

REGULAR MEETING
MONTGOMERY COUNTY COMMISSION

JULY 23, 2012

AGENDA

INFORMATION SESSION

Call to Order Welcome at 8:00 a.m.

Prayer Led by Commissioner Williams

Reports from Staff:

**County Administrator
Deputy Administrator
County Attorney
County Engineer**

Comments from Scheduled Attendees:

**Griffin Harris and Patrick Addison with PH&J Architects, Inc.
City of Montgomery Special Projects Director Steve Jones
BONDS Program Director Regina Berry-Meadows
Special Projects Manager Bill Tucker with Central Alabama Regional Planning and
Development Commission and Montgomery Area Chamber of Commerce Senior Vice
President of Corporate Development Ellen McNair
Director of Elections Justin Aday
Executive Director Lucile G. Waller with Cancer Wellness Foundation of Central
Alabama**

Recess to Formal Session

FORMAL SESSION

Welcome at 9:30 a.m.

Invocation by Chairman Dean

Pledge of Allegiance Led By Vice Chairman Ingram

Call of Roll to Establish Quorum

Presentation of the Minutes of the Regular Meeting of July 9, 2012

CONSENT AGENDA:

Consider Accounts Payable Checks and Payroll Checks

PUBLIC HEARING:

Public Hearing on Project Development Agreement with the City of Montgomery and Premier Kings, Inc., Regarding the Promotion of Economic Development

NEW BUSINESS:

1. **Consider Resolution that Authorizes the Execution of a Project Development Agreement with the City of Montgomery and Premier Kings, Inc., Regarding the Promotion of Economic Development, County Commission**
2. **Consider Digital Information Cooperative Agreement with the Alabama Department of Transportation Regarding a 2012 Photography and Mapping Project Grant and Related Resolution, Appraisal Department**
3. **Consider Agreement with Seay, Seay & Litchfield, P.C., Regarding Renovation of the Montgomery County Youth Facility, County Commission**
4. **Consider Administrative Agreement with Central Alabama Regional Planning and Development Commission Regarding Grants for the DAS North America Project at the Montgomery Industrial Park, County Commission**
5. **Consider Cooperative Agreement with the Alabama Department of Homeland Security Regarding State Homeland Security Grant Program, Sheriff's Office**
6. **Consider Amendment Number 1 to Contract with Filter Services of Alabama Regarding Air Filters, Support Services**
7. **Consider Revisions to Management Procedures Manual, County Commission**
8. **Consider Miscellaneous Appropriations Reprogramming Requests, County Commission**
9. **Consider Travel/Training Requests (12)**

Reports from Staff:

**County Administrator
Deputy Administrator
County Engineer
County Attorney**

Comments from Citizens

Discussion Items by Commissioners

Recess to Information Session

INFORMATION SESSION

Comments from Scheduled Attendees:

**John Chambless with Brown Chambless Architects Inc.
Mobility Manager Robyn Rhymes with Central Alabama Regional Planning and
Development Commission
Chief Probate Clerk Wells Robinson**

Reports from Staff:

**County Administrator
Deputy Administrator
Manager of Public Affairs**

Adjourn

Budget Hearings

CALENDAR OF EVENTS

JULY 23, 2012

Regular County Commission Meeting
8:00 a.m. - Information Session
9:30 a.m. - Formal Session
After Conclusion of the Formal Session, an
Information Session will be conducted until 12:00 Noon.

AUGUST 13, 2012

Regular County Commission Meeting
8:00 a.m. - Information Session
9:30 a.m. - Formal Session
After Conclusion of the Formal Session, an
Information Session will be conducted until 12:00 Noon.

AUGUST 27, 2012

Regular County Commission Meeting
8:00 a.m. - Information Session
9:30 a.m. - Formal Session
After Conclusion of the Formal Session, an
Information Session will be conducted until 12:00 Noon.

SEPTEMBER 3, 2012

County Holiday (Labor Day)

SEPTEMBER 10, 2012

Regular County Commission Meeting
8:00 a.m. - Information Session
9:30 a.m. - Formal Session
After Conclusion of the Formal Session, an
Information Session will be conducted until 12:00 Noon.

SEPTEMBER 24, 2012

Regular County Commission Meeting
8:00 a.m. - Information Session
9:30 a.m. - Formal Session
After Conclusion of the Formal Session, an
Information Session will be conducted until 12:00 Noon.

PERSONNEL ACTIONS

Fill action continues for 2 Programmer Analyst II's – Information Systems
Fill action continues for 1 Clerk Typist II – Support Services Department
Fill action continues for 1 HVAC Specialist – Support Services Department
Fill action continues for 1 Assistant Revenue Manager – Tax & Audit Department
Fill action continues for 1 Clerk II – District Attorney's Worthless Check Unit
Fill action continues for 1 Clerk IV – District Attorney's Worthless Check Unit
Fill action continues for 1 Worthless Check Director – District Attorney's Worthless Check Unit
Fill action continues for 1 Case Manager I – District Attorney's Child Support Unit
Fill action continues for 1 Dept. District Attorney Level 1 – District Attorney's Child Support Unit
Fill action continues for 19 Correction Officer Trainees – Detention Facility
Fill action continues for 3 Clerk II's – Detention Facility
Fill action continues for 3 Corrections Officers – Detention Facility
Fill action continues for 1 Inmate Grievance/Disciplinary Clerk – Detention Facility
Fill action continues for 1 County Road Equipment Operator I – Engineering Department
Fill action continues for 1 Civil Engineer Tech I – Engineering Department
Fill action continues for 1 Master Auto Mechanic – Engineering Department
Fill action continues for 1 Assistant Tag/License Supervisor – Probate Judge's Office
Fill action continues for 1 Clerk III – Probate Judge's Office
Fill action continues for 1 Customer Service Clerk's – Probate Judge's Office
Fill action continues for 1 Probate Court Clerk – Probate Judge's Office
Fill action continues for 1 License Inspector – Probate Judge's Office
Fill action continues for 1 Clerk III – Revenue Commissioner's Office
Fill action continues for 1 Deputy Sheriff Trainee – Sheriff Office
Fill action continues for 1 Emergency Communications Operation – Sheriff's Office
Fill action continues for 1 Relief Juvenile Detention Officer – Youth Facility
Fill action continues for 1 Juvenile Detention Officer – Youth Facility

July 23, 2012

Agenda

JUL 23 2012

07-23-12 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 07-06-12

Check Number	To	Check Number
226828		226908
Total Checks Paid		\$805,182.42

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

07-23-12 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 07-06-12

Check Number	To	Check Number
226909		227000
Total Checks Paid		\$334,563.70

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

Agenda

JUL 23 2012

07-23-12 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 07-13-12

Check Number	To	Check Number
227001		227094
Total Checks Paid		\$1,083,554.67

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

Agenda

JUL 23 2012

07-23-12 Meeting

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED 07-13-12

Check Number	To	Check Number
227095		227219
Total Checks Paid		\$514,834.40

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

07-23-12 Meeting

MONTGOMERY COUNTY COMMISSION

**THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID**

CHECKS ARE DATED 07-20-12

Check Number	To	Check Number
227220		227272
Total Checks Paid		\$49,431.01

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

07-23-12 Meeting

MONTGOMERY COUNTY COMMISSION

**THE FOLLOWING ACCOUNTS PAYABLE WERE AUDITED AND
ORDERED PAID**

CHECKS ARE DATED 07-20-12

Check Number	To	Check Number
227273		227357
Total Checks Paid		\$420,288.12

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

MONTGOMERY COUNTY COMMISSION

THE FOLLOWING TRANSACTIONS WERE AUDITED AND
ORDERED PAID

CHECKS ARE DATED
07/13/12

Payroll Check Number	113019	To	Payroll Check Number	113163	\$ 99,191.34
Direct Deposits					\$ 789,910.43
Payroll Check Number	113164	To	Payroll Check Number	113189	\$ 251,470.84
Direct Deposits					\$ 319,826.42
Federal Deposits					\$ 295,839.02
Total Payroll Paid					\$ 1,756,238.05

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

**LEGAL NOTICE OF ACTION PROPOSED TO BE TAKEN BY
MONTGOMERY COUNTY, ALABAMA WITH REGARD TO A PROJECT
DEVELOPMENT AGREEMENT**

Pursuant to Amendment No. 772 to the Constitution of Alabama (1901) (Section 94.01(a)(3) of the Recompiled Constitution of Alabama and hereinafter referred to as "Amendment No. 772"), Montgomery County, Alabama (the "County") hereby gives notice that its County Commission, as the governing body of the County, will consider at a regularly scheduled meeting to be held on **Monday, July 23, 2012**, beginning at 9:30 a.m. in the Commissioners' Court, 101 South Lawrence Street, 1st Floor, Montgomery, Alabama 36104, approving a resolution that authorizes the execution and delivery of a Project Development Agreement (the "Agreement") by and among the County, the City of Montgomery, Alabama (the "City"), and Premier Kings, Inc., an Alabama corporation ("Premier Kings").

BACKGROUND

WHEREAS, Amendment No. 772 authorizes the County to lend its credit to or grant public funds and things of value in aid of or to any corporation or other business entity for the purpose of promoting the economic development within its jurisdiction; and

WHEREAS, Premier Kings is in the process of negotiating the terms of an agreement to purchase a parcel of land described as follows and located in the County (the "Project Site):

Lot 1, according to the Survey of H & H Land Company, Plat No. 3, as recorded in Plat Book 25, page 195, in the Probate Office of Montgomery County, Alabama.

Together with all easement rights, appurtenant to the above described property created by the Declaration of Parking Easement dated August 31, 2000, recorded May 16, 2001, in Real Property Book 2239, page 286 in the Probate Office of the Judge of Probate, Montgomery County, Alabama; and,

WHEREAS, Premier Kings plans to construct and operate a retail restaurant business (the "Project") on the Project Site; and

WHEREAS, Premier Kings commits that the Project will create full-time jobs for at least thirty (30) direct employees of the Company and represent a capital investment equal to or greater than One Million and No/100 Dollars (\$1,000,000.00); and

WHEREAS, the County is desirous of having Premier Kings undertake said job creation and substantial capital improvements at the Project Site; and

WHEREAS, the proposed resolution will set forth the County's findings that it is necessary, proper, for a valid and sufficient public purpose and in the public interest, and in accordance with Amendment No. 772, that the County should enter into the Agreement; and

WHEREAS, the proposed resolution will set forth the County's findings and determination that the Agreement will promote the economic development of the County and,

accordingly, is for a public purpose and is authorized by and consistent with Amendment No. 772.

SUMMARY OF THE TERMS OF THE AGREEMENT

As incentive for Premier Kings to locate the Project in the County, employ individuals full-time in the County, and conduct the Project's business operations in the County, the County and the City will provide Premier Kings the benefit of the following tax incentives, which for ease of administration shall be in the form of tax abatements for the benefit of Premier Kings: (i) an abatement equal to fifty percent (50.0%) of non-educational County and City real property and personal property ad valorem taxes on the Project Site, the retail restaurant business and other real property improvements to be located at the Project Site, personal property located at, on or about the Project Site, and any other real or personal property purchased in connection with, incorporated into, and used in the operation of the Project as of and through the date on which Premier Kings commences operations, for a period of ten (10) years, the abatement of such taxes not to exceed \$50,000.00 per year; and (ii) an abatement of non-educational City and County sales, use, and all other similar taxes on the sale of food and beverages by Premier Kings beginning on the date that Premier Kings commences operations of its retail restaurant business at the Project Site, with the abatement of such taxes by the City and County collectively not to exceed \$50,000.00 in total.

CONCLUSION

A draft of the Agreement may be inspected at the office of the County Administrator during regular business hours prior to the scheduled meeting.

While Premier Kings would receive certain benefits under the Agreement (summarized above), the Montgomery County Commission expects to determine at its public meeting that the benefits provided under the Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to Premier Kings or any other private business. The public benefits sought to be achieved by the approval of the Agreement include: promotion of local economic and commercial development and the stimulation of the local economy; increasing employment opportunities in the County; expanding the County's tax base, which will result in additional tax revenues for the County; promoting the location, relocation, expansion, and retention of business enterprises in the County; and enhancing the overall quality of life of the citizens of the County.

All members of the public are invited to attend the meeting described above or to submit written opinions or comments regarding the proposed action to the Montgomery County Commission prior to the meeting. In compliance with the Americans with Disabilities Act, interpretive assistance or other reasonable accommodations will be provided to individuals with disabilities who attend the meeting upon request. Should you desire such services, please contact the office of the County Administrator (334-832-1210) at least two (2) full working days prior to the meeting.

ELTON N. DEAN, SR.
CHAIRMAN

REED INGRAM
VICE CHAIRMAN

DIMITRI POLIZOS
JILES WILLIAMS, JR.
HAM WILSON, JR.

A COUNTY OLDER THAN THE STATE

MONTGOMERY COUNTY COMMISSION

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

ESTABLISHED 1816

DONALD L. MIMS, CPA, MPA
ADMINISTRATOR
JOHN A. MITCHELL, SR.
DEPUTY ADMINISTRATOR
(334) 832-1210
FAX (334) 832-2533
TDD (334) 265-3568
www.mc-ala.org

Agenda

JUL 23 2012

July 19, 2012

MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*
County Administrator

SUBJECT: Project Development Agreement and Legal Notice regarding Premier Kings, Inc.

During the June 25, 2012 County Commission meeting, the Project Development Agreement regarding Premier Kings, Inc., was considered.

The Commission agreed to place this item on the July 23, 2012 agenda and I am requesting its approval.

DLM/tn

RESOLUTION

WHEREAS, the County Commission of Montgomery County, Alabama (the "County") has caused legal notice (the "Notice") of proposed action to be taken by the County with regard to that certain Project Development Agreement (the "Agreement") by and among the County, the City of Montgomery, Alabama, and Premier Kings, Inc., an Alabama corporation (the "Corporation"), to be published in The Montgomery Independent on July 12, 2012; and

WHEREAS, a copy of the Notice is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, a draft of the Agreement is attached hereto as Exhibit B and incorporated herein by reference; and

WHEREAS, after due consideration, the County Commission of the County finds that it is necessary, proper, for a valid and sufficient public purpose and in the public interest, and in accordance with Amendment No. 772 to the Constitution of Alabama (1901) (Section 94.01(a)(3) of the Recompiled Constitution of Alabama and hereinafter referred to as "Amendment No. 772"), that the County should enter into the Agreement; and

WHEREAS, the County Commission of the County finds and determines that the Agreement will promote the economic development of the County and, accordingly, is for a public purpose and is authorized by and consistent with Amendment No. 772.

NOW THEREFORE, BE IT RESOLVED by the County Commission of the County, as follows:

1. The Chairman of the County Commission of the County shall be and hereby is authorized to execute and deliver to the Corporation on behalf of the County an agreement that substantially conforms to the draft of the Agreement attached hereto as Exhibit B and incorporated herein by reference; and

2. The Chairman of the County Commission of the County shall be and hereby is authorized to execute such documents or to take such additional actions as are necessary and appropriate to the accomplishment of the purposes of the Agreement.

ADOPTED this the 23rd day of July, 2012.

STATE OF ALABAMA)
COUNTY OF MONTGOMERY)

I, Donald L. Mims, County Administrator of Montgomery County, Alabama, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution which was duly
adopted by the County Commission of Montgomery County, Alabama, at its regular meeting
held the 23rd day of July, 2012.

GIVEN under my hand and the official SEAL of Montgomery County, Alabama, this the
23rd day of July, 2012.

DONALD L. MIMS, COUNTY ADMINISTRATOR

APPROVED: _____

ELTON DEAN, CHAIRMAN

**LEGAL NOTICE OF ACTION PROPOSED TO BE TAKEN BY
MONTGOMERY COUNTY, ALABAMA WITH REGARD TO A PROJECT
DEVELOPMENT AGREEMENT**

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BACKGROUND

WHEREAS, Amendment No. 772 authorizes the County to lend its credit to or grant public funds and things of value in aid of or to any corporation or other business entity for the purpose of promoting the economic development within its jurisdiction; and

WHEREAS, Premier Kings is in the process of negotiating the terms of an agreement to purchase a parcel of land described as follows and located in the County (the "Project Site):

Lot 1, according to the Survey of H & H Land Company, Plat No. 3, as recorded in Plat Book 25, page 195, in the Probate Office of Montgomery County, Alabama.

Together with all easement rights, appurtenant to the above described property created by the Declaration of Parking Easement dated August 31, 2000, recorded May 16, 2001, in Real Property Book 2239, page 286 in the Probate Office of the Judge of Probate, Montgomery County, Alabama; and,

WHEREAS, Premier Kings plans to construct and operate a retail restaurant business (the "Project") on the Project Site; and

WHEREAS, Premier Kings commits that the Project will create full-time jobs for at least thirty (30) direct employees of the Company and represent a capital investment equal to or greater than One Million and No/100 Dollars (\$1,000,000.00); and

WHEREAS, the County is desirous of having Premier Kings undertake said job creation and substantial capital improvements at the Project Site; and

WHEREAS, the proposed resolution will set forth the County's findings that it is necessary, proper, for a valid and sufficient public purpose and in the public interest, and in accordance with Amendment No. 772, that the County should enter into the Agreement; and

WHEREAS, the proposed resolution will set forth the County's findings and determination that the Agreement will promote the economic development of the County and,

accordingly, is for a public purpose and is authorized by and consistent with Amendment No. 772.

SUMMARY OF THE TERMS OF THE AGREEMENT

As incentive for Premier Kings to locate the Project in the County, employ individuals full-time in the County, and conduct the Project's business operations in the County, the County and the City will provide Premier Kings the benefit of the following tax incentives, which for ease of administration shall be in the form of tax abatements for the benefit of Premier Kings: (i) an abatement equal to fifty percent (50.0%) of non-educational County and City real property and personal property ad valorem taxes on the Project Site, the retail restaurant business and other real property improvements to be located at the Project Site, personal property located at, on or about the Project Site, and any other real or personal property purchased in connection with, incorporated into, and used in the operation of the Project as of and through the date on which Premier Kings commences operations, for a period of ten (10) years, the abatement of such taxes not to exceed \$50,000.00 per year; and (ii) an abatement of non-educational City and County sales, use, and all other similar taxes on the sale of food and beverages by Premier Kings beginning on the date that Premier Kings commences operations of its retail restaurant business at the Project Site, with the abatement of such taxes by the City and County collectively not to exceed \$50,000.00 in total.

CONCLUSION

A draft of the Agreement may be inspected at the office of the County Administrator during regular business hours prior to the scheduled meeting.

While Premier Kings would receive certain benefits under the Agreement (summarized above), the Montgomery County Commission expects to determine at its public meeting that the benefits provided under the Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to Premier Kings or any other private business. The public benefits sought to be achieved by the approval of the Agreement include: promotion of local economic and commercial development and the stimulation of the local economy; increasing employment opportunities in the County; expanding the County's tax base, which will result in additional tax revenues for the County; promoting the location, relocation, expansion, and retention of business enterprises in the County; and enhancing the overall quality of life of the citizens of the County.

All members of the public are invited to attend the meeting described above or to submit written opinions or comments regarding the proposed action to the Montgomery County Commission prior to the meeting. In compliance with the Americans with Disabilities Act, interpretive assistance or other reasonable accommodations will be provided to individuals with disabilities who attend the meeting upon request. Should you desire such services, please contact the office of the County Administrator (334-832-1210) at least two (2) full working days prior to the meeting.

PROJECT DEVELOPMENT AGREEMENT

BY AND AMONG

**MONTGOMERY COUNTY, ALABAMA,
THE CITY OF MONTGOMERY, ALABAMA**

AND

PREMIER KINGS, INC.

PROJECT DEVELOPMENT AGREEMENT

THIS PROJECT DEVELOPMENT AGREEMENT (this "Agreement") is hereby made and entered into this ____ day of _____, 2012, by and among **MONTGOMERY COUNTY, ALABAMA** (the "County"), the **CITY OF MONTGOMERY, ALABAMA** (the "City"), and **PREMIER KINGS, INC.**, an Alabama corporation (the "Corporation"). The Corporation, the County, and the City are each a "Party" to this Agreement and are collectively referred to as the "Parties".

RECITALS

WHEREAS, the County and the City support and encourage business and industrial development within Alabama; and

WHEREAS, the County and the City have identified a targeted geographic area within which to offer certain economic development incentives, such area more particularly identified on Exhibit A to this Agreement; and

WHEREAS, the Corporation has purchased a platted parcel of land located in Montgomery, Alabama, as more particularly described in Exhibit B to this Agreement (the "Project Site"); and

WHEREAS, the Corporation plans to construct and operate a retail restaurant business (the "Project") on the Project Site; and

WHEREAS, the Corporation commits that the Project will create a minimum of thirty (30) direct new jobs, is expected to create up to forty (40) direct new jobs and will represent a capital investment equal to or greater than One Million and No/100 Dollars (\$1,000,000.00) ("Capital Commitment"); and

WHEREAS, the County, and the City are desirous of having the Corporation undertake said job creation and substantial capital improvements at the Project Site; and

WHEREAS, Amendment No. 772 to the Constitution of Alabama (1901) authorizes the County and the City to lend its credit to or grant public funds and things of value in aid of or to any corporation or other business entity for the purpose of promoting the economic development and industrial development within its jurisdiction; and

WHEREAS, the County and the City have determined that entering into this Agreement is for a valid and sufficient public purpose; and

WHEREAS, the Parties are desirous of setting forth such proposals in a valid, binding and enforceable agreement; and

WHEREAS, on the Effective Date the commitments contained in this Agreement are made in consideration for the Corporation's decision to locate and operate the Project on the Project Site.

NOW, THEREFORE, upon and in consideration for the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the Parties enter into this Agreement on the following terms and conditions:

1. **Scope of Agreement.** This Agreement fully sets out the complete agreement of the Parties. This Agreement includes the facts, averments, and representations set out in the Recitals, as well as all exhibits, attachments, or appendices attached hereto or referenced herein, all of which are hereby incorporated by reference.

2. **Defined Terms.** As used in this Agreement, the following terms shall have the following meanings:

"Agreement" means this Project Development Agreement.

"City" has the meaning set forth in the Preamble to this Agreement.

"Commence Construction" means that the Corporation has begun the physical work to construct the Project for its intended use, using appropriate equipment and manpower to construct, equip and start up the Project.

"Commence Operations" shall mean the date upon which the Corporation first distributes goods from the Project.

"Corporation" has the meaning set forth in the Preamble to this Agreement.

"County" has the meaning set forth in the Preamble to this Agreement.

"Effective Date" shall mean the date upon which all of the Parties have executed this Agreement.

"Force Majeure" means acts of God; governmental delays; change in governmental laws, orders, rules or regulations prohibiting the applicable action; acts of public enemy; wars; blockades; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; storms; hurricanes; floods; washouts; civil disturbances; and any other causes, whether of the kind herein enumerated or otherwise, not within the control of the Party claiming suspension, and which by the exercise of due diligence, such Party is or would have been unable to prevent or overcome. "Force Majeure" shall also be deemed to include the failure of another party hereto to timely fulfill its obligations under this Agreement. In addition, "Force Majeure" shall be deemed to include any delay which occurs through no fault of the Corporation in completing, or the failure to complete, the construction of the Project.

"Party" has the meaning set forth in the Preamble to this Agreement.

“Parties” has the meaning set forth in the Preamble to this Agreement.

“Project” has the meaning set forth in the fourth WHEREAS clause of this Agreement.

“Project Site” has the meaning set forth in the third WHEREAS clause of this Agreement.

3. The Corporation’s Commitments.

(a) In consideration of the incentives described herein, and contingent upon the construction of the Project, the Corporation makes the following commitments:

(i) The Corporation acknowledges that the citizens of Montgomery County, Alabama, and the City of Montgomery, Alabama, anticipate the prompt receipt of substantial economic benefit to the local economies in return for the investment of public money in the Project. Therefore, the Corporation agrees to use commercially reasonable efforts to prosecute the development of the Project. Subject to an event of Force Majeure, the Corporation will Commence Construction on or before June 1, 2012 and Commence Operations not later than July 31, 2012.

(ii) In furtherance of this Project, subject to an event of Force Majeure, the Corporation will fulfill its Capital Commitment not later than July 31, 2012.

(iii) Adequate funding to complete the development and construction of the Project and to conduct the Corporation’s business at the Project has been committed to the Project by the Corporation’s management.

(iv) The Corporation is in good standing, licensed, and qualified to do business in Alabama, all in accordance with Alabama law, and shall remain licensed, qualified, in good standing, and in compliance with all Alabama laws applicable to its operations at all times that the Corporation is in business in the State of Alabama.

(v) The Corporation is not prohibited from consummating the transaction contemplated in this Agreement by any law, regulation, agreement, instrument, restriction, order, or judgment.

(vi) The Corporation has the legal power and authority to enter into this Agreement and to make the respective commitments made in this Agreement. To the extent that any authorization, approval, resolution or consent of the Corporation’s officers, managers, trustees, members or any other persons is required under either the Corporation’s organizational and/or governing documents or otherwise is required by law and to the extent that any authorization, approval or consent of any governmental authority, body, or agency or third party is required for it to have entered into this Agreement and make the commitments contained in this Agreement, that such authorizations, approvals and consents have been duly obtained in accordance with applicable law and procedures.

(b) In consideration of the County and the City providing the incentives described herein, the Corporation makes the following commitments to the County and the City:

(i) The Corporation shall give commercially reasonable consideration to Montgomery-based contractors and vendors and Montgomery residents (who have been preapproved in writing by Burger King Corporation) to provide products and services in developing, constructing, and operating the Project. The Parties acknowledge that selection of contractors and vendors for the Project shall be at the sole discretion of the Corporation.

(ii) The Corporation shall give commercially reasonable consideration to minority business enterprises and women business enterprises (who have been preapproved in writing by Burger King Corporation) to provide products and services in developing, constructing, and operating the Project. The Parties acknowledge that selection of minority business enterprises and women business enterprises for the Project shall be at the sole discretion of the Corporation.

(iii) The Corporation shall give commercially reasonable consideration to qualified Montgomery residents for employment at the Project, subject in all cases to the Corporation's then usual and customary hiring policies.

4. Tax Abatements.

(a) Pursuant to the provisions of Amendment No. 772 to the Constitution of Alabama (1901), the County hereby agrees to provide the Corporation the benefit of the following tax incentives, which for ease of administration shall be in the form of the following tax abatement and incentive:

(i) An abatement equal to fifty percent (50.0%) of all noneducational County real property and personal property ad valorem taxes on the Project Site, the retail restaurant business and other real property improvements to be located at the Project Site, personal property located at, on or about the Project Site, and any other real or personal property purchased in connection with, incorporated into, and used in the operation of the Project (including, without limitation, signs, and trailers used in the operation of the Project) as of and through the date on which the Corporation Commences Operations, for a period of ten (10) years, the abatement of the aforesaid taxes by the County shall not exceed \$18,750.00 per year (the abated amount shall be deducted and reflected on the annual tax bill sent out by the Montgomery County Revenue Commissioner); and

(ii) An incentive in an amount equal to all noneducational County sales, use and all other similar taxes on the sale of food and beverages by the Project beginning on the date that the Corporation Commences Operations and continuing for a period of eight (8) months. However, the incentive in the amount of the aforesaid taxes by the City and County shall not exceed \$50,000.00 in total. The incentive provided for herein is for the benefit of the Corporation (not its customers) and/or its assigns as permitted herein, and all amounts paid pursuant to this Agreement shall be the property of the Corporation and/or its assigns as permitted herein.

(b) Pursuant to the provisions of Amendment No. 772 to the Constitution of Alabama (1901), the City hereby agrees to provide the Corporation the benefit of the following tax

incentives, which for ease of administration shall be in the form of the following tax abatement and incentive:

(i) An abatement equal to fifty percent (50.0%) of all noneducational City real property and personal property ad valorem taxes on the Project Site, the retail restaurant business facility and other real property improvements to be located at the Project Site, personal property located at, on or about the Project Site, and any other real or personal property purchased in connection with, incorporated into, and used in the operation of the Project as of and through the date on which the Corporation Commences Operations, for a period of ten (10) years, the abatement of the aforesaid taxes by the City shall not exceed \$31,250.00 per year (the abated amount shall be deducted and reflected on the annual tax bill sent out by the Montgomery County Revenue Commissioner); and

(ii) An incentive in an amount equal to all noneducational City sales, use and all other similar taxes on the sale of food and beverages by the Project beginning on the date that the Corporation Commences Operations and continuing for a period of eight (8) months. However, the incentive in the amount of the aforesaid taxes by the City and County shall not exceed \$50,000.00 in total. The incentive provided for herein is for the benefit of the Corporation (not its customers) and/or its assigns as permitted herein, and all amounts paid pursuant to this Agreement shall be the property of the Corporation and/or its assigns as permitted herein.

(c) The Corporation shall - remit all noneducational County and City sales, use and all other similar taxes on the sale of food and beverages for which the amount of such taxes will be used to calculate the incentives discussed hereinabove, and thereafter the Corporation shall petition for payment of the incentives in the amount of all such taxes remitted by the Corporation. To request payment of the incentives in the amount equal to all noneducational County and City sales, use and all other similar taxes by County and City hereinabove, the Corporation shall submit to the Finance Department for County and City a petition for payment of the incentive in the amount of noneducational County and City sales, use and all other similar taxes on the sale of food and beverages that are actually remitted by the Corporation (the "Incentive Petition"). The Incentive Petition shall be accompanied by an affidavit executed by an officer of the Corporation certifying that the taxes for which the incentive payment is sought were remitted by the Corporation. The Corporation shall submit only one (1) Incentive Petition to each of County and City and such Incentive Petition shall be submitted to County and City within twelve (12) months following the date on which the Corporation Commences Operations, and County and City shall thereafter promptly pay such tax incentives described hereinabove.

5. Assistance with Permits.

The County and the City agree, to the extent permitted by applicable law and with the cooperation of the Corporation:

(i) To do all things and take all actions necessary to assist the Corporation in its timely filing of all applications for obtaining, modifying, transferring, and/or renewing all applicable permits with the federal government, the County, and the City and all applicable agencies thereof; such assistance to include, when applicable, facilitating the timely

consideration, processing, and issuance of all permits required in connection with the establishment and subsequent operation of the Project. Such permits shall include, but are not necessarily limited to site plan approvals, construction and building permits, approvals for the abandonment and creation of all rights-of-way acquisitions and easements, and environmental permits, all to be issued on an expedited basis in order to permit construction of the Project to proceed in a timely manner; and

(ii) To use their best efforts to cause all permit decisions necessary for construction and subsequent operation of the Project to be made within fifteen (15) days (thirty (30) days if a public hearing is requested) of filing the applicable and materially complete application in accordance with the applicable statutes and regulations.

6. Certain Representations and Warranties. As of the Effective Date of this Agreement, the County and the City each represent and warrant that:

(a) Such Party is not prohibited from consummating the transaction contemplated in this Agreement by any law, regulation, agreement, instrument, restriction, order, or judgment; and

(b) Such Party has the legal power and authority to enter into this Agreement and to make the respective commitments made in this Agreement, and to the extent that any authorization, approval, or consent of any other government authority, body, or agency or third party is required for it to have entered into this Agreement and make the commitments contained in this Agreement, that such authorizations, approvals, and consents have been duly obtained in accordance with applicable law and procedures.

7. Force Majeure. In the event of any Party hereto being rendered unable, wholly or in part, by reason of an event of Force Majeure to carry out its obligations hereunder, and regardless of whether or not expressly provided herein, the obligations of such party suffering such event of Force Majeure shall be suspended during the continuance of any inability so caused, provided, however, that such Party suffering the event of Force Majeure shall (a) deliver prompt notice, to the Party to whom the obligations are due, of the occurrence of such event of Force Majeure (such notice to describe the circumstances creating the event and the steps that such Party proposes to take to eliminate the event or the effects thereof), (b) use its best efforts to eliminate such event or the effects thereof and shall deliver periodic status reports regarding such efforts to the Party to whom the obligations are due, (c) promptly deliver notice to the Party to whom the obligations are due when such event has been eliminated or has ceased to prevent the performance of the suffering Party's obligations and (d) proceed to fulfill or perform such obligations as soon as reasonably practical after the event has been eliminated or has ceased to prevent the performance of the suffering Party's obligations.

8. Costs and Expenses. Each Party agrees to pay its own costs and expenses incurred in connection with the proposals, responses, and negotiation of the transactions contemplated herein, including all costs and expenses incurred in connection with the preparation of any studies or reports, surveys, or approvals for this Agreement or otherwise.

9. Assignment. This Agreement is not assignable, except that the Corporation shall have the right at any time to assign all its rights and obligations in and to the Project and to transfer this

Agreement or any part thereof to any affiliate of the Corporation that agrees to assume assigned obligations of the Corporation in and to the Project; and if so assigned, the Corporation shall continue to be responsible for the performance of the obligations of the Corporation under this Agreement unless specifically excused therefrom by the County and the City, to be expressed in writing and signed by an authorized representative of the County and the City.

10. Section Titles and Headings. The section titles and headings are for convenience only and do not define, modify, or limit any of the terms and provisions hereof.

11. Survival of Representations and Warranties. The representations, warranties, and covenants made by each of the Parties hereto and contained herein shall survive the performance of any obligations to which such representations, warranties, and covenants relate.

12. Waivers. Waiver of any of the obligations of any Party under this Agreement shall be effective only when stated in writing and signed by the waiving Party. No delay or omission to exercise any right or power by any Party shall be construed to be a waiver. In the event any provision is waived by a Party, such waiver shall not be deemed to waive any other provision.

13. Time is of the Essence. The Parties acknowledge and agree that time is of the essence in performing their respective duties under this Agreement.

14. Notices. All notices required by, or arising out of, or related to this Agreement shall be sent by United States Mail, first class postage affixed, addressed to the receiving Party as described below:

MONTGOMERY COUNTY,
ALABAMA

Montgomery County Commission
Elton N. Dean, Sr., Chairman
101 S. Lawrence Street
Montgomery, AL 36104
Telephone: (334) 832-1210
Facsimile: (334) 832-2533

MONTGOMERY COUNTY,
ALABAMA

Montgomery County Commission
Donald L. Mims
101 S. Lawrence Street
Montgomery, AL 36104
Telephone: (334) 832-1210
Facsimile: (334) 832-2533

With a copy to:

Tommy Gallion
Haskell Slaughter
305 South Lawrence Street
Montgomery, Alabama 36104
Telephone: (334) 264-7945

Facsimile: (334) 265-8573

CITY OF MONTGOMERY, ALABAMA Honorable Todd Strange
Mayor of the City of Montgomery
103 North Perry Street
Montgomery, AL 36104
Telephone: (334) 241-2096
Facsimile: (334) 241-2056

With a copy to:

Riley W. Roby
Balch & Bingham LLP
105 Tallapoosa Street, Suite 200
Montgomery, AL 36104
Telephone: (334) 269-3120
Facsimile: (877) 453-6422

PREMIER KINGS, INC.

Patrick Sidhu
President
5529 Carmichael Road
Montgomery, AL 36117
Telephone: (502) 299-1824
Facsimile: (888) 720-9464

With a copy to:

John A. Howard, Jr.
Kaufman, Gilpin, McKenzie, Thomas,
Weiss, PC
2660 EastChase Lane, Suite 300
Telephone: (334) 409-2230
Facsimile: (334) 244-1969

or to such other address as the receiving Party shall have most recently forwarded to the sending Party pursuant to the provisions of this Section.

15. Term of Agreement. The term of this Agreement shall commence on the Effective Date and continue in effect through December 31, 2022.

16. Entire Agreement; Amendment. This Agreement is the entire agreement and supersedes all prior and collateral communications and agreements of the Parties relating to the subject matter. This Agreement may be amended only by a written modification executed by each of the Parties' duly authorized representatives.

17. Severability. In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect and for any reason whatsoever, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or

impaired thereby, and in the event any such provision is held to be invalid, illegal or unenforceable, those Parties affected by such event shall exercise their best efforts to agree upon a provision in substitution for such invalid, illegal or unenforceable provision that is as near in economic benefit as possible to the provision found to be invalid, illegal or unenforceable.

18. No Third-Party Beneficiaries. Other than as set forth in this Agreement, this Agreement shall not confer any rights or remedies upon any person other than the Parties and their respective successors and permitted assigns.

19. Press Releases. Each of the Parties hereto agrees to cooperate to coordinate with the Corporation, to the extent permitted by law, in connection with all press releases and publications concerning the Project. The Corporation shall be free to issue or file with all applicable regulatory authorities such documents as it considers necessary or appropriate, including without limitation, all filings with the appropriate securities law authorities and stock exchanges. The County and the City may make such disclosures as it feels are required to be disclosed by applicable law.

20. Governing Law. The governing law of this Agreement shall be the law of the State of Alabama without regard to conflicts of law provisions.

21. Construction. In this Agreement, unless the context indicates otherwise, the singular includes the plural and the plural the singular, references to statutes, sections or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending, replacing, succeeding or supplementing the statute, section or regulation referred to; the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation" or "but not limited to" or words of similar import; references to exhibits, attachments or appendices are to those of this Agreement unless otherwise indicated and shall be deemed to include all subsequent modifications thereto; references to agreements and other contractual instruments shall be deemed to include all exhibits, attachments and appendices attached thereto and all subsequent amendments and other modifications to such instrument; and references to Parties include their respective successors and permitted assigns.

22. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

[Execution begins on following page]

WHEREFORE, the Parties hereto have caused this Agreement to be signed and delivered by their duly authorized representatives as of the date first above indicated.

MONTGOMERY COUNTY, ALABAMA

By: _____
(signature)

Name: Elton N. Dean, Sr.
Title: County Commission Chairman

CITY OF MONTGOMERY, ALABAMA

By: _____
(signature)

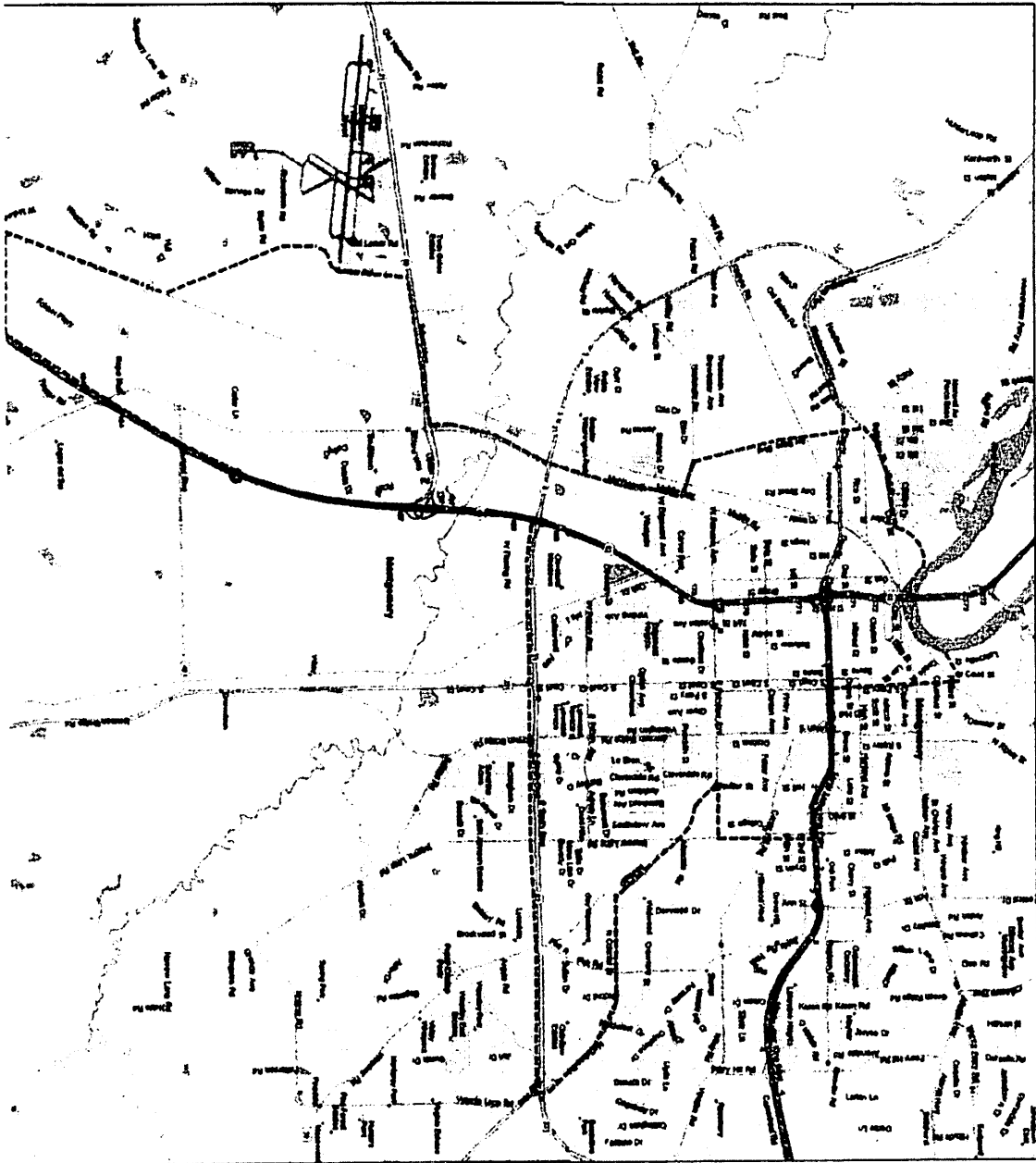
Name: Todd Strange
Title: Mayor

PREMIER KINGS, INC.

By: _____
(signature)

Name: Patrick Sidhu
Title: President

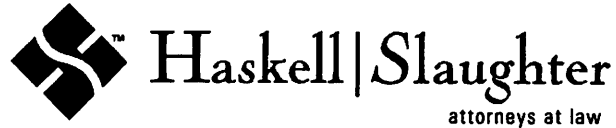
EXHIBIT A
TARGETED GEOGRAPHIC AREA FOR INCENTIVES



**EXHIBIT B
PROJECT SITE**

Lot 1, according to the Survey of H & H Land Company, Plat No. 3, as recorded in Plat Book 25, page 195, in the Probate Office of Montgomery County, Alabama.

Together with all easement rights, appurtenant to the above described property created by the Declaration of Parking Easement dated August 31, 2000, recorded May 16, 2001, in Real Property Book 2239, page 286 in the Probate Office of the Judge of Probate, Montgomery County, Alabama.



MONTGOMERY OFFICE
305 South Lawrence Street • Montgomery, Alabama 36104
Post Office Box 4660 • Montgomery, Alabama 36103-4660
f. 334.264.7945 • t. 334.265.8573
www.hsy.com

MEMORANDUM
June 7, 2012

T. T. 6

TO: Donnie Mims
FROM: Tommy Gallion
RE: Premier Kings, Inc
Project Development Agreement

I have reviewed your May 31, 2012 memorandum and the second Project Development Agreement by and between Montgomery County, Alabama, the City of Montgomery, Alabama and Premier Kings, Inc. On the bottom of page 7 and top of page 8, the telephone number and fax number for Haskell Slaughter has been reversed and needs to be corrected. The project agreement itself can be approved at the June 11, 2012.

I have researched this matter and conferred with Mark Ezell. The following is my recommendation: This agreement is for a project undertaken pursuant to Amendment No, 772 to the Alabama Constitution. That amendment authorized cities and counties broad power to grant benefits for economic development, but there are some requirements that have to be met. (See attached copy of the Art. IV §94.01.)

At least seven (7) days prior to approval by the County Commission, a notice must be published that describes in some detail the nature of the benefits to be approved. The draft legal notice that was included in the documents that I reviewed is sufficient.

Once the notice has ran and at least seven days have lapsed and at the next Commission meeting, a resolution needs to be presented to the Commissioners. This resolution can be drafted by Riley Roby at the Balch law firm who prepared the other documents.

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18:2 11 0-10 100

JANET BUSKEY
REVENUE COMMISSIONER

MONTGOMERY COUNTY
REVENUE COMMISSIONER'S OFFICE

ALLYSON HOLLAND
CHIEF CLERK

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



Agenda

JUL 23 2012

July 3, 2012

MEMORANDUM

TO: Elton Dean, Sr., Chairman
Cc:  Montgomery County Commissioners
Janet Y. Buskey, Revenue Commissioner
Donnie Mims, County Administrator

FROM:  Clay Henley, Chief Appraiser

SUBJECT: Request Approval of Grant Contract

Attached please find a proposal of a Digital Information Cooperative Agreement between the Montgomery County Commission and the Alabama Department of Transportation (ALDOT) and a corresponding memo from Brian Ingram, ALDOT Location Engineer with more information regarding the grant agreement.

ALDOT agrees to provide to Montgomery County a federal grant in the amount of \$68,300 to be applied toward the completion of the 2012 photography and mapping project. Payment will be made within 90 days of receipt of the supporting documentation showing progress payments paid to the contractor.

This grant requires a 20% cost share to be paid by Montgomery County. ALDOT will be responsible for providing 80% (54,640) and the County will provide the remaining 20% (13,660) cost share toward the grant.

This agreement will allow ALDOT to share county digital information with other government entities.

We respectfully request approval of this cooperative agreement at the next commission meeting upon review by the County Attorney.

Attachments

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

East Office
5340B Atlanta Hwy
Montgomery, AL 36109
(334) 272-9692

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

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



ALABAMA DEPARTMENT OF TRANSPORTATION

Design Bureau

1409 Coliseum Boulevard, Montgomery, Alabama 36110
P.O. Box 303050, Montgomery, Alabama 36130-3050
Phone: 334-242-6178 FAX: 334-269-0826



Robert Bentley
Governor

June 18, 2012

John R. Cooper
Transportation Director

Montgomery County Courthouse
Revenue Commissioner
P. O. Box 1667
Montgomery, AL 36102

Attention: Clay Henley

RE: Mapping Agreement

Mr. Henley,

Attached please find a copy of our Digital Information Cooperative Agreement. The total grant amount for this agreement is \$68,300. The Alabama Department of Transportation (ALDOT) will provide \$54,640 (80%) of these funds with the remaining \$13,660 (20% match) coming from the funds the county is utilizing for this project.

One key difference with our current funding agreements is that we are asking that the data from this project be made available to other government agencies. As a member of the Alabama Executive GIS Council, ALDOT has made the commitment to work with other agencies and share data in hopes of reducing redundancy and costs associated with collecting this information. An example of this would be the current Virtual Alabama application managed by the Alabama Department of Homeland Security.

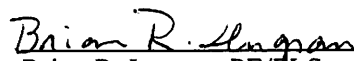
Please review this document thoroughly. If Montgomery County is in acceptance of the terms of this Agreement, please sign, have it signed and sealed by a Notary, and return the Agreement and the Resolution to this office Attn: John Russell.

If you have any questions or need any further clarification, please feel free to contact John Russell at (334) 242-6139.

Sincerely,

William F. Adams, PE
State Design Engineer

BY:


Brian R. Ingram, PE/PLS
Location Engineer

WFA/BRI/KMF
Attachment

C: Mr. Bill Bass
File

JANET BUSKEY
REVENUE COMMISSIONER

ALLYSON HOLLAND
CHIEF CLERK

CLAY HENLEY
CHIEF APPRAISER
APPRAISAL DEPARTMENT

MONTGOMERY COUNTY REVENUE COMMISSIONER'S OFFICE

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



July 23, 2012

MEMORANDUM

TO: Commissioner Elton Dean, Sr., Chairman
Montgomery County Commissioners

Cc: Donnie Mims, County Administrator
Janet Y. Buskey, Revenue Commissioner

FROM: Clay Henley, Chief Appraiser

SUBJECT: Digital Information Contract with ALDOT

Please find the attached proposed Digital Information Cooperative Agreement between the Montgomery County Commission and the Alabama Department of Transportation (ALDOT) for the sharing of aerial photography. In the previous submission of this document to the County Commission on July 9th, 2012, Pictometry International Corporation was referred to as Consultant instead of Contractor on page two of the agreement. This error has been corrected and an explanation of "Contractor" has been added to the definitions section, 1.01(c), of the contract.

The agreement also requires proof of progress toward payment of the contract to Pictometry International Corporation. Attached you will find copies of the cancelled checks as well as a worksheet with a list of all funds provided by the Montgomery County Commission as well as ALDOT.

Thank you for your consideration.

JCH

Attachments

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

East Office
5340B Atlanta Hwy
Montgomery, AL
(334) 272-9692

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

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

DIGITAL INFORMATION COOPERATIVE AGREEMENT

The Digital Information Cooperative Agreement (hereinafter referred to as Agreement) is entered into as of the ____ day of July, 2012 by and between the Montgomery County Commission, (hereinafter referred to as COUNTY), and the Alabama Department of Transportation (ALDOT) (hereinafter jointly referred to as PARTIES).

RECITALS

WHEREAS, the COUNTY maintains a Geographic Information System that contains a significant variety of digital land information that is used in the daily operation of numerous departments supporting the constituents of Montgomery County;

WHEREAS, the COUNTY has entered into a contract to acquire new digital ortho-photography and updated mapping for the entire County.

WHEREAS, the ALDOT maintains information concerning the planning and maintenance of a statewide system of transportation corridors for the State of Alabama;

WHEREAS, it has been determined that each of the agencies maintain some information that is similar and overlapping;

WHEREAS, the ALDOT has a need for the digital ortho-photography and mapping for its use and that it is in the best interest of the constituents of these jurisdictions that a cooperative agreement be established to share the costs of development and maintenance of some of these similar data elements; and

NOW THEREFORE, the PARTIES hereto, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, do hereby agree as:

Section 1. Contributions and Responsibilities

1.01 Definitions. As used herein the following terms shall have the meaning ascribed to them:

- (a) "Specifications" shall mean those specifications required by the Alabama Department of Revenue's Property Tax Division "Specifications for Property Ownership Maps, GIS/Computer Assisted Property Tax Mapping and Aerial Photography (ADV-25)" document dated November 2004.
- (b) "Data Set" shall mean the digital and non-digital information, databases, calculations, and products developed or placed to support the 2012 computerized mapping project.
- (c) Reference to the "Contractor" shall mean Pictometry International Corporation.

1.02 The County has entered into a contract in the approximate amount of \$342,800 to acquire 1"=100' scale digital ortho-photography and updated mapping for

the County. The aerial photography and resulting data will be collected in accordance with the Alabama Department of Revenue's Property Tax Division "Specifications" Under the ALDOT State Planning and Research Annual Work Program, a Federal Highway Administration (FHWA) grant is being awarded to the COUNTY. The terms of the grant are as follows:

- (a) This agreement is for federal grant in the amount of \$68,300 to be applied toward the completion of the 2012 photography and mapping project. Payment shall be made to the COUNTY within 90 days of receipt of the supporting documentation showing progress payments paid to the contractor.
- (b) This grant requires a 20% cost share to be paid by the COUNTY. ALDOT will be responsible for providing 80% (\$54,640) and the county will provide the remaining 20% (\$13,660) cost share toward the grant. The COUNTY will be responsible for funding the balance of the project cost.
- (c) The COUNTY shall provide the ALDOT a copy of the "Data Set" and all deliverables generated from the County's 2012 photography contract.
- (d) As a member of the Alabama Geographic Information Executive Council, ALDOT shall make the resulting data available to other State and Federal Agencies for their business purposes.

This grant is listed under the Catalog of Federal Domestic Assistance (CFDA) 20.205 – Highway Research, Planning, and Construction. The use of Federal funds is pursuant to and in accordance with all regulations of the State of Alabama and the U. S. Department of Transportation. The County will reimburse Contractor for all eligible expenses upon submittal of invoices. All invoices will be accompanied by supporting documentation that includes all receipts for billable expenses and a project status report that shows the progress of the tasks detailed in the Scope of Work. All invoices submitted must be for work completed no later than September 30, 2012. The Alabama Department of Transportation will not be liable for any costs incurred after that date. The County has until close of business, October 15, 2012, to submit all paperwork pursuant to this Agreement. Failure to complete the action will nullify the contract. In the event that the final cost exceeds the estimated budget, the County and the Alabama Department of Transportation will only be liable for the payment of the 80 percent Federal funds. The use of Federal funds is pursuant to and in accordance with all regulations of the State of Alabama and U.S. Department of Transportation as shown in Exhibits M and N, which are parts of this agreement.

Section 2. Term and Termination

2.01 Term. The term of this Agreement shall commence on the date hereof and shall continue for one year.

2.02 Termination. Either party may terminate this Agreement by giving a thirty (30) day written notice. The county may at any time terminate this Agreement in the event of insufficient appropriation of Federal funds. Upon termination of this Agreement for any reason whatsoever, no data will be required to be returned to any other party. The liability for payment of any unpaid fees or obligations shall continue until paid.

Section 3. Assignment. Neither this Agreement nor any of the rights or duties hereunder may be assigned or otherwise transferred in any way by any party hereto, voluntarily or

involuntarily, by operation of law, or otherwise, without the prior written consent of the other party, which consent may be conditioned upon execution of an undertaking by the assignee pursuant to which the assignee agrees to assume the obligations of the assignor and to fulfill the assignor's duties hereunder, but such consent shall not otherwise be unreasonably withheld, conditioned or delayed.

Section 4. Force Majeure. No party is responsible for delays due to causes or occurrences beyond its control including, but not limited to, civil disobedience, acts of God, casualty or accident, war, labor disputes, or the like.

Section 5. Successors and Assigns. This Agreement will apply to, be binding in all respects upon, and inure to the benefit of the successors and permitted assigns of the parties.

Section 6. No Third Parties Benefited. This Agreement is made and entered into solely for the benefit of the represented parties, their successors and permitted assigns, and no other person or entity shall have any rights hereunder.

Section 7. Miscellaneous. This Agreement supersedes all prior agreements between the parties with respect to its subject matter and constitutes a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. This Agreement may not be amended except by a written agreement executed by the party to be charged with the amendment. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable. The captions used herein are for convenience and shall not control interpretation of the text.

Section 8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Section 9. Dispute Resolution. For any and all disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation by and through the Attorney General's Office of Administrative hearings or where appropriate, private mediators.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by those officers, officials and persons thereunto duly authorized, and the AGREEMENT is deemed to be dated and to be effective on the date stated hereinafter as the date of approval of the Governor of Alabama.

SEAL:

ATTEST:

**MONTGOMERY COUNTY
COMMISSION**

(Notary Signature)

Montgomery County Commission Chairman

Type Name

Type Name (Montgomery County
Commission Chairman)

APPROVED AS TO FORM:

Jim R. Ippolito, Jr., Chief Counsel
Alabama Department of Transportation

RECOMMENDED FOR APPROVAL:

State Design Engineer, William F. Adams, PE

Chief Engineer,

**STATE OF ALABAMA
ACTING BY AND THROUGH THE
ALABAMA DEPARTMENT OF TRANSPORTATION**

John R. Cooper, Transportation Director

The foregoing agreement is hereby approved by the Governor of the State of Alabama, this
___ day of _____, 2012.

Governor of Alabama, Robert Bentley

RESOLUTION NUMBER _____

BE IT RESOLVED, by the County Commission of Montgomery County, Alabama that the County enter into an agreement with the State of Alabama; acting by and through the Alabama Department of Transportation for:

A Digital Information Cooperative Agreement regarding the acquisition and establishment of the 2012 computerized mapping project, which agreement is before this Commission, and that the agreement be executed in the name of the County, by the Chairman of the Commission for and on its behalf and that it be attested by the County Clerk and the seal of the County affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept of record by the County Clerk.

Passed, adopted, and approved this ____ day of _____, 2012.

ATTESTED:

County Clerk

Chairman, Montgomery County Commission

I, the undersigned qualified and acting clerk of the Montgomery County, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the County Commission of the County named therein, at a regular meeting of such Commission held on the ____ day of _____, 2012, and that such resolution is of record in the Minute Book of the County.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the County on this ____ day of _____, 2012.

County Clerk

SEAL

CERTIFICATION FOR FEDERAL-AID CONTRACTS

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative AGREEMENT, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this AGREEMENT shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this AGREEMENT, be enacted, then the conflicting provision in the AGREEMENT shall be deemed null and void.

For any and all disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation by and through the Attorney General's Office of Administrative hearings or where appropriate, private mediators.

TERMINATION DUE TO INSUFFICIENT FUNDS

- a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.
- b. In the event of proration of the fund from which payment under this AGREEMENT is to be made, agreement will be subject to termination.

STATE OF ALABAMA

Revenue Commission

of

MONTGOMERY

County

Governing body

ESTIMATE OF WORK PERFORMED AND EXPENDITURES

Location MONTGOMERY, AL

Project No:

SPR 0001 (55)For Period as Listed from 1/25/12 TO 9/15/12 Estimate No.FINAL

DESCRIPTION OF WORK	UNIT	UNIT PRICE	THIS MONTH		TO DATE	
			QUANTITY	AMOUNT	QUANTITY	AMOUNT
Project Cost				148174		148174
Less over Agreement				79874		79874
Total Construction Cost				68300		68300
Less Retainage Withheld						
Sub Total						
Plus Engineering & Inspecti	Previous	Current	To Date	X		
Prelim. Engr.	0	0	0			
Constr. Engr.	\$0.00		\$0.00			
Total Engineering & Inspecti	\$0.00		\$0.00			
Total Construction & Engineering Cost				68300		68300
Less Previous Payments						
Less 20% Paid by County				13660		13660
Net Amount Current Participation						
Amount Claimed 80%				54640		54640

I certify this estimate to be correct, due and unpaid.

We hereby accept this estimate as being correct, due and unpaid.

Authorized County Official

STATE OF ALABAMA, County of

MONTGOMERY

Sworn and subscribed to before me this

23RD day ofJULY2012

Final Estimate Only

Approved

Design Bureau Chief

Notary Public

THIS DOCUMENT IS PRINTED IN BLUE INK. DO NOT ACCEPT UNLESS BLUE IS PRESENT.

Montgomery County
 101 S. Lawrence St.
 Montgomery, AL 36104
 Disbursement Fund 719

REGIONS BANK
 201 Monroe Street
 MONTGOMERY, AL

38104

Check Date
02/17/2012

Amount	Check No.
\$37,043.50	222987

PAY Thirty-Seven Thousand Forty-Three and 50/100 Dollars

TO THE ORDER OF Pictometry International Corporation
 100 T Own Centre Dr., Ste A
 ROCHESTER, NY 14623



⑈ 222987⑈ ⑆062000019⑆ 0071099328⑈

⑈0003704350⑈

020000144375000001

FEDERAL RESERVE BOARD OF GOVERNORS REG CC

ENDORSE HERE

PAY TO THE ORDER OF
 JPMORGAN CHASE BANK
 ROCHESTER NY 14643
 # 927306734
 FOR DEPOSIT ONLY
 PICTOMETRY INTERNATIONAL
 CORP
 512081889

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
 RESERVED FOR BANK OF AMERICA

020000144375000001

THIS DOCUMENT IS PRINTED IN BLUE INK. DO NOT ACCEPT UNLESS BLUE IS PRESENT.

Montgomery County
 101 S. Lawrence St.
 Montgomery, AL 36104
 Disbursement Fund 719

REGIONS BANK
 201 Monroe Street
 MONTGOMERY, AL

36104

Check Date
06/22/2012

Amount	Check No.
\$111,130.50	226582

PAY One Hundred Eleven Thousand One Hundred Thirty and 50/100 Dollars

TO THE ORDER OF Pictometry International Corporation
 100 Town Centre Dr., Ste A
 ROCHESTER, NY 14623



⑈ 226582⑈ ⑆062000019⑆ 0071099328⑈

⑈0011113050⑈

020000035877000001

FEDERAL RESERVE NOTE - 100 DOLLARS

X
FV, ORSI 118 RT

PAY TO THE ORDER OF
 JPMORGAN CHASE BANK
 ROCHESTER, NY 14643
 P.O. BOX 173-4
 PICTOMETRY INTERNATIONAL
 CCH/

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
 RESENT/AD 017 MAY 14 11:57 AM '12

020000035877000001

ELTON N. DEAN, SR.
CHAIRMAN

REED INGRAM
VICE CHAIRMAN

DIMITRI POLIZOS
JILES WILLIAMS, JR.
HAM WILSON, JR.

A COUNTY OLDER THAN THE STATE

MONTGOMERY COUNTY COMMISSION

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

ESTABLISHED 1816

DONALD L. MIMS, CPA, MPA
ADMINISTRATOR
JOHN A. MITCHELL, SR.
DEPUTY ADMINISTRATOR
(334) 832-1210
FAX (334) 832-2533
TDD (334) 265-3568
www.mc-ala.org

Agenda

JUL 23 2012

July 19, 2012

MEMORANDUM

TO: Montgomery County Commission

FROM: Donald L. Mims *DLM*
County Administrator

SUBJECT: Agreement with Seay, Seay & Litchfield, P.C.

During the July 9, 2012 County Commission meeting, the Agreement with Seay, Seay & Litchfield, P.C., regarding renovation of the Montgomery County Youth Facility was considered. The contract is for a three-year term.

The Commission agreed to place this item on the July 23, 2012 agenda and I am requesting its approval.

DLM/tn

Attachment

Seay
Seay &
Litchfield, P. C.

Architects
Interior Designers

1115 South
Court Street

Montgomery
Alabama 36104

Jim H. Seay, Sr. - Founder
Jim H. Seay, Jr.
Frank E. Litchfield, III

Telephone: (334) 263-5162
Facsimile: (334) 263-5170
Email: seay@mont.mindspring.com

TRANSMITTAL



TO: Donald Mims
County Commission

DATE: 29 June 2012
PROJECT NUMBER: 12030
PROJECT NAME: Montgomery County Youth Facility
Renovations

FAX NUMBER:

FAX SENT BY:

WE ARE TRANSMITTING:

- ☒ ATTACHED
☐ UNDER SEPARATE COVER
FOR YOUR:
☐ FOR REVIEW/COMMENT
☐ FOR APPROVAL: RESPONSE NEEDED BY
☒ FOR YOUR INFORMATION AND USE
☐ APPROVED AS SUBMITTED
☐ APPROVED AS NOTED

VIA:

- ☐ MAIL
☐ HANDCARRY
☐ COURIER: NO.
☐ SERVICE DELIVERY: NO.
☐ AIR EXPRESS: NO.
☐ FAX: NO. OF PAGES INCLUDING TRANSMITTAL
☐ OTHER

COPIES:	DATE:	DESCRIPTION:
3	June 27 2012	AIA Contract B101 – 2007 with edits

REMARKS:

Changes to note:

In paragraph 12.7, the portion stating "In instances where fees billed by the Architect to the Owner are based on actual construction costs, such costs shall exclude any and all taxes" was removed due to an oversight error on the original review.

In Paragraph 12.2, a change was made to our list of consultants due to an oversight error on the original review.

Since Frank will be on vacation next week, the signing representative for Seay, Seay, and Litchfield changed from Frank Litchfield to Jim Seay.

On page 1, the phrase "for a period of three (3) years (June 27, 2012 to June 27, 2015)" was added.

If you have any questions, please contact Frank Litchfield or Jimmy Seay. Thank you.

COPY TO: file

BY:

Frank Litchfield
IF TRANSMITTED MATERIAL IS NOT RECEIVED AS LISTED ABOVE,
PLEASE NOTIFY THIS OFFICE AT YOUR EARLIEST CONVENIENCE

3-2

AIA® Document B101™ – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty Seventh day of June in the year Two Thousand Twelve

(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

The Montgomery County Commission
101 South Lawrence Street
Montgomery, Alabama 36104
Telephone Number: 334-832-1210

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

Seay, Seay & Litchfield, P.C., Professional Corporation
1115 South Court Street
Montgomery, Alabama 36104
Telephone Number: 334-263-5162
Fax Number: 334-263-5170

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

Montgomery County Youth Facility
1113 Air Base Blvd.
Montgomery, AL 36108
Phase I: Studies, Programming, and Planning Services for the facilities.– See Article 12
Phase II: All construction work resulting from Phase I studies including but not limited to Architectural and Engineering Services for the Montgomery County Youth Facility – See Article 12

The Owner and Architect agree for a period of three (3) years (June 27, 2012 to June 27, 2015) 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.

Init.

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 ARCHITECT'S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
- 4 ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

| To be determined.

.2 Substantial Completion date:

| To be determined.

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

Init.

§ 2.2 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.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

In accordance with attached certificates.

.2 Automobile Liability

In accordance with attached certificates.

.3 Workers' Compensation

In accordance with attached certificates.

.4 Professional Liability

In accordance with attached certificates.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

Init.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and

Init.

electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

Init.

(Paragraphs deleted)

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

Init.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

Init.

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming	Architect	
§ 4.1.2 Multiple preliminary designs	Architect	
§ 4.1.3 Measured drawings	Architect	
§ 4.1.4 Existing facilities surveys	Architect	
§ 4.1.5 Site Evaluation and Planning (B203™-2007)	Architect	
§ 4.1.6 Building information modeling	Architect	
<i>(Row deleted)</i>		
§ 4.1.7 Landscape design	Architect	
§ 4.1.8 Architectural Interior Design (B252™-2007)	Architect	
§ 4.1.9 Value Analysis (B204™-2007)	Architect	
§ 4.1.10 Detailed cost estimating	Architect	
<i>(Rows deleted)</i>		

Init.

§ 4.1.11	Post occupancy evaluation	Architect	
§ 4.1.12	Facility Support Services (B210™–2007)	Not Provided	
§ 4.1.13	Tenant-related services	Architect	
§ 4.1.14	Coordination of Owner's consultants	Architect	
§ 4.1.15	Telecommunications/data design	Architect	
§ 4.1.16	Security Evaluation and Planning (B206™–2007)	Not Provided	
§ 4.1.17	Commissioning (B211™–2007)	Architect	
§ 4.1.18	Extensive environmentally responsible design	Not Provided	
§ 4.1.19	LEED® Certification (B214™–2007)	Not Provided	
§ 4.1.20	Fast-track design services	Not Provided	
§ 4.1.21	Historic Preservation (B205™–2007)	Not Provided	
§ 4.1.22	Furniture, Furnishings, and Equipment Design (B253™–2007)	Not Provided	

(Row deleted)

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

Init.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Multiple (more than two) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Bi-weekly (meaning every other week) visits to the site by the Architect over the duration of the Project during construction
- .3 Multiple (more than two) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Multiple (more than two) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within 36 (thirty-six) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner

Init.

requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

Init.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement 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 A201-2007, 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 Dispute Resolution

§ 8.2.1 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 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 Seay, Seay & Litchfield, P.C.

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

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§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 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 Architect.

§ 10.6 Unless otherwise required in this Agreement, 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.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

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ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

see attached Alabama Building Commission schedule of basic fee rates for Group III, Attachment "B"- (major renovation multiplier of 1.25 times fee applies)

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Hourly plus expenses - see attached "A" Hourly Rates

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Hourly plus expenses - see attached "A" Hourly Rates

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus fifteen percent (15 %), or as otherwise stated below:

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	Ten	percent (	10	%)
Design Development Phase	Fifteen	percent (	15	%)
Construction Documents Phase	Fifty	percent (	50	%)
Bidding or Negotiation Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See attachment A

Employee or Category	Rate
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§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.
- .12 **Cost for Advertisement and/or Invitation to Bid in newspapers or publications. Owner may pay direct without mark up from Architect.**

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus fifteen percent (15 %) of the expenses incurred.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of zero (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

15 % fifteen percent

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

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12.1 Refer to page 1- Phase I: Studies, Programming, and Planning Services to be billed based on hourly rates plus expenses- refer to Attachment "A." Phase II: Architectural Basic Services per Article 3 for the Montgomery County Youth Facility to be invoiced based on percentage of construction cost- refer to paragraph 11.1.

12.2 The Architect will employ the following engineers:
Electrical: Mills-Conoly
Mechanical: Zgouvas-Eiring
Structural: MBA Structural Engineers, Inc., Keith Owens
Civil: Professional Engineering

12.3 Owner's Representative shall be either Mr. Donnie Mims, Mr. John Mitchell, or Mr. Bruce Howell, unless the Architect receives other written instructions by the Owner.

12.4 Should the Owner wish to reduce the construction cost after the bidding and negotiation phase, the Architect will assist the Owner in working with the qualified lowest bidder in an attempt to reduce the construction cost by making minor deletions and/or changes. This process would be referred to as "Value Analysis". Successful completion of this may result in a lower contract amount in relation to the lowest qualified bid amount. Payment for this will be based on the hourly rates (plus expenses) as noted in para 11.7.

12.5 The Owner shall be responsible for providing the Architect complete site surveys, geotechnical engineering, environmental surveys and testing, which may be necessary for the completion of the Architectural Design and the completion of the planning phase, construction contract documents. The Architect will assist the Owner in the coordination of these other design disciplines. Payment for this will be based on the hourly rates (plus expenses) as noted in para 11.7.

12.6 The Owner shall require the General Contractor to provide all insurance required by the Alabama Building Commission and an Owner's Protective Liability Policy in the amount of \$1,000,000 prior to executing an agreement between the Owner and the General Contractor. Additionally named primary insureds shall be "the Owner, the Architect, the Engineering Consultants, and the General Contractor as primary insured with the Owner being named first, except not on Worker's Compensation;" all insurance certificates shall provide for "Waiver of Subrogation" against "the Owner, Architect, and the Engineering Consultants," by the Contractor, each Subcontractor, and their insurers. Copies of the Alabama Building Commission requirements are available from the Architect or through the Alabama Building Commission website.

12.7 There shall be no reduction in fee for actual services provided due to deductive change order items.

12.8 Unless specifically agreed to in writing, Architect's fees do not include the use of a Owner's Construction Manager or program manager as a project delivery method.

12.9 It is agreed that in the event asbestos, lead-based paint, mold, or PCB contamination are encountered in the course of this work, or if there is a reasonable belief that it will be encountered, the Owner will engage the services of an industrial hygienist (or equivalent) or any other professional consultant requested and approved by the Owner to plan and administer its' abatement or removal.

12.10 The services described below are not included in Basic Services and shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. These services shall only be provided if authorized or confirmed in writing by the Owner. The Architect shall notify the Owner prior to commencing such services.

Extra services shall include, but are not limited to the following:

- a. Providing services required because of significant changes in the project including, but not limited to, size, quality, complexity, the Owner's schedule or the method of bidding or negotiating and contracting for construction.
- b. Providing services in connection with evaluating substitutions proposed by the Contractor after the Bidding and Negotiation Phase and make subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.

- c. Providing services in evaluating claims submitted by the Contractor or others in connection with the Work.
- d. Providing services in connection with separate consultants retained by the Owner.
- e. Providing finished models, finished renderings or photographs for Owner's use.
- f. Providing drawings to be used as legal exhibits for contracts or agreements and providing services for review and execution of required legal documents, to include but not be limited to: lien subordination agreement; lien waiver agreements; legal exhibits for contracts and leases; loan closing documentation; and any assignment of document ownership other than as described herein for the use of persons such as Owner, lender(s), user(s), and Owner's engineer(s) and consultants(s), contractor, subcontractors, material vendors, fabrication and installers.
- g. Providing record drawings after project has been constructed.

12.11 The Architect will work with the Owner or Owner's agent to develop a project schedule after project programming is complete.

12.12 The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents. The Architect shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees or of any other persons performing portions of the Work. Neither the professional activities of the Architect, nor the presence of the Architect or its employees and consultants at the construction site, shall relieve the General Contractor and any other entity of their obligations, duties, and responsibilities including but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the Contract Documents and any health or safety precautions required by any regulatory agencies. The Architect and its personnel have no authority to exercise any control over any construction contractor other entity or their employees in connection with their work or any health or safety precautions. The Owner agrees that the General Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the Owner's Agreement with the General Contractor.

12.13 **Project Betterment:** If, due to the Architect's error or omission, 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 adds value or betterment to the project. In no event will the Architect be responsible for any cost or expense that provides betterment, upgrade, or enhancement of the project.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 Other documents:
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

Attachment A-Hourly Rates, Attachment B-Schedule of Fees, Attachment C-Certificate of Liability Insurance

Init.

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

OWNER

(Signature)

Mr. Elton Dean, Chairman Montgomery County
Commission

(Printed name and title)

ARCHITECT

(Signature)

Jim H. Seay, Jr., Chairman/Secretary Seay, Seay, and
Litchfield, P.C.

(Printed name and title)

Init.

Attachment "A"

Professional Design Services Hourly Rates

Seay, Seay, & Litchfield, P.C.

Category	Rates
Senior Principal Architect	\$200.00
Principal Architect	\$165.00
Architect	\$140.00
Project Manager/Intern Architect IV	\$120.00
Project Manager/Intern Architect III	\$115.00
Graduate Intern Architect II	\$90.00
Intern Architect I	\$80.00
Architectural Clerical	\$70.00
Field Technician	\$50.00

Additional Expenses Not Included in the Basic Services Fee

Reimbursable Expenses = Cost x 1.15%

Travel Expenses = \$0.55 per mile (out of town travel)

Consultant Fees

All rates below shall be multiplied by 1.15 for architect mark-up.

MBA Structural Engineering, Inc.

Structural Engineer	\$125/hr
Structural Drafting	\$90/hr
Structural Clerical	\$75/hr

Professional Engineering Consultants, Inc.

Principal Civil Engineer	\$150/hr
Principal Civil Designer	\$150/hr
Civil Engineer	\$110/hr
Junior Engineer	\$95/hr
Civil Drafting	\$85/hr
Survey Party	\$150/hr
Field Staking	\$150/hr
Survey w/GPS	\$150/hr
Civil Clerical	\$60/hr

David Clark

Kitchen Consultant	\$95/hr
--------------------	---------

Zgouvas, Eiring, & Associates, Inc.

Principal Mechanical Engineer	\$150/hr
HVAC Designer	\$115/hr
Plumbing Designer	\$115/hr
P/HVAC Drafter	\$75/hr
P/HVAC Clerical	\$50/hr

Mills-Conoly Engineering

Principal/Engineer	\$173/hr
Engineering Designer	\$116/hr
Engineering Drafter	\$87/hr
Clerical	\$58/hr

Security Consultant	\$95/hr
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Richard Campbell

Cost Consultant	\$35/hr
-----------------	---------

Attachment "B"

Seay, Seay, & Litchfield, P.C.

State of Alabama Schedule of Basic Fee Rates

COST OF THE WORK	FEE IN PERCENTAGE				
	BUILDING GROUP				
	I	II	III	IV	V
Up to \$100,000	8.0	9.0	10.0	11.0	12.0
100,001 to 200,000	7.0	8.0	9.0	10.	11.0
200,001 to 300,000	6.0	7.0	8.	9.0	10.0
300,001 to 400,000	5.9	6.9	7.9	8.9	9.9
400,001 to 500,000	5.8	6.8	7.8	8.8	9.8
500,001 to 600,000	5.7	6.7	7.7	8.7	9.7
600,001 to 700,000	5.6	6.6	7.6	8.6	9.6
700,001 to 800,000	5.5	6.5	7.5	8.5	9.5
800,001 to 900,000	5.4	6.4	7.4	8.4	9.4
900,001 to 1,000,000	5.3	6.3	7.3	8.3	9.3
1,000,001 to 1,250,000	5.2	6.2	7.2	8.2	9.2
1,250,001 to 1,500,000	5.1	6.1	7.1	8.1	9.1
1,500,001 to 1,750,000	5.0	6.0	7.0	8.0	9.0
1,750,001 to 2,000,000	4.9	5.9	6.9	7.9	8.9
2,000,001 to 2,500,000	4.8	5.8	6.8	7.8	8.8
2,500,001 to 3,000,000	4.7	5.7	6.7	7.7	8.7
3,000,001 to 3,500,000	4.6	5.6	6.6	7.6	8.6
3,500,001 to 4,000,000	4.5	5.5	6.5	7.5	8.5

4,000,001 to 5,000,000	4.4	5.4	6.4	7.4	8.4
5,000,001 to 6,000,000	4.3	5.3	6.3	7.3	8.3
6,000,001 to 8,000,000	4.2	5.2	6.2	7.2	8.2
8,000,001 to 10,000,000	4.1	5.1	6.1	7.1	8.1
10,000,001 to 12,000,000	4.0	5.0	6.0	7.0	8.0
12,000,001 to 14,000,000	3.9	4.9	5.9	6.9	7.9
14,000,001 to 16,000,000	3.8	4.8	5.8	6.8	7.8
16,000,001 to 18,000,000	3.7	4.7	5.7	6.7	7.7
18,000,001 to 20,000,000	3.6	4.6	5.6	6.6	7.6
20,000,001 to 22,000,000	3.5	4.5	5.5	6.5	7.5
22,000,001 to 24,000,000	3.4	4.4	5.4	6.4	7.4
24,000,001 to 27,000,000	3.3	4.3	5.3	6.3	7.3
27,000,001 to 30,000,000	3.2	4.2	5.2	6.2	7.2
30,000,001 to 33,000,000	3.1	4.1	5.1	6.1	7.1
33,000,001 to 36,000,000	3.0	4.0	5.0	6.0	7.0
36,000,001 to 39,000,000	2.9	3.9	4.9	5.9	6.9
39,000,001 to 42,000,000	2.8	3.8	4.8	5.8	6.8
42,000,001 to 46,000,000	2.7	3.7	4.7	5.7	6.7
46,000,001 to 50,000,000	2.6	3.6	4.6	5.6	6.6
50,000,001 to and over	2.5	3.5	4.5	5.5	6.5

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

06/25/12

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Thompson Insurance, Inc. 3300 Gatsby Lane (36106) P.O. Box 11408 Montgomery, AL 36111-0408 William M. Richardson, III	334-277-8970	CONTACT NAME:	
	334-271-0491	PHONE (A/C No. Ext):	FAX (A/C No.):
		E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: Hartford Insurance Company	
		INSURER B: Tudor Insurance Company	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

INSURED Seay, Seay and Litchfield, PC
1115 South Court Street
Montgomery, AL 36104

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			21SBATO5604	06/15/12	06/15/13	EACH OCCURRENCE	\$ 1,000,000
	☒ COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
	☐ CLAIMS-MADE ☒ OCCUR						MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
		GEN'L AGGREGATE LIMIT APPLIES PER:						
	☐ POLICY ☐ PRO-JECT ☐ LOC							
A	AUTOMOBILE LIABILITY			21UECJT3173	06/15/12	06/15/13	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	☒ ANY AUTO						BODILY INJURY (Per person)	\$
	☐ ALL OWNED AUTOS	☐ SCHEDULED AUTOS					BODILY INJURY (Per accident)	\$
	☒ HIRED AUTOS	☒ NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$
								\$
								\$
A	UMBRELLA LIAB	☒ OCCUR		21SBATO5604	06/15/12	06/15/13	EACH OCCURRENCE	\$ 1,000,000
	EXCESS LIAB	☐ CLAIMS-MADE					AGGREGATE	\$ 1,000,000
	DED ☒ RETENTION \$ 10,000							\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			21WECZQ5129	06/15/12	06/15/13	WC STATUTORY LIMITS	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	☐ Y ☐ N	N/A				E.L. EACH ACCIDENT	\$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
B	Arch & Eng			AEL1003600	07/07/11	07/07/12	Per Claim	1,000,000
	Prof Liab						Aggregate	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Re: Renovations to Montgomery Youth Facility

CERTIFICATE HOLDER**CANCELLATION**

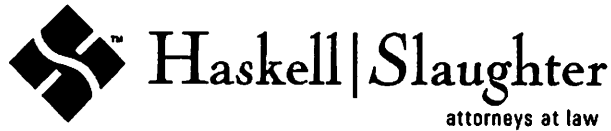
MOC16MO

Montgomery County Commission
101 S Lawrence Street
Montgomery, AL 36104

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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MONTGOMERY OFFICE
305 South Lawrence Street • Montgomery, Alabama 36104
Post Office Box 4660 • Montgomery, Alabama 36103-4660
f. 334.264.7945 • t. 334.265.8573
www.hsy.com

MEMORANDUM
June 11, 2012

TO: Donnie Mims
FROM: Tommy Gallion
RE: Youth Facility
Seay, Seay & Litchfield, P.C.
AIA Agreement

T. Gallion

I have reviewed your June 8, 2012 memorandum and the draft of the AIA Agreement by and between Montgomery County Commission and Seay, Seay & Litchfield, P.C. for Phases I and II at Montgomery County Youth Facility.

It is to the benefit of the County to replace Article 8 which pertains to the Dispute Resolution with Montgomery County's normal Dispute Resolution under 8.2 Mediation (page 14) and 8.3 Arbitration (page 15) and to delete the standard AIA verbiage used therein in its entirety in these two sections. However it will be up to Seay, Seay & Litchfield if they are willing to accept this change.

I am of the opinion that the services provided for in this agreement are in the best interest of the public health, safety, education, morals, security, prosperity, contentment and the 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 Commissioners.

50051-317
4571879_1

CARPDC

CENTRAL ALABAMA REGIONAL PLANNING
AND DEVELOPMENT COMMISSION

AUTAUGA, ELMORE & MONTGOMERY COUNTIES

George McCain
Chairman

Greg Clark
Executive Director

Agenda

JUL 23 2012

MEMORANDUM

TO: Donnie Mims

FROM: Sara Byard

DATE: July 16, 2012

RE: Administrative Contract
ALDOT Industrial Access Grant- DAS North America

As discussed in last week's Commission Work Session, please place the attached contract for Administrative Services on the agenda for formal approval at the July 23, 2012 Commission meeting. Please let me know if you have any questions. Thank you!

**ADMINISTRATIVE AGREEMENT
BETWEEN
THE MONTGOMERY COUNTY COMMISSION, ALABAMA
AND
CENTRAL ALABAMA REGIONAL PLANNING
AND DEVELOPMENT COMMISSION**

THIS AGREEMENT is entered into as of this 23rd day of July 2012, between the **Montgomery County Commission, Alabama**, hereinafter called the "County" and the **Central Alabama Regional Planning and Development Commission**, hereinafter called "CARPDC", a non-profit, public agency operating under the laws of the State of Alabama, with its offices located at 430 South Court Street, Montgomery, Alabama 36104.

WHEREAS, the County desires to engage CARPDC to render administration services hereinafter described in connection with a project funded, in part, by the Alabama Department of Transportation (ALDOT) entitled Industrial Access Road Improvements for DAS North America, hereafter referred to as the IA DAS North America Project.

NOW, THEREFORE, the County and CARPDC mutually agree as follows:

EMPLOYMENT OF CARPDC

The County agrees to engage CARPDC, and CARPDC agrees to perform, in a professional, proper and timely manner, the services described in connection with the County's IA DAS North America Project.

SCOPE OF SERVICES

CARPDC agrees to carry out in a diligent and satisfactory manner the IA DAS North America Project administration services hereinafter described. CARPDC further agrees that the project administration services performed under this Agreement shall satisfy the requirements of the ALDOT.

CARPDC shall:

1. Establish and assist with maintenance of project files to properly document all project activities and to satisfy the requirements of the ALDOT.
2. Coordinate with the project Engineer on environmental requirements imposed on the County as necessary and appropriate. CARPDC will not be responsible for those documents necessary to satisfy environmental requirements imposed on the County nor full environmental impact statements or mitigation measures.
3. Provide assistance related to procurement of needed professional services for said ALDOT Project.
4. Assist in coordination efforts of the County, consultants, construction contractors, and/or other appropriate individuals, as needed, to assure timely completion of said ALDOT Project.

5. Inform the County of the need for official action in connection with the ALDOT grant and applicable deadlines in sufficient time for the County to respond. CARPDC will not be responsible for any loss of any nature if the County fails to comply with deadlines so reported to the County.
6. Attend IA DAS North America Project related meetings as necessary and as requested by the County and/or Project Engineer.

The County shall:

1. Designate an individual to serve as CARPDC's point of contact and to coordinate and report all County decisions pertaining to the IA DAS North America Project to CARPDC.
2. Provide working and file space for CARPDC as necessary to administer and monitor said ALDOT Project.
3. Open and maintain a separate bank account(s) into which all funds pertaining to the grant, whether from ALDOT or other funding sources will be deposited and from which all checks in payment of activities performed under the grant will be written or, set up a code in the County's accounting program that will allow for all project transactions to be easily identified.
4. Maintain all accounting books and records that are required under the grant and provide for an audit of books as directed by the ALDOT.
5. Provide all necessary legal services and opinions.
6. Adhere to all applicable federal requests and Executive Orders with respect to equal rights, equal employment opportunity, and nondiscrimination with respect to race, creed, color, origin, ethnic background, or disability.
7. Provide for all necessary engineering services on said ALDOT Project.
8. Provide information, files, and data that are necessary for CARPDC to assist with administration of said ALDOT Project in a timely manner.

CHANGES

Either party may request changes to all or part of this Agreement. Such changes, including any increase or decrease in the amount of compensation, must be mutually agreed upon by both parties and approved by the ALDOT, if required. Such changes shall be incorporated in written amendments to this Agreement.

TIME OF PERFORMANCE

The services required shall commence upon execution of this Agreement and will be continuous until all aspects of the County's IA DAS North America Project have been completed and closed out.

CONFLICT OF INTEREST

CARPDC covenants that it does not have an interest nor shall acquire interest, either direct or indirect, in the project area, any parcels therein, or any other interest which would conflict in any manner or degree with the performance of its services required by this agreement. CARPDC further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

No member of the governing body of the locality and any other officer, employee, or agent of the locality who exercises any functions or responsibilities in connection with the planning and implementation of the IA DAS North America Project shall have any personal financial interest, either direct or indirect, in this Agreement; and the CARPDC shall take appropriate steps to assure compliance.

PERSONNEL

CARPDC has, or will secure at its own expense, the personnel required to perform the services described in this Agreement. Such personnel shall not be employees of or have any other contractual relationship with the County. Project managers assigned by CARPDC to direct the program will have at least one (1) year practical experience in administering federal grants.

All of the services required under this agreement will be performed by the CARPDC or under CARPDC's supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.

None of the work or services covered by this Agreement shall be subcontracted without the prior approval of the County. Any work or services subcontracted under this Agreement shall be specified by written Agreement and shall be subject to each provision of this Agreement.

FINANCIAL

1. Total Compensation

For services rendered under this Agreement, the County agrees to reimburse CARPDC for all costs, direct and indirect, attributable to the services rendered. The County agrees to pay CARPDC an amount not to exceed \$15,000.00.

2. Method of Payment

Reimbursement shall be made from the County's local funds upon presentation of written statements certifying that such amounts are due and payable.

3. Inspections and Audits

At any time during normal business hours and as often as the County, the ALDOT, the Secretary of the Department of Transportation, and/or the Comptroller General of the United States or any of their duly authorized representatives, may deem necessary, there shall be made

available for examination all of the records with respect to all matters covered by this Agreement. Authorized representatives may examine and make excerpts or transcripts from such records, audit all invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

CARPDC shall provide one (1) copy of any audit reports covering the IA DAS North America Project to the County for inclusion in the project files. The County agrees to provide any required audit of their transactions at their own expense.

CARPDC agrees to retain and allow access to such records for a period of three (3) years following completion of the IA DAS North America Project.

4. Assignability

CARPDC shall not transfer any interest in this Agreement, whether by assignment or novation, without the prior written consent of the County. However, claims for money due, or to become due, to CARPDC from the County under this Agreement may be assigned to a financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County.

TERMINATION OF AGREEMENT

1. Termination for Convenience

This Agreement may be terminated for the convenience of the County or CARPDC by submitting written notice to the other party sixty (60) days in advance of the date which the County or CARPDC desires the Agreement to be terminated. Upon such termination CARPDC shall be entitled to compensation that bears the same ratio to the total compensation provided herein as the work performed bears to the total work called for under this Agreement, but not more than \$15,000.00.

2. Termination of Contract for Cause/Breach of Contract

If, through any cause, CARPDC shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if CARPDC shall violate any of the covenants, agreements or stipulations of this Agreement, the County shall thereupon have the right to terminate this Agreement by giving written notice to CARPDC of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by CARPDC under this Agreement shall, at the option of the County, become its property and CARPDC shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, CARPDC shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by CARPDC, and the County may withhold any payments to CARPDC for the purpose of set-off until such time as the exact amount of damages due the County from CARPDC is determined.

IN WITNESS WHEREOF, the County and CARPDC have caused this Agreement to be executed by their duly authorized officers as of the date first written.

MONTGOMERY COUNTY
COMMISSION, ALABAMA

CENTRAL ALABAMA REGIONAL
PLANNING AND DEVELOPMENT
COMMISSION

Elton N. Dean, Sr.
Chairman

Greg Clark
Executive Director

ATTEST:

ATTEST:

Donald L. Mims
Administrator

Michelle Haigler

D.T. MARSHALL, SHERIFF



OFFICE: (334) 832-4980
FAX: (334) 832-2500

Agenda

JUL 23 2012

June 25, 2012

MEMORANDUM

TO : Mr. Donnie Mims
County Administrator

FROM : Chief Deputy Derrick Cunningham *D.C.*
Montgomery County Sheriff's Office

SUBJECT : Alabama Department of Homeland Security
Grant #ORLS
\$15,000.00

I am enclosing two copies of the above grant for the appropriate signatures. This grant will reimburse Montgomery County for Specialized Emergency Response Training (SERT) for Executive Protection/Force Protection conducted in Selma, Alabama April 29 – May 4, 2012.

Your assistance in this matter will be appreciated.

DC/tb

15:06 PM 8/2/12
15:06 PM 8/2/12
15:06 PM 8/2/12

**COOPERATIVE AGREEMENT
STATE HOMELAND SECURITY GRANT PROGRAM
ASSISTANCE ALLOCATION – LETTER OF AGREEMENT**

1. Grantee Name & Address: Montgomery Co. 115 S Perry St Montgomery, AL 36104-4243		2. Issuing Office & Address: Alabama Department of Homeland Security PO Box 304115 Montgomery, AL 36130-4115	
3. FY 2010	4. Amount of: Federal: \$15,000.00 Total: \$15,000.00	5. Effective Dates Begin: 4/1/2012 End: 7/31/2012	6. Grant Number: ORLS

Montgomery Co. is herein referred to as the Sub-grantee, the Alabama Department of Homeland Security is herein referred to as AL DHS, and FY 2010 is herein referred to as the Agreement Fiscal Year.

1. **Applicable Federal Regulations:** The sub-grantee must comply with the Code of Federal Regulations (CFR), as applicable: 2 CFR Part 220, Cost Principles for Educational Institutions; 2 CFR Part 225, Cost Principles for State and Local Governments; 2 CFR Part 230, Cost Principles for Non-Profit Organizations; and 2 CFR Part 215, Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. Also, the sub-grantee must comply with the provisions of 44 CFR: Emergency Management and Assistance, applicable to grants and cooperative agreements including Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. In addition, the sub-grantee must comply with Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial Organizations.

2. **Allowable Costs:** The allowability of costs incurred under any grant shall be determined in accordance with the general principles of allowability and standards for selected cost items as set forth in the applicable Code of Federal Regulation referenced above.

3. **Audit Requirements:** The sub-grantee agrees to comply with the requirements of OMB Circular A-133. Further, records with respect to all matters covered by this grant shall be made available for audit and inspection by AL DHS and/or any of its duly authorized representatives. If required, the audit report must specifically cite that the report was done in accordance with OMB Circular A-133. If a compliance audit is not required, a written certification must be provided at the end of each audit period stating that the sub-grantee has not expended the amount of federal funds that would require a compliance audit. The sub-grantee agrees to accept these requirements.

4. **Non-Supplanting Agreement:** The sub-grantee shall not use grantor funds to supplant state or local funds or other resources that would otherwise have been made available for this program. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within 30 days. If the vacancy is not filled within 30 days, the sub-grantee must stop charging the grant for the new position. Upon filling the vacancy, the sub-grantee may resume charging for the grant position.

Initial Here D.C 52

**COOPERATIVE GRANT AGREEMENT
STATE HOMELAND SECURITY GRANT PROGRAM
TERMS AND CONDITIONS**

5. **Project Implementation:** The sub-grantee agrees to implement this project within 90 days following the grant award effective date or be subject to automatic cancellation of the grant. Evidence of project implementation must be detailed in the first Biannual Strategy Implementation Report (BSIR).
6. **Written Approval of Changes:** Any mutually agreed upon changes to this sub-grant must be approved, in writing, by AL DHS prior to implementation or obligation and shall be incorporated in written amendments to this grant. This procedure for changes to the approved sub-grant is not limited to budgetary changes, but also includes changes of substance in project activities and changes in the project director or key professional personnel identified in the approved application.
7. **Individual Consultants:** Billings for individual consultants/contractors must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Individual consultant costs must be within the prevailing rates.
8. **Bidding Requirements:** The sub-grantee must comply with proper competitive bidding procedures as required by 28 CFR Part 66 (formerly OMB Circular A-102) or OMB Circular A-110, as applicable, and pertinent provisions of the Code of Alabama, including, but not limited to, Section 11-47-6.
9. **Personnel and Travel Costs:** The US DHS Financial Guide is the source document for all homeland security related financial matters, including personnel and travel costs. Subgrantees must comply with the provisions in this guide. This guide has been distributed by AL DHS annually during the past several years and is available upon request. Personnel and travel costs must also be consistent with the jurisdiction's policies and procedures, and must be applied uniformly to both federally financed and locally financed activities of the agency. In the absence of jurisdictional requirements, travel costs must not exceed the rate set by state regulation, a copy of which is available upon request. *However, at no time can the agency's travel and lodging expenses rates exceed the federal rates established by the U.S. General Services Administration (GSA).* Also note that the US DHS Financial Guide provides a listing of unauthorized expenses. Be advised that tips while on travel are normally not allowable and food/beverage expenses are restricted.
10. **Terms of Grant Period:** Grant funds may not be obligated prior to the effective date of the grant. The final request for payment must be submitted no later than thirty (30) calendar days after the end of the grant period. Also, any obligation of grant funds dated after the expiration of the grant period will not be eligible for reimbursement.
11. **Utilization and Payment of Grant Funds:** Funds awarded are to be expended only for purposes and activities covered by the subgrantees approved project plan and budget. Items must be in the sub-grantee's approved grant budget and documented in the budget detail worksheet in order to be eligible for reimbursement. Payments will be adjusted to correct previous overpayments and disallowances or under payments resulting from audit. Grants failing to meet this requirement, without prior written approval, are subject to cancellation.
12. **Recording and Documentation of Receipts and Expenditures:** Sub-grantee's accounting procedures must provide for accurate and timely recording of receipt of funds by source of expenditures made from such funds and unexpended balances. These records must contain information pertaining to grant awards, obligations, unobligated balances, assets, liabilities, expenditures and program income. Controls must be established which are adequate to ensure that expenditures charged to the sub-grant activities are for allowable purposes. Equipment purchases may only include items approved in the AEL (Authorized Equipment List). Additionally, effective control and accountability must be maintained for all grant cash, real and personal property and other assets. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract documents, grant award documents, etc.
13. **Financial Responsibility:** The financial responsibility of sub-grantees must be such that the sub-grantee can properly discharge the public trust which accompanies the authority to expend public funds. Adequate accounting systems shall meet the following minimum criteria:

**COOPERATIVE GRANT AGREEMENT
STATE HOMELAND SECURITY GRANT PROGRAM
TERMS AND CONDITIONS**

- a. Accounting records should provide information needed to adequately identify the receipt of funds under each grant awarded and the expenditure of funds for each grant;
- b. Entries in accounting records should refer to subsidiary records and/or documentation which support the entry and which can be readily located;
- c. The accounting system should provide accurate and current financial reporting information; and,
- d. The accounting system should be integrated with an adequate system of internal controls to safeguard the funds and assets covered, check the accuracy and reliability of accounting data, promote operational efficiency and encourage adherence to prescribed management policies.

14. Property Control:

- a. Effective control and accountability must be maintained for all property. Sub-grantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes. Sub-grantees should ensure proper use, maintenance, protection and preservation of such property.
- b. Subject to the obligations and conditions set forth in 28 CFR Part 66 (formerly OMB Circular A-102), title to non-expendable property acquired in whole or in part with grant funds shall be vested in the sub-grantee. Non-expendable property is defined as any item having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
- c. Use and Disposition: Equipment shall be used by the sub-grantee in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal funds. Theft, destruction, or loss of property shall be reported to AL DHS immediately. Property will only be transferred for property disposal if it is certified as no longer serviceable and coordinated in advance with AL DHS.
- d. Vehicles: The AEL, section 12 (Vehicles) indicates that special-purpose vehicles may be purchased and used only for the transport of CBRNE terrorism response equipment and personnel to the incident site. These vehicles may not be used for routine administration or daily operations. The mileage for all vehicles purchased with homeland security grant funds will be checked annually during periodic monitoring visits. Licensing, registration, insurance and other fees are the responsibility of the jurisdiction and are not allowable under this grant. In addition, general purpose vehicles (patrol cars, executive transportation, etc.), fire apparatus and non-CBRNE tactical/armored assault vehicles are not allowable.
- e. Equipment: The sub-grantee agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: Purchased with funds provided by the U.S. Department of Homeland Security. Decals displaying the AL DHS logo and the above phrasing may be obtained by contacting the Alabama Department of Homeland Security.

- 15. Performance: This grant may be terminated or fund payments discontinued by AL DHS where it finds a substantial failure to comply with the provisions of the legislation governing these funds or regulations promulgated, including those grant conditions or other obligations established by AL DHS. In the event the sub-grantee fails to perform the services described herein and has previously received financial assistance from AL DHS, the sub-grantee shall reimburse AL DHS the full amount of the payments made. However, if the services described herein are partially performed, and the sub-grantee has previously received financial assistance, the sub-grantee shall proportionally reimburse AL DHS for payments made.
- 16. Deobligation of Grant Funds: All expenditures of grant funds must be completed and the grant closed out within thirty (30) calendar days of the end of the grant period. Failure to close out the grant in a timely manner will result in an automatic deobligation of the remaining grant funds by AL DHS.

**COOPERATIVE GRANT AGREEMENT
STATE HOMELAND SECURITY GRANT PROGRAM
TERMS AND CONDITIONS**

17. Americans with Disabilities Act of 1990 (ADA): The sub-grantee must comply with all requirements of the Americans with Disabilities Act of 1990 (ADA), as applicable.
18. Compliance with Section 504 of the Rehabilitation Act of 1973 (Handicapped): All recipients of federal funds must comply with Section 504 of the Rehabilitation Act of 1973. Therefore, the federal funds recipient pursuant to the requirements of the Rehabilitation Act of 1973 hereby gives assurance that no otherwise qualified handicapped person shall, solely by reason of handicap, be excluded from the participation in, be denied the benefits of or be subject to discrimination, including discrimination in employment, in any program or activity that receives or benefits from federal financial assistance. The recipient agrees it will ensure that requirements of the Rehabilitation Act of 1973 shall be included in the agreements with and be binding on all of its sub-grantee, contractors, subcontractors, assignees or successors.
19. Utilization of Minority Businesses: Sub-grantees are encouraged to utilize qualified minority firms where cost and performance of major contract work will not conflict with funding or time schedules.
20. Political Activity: None of the funds, materials, property or services provided directly or indirectly under this contract shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office, or otherwise in violation of the provisions of the "Hatch Act."
21. Debarment Certification: With the signing of the grant application, the sub-grantee agrees to comply with Federal Debarment and Suspension regulations as outlined in the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -Lower Tier Covered Transactions" form.
22. Drug-Free Workplace Certification: This Certification is required by the Federal Drug-Free Workplace Act of 1988. The federal regulations, published in the January 31, 1989, Federal Register, require certification by state agency sub-grantees that they will maintain a drug-free workplace. The certification is a material representation of fact upon which reliance will be placed when AL DHS determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of the grant, or government-wide suspension or debarment.
23. Publications: The sub-grantee agrees that all publications created with funding under this grant shall prominently contain the following statement: "This Document was prepared under a grant from the Office of Grants & Training (G&T), FEMA. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of G&T or the U.S. Department of Homeland Security". The sub-grantee also agrees that one copy of any such publication will be submitted to AL DHS to be placed on file and distributed as appropriate to other potential sub-grantees or interested parties. AL DHS may waive the requirement for submission of any specific publication upon submission of a request providing justification from the sub-grantee.
24. Closed-Captioning of Public Service Announcements: Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of the federal government shall include closed captioning of the verbal content of such announcement.
25. Fiscal Regulations: The fiscal administration of grants shall be subject to such further rules, regulations and policies concerning accounting and records, payment of funds, cost allowability, submission of financial reports, etc., as may be prescribed by AL DHS Guidelines or "Special Conditions" placed on the grant award.
26. Compliance Agreement: The sub-grantee agrees to abide by all Terms and Conditions including "Special Conditions" placed upon the grant award by AL DHS. Failure to comply could result in a "Stop Payment" being placed on the grant.
27. Leasing of Space: Requests to lease space for any purpose must be coordinated in advance with AL DHS at annual program briefings and documented/approved in budget detail worksheets. Specific provisions are provided below.

**COOPERATIVE GRANT AGREEMENT
STATE HOMELAND SECURITY GRANT PROGRAM
TERMS AND CONDITIONS**

a. Equipment Storage: Rental or leasing of space for a newly acquired allowable equipment items is allowable. Grant funds may be used to cover only the portion of the rental/lease period that occurs during the grant project period. Supplanting of previously planned or budgeted activities is strictly prohibited.

b. Exercises: Rental or leasing of space for design, development, conduct and evaluation of exercises is allowable. This includes the costs related to the rental of space/locations for both exercise planning and conduct.

c. Office Space: Leasing of office space is generally not authorized. In certain cases, it may be approved based on the requirements for hiring new personnel. The request to lease space for new personnel must be coordinated in advance with AL DHS. If approved, the total cost of space may not exceed the rental cost of comparable space and facilities in a privately-owned building in the same locality. Information to demonstrate that a comparison was conducted by the sub-grantee regarding current market costs for space in the same locale should be made available upon request by the State Administrating Agency (AL DHS) or its representative for audit purposes. The cost of space procured for program usage may not be charged to the program for periods of non-occupancy. Rent cannot be paid if the building is owned by the sub-grantee or if the sub-grantee has a substantial financial interest in the property. The total square footage covered by the lease, total square footage being charged to the grant (based on the amount needed for program implementation) and the cost per square foot agreement must be provided to the SAA (AL DHS). A copy of the signed lease agreement must be submitted to the SAA before reimbursement is made for space. Please note that the grant can only be charged for the grant's portion of rental costs. The grant cannot be used for mortgage payments as this is unallowable.

28. Suspension or Termination of Funding: AL DHS may suspend, in whole or in part, and/or terminate funding for or impose another sanction on a sub-grantee for any of the following reasons:

a. Failure to comply substantially with the requirements or statutory objectives of the 2003 Omnibus Appropriations Act issued there under, or other provisions of Federal Law.

b. Failure to adhere to the requirements, standard conditions or special conditions of this grant, including property accountability and vehicle usage.

c. Proposing or implementing substantial program changes to the extent that, if originally submitted, the agreement would not have been approved for funding.

d. Failure to submit reports on a semi-annual basis and as otherwise required.

e. Filing a false certification in this application or other report or document.

f. Other good cause shown.

29. National Incident Management System (NIMS): The State met the NIMS compliance requirements in order to receive FY11 homeland security grant funding. The jurisdictions and agencies that established NIMSCAST accounts and submitted their annual rollups by the annual deadline are also eligible to receive FY11 homeland security grant funding.

a. County subgrantees of FY11 homeland security grants (i.e., those that met the NIMS compliance requirements) may only allocate or use HS funding for those cities, towns, and agencies that also met the annual NIMS deadline. The listing of NIMS compliant jurisdictions and agencies will be documented, maintained, and distributed by the NIMS point of contact at AEMA.

b. If a County allocates or uses FY11 HS funding for a city, town or agency that is not NIMS compliant, then AL DHS will not be able to process the reimbursement request and it will be returned without action.

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5-6

**COOPERATIVE GRANT AGREEMENT
STATE HOMELAND SECURITY GRANT PROGRAM
TERMS AND CONDITIONS**

30. Alabama Mutual Aid System Agreement (AMAS): When funding is provided for Alabama Mutual Aid System (AMAS) related activities, the sub-grantee agrees to remain a party to the AMAS program.
31. Budget Detail Worksheet (BDW):
- a. The sub-grantee agrees to submit a Budget Detail Worksheet to the Alabama Department of Homeland Security (AL DHS) and must await formal approval of the worksheet in writing from AL DHS prior to obligating funds, making commitments, or purchasing any of the items requested. The worksheet submitted by the sub-grantee will provide a complete and detailed description of the items (equipment, training, and exercises) to be purchased and will also provide a valid estimate of the actual quantities and costs involved. Care should be taken to ensure the items requested on the worksheet are allowable in accordance with the US DHS grant guidance, and if equipment, listed on the current version of the Authorized Equipment List (AEL). Copies of the fiscal year grant guidance and the current version of the AEL are available on the AL DHS web site at www.homelandsecurity.alabama.gov. Additionally, a revised worksheet must be submitted for addition or deletion of all items from the original worksheet. If additions, deletions, or changes in cost total \$5000.00 or more, a new sign-off sheet by stakeholders is also required. Electronic copies of budget detail worksheet must be submitted within 60 days of receipt of this grant. The electronic budget detail worksheet is a requirement in addition to the paper copies that may have been submitted previously.
- b. Special Instructions: In regard to law enforcement, the sub-grantee agrees to spend the appropriate percentage of this grant in compliance with US DHS grant guidance and AL DHS special instructions. Additionally, the amount to be spent and the percentage for the expenditures for law enforcement will be documented in a letter and attached to the budget detail worksheet.
32. Metropolitan Medical Response System (MMRS):
- a. The MMRS leadership shall ensure that local strategic goals, objectives, operational capabilities, and resource requirements align with State's Homeland Security Strategies. The responsibilities of MMRS sub-grantees are to:
- Establish and support designated MMRS leadership, such as a Steering Committee, to act as the designated POCs for program implementation. Committees must be established and meet on an appropriate periodic basis in accordance with the committee charter. In addition to appropriate local officials and stakeholders, the committee membership must also include a representative from the State Department of Public Health.
 - Promote integration of local emergency management, health, and medical systems with their Federal and State counterparts through a locally established multi-agency, collaborative planning framework
 - Promote sub-State regional coordination of mutual aid with neighboring localities
 - Enhance, using MMRS funds, sub-State regional planning and training to expand and improve an integrated, inclusive health and medical response to mass casualty events
 - Validate the sub-grantee's local emergency response capability to a mass casualty incident by means of a regular schedule of exercises that are Homeland Security Exercise and Evaluation Program (HSEEP)-compatible.
 - Coordinate all MMRS expenditures with the local health department and, where appropriate, local representatives who manage PHEP grants, managed by CDC, and HPP, managed by HHS-ASPR, and Strategic National Stockpile.
 - Have applicable and up to date plans for responding to mass casualty incidents caused by any hazard
 - Applicable procedures and operational guides to implement the response actions within the local plan including patient tracking that addresses identifying and tracking children, access and functional needs population, and the elderly and keeping families intact where possible
 - Identify resources for medical supplies necessary to support children during an emergency, including pharmaceuticals and pediatric-sized equipment on which first responders and medical providers are trained
 - Have subject matter experts, durable medical equipment, consumable medical supplies and other resources required to assist children and adults with disabilities to maintain health, safety and usual levels of independence in general population environments

**COOPERATIVE GRANT AGREEMENT
STATE HOMELAND SECURITY GRANT PROGRAM
TERMS AND CONDITIONS**

b. Detailed budget worksheets will document program expenses as prescribed in other sections of the grant guidance. Detailed budget worksheets will be prepared and provided to AL DHS for approval in advance of spending in order to document the annual plan and to ensure that MMRS funds are used in accordance with MMRS program guidelines.

33. Homeland Security Exercises: All exercises conducted with HSGP funding must be NIMS compliant and must be executed in accordance with the Homeland Security Exercise and Evaluation Program (HSEEP). The Alabama Emergency Management Agency serves as the single point of contact for homeland security and emergency management related exercises within the state. All exercises must be coordinated in advance with Sam Guerrero or the designated AEMA exercise point of contact in advance of the exercise planning cycle. The AEMA POC must be kept informed during each step of the exercise process. In accordance with HSGP grant guidance, grant recipients must ensure that an After Action Report and an Improvement Plan are prepared for each exercise conducted with US DHS and FEMA support (grant funds and direct support). The two reports must be coordinated with the AEMA exercise point of contact and submitted to the FEMA secure portal within 60 days following each exercise.
34. Overtime and Backfill: Sub-grantees must read and comply with the funding restrictions provided in FY11 HSGP grant guidance. A summary of the funding restrictions pertaining to overtime is provided below. Overtime will not normally be authorized and all requests for overtime must be coordinated in advance and approved by AL DHS.
- a. Organizational Overtime: Overtime costs are allowable for personnel to participate in information, investigative, and intelligence sharing activities specifically related to homeland security and *specifically requested by a Federal agency*. Allowable costs are limited to overtime associated with Federally requested participation in eligible fusion activities including anti-terrorism task forces, Joint Terrorism Task Forces (JTTFs), Area Maritime Security Committees (as required by the Maritime Transportation Security Act of 2002), DHS Border Enforcement Security Task Forces, and Integrated Border Enforcement Teams.
- b. Operational Overtime: In support of efforts to enhance capabilities for detecting, deterring, disrupting, and preventing acts of terrorism, operational overtime costs are allowable for increased security measures at critical infrastructure sites during DHS-declared periods of increased security. Subject to these elevated threat level conditions, HSGP funds for organizational costs may be used to support select operational expenses associated with increased security measures at critical infrastructure sites. In order to spend FY11 HSGP funds on operational overtime costs prior approval in writing must be provided by the FEMA Administrator. Consumable costs, such as fuel expenses are *not allowed* except as part of the standard National Guard deployment package.
35. Construction and Renovation: The use of HSGP funds for construction and renovation is generally prohibited unless it is a necessary component of a security system at a designated critical infrastructure facility or unless it involves erection of communications towers included in the interoperable communications plan. Construction and renovation projects must be coordinated in advance with AL DHS and documented/approved in budget detail worksheets. Additionally, subgrantees must provide to the SAA (AL DHS) appropriate documentation required by HSGP grant guidance (for forwarding to FEMA) prior to draw down of funds. Subgrantees must also refer to and comply with FEMA information bulletin #329, Environmental Planning and Historic Preservation Requirements for Grants. Projects that were initiated or completed before an EHP review was concluded and used HSGP funds will be de-obligated. MMRS funds may not be used for any type of construction.
36. Special Instructions: These grant funds are only to be used to reimburse the Specialized Emergency Response Training.

CERTIFICATION BY COUNTY HOMELAND SECURITY POINT OF CONTACT (POC)

I certify that I understand and agree to comply with the general and fiscal provisions of this grant application including the terms and conditions; to comply with provisions of the regulations governing these funds and all other federal and state laws; that all information presented is correct; that there has been appropriate coordination with affected agencies; that I am duly authorized by the Applicant to perform the tasks of Project Director as they relate to the requirements of this grant application; that costs incurred prior to Grantee approval may result in the expenditures being absorbed by the subgrantee; and, that the receipt of these grant funds through the Grantee will not supplant state or local funds.

Name: Derrick Cunningham

Title: Chief Deputy

Agency Address: 115 South Perry St. Montgomery, AL 36104

Phone Number: (334) 832-1646

Fax Number: (334) 832-7113

Mobile Number: (334) 850-1329

E-Mail Address: DerrickCunningham@mc-ala.org

Signature: [Signature]

Date: 6-25-2012

CERTIFICATION BY COUNTY OFFICIAL AUTHORIZED TO SIGN

I certify that I understand and agree to comply with the general and fiscal provisions of this grant application including the terms and conditions; to comply with provisions of the regulations governing these funds and all other federal and state laws; that all information presented is correct; that there has been appropriate coordination with affected agencies; that I am duly authorized by the Applicant to perform the tasks of the Official Authorized to Sign as they relate to the requirements of this grant application; that costs incurred prior to Grantee approval may result in the expenditures being absorbed by the subgrantee; and, that the receipt of these grant funds through the Grantee will not supplant state or local funds.

Name:

Title:

Agency Address:

Phone Number:

Signature:

Date:

**NOTE: THE POC AND THE COUNTY OFFICIAL AUTHORIZED TO SIGN CANNOT BE THE SAME PERSON.
STAFF BEING FUNDED UNDER THIS GRANT MAY NOT BE ANY OF THE ABOVE OFFICIALS
WITHOUT AL DHS APPROVAL.**

CERTIFICATION BY STATE HOMELAND SECURITY ADVISOR

Name: Spencer Collier

Title: Director, Alabama Department of Homeland Security

Signature: [Signature]

Date:

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CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under the applicable CFR covering New Restrictions on Lobbying, Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants). The certifications shall be treated as a material representation of fact upon which reliance will be placed when the State Funding Agency (SCEMD) determines to award the covered transaction, grant or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented by the applicable CFR, for persons entering into a grant or cooperative agreement over \$100,000, as defined by the applicable CFR, the applicant certifies that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form -- LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (SUB-RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented under the applicable CFR, for prospective participants in primary covered transactions, as defined in the applicable CFR --

A. The applicant certifies that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;
- (2) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (3) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A(2) of this certification; and
- (4) Have not within a three-year period preceding this application had one or more public transactions (Federal, State or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

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**CERTIFICATION REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

**3. A. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS) -- APPLICABLE TO GRANTEES
RECEIVING \$50,000 OR MORE AND ALL STATE AGENCIES REGARDLESS OF GRANT AMOUNT.**

As required by the Federal Drug-Free Workplace Act of 1988 and implemented under the applicable CFR for grantees --

The applicant certifies that it will or will continue to provide a drug-free workplace by:

- (1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (2) Establishing an on-going drug-free awareness program to inform employees about --
 - (a) The dangers of drug abuse in the workplace;
 - (b) The grantee's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation and employee assistance programs, and
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1);
- (4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee will --
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (5) Notifying the agency, in writing within 10 calendar days after receiving notice under subparagraph (4)(b), from an employee or otherwise receiving actual notice of such conviction. Employers or convicted employees must provide notice, including position title, to the State Funding Agency. Notice shall include the identification number(s) of each affected grant;
- (6) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (4)(b), with respect to any employee who is so convicted --
 - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5) and (6).

**B. DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS) -- APPLICABLE TO GRANTEES
RECEIVING \$50,000 OR MORE.**

As required by the Federal Drug-Free Workplace of 1988, and implemented under the applicable CFR for grantees --

- A. As a condition of the grant I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and
 - B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction to the State Funding Agency.
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ACCEPTANCE OF AUDIT REQUIREMENTS

We agree to have an audit conducted in compliance with OMB Circular A-133, if required. If a compliance audit is not required, at the end of each audit period we will certify in writing that we have not expended the amount of federal funds that would require a compliance audit (\$500,000). If required, we will forward for review and clearance a copy of the completed audit(s) to the following:

Alabama Department of Homeland Security
Accounting Office
Post Office Box 304115
Montgomery, Alabama 36130-4115

The following is information on the next organization-wide audit which will include this agency:

1. *Audit Period:	Beginning	Ending	
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2. Audit will be submitted to AL DHS Accounting Office by:

(Date)

NOTE: The audit or written certification must be submitted to AL DHS, *no later than the ninth month after the end of the audit period.*

Additionally, we have or will notify our auditor of the above audit requirements prior to performance of the audit for the period listed above. We will also ensure that, if required, the entire grant period will be covered by a compliance audit which in some cases will mean more than one audit must be submitted. We will advise the auditor to cite specifically that the audit was done in accordance with OMB Circular A-133.

Any information regarding the OMB Circular audit requirements will be furnished by AL DHS, upon request.

***NOTE:** The Audit Period is the organization's fiscal or calendar year to be audited.

Failure to complete this form will result in your grant award being delayed and/or cancelled.

Form Completed By

Name:

Title:

Signature:

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Specialized Emergency Response Training

504 Highway 19 North

Meridian, MS 39307

Ph 601.482.8892

Email – info@serttraining.com

www.serttraining.com

INVOICE

Date: April 29, 2012

To: Montgomery County Sheriff's Department

ITEM DESCRIPTION

COST(S)

Executive Protection / Force Protection

Selma, Alabama

April 29 – May 4, 2012

Total

\$ 15,000.00

Specialized Emergency Response Training will provide all training equipment, supplies, manuals, and instructors needed to execute this sixty hour course. S.E.R.T. instructors are very well rounded in every aspect of Executive Protection with real world experience. This course is very demanding and students should be prepared to train long hours.

For further information, please contact:

Mike Street

Ph 601.482.8892

Email mike@serttraining.com

Thank you.

Agenda

JUL 23 2012

MEMORANDUM

To: Donald L. Mims, Administrator
From: Pat Silas, Purchasing Manager
Date: July 3, 2012
Subject: Amendment No. 1 to Contract No. 51901-12B-010,
Air Filter

Request approval of Amendment #1, adding the attached list of filters to the above referenced contract with Filter Services of Alabama, in the amount of \$112.50 based on unit pricing and approximately \$3,954.68 per year, be placed on future agenda for a County Commission meeting. (copy of Amendment attached)

The attached list of filters are charcoal filters that will be used in the Annex III Building.

Coordination of Amendment made with Mr. Pat Litchfield, Plant Maintenance Manager.

Attachment

MONTGOMERY COUNTY COMMISSION
PURCHASING OFFICE
P.O. BOX 1667
MONTGOMERY, ALABAMA 36102-1667

AMENDMENT
TO
CONTRACT NO. 51901-12B-010

Amendment No. 1

DATE: July 1, 2012

Contract No. 52110-10C-018, Air Filters and Service for Montgomery County, is hereby amended as follows:

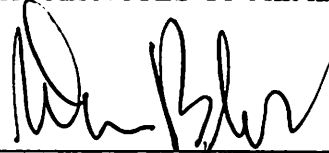
- The filters listed on the attached sheet are hereby made a part of Contract No. 51901-12B-010.
- The contract price will increase approximately \$3,954.68.
- All other provisions of the contract shall remain the same.

WITNESS:



FILTER SERVICES OF ALABAMA

BY:



TITLE:

President

WITNESS:

MONTGOMERY COUNTY COMMISSION

BY: _____

TITLE: _____

Contract No. 51901-12B-010
Air Filters and Service

The following Charcoal Filters will be added to the Contract:

<u>Filter Size</u>	<u>Unit Cost</u>	<u>Yearly Cost</u>
14 x 25 x 1	\$ 7.70	\$ 30.80
14 x 30 x 1	8.99	143.84
15 x 20 x 1	6.81	163.44
16 x 20 x 1	6.74	161.76
18 x 25 x 1	8.84	70.72
19 x 27 x 1	13.47	269.40
20 x 20 x 1	7.95	159.00
20 x 25 x 1	9.37	299.84
20 x 32 x 1	15.75	63.00
16 x 25 x 2	7.98	638.40
20 x 25 x 1 Roof	9.37	224.88
20 x 25 x 2	10.49	335.68
20 x 30 x 1	9.98	239.52
10 x 10 x 1	4.81	1,154.00
TOTAL		\$3,954.68

ELTON N. DEAN, SR.
CHAIRMAN

REED INGRAM
VICE CHAIRMAN

DIMITRI POLIZOS
JILES WILLIAMS, JR.
HAM WILSON, JR.

A COUNTY OLDER THAN THE STATE

MONTGOMERY COUNTY COMMISSION

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

ESTABLISHED 1816

DONALD L. MIMS, CPA, MPA
ADMINISTRATOR
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DEPUTY ADMINISTRATOR
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Agenda

JUL 23 2012

July 12, 2012

MEMORANDUM

TO: Donald L. Mims
County Administrator

FROM: Scott Kramer *SK*
Risk Manager

SUBJECT: Revisions to Management Procedures Manual

On July 9, 2012, Barbara Montoya, Connie Walker and I met with the Commission to discuss the recommended changes and updates for the following chapters of the Management Procedures Manual:

Chapter 7 – Personnel
Chapter 8 – Travel
Chapter 9 - Workers Compensation
Chapter 10 - Fleet Safety

An electronic copy with the highlighted changes was sent to the Commissioners on July 5, 2012. I have included a hardcopy with this memo. As mentioned in the discussion with the Commissioners, it is my intent to have the Employee Information Handbook updated and distributed to County employees after these changes are approved.

I am recommending this item be placed on the next agenda for the Commission's consideration of approval. As mentioned in the meeting, it is our intent to discuss the updates on the other half of the Management Procedures Manual with the Commission in the near future.

CC: John Mitchell, Deputy Administrator
Barbara Montoya, Personnel Director
Connie Walker, Haskell & Slaughter

CHAPTER 7 - PERSONNEL

DIVISION 1 - MERIT SYSTEM

7-1 General Provisions

Montgomery County operates under the Montgomery City and County Personnel Department established by Alabama Legislative Act 528 of September 2, 1949; Act 2280 of October 1, 1971; and Act 167, January 21, 1972. These Acts establish a City and County Merit System administered by an appointed three-person Personnel Board. The personnel policies created by these Acts and amendments thereto, and the rules and regulations established by the Personnel Board, which have the force and effect of law, govern personnel actions of Montgomery County. This chapter provides the detailed procedures for carrying out these rules and administering Montgomery County personnel management actions.

7-2 Application

These procedures apply to all employees in the classified service (merit system), and to unclassified employees as specified by the Personnel Board, County Commission, or Legislative Acts.

7-3 Equal Opportunity (P)

Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration, because of political or religious opinions or affiliations or because of race, national origin, genetic information, or any other non-merit factors is prohibited. Discrimination on the basis of age or sex or disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration.

Any complaint of discrimination should be presented to the employee's supervisor, department head, elected official/appointing authority or the City-County Personnel Director or any supervisor or management official the employee feels comfortable speaking with concerning the complaint. No employee will be required to make a complaint to any management official who is the subject of that complaint. The appropriate office will investigate every complaint promptly, and take necessary corrective action as quickly as possible. Any employee found to be guilty of discrimination will be disciplined as appropriate, up to and including termination of employment.

When any complaint of discrimination is made it shall be investigated immediately by the first level of: Department head or elected official/appointing authority not involved in the complaint. If necessary, on a case by case basis, the appropriate official may appoint a separate out-of-department investigator. The investigator will provide recommendations to the appropriate elected official/appointing authority or the Montgomery City-County Personnel Director.

To the extent compatible with a thorough investigation, all complaints, investigations and any resulting disciplinary actions will be kept confidential. Any employee receiving a complaint of discrimination must report the complaint to the appropriate official as set forth above within forty-eight (48) hours. (See Appendix AA).

7-4 Workplace Harassment Policy (P)

Policy Statement: Montgomery County believes that each employee should be able to work in an atmosphere that is free of discrimination, intimidation, or harassment based upon sex, race, color, age, religion, national origin, or disability. All employees shall acknowledge in writing that they have received and read Montgomery County's Workplace Harassment Policy, and that they understand it. (See Appendix AA.) Accordingly, Montgomery County will not authorize nor tolerate any form of discrimination, intimidation, or harassment of employees by anyone, including supervisors, managers, co-workers, or customers, based upon race, sex, religion, color, national origin, age, or disability.

Definitions:

The term "harassment" for all purposes includes offensive language, jokes, or other verbal, graphic, or physical conduct relating to an employee's race, sex, religion, color, national origin, age, or disability that would make a reasonable person experiencing such harassment uncomfortable in the work environment or that would interfere with that person's job performance.

Sexual harassment, in particular, includes any repeated and unwanted verbal or sexual advances, sexually explicit derogatory remarks, use of profanity, or statements made by someone in the workplace that are offensive or objectionable when:

- Submission to the conduct is either an explicit or implicit term or condition of employment;
- Submission to or rejection of the conduct is used as a basis for employment decisions affecting an individual; or
- The conduct has the purpose or effect of substantially interfering with work performance, or creating an intimidating, hostile, or offensive work environment.

Discussion: Each employee must use his/her own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of harassment include, but are not limited to:

- Verbal: repeated sexual innuendos, racial or sexual epithets, derogatory slur, off-colored jokes, propositions, threats or suggestive or insulting sounds;
- Visual, Non-Verbal: derogatory posters, cartoons or drawings, suggestive objects or pictures, graphic commentaries, leering, or obscene gestures;
- Physical: unwanted physical contact, including touching, interfering with an individual's normal work movement or assault; and

Montgomery County Commission

- Other: making or threatening reprisals as a result of a negative response to harassment or harassing actions.

The harasser's conduct must be unwelcome. However, Montgomery County takes the position that conduct that may be perceived to be harassment has no place in the work environment. Every employee of Montgomery County has an obligation to report any such conduct. Employees in supervisory positions should take immediate steps to stop any such conduct.

Complaint Procedures:

- If possible, the employee should directly inform the harasser that the conduct is unwelcome and must stop.
- Any complaint should be presented to the employee's supervisor, the department head, elected official/appointing authority, the City-County Personnel Director, or any supervisor or management official the employee feels comfortable speaking with concerning the complaint. No employee shall be required to make a complaint to any supervisor who is the subject of that complaint. The appropriate department or office will investigate every complaint promptly, and take necessary corrective action as quickly as possible. Any employee found to have harassed another will be disciplined as appropriate, up to and including termination of employment.
- When any complaint of harassment is made, it shall be investigated immediately by the first level of: Department Head, or elected official/appointing authority not involved in the complaint. If necessary, on a case-by-case basis, the appropriate official may appoint a separate, out-of-department investigator. The investigator will provide recommended action to the appropriate elected official/appointing authority or the Montgomery City-County Personnel Director.
- To the extent compatible with a thorough investigation, all complaints, investigations and any resulting disciplinary actions will be kept confidential. Any employee receiving a complaint of harassment must report the complaint to the appropriate official as set forth above within forty-eight (48) hours.

7-5 Retaliation Prohibited

Retaliation against any individual reporting workplace discrimination or harassment or participating in an investigation of such report is prohibited. In addition, retaliation against an employee with a worker's compensation claim or an employee utilizing Family and Medical Leave or an employee utilizing military leave is also prohibited. It is the policy of Montgomery County to investigate all such reports of retaliation.

7-6 Personal Work by County Employees (P)

Employees are not permitted to engage in personal activities or personal business during County work hours. Occasionally a very fine line will exist between what would be considered a personal activity and the legitimate conduct of County business. When this occurs, it is best to avoid even the appearance of wrongdoing while conducting County business. Certain rules, however, are clear and should be followed meticulously:

- A. The employees will not accomplish personal activities or business during County work hours unless they have taken appropriate leave.
- B. Supervisors will not require, request, or encourage any subordinate employee to accomplish

personal activities for themselves or others while on County duty.

C. Supervisors should not engage subordinate employees in any contractual or employment relationship during non-County duty hours.

D. Violations of this policy may also subject employees to sanctions pursuant to state ethics laws.

While these activities may be technically legal, they lead to an appearance of wrongdoing and are often perceived as providing some unfair advantage over other employees by the employee's supervisor. (CC Res., June 12, 1989).

A. Employees must advise the appropriate elected official/appointing authority in writing of any second full or part-time employment, as such employment could affect employees' physical and mental well-being to accomplish their County job requirements.

7-7 Use of County Equipment and Materials (P)

County equipment and materials are purchased with tax dollars for use in providing authorized services for Montgomery County. County equipment and materials will not be used for personal needs (CC Res., June 12, 1989). Violation of this policy may also subject employees to sanctions pursuant to state ethics laws.

7-8 County Telephone System

County office telephones are provided for conducting official business. Only long distance calls concerning County business are authorized to be charged against the County office telephone system. A personal long distance call charged against the County office telephone system is grounds for disciplinary action, even if the individual making such call planned to reimburse the County.

7-9 Personal Use of County-Issued Mobile Communication Devices

The Montgomery County Commission desires to clearly express its policy regarding personal use by County employees and officials of County-issued mobile communication devices.

Montgomery County provides mobile communication devices to certain key employees and officials of the County so that such employees and officials may be continuously available by telephone to conduct County business or to otherwise be available and able to respond to the duties of such employees' or officials' position with or on behalf of the County.

Allowing limited and incidental personal use of County-issued mobile communication devices may provide a means of communication in a multitude of situations that is not abusive of the benefit of maintaining a County-supplied device and is conducive to the furtherance of County business by promoting an efficient workforce without additional costs to the County.

The County has a policy that the use of such devices is for the furtherance of County business, but does not require its employees and officials to certify that they do not use land-line phones or electronic communication devices in County facilities or County-owned equipment to make or receive personal calls or other communications.

There is little to no practical or legal distinction between land-line phones in County offices and cellular phones or between electronic communication devices located in County offices and mobile electronic communication devices.

The personal use of land-line phones and electronic communication devices located in County facilities by County employees and officials is inevitable and is and will continue to be acceptable in certain limited circumstances, and there is no reasonable or legitimate basis to make a distinction as to personal use of County-issued mobile communication devices in the same or similar certain circumstances so long as such use does not incur additional expense or expose the County to any additional expense or liability.

It is the policy of the County that in the event that the personal use of County-issued mobile communication devices by employees or officials does result in additional charges in excess of approved service plans or otherwise authorized use for such devices, those employees or officials are responsible for any and all additional charges.

1. The term "mobile communication devices" as used herein is intended to be construed in the broadest sense and to include a variety of mobile electronic communication devices featuring technologies existing now or in the future that will allow County employees and officials to communicate with others in the performance of their official duties, including devices such as analog or digital cellular phones, Blackberries and other so-called "smart phones" or portable email or other messaging devices.
2. This policy is intended to encompass the broadest range of usages and services available now or in the future on such mobile communication devices, including but not limited to: phone calls; text (SMS), multimedia (MMS), instant messaging or other messaging services.
3. Those employees or officials of the County who are issued mobile communication devices to be used in the performance of their official duties shall be permitted to use such devices to make occasional personal communications in appropriate circumstances so long as in doing so, such employees or officials do not:
 - a. Allow such use to interfere with the performance of their official duties;
 - b. Incur or create any additional expense to the county as a result of such personal use;
 - c. Expose the County to any additional liability as a result of such personal use;
 - d. Violate any Federal, State, or local laws or regulations as a result of such personal use, including but not limited to using such devices for any illegal or immoral purpose or using such devices while operating a vehicle, machinery or equipment where such use may pose a distraction or hazard to the use or others;
 - e. Make any communications that are intended to be or may reasonably be construed as harassing, threatening, intimidating, or defamatory;
 - f. Make any communications or transmissions that are intended to or may reasonably be considered to give the false impression to the recipient that such communications or transmissions are made under the color of law or in the furtherance of County business or interests;
 - g. Have an expectation of privacy with respect to any personal use of County-issued mobile communication devices.
4. Those employees and officials of the County who are issued mobile communication devices and who use such devices for occasional or incidental personal use as authorized herein are consenting to be financially responsible for any charges or additional expense not specifically authorized or approved in advance resulting from such personal use of any services or technologies on County-provided mobile communication devices. (C.C. Res. Aug. 24, 2009).

7-10 Electronic Mail and On-Line Service Usage

1. Purpose: The County Email System and Internet Service are provided, at the County's expense, to assist employees in carrying out County government business. Electronic mail and Internet Service are very effective tools to access information and disseminate correspondent to departments, employees, and other business interests. As defined in the Ala. Code § 36-12-2 (1975), Email is a public record when it is created by a government employee in the course of conducting public business, and when it documents the activities and business of public officials. Email and Internet use should be based on good commonsense business practices.

a. Acceptable Uses of Email and the Internet:

- 1) To transmit business-related information.
- 2) To transmit information considered to be public record such as messages, memos, calendars, and attachments.

b. Unacceptable Uses of Email and the Internet Include:

- 1) Any purpose which violates federal, state, or local laws.
- 2) For commercial purposes.
- 3) Misrepresenting one's identity of affiliation in Email communications.
 1. Sending harassing, intimidating, abusive or offensive material to, or about, others.
 2. Intercepting, disrupting, or altering electronic communication packets.
 3. Using someone else's identity and password.
 4. Causing congestion on the network by such things as chain letters and broadcasting inappropriate messages or lists.

c. Email Confidentiality: Essentially, confidentiality of Email does not exist. Email should always be used with the assumption that a message will be read by someone other than its intended recipient. It should be used only to transmit business-related information. Users should exercise extreme caution when committing confidential information on the Email system because confidentiality of such material cannot be guaranteed.

d. Employee Training: Employees must attend an Email class before using the County Email system. Training will include signing onto the system, security, identifying Email records, and how to properly handle their own Email. Employees will receive a copy of the County policy on Email and will sign that they have read and understand the terms of the policy.

e. Montgomery County reserves the right to periodically monitor Email and Internet access time and the types of messages being transmitted on the system to ensure there is no misuse. The use of County Email system and Internet service is a privilege and must be treated as such by all users of the systems. Validated abuse of these privileges will result in loss of access for the individual committing the abuse. Depending on the severity of the offense, violation of this policy could result in discipline ranging from a reprimand up to and including termination.

7-11 Emergency Action Plan – Suspicious Mail

Policy

The likelihood of ever receiving a bomb or some other threatening article in the mail is remote. However, a small number of explosive devices and articles creating radiological, biological, or chemical

threats have been mailed over the years resulting in death, injury, and destruction of property. The purpose of this policy is to provide direction to any person who receives a letter or package that appears suspicious and the contents, addressee, or sender cannot be verified. If employees suspect a letter or package might contain an explosive or biological threat they should not take a chance. Failure to be attentive to unusual characteristics and signs or follow procedures can result in personal injuries and property loss.

Scope

This plan covers employees working in the Administrative Building (Annex I), Main Courthouse, Carnegie Building, Annex II, Annex III, Annex IV and the Community Corrections Buildings. The Sheriff and Detention Facilities have a separate plan.

Suspicious Mail Alerts

Certain unique characteristics of a mailing should raise an alert. A mailing possessing one or more of the following characteristics does not always mean it is dangerous. In addition, the outward appearance of a dangerous mailing is limited only by the imagination of the sender. These characteristics are to be used as warning flags. Attention to odd or unusual details and common sense are the best preventions.

Suspicious Characteristics:

- Letter or package bears restrictive endorsements such as "personal" or "private," especially important when the addressee does not usually receive personal mail at the office.
- Addressee's name or title is inaccurate.
- Fictitious, unfamiliar, or no return address.
- Postmark city different from return address city.
- Excessive postage or large number of postage stamps.
- Badly typed or written address. Misspelled words. Homemade labels or cut-and-paste lettering. Addressed to title only or wrong title with name.
- Feels rigid or appears uneven or lopsided. Irregular shape, soft spots, or bulges.
- Protruding wires, aluminum foil, stains on wrapping, or emitting a strange odor. Powder or other substance leaking from package or letter.
- Unprofessionally wrapped package with excessive or several combinations of tape securing the package. Endorsements such as "Fragile – Handle With Care" or "Rush – Do Not Delay."
- Pressure or resistance noted when removing contents from an envelope or package.

Procedures

If an employee is suspicious of a mailing, and is unable to verify the contents with the addressee or sender, it should be treated as suspect and the employee should adhere to the following procedures:

- Stop. Do not handle, smell, shake, or otherwise disturb. Do not open. If substance is spilled, do not try to clean up the substance.
- Isolate the mailing. Do not place it in a confined space or container. Clear people away from the immediate area and keep others away.
- Instruct anyone who may have had contact with the item or substance to wash hands and other exposed skin with soap and water. Direct individuals to wait in a designated area for further instructions.
- Shut down all equipment in the immediate area. Do not use cell phones or two-way radios.
- Call the Montgomery County Sheriff's Office at Ph. 832-4980, and the appropriate supervisor. Follow instructions of supervisors.

- If there is evidence of an emergency, such as smoke, fumes, vapors, or employees exhibiting medical symptoms, call 911, then the Sheriff's Office at Ph. 832-4950. Evacuate the area.
- The Sheriff's Office will, if deemed necessary, direct further evacuations and alert additional emergency responders needed.

If employees have any reason to believe a letter or package is suspicious, they should not take a chance or worry about possible embarrassment if the item turns out to be innocent – instead they should follow procedures and contact the appropriate supervisor and the Sheriff's Office.

7-12 Emergency Action Plan – Fire

Policy

Fires are unpredictable and may strike without warning. Failure to prepare in advance and have procedures in place to address a fire emergency may result in death and injury to personnel, loss or damage to facilities, property, equipment and the ability to serve the public. This policy has been developed to identify responsibilities and establish procedures that should be followed in the event an emergency fire situation arises. In addition, this plan will address the procedures followed for evacuating the physically-impaired, evacuation of employees and visitors, and the responsibilities of designated floor wardens.

Scope

This plan covers employees working in Administrative Building (Annex I), Main Courthouse, Carnegie Building, Annex II, Annex III, Annex IV, and the Community Corrections Buildings. The Detention Facilities have a separate plan.

Floor Warden

Each Department Director will select an employee and an alternate to fill the duties of floor warden. In the absence of the selected employees, the Director will assume floor warden duties. The essential function of a floor warden is to maintain a leadership role in an emergency situation and to help assure safety. The floor warden will be responsible for directing the activities detailed in this plan. Duties and responsibilities include, but are not limited to:

1. Maintaining an awareness of the number of people working or doing business in your area.
2. Upon hearing the fire alarm system activated, directing occupants to the area's designated or alternate exit.
3. Making necessary accommodations to evacuate persons with disabilities.
4. Checking offices, storage rooms, conference rooms and restrooms for occupants while exiting.
5. After reaching the designated safe area, conducting a roll call or head count.
6. Providing fire department personnel with any relevant information pertaining to the incident and occupants not accounted for.
7. Following the evacuation of the building during a fire, and waiting in the assigned safe area until further instructions from the responding authority.

All wardens should be made aware of the physically-impaired who may need extra assistance, and of hazardous areas that should be avoided during a fire situation. A list of all emergency agency/personnel telephone numbers shall be posted near all phones that will be utilized by employees designated to notify. Training and practice for floor wardens will take place upon implementation of this plan and annually thereafter.

Procedure

In the event fire or smoke is discovered at any of the listed County buildings, these procedures have been developed in order to protect the lives of employees and the general public, as well as to minimize the extent of property damage. The main concern is that all occupants safely evacuate the building to a safe location. All employees should familiarize themselves with the evacuation floor plans posted in corridors and work areas. The evacuation route plans identify the location of exits and the best means of egress during an emergency from that location. The floor wardens will direct the evacuation.

Anyone who discovers fire or smoke should immediately locate and pull the nearest fire alarm pull station to activate the building's fire alarm system. Fire alarm controls are located in the main hallways and exits on each floor. The systems in the Courthouse, Carnegie Building, Annex I, Annex II, and Annex III are connected with the Fire Department who will respond to the fire alarm automatically. If the fire alarm cannot be activated, call 911 immediately. Whenever reporting a fire emergency **employees should remain calm** and provide the following information to the communication operator: Building address; general location of the fire or smoke within the building and any other information relevant to the situation.

The building fire alarms have a buzzer and lights that strobe. This alarm system will serve as a signal for evacuation. Floor wardens should organize their area of responsibility for immediate evacuation through the designated or alternate exit to their designated safe meeting area. Floor wardens should check their office space including restrooms, storage areas, meeting rooms, and work areas in and around their area as quickly as possible to ensure that all occupants have evacuated. Cash drawers should be locked if time allows. All employees should make every effort to assist other employees or visitors in the area with physical disabilities that may hinder their safe evacuation. If an employee is with a member of the public, it is his/her responsibility to escort that person from the building using the designated evacuation route. Whenever the floor wardens' safety may be jeopardized, they must evacuate the building immediately. Evacuation routes and exit diagrams are posted in the hallways of each area. (Everyone should familiarize themselves with these diagrams.)

DO NOT USE ELEVATORS to evacuate in case of fire. The fire warden will direct people to stairways in all buildings. In the event the stairs and/or exits are blocked, occupants should move as a group to the windows for evacuation by the fire department.

All personnel should remain in their designated safe area until the fire warden arrives to conduct a head count and roll call. Whenever a fire warden discovers that someone is not accounted for, he or she must notify the Fire Incident Commander immediately. The Fire Incident Commander will determine when or if the building can be re-entered.

Fire Extinguishment

If a fire is small and not a threat to human life, for example the size of an office trashcan, the means available may be used to extinguish the fire. Fire extinguishers are mounted at key locations in each area. (All employees should take time to familiarize themselves with the locations of fire alarm pull stations and fire extinguishers in the area where they work.)

Fires can contain dangerous smoke, gases and heat, that may pose both a physical and health hazard to anyone attempting to extinguish it without proper personal protection equipment and training. Therefore **under no circumstances** should employees attempt to extinguish a fire when:

1. They do not know what is burning;
2. They could jeopardize their own safety;
3. The fire could cut off their means to evacuate to safety;
4. They are not sure they have the proper type of extinguisher;
5. They have not received training in the proper use of extinguishers.

Employees should not attempt to put out any fire that is not obviously containable. These extinguishers

Montgomery County Commission

should be used mainly to clear a path along the exit route from the building.
In case of a fire emergency, as in any emergency, the key things to remember are:

KEEP CALM

ALERT OTHERS

GET HELP

FOLLOW PROCEDURES

Each floor of these County facilities has one or more people who are WARDENS or KEY PERSONS. Their function is to maintain a leadership role in an emergency situation and to help assure safety. Everyone in each area must be familiar with exits, fire alarms, and location of fire extinguishers.

ADMINISTRATION BLDG. (ANNEX I)

AREA	OFFICE	EXIT DIRECTIONS
Basement	Housekeeping	Exit up stairs to 1st floor, then to parking lot or Perry Street.
1st floor	Sheriff	Exit to Perry Street. Alternate to parking lot.
2nd floor North	Sheriff	Exit to Washington Ave. Alternate to parking lot.
2nd floor South	Information Systems	Exit side door to parking lot between Admin. Bldg. and Carnegie Bldg. Alternate to Lawrence Street.
2nd floor Middle	Engineering Board of Registrars Snack Bar	Exit lobby doors to Lawrence Street. Alternate to side door to parking lot between Admin. Bldg. and Carnegie Bldg.
3rd floor North	Probate Court	Exit down stairs to Lawrence Street. Alternate to Adams Ave. or back stairs to 2nd floor and to Washington Ave.
3rd floor South	District Attorney	Exit to Adams Ave. Alternate down stairs to Lawrence Street.

Montgomery County Commission

4th floor	Sheriff	Exit down stairs to 2nd floor, then to Washington Ave. or Lawrence St. Alternate down stairs to 3rd floor, then to Adams Ave.
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MAIN COURTHOUSE

AREA	OFFICE	EXIT DIRECTIONS
Basement	Housekeeping	Exit up stairs to first floor, then front doors to Lawrence St. or back door to parking lot.
1st floor	Circuit & District Clerk	Exit side door to parking area or front doors to Lawrence St. Alternate back doors.
2nd floor	District Attorney Courts	Exit down stairs to first floor, then front doors to Lawrence St. or back door to parking lot.
3rd floor	Court Administration Courts	Exit down stairs to first floor, then front doors to Lawrence St. or back door to parking lot.
4th floor	Law Library Courts	Exit down stairs to first floor, then front doors to Lawrence St. or back door to parking lot.

COMMUNITY CORRECTIONS OFFICES

AREA	OFFICE	EXIT DIRECTIONS
Basement	Community Corrections	Exit to parking lot or up stairs to first floor and front doors to Adams St.
1st floor	Community Corrections	Exit front doors to Perry St. or back door to parking lot.

Montgomery County Commission

2nd Building	Community Corrections	Exit down stairs to front doors to Perry St. or back door to parking lot.
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CARNEGIE BUILDING

AREA	OFFICE	EXIT DIRECTIONS
Basement	Appraisal	Exit up stairs to first floor and front doors to Perry St. or back door to parking lot.
1st floor	Appraisal	Exit front doors to Perry St. or back door to parking lot.
2nd floor	Appraisal	Exit down stairs to front doors to Perry St. or back door to parking lot.

ANNEX II

AREA	OFFICE	EXIT DIRECTIONS
Basement	Housekeeping	Exit to parking level, then to area behind building.
1st floor	Elections	Exit to Washington Street.
2nd floor	State Examiners Veteran Affairs	Exit down stairs to first floor, then front doors to Washington Street.
3rd floor	District Attorney Pre-Trial Diversion	Exit down stairs to first floor, then front doors to Washington Street.

ANNEX III

AREA	OFFICE	EXIT DIRECTIONS
Basement	Maintenance	Exit to Washington Street.

Montgomery County Commission

	Archives	
Mezzanine	Purchasing	Exit to east parking deck then to Washington St.. Alternate to Lawrence St.
1st floor	County Comm. Parks & Rec. & Risk Management Finance	Exit to east parking deck then to Washington St.. Alternate to Lawrence St.
2nd floor North	Revenue Tax & Audit	Exit down stairs to Lawrence Street.
2nd floor South	Probate	Exit down stairs to Lawrence Street.

ANNEX IV

AREA	OFFICE	EXIT DIRECTIONS
1st floor	Family Justice	Exit to Parking Lot.
2nd floor	Family Justice	Exit to Parking Lot.

7-13 Emergency Action Plan – Tornado/Severe Thunderstorm

Policy

Tornadoes and severe thunderstorms can occur suddenly, and result in loss of life and severe property damage. It is important to be prepared in the event of a severe weather occurrence. This policy has been developed to identify responsibilities and establish procedures that should be followed in the event of a severe weather occurrence. All employees will familiarize themselves with the procedures set forth in this plan and follow them closely when the situation warrants such action.

When obvious weather conditions indicate the potential for severe weather, the Risk Management Department will work closely with the City/County Emergency Office to monitor the immediacy and severity of the weather situation. Risk Management will in turn alert all departments when they need to move employees and public patrons to a safer area and follow the procedures in this plan. Notification may be given by public address system or by phone to each department. Floor wardens (same as fire emergency floor wardens), will direct an orderly move to the safe areas. All employees are expected to lend assistance to employees or visitors whose physical impairments may hinder their ability to reach the safe area.

Copies of this emergency action plan will be kept by each Department Director and will be reviewed at least annually.

Scope

This plan covers employees working in Administrative Building (Annex I), Main Courthouse, Carnegie Building, Annex II, Annex III, Annex IV, and the Community Corrections Buildings. The Detention Facilities have a separate plan.

Definitions

Tornado Watch - conditions are favorable for a tornado. Employees should be prepared to take shelter and should stay alert for additional information.

Tornado Warning - tornado has been sighted in the area or is indicated by radar. Employees should take shelter in a safe area immediately.

Severe Thunderstorm Watch -the weather conditions are such that a severe thunderstorm is likely to develop.

Severe Thunderstorm Warning - a severe thunderstorm has been sighted or indicated by weather radar.

Procedures

Tornado Watch, Severe Thunderstorm Watch and Warning

The Montgomery City/County Emergency Management Agency will alert floor wardens and/or key staff members, via email, when the National Weather Service issues a warning advisory. No further action need be taken at the time and personnel may continue to work in their respective areas but be alert to worsening weather conditions. In the case where a severe thunderstorm is confirmed or is reported to be immediately approaching downtown Montgomery and could pose a threat to employees and general public, the floor warden will direct employees and members of the general public in the building to stay away from windows. If conditions warrant, the floor warden will have employees and members of the general public proceed to an interior hallway and remain in this area until the severe thunderstorm has passed or floor wardens are notified that conditions have sufficiently improved.

Tornado Warning

Upon notification, by the Montgomery City/County Emergency Management Agency, of a tornado warning, the floor wardens must direct employees and other visitors present to designated safe areas within the building (see below list of locations). The primary safe area is the lowest floor in each building. All doors to offices along corridors with exterior windows and walls should be closed as employees leave. Cash drawers should be locked if time allows. Employees should assist anyone who is physically-impaired or a visitor not familiar with the evacuation routes.

If employees cannot reach a designated safe place before a tornado strikes they should seek refuge in the following locations.

- Small interior rooms without windows.
- Hallways away from doors and windows.
- Rooms constructed with reinforced concrete, brick or block with no windows and with a heavy concrete floor or roof systems overhead.
- Protected areas away from doors and windows, such as bathrooms.

If an employee is caught outside with little warning, if possible, the employee should go inside the nearest building to an interior area away from windows. If the threat is immediate, the employee should seek refuge in a low lying area. Employees should stay out of automobiles.

All personnel should sit, kneel, or crouch on the floor with their backs against the wall and cover their heads with a coat, or arms and hands.

Notification will be given when the severe weather has left the area and an all clear has been issued that it is safe to return to your work area.

ADMINISTRATION BLDG. (ANNEX I)

AREA	OFFICE	EXIT DIRECTIONS
Basement	Housekeeping	Remain in basement.
1st floor	Sheriff	Proceed to Muster Room.
2nd floor North	Sheriff	Close doors and exit to hallway.
2nd floor South	Information Systems	Remain in place.
2nd floor Middle	Engineering Board of Registrars Snack Bar	Exit Engineering offices, close doors and move to clerical area. Board of Registrars should stay in place. Snack Bar should proceed to B of R area.
3rd floor North	Probate Court	Exit offices, close doors and remain in hallway & Probate Conference Room.
3rd floor South	District Attorney	Proceed to Grand Jury Room.
4th floor	Sheriff	Exit offices, close doors and remain in hallway.

MAIN COURTHOUSE

AREA	OFFICE	EXIT DIRECTIONS
Basement	Housekeeping	Remain in basement.
1st floor	Circuit & District Clerk	Exit offices, close doors and remain in hallway.
2nd floor	District Attorney Courts	Exit offices, close doors and remain in hallway.
3rd floor	Court Administration Courts	Exit offices, close doors and remain in hallway.

Montgomery County Commission

4th floor	Law Library Courts	Exit offices, close doors and remain in hallway.
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COMMUNITY CORRECTIONS OFFICES

AREA	OFFICE	EXIT DIRECTIONS
Basement	Community Corrections	Remain in basement.
1st floor	Community Corrections	Proceed to basement.
2nd Building	Community Corrections	Proceed to basement.

ANNEX II

AREA	OFFICE	EXIT DIRECTIONS
Basement	Housekeeping	Remain in basement.
1st floor	Elections	Exit offices, close doors and remain in hallway.
2nd floor	State Examiners Veteran Affairs	Exit offices, close doors and remain in hallway.
3rd floor	District Attorney Pre-Trial Diversion	Exit offices, close doors and remain in hallway.

ANNEX III

AREA	OFFICE	EXIT DIRECTIONS
Basement	Maintenance Archives	Remain in basement
Mezzanine	Purchasing	Proceed to Purchasing Conference Room
1st floor	County Comm. Parks & Rec. & Risk	Proceed to Commissioners' Conference Room or

Montgomery County Commission

	Management Finance	Purchasing Conference Room. Finance should proceed to Finance Conference Room.
2nd floor North	Revenue Tax & Audit	Proceed to basement
2nd floor South	Probate	Proceed to basement

ANNEX IV

AREA	OFFICE	EXIT DIRECTIONS
1st floor	Family Justice	Proceed to Conference Room.

CARNEGIE BUILDING

AREA	OFFICE	EXIT DIRECTIONS
Basement	Appraisal	Remain in basement.
1st floor	Appraisal	Proceed to basement.
2nd floor	Appraisal	Proceed to basement.

7-14 Medical Emergency Policy

An event may occur on County property that results in an individual's need for medical treatment. The event may be the result of an accident or medical condition involving an employee of the Montgomery County Commission or a non-employee on Montgomery County Commission property. County Commission offices exist to serve public citizens and provide a safe environment for them while conducting business with the County. At any given time, a large number of citizens as well as Montgomery County Commission employees occupy County buildings and property. This policy has been developed to establish procedures that should be followed in the event a member of the public or a County Commission employee requires emergency medical attention while on the premises of a Montgomery County Commission property.

Scope

This policy covers Montgomery County Commission employees working in Administrative Building (Annex 1), Main Courthouse, Carnegie Building, Annex II, Annex III, and the Community Corrections Buildings. The policy also applies to members of the general public and/or vendors, contractors in or on the premises of the Montgomery County Commission.

Procedures

It is, of course, the first priority of the Montgomery County Commission to obtain needed emergency medical attention for any individual who suffers an injury or medical event on Montgomery County Commission property. All County Commission employees are expected to summon emergency medical assistance immediately, by calling 911, if they witness a fellow employee or visitor in obvious medical distress.

When calling 911 employees shall:

Montgomery County Commission

1. State their name.
2. State their exact location.
3. State the reason for call (describe what is happening or what has been observed).
4. Stay on the line and answer any questions.
5. Do not hang up until told or help arrives.
6. Do not move the injured or sick person unless instructed to by emergency personnel.

AFTER calling 911 employees should immediately call **832-1217 (County Commission Receptionist)** and relay briefly the employee's location and what has occurred. The receptionist, in turn, will relay the information to the Risk Management Department, (832-1280) or (832-1274). Risk Management will respond to the scene of the incident to complete a detailed report of the incident.

Employees should not discuss details of the incident with other employees, by-standers or an injured party. The incident should only be discussed with responding emergency medical personnel or Risk Management.

Non-Emergency Medical Incidents

Should a visitor in or on Montgomery County Commission premises suffer an injury or medical incident that is not obviously serious or life-threatening, the individual should be **ASKED** if he/she wants medical assistance. If so, 911 should be called and help summoned. Employees should make it clear that they are calling an emergency vehicle at the individual's request and any charges will be the individual's responsibility. If an emergency vehicle is summoned, employees should immediately call **832-1217** and ask the receptionist to notify Risk Management. Risk Management will respond to the scene of the incident. Employees should stay with the person until an emergency vehicle arrives.

If the individual refuses or states he/she does not wish to have emergency response, employees should not summon an emergency response. Should an employee suffer an injury or medical incident that is not an obvious emergency or life threatening it should be reported to the employee's supervisor. If the employee has been injured while performing his/her job duties and needs medical treatment, the treatment will be provided by the Montgomery County Commission designated worker's compensation physician and reported to the Risk Management Department as a work-related injury. If the employee suffers a medical incident due to a health condition, he/she will obtain medical treatment of his/her choice and discretion. Employees experiencing a condition that renders them a danger to themselves or others by driving a vehicle should be strongly discouraged from driving. Employees should offer assistance to drive the employee home or to a medical facility or to call a family member to drive them. If employees are witnesses to a medical emergency, the individual's health and medical issues are a very personal matter and should not be the subject of conversation among employees.

7-15 Montgomery County Drug/Alcohol Free Workplace Policy and Procedure (P)

1. Purpose:
 - a) To establish the Montgomery County Drug/Alcohol Free Workplace Policy and Procedure.
2. Effective Date:
 - a) The effective date of this policy is February 9, 2004.
3. General Policy:
 - a) Montgomery County employees are a most valuable resource and their health and safety are therefore a serious concern. The County is committed to maintaining a safe and healthy environment for its employees and as a result, will not tolerate drug or alcohol use which imperils the health, safety, and well-being of its employees or any aspect of the

County's operations.

It is the intention of this policy to eliminate substance abuse and its effects in the workplace. While Montgomery County has no intention of invading the private lives of its employees, involvement with drugs and alcohol off the job can adversely affect performance and employee safety and efficiency on the job. Employees who think they may have a drug or alcohol problem are encouraged to seek assistance through the County Employee Assistance Program. While the County will work with those employees who are seeking professional help, it will also be firm in enforcing the policy against those identified as substance abusers who are not seeking help. This policy will include all Montgomery County employees unless covered under a separate department policy (i.e. Engineering and Sheriff's Departments).

The Montgomery County Commission and other **elected officials/appointing authorities** (hereafter referred to as "Montgomery County" or the "County"), have adopted and will enforce the following Drug/Alcohol Free Workplace Policy and Procedure.

The refusal of any applicant/employee to submit the required specimen for testing as required by this policy will be in violation of this policy and shall be rejected for employment or appointment and, if already employed, shall be subject to disciplinary action.

Any employee who tests positive for alcohol or illegal drugs will be in violation of this policy and may be subject to disciplinary action. However, in the case of a positive result, the applicant/employee will be allowed to request a confirmatory test. Such re-test shall be coordinated by the **appropriate elected official/appointing authority** and the Risk Manager for Montgomery County or his/her designees. Such re-test shall be performed on the original specimen and shall be at the applicant's/employee's expense. Additionally, such applicant/employee shall be given an opportunity to provide a valid prescription for any drug identified in the test. Failure to adhere to or to comply with any provision of this policy will be grounds for disciplinary action.

Definitions

As used herein the following terms shall have the meaning hereby ascribed:

1. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
2. "County Appointing Authority" shall mean the officer in whom the power to make appointments is vested by law.
3. "County Department Head" shall mean a department head or other head of a division or section that reports directly to and is evaluated by a County Appointing Authority.
4. "Disciplinary Action" shall mean progressive discipline in accordance with County policy, up to and including termination of employment.
5. "Employee Assistance Program" shall mean a voluntary employee service which provides assistance for those employees experiencing medical/behavioral problems which could affect job performance.
6. Drug/Alcohol Screening/Testing" hereafter referred to as "test" or "testing", shall mean any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites or of alcohol.
7. Last Chance Agreement is an agreement letter signed by an employee who has a first-time

positive reading on a drug / alcohol test, in which the employee agrees to successfully complete the Employee Assistance Program for drug / alcohol abuse in exchange for continuing his / her employment status until such program is completed.

8. "Illegal Drugs" shall mean:

- a) Chemical substances not legally obtainable by the general public, such as heroin, cocaine, marijuana, PCP, etc., or
- b) Prescription drugs with narcotic, opiate, hallucinogenic or mind-altering properties, such as sleeping pills, diet pills, tranquilizers, sedatives, analgesics, etc., for which the individual has no legal prescription.
- c) "Legal Drugs" shall mean prescription drugs and over-the-counter drugs legally obtained.
- d) "Safety Sensitive Position" shall mean a position which involves the use of dangerous equipment which may cause serious injury or harm to the employee or others. Employees who are considered to hold safety sensitive positions will be identified as such by their respective department heads and notified of this status. These positions will include, but will not be limited to, positions requiring or having direct access to a controlled substance, having access to NCIC information, a position where the employee's action or inaction directly affects public safety, and/or supervisors of those safety sensitive functions. Safety Sensitive Positions may include, but not be limited to, the following:
 1. Child Care Officers
 2. Child Care Supervisors
 3. Youth Counselor (all categories)
 4. All operators of construction and heavy equipment
 5. Operators of vehicles or equipment requiring the
 6. Commercial Drivers License (CDL)
 7. Security Guards
 8. All ranks of Correctional Officers
 9. Licensed Practical Nurses
 10. Registered Nurses
 11. Community Correction Employees
 12. All Maintenance Personnel

Additional job classifications may be added by the Montgomery County Commission and Appointing Authorities. Safety Sensitive Positions as determined by the Sheriff and County Engineering Department are governed by their own policies.

13. "Reasonable Suspicion" shall mean that quantity of proof or evidence that is more than intuition or strong feeling, but less than probable cause. Such reasonable suspicion must be based on specific, objective facts or reasonable inferences drawn from facts that would cause a reasonable person to suspect that the employee is or has been using drugs or alcohol. Such reasonable suspicion facts include but are not limited to any one or more of the following:
 - a. direct observation of alcohol or prohibited drug use
 - b. slurred speech
 - c. alcohol beverage odor on breath
 - d. unsteady walking and movement
 - e. an accident involving county property
 - f. physical altercation
 - g. verbal altercation

- h. lapse in cognitive abilities
 - i. aggressive, hostile, threatening, disruptive or unusual behavior
 - j. a report of prohibited drug or alcohol use provided by a reliable and readable source
 - k. evidence that a drug or alcohol test of the employee has been tampered with
 - l. evidence that the employee is involved in the use, possession, sale, solicitation or transfer of prohibited drugs
 - m. Tardiness or absence indicative of off-duty use of alcohol or prohibited drugs, which renders the employee unable or unwilling to perform duties.
- 14. "Specimen" shall mean tissue, blood, breath, saliva, urine, hair, fingernail, or other products of the human body capable of revealing the presence of drugs or their metabolites or of alcohol.
- 9. Authorized Prescribed Medicine
 - a) The use of physician prescribed or over-the-counter medications and drugs will not be per se a violation of this policy. However, any employee who is taking any medication or drugs which could interfere with the safe and effective performance of duties or operation of vehicles or equipment shall notify his/her supervisor before beginning work.
- 10. Prohibition
 - a) The following are examples of acts or behaviors which are expressly prohibited and that will result in disciplinary action. This listing is not exhaustive, but illustrative:
 - 1. Unauthorized use, consumption, possession, manufacture, growth, distribution, dispensation or sale of illegal drugs, drug paraphernalia, or alcohol while on duty, on County premises, in County supplied vehicles, or in any work area.
 - 2. Being under the influence of illegal drugs or alcohol on County premises, in County supplied vehicles, or in any work area.
 - 3. The use or possession of illegal drugs or alcohol off County premises and while not on duty may be cause for disciplinary action where such conduct can be shown to have a direct and material adverse impact on the County's interests, including public image.
 - 4. A conviction of an employee for the sale of or possession with intent to sell illegal drugs at any time or place is cause for immediate dismissal.
- 11. Searches
 - a) Montgomery County reserves the right to search for evidence of prohibited conduct at any time and without notice or employee consent, all areas and property, real or personal, which are owned or controlled by the County or where the County has the right to control, including joint control with an employee, if any supervisor has reasonable suspicion to believe that the employee is under the influence of drugs or alcohol or has reason to believe that the employee has drugs or alcohol on County property. Such areas and property include, but are not limited to, Montgomery County owned or leased or controlled buildings, parks, land, motor vehicles, desks, lockers, files, and storage containers. With respect to personal property not owned or controlled by the County (or the County Appointing Authority), but which is in possession or control of the employee on County premises or located in a County supplied vehicle, or in any work area, and where any supervisor has a reasonable suspicion to believe that an employee is intoxicated or under the influence of alcohol or drugs, and where alcohol or drugs are reasonably suspected to be inside such personal property, the employee may be ordered

to submit said personal property to a search. Such may include orders to unlock and open vehicles, tool boxes, lunch boxes, lockers, etc., and to turn inside out clothing pockets and billfolds, purses, envelopes, sacks, etc.

12. Testing

a) Pre-employment and Promotion or Transfer to Safety Sensitive Positions Montgomery County shall require as part of the employment process, that

1. all applicants receiving a conditional offer for original appointment to any position, and
2. all employees applying for promotion or transfer to any safety sensitive position, must submit to a pre-employment or pre-appointment test
3. This test will require the applicant/employee to provide a specimen.

The applicant/employee will be informed if the reasons for rejection for employment or appointment include the results of the test.

b) Regular Physical Examination:

1. Whenever Montgomery County's standard policy requires an employee in a safety sensitive position to undergo a physical exam, that examination may include testing. Such physical examinations shall be coordinated with the Risk Manager or his/her designees.

c) Accidents Resulting in Property Damage:

1. Any employee involved in a motor vehicle accident while operating a County supplied vehicle or any job-related motor vehicle accident or any other accident which results in property damage may be required to submit to drug or alcohol testing. If deemed necessary by the **elected official/appointing authority**, after the accident the employee may be taken to a collection site to provide the required specimen as soon as possible after the accident.
2. Supervisors are authorized to require testing by reason of such accident, and should consult with the appropriate **elected official/appointing authority** and the Risk Manager where possible before ordering such test. All cases involving post-accident testing must be immediately reported in writing to the appropriate Appointing Authority and the Risk Manager. Such reports shall detail the specific facts which formed the basis for the determination to require testing. The record of the test results shall be included with the report to the appropriate, **elected official/appointing authority** and the Risk Manager. The facts underlying the determination to require testing shall be disclosed to the employee at the time the order is given.

d) Reasonable Suspicion Testing:

1. Whenever a supervisor has a reasonable suspicion to believe that an employee on duty or scheduled for duty is intoxicated or under the influence of alcohol or drugs, the employee may be ordered to submit to a test. All cases involving reasonable suspicion testing must be immediately reported in writing to the appropriate **elected official/appointing authority** and the Risk Manager. Such reports shall detail the specific facts which formed the basis for the determination to require testing.

e) Random Testing:

1. Safety Sensitive Positions
2. In addition to the testing situations described above, individuals employed in safety sensitive positions shall be subject to testing on a random basis. The random basis means that every member of the safety sensitive population has an equal chance of

being selected for testing. The County Commission in consultation with the Risk Manager and other **elected officials/appointing authorities** shall determine the frequency and number of such random selectees to be tested.

3. Commercial Drivers

a. In addition to the testing situations described above, individuals employed as operators of vehicles or equipment requiring the commercial driver's license (CDL) shall be subjected to additional alcohol and drug testing on a random basis as required by 49 Code of Federal Regulations Part 382, as amended. The random basis means that every holder of the commercial driver's license has an equal chance of being selected for testing. At least twenty-five percent of the County's CDL holders shall be random tested for alcohol during each calendar year. At least **fifty (50) percent** of the County's CDL holders shall be random tested for controlled substances during each calendar year. The Risk Manager, or his/her designee, shall comply with all reporting and record keeping requirements of 49 Code of Federal Regulations Part 382, as amended.

f) Return to Duty from Suspension Without Pay

1. In addition to the testing situations described above, individuals employed in safety sensitive positions shall be subject to testing upon return to duty from disciplinary suspensions without pay.

g) On the Job Injuries

1. In addition to the testing situations described above, all employees who are injured on the job or who claim to have been injured on the job shall be required to submit to testing as soon as possible after the accident or injury. Employees who require emergency medical treatment for an on the job injury will be ordered by a supervisor to report to a collection site as soon as the medical emergency is resolved. All other employees shall be ordered to report to a collection site by their supervisor immediately after the occurrence of the injury or accident or immediately after the employee gives notice of an on the job injury, whichever occurs first. Employees who are unable to drive to the collection site will be transported by their supervisor or a designee. If an employee refuses to go to the collection site or fails to provide a specimen for testing within the time set forth in this policy, the supervisor shall immediately advise the employee that such refusal will result in the forfeiture of all compensation to which the employee may be entitled under the workmen's compensation laws of the State of Alabama and all injury with pay leave which the employee may otherwise receive. Within a reasonable time, the supervisor shall advise the employee of such forfeiture in writing.

2. The supervisor shall also immediately advise the Appointing Authority and Risk Manager of the injured employee's refusal to cooperate.

13. Testing Procedures:

a) Any laboratory used for drug screening by Montgomery County will be in compliance with guidelines of National Institute on Drug Abuse (NIDA), Federal Register, April 1998. Applicants and employees subject to testing will be required to sign, prior to testing, a form consenting to the testing and to the release of the test results to the Risk Manager. Absent such signature, the individual's refusal will be noted, and the tester may attempt to go forward with the test. The failure of an employee to provide a specimen at the test site, within two hours of the request, is tantamount to a refusal.

- b) Lab reports and/or test results will not be placed in the employee's personnel record. This information will remain in a separate record that will be securely kept under the control of the Risk Manager. Test results will only be released by the Risk Manager to County Department Heads or Appointing Authorities on a strictly need to know basis and to the tested individual upon request. Such release may also occur in case of the following events:
 - 1. The information is compelled by law or by judicial or administrative process, including disciplinary proceedings.
 - 2. The information is needed as evidence in a disciplinary hearing involving the subject employee.
 - 3. The information is needed to determine eligibility for employee benefits including sick leave, disability pension, or retirement benefits.
 - 4. The information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.
14. Drug/Alcohol Test Results:
- a) Alcohol
 - 1. For purposes of this prohibition, an employee shall be deemed to be "under the influence" of alcohol where blood alcohol content by weight of alcohol exists in the person's blood as follows: employees employed in safety sensitive positions - .02 percent or more -- all other employees - .06 percent or more. However, an employee may be found to be "under the influence" where blood alcohol content by weight is less than the foregoing amounts and other competent evidence shows job performance or employee safety to be affected.
 - b) Drugs
 - 1. The drug screen analysis will include those agents that most frequently are the drugs of abuse. The list will be subject to review and modification. Two types of drug tests may be employed: initial screening tests, often referred to as color tests; and confirmatory tests. Initial screening (color) tests are designed to distinguish negative from presumptive positive samples. Confirmatory tests positively identify a drug or metabolite when initial screening tests indicate its presence.
 - 2. Each drug screening may include a test for illegal drugs. Thresholds have been established which set the limit at which a drug test may be called positive. Specimens containing the drug or metabolite above the threshold are identified as "positive," and below the threshold identified as "negative." All specimens identified as positive on the initial test shall be confirmed. The initial and confirmatory drug test cutoff values promulgated by the Department of Health and Human Services (Federal Register, Vol. 53, No. 69, published April 11, 1988), and as amended, are hereby adopted as the cutoff values for this policy. These test levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of these substances at other concentrations.
 - 3. Threshold levels specified by the reagent manufacturers will be used for drugs or compounds not listed in the Federal Register, or specified by law.
15. Drug Testing Protocol
- a) A protocol for drug testing will be followed to ensure that a suitable specimen is collected, the chain of custody is maintained, and the personal integrity of the applicant/employee is considered.

16. Program Administration

- a) The Risk Manager is responsible for the overall administration of the program and Appointing Authorities are responsible for administration within their particular departments. Responsibilities are to:
 - 1. Provide Appointing Authorities with the names of employees selected at random to be tested.
 - 2. Assist Appointing Authorities in the administration of the County's Drug-Free Workplace Program.
 - 3. Assist employees through the County Employees Assistance Program who voluntarily seek professional treatment for any substance abuse problems.
 - 4. Receive the results of all tests and maintain the information in a secure file for a minimum of five years. When positive results are received, notify the Appointing Authority. The Appointing Authority will provide the person tested with an opportunity to explain the results prior to personnel action being taken. If the employee occupies a merit position, a due process hearing will be provided prior to personnel action being taken.
 - 5. Designate alternate collection sites if necessary and perform other actions necessary to implement this policy.

17. Consequences for Violation of this Policy

- a) The Appointing Authority will allow all applicants and employees who test positive for alcohol and/or drugs the opportunity to explain the test results prior to taking an adverse action.
- b) Violation of Montgomery County's Alcohol and Drug Policy may result in disciplinary action, including discharge for a first offense at the County's sole discretion. The Appointing Authority will routinely discharge employees in sensitive or non-sensitive jobs in the following cases:
 - 1. When the employee uses, possesses, manufactures, grows, distributes, dispenses, or sells controlled substances, illegal drugs or drug paraphernalia on County premises or in County supplied vehicles, or during working hours;
 - 2. When the employee stores in a locker, desk, automobile or other repository on County premises any illegal drug, drug paraphernalia or any controlled substance the use of which is unauthorized;
 - 3. When the employee is convicted under any criminal drug statute for a violation occurring on or off the job;
 - 4. When the employee switches, tampers or adulterates, or attempts such switching, tampering or adulteration, of a specimen provided for testing;
 - 5. When the employee refuses to consent to testing or to submit a specimen for testing when ordered by management;
 - 6. When an employee fails to fulfill the terms of a drug/alcohol assistance option or last chance agreement.

18. Employees' Drug/Alcohol Assistance Option

- a) Montgomery County is committed to providing reasonable accommodations to those employees whose drug or alcohol problem classified them as handicapped fewer than 29 U.S.C. 706(8) (A) & (B) or other laws.
- b) An employee who voluntarily reveals an alcohol/drug problem to the Appointing Authority or the Risk Manager,

1. before being notified of selection for an alcohol or drug test, and,
 2. before testing positive for alcohol and/or drugs, and,
 3. before other discovery of an alcohol/drug problem, may voluntarily enroll in the County Employee Assistance Program.
- c) An employee enrolled in this program may be offered an opportunity to sign a "last chance agreement." (See Appendix B.) The agreement would temporarily suspend any plan to take disciplinary action against the employee upon the employee's agreement to attend and complete the rehabilitation program at the employee's expense, subject to coverage under the County's health insurance plan, if any.
- d) The rehabilitation provider may be selected by the employee but must be approved by the Risk Manager. Following completion of the program and submission of a certificate of fitness from a qualified physician or counselor confirming fitness to return to work in the same classification and job responsibilities, the employee may be returned to work. As a condition for return to work, the employee may be required to participate in a maintenance treatment program and submit to testing for a period of one year following completion of the rehabilitation program. Failure of the employee to satisfactorily complete the program or to fulfill any terms of the agreement will be grounds for termination of employment. Upon satisfactory employment performance and completion of the one year of maintenance and testing, the disciplinary action may be dropped.
19. Condition of Employment
- a) Compliance with the County's Alcohol/Drug Free Workplace Policy and Procedure is a condition of employment. Failure or refusal of an employee to fully cooperate, including failure to submit to inspections or tests called for by the policy or to fulfill agreements, will be grounds for disciplinary action.
20. Drug-Free Workplace
- a) Policy:
1. It is the policy of the Montgomery County Commission that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace.
 2. Definitions:
 - a. The term "controlled substance" means a controlled substance as defined in the Schedules I through V of Section 202 of the Controlled Substance Act (21 USC Section 812) and as further defined in the Federal Regulations at 21CFR Section 1308.11 through 1308.15 and other federal and state laws.
 - b. "Conviction" means a finding of guilt (including a plea of nolocontendere) or the imposition of a sentence by a judge or jury in any federal or state court.
 3. Standards:
 - a. Any employee violating this policy will be subject to progressive discipline up to and including termination.
 - b. Each employee is hereby notified that as a condition of employment the employee will:
 - (1) abide by the Montgomery County Drug/Alcohol Free Workplace Policy; and
 - (2) notify the appropriate Appointing Authority and the Risk Manager of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction
 - (3) Employees will notify their County Department Head in writing. The County

Department Head will notify the Risk Manager. Failure to notify is grounds for termination.

- c. The County Administrator must notify any U.S. government agency from which the County receives funding within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of such conviction.
- d. The County Department Head may require the employee to successfully complete an approved drug abuse assistance or rehabilitation program administered through the County Employee Assistance Program at the employee's expense subject to coverage under the County employee health benefit plan, if any.
- e. County Department Heads are responsible for implementing this policy and obtaining a certification of acknowledgment (see Appendix Q) from each employee. The certifications are to be submitted to the County Payroll Section for inclusion in employee payroll files. For new employees this certification will be attached to the hiring documents (Form 5, 9 or 10) by the department. (U. S. Drug-Free Workplace Act of 1988, 41 USC § 701, P. L. 100-690).

7-16 Montgomery County Employee Assistance Program Policy and Procedure (P)

1. Purpose:
 - a) To establish the Montgomery County Employee Assistance Program Policy and Procedure.
2. Effective Date:
 - a) The effective date of this policy is February 9, 2004. The policy will be implemented on March 15, 2004.
3. General Policy:
 - a) A wide range of problems not directly associated with an employee's job function can have an effect on any employee's job performance. In most instances, the employee will overcome such personal problems independently and the effect on job performance will be negligible. In other instances, normal supervisory assistance will serve either as motivation or guidance by which such problems can be resolved so the employee's job performance will return to an acceptable level. In some cases, however, the efforts of the employee and the supervisor may not have the desired effect of resolving the employee's problems, and unsatisfactory performance persists over a period of time, either constantly or intermittently. The purpose of this policy is to establish an employee assistance program to address employee problems in a constructive manner. The policy in general terms is as follows:
 1. Employees experiencing medical/behavioral problems are encouraged to consult with an EAP counselor before such problems affect job performance.
 2. An employee's use of the Employee Assistance Program (EAP) is voluntary.
 3. Employees demonstrating job performance deterioration or unsafe practices are encouraged to consult with the EAP to resolve these problems.
 4. Elected officials/appointing authorities and/or managers are encouraged to consult with an EAP counselor regarding the management of an employee with an identified medical/behavioral problem.
 - a) Definition of the Employee Assistance Program
 1. The EAP provides problem clarification, treatment resource referrals, and

crisis intervention for County employees who are experiencing personal or medical/behavioral problems. A medical/behavioral problem may involve psychological or emotional problems, alcoholism or drug dependencies, marital or family difficulties, some medical conditions (including those related to stress), and some financial problems.

2. The EAP staff consults with supervisors, managers, and personnel staff when there is a question as to whether or not a medical/behavioral problem exists, as well as how to understand and manage a troubled employee.
4. Procedure:
 - a) Employees with personal or family problems that can adversely affect job performance are strongly encouraged to voluntarily utilize the Employee Assistance Program.
 - b) If an employee's job performance or attendance is unsatisfactory, it will be called to his/her attention pursuant to the regular procedure.
 - c) If unsatisfactory performance or attendance continues, the elected official/appointing authority and/or manager will discuss the problem privately with the employee.
 - d) Supervisors will not delve into personal problems in an attempt to find the causes of unsatisfactory job performance. This is the responsibility of the trained professionals within the Employee Assistance Program. If it appears that the employee cannot or will not improve his/her performance or attendance to a satisfactory level, the elected official/appointing authority and/or manager will refer the employee to the Employee Assistance Program with trained professionals to diagnose problems and help find solutions.
 5. Responsibility
 - a) EAP counselors
 - 1) EAP counselors are responsible for providing professional consultation to employees and supervisors regarding medical/behavioral problems that affect or could potentially affect County operations. The counselors provide this assistance by:
 - a. Evaluating employees referred pursuant to employees' requests and recommending resources for treatment or assistance. The employee assistance counselor may be available as a resource to the employee throughout the treatment process.
 - b. Informing employees contacting the EAP of their rights as defined in the policies and practices of the EAP. These employee rights are listed as a supplement to the Standard Practice.
 - (a) Consulting with elected officials/appointing authorities and/or managers on how to appropriately motivate employees with possible medical/behavioral problems to initiate involvement with EAP.
 - (i) Ensuring that once the employee has initiated contact with EAP, counseling information may not be disclosed, except with the employee's informed consent. Such disclosures may involve arranging for time off work; processing benefits; complying with legal requirements, such as pursuant to subpoena; or when the counselor and employee mutually agree that counselor-to-supervisor communication is in the employee's best interest.
 - (ii) Offering education and training to elected officials/appointing authorities and/or managers in the use of the Employee Assistance Program.

c. Elected Officials/Appointing Authorities and/or Managers

- (a) Elected officials/appointing authorities and/or managers (or their designee) are responsible for:
 - (i) Knowing the Employee Assistance Program's policies and procedures, working within the established guidelines for referrals and feedback, and referring employees to the EAP when appropriate.
 - (ii) Prohibiting any employee from working who in the judgment of the elected official/appointing authorities and/or manager appears mentally or physically unfit to perform his/her duties safely and efficiently until satisfactory evidence of fitness is secured and using EAP to facilitate the medical clarification process when a medical/behavioral problem is the likely cause.
 - (iii) Identifying employees whose work performance, unavailability for work, or on-the-job behavior indicate possible medical/behavioral problems, and advising such employees in performance counseling sessions that use of the EAP by the employee is recommended by the elected official/appointing authority and/or manager.
 - (iv) Documenting the offer of EAP to the employee and the employee's response to that offer, and advising the employee that the offer and response are being documented.
 - (v) Continuing to monitor job performance of employees with medical/behavioral problems in the manner appropriate to all employees.

d. Employees

- (a) Employees have the following responsibilities:
 - (i) To take whatever steps are necessary to resolve any medical/behavioral problems that are affecting job performance.
 - (ii) To accept personal responsibility for work performance and to seek assistance if outside help is necessary to overcome problems that interfere with job performance. However, regardless of an employee's involvement, noninvolvement, or promise of involvement with the EAP, the employees remain accountable to their supervisors for resolving performance discrepancies.
 - (iii) To provide medical clarification from a physician when required by elected officials/appointing authorities and/or managers because of a concern that the employee is not fit for duty. Employees may request that the EAP administer this clarification process and screen from physician reports any confidential information not relevant to job performance or safety issues.

7-17 Montgomery County Commission Policy on Smoking

1. Purpose:

- a) To change the current policy to comply with the State of Alabama's New Smoking Law, the Alabama Clean Indoor Act (Act No. 2003-314). Montgomery County is dedicated to providing a smoke-free healthy, comfortable and productive work environment for

employees.

2. Effective Date:

- a) The effective date of this policy is May 3, 2010.

3. General Policy:

- a) Montgomery County employees are a most valuable resource and their health and safety is therefore a serious concern. The County intends to provide a safe and efficient working environment for its employees and as a result, will enforce a "Smoke-Free" facilities policy that protects the health, safety, and well-being of its employees.

The United States Surgeon General, in his 2006 report on Involuntary Smoking, concluded:

- Involuntary Smoking is a cause of disease, including lung cancer, in healthy non-smokers;
- The simple separation of smokers and non-smokers within the same air space may reduce, but does not eliminate, the exposure of non-smokers to secondhand smoke.

In light of these findings, the Montgomery County Commission shall be entirely smoke-free. Smoking will be strictly prohibited within company buildings, including offices, hallways, waiting rooms, restrooms, lunchrooms, elevators, meeting rooms, covered patios, covered parking decks and all community work areas. This policy applies to all employees, clients, contractors and visitors.

It is the intention of this policy to ban smoking in all County buildings, whether owned or leased, and all County vehicles, whether owned or leased by the County. This ban applies to all who work in or use these facilities or vehicles. While Montgomery County has no intention of invading the private lives of its employees, smoking will not be allowed in and near Montgomery County buildings.

Smoking will not be permitted within fifty (50) feet of exits/entrances or enclosed areas of these County buildings to ensure that secondhand smoke does not enter the area through entrances, windows, ventilation systems, or any other means.

Smoking in private offices will not be permitted (and no one is exempt) as this could adversely affect performance, employee safety and efficiency on the job of a non-smoker working in the area. Employees who smoke and would like to take the opportunity to quit are invited to participate in Montgomery County's cessation program. Any violations of this policy will be addressed through standard disciplinary procedures.

DIVISION 2 - CLASSES OF COUNTY EMPLOYEES

7-18 Definition

There are three classes of County employees: **Classified**, unclassified, and temporary. These are defined as follows:

1. Classified employees are those employees who occupy permanent jobs authorized by the Montgomery County Commission and the City-County Personnel Board under the provisions

of the Montgomery City-County Merit System.

2. Unclassified employees are those who serve at the pleasure of certain **elected** officials. These positions are specifically identified by Section 4 of Act 2280 and Rule IV of the City-County Personnel Board Rules and Regulations.
3. All temporary employees, including contingent or contract workers, must be employed according to rules of temporary appointments. (Act No. 2280, Section 6, Oct. 1, 1971)

There **are four (4)** types of temporary employees/appointments:

- a. Recreational aids and those employees who occupy temporary **service maintenance worker** positions approved by the County Commission to satisfy a temporary, seasonal or casual need for a specified period of six **(6)** months or less. (Civil Action No. 3708-N, April, 1973 **and the** City-County Personnel **Board** Rules and Regulations).
- b. A temporary appointment of a person meeting the minimum qualifications of the position may be made in the absence of an appropriate employment list to temporarily fill a vacancy in a permanent classified position. Temporary appointments shall be terminated at the end of ninety **(90)** **calendar** days or at such time as an appointment can be made from an eligible register, whichever occurs first. (Act No. 2280, Section 6(c), Oct. 1, 1971). **No person shall receive more than one (1) temporary appointment in any one (1) fiscal year.**
- c. Emergency appointments may be created with the approval of the County Commission to support additional requirements of short duration. These temporary, emergency assignments cannot exceed thirty (30) days. (Act No. 2280, Section 6(c), Oct. 1, 1971).
- d. Any person who is retired under the Employees' Retirement System (ERS) may perform duties in any capacity with any employer participating in the ERS without suspension of his or her retirement allowance provided that (1) the person is not employed in a permanent full-time capacity, (2) the person's compensation from the employer in a calendar year does not exceed the maximum allowable by state law, (Ala. Code § 36-27-8.2) and applicable regulations and policies established by the Retirement Systems of Alabama (RSA) and (3) the retiree is not subject to the "Revolving Door Provision" of the state ethics law (Ala. Code § 36-25-13). During the year in which retirement is effective, the retiree's monthly compensation may not exceed 1/12 of the annual maximum. Retirees who provide services to participating agencies on a contractual basis may be subject to the current earnings limitations. The appointing authority is responsible for compliance with these laws and regulations. The Personnel Director will recommend and the Montgomery City-County Personnel Board will establish the pay rates for appointment of ERS retirees. The initial salary of a person appointed under this provision may not exceed the rate of pay or salary range earned in his/her last classified position prior to retirement. Assignment of the temporary position to a pay rate is based on the work assignments. The elected official/appointing authority will certify to the Personnel Director the type of work to be done. The retiree must be approved by the Personnel Director as qualified to perform this work. Retirees are paid only for hours worked which shall not exceed thirty-nine (39) hours in one (1) week. They do not accrue leave, receive holiday pay or any other benefits of permanent employees.

7-19 Benefits and Status by Class of Employee (P)

Classified employees receive all rights and benefits established by the Merit System and those additional benefits provided by the County Commission beginning with the first day of employment.

Unclassified employees receive only those rights and benefits for the individual position(s) as specified by Legislative Act(s).

Temporary employees are paid on the basis of actual hours worked and are not eligible for any leave benefits, life or health insurance, or retirement benefits. They are paid for holidays if they work the regular work day before and after the holiday.

Part-time employees who competed for the position in accordance with the merit system law are entitled to earn annual and sick leave on the same basis as regular classified employees. These employees are not eligible for life ~~or retirement benefits~~ or for health insurance unless they work over thirty (30) hours per week. They are paid for holidays equivalent to the number of hours they work in a regular tour of duty if they work the workday before and after the holiday.

7-20 Return to Relinquished Classification

a) Any person who has held a classified position in any merit or civil service system within the state of Alabama or within any political subdivision thereof and relinquished that position to accept an appointment to an unclassified position in the same agency shall have the option to return to permanent status in the same merit classification which that person held at the time of appointment provided the employee shall:

- 1) Not have had a break in service exceeding one pay period;
- 2) Not have been subject to any pending disciplinary action at the time of appointment;
- 3) Have served at least ten (10) years in the merit or civil service system at the time of appointment.

b) Any person who returns to a former civil service classification under the provisions of subsection (a) shall enjoy all the benefits to which that person would be entitled had that person remained under the merit system including seniority and pay benefits as though that person had remained in that classification; provided, that the appointed position was an equal or higher position than the classified position previously held. If a person returns to a former classified position no person serving in that classification shall be reduced in classification but reduction if necessary shall be accomplished by attrition. (Ala. Code § 36-26-32.1)

7-21 USERRA

Former employees requesting Veterans reemployment rights pursuant to Title 38, Chapter 43, of the United States Code, and satisfying the conditions of that Act, will be certified as eligible for immediate

reemployment.

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the job rights of individuals who serve in the military from discrimination in employment, including initial employment, reemployment, retention, promotion or any benefit of promotion. According to USERRA regulations, "if an opportunity for promotion, or eligibility for promotion, that the employee missed during service is based on a skills test or examination, then the employer should give him or her a reasonable amount of time to adjust to the employment position and then give the skills test or examination."

DIVISION 3 - CLASSIFICATION PLAN

7-22 Job Classifications

1. Job classifications will be established and maintained for all merit system positions authorized for County departments in accordance with City-County Personnel Rules and **Regulations**. Position classification is an important management responsibility in the assignment of work. Positions are classified by difficulty of duty, level of responsibility, and ability required completing the work. Classification applies to a position, not an employee. A position is defined as a group of current duties and responsibilities assigned or delegated by a competent authority requiring the employment of one person. A position may be full or part-time, temporary or permanent, filled or vacant. It is distinguished from an employee who may at any time be assigned to the position.
2. There are two basic types of classification actions.
 - a) Classification. A management request to evaluate a newly identified group of duties and responsibilities requiring the establishment of a new position.
 - b) Reallocation. A management request to change a position classification because of significant changes in the major duties and responsibilities of a position which may result in the upgrading or downgrading of a position, or placing it in a different category. When a position has been reallocated, incumbent employees are reclassified to the new classification.

7-23 Position Classification/Reallocation Procedures

- A. **Elected Official, Appointing Authority and/or Department Head:** Management is responsible for ensuring that manpower requirements are valid and essential for effective and efficient operations. Personnel expenses represent the largest category of County expense, so it is imperative that departments carefully analyze their personnel requirements, minimize staffing, and fully justify additional requirements to the County Commission. If a department assumes an additional workload or new duties, the department head should evaluate the current work force and work processes to see if adjustments can be made to

absorb the additional requirements before requesting additional personnel.

1. Classification: If a manager identifies a group of major duties/responsibilities that cannot be absorbed by the current work force and requires the establishment of a new position, Montgomery County Commission Form 100 (see Appendix A) must be completed to begin the classification process for the position. Each question should be answered in as much detail as possible. Additional sheets, as required, may be attached to Form 100. Each attachment is to be numbered, and the total attachments noted on the Form 100. The authority to sign Form 100 cannot be delegated. It must be signed by the **elected official/appointing authority** as it is a certification that the work identified on Form 100 cannot be completed by the current staff, necessitates the establishment of a new position, and requires the expenditure of additional funds. After the justification for establishing a new position has been prepared, Montgomery County Commission Form 100 (see Appendix A) must be completed to properly classify the duties/responsibilities of the position. Form 100 and any attachments are then submitted to the County Commission Office for processing.
 - a) Reallocation: Management must ensure that the major duties and responsibilities assigned to a position are accurately reflected in a position description. Reallocations are required if significant changes have been made to the duties/responsibilities of an established position. If meaningful changes have been made, then it is the manager's responsibility to request reallocation of the position. Reallocation is not to be used to request a pay increase for an employee encumbering a position that has not changed significantly. If reallocation is required, Montgomery County Commission Form 100 must be completed. The authority to sign Form 100 cannot be delegated. It must be signed by the **elected official/appointing authority**. The Form 100 and any attachments are then submitted to the County Commission Office for processing.
2. County Commission Office: Reviews the department request for completeness, assesses the budget requirement, establishes a position file, and forwards the request to the City-County Personnel Office. The request is returned to the department head if it is incomplete or inadequately justified.
3. City-County Personnel Department: Evaluates the request in accordance with applicable laws and regulations. Job analysis provides the basis for all classifications and reallocations. A Personnel Analyst will conduct the analysis with the appointing authority, department head, immediate supervisor and incumbent(s) serving as subject matter experts (SMEs). The department then assigns the proper classification, position title, and salary range; prepares or revises a position description, and obtains approval or disapproval from the City-County Personnel Board. The request, along with the position description, is returned to the County Commission Office.
4. County Commission Office: If the request is not recommended by City-County Personnel or no change was made in class or salary range, the request will be returned to the department head and the position file so noted. If the request is recommended by City-County Personnel, the County Administrator presents it to the County Commission for approval. Once approved by the County Commission, the recommendation is submitted to the Personnel Board for review and approval. A position number (manpower number) is assigned; the Information Systems Department and Payroll Section are notified so appropriate actions may be taken; and the position description is copied, attached to the department's copy of the request, and forwarded to the department head so a fill action

can be initiated.

- a) **Department Head:** The elected official/appointing authority and/or department head must submit City-County Personnel Form 10 if the request was an approved reallocation and the incumbent is non-competitively reclassified. All other actions must follow the instructions for fill actions.

7-24 Flow Chart: Position Classification/Reallocation

1. POSITION is either:
 - a) Newly identified (no such job exists), or
 - b) Already established (it could be encumbered or vacant).
2. DEPARTMENT HEAD
 - a) Requests classification (or reallocation) by initiating a Form 100 (APPENDIX A).
3. COMMISSION OFFICE
 - a) Payroll and Administration review submission for completeness.
 - b) Payroll establishes position files.
 - c) If approved by County Administrator, indicated "Approved" and the date is written out to the right of the Approving Authority/Department Head signature element, the request is sent to City-County Personnel.
4. PERSONNEL DEPARTMENT

In accordance with all applicable laws and guidelines, City-County Personnel will do all or some of the following as appropriate:

 - a) Conduct a job analysis.
 - b) Determine classification.
 - c) Prepare classification description.
 - d) Submit to County Pay Review committee for evaluation.
 - e) Establish a pay grade.
5. COUNTY COMMISSION
 - a) Administrator presents the Form 100 to the Commissioners on the formal agenda for their review and approval.
6. PERSONNEL BOARD
 - a) Personnel Director presents allocation/reallocation package to the Personnel Board.
7. DEPARTMENT HEAD
 - a) If authorized to promote/demote incumbent non-competitively, initiate a Form 10.
 - b) If action must be competitive, initiate Form 102, Position Fill Request (APPENDIX C) to generate a certification list from City-County Personnel.
 - c) Go through the "Position Fill Request" procedures.

7-25 Temporary Positions

Authorizations for temporary positions to satisfy short term requirements must be approved by the County Commission prior to any hiring action. If the job class required is in the classification plan, Forms 100 and 101 should not be submitted. A letter of request, identifying the required class, number, length of time required, and detailed justification should be forwarded to the County Commission Office for presentation to the County Commission at its next meeting. The procedures set forth in County policy in Chapter 7 of this manual entitled "Position Classification/Reallocation Procedures" apply for those temporary requirements for job classifications not in the classification plan.

DIVISION 4 - RECRUITMENT AND EMPLOYMENT

7-26 Recruitment and Employment - General

Recruitment and employment of County employees will be in accordance with Act 2280 Merit System rules for classified employees, appropriate Legislative Acts for unclassified employees, and City-County Personnel Rules and Regulations.

7-27 Personnel Authorizations

Each department will have positions authorized by classification in accordance with the classification plan or job positions for elected officials and unclassified positions as approved by the County Commission and City-County Personnel Board. The County annual budget will specify the positions authorized for the fiscal year. Changes in these authorizations must be individually requested in accordance with procedures in Division 3, this chapter. An approved vacant position must exist before any recruitment or employment action is initiated.

7-28 Waiting Period for Filling Vacated Positions

A position vacated by retirement or separation must remain vacant for the number of days for which the retired or separated employee collected pay for accumulated annual leave. The effective date of the replacement appointment will be no earlier than the day after the last day of paid annual leave of the retired or separated predecessor and coincide with the beginning of a pay period as specified in County policy in Chapter 7 of this manual entitled "Effective Date of Employment."

A request for special consideration to hire a replacement before the paid annual leave period has expired may be submitted to the County Commission. The request must fully explain and justify the operational necessity for early replacement and be approved prior to initiating employment actions.

7-29 Effective Date of Employment

The effective date of employment for all new employees and internal promotions will be the first day of a pay period. Exceptions to this rule must be approved by the County Administrator prior

to the effective date of employment or promotion.

7-30 Beginning Salary

1. The minimum rate of pay (Step A) for the position class will be paid on all original appointments. Exceptions to this rule will be fully justified in writing and must receive County Commission and City- County Personnel approval prior to the effective date of employment. (City-County Personnel Rules and Regulations)
2. The rate for an employee being promoted will be the minimum step for the pay range of the new position if this step is at least a full step higher than the employee's old pay rate. If the first step of the new pay grade is not at least a full step higher than the employee's old salary, the employee is placed on the step in the pay grade that is a full step higher.
3. The pay for an individual hired on re-employment as discussed in this chapter will be one step below the last salary step held prior to separation, but not less than the lowest step for the job class. (City-County Personnel Rules and Regulations)
4. The rate of pay of an employee reclassified to another classification with a higher pay range will be determined in the same manner as a promotion as set forth above in subsection 2 regarding salaries upon promotion.
5. The pay of an employee whose rate of pay is changed by a pay plan revision will be determined by the rules as established in City-County Personnel Rules and Regulations.

7-31 Provisional Appointment

Employees mandated by law, regulation, or policy to meet specific criteria in order to be licensed by a regulatory or other authority to perform the duties of a certain position, and who have not already satisfied these criteria, will be appointed provisionally contingent upon successful completion of all legal requirements for the position. Time spent in provisional status does not count toward completion of the required probationary period. A provisional employee may be terminated at any time without recourse. Notice of the reason for termination must be given to the employee and the Personnel Director. Employees in provisional status will receive all the benefits of a probationary employee.

7-32 Probationary Period

Except as otherwise provided herein, all original and promotional appointments are for a probationary period of six (6) months, which period may not be extended beyond six (6) months. Service maintenance workers, recreation aides and library pages have a probationary period of two (2) months. This period is part of the examination process to observe an employee's work performance and adjustment to the new job. An appointing authority may reject an employee at any time during this period. Notification of the reason for removal must be given to the employee and Personnel Director. The employee does not have a right of appeal or right to a hearing on any matter. If an employee is promoted to a higher class and is found unsuited for the work at the new level during the first six (6) months, the employee shall be reinstated to the previous position unless disciplinary action is initiated and the employee is discharged in accordance with Personnel Board Rules and Regulations (Use Per Form 38.). An employee may not be promoted while in probationary status. If not removed during the probationary period, the

employee shall be deemed to have permanent status in the classified service.

7-33 Reemployment

Employees having permanent status who are involuntarily separated from the service by reason of shortage of work or funds, changes in organization, or other reasons not involving fault, delinquency or violation on their part shall at the time of the separation be placed on the reemployment list. A former or retired employee who voluntarily separated in good standing may be considered for reemployment and upon the employee's request, his/her name shall be placed on the reemployment list. A former employee may be reemployed at the same step held prior to separation. Anniversary date is reinstated and does not change. Any former or retired employee who is reemployed more than two (2) years from the date of separation will be required to successfully complete a six (6) months probationary period. The action may be effected on a completed Form 5 or Form 10 which is submitted to the County Commission and processed in accordance with the procedures for a fill action.

Re-employed County employees may repay retirement system accumulated contributions in accordance with policy and procedures in Chapter 7 of this manual.

7-34 Fill Actions for Classified Positions

A request for fill action may be submitted when an authorized classified position vacancy exists. A County Commission Form 102 (see Appendix C) will be completed and signed by the appointing authority and forwarded to the County Commission Office. This initiates the recruitment and employment process as follows:

1. Department. Identifies the requirement and recommends recruitment area by completing the heading and item 1 on County Commission Form 102. The position title must be the title as specified in the classification plan. The position number will be entered by the County Commission Office; however, if it is a replacement fill action, the name of the employee being replaced should be reflected, i.e., replacing Mary T. Jones. The proposed effective date must take into consideration the requirements of County policies in Chapter 7 of this manual entitled "Waiting Period for Filling Vacated Positions" and "Effective Date of Employment." Serious consideration must be given on this item to assure honest personnel practices are followed. The pay grade should include the salary and must correspond to Step A of the pay grade for the position title identified in Item 1, unless special approval has been received for a higher salary step. The Form 102 will be signed by the appointing authority or department head. One copy of the form will be sent to the County Commission Office.
2. County Commission Office. Reviews the request for completeness, checks to assure request is for authorized vacancy, reviews for funds, establishes position file, County Commissioners vote to approve, obtains County Administrator's signature as funding authority, and forwards to City-County Personnel. If the request is incomplete or administratively declined due to funding, it will be returned to the department head.
3. City-County Personnel. The Personnel Department reviews the request for fill action and announces the vacancy, if applicable; rates and ranks applicants/eligible's in accordance with established procedures, rules, laws, and regulations; and certifies the applicants/eligible. The

certificate, Form 5 (see Appendix D), along with any other forms and attachments, is returned to the County Department.

4. Department:

- a) The selection of personnel is an extremely sensitive and vital management function. It must be accomplished in an orderly, professional manner. The appointing authority/department head may select any one of the eligibles provided on the certificate who he/she feels will best accomplish the job. This selection must be accomplished in accordance with the Montgomery County Commission and City-County Personnel policy of nondiscrimination as set forth in this chapter. Selection may be made either through review of the records or through a personal interview. However, if one candidate is interviewed, all candidates must be interviewed.
- b) Once a selection is made, the completed certificate (Form 5), Montgomery County Commission Personnel Form 102, and other applicable documents are to be returned to the County Commission Office. All forms must be properly completed and signed by the elected official/appointing authority. A Report on Certification, Form 13 (see Appendix E) must be completed on the non-selected candidates who are to be removed from the register due to their own request or reasons which adversely affect their eligibility for the position. Care must be taken on addressing adverse reasons. These must be specific and well documented. If a candidate cannot be contacted by phone, a written notification using certified mail, return receipt requested, will be sent to the last known address. If the individual does not respond by the date/time specified in the correspondence (usually not more than two weeks) they may be considered non-responsive. This should be reflected on the Form 13 and a copy of the letter attached. A Form 13 is required only for those candidates who are to be removed from the eligible register.
- c) County Commission Office. Upon receipt of the completed documents identifying the selectee, the forms/documents are reviewed for accuracy, completeness, and funding availability. If the action is approved, the documents are sent to City-County Personnel through Payroll. If the file is incomplete, inaccurate, or funding is unavailable, it will be sent to the department head. If hiring action is to be indefinitely canceled due to a shortage of funds, or other reasons, City-County Personnel will be notified by the County Commission Office.
- d) City-County Personnel. Approves/disapproves the hiring of the selectee and notifies the department.

7-35 Fill Action for Temporary Appointments

Temporary appointments to fill a classified position vacancy in accordance with the procedures set forth in this chapter will be processed using Form 3 (see Appendix F). This will be accomplished after it has been determined that City-County Personnel cannot provide a certification list in time to satisfy an urgent need.

During the period of suspension of any employee, or pending any final action on proceedings to review the suspension, demotion, or dismissal of any employee, the vacancy created may be filled by the appointing authority or elected official only by temporary appointment.

7-36 Fill Action for Service Maintenance Workers, Library Pages and Recreation Aides