



# ***Dale County Commission***

**Commission Meeting Minutes – August 11, 2020**

The Dale County Commission convened in a regular session Tuesday, August 11, 2020. The following members were present: Chairman Mark Blankenship; District One Commissioner Chris Carroll; District Two Commissioner Steve McKinnon; District Three Commissioner Charles W. Gary and District; and Four Commissioner Frankie Wilson.

Chairman Blankenship called the meeting to order at 10:20am. Commissioner McKinnon opened with the Pledge of Allegiance. Commissioner Carroll followed with prayer.

## **APPROVED – AGENDA**

Commissioner McKinnon made a motion to approve the agenda with the following changes: 1) remove item #6, County Transportation Plan 2) remove item #8, Reappraisal Budget 3) add additional personnel item 4) add ES&S Electronic Pollbook Agreement 5) Insolvents, Errors, and Taxes in Litigation for 2019 6) County annex request from Judge Filmore.

Commissioner Gary seconded the motion, all voted aye. Motion carried.

## **APPROVED – MEMORANDUM OF WARRANTS**

Commissioner Carroll made a motion to approve the following Memorandum of Warrants:

- Accounts Payable Check Numbers 87533-87640.
- Payroll Check Numbers: 154697-154698.
- Direct Deposit Check Numbers: 35450-35588.

Commissioner McKinnon seconded the motion, all voted aye. Motion carried.

## **APPROVED – JULY 28, 2020 MINUTES**

Commissioner McKinnon made a motion to approve the Minutes of the Commission Meeting on July 28, 2020.

Commissioner Carroll seconded the motion, all voted aye. Motion carried.

**APPROVED – PERSONNEL**

Commissioner Wilson made a motion to approve the following:

Additional Custodian position due to the COVID-19 pandemic. Also, Mr. Helms employment is considered an emergency hire with effective date being 08/05/20:

- Ronald Helms – Maintenance – Custodian - new hire - \$10.50/hr.

Hiring of the of the following with an effective date of 08/26/20:

- Sierra Ann Sentel – Revenue – Revenue Clerk- new hire - \$11.12/hr.

Commissioner Gary seconded the motion, all voted aye. Motion carried.

**APPROVED – DALE CO DEPT OF HUMAN RESOURCES BOARD**

Commissioner Gary made a motion to approve Mr. Jereme Creamer to replace Ms. Wilma McVay on the Dale County Department of Humane Resources Board. Term will expire November 16, 2022.

Commissioner Wilson seconded the motion, all voted aye. Motion carried.

**APPROVED – EQUIPMENT SURPLUS/DONATION – SHERIFF DEPT**

Commissioner McKinnon made a motion to approve to move the following vehicle to surplus and then donate this vehicle to Echo Fire EMS.

- 2010 Ford Explorer Vin#1FMEU7DE6AUA81567, Asset #4053.

Commissioner Wilson seconded the motion, all voted aye. Motion carried.

**TABLED – PUBLIC WORKS BID – BLDG AT PISTOL RANGE TRAINING FACILITY /  
VOTING MACHINE STORAGE - CAPITAL FUND 116 EXPENDITURE**

Commissioner McKinnon made a motion to table any action on the bids that were submitted and opened during the Commission meeting.

Commissioner Carroll seconded the motion, all voted aye. Motion carried.

**APPROVED – PERSONNEL - ADDITION OF POSITION**

Commissioner Carroll made a motion to approve the position of Assistant Maintenance Supervisor being added to the Dale County Classification and Pay Plan. Also, to post this position and to replace a Maintenance Technician position with this position in the current budget. See Exhibit 1.

Commissioner McKinnon seconded the motion, all voted aye. Motion carried.

**APPROVED – ECONOMIC DEVELOPMENT – FUND 110**

Commissioner McKinnon made a motion to approve the Economic Development Incentive Fund Request for M1 Support Services in the amount of \$25,000. Check is to be issued directly to Ozark-Dale County Economic Development as they will oversee compliance. See Exhibit 2.

Commissioner Wilson seconded the motion, all voted aye. Motion carried.

**APPROVED – ELECTRONIC POLLBOOKS AGREEMENT – PROBATE**

Commissioner Gary made a motion to approve the ES&S Electronic Pollbook Sales Order Agreement. See Exhibit 3.

Commissioner McKinnon seconded the motion, all voted aye. Motion carried.

**APPROVED – 2019 INSOLVENTS, ERRORS & TAXES IN LITIGATION – REVENUE**

Commissioner McKinnon made a motion to approve the Insolvents, Errors, and Taxes in Litigation for 2019. See Exhibit 4.

Commissioner Wilson seconded the motion, all voted aye. Motion carried.

**APPROVED – TEMPORARY COURTHOUSE ANNEX ON SEPTEMBER 11, 2020**

Commissioner Gary made a motion to approve the request from Judge William Filmore to approve the Ozark Civic Center as a temporary Courthouse Annex. See Exhibit 5.

Commissioner McKinnon seconded the motion, all voted aye. Motion carried.

**ANNOUNCEMENT – NEXT REGULAR MEETING**

Chairman Blankenship announced that the next regular meeting of the Dale County Commission will be Tuesday, August 25, 2020 at 10:00am.

**ADJOURNMENT: CONFIRMATORY STATEMENT**

Commission Gary made a motion to adjourn the meeting. Commissioner Wilson seconded the motion. All voted aye. Motion carried.

It is hereby ordered the foregoing documents, resolutions, etc., be duly confirmed and entered into the minutes of the Dale County Commission as its official actions.



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**Mark Blankenship, Commission Chairman**

## **Assistant Maintenance Supervisor**

### **Grade X**

<b>Division</b>	<b>Department</b>	<b>Location</b>
Maintenance	County Commission	Dale County Commission

### **Reports To**

Maintenance Supervisor

### **Job Summary**

Primarily responsible for the performance of the most complex maintenance functions to buildings, grounds, and equipment owned and operated by the Dale County Commission. Directs and supervises assigned personnel in function performance and assists Maintenance Supervisor in supervisory role in his absence and/or at his direction.

### **Duties and Responsibilities**

1. Assists Maintenance Supervisor in planning and carrying out preventive maintenance and regular repair for buildings and fixtures and other county property.
2. Assists Maintenance Supervisor in supervision of Maintenance Technicians and Custodians.
3. Assists Maintenance Supervisor in writing specifications for contractors and equipment.
4. Assists Maintenance Supervisor to independently perform a wide range of building and grounds repair and maintenance functions, calling for physical exertion frequently.
5. Repairs or replaces lights, ballast, fixtures, wires, motors, timers, receptacles, switches and bathroom fans in all building maintained by the County
6. Runs conduit and pulls wires and sets timer for outside light.
7. Maintains the heating and cooling systems in all buildings maintained by the County.
8. Assists Maintenance Supervisor in providing general maintenance in all buildings and grounds maintained by the County.
9. Other duties as assigned.

## **Assistant Maintenance Supervisor**

### **Supervisory Responsibilities**

Directly supervises the activities of maintenance personnel assigned including responsibility of seeing that tasks assigned are completed satisfactorily in a timely manner.

1. Aids in the training of assigned personnel to increase proficiency in assigned jobs and acquisition of new skills.
2. Assists the Maintenance Supervisor in general management duties, as requested, and acts in his behalf when he is away at his discretion.
3. Reports any and all unsafe and unsatisfactory conditions existing within assigned work areas.

### **Physical Demands**

**Standing**

**Walking**

**Sitting**

**Stooping, Kneeling, Crouching, Climbing or Balancing**

**Use Hands to Finger, Handle, Reaching with Hands and Arms**

**Tasting or Talking or Hearing**

**Lifting Up to 10lbs Up to 25lbs Up to 50lbs Up to 100lbs More than**

**Vision Close Vision Distance Vision Depth Perception Ability to Adjust**

**Color Vision Peripheral Vision No Special Vision Requirements**

### **Specific physical duties**

- See well enough to read regular print and numbers. Hear well enough to converse with and understand others.
- Speak well enough to be understood by others. Body movement or mobility to bend, lift, twist, and stretch.
- Strength to lift heavy packages, move office furniture, and perform plumbing duties.

**Noise Very Quiet Quiet Moderate Loud Noise Very Loud**

**Specific Noise Duties**

## **Assistant Maintenance Supervisor**

### **Comments**

- Willing to work overtime when needed.
- Willing to wear appropriate safety attire.

### **Job Specifications**

#### **Education**

High School Diploma or equivalent.

#### **Work Experience**

Have a minimum of five years' experience in general building and grounds maintenance and repair including HVAC equipment.

#### **Licenses**

- Valid Alabama driver's license.
- Must be insurable.

#### **Preferences**

#### **Date**

## **Economic Development Incentive Fund Request**

City/Town: Fort Rucker

Project Short Description: Incentive Request in Support of M1 Support Services

Description of Potential Impact: This project will result in improved workforce outcomes for a vital employer of Dale county citizens. This project provides an economic development incentive that directly results in providing 100+ high-wage jobs to Dale county citizens and a total investment of \$75,000.

Requested Amount: \$25,000

Percentage of Total Budget: 33%

State Contribution to the Project: \$25,000

Percentage of Budget: 33%

Company Investment in the Project: \$25,000

Percentage of Budget: 33%

**Total Project Budget: \$75,000**

Project Description:

M1 Support Services respectfully requests funding to co-develop a curriculum in partnership with the Alabama Office of Apprenticeships and the Alabama Aviation College. The program will be designed to upskill the incumbent workforce and prepare an incoming workforce to become qualified employees. Given that M1 is the preferred and primary employer of Ozark Alabama Aviation College graduates and provides an excellent wage for many Dale county citizens, this project will result in increased high-wage job opportunities for Dale County citizens.

Contribution of M1 Support Services to the local economy and the Alabama economy:

- M1 employs approximately 3,800 employees
- The average hourly wage for majority of workforce is \$34/hour (Aviation Maintenance Technician)
- M1 invests \$4.2M in annual training / workforce development
- Percent M1 Contract Value to Alabama economic output = 25%
- M1 contribution to Ft Rucker total economic output impact = 34%
- M1 contribution to state and local taxes = 14%

Project Partners: Alabama Office of Apprenticeships, Alabama Aviation College, Dale County, Company, ODEC





Maintaining voter confidence. Enhancing the voter experience.

## Dale County, Alabama Electronic Pollbook Sales Order Agreement

**Purchase Solution Includes:**

Description	UOM	Qty	Unit Price	Total Price
<b>ExpressPoll Tablet With Stand:</b>				
ExpressPoll System including 10" Tablet, Stand, Integrated Barcode Reader, Carrying Case, Mobile Device Management and ExpressPoll Software Application	Each	46	\$1,025.00	\$47,150.00
<b>ExpressPoll External Printer Options:</b>				
DYMO 450 Turbo Printer with Power Supply/Cord and USB Cable	Each	10	\$130.00	\$1,300.00
DYMO Thermal Paper Rolls - 300 ft	Each	10	\$7.00	\$70.00
<b>Other:</b>				
TP-Link Wireless Router (For devices in one location to communicate with one another)	Each	14	\$50.00	\$700.00
<b>Implementation Services:</b>				
Acceptance Testing	Event	1	\$3,910.00	\$3,910.00
Pollbook Software Training	Day	1	\$1,700.00	\$1,700.00
Shipping (ExpressPoll Hardware & Software)	Per Unit	46	\$20.00	\$920.00
One-Year Hardware and Software Warranty	N/A			Included
<b>Order Total</b>				<b>\$55,750.00</b>

**Payment Terms:**

\$13,937.50 Due within thirty (30) calendar days of contract execution.

\$41,812.50 Due within thirty (30) calendar days of delivery of ExpressPoll Hardware and/or ExpressPoll Software.

**Annual Post-Warranty Maintenance and Support Fees  
(Fees are Based Upon a 3-Year Customer Commitment to Subscribe to the Following Services)**

**PollBook Software:**

ExpressPoll Software License and Maintenance and Support Fee - Year 1	Per Unit	46	\$125.00	\$5,750.00
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Note: Annual Software License, Hosting, and Maintenance and Support fees of \$5,750.00 will be invoiced 90-days prior to beginning of the post-warranty period, 100% of invoice total due within 30 calendar days of invoice date.

The parties hereby agree that this Sales Order and the ExpressPoll Sales Order Agreement General Terms, attached hereto and fully incorporated herein by this reference, (collectively, the "Agreement") represents a binding agreement between ES&S and Customer for the purchase of ExpressPoll System products and services. Further, the undersigned Customer hereby agrees to purchase such ExpressPoll products and services from ES&S as set forth herein. The undersigned Customer hereby agrees to the ExpressPoll System Sales Order Agreement General Terms and acknowledges that he or she has read the entire Agreement, understands it and fully intends to be bound by it. The undersigned Customer hereby certifies that: 1) sufficient funds are available for any of this purchase that exceeds my allocation of state and/or federal funding; and 2) any amount not funded by state and/or federal funds has been authorized and appropriated for this purchase. As of the date of the signature below, the undersigned Customer has full power and authority to enter into and perform this Agreement, and has been properly authorized to execute and deliver this Agreement on behalf of the Customer as set forth above.

Richard J. Jablonski 08/12/2020  
ES&S Signature Date

Richard J. Jablonski  
Print Name  
VP of Finance  
Title

Mark Blankenship 8/11/20  
Customer Signature Date

Mark Blankenship  
Print Name  
Chairman  
Title

Contact Person	Honrl. Sharon Michalic
Address (no PO box)	1 Court Square
City	Ozark
State/Province	AL
Zip	36361
Phone Number	(334) 774-2754

## ELECTRONIC POLLBOOK GENERAL TERMS

1. **Purchase/License Terms.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell and/or license to Customer and Customer agrees to purchase and/or license from ES&S, the Equipment, ES&S Firmware and ES&S Software described on the attached Electronic Pollbook Sales Order ("Sales Order"). The ES&S Firmware and ES&S Software are collectively referred to hereinafter as the "ES&S Software." The payment terms for the Equipment and ES&S Software are set forth on the attached Sales Order. Title to the Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on the Sales Order for the Equipment. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the Equipment.

2. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer a nonexclusive, nontransferable license for its bona fide full time, part time and temporary employees to use the ES&S Software described on the Sales Order, and related Documentation in the Jurisdiction while Customer is using the Equipment and ES&S Software during the Initial License Term or any License Renewal Term as defined in Section 4 below. The ES&S Software described in this Section 2 are ES&S proprietary software products. The license allows Customer to use the ES&S Software (in object code only) and the Documentation, in the course of operating the Equipment and solely for the purposes of managing the electronic poll book voter lists and voter registration process at each polling location in Customer's jurisdiction.

3. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software; or

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

d. Cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except for finished ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark or patent).

4. **Term of License.** The license granted in Section 2 shall commence upon the delivery of the ES&S

Software described in Section 2 and shall continue for a one-year period (the "Initial License Term"). Upon expiration of the Initial License Term, the license shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the Sales Order. The license terms for any License Renewal Term shall be as set forth on Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 2 or 3 with respect to, such license. Upon the termination of the license granted in Section 2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

5. **Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule solely defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of third party items required to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S may charge Customer at its then-current rates to (i) install the Updates; (ii) train Customer on Updates, if such training is requested by Customer; or (iii) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Customer shall pay ES&S for any Update which is specific to Customer or required due to a change in state or local law.

6. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the Equipment and ES&S Software sold and licensed under this Agreement will comply with all applicable requirements of state election laws and regulations that are mandatory and effective as of the Effective Date set forth on the Sales Order and, if required, will have been certified by the appropriate state authorities for use in the Customer's state. ES&S further warrants that during the Warranty Period and thereafter so long as Customer is subscribing and paying for ES&S Software License, Maintenance and Support Services, the ES&S Software shall be maintained or upgraded by ES&S in such a way as to remain compliant with all applicable state election laws and regulations. "Maintained or upgraded" shall mean only such changes to individual items of the Software (but not Equipment) as are technologically feasible and commercially reasonable. Customer

shall be solely responsible for the cost of any replacements, retrofits or modifications to the Equipment contracted for herein that may be developed and offered by ES&S in order for such Equipment to remain compliant with applicable laws and regulations. Customer shall also be solely responsible for the cost of any third-party items that are required in order for the Equipment and/or Software to remain compliant with applicable laws and regulations.

7. **Delivery; Risk of Loss.** The Estimated Delivery Dates are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement because of delays in executing this Agreement, changes requested by Customer, product availability and other events outside of ES&S's control. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Equipment and ES&S Software and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement for ES&S Equipment and Software have been paid by Customer.

8. **Warranty.**

a. **Equipment/ Software.** ES&S warrants that for a 1-year period (the "Warranty Period"), it will repair or replace any component of the Equipment or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. Any repaired or replaced item of Equipment or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the Equipment or ES&S Software will become the property of ES&S. ES&S shall not be responsible for the repair or replacement of (i) consumable parts, such as batteries or protective coatings that are designed to diminish over time, (ii) cosmetic damage, including, but not limited to, screen cracks, scratches, dents and broken plastic or (iii) defects caused by normal wear and tear. All Equipment warranty services shall be provided at ES&S' designated location. This warranty is effective provided that (i) Customer notifies ES&S within three (3) business days of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (ii) the Equipment or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (iii) the Equipment or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, liquid contact or use which is not in accordance with instructions or specifications furnished by ES&S or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (iv)

Customer has installed and is using the most recent Update provided to it by ES&S. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. Upon the expiration of the Warranty Period, the Customer shall be entitled to receive the Software Maintenance and Support Services described on Exhibit A, upon the payment of the applicable fees for such service.

b. **System.** ES&S warrants that the Equipment and ES&S Software will operate in conjunction with the third party items during the Warranty Period, provided that (i) Customer is using third party items which have been approved by ES&S in writing for use with the Equipment and ES&S Software, (ii) Customer has installed and is using the most recent Update provided to it by ES&S, and (iii) the third party items are performing in accordance with their own specifications and documentation in all material respects and are not defective in material or workmanship. In the event of a breach of this warranty, ES&S will repair or replace the item of Equipment or ES&S Software that is causing such breach to occur. Customer acknowledges that ES&S has merely purchased the third-party items for resale or rental to Customer, and that the proprietary and intellectual property rights to the third-party items are owned by parties other than ES&S ("Third Parties"). Customer further acknowledges that except for the payment to ES&S for the third-party items, all of its rights and obligations with respect thereto flow from and to the Third Parties.

c. **Exclusive Remedies, IN THE EVENT OF A BREACH OF SUBSECTIONS 8(a) or 8(b), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTIONS, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

9. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the Equipment or ES&S Software; or (b) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent Update provided to it

by ES&S or (z) Customer's election not to receive, or to terminate, the Software Maintenance and Support Services.

10. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall not cause or permit the adaptation, conversion, reverse engineering, disassembly or decompilation of any of the ES&S Software. Further, Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the Equipment, the Software, the Documentation and training materials that are provided, and all permitted copies of the foregoing.

11. **Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

12. **Term: Termination.** This Agreement is made as of the date it is executed by the last of the parties named on the Sales Order (the "Effective Date"). The parties acknowledge and agree that certain of the Exhibits contain separate termination provisions, and that the termination of any Exhibit shall not constitute a termination of any other Exhibit or of the Agreement as a whole. This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within 30 calendar days after it receives written notification thereof from the non-breaching party.

13. **Assignment.** Except in the case of a reorganization of the assets or operation of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

14. **Notice.** Any notice or other communication required or permitted hereunder shall be in writing, and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by confirmed fax, (d) sent by commercial overnight courier (with written verification of receipt) or (e) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses, email address or fax numbers set forth on such signature page unless other names, addresses or fax numbers are provided by either or both parties in accordance herewith.

15. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 calendar days, ES&S may suspend performance under this Agreement until such amount is paid. Any undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

16. **Additional Services; Changes.** Unless otherwise stated on the Sales Order, Customer shall be responsible for all costs related to services entered into in separate agreements such as, but not limited to, election coding, data conversion costs and network set up and communication. Further, Customer is responsible for equipment and setup, and the costs associated with setup, of the network infrastructure for data transfer and application communication unless specified in separate agreements. In addition, in the event the Customer changes, makes updates, enhances or otherwise modifies the Customer's currently existing voter registration system and such changes, updates, enhancements or modifications results in ES&S having to re-perform any services provided under this Agreement, the Customer shall be responsible for any such additional charges; which shall be invoiced at ES&S' then current rates. Likewise, any Customer requested enhancements, modifications or changes to the Equipment or ES&S Software which ES&S agrees to provide, in its sole discretion, shall be set forth in separate change orders to the Agreement. Customer shall be responsible for the payment of all fees associated with such enhancements, modifications or changes made by ES&S.

17. **Other.** ES&S is providing Equipment, Software and services to a Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the Equipment, Software or services, but shall remain

fully responsible for such performance. The provisions of Sections 1 – 6, 8(c), 9 – 11, 13, 14, 15(b) and this section 17 of these General Terms shall survive the termination of this Agreement, to the extent applicable.

**EXHIBIT A**  
**ES&S SOFTWARE LICENSE AND MAINTENANCE AND SUPPORT SERVICES**

**ARTICLE I**  
**GENERAL**

1. **Term; Termination.** This Exhibit A shall be in effect from the date on which the Initial License Term expires until the first anniversary thereof (the "License Renewal Term"). The License Renewal Term shall automatically renew for an unlimited number of successive one year periods until this Exhibit A is terminated by the first to occur of (a) either party's election to terminate it upon expiration of the License Renewal Term or any renewal thereof, written notice of which election shall be given to the other party at least sixty (60) calendar days prior to such annual expiration date, (b) the date that is thirty (30) calendar days after either party notifies the other that the other has materially breached this Exhibit A, and the breaching party fails to cure such breach within such 30-day period, or (c) the date that is 30 days after Customer fails to pay any amount due ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due ES&S hereunder.

2. **Fees.** In consideration for ES&S' agreement to provide the ES&S Software License and Software Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the Software License and Software Maintenance and Support Fees set forth on Electronic Pollbook Sales Order. The ES&S Software license and Software Maintenance and Support Fees for the License Renewal Term are due on the date of the expiration of the Initial License Term. ES&S may increase the ES&S Software License and Software Maintenance and Support Fees for any renewal period by not more than 5% of the amount of the most recent fees paid by the Customer. The ES&S Software license and Software Maintenance and Support Fees for any renewal period shall be due and payable no later than thirty (30) days prior to the beginning of such renewal period. The ES&S Software license and Software Maintenance and Support Fee shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A or the Agreement. If Customer elects to license and receive Software Maintenance and Support for an Add-On or New Product during the Term or any renewal thereof, ES&S will charge an incremental license and Software Maintenance and Support Fee for such license and services.

**ARTICLE II**  
**License of ES&S Software**

1. **Grant of License.** During the License Renewal Term or any renewal thereof, ES&S shall grant to Customer a nonexclusive, nontransferable license to use the ES&S Software and related Documentation in the Jurisdiction while Customer is using the Equipment and ES&S Software. The license allows Customer to use the ES&S Software (in object code only) and the Documentation, in the course of operating the Equipment and solely for the purposes of managing the electronic poll book voter lists and voter registration process at each polling location in Customer's jurisdiction. The license granted in this does not permit Customer to use or access the source code for the ES&S Software.

2. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software; or

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party, including, but not limited to, any transfer of possession to, or use of the ES&S Software or Documentation by any third party to perform any services for Customer without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

d. Cause or permit any copying, reproduction or printing of any output generated by the ES&S Software in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark or patent).

3. **Term of License.** The license granted in Article II, Section 1 shall commence upon the expiration of the Initial License Term and receipt of payment by ES&S in accordance with Article I, Section 2 of this Exhibit A. ES&S may terminate the license if Customer fails to pay the consideration due for, or breaches Sections 1 or 2 of this Article II with respect to, such license. Upon the termination of the license granted in Section 1 of Article II for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested

by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

**ARTICLE III**  
**ES&S SOFTWARE MAINTENANCE AND SUPPORT SERVICES**

1. **Services Provided.** ES&S shall provide maintenance and support services for the ES&S Software ("Software Maintenance and Support"), to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship.

2. **Updates.** During the Software Maintenance Term and any renewals thereof, ES&S shall continue to provide updates in accordance with any update schedule determined by ES&S.

3. **Reinstatement of ES&S License and Software Maintenance and Support Services.** If the License Renewal Term or any renewal thereof expires without being renewed, Customer may thereafter resume receiving ES&S' license and Software Maintenance and Support Services upon (a) notification to ES&S, and (b) payment of all fees which would have been due to ES&S had the ES&S' License Renewal Term not expired, plus a reinstatement charge.

4. **Conditions.** ES&S shall provide Software Maintenance and Support Services for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (c) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (d) Customer's failure to timely and properly install and use the most recent Update provided to it by ES&S, (e) Customer's failure to notify ES&S within 24 hours after Customer knows of the need for such services, or (f) if Customer is otherwise not in compliance with its obligations under this Agreement. However, such Software Maintenance and Support Services shall not be provided at the Software Maintenance and Support Services Fees outlined in the Sales Order, but shall be provided at the fees to be agreed upon by the parties if and when the need for such Software Maintenance and Support arises.

5. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all ES&S License and Software Maintenance and Services Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Agreement. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered.

**INSOLVENTS, ERRORS AND TAXES IN LITIGATION FOR 2019 AND  
UNCOLLECTED INSOLVENTS AND TAXES IN LITIGATION FOR PREVIOUS YEAR(S)**

**THE STATE OF ALABAMA**

Dale \_\_\_\_\_ County \_\_\_\_\_

BE IT REMEMBERED, That at the meeting of the Board of County Commissioners of said County, held on this 11TH day of August, 2020,

Eleanor Outlaw, Tax Collector of said County, made his report of "Insolvents", "Errors in Assessment" and "Taxes in Litigation" on taxes for the current year 2019, as required by Code of Ala. 1975, Section 40-5-23. And after a careful and rigid examination of said reports by said Board, it was considered and adjudged that said collector be allowed credit on his final settlement with the Comptroller for the following amounts:

Insolvents: State Taxes—General	\$	<u>51.90</u>
Soldier	\$	<u>20.76</u>
School	\$	<u>62.28</u>
Errors in Assessments: State Taxes –General	\$	<u>5038.95</u>
Soldier	\$	<u>2015.58</u>
School	\$	<u>6063.96</u>
Taxes in Litigation: State Taxes—General	\$	<u>87.05</u>
Soldier	\$	<u>34.82</u>
School	\$	<u>104.46</u>

And said Collector has also made his report for final allowance of the uncollected balances of Insolvent Taxes for the previous year 2018, as required by Code of Ala. 1975, Section 40-5-29; and the Board there upon made the following allowances to said Collector of such Insolvent Taxes as he may have been unable to collect, as follows:

State Taxes—General	\$	<u>369.95</u>
Soldier	\$	<u>147.98</u>
School	\$	<u>443.94</u>

And said Collector is also allowed credit for the following taxes in litigation for the previous year(s) which he has been unable to collect as follows:

	General	Soldier	School
<u>2018</u>	\$ <u>35.90</u>	\$ <u>14.36</u>	\$ <u>43.08</u>
<u>2017</u>	\$ <u>10.55</u>	\$ <u>4.22</u>	\$ <u>12.66</u>
<u>2016</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
<u>2015</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>0.00</u>

Given under my hand this 11<sup>th</sup> day of August, 2020

  
 \_\_\_\_\_  
 Presiding Officer

See Code of Ala. 1975, Sections 40-5-23, 40-5-24 and 40-5-25 as to taxes of current year and Sections 40-5-26, 40-5-28 and 40-5-29 as to insolvent taxes and taxes in litigation of previous year(s).



**From:** Mark Blankenship  
**Sent:** Friday, August 7, 2020 7:53 PM  
**To:** Sheila Glaze  
**Subject:** Fwd: Use of Civic Center for organizing juries on Sept 11th

Add to agenda Tuesday please!

Sent from my iPhone

Begin forwarded message:

**From:** William Filmore <[william.filmore@alacourt.gov](mailto:william.filmore@alacourt.gov)>  
**Date:** August 7, 2020 at 4:21:11 PM CDT  
**To:** Mark Blankenship <[bconstructionllc@gmail.com](mailto:bconstructionllc@gmail.com)>  
**Subject:** Use of Civic Center for organizing juries on Sept 11th

Mark:

It has come to my attention that we are going to need the County Commission to designate the Civic Center as a Temporary Courthouse Annex to stay in compliance with the law.

"The County Commission who has the authority to specify an alternative circuit court site, pursuant to Section 11-3-11(a)(1), Ala. Code 1975."

Therefore, I am requesting that the County Commission to approve the Ozark Civic Center to be a temporary Courthouse Annex for September 11, 2020.

We need to get out jury summons on Monday, August 10<sup>th</sup>, so please let me know if there will be any problem with this before we send out summons. Thanks.

Bill



**William H. Filmore**  
**Presiding Circuit Judge**  
**Thirty-Third Judicial Circuit**  
**P.O. Box 2436**  
**Ozark, Alabama 36361**  
**Office: 334.774.8011**  
**Fax: 334.445.0768**