PE
ASSISTANT COUNTY ENGINEER
334.832.1310
FAX: 334.832.7190
WWW.MC-ALA.ORG

ENGINEERING DEPARTMENT

AGENDA

FEB 25 2020

February 12, 2020

MEMORANDUM

TO: Florence M. Cauthen, Interim County Administrator

FROM: George C. Speake, County Engineer

George C. Speake
2/12/2020

SUBJECT: Flood Damage Prevention Ordinance

Please place the attached FLOOD DAMAGE PREVENTION ORDINANCE on the agenda for the nearest possible regular meeting of the Montgomery County Commission for their adoption and approval. This revised flood ordinance will supersede the County's existing flood ordinance dated December 1, 2014.

The Federal Emergency Management Agency (FEMA) has notified us that prior to March 6, 2020, Montgomery County must adopt this revised flood ordinance as a condition of continued eligibility in the National Flood Insurance Program (NFIP). This is a model flood ordinance that was provided by FEMA. We have made minor adjustments to this document as needed to fit Montgomery County's specific standards and coordinated these adjustments through FEMA.

If approved, please have the attached ordinance executed and return the original to our office.

GCS/gcs

Attachment

cc: File

- A COUNTY OLDER THAN THE STATE -

P.O. Box 1667 MONTGOMERY, ALABAMA 36102-1667 PHONE: 334.832.1310

23-1

ALABAMA MODEL FLOOD DAMAGE PREVENTION ORDINANCE
Riverine (non-coastal) Communities

FLOOD DAMAGE PREVENTION ORDINANCE
Non-Coastal/Riverine Communities

ARTICLE 1

Statutory Authorization, Findings of Fact, Purpose And Objectives

SECTION A **STATUTORY AUTHORIZATION**

The Legislature of the State of Alabama has in Title 11, Chapter 19, Sections 1-24, Chapter 45, Sections 1-11, Chapter 52, Sections 1-84, and Title 41, Chapter 9, Section 166 of the Code of Alabama, 1975, authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Commission, of Montgomery County, Alabama, does ordain as follows:

SECTION B **FINDINGS OF FACT**

- (1) The flood hazard areas of Montgomery County, Alabama are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

SECTION C **STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (2) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) control filling, grading, dredging and other development which may increase flood damage or erosion;

- (4) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (5) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

SECTION D **OBJECTIVES**

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas,
- (4) to minimize expenditure of public money for costly flood control projects;
- (5) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) to minimize prolonged business interruptions, and
- (7) to ensure that potential home buyers are notified that property is in a flood area.

ARTICLE 2 **GENERAL PROVISIONS**

SECTION A **LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of Montgomery County, Alabama.

SECTION B **BASIS FOR AREA OF SPECIAL FLOOD HAZARD**

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its **Flood Insurance Study (FIS), dated January 7, 2015** with accompanying maps and other supporting data **and any revision thereto**, are adopted by reference and declared a part of this ordinance. For those land areas acquired by a municipality through annexation, the current effective FIS and data for Montgomery County are hereby adopted by reference. Areas of Special Flood Hazard may also

include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in the FIS.

SECTION C: ESTABLISHMENT OF A FLOODPLAIN DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any development activities in identified areas of special flood hazard and **community flood hazard areas** within the community.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, extended, converted or altered without **full compliance** with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Montgomery County or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. PENALTIES FOR VIOLATION

- (1) Notice of Violation. If the community determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, or the provisions of this ordinance, it shall issue a written notice of violation, by certified return receipt mail, to such applicant or other responsible person. Where the person is engaged in activity covered by this ordinance without having first secured a permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:
 - (a) The name and address of the owner or the applicant or the responsible person;
 - (b) The address or other description of the site upon which the violation is occurring;

- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action;
- (e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed, and;
- (f) A statement that the determination of violation may be appealed to the community by filing a written notice of appeal within **ten (10)** days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).

- (2) Additional Enforcement Actions. If the remedial measures described in the Notice of Violation have not been completed by the date set forth for such completion in the Notice of Violation, any one or more of the following enforcement actions may be enacted against the person to whom the Notice of Violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Montgomery County shall first notify the applicant or other responsible person in writing of its intended action. The Montgomery County shall provide reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Montgomery County may take or impose any one or more of the following enforcement actions or penalties:

- (a) Civil penalties: Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Montgomery County from taking such other lawful actions as is necessary to prevent or remedy any violation.
- (b) Section 1316 Declaration: Section 1316 of the National Flood Insurance Act authorizes FEMA to deny flood insurance to a property declared by the State, County, or Municipal government to be in violation of the local floodplain management ordinance. A Section 1316 declaration shall be used when all other legal means to remedy a violation have been exhausted and the structure is noncompliant. Once invoked, the property's flood insurance coverage will be terminated and no new or renewal policy can be issued; no flood insurance claim can be paid on any policy on the property, and disaster assistance will be denied.

The declaration must be in writing (letter or citation), from the community to the property owner and the applicable FEMA Regional Office, and must contain the following items:

- i. The name(s) of the property owner(s) and address or legal description of

- the property sufficient to confirm its identity and location;
- ii. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;
- iii. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
- iv. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
- v. A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

If a structure that has received a Section 1316 declaration is made compliant with the community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance eligibility restored.

- (3) Administrative appeal; judicial review. Any person receiving a Notice of Violation may appeal the determination of the community, including but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification, or grant with condition of a permit by the community upon finding that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the community's rules and regulations, or the issuance of a notice of bond forfeiture.

The Notice of Appeal must be in writing and must be received within ten (10) days from the date of the Notice of Violation. A hearing on the appeal shall take place within thirty days from the date of receipt of the Notice of Appeal by the Floodplain Administrator.

- (4) All appeals shall be heard and decided by the community's designated Appeal Board, which shall be Montgomery County Commission, or their designees. The Appeal Board shall have the power to affirm, modify, or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty and the right to add or delete remedial actions required for correction of the violation and compliance with the community's flood damage prevention ordinance, and any other applicable local, state, or federal requirements. The decision of the Appeal Board shall be final.
- (5) A judicial review can be requested by any person aggrieved by a decision or order of the community, after exhausting his/her administrative remedies. They shall have the right to appeal de novo to the Circuit Court.

SECTION I. SAVINGS CLAUSE

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be noncompliant with 44 Code of Federal Regulation 59-78, such decision shall not affect the validity of the remaining portions of this ordinance.

ARTICLE 3

ADMINISTRATION

SECTION A DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Montgomery County Engineer, or his designee, is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B PERMIT PROCEDURES

Application for a Development Permit shall be made to the Floodplain Administrator on forms furnished by the community **PRIOR** to any development activities, and may include, but not be limited to, the following: Plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following procedures and information are required for all projects in the Special Flood Hazard Areas within the jurisdiction of Montgomery County:

(1) Application Stage

Plot plans are to include:

- (a) The Base Flood Elevation (BFE) where provided as set forth in Article 2, Section B; Article 4, Section C; or Article 5, Section D;
- (b) Boundary of the Special Flood Hazard Area and floodway(s) as delineated on the FIRM or other flood map as determined in Article 2, Section B;
- (c) Flood zone designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 2, Section B;
- (d) Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
- (e) Elevation in relation to mean sea level to which any non-residential structure will be flood proofed;
- (f) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Sections B(2) and E(2);
- (g) A Foundation Plan, drawn to scale, that shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include, but are not limited to, the proposed method of elevation (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls) and description of any flood openings required in accordance with Article 4, Sections B(1), B(3), D(7), and E(1) when solid foundation perimeter walls are used.
- (h) Usage details of any enclosed areas below the lowest floor shall be described.
- (i) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

- (j) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development including current and proposed locations of the watercourse. An engineering report shall be provided on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream. The affected properties shall be depicted on a map or on the plot plan.
- (k) Certification of the plot plan by a licensed professional engineer or surveyor in the State of Alabama is required.

(2) Construction Stage

For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the regulatory floor elevation or flood-proofing level **using appropriate FEMA elevation or floodproofing certificate** immediately after the lowest floor or flood proofing is completed.

- (a) When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- (b) **Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.**
- (c) The Floodplain Administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.
- (d) The Floodplain Administrator shall make **periodic inspections** of projects during construction throughout the Special Flood Hazard Areas within the jurisdiction of the community to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. Members of his or her inspections/engineering department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (e) The Floodplain Administrator may **revoke and require the return of the floodplain development permit** by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (f) In any lot or lots/areas that will be or have been removed from the special flood hazard area utilizing a Letter of Map Revision Based on Fill (LOMR-F), the top of fill level must meet the community's freeboard elevation at that location. If the top of fill level is below the freeboard elevation, all new structures, additions to existing

buildings or substantial improvement must meet the required community freeboard elevation.

(3) Finished Construction

Upon completion of construction, a FEMA elevation certificate (FEMA Form 81-31), which depicts all finished construction elevations, is required to be submitted to the Floodplain Administrator prior to issuance of a Certificate of Occupancy.

- (a) If the project includes a floodproofing measure, a FEMA floodproofing certificate is required to be submitted by the permit holder to the Floodplain Administrator.
- (b) The Floodplain Administrator shall review the certificate(s) data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance.
- (c) In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (d) Documentation regarding completion and compliance with the requirements stated in the permit application and with Article 3, Section B(1) of this ordinance shall be provided to the local Floodplain Administrator at the completion of construction or records shall be maintained throughout the Construction Stage by inspectors for the Floodplain Administrator. Failure to provide the required documentation shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (e) All records that pertain to the administration of this ordinance shall be maintained and made available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

SECTION C DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but shall not be limited to:

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied; and assure that development sites are reasonably safe from flooding.
- (2) Review copies of all necessary permits from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Maintain such permits permanently with floodplain development permit file.
- (3) When Base Flood Elevation data or floodway data have not been provided in accordance with Article 2, Section B then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other sources in order to administer the provisions of Article 4.

- (4) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with Article 3, Section B.
- (5) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 4, Sections B(2) and E(2).
- (6) When flood proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3, Section B(1)(c) and Article 4, Section B(2) or E(2).
- (7) Notify adjacent communities and the Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Alabama Department of Economic and Community Affairs/Office of Water Resources/NFIP State Coordinator's Office.
- (8) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA and State to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (9) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (10) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.
- (11) In addition, the Floodplain Administrator and his or her designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.
 - (a) Right of Entry
 - i. Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Administrator has reasonable cause to believe that there exists in any building or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the Administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the Administrator by this ordinance.
 - ii. If such building or premises are occupied, the Administrator shall first present proper credentials and request entry. If such building, structure, or premises are

unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such building or premises.

- iii. If entry is refused, the Administrator shall have recourse to every remedy provided by law to secure entry.
- iv. When the Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Administrator for the purpose of inspection and examination pursuant to this ordinance.

(b) **Stop Work Orders**

- i. Upon notice from the Administrator, work on any building, structure or premises that is being performed contrary to the provisions of this ordinance shall immediately cease.
- ii. Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(c) **Revocation of Permits**

- i. The Administrator may revoke a permit or approval, issued under the provisions of this ordinance, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- ii. The Administrator may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

ARTICLE 4

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A GENERAL STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

- (1) Require copies of all necessary permits from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Maintain such permits be on file.
- (2) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse and lateral movement of the structure.
- (3) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage.

- (4) New construction and substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage:
 - (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (10) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.
- (11) Proposed new construction and substantial improvements that are partially located in an area of special flood hazard shall have the entire structure meet the standards for new construction.
- (12) Proposed new construction and substantial improvements that are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations shall have the entire structure meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

SECTION B SPECIFIC STANDARDS

In ALL Areas of Special Flood Hazard designated as A1-30, AE, AH, A (with engineered or estimated base flood elevation), the following provisions are required:

- (1) Residential and Non-residential Structures - Where base flood elevation data is available, new construction and substantial improvement of any structure or manufactured home **shall have the lowest floor, including basement, elevated no lower than two feet above the base flood elevation.** Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B(3).

- (2) Non-Residential Structures - New construction and substantial improvement of any non-residential structure located in A1-30, AE, or AH zones, **may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to two (2) feet above the base flood elevation,** with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C(6).

- (3) Enclosures for Elevated Buildings - All new construction and substantial improvements of existing structures that include **ANY fully enclosed area** below the base flood elevation, located below the lowest floor formed by the foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of flood waters.
 - (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding (if a structure has more than one enclosed area below the base flood elevation, each shall have openings on exterior walls);
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and
 - (iii) Openings may be equipped with screens, louvers, valves and other coverings and devices provided they permit the automatic flow of floodwater in both directions.
 - (b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.
 - (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms. All interior walls, ceilings and floors below the base flood elevation shall be unfinished and/or constructed of flood resistant materials.
 - (d) Mechanical, electrical or plumbing devices shall not be installed below the Base Flood Elevation. The interior portion of such enclosed area(s) shall be void of utilities except for essential lighting and power as required.

- (4) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:
- (a) All manufactured homes placed and substantially improved on:
 - (i) individual lots or parcels,
 - (ii) in new or substantially improved manufactured home parks or subdivisions,
 - (iii) in expansions to existing manufactured home parks or subdivisions, or
 - (iv) on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement elevated no lower than one foot above the base flood elevation.
 - (b) Manufactured homes placed and substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 - (i) the lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or
 - (ii) where no Base Flood Elevation exists, the manufactured home chassis and supporting equipment is supported by reinforced piers or other foundation elements of at least equivalent strength and a maximum of 60 inches (five feet) above grade and must meet the standards of Article 4, Section D(5).
 - (c) All Manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (d) All recreational vehicles placed on sites must either:
 - (i) be on the site for fewer than 180 consecutive days, fully licensed and ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions; or
 - (ii) the recreational vehicle must meet all the requirements for "New Construction," including the anchoring and elevation requirements of Article 4, Section B, provisions (3)(a) and (3)(c).
- (5) Require, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the Montgomery County FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (6) Accessory Structures (also referred to as appurtenant structures) – This provision generally applies to new and substantially improved accessory structures. When an accessory structure complies with all other provisions of this ordinance (including floodway encroachment), represents a minimal investment (less than \$1,000.00), and meets the requirements outlined below, these structures may be wet-floodproofed and do not have to be elevated or dry floodproofed.

Accessory structures include, but are not limited to, residential structures such as detached garages, storage sheds for garden tools or woodworking, gazebos, picnic pavilions, boathouses, small pole barns, and similar buildings. The following provisions apply to accessory structures built below the base flood elevation:

- (a) A permit shall be required prior to construction or installation.
- (b) Must be low value (less than \$1,000.00) and not be used for human habitation.
- (c) Use must be restricted to parking of personal vehicles or limited storage (low-cost items that cannot be conveniently stored in the principal structure).
- (d) Must be designed with an unfinished interior and constructed with flood damage-resistant materials below the BFE.
- (e) Must be adequately anchored to prevent flotation, collapse, or lateral movement.
- (f) Must have adequate flood openings as described in Article 4, Section A (5) and be designed to otherwise have low flood damage potential.
- (g) Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (h) Any mechanical and other utility equipment in the structure must be elevated to or above the BFE or must be floodproofed.
- (i) Under limited circumstances communities may issue variances to permit construction of wet-floodproofed accessory structures. Communities should not grant variances to entire subdivisions for accessory structures, especially detached garages. Variances should only be reviewed and issued on an individual or case-by-case basis and be based on the unique characteristics of the site.

SECTION C FLOODWAYS

Located within Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

- (1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;
- (2) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment **shall not result in any increase** in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;
- (3) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a

conditional letter of map revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of FEMA;

- (4) **ONLY** if Article 4, Section C, provisions (1) through (3) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

**SECTION D BUILDING STANDARDS FOR STREAMS WITHOUT
ESTABLISHED BASE FLOOD ELEVATIONS (APPROXIMATE A-
ZONES)**

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams exist but no base flood data have been provided (Approximate A-Zones), the following provisions apply:

- (1) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is the lesser.
- (2) When base flood elevation data or floodway data have not been provided in accordance with Article 2, Section B then the Floodplain Administrator shall obtain, review, and reasonably utilize any scientific or historic Base Flood Elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. **ONLY** if data are not available from these sources, then Article 4, Section D, provisions (5) and (6) shall apply:
- (3) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty-five feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (4) All development in Zone A must meet the requirements of Article 4, Section A and Section B(1) through B(4).
- (5) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor (for the lowest enclosed area; including basement) elevated no less than three (3) feet above the highest adjacent grade. If the requirement as set forth in Article 4, Section B(1) and (2) require the lowest floor to be elevated no less than two feet above the base flood elevation, then the structure for this condition shall be elevated no less than five (5) feet about the highest adjacent grade.

- (6) In the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of Article 4, Section B(4)(b)(ii) in that the structure must be elevated to a maximum of 60 inches (5 feet).
- (7) Openings sufficient to facilitate automatic equalization of flood water hydrostatic forces on exterior walls shall be provided in accordance with standards of Article 4, Section B(3)(a). The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

SECTION E STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Areas of Special Flood Hazard established in Article 2, Section B may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet (1'-3') above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM) plus two foot of freeboard. **If no depth number is specified, the lowest floor, including basement, shall be elevated at least three (5) feet above the highest adjacent grade.** Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B(3), "Enclosures for Elevated Buildings".

The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
- (2) New construction and the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. **The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified flood level in Article 4, Section E (5) feet above highest adjacent grade,** with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Article 3, Section B(1)(c) and (2).
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

SECTION F STANDARDS FOR SUBDIVISIONS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.

- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (4) Base flood elevation data shall be provided for all new subdivision proposals and other *proposed development (including manufactured home parks and subdivisions), which is greater than fifty lots or five acres; whichever is the lesser.*

ARTICLE 5

VARIANCE PROCEDURES

SECTION A. DESIGNATION OF VARIANCE AND APPEALS BOARD

The Montgomery County Commission shall hear and decide requests for appeals or variance from the requirements of this ordinance.

SECTION B. DUTIES OF BOARD

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the Montgomery County Commission may appeal such decision to the Circuit Court, as provided in Section 11-52-81, Alabama Code 1975.

SECTION C. VARIANCE PROCEDURES

In reviewing requests for variance, the Montgomery County Commission shall consider all technical evaluations, relevant factors, and standards specified in other sections of this ordinance, and:

- (1) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, the development is protected by methods that minimize flood damage during the base flood, and it creates no additional threats to public safety.
- (2) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.
- (3) The evaluation must be based on the characteristics unique to that property and not be shared by adjacent parcels. The characteristics must pertain to the land itself, not to the structure, its inhabitants, or its owners.

- (4) Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.
- (5) The danger of life and property due to flooding or erosion damage including materials that may be swept onto other lands to the injury of others.
- (6) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and the community.
- (7) The safety of access to the property during flood conditions for daily traffic and emergency vehicles.
- (8) The importance of the services provided by the proposed facility to the community.
- (9) The necessity of the facility to be at a waterfront location, where applicable.
- (10) The compatibility of the proposed use with existing and anticipated development based on the community's comprehensive plan for that area.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (12) The costs associated with providing governmental services to the development during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and community infrastructure such as streets, bridges, and culverts.

Upon consideration of factors listed above, and the purpose of this ordinance, the Montgomery County Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

SECTION D. VARIANCES FOR HISTORIC STRUCTURES

Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.

SECTION E. CONDITIONS FOR VARIANCES

The provisions of this Ordinance are minimum standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (1) A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing

structures constructed below the base flood level, in conformance with the procedures of Sections E(3), E(4), F(1) and F(2) of this Article.

- (2) In the instance of a Historic Structure, a determination is required that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (3) A variance shall be issued ONLY when there is:
 - (a) A finding of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (4) A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall not be issued "after the fact."

SECTION F. VARIANCE NOTIFICATION AND RECORDS

- (1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that specifies the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the issuance of such a variance could:
 - a. result in rate increases in the hundreds and possibly thousands of dollars annually depending on structure and site-specific conditions; and
 - b. increase the risk to life and property resulting from construction below the base flood level.
- (2) The Floodplain Administrator shall maintain a record of all variance actions and appeal actions, including justification for their issuance. Report any variances to the Federal Emergency Management Agency Region 4 and the Alabama Department of Economic and Community Affairs/Office of Water Resources upon request.
- (3) A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Administrator. Also, the applicant shall have the notice recorded in the Montgomery County Office of the Judge of Probate in a manner so that it appears in the chain of title of the affected parcel of land.

ARTICLE 6 **DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A Zone means the Area of Special Flood Hazard without base flood elevations determined.

Accessory Structure (also referred to as appurtenant structures) means a structure which is located on the same parcel of property as a principal structure to be insured and the use of which is incidental to the use of the principal structure. They should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. These structures are used solely for parking (two-car detached garages or smaller) or limited storage (small, low cost storage sheds). They are included under the general definition of structure and are consequently subject to all floodplain management regulations pertaining to structures.

Addition (to an existing building) means any improvement that increases the square footage of a structure. These include lateral additions added to the front, side, or rear of a structure, vertical additions added on top of a structure, and enclosures added underneath a structure. NFIP regulations for new construction apply to any addition that is considered a perimeter expansion or enclosure beneath a structure. If it is considered to be a substantial improvement (more than 50% of market value) to a structure, the existing structure will also need to be treated as new construction.

Depending on the flood zone and details of the project, the existing building may not have to be elevated. The determining factors are the common wall and what improvements are made to the existing structure. If the common wall is demolished as part of the project, then the entire structure must be elevated. If only a doorway is knocked through it and only minimal finishing is done, then only the addition has to be elevated.

AE Zone means the Area of Special Flood Hazard with base flood elevations determined.

AH Zone means an area of one percent chance of shallow flooding where depths are between one to three feet (usually shallow ponding), with base flood elevations shown.

AO Zone means an area of one percent chance of shallow flooding where depths are between one to three feet (usually sheet flow on sloping terrain), with depth numbers shown.

Appeal means a request for a review of the Montgomery County Commission interpretation of any provision of this ordinance.

AR/AE, AR/AH, AR/AO, and AR/A Zones means a flood zone that results from the decertification of a previously accredited flood protection system or levee that is in the process of being restored to provide a one percent chance or greater level of flood protection. After restoration is complete, these areas will still experience residual flooding from other flooding sources.

A99 Zone means that part of the special flood hazard area inundated by the one percent annual chance flood to be protected from the one percent chance flood by a Federal flood protection system or levee under construction, no base flood elevations are determined.

Area of shallow flooding means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard (also see "Special flood hazard area") means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 2, Section B.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "one percent chance flood").

Base flood elevation means the computed elevation to which floodwater is anticipated to rise during the base flood. It is also the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. Base Flood Elevations are shown in the FIS and on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE.

Basement means any portion of a building having its floor sub grade (below ground level) on all sides.

Building (also see **Structure**) means (1) A structure with 2 or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; or (2) a manufactured home (a "manufactured home," also known as a mobile home, is a structure built on a permanent chassis, transported to its site in 1 or more sections, and affixed to a permanent foundation); or (3) a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

Community means a political entity and/or its authorized agents or representatives that have the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

D Zone means an area in which the flood hazard is undetermined.

Dam means any artificial barrier, including appurtenant works, constructed to impound or divert water, waste water, liquid borne materials, or solids that may flow if saturated. All structures necessary to maintain the water level in an impoundment or to divert a stream from its course will be considered a dam.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

Dry Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damages to real estate or improved real

estate property, water, and sanitary facilities, structures, and their contents. Structures shall be floodproofed with a minimum of 12 inches above the base flood elevation (more is recommended). Dry floodproofing of a pre-FIRM residential structure that has not been substantially damaged or improved is allowed. Dry floodproofing of a post-FIRM residential building is not allowed. Non-residential structures may be dry floodproofed in all flood zones with the exception of the Coastal High Hazard Area or the Coastal AE Zone.

Elevated building means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, pilings, posts, columns, piers, or shear walls.

Elevation Certificate means a FEMA form used as a certified statement that verifies a building's elevation information.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Construction means any structure for which the "start of construction" commenced before September 25, 1978 [**i.e., the effective date of the FIRST floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)**] or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before September 25, 1978.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.
- c. Mudslides which are proximately caused by flooding as described in part "b." of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- d. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually highwater level in a natural body of water, accompanied by a severe storm, or by an unanticipated force

of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in part "a." of this definition.

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been designated as Zone A.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood Insurance Study/ Flood Elevation Study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide and/or flood-related erosion hazards.

Floodplain means any land area susceptible to being inundated by water from any source.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities or structures with their contents.

Floodway (Regulatory Floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Floodway fringe means that area of the special flood hazard area on either side of the regulatory floodway.

Flood Protection Elevation means the base flood elevation plus the community freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations or base flood elevations determined and/or approved by the floodplain administrator plus freeboard.

Freeboard means a factor of safety usually expressed in feet above the Base Flood Elevation (BFE) for purposes of floodplain management which tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a

selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed. Used to determine the level for a building's lowest floor elevation or level of floodproofing required to be in compliance with the community's floodplain management regulations.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facility that are necessary for the loading and unloading of cargo or passengers, and shipbuilding, and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

Hardship (as related to variances of this ordinance) means the exceptional difficulty that would result from a failure to grant the requested variance. The Commission requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure means any structure that is;

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Change (LOMC) is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:

Letter of Map Amendment (LOMA)

An amendment based on technical data showing that a property was incorrectly included in a designated SFHA, was not elevated by fill (only by a natural grade elevation), and will not

be inundated by the one percent chance flood. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

Letter of Map Revision (LOMR)

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the BFE and is, therefore, excluded from the SFHA.

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum NFIP floodplain management criteria. A CLOMR does not revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. **[only required in communities with levees]**

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices. **[only required in communities with levees]**

Lowest adjacent grade means the point of the ground level immediately next to a building. This may be the sidewalk, patio, deck support, or basement entryway immediately next to the structure after the completion of construction. It does not include earth that is placed for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this ordinance.

Manufactured home means a building, transportable in one or more section, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the property value (as agreed between a willing buyer and seller), excluding the value of land as established by what the local real estate market will bear. Market value can be established by independent certified appraisal; replacement cost depreciated by age of building (Actual Cash Value); or adjusted assessed values.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for the base flood elevations shown on a community's Flood Insurance Rate Map (FIRM). For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum.

National Flood Insurance Program (NFIP) means the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) means as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means ANY structure (see definition) for which the "start of construction" commenced after September 25, 1978 and includes any subsequent improvements (including additions) to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 25, 1978.

Non-Residential means, but is not limited to; small business concerns, churches, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, and hotels and motels with normal room rentals for less than 6 months duration.

North American Vertical Datum (NAVD) of 1988 means a vertical control, corrected in 1988, used as a reference for establishing varying elevations within the floodplain.

Obstruction means, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channel construction, bridge, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One Percent Flood (aka 100-Year Flood) is the flood that has a one percent chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A or V is subject to inundation by the one percent chance flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood within the SFHA.

Participating Community is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Post-FIRM Construction means new construction and substantial improvements for which start of construction occurred after December 31, 1974, or on or after the effective date of the initial FIRM of the community, whichever is later.

Pre-FIRM Construction means new construction and substantial improvements for which start of construction occurred on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

Probation means an action taken by FEMA to formally notify participating communities of the first of the two NFIP sanctions due to their failure to correct violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

Public safety and nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is:

- a. Licensed and titled as a recreational vehicle or park model;
- b. Built on a single chassis;
- c. 400 square feet or less when measured at the largest horizontal projection;
- d. Has no attached deck, porch, or shed;
- e. Has quick-disconnect sewage, water, and electrical connectors;
- f. Designed to be self-propelled or permanently towable by a light duty truck; and
- g. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regular Program means the second phase of the community's participation in the NFIP in which second layer coverage is available based upon risk premium rates only after FEMA has completed a flood risk study for the community.

Regulatory floodway see **Floodway**.

Remedy a violation means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Repetitive Loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Repetitive Loss Property means any insurable structure for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten (10) days apart but, within ten years of each other. A repetitive loss property may or may not be currently insured by the NFIP.

Section 1316 means no new flood insurance policy or federal disaster assistance shall be provided for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in floodprone areas. If the structure is made compliant with the applicable community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance and disaster assistance eligibility restored.

Severe Repetitive Loss Structure means any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:

- a. Four or more separate claim payments of more than \$5,000 each (including building and contents payments); or
- b. Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together.

Special flood hazard area (SFHA) means that portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zones A, AE, AH, AO, AR, AR/AE, AR/AO, AR/AH, AR/A, A99, or VE.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) means the date the development or building permit was issued (includes substantial improvement), provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation.

"Permanent construction" does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (*NOTE: accessory structures are NOT exempt from any ordinance requirements*). For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a liquid or gas storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work performed. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions (provided that said code deficiencies were not caused by neglect or lack of maintenance on the part of the current or previous owners) or;
- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Suspension means the removal, with or without probation, of a participating community from the NFIP because the community failed to adopt and enforce the compliant floodplain management regulations required for participation in the NFIP.

Variance means a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Code of Federal Regulations (CFR) §44, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) and corresponding parts of this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means any flowing body of water including a river, creek, stream, or a branch.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

X Zones (shaded) are areas of 0.2 percent chance flood that are outside of the SFHA subject to the one percent chance flood with average depths of less than one foot, or with contributing drainage area less than one square mile, and areas protected by certified levees from the base flood.

X Zones (unshaded) are areas determined to be outside the 0.2 percent chance floodplain.

Zone means a geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

ARTICLE 7 **SEVERABILITY**

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Ordinance adopted on _____.

BY: _____
Elton N. Dean, Sr., Chairman
Montgomery County Commission

Ronda M. Walker, Vice Chairman

Daniel Harris, Jr.

Isaiah Sankey

Doug Singleton

Certified by: _____

SEAL

Date: _____



DERRICK CUNNINGHAM
SHERIFF OF MONTGOMERY COUNTY

AGENDA

FEB 25 2020

Kevin J. Murphy
CHIEF DEPUTY

February 27, 2020

MEMORANDUM

TO : Ms. Florence Cauthen
Deputy Administrator

FROM : Sheriff Derrick Cunningham
Montgomery County Sheriff's Office

SUBJECT : Waive Rules – Pistol Permit Resolution

Please see the attached Resolution. I'm requesting that the rules be waived so this matter can be placed on the next agenda.

If you have any questions, please do not hesitate to contact me.

DC/crv

Encls.

SHERIFF'S OFFICE
POST OFFICE BOX 4219
MONTGOMERY, ALABAMA 36103-4219
OFFICE 334.832.4980
FAX 334.832.7113

www.MontgomerySheriff.com

DETENTION FACILITY
225 SOUTH MCDONOUGH STREET
MONTGOMERY, ALABAMA 36104

OFFICE 334.832.1386
FAX 334.265.0990

24-1

1 HB291
2 192223-2
3 By Representative Coleman
4 RFD: Judiciary
5 First Read: 20-FEB-20

2
3
4
5
6
7
8 SYNOPSIS: This bill would establish the Gun Violence
9 Protective Order Act.

10 This bill would authorize courts to issue ex
11 parte gun violence protective orders and one-year
12 gun violence protective orders, which may be
13 authorized if the court finds that the respondent,
14 as defined, poses an immediate and present danger
15 of causing personal injury to self or others.

16 This bill would provide that upon the
17 issuance of an ex parte or one-year gun violence
18 protective order, the court shall order the
19 respondent to surrender to the local law
20 enforcement agency all firearms and ammunition of
21 which the respondent has custody, control,
22 ownership, or possession.

23 This bill would provide for the renewal or
24 early termination of a one-year gun violence
25 protective order under certain conditions.

26 This bill would provide criminal penalties
27 for a violation.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT
25

26 Relating to firearms; to establish the Gun Violence
27 Protective Order Act; to provide for the issuance of ex parte

1 gun violence protective orders and one-year gun violence
2 protective orders; to require the surrender of all firearms
3 and ammunition of a person subject to an ex parte gun violence
4 protective order or one-year gun violence protective order; to
5 provide for the renewal or early termination of an order; to
6 provide criminal penalties for a violation; and in connection
7 therewith would have as its purpose or effect the requirement
8 of a new or increased expenditure of local funds within the
9 meaning of Amendment 621 of the Constitution of Alabama of
10 1901, now appearing as Section 111.05 of the Official
11 Recompilation of the Constitution of Alabama of 1901, as
12 amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. This act shall be known and may be cited
15 as the Gun Violence Protective Order Act.

16 Section 2. Legislative purpose and intent.

17 The Legislature finds and declares the following:

18 (1) Over 100,000 people become victims of a gunshot
19 wound each year and more than 30,000 of those victims lose
20 their lives. In 2017, firearms killed 39,773 Americans.

21 (2) Federal law prohibits any individual subject to
22 certain domestic violence restraining orders from purchasing
23 or possessing firearms. Many states have similar laws. About
24 half of the states also authorize or require a court that is
25 issuing a domestic violence protective order to require the
26 abuser to surrender firearms that he or she may already have
27 in his or her possession. This act is modeled on existing

1 domestic violence laws that have firearms surrender
2 provisions.

3 (3) Studies have shown that an individual who
4 engages in certain dangerous behaviors is significantly more
5 likely to commit an act of violence towards himself or herself
6 or others in the near future. These behaviors, which might
7 include other acts or threats of violence, self-harm, or the
8 abuse of drugs or alcohol, serve as warning signs that the
9 individual might soon commit an act of violence.

10 (4) Under federal law, an individual suffering from
11 mental illness is not prohibited from purchasing or possessing
12 a firearm unless he or she has been involuntarily committed to
13 a mental institution, found not guilty of a crime by reason of
14 insanity, or undergone some other formalized court proceeding
15 regarding his or her mental illness. Similarly, an individual
16 who has committed a violent act towards another is not
17 prohibited from possessing a firearm under federal law until
18 after he or she has been convicted of a felony or domestic
19 violence misdemeanor.

20 (5) It is the purpose and intent of the Legislature
21 to reduce firearm deaths and injuries by providing a formal
22 court procedure that law enforcement officers, teachers, and
23 family members may use to obtain a court order that prevents
24 an individual who poses a significant danger of causing
25 personal injury to self or others from gaining access to
26 firearms and ammunition. The Legislature intends for these
27 court orders to be limited to situations in which the

1 individual poses a significant danger of causing personal
2 injury to self or others by owning, purchasing, controlling,
3 possessing, or receiving a firearm or ammunition.

4 Section 3. Definitions.

5 The following terms shall have the following
6 meanings:

7 (1) EX PARTE GUN VIOLENCE PROTECTIVE ORDER. An order
8 issued by a court, pursuant to Section 5, that prohibits the
9 respondent from owning, purchasing, controlling, possessing,
10 or receiving firearms or ammunition until a court-scheduled
11 hearing for a one-year gun violence protective order.

12 (2) FAMILY MEMBER. An individual related by blood,
13 marriage, or adoption to the respondent, current or former
14 dating partner of the respondent, and any individual who
15 resides or has resided with the respondent, or who is acting
16 or has acted as the respondent's legal guardian.

17 (3) FIREARM. A weapon from which a shot is
18 discharged by gun powder.

19 (4) ONE-YEAR GUN VIOLENCE PROTECTIVE ORDER. An order
20 issued by a court, pursuant to Section 6, prohibiting the
21 respondent from owning, purchasing, controlling, possessing,
22 or receiving guns or ammunition for a period of one year.

23 (5) PETITIONER. A law enforcement officer, teacher,
24 or family member of the respondent who files a petition
25 pursuant to Section 4.

26 (6) RESPONDENT. The individual identified in the
27 petition filed under Section 5 or Section 6.

1 (7) TEACHER. A teacher, school administrator, school
2 counselor, college professor, student teacher, safety or
3 resource officer, or coach of the respondent.

4 Section 4. Commencement of Action; Forms.

5 (a) A petitioner may seek a gun violence protective
6 order by filing a verified petition on a form approved by the
7 Administrative Office of Courts in the court of the county
8 where the respondent resides.

9 (b) The petition shall set forth the grounds for the
10 issuance of the order and shall describe the number, types,
11 and locations of any firearms or ammunition presently believed
12 by the petitioner to be possessed or controlled by the
13 respondent. The petition shall also state whether there is an
14 existing domestic violence protective order in effect
15 governing the respondent and whether there is any pending
16 lawsuit, complaint, petition, or other action between the
17 parties under the laws of this state. The court administrator
18 shall verify the terms of any existing order governing the
19 parties. The court may not delay granting relief because of
20 the existence of a pending action between the parties or the
21 necessity of verifying the terms of an existing order. A
22 petition for a gun violence protective order may be granted
23 whether or not there is a pending action between the parties.

24 (c) If the respondent is alleged to pose an
25 immediate and present danger of causing personal injury to a
26 family member, or a family member is alleged to have been the
27 target of a threat or act of violence by the respondent, the

1 petitioner shall make a good faith effort to provide notice to
2 any and all adult family members of the respondent. The notice
3 must state that the petitioner intends to petition the court
4 for a gun violence protective order, and, if the petitioner is
5 a law enforcement officer, must also include a referral to
6 relevant domestic violence or stalking advocacy or counseling
7 resources, if appropriate. The petitioner shall attest to
8 having provided the notice in the verified petition. If the
9 petitioner is unable to provide notice to any or all adult
10 family members of the respondent, the verified petition shall
11 describe what good faith efforts were made.

12 (d) All health records and other health information
13 provided in a petition or considered as evidence in a
14 proceeding under this act shall be protected from public
15 disclosure to the extent the information identifies a
16 respondent or petitioner, except that the information may be
17 provided to law enforcement agencies as set forth in Section
18 10. Aggregate statistical data about the numbers of gun
19 violence protective orders issued, renewed, denied, dissolved,
20 or terminated shall be available to the public upon request.

21 (e) Upon receipt of the petition, the court shall
22 set a date for a hearing within 14 calendar days, regardless
23 of whether the court issues an ex parte gun violence
24 protective order. If the court issues an ex parte gun violence
25 protective order, notice of the hearing shall be served on the
26 respondent with the ex parte order. Notice of the hearing

1 shall be personally served on the respondent by a law
2 enforcement officer.

3 (f) The Administrative Office of Courts shall
4 prescribe the form of the petitions, orders, and any other
5 documents and shall adopt any rules of court necessary for the
6 implementation of this act.

7 Section 5. Ex Parte Gun Violence Protective Order.

8 (a) A petitioner may request that an ex parte order
9 be issued prior to a hearing for a one-year gun violence
10 protective order, without notice to the respondent, by
11 including in the petition detailed allegations based on
12 personal knowledge that the respondent poses an immediate and
13 present danger of causing personal injury to self or others
14 through his or her ownership, purchase, control, possession,
15 or receipt of a firearm or ammunition.

16 (b) The court shall issue or deny an ex parte gun
17 violence protective order on the same day that the petition is
18 submitted to the court, unless the petition is filed too late
19 in the day to allow for its effective review, in which case
20 the order shall be issued or denied on the next business day.

21 (c) Before issuing an ex parte gun violence
22 protective order, the court shall examine under oath the
23 petitioner and any witnesses the petitioner may produce. The
24 court may also do the following:

25 (1) Ensure that a reasonable search has been
26 conducted of all available records to determine whether the
27 respondent owns any firearms or ammunition.

1 (2) Ensure that a reasonable search has been
2 conducted for criminal history records related to the
3 respondent.

4 (d) In determining whether grounds for an ex parte
5 gun violence protective order exists, the court shall consider
6 all relevant evidence presented by the petitioner, and may
7 also consider other relevant evidence, including, but not
8 limited to, evidence of the occurrence of any of the following
9 events by the respondent:

10 (1) Unlawful, reckless, or negligent use, display,
11 storage, possession, or brandishing of a firearm.

12 (2) Act or threat of violence against self or
13 another, whether or not the violence involved a firearm.

14 (3) Violation of a protective order issued under
15 Chapter 5 or Chapter 5B of Title 30 of the Code of Alabama
16 1975, or a similar law in another state.

17 (4) Abuse of controlled substances or alcohol or any
18 criminal offense that involves controlled substances or
19 alcohol.

20 (5) The recent acquisition of firearms, ammunition,
21 or other deadly weapons.

22 (e) The court shall also consider the time that has
23 elapsed since the occurrence of any event described in
24 subsection (d).

25 (f) If a court finds reasonable cause to believe
26 that the respondent poses an immediate and present danger of
27 causing personal injury to self or others by owning,

1 purchasing, controlling, possessing, or receiving a firearm or
2 ammunition, the court shall issue an ex parte gun violence
3 protective order.

4 (g) An ex parte gun violence protective order shall
5 include all of the following:

6 (1) A statement that the respondent may not own,
7 purchase, control, possess, or receive, or attempt to purchase
8 or receive, a firearm or ammunition while the order is in
9 effect.

10 (2) A description of the requirements for
11 relinquishment of firearms and ammunition under Section 8.

12 (3) A statement of the grounds asserted for the
13 order.

14 (4) A notice of the hearing under subsection (e) of
15 Section 4 to determine whether to issue a one-year gun
16 violence protective order, including the address of the court
17 and the date and time for when the hearing is scheduled.

18 (5) A statement that the court may extend the order
19 by one year at the hearing.

20 (6) A statement that the respondent may seek the
21 advice of an attorney as to any matter connected with the
22 order, and that the attorney should be consulted promptly so
23 that the attorney may assist the individual in any matter
24 connected with the order.

25 (h) An ex parte gun violence protective order shall
26 be personally served on the respondent by a law enforcement
27 officer.

1 (i) In accordance with subsection (e) of Section 4,
2 the court shall schedule a hearing within 14 calendar days of
3 the issuance of an ex parte gun violence protective order to
4 determine if a one-year gun violence protective order shall be
5 issued; provided, however, that a respondent may seek an
6 extension of time before the hearing. The court shall dissolve
7 any ex parte gun violence protective order in effect against
8 the respondent when the court holds the hearing.

9 Section 6. One-Year Gun Violence Protective Order
10 Issued After Notice and Hearing.

11 (a) A petitioner requesting a one-year gun violence
12 protective order shall include in the petition detailed
13 allegations based on personal knowledge that the respondent
14 poses a substantial danger of causing personal injury to self
15 or others through his or her ownership, purchase, control,
16 possession, or receipt of a firearm or ammunition.

17 (b) Prior to a hearing for a one-year gun violence
18 protective order, the court shall do both of the following:

19 (1) Ensure that a reasonable search has been
20 conducted of all available records to determine whether the
21 respondent owns any firearms or ammunition.

22 (2) Ensure that a reasonable search has been
23 conducted for criminal history records related to the
24 respondent.

25 (c) In determining whether to issue a one-year gun
26 violence protective order under this section, the court shall
27 consider all relevant evidence presented by the petitioner and

1 may also consider other relevant evidence, including, but not
2 limited to, evidence of events identified in subsection (d) of
3 Section 5.

4 (d) If the court finds by a preponderance of the
5 evidence at the hearing that the respondent poses a
6 substantial danger of personal injury to self or others
7 through his or her ownership, purchase, control, possession,
8 or receipt of a firearm or ammunition, the court shall issue a
9 one-year gun violence protective order.

10 (e) A one-year gun violence protective order issued
11 under this section shall include all of the following:

12 (1) A statement that the respondent may not own,
13 possess, control, purchase, or receive, or attempt to purchase
14 or receive, a firearm or ammunition while the order is in
15 effect.

16 (2) A description of the requirements for
17 relinquishment of firearms and ammunition under Section 8.

18 (3) A statement of the grounds supporting the
19 issuance of the order.

20 (4) The date and time the order expires.

21 (5) The address of the court that issued the order.

22 (6) A statement that the respondent shall have the
23 right to request one hearing to terminate the order at any
24 time during its effective period.

25 (7) A statement that the respondent may seek the
26 advice of an attorney as to any matter connected with the
27 order.

1 (f) If the respondent fails to appear at the hearing
2 and the court determines that a one-year gun violence
3 protective order shall be issued, the order shall be
4 personally served on the respondent by a law enforcement
5 officer.

6 Section 7. Termination and Renewal.

7 (a) A respondent subject to a one-year gun violence
8 protective order may submit one written request at any time
9 during the effective period of the order for a hearing to
10 terminate the order.

11 (1) Upon receipt of the request for termination, the
12 court shall set a date for a hearing. Notice of the request
13 shall be served on the petitioner in accordance with the
14 Alabama Rules of Civil Procedure. The hearing shall occur no
15 sooner than 14 calendar days from the date of service of the
16 request upon the petitioner.

17 (2) The respondent seeking termination of the order
18 shall have the burden of proving by a preponderance of the
19 evidence that the respondent does not pose a substantial
20 danger of causing personal injury to self or others through
21 his or her ownership, purchase, control, possession, or
22 receipt of a firearm or ammunition.

23 (3) If the court finds that the respondent has met
24 his or her burden, the court shall terminate the order.

25 (b) A petitioner may request a renewal of a one-year
26 gun violence protective order at any time within the three
27 months before the expiration of the order.

1 (1) A court, after notice and a hearing, may renew
2 the one-year gun violence protective order if the court, by a
3 preponderance of the evidence, finds that the respondent
4 continues to pose a substantial danger of causing personal
5 injury to self or another through his or her ownership,
6 purchase, control, possession, or receipt of a firearm or
7 ammunition.

8 (2) In determining whether to renew a one-year gun
9 violence protective order, the court shall consider all
10 relevant evidence presented by the petitioner, and may also
11 consider other relevant evidence, including, but not limited
12 to, evidence of the events identified in subsection (d) of
13 Section 5.

14 (3) A one-year gun violence protective order renewed
15 under this subsection shall expire after one year, subject to
16 termination by further order of the court at a hearing held
17 under subsection (a) and further renewal by order of the court
18 under this subsection.

19 Section 8. Relinquishment of firearms and
20 ammunition.

21 (a) Upon issuance of an ex parte or one-year gun
22 violence protective order, the court shall order the
23 respondent to surrender to the local law enforcement agency
24 all firearms and ammunition of which the respondent has
25 custody, control, or ownership.

26 (b) A law enforcement officer serving a gun violence
27 protective order shall request that all firearms and

1 ammunition belonging to or in the custody or control of the
2 respondent be immediately surrendered and shall take
3 possession of the firearms and ammunition that are
4 surrendered. A law enforcement officer serving a gun violence
5 protective order may conduct a lawful search for firearms and
6 ammunition.

7 (c) At the time of surrender or removal, a law
8 enforcement officer taking possession of a firearm or
9 ammunition pursuant to a gun violence protective order shall
10 issue a receipt identifying all firearms and ammunition that
11 have been surrendered or removed and provide a copy of the
12 receipt to the respondent. Within 72 hours after serving the
13 order, the officer who served the order shall file the
14 original receipt with the court that issued the gun violence
15 protective order, and shall ensure that the law enforcement
16 agency retains a copy of the receipt.

17 (d) If a petitioner has probable cause to believe a
18 respondent to a gun violence protective order owns, controls,
19 or possesses a firearm or ammunition that the respondent has
20 failed to surrender pursuant to this section, or has received
21 or purchased a firearm or ammunition while subject to the
22 order, the petitioner may petition the court to issue a
23 warrant. The petition shall describe the firearm or ammunition
24 and where the firearm or ammunition is reasonably believed to
25 be located. The court may issue the warrant upon a finding of
26 probable cause.

1 (e) A law enforcement agency may charge the
2 respondent a fee not to exceed the reasonable and actual costs
3 incurred by the law enforcement agency for storing a firearm
4 or ammunition surrendered pursuant to this section for the
5 duration of the gun violence protective order and any
6 additional periods necessary under Section 7.

7 Section 9. Return and Disposal of Firearms or
8 Ammunition.

9 (a) As used in this section, dispose means to sell
10 or transfer a firearm or ammunition to a federally licensed
11 dealer, defined under 18 U.S.C. § 921 et seq., or to destroy
12 the firearm or ammunition.

13 (b) Thirty days before a one-year gun violence
14 protective order is set to expire, a law enforcement agency
15 holding a firearm or ammunition that has been surrendered
16 pursuant to the order shall notify the petitioner that the
17 order is set to expire. The notice shall advise the petitioner
18 of the procedures for seeking a renewal of the order pursuant
19 to Section 7.

20 (c) If a gun violence protective order is terminated
21 or expires and is not renewed, a law enforcement agency
22 holding any firearm or ammunition that has been surrendered
23 pursuant to Section 8 shall notify the respondent that he or
24 she may request the return of the firearm or ammunition. The
25 law enforcement agency shall return any surrendered firearms
26 or ammunition requested by a respondent only after confirming,

1 through a background check, that the respondent is currently
2 eligible to own or possess firearms and ammunition.

3 (d) A respondent who has surrendered a firearm or
4 ammunition to a law enforcement agency pursuant to Section 8
5 and who does not wish to have the firearm or ammunition
6 returned or who is no longer eligible to own or possess a
7 firearm or ammunition may sell or transfer title of the
8 firearm or ammunition to a licensed firearms dealer. The law
9 enforcement agency shall transfer possession of the firearm or
10 ammunition to a licensed firearms dealer only after the dealer
11 has displayed written proof of transfer of the firearm or
12 ammunition from the respondent to the dealer and the law
13 enforcement agency has verified the transfer.

14 (e) If an individual other than the respondent
15 claims title to a firearm or ammunition surrendered pursuant
16 to Section 8, and the individual is determined by the law
17 enforcement agency to be the lawful owner of the firearm or
18 ammunition, the gun or ammunition shall be returned to him or
19 her.

20 (f) A law enforcement agency holding a firearm or
21 ammunition that was surrendered by a respondent pursuant to
22 Section 8 may dispose of the firearm or ammunition only after
23 six months from the date of proper notice to the respondent of
24 the intent to dispose of the firearm or ammunition, unless the
25 firearm or ammunition has been claimed by the lawful owner. If
26 the firearm or ammunition remains unclaimed after six months
27 from the date of notice, then no party shall have the right to

1 assert ownership of the firearm or ammunition and the law
2 enforcement agency may dispose of the firearm or ammunition.

3 Section 10. Reporting of Orders to a Statewide
4 System.

5 (a) The court shall notify the Alabama State Law
6 Enforcement Agency (ALEA) no later than one business day after
7 issuing, renewing, dissolving, or terminating an ex parte or
8 one-year gun violence protective order under this act.

9 (b) The information required to be submitted to ALEA
10 pursuant to this section shall include identifying information
11 about the respondent and the date the order was issued,
12 renewed, dissolved, or terminated. In the case of a one-year
13 order, the court shall include the date the order is set to
14 expire. The court shall also indicate whether the respondent
15 to the one-year gun violence protective order was present in
16 court to be advised of the contents of the order or if the
17 respondent failed to appear. The respondent's presence in
18 court shall constitute proof of service of notice of the terms
19 of the order.

20 (c) Within one business day of service, a law
21 enforcement officer who serves a gun violence protective order
22 or the clerk of the court shall submit the proof of service
23 and a copy of the protection order to ALEA for entry into the
24 appropriate database.

25 (d) The information to be submitted to ALEA under
26 this section shall be submitted in an electronic format, in a
27 manner prescribed by ALEA. ALEA shall maintain a searchable

1 database of this information, available to law enforcement
2 agencies upon request.

3 (e) Within 30 days of submission of the information
4 under subsection (d), ALEA shall make information about an ex
5 parte or one-year gun violence protective order issued,
6 renewed, or terminated pursuant to this act available to the
7 National Instant Criminal Background Check System for the
8 purposes of firearm purchaser background checks.

9 Section 11. Penalties.

10 (a) A person who files a petition for a gun violence
11 protective order, knowing the information in the petition to
12 be materially false or with an intent to harass the
13 respondent, is guilty of a Class C misdemeanor.

14 (b) A person who owns, purchases, controls,
15 possesses, or receives a firearm or ammunition with knowledge
16 that he or she is prohibited from doing so by a gun violence
17 protective order is guilty of a Class C misdemeanor and shall
18 be prohibited from owning, purchasing, controlling,
19 possessing, or receiving, or attempting to purchase or
20 receive, a firearm or ammunition for a period of five years
21 from the date of conviction.

22 Section 12. Law Enforcement to Retain Other
23 Authority.

24 This act shall not affect the ability of a law
25 enforcement officer to remove firearms or ammunition from any
26 individual pursuant to other lawful authority.

1 Section 13. Lack of Liability for Failure to Seek
2 Order.

3 This act shall not be construed to impose criminal
4 or civil liability on any individual who chooses not to seek a
5 gun violence protective order pursuant to this act.

6 Section 14. Although this bill would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds, the bill is excluded from further
9 requirements and application under Amendment 621, now
10 appearing as Section 111.05 of the Official Recompilation of
11 the Constitution of Alabama of 1901, as amended, because the
12 bill defines a new crime or amends the definition of an
13 existing crime.

14 Section 15. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.

1 HB308
2 204943-1 .
3 By Representatives Stringer, Reynolds, Farley, Isbell,
4 Marques, Pettus, Simpson, Sorrells, Shaver, McCampbell, Hanes,
5 Ledbetter and Rich
6 RFD: Public Safety and Homeland Security
7 First Read: 20-FEB-20

SYNOPSIS: Under current law, concealed carry permits are issued by the sheriffs of each county. Each sheriff may maintain separate databases of individuals authorized to carry a pistol in a vehicle or concealed on or about his or her person within this state.

This bill would create a statewide information database relating to pistol permits issued by the sheriff of each county, to be known as the Alabama Responding Officer Warning System (AROWS).

This bill would also further provide for the appearance and contents of pistol permits.

A BILL
TO BE ENTITLED
AN ACT

Relating to concealed carry permits; to create a statewide information database relating to pistol permits; and

1 to amend Section 13A-11-75, Code of Alabama 1975, to further
2 provide for the appearance and content of pistol permits.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. (a) (1) There is created a repository of
5 all permits issued by a sheriff pursuant to Section 13A-11-75,
6 Code of Alabama 1975, which would allow an individual to carry
7 a pistol in a vehicle or concealed on or about his or her
8 person. This repository shall be known as the Alabama
9 Responding Officer Warning System (AROWS).

10 (2) The repository shall be created, maintained, and
11 operated by the Montgomery County Sheriff's Office on behalf
12 of all sheriffs in the state.

13 (b) The sheriff of each county shall update the
14 repository at least once each day via electronic means
15 determined by the Montgomery County Sheriff's Office after
16 consultation with and agreement of a majority of the members
17 of the Alabama Sheriffs Association. The information updated
18 in the repository shall include, but not be limited to, all of
19 the following as they relate to each holder of a permit
20 granted by that sheriff:

21 (1) Full name.

22 (2) Current address, as reported by the permit
23 holder.

24 (3) Driver's license number.

25 (4) Race.

26 (5) Sex.

27 (6) Date of birth.

- 1 (7) Height.
- 2 (8) Weight.
- 3 (9) Hair color.
- 4 (10) Eye color.
- 5 (11) A photograph of the permit holder.
- 6 (12) The permit number, as well as the permitting
- 7 agency.
- 8 (13) AROWS record number.
- 9 (14) The ORI, or Originating Agency, number of the
- 10 issuing agency.
- 11 (15) Issuance date of the permit.
- 12 (16) Expiration date of the permit.
- 13 (17) Whether the permit is currently either of the
- 14 following:
- 15 a. Valid and in good standing.
- 16 b. Invalid due to revocation by the county sheriff
- 17 issuing the permit; and if invalid, the date of revocation.
- 18 (18) Notwithstanding any provision of law to the
- 19 contrary, any official probate court records regarding
- 20 involuntary commitments for mental health reasons shall also
- 21 be included in the repository upon delivery of those records
- 22 to the Montgomery County Sheriff's Office by the Alabama
- 23 Administrative Office of Courts or the Alabama State Law
- 24 Enforcement Agency.
- 25 (c) A sheriff may incorporate into the repository
- 26 any county jail records on a permit holder showing recent
- 27 arrests and dispositions of criminal cases that might not yet

1 be reported to the Alabama Criminal Justice Information Center
2 or other criminal records database.

3 (d) Upon the issuance of a new pistol permit, the
4 sheriff issuing the permit, within 24 hours and in a format
5 determined by the Montgomery County Sheriff's Office after
6 consultation with and agreement of a majority of the members
7 of the Alabama Sheriffs Association, shall electronically
8 transmit to the Montgomery County Sheriff's Office for
9 inclusion into the repository the information described in
10 subsections (b) and (c).

11 (e) Within 24 hours of the county sheriff issuing a
12 pistol permit or receiving notice of any material change in
13 status of the information described in subsection (b), he or
14 she shall electronically transmit to the Montgomery County
15 Sheriff's Office for inclusion into the repository the updated
16 information.

17 (d) Notwithstanding the provisions of Section
18 13A-11-75 or any other provision of law to the contrary, the
19 Montgomery County Sheriff's Office, upon request, shall make
20 available, electronically or in writing, all information
21 contained in the repository to all federal, state, county, and
22 municipal law enforcement agencies, prosecuting attorneys, or
23 probation officers for any lawful criminal justice purposes.

24 (e) A person who knowingly publishes or releases to
25 the public any information available through the repository,
26 except as authorized in this act or required by law or in

1 response to a court order or subpoena, shall be guilty of a
2 Class A misdemeanor.

3 (f) (1) On or before July 1 of each calendar year,
4 the Montgomery County Sheriff's Office, after consultation
5 with the Alabama Sheriff's Association and agreement of a
6 majority of the members of the association, shall establish a
7 projected cost for the ongoing operation,
8 upgrade, maintenance, and repair costs of the repository for
9 the upcoming fiscal year beginning the following October 1. By
10 that same July 1, the Montgomery County Sheriff's Office shall
11 divide this projected cost into a pro-rata share for each
12 county sheriff, and shall report to each county sheriff his or
13 her pro-rata share.

14 (2) Each sheriff shall remit to the Montgomery
15 County Sheriff's Office his or her pro-rata share of the
16 projected costs for ongoing operation, upgrade, maintenance,
17 and repair of the repository for the upcoming fiscal year on a
18 quarterly basis.

19 (g) Notwithstanding any law to the contrary, each
20 sheriff may add a fee not to exceed fifty cents (\$0.50) per
21 year of validity of the issued pistol permit to each pistol
22 permit issued in his or her county, the proceeds of which
23 shall be remitted to the Montgomery County Sheriff's Office
24 pursuant to subsection (f) to be used for the facilitation,
25 ongoing operations, upgrading, maintenance, and repair of the
26 repository. Notwithstanding the foregoing, any proceeds from

1 these fees left over after remittance under subsection (f) may
2 be retained by the sheriff's office.

3 Section 2. Section 13A-11-75 is amended to read as
4 follows:

5 "§13A-11-75.

6 "(a)(1)a. The sheriff of a county, upon the
7 application of any person residing in that county, within 30
8 days from receipt of a complete application and accompanying
9 fee, shall issue or renew a permit for such person to carry a
10 pistol in a vehicle or concealed on or about his or her person
11 within this state for one- to five-year increments, as
12 requested by the person seeking the permit, from date of
13 issue, unless the sheriff determines that the person is
14 prohibited from the possession of a pistol or firearm pursuant
15 to state or federal law, or has a reasonable suspicion that
16 the person may use a weapon unlawfully or in such other manner
17 that would endanger the person's self or others. In making
18 such determination, the sheriff may consider whether the
19 applicant:

20 "1. Was found guilty but mentally ill in a criminal
21 case.

22 "2. Was found not guilty in a criminal case by
23 reason of insanity or mental disease or defect.

24 "3. Was declared incompetent to stand trial in a
25 criminal case.

26 "4. Asserted a defense in a criminal case of not
27 guilty by reason of insanity or mental disease or defect.

1 "5. Was found not guilty only by reason of lack of
2 mental responsibility under the Uniform Code of Military
3 Justice.

4 "6. Required involuntary inpatient treatment in a
5 psychiatric hospital or similar treatment facility.

6 "7. Required involuntary outpatient treatment in a
7 psychiatric hospital or similar treatment facility based on a
8 finding that the person is an imminent danger to himself or
9 herself or to others.

10 "8. Required involuntary commitment to a psychiatric
11 hospital or similar treatment facility for any reason,
12 including drug use.

13 "9. Is or was the subject of a prosecution or of a
14 commitment or incompetency proceeding that could lead to a
15 prohibition on the receipt or possession of a firearm under
16 the laws of Alabama or the United States.

17 "10. Falsified any portion of the permit
18 application.

19 "11. Caused justifiable concern for public safety.

20 "b. The sheriff shall take into account how recent
21 any consideration under paragraph a. is in relation to the
22 date of the application. The sheriff shall provide a written
23 statement of the reasons for a denial of a permit and the
24 evidence upon which it is based must be disclosed to the
25 applicant, unless disclosure would interfere with a criminal
26 investigation.

1 "c. Except as otherwise provided by the laws of this
2 state, a permit issued under this subdivision is valid
3 throughout the state.

4 "d. Except as expressly provided in this section, a
5 sheriff may not place conditions or requirements on the
6 issuance of a pistol permit or limit its scope or
7 applicability.

8 "(2)a. The sheriff may revoke a permit issued under
9 subdivision (1) for any reason that could lead to a denial of
10 a permit under that subdivision.

11 "b. The sheriff shall provide a written statement of
12 the reasons for the revocation and the evidence upon which it
13 is based must be disclosed to the applicant, unless disclosure
14 would interfere with a criminal investigation.

15 "(3) A person who is denied a permit under
16 subdivision (1), or a person whose permit is revoked under
17 subdivision (2), within 30 days of notification of the denial
18 or revocation, may appeal the denial or revocation to the
19 district court of the county where the denial or revocation
20 was issued. Upon a review of a denial under this subdivision,
21 the sheriff shall have the burden of proving by clear and
22 convincing evidence that the person is prohibited from
23 possession of a pistol or other firearm pursuant to state or
24 federal law or, based on any of the considerations enumerated
25 in subdivision (a)(1) that the person may use a weapon
26 unlawfully or in such other manner as would endanger the

1 person's self or others if granted a permit to carry a
2 concealed weapon under this section.

3 "(4) Within 30 days of receipt of the appeal, the
4 district court shall review the appeal and issue a
5 determination providing the reasons for the determination.

6 "(5) If the district court issues a determination in
7 favor of a person whose permit was denied or revoked, the
8 person shall be issued a permit or the permit must be
9 reinstated no later than the close of business on the fifth
10 business day following the district court's transmittal of its
11 order to the appropriate sheriff.

12 "(6) Nothing in this section shall be construed to
13 permit a sheriff to disregard any federal law or regulation
14 pertaining to the purchase or possession of a firearm.

15 "(b) (1) Each permit shall be ~~written or in an~~
16 ~~electronic or digital form to be prescribed by the Secretary~~
17 ~~of State in consultation with~~ uniform in appearance, size, and
18 information content, and be in a form prescribed by the
19 Alabama Sheriff's Association, and shall bear the name,
20 address, description, and signature of the permittee all of
21 the following as they relate to the holder of the permit:

22 "a. Full name.

23 "b. Current address, as reported by the permit
24 holder.

25 "c. Driver's license number.

26 "d. Race.

27 "e. Sex.

1 "f. Date of birth.
2 "g. Height.
3 "h. Weight.
4 "i. Hair color.
5 "j. Eye color.
6 "k. A photograph of the permit holder.
7 "l. The issuing agency's permit number.
8 "m. The ORI, or Originating Agency, number of the
9 issuing agency.
10 "n. Issuance date of the permit.
11 "o. Expiration date of the permit.
12 "(2). The original hard copy of the permit shall be
13 issued to the permittee, and a duplicate shall, within seven
14 days, be sent by registered or certified mail to the Secretary
15 of the Alabama State Law Enforcement Agency. The application
16 and a copy shall be preserved for six years by the authority
17 issuing the ~~same~~ hard copy permit. The sheriff may charge a
18 fee as provided by local law for the issuance of the permit
19 under subdivision (1) of subsection (a). The amount of the fee
20 for a period of one year up to five years shall be the amount
21 of the fee as prescribed by local law multiplied by the number
22 of years of the permit requested by the applicant. The fee
23 shall be paid into the county treasury unless otherwise
24 provided by local law. Prior to issuance or renewal of a
25 permit, the sheriff shall contact available local, state, and
26 federal criminal history data banks, including the National
27 Instant Criminal Background Check System, to determine whether

1 possession of a firearm by an applicant would be a violation
2 of state or federal law.

3 "(c) A sheriff may not place a time constraint or
4 other requirement upon taking possession of a pistol permit by
5 the applicant after he or she has been notified that his or
6 her pistol permit has been approved.

7 "(d) For the convenience of the applicant, the
8 sheriff may provide for application or renewal of a permit
9 under subdivision (1) of subsection (a) through electronic
10 means. The sheriff may also accept payment for a permit by
11 debit or credit card or other consumer electronic payment
12 method. Any transaction or banking fee charged for the
13 electronic payment method shall be paid by the applicant.

14 "(e) If a person who is not a United States citizen
15 applies for a permit under this section, the sheriff shall
16 conduct an Immigration Alien Query through U.S. Immigration
17 and Customs Enforcement, or any successor agency, and the
18 application form shall require information relating to the
19 applicant's country of citizenship, place of birth, and any
20 alien or admission number issued by U.S. Immigration and
21 Customs Enforcement, or any successor agency. The sheriff
22 shall review the results of these inquiries before making a
23 determination of whether to issue a permit or renewal permit.
24 A person who is unlawfully present in this state may not be
25 issued a permit under this section.

26 "(f) The name, address, signature, photograph, and
27 any other personally identifying information collected from an

1 applicant or permittee under this section shall be kept
2 confidential, shall be exempt from disclosure under Section
3 36-12-40, and may only be used for law enforcement purposes
4 except when a current permittee is charged in any state with a
5 felony involving the use of a pistol. All other information on
6 permits under this section, including information concerning
7 the annual number of applicants, number of permits issued,
8 number of permits denied or revoked, revenue from issuance of
9 permits, and any other fiscal or statistical data otherwise,
10 shall remain public writings subject to public disclosure.

11 Except as provided above, the sheriff of a county shall redact
12 the name, address, signature, photograph, and any other
13 personally identifying information of a permit holder before
14 releasing a copy of a permit for a non-law enforcement
15 purpose. The sheriff may charge one dollar (\$1) per copy of
16 any redacted permit record requested other than when requested
17 for law enforcement purposes. To knowingly publish or release
18 to the public in any form any information or records related
19 to the licensing process, or the current validity of any
20 permit, except as authorized in this subsection or in response
21 to a court order or subpoena, is a Class A misdemeanor.

22 "(g) A concealed pistol permit issued under this
23 section shall be valid for the carrying of a pistol in a motor
24 vehicle or concealed on the permittee's person throughout the
25 state, unless prohibited by this section.

1 "(h) This section shall not be construed to limit or
2 place any conditions upon a person's right to carry a pistol
3 that is not in a motor vehicle or not concealed.

4 "(i) If a person issued a pistol permit in this
5 state establishes residence in another state, the pistol
6 permit shall expire upon the establishment of residence in the
7 other state."

8 Section 3. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.

RESOLUTION

WHEREAS, Montgomery County, Alabama has the legal responsibility to assist the Montgomery County Sheriff in his duty to protect the safety and welfare of the citizens of Montgomery County; and

WHEREAS, the Montgomery County Commission recognizes and fully supports the efforts of Montgomery County Sheriff Derrick Cunningham in protecting Montgomery County and its residents; and

WHEREAS, it is the prerogative of Montgomery County Sheriff Cunningham to issue pistol permits to all Montgomery County residents who are duly qualified to possess a pistol; and

WHEREAS, the Montgomery County Commission recognizes the importance of Sheriff Cunningham's ability to prevent unqualified persons from possessing a pistol permit; and

WHEREAS, House Bill 39 and Senate Bill 47 introduced into the 2020 Alabama Legislative Session calling for the establishment of a pistol permit database with the Alabama Law Enforcement Agency in Montgomery, Alabama and offering a lifetime pistol permit to citizens as young as 19 years old would severely weaken the Montgomery County Sheriff's ability to effectively ensure that only qualified persons receive and keep a pistol permit; and

WHEREAS, House Bill 39 and Senate Bill 47 introduced into the 2020 Alabama Legislative Session would cause the Montgomery County Sheriff to lose a substantial amount of operating funds which drastically affects the office's ability to fund the pursuit of public safety.

NOW, THEREFORE, BE IT RESOLVED, that the Montgomery County Commission does hereby declare:

1. We fully support Montgomery County Sheriff Derrick Cunningham and his office.
2. We fully support his efforts to keep our citizens safe every day.
3. We denounce any effort, such as the proposed 2020 Alabama Legislative Session legislation HB39 and SB47 as introduced, to weaken Sheriff Cunningham's ability to provide for the safety and welfare of all Montgomery County citizens.

We hereby certify that the above Resolution was adopted by the Montgomery County Commission on this, the 25th day of February, 2020.

FEB 25 2020

February 20, 2020

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

Re: Opinion on Applicability of Executive Session

Dear Montgomery County Commission Members:

Leslie Sanders and I are requesting an executive session to be held before the Montgomery County Commission on Tuesday February 25, 2020. Please be advised that we have reviewed the commerce or trade matter which the Montgomery County Commission proposes to discuss in executive session. It is my opinion that an executive session is authorized for this discussion under Section 7(a)(7) of Act No. 2005-40, and an open meeting will have a detrimental effect upon the competitive position of the Montgomery County Commission.

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

Sincerely,



Anna B. Buckalew
President & CEO



ATTACHMENT E:

A Checklist for Conducting Lawful EXECUTIVE SESSIONS

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

ADJOURNMENT

There being no further business to come before the Commission at this time, the meeting stood adjourned until Tuesday, March 10, 2020, at 3:30 in the afternoon.


Interim County Administrator


Chairman