

WHEREAS, since January 1, 1989, the Mobile County Commission ("the County") has, without interruption, levied and collected a privilege or license tax on gross receipts against those selling tangible personal property or operating places of amusement or entertainment and a street deliveries tax ("Gross Receipts and Street Deliveries Tax"), pursuant to Alabama Act 1988-156; and

WHEREAS, the Gross Receipts and Street Deliveries Tax was modeled on and parallel to the tax levied and collected by the City of Mobile, Alabama ("the City"); and

WHEREAS, the resolution levying the tax effective January 1, 1989, entitled Resolution No. 1, has been amended from time to time since its enactment; and

WHEREAS, upon each amendment, the County has re-adopted the entire resolution, for the purpose of maintaining a single document setting out the entire tax levy, and the resolution currently in effect is Resolution No. 13; and

WHEREAS, the County now desires to amend Resolution No. 13 and hereby adopts Resolution No. 14, which resolution shall leave in place the existing resolution without any change except those changes effected by this amendment; and

WHEREAS, the County desires to memorialize its intent upon enacting this amendment;

NOW, THEREFORE, the premises considered, the Mobile County Commission enacts and adopts Resolution No. 14, having an effective date of October 1, 2013, as an amendment to its Resolution No. 13, for the following reasons:

- A. Alabama Act 2012-279, effective October 1, 2013, requires that all penalties and interest assessed by local taxing authorities relating to the failure to pay taxes or file tax returns be assessed according to state law and the rules of the Alabama Department of Revenue, requiring amendment of the provisions of Section Six of Resolution No. 13.
- B. This Resolution No. 14 does not change the nature of the taxes heretofore levied by Resolution No. 13, does not change the subjects of taxation, and does not amend the rates of the taxes levied, which are:

Sales and Use Tax	
General	1.0%
Sales Use Tax -Casual Sales Tax -	
Automotive	0.5%
Sales Tax -	
Operators of Places of Amusement or	
Entertainment	1.0%
Sales and Use Tax -	
Manufacturing Machinery	1.0%
Sales and Use Tax -	
Farm Equipment	1.0%
Leasing or Rental Tax	1.0%
Lodging Tax	2.0%

RESOLUTION NO. 14

AMENDED RESOLUTION AND ORDER LEVYING WITHIN MOBILE COUNTY, ALABAMA, SALES AND USE TAX ON SALES OF TANGIBLE PERSONAL PROPERTY, AGAINST THOSE OPERATING PLACES OF AMUSEMENT, OR ENTERTAINMENT, TAX ON THOSE LEASING, OR RENTING, TANGIBLE PERSONAL PROPERTY, AND TAX ON OPERATORS OF HOTELS, MOTELS, PLACES OF ACCOMMODATION, EFFECTIVE OCTOBER 1, 2013.

BE IT RESOLVED AND ORDERED BY THE COUNTY COMMISSIONERS OF MOBILE COUNTY, ALABAMA, AS FOLLOWS:

SECTION ONE: DEFINITIONS

The following words, terms, and phrases, when used in this resolution and order (except in Section Three hereof, which addresses use tax and sets out definitions) shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

- A. The term "County" shall mean Mobile County, Alabama.
- B. The term "County License Officer" shall mean the Mobile County License Commissioner. As they appear in the

provisions of the Code of Alabama (1975), as amended, incorporated by and through this resolution, references to the "Department of Revenue" shall be construed to be references to the Mobile County License Commissioner or his or her designee.

- C. The definitions set forth in Section 40-23-1, Code of Alabama (1975), as hereafter amended from time to time, shall be applicable to this resolution, except that references to the "State" shall be interpreted to refer to the County, and references to the Department of Revenue shall be interpreted to refer to the County License Officer.
- D. The term "tax year" or "taxable year" means the calendar year.
- E. References to the Alabama State Code are to the Code of Alabama (1975).

**SECTION TWO: LEVY OF SALES TAX WITH RESPECT TO SALES OF
TANGIBLE PERSONAL PROPERTY AND OPERATION OF
PLACES OF AMUSEMENT OR ENTERTAINMENT.**

- A. There is hereby levied within the County, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales or gross receipts, as the case may be, as follows:
 - 1. Sales Tax. A sales tax parallel to the sales tax levied by the State of Alabama pursuant to Section 40-23-2(1), as hereafter amended, in an amount equal to one percent (1%) of the gross proceeds of sales of the business except where a different amount is expressly provided herein.
 - 2. Amusements and Entertainment. A tax upon every person, firm, or corporation engaged, or continuing within the County, in the business of conducting, or operating, places of amusement or entertainment, parallel to the tax levied by the State of Alabama pursuant to Section 40-23-2(2), as hereafter amended, in an amount equal to one percent (1%) of the gross receipts of any such business.

3. Machines for mining, quarrying, compounding, processing, and manufacturing. A tax upon every person, firm, or corporation engaged or continuing within this County in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, parallel to the tax levied by the State of Alabama pursuant to Section 40-23-2(3), as hereafter amended, in an amount equal to one percent (1%) of the gross proceeds of the sale of the machines.
4. Vehicles. A tax upon every person, firm, or corporation engaged or continuing within the County in the business of selling any automotive vehicle or truck trailer, trailer, travel trailer, semi-trailer, motor boat, manufactured home, or house trailer, or mobile home set-up materials and supplies, including, but not limited to steps, blocks, anchoring, cable pipes, and any other materials pertaining thereto, parallel to the tax levied by the State of Alabama, pursuant to Section 40-23-2(4) in an amount equal to one-half of one percent ($\frac{1}{2}\%$) of the gross proceeds of the sale of said automotive vehicle or truck trailer or semi-trailer, and there shall further be paid such additional annual fees set forth in Section 40-23-2(4), as hereafter amended.
5. Casual Sales. A tax upon every person, firm, or corporation purchasing within this County, other than at wholesale, any automotive vehicle, motorboat, truck trailer, trailer, semi-trailer, or travel trailer required to be registered or licensed with the Mobile County License Commissioner from any person, firm, or corporation that is not a licensed dealer engaged in selling automotive vehicles, motorboats, truck trailers, trailers, semi-trailers, or travel trailers parallel to the tax levied by the State of Alabama, pursuant to Section 40-23-101(a), as hereafter amended, in an amount equal to one-half of one percent ($\frac{1}{2}\%$) of the purchase price.
6. Farm Machinery. A tax upon every person, firm, or corporation engaged or continuing within this County in the business of selling at retail agricultural machinery and equipment, a tax parallel to the tax

levied by the State of Alabama pursuant to Section 40-23-37, as hereafter amended, in an amount equal to one percent (1%) of the gross proceeds of the sale thereof.

- B. The sales taxes hereby levied shall adopt and incorporate the provisions of Title 40, Chapter 23, Article 1, Sales Tax, as hereafter amended, including, but not limited to, the exemptions set forth therein, except as otherwise provided in this resolution.

SECTION THREE: LEVY OF USE TAX

- A. Definitions. The following words, terms, and phrases, when used in this Section Three, shall have the meaning ascribed to them in this section.

1. The term "County" shall mean Mobile County, Alabama.
2. The term "County License Officer" shall mean the Mobile County License Commissioner.
- 3.
4. The definitions set forth in Section 40-23-60, shall apply to this Section Three, except that references to the "State" shall be interpreted to refer to the County, and references to the Department of Revenue shall be interpreted to refer to the County License Officer.
5. The term "tax year" or "taxable year" means the calendar year.
6. References to the Alabama State Code are to the Code of Alabama (1975).

- B. Storage, Use, or Consumption of Tangible Personal Property. There is hereby levied and shall be collected within the County an excise tax on the storage, use, or other consumption in the County of tangible personal property, parallel to the use tax levied by the State of Alabama pursuant to Section 40-23-61(a), as hereafter amended, at the rate of one percent (1%) of the sales price of such property or the amount of tax collected by the Seller, whichever is greater.

- C. Machines for Mining, Quarrying, Compounding, Processing, and Manufacturing. There is hereby levied within the

County and shall be collected an excise tax on the storage, use, or other consumption in this County of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, purchased at retail parallel to the tax levied by the State of Alabama pursuant to Section 40-23-61(b), at the rate of one percent (1%) of the sales price of any such machine or the amount of tax collected by the seller, whichever is greater.

- D. Vehicles. There is hereby levied within the County and shall be collected an excise or use tax upon every person, firm, or corporation purchasing outside the **COUNTY**, other than at wholesale, any automotive vehicle, motorboat, truck trailer, trailers, semi-trailers, or travel trailer, required to be registered or licensed with the Mobile County License Commissioner, for use, storage, or other consumption within this County a tax in the amount of one-half of one percent ($\frac{1}{2}\%$) of the purchase price, subject to the provisions of Section 40-23-2.1, as hereafter amended.
- E. Goods Used in the Performance of a Contract in the County. There is hereby levied within the County and shall be collected an excise tax on the classes of tangible personal property, and at the rates imposed on such classes, specified in subsections B., C., and D. of this section, on the storage, use, or other consumption in the performance of a contract in this County of any such tangible personal property, new or used, the tax to be measured by the sales price or the fair and reasonable market value of such tangible personal property when put into use in this County, whichever is less, parallel to the tax levied by the State of Alabama pursuant to Section 40-23-61(e), as hereafter amended.
- F. Farm Machinery. There is hereby levied within the County and shall be collected an excise tax on the storage, use, or other consumption in this County of agricultural machinery or equipment parallel to the tax levied by the State of Alabama pursuant to Section 40-23-63, as hereafter amended, at the rate of one percent (1%).
- G. The use taxes hereby levied shall adopt and incorporate the provisions of Title 40, Chapter 23, Article 2, Use Tax, as hereafter amended, including, but not limited to, the exemptions set forth therein, except as otherwise provided in this resolution.

SECTION FOUR:

**LICENSE TAX ON LESSORS OR RENTERS OF
TANGIBLE PERSONAL PROPERTY**

- A. Definitions. In addition to the definitions contained in Section One of this resolution and order, and, to the extent in conflict with the following, in lieu of such definitions, the following words and phrases shall have the meanings respectively ascribed to them for the purposes of this Section Four:

Gross Proceeds. The value proceeding or accruing from the leasing or rental of tangible personal property, without any deduction on account of the cost of the property so leased or rented, the cost of materials used, labor, or service cost, interest paid or any other expenses whatsoever, and without any deductions on account of loss, but shall not include the gross proceeds accruing from the leasing or renting to another of the same property which is to be leased or rented in a transaction subject to the provisions of this section as long as the lessee in such excluded transaction (who has leased to re-lease) shall not use the same property to its own use; nor shall it include the gross proceeds accruing from any charge in respect to the use of docks and docking facilities furnished for vessels, barges, ships, and other water craft operated on waterways; nor shall it include a transaction whereunder the lessor leases a truck or tractor-trailer or semitrailer with driver furnished for operation over the public roads and highways (such transaction being deemed to constitute a rendition of service and not a "leasing or rental").

Leasing or Rental. A transaction where under the person who owns, or controls the possession of, tangible personal property permits another person in the County to have the possession or use thereof for a consideration and for the duration of a definite or indefinite period of time, without transfer of the title of such property. The detention by the user thereof of freight cars, oxygen and acetylene tanks, and similar property, in respect of which detention a demurrage or per diem charge is made against the user of such property, shall not be deemed to constitute a transaction where under property is leased or rented to another within the meaning of this section.

Tangible Personal Property. Personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance, or other contracts or securities.

- B. Levy. There is hereby levied, in addition to all privilege license taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against each person engaging or continuing in the business of leasing or renting tangible personal property within the County at the rate of one percent (1%) of the gross proceeds derived by the lessor therefrom; provided, that the privilege license tax levied in this section shall not apply to any leasing or rental, as lessor, by the United States of America, this State, or any municipality or county in this State.
- C. All persons subject to the provisions of this Section Four of this resolution and order may pass the tax levied hereunder on to a lessee by adding such tax to the leasing price or otherwise, provided, however, that all such amounts passed on to the lessee shall be included in the gross proceeds derived from the lease of tangible personal property which shall be subject to the privilege or license tax owed by the lessor, consistent with Section 40-12-222(b), as hereafter amended.
- D. Except to the extent that they are inconsistent with the more specific provisions of this Section Four, the provisions of this resolution and order apply to the license tax on lessors or renters of tangible personal property.

**SECTION FIVE: LEVY OF TAX ON OPERATORS OF HOTELS, MOTELS,
PLACES OF ACCOMMODATIONS**

- A. There is hereby imposed, levied, and assessed against every person engaged in the business of operating any hotel, motel, tourist court, tourist cabin, condominium, lodging house, rooming house, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration, in addition to all license taxes heretofore imposed and now existing against them, an additional license tax equal to two (2) per cent of the gross receipts received by each such person from the

renting of rooms, lodgings, or accommodations within the County.

- B. For the purpose of this Section Five, the definitions incorporated from Section 40-23-1, as hereafter amended, pursuant to Section One shall apply, except that the term "gross receipts" shall mean the value proceeding or accruing from the renting of rooms in hotels, motels, tourist courts, tourist cabins, condominiums, lodging houses, rooming houses, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration for periods of less than one hundred eighty (180) continuous days, including any separate charges for televisions, air-conditioning equipment, or other personal property or services furnished in the rooms or lodgings for which a separate charge is made in addition to the charge for the use of the rooms or lodgings, and without any deduction for the cost of the materials used, labor, service cost, interest paid, or any other expenses whatsoever, and without any deductions on account of losses.
- C. All persons against whom the license tax imposed by Section Five is assessed shall, on or before the twentieth day of the month next succeeding the month in which the business is carried on, make a verified report to the County or its designee showing the total gross receipts derived from the renting of rooms, lodgings, or accommodations in such business during the preceding month and shall, at the time of making such report, pay to the County License Officer or his/her designee, the amount of the license tax assessed under this Section Five.
- D. All persons subject to the provisions of this Section Five of this resolution and order may add the tax herein levied to the price of room rentals and collect the same from the renters or guests, but this Section Five, Paragraph D. is not mandatory. However, when such persons collect a sum from a renter or guest that purports to be a tax under this Resolution and Order, whether or not the amount properly arises as a tax hereunder, then any such sum collected shall be paid to the County.
- E. Except to the extent that they are inconsistent with the more specific provisions of this Section Five, the

provisions of this resolution and order apply to the tax on operators of hotels, motels, and places of accommodations.

**SECTION SIX: MAINTENANCE OF RECORDS; DELINQUENT PAYMENTS;
ASSESSMENTS; REFUNDS**

A. Maintenance of Records. Taxes levied under the provisions of this resolution and order, except as otherwise provided, shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues, as set forth in Section 40-23-7, as hereafter amended. In addition, to all other record keeping requirements set out in this Resolution and in those provisions of Title 40, incorporated herein, taxpayers shall keep and maintain an accurate and complete set of records, books, and information, in accordance with Section 40-2A-7(a), as hereafter amended, the terms of which are incorporated herein.

B. Penalties on Account of Failure to File Tax Return or Pay Taxes.

(i) In the event any person required to file a monthly tax return shall fail to file said tax return on or before the twentieth day of the month, determined with regard to any extension of time from filing, there shall be assessed as a penalty the greater of 10 percent of any additional tax required to be paid with the return or fifty dollars (\$50).

(ii) In the event any person required to render taxes shall fail to pay the total taxes due on or before the twentieth day of the month, determined with regard to any extension of time from filing, regardless of whether a return was filed and regardless of whether such return stated the correct amount of taxes due, there shall be added as a penalty one percent of the amount of the tax due if the failure to pay is for not more than one month, with an additional one percent for each additional month or fraction thereof during which failure to pay continues, not exceeding 25 percent in the aggregate. In lieu of the penalty provided in the immediately preceding sentence, for any tax for which a monthly or quarterly return is required, or for which no return is required, the County License Officer shall add a failure to timely pay penalty of 10 percent of the unpaid amount shown

as tax due on the return or the amount stated in the notice and demand.

(iii) The penalties provided in this section are not exclusive and the right is reserved to the County License Officer to assess any penalty outlined in Section 40-2A-11, Alabama Code (1975), in accordance with said statute.

- C. Procedures Governing Entry of Preliminary and Final Assessments; Appeals Therefrom. The County License Officer is authorized to issue preliminary and final assessments in accordance with the procedures followed by the Alabama Department of Revenue pursuant to the Taxpayers' Bill of Rights, Section 40-2A-7(b), as hereafter amended, provided that references to the Department of Revenue and its administrative law division shall be construed as references to the County License Officer or his or her designee, and references to "Montgomery County" shall be construed as references to "Mobile County."
- D. Refunds. Any taxpayer may file a petition for a refund with the County License Officer for any overpayment of tax or other amount erroneously paid to the County, according to the procedures set forth in Section 40-2A-7(c), as hereafter amended, provided that references to the Department of Revenue and its administrative law division shall be construed as references to the County License Officer or his or her designee, and references to "Montgomery County" shall be construed as references to "Mobile County."

SECTION SEVEN: ENFORCEMENT

In addition to all other powers and rights conferred herein, the County and its representatives, including the County License Officer and his or her designees, shall have the same rights, remedies, power, and authority, to administer and enforce collection of the County taxes levied by this resolution, including the right to adopt and implement the same procedures, as would be available to the Alabama Department of Revenue if such taxes were being administered, enforced, and collected by such Department, all as and to the extent authorized by Section 11-3-11.2, including, but not limited to, Title 40, Chapter 29, Enforcement of Tax Laws, as hereafter amended, and Sections 40-2A-10 through 13, as hereafter amended.

SECTION EIGHT: SEVERABILITY

Each and every provision of this resolution and order, including any part of any definition contained herein, is hereby declared to be an independent provision, and the holding of any provision hereof to be void and invalid shall not affect any other provision hereof; and it is hereby declared that the other provisions of this resolution and order would have been enacted regardless of any provision which might have been held invalid.

SECTION NINE: PERMITS FOR DIRECT PAYMENT

- A. Any taxpayer that possesses a direct pay permit issued by the Alabama Department of Revenue shall pay to the County the sales and use taxes and other County taxes pursuant to the direct pay permit in accordance with the rules and regulations promulgated by the Department of Revenue.
- B. In instances where the Mobile County Commission determines that it is practically impossible at the time of purchase of tangible personal property by manufacturers or shipbuilders, for their vendors to determine with any degree of certainty the applicability of the license tax imposed by the provisions of this resolution and order, the said county commission, upon application therefor, may issue a permit to such manufacturer or shipbuilder authorizing the purchase of tangible personal property without the payments to the vendor of the license tax herein imposed, and providing for such manufacturer or shipbuilder to report and pay such licensing measure directly to the County. Said permit shall be issued subject to the following conditions:
 - 1. The holder of such permit shall report such license tax upon forms provided by the County, and shall pay said license tax directly to the County, reporting and paying monthly on or before the 20th day of the month following the month during which such tangible personal property was used for a purpose which would be subject to the license measure herein imposed.
 - 2. The holder of such permit shall be required to keep such books and records as may be necessary to determine such license tax liability, which records shall be subject to examination by the County License Officer, or his or her duly authorized representative.

Said permit shall not be transferable, and may be canceled upon notice by registered mail to the holder thereof.

SECTION TEN: INCREASE OF RATE LEVY

In the event that, by or pursuant to legislative act of the Legislature of the State of Alabama, any portions or percentages of the revenues collected pursuant to the levies made under Sections Two, Three, Four or Five of this resolution and order are diverted to the benefit or use of any governmental entity other than the County without the consent and agreement of the Mobile County Commission given by resolution at a meeting of the said commission, or in the event the County's powers to levy or collect taxes pursuant to any legislation authorizing the taxes levied hereunder are made contingent or conditional upon any such diversion without such consent and agreement, then, in that event, such levies shall be and hereby are increased as of the date of said diversion, without further action on the part of the Mobile County Commission, by one-half of one percent ($\frac{1}{2}\%$) of gross proceeds or gross receipts otherwise subject to the taxes levied herein.

**SECTION ELEVEN: VIOLATOR MAY BE RESTRAINED FROM CONTINUING
IN BUSINESS**

Any taxpayer who shall violate any of the provisions of this resolution may be restrained from continuing in business, and the proper prosecution shall be instituted in the name of the County by its attorneys under their direction until such person shall have complied with the provisions of this resolution.

SECTION TWELVE: DISCOUNTS AND INTEREST

For taxes levied and collected pursuant to this resolution, the County does not allow any discounts on taxes it collects pursuant to this resolution. For taxes levied and collected pursuant to this resolution, the County neither charges interest on delinquent payments nor pays interest on refunds.

SECTION THIRTEEN: PAYMENT OF PROCEEDS

The County License Officer shall pay over to the Treasurer of Mobile County all monies derived as a result of this resolution and order; and the said treasurer shall deposit all monies received in the General Operating Fund of the County.

SECTION FOURTEEN: CUMULATIVE EFFECT

This resolution and order shall not be construed to repeal any other resolution or order of the County, and this resolution and order shall be held to be cumulative, and the amount of the taxes and penalties herein levied shall be in addition to the amounts of all other license taxes and penalties imposed by the County, provided, however, that this Resolution No. 14 is adopted as a substitute for and in lieu of Resolution No. 13, and repeals inconsistent provisions therein, as of its effective date.

SECTION FIFTEEN: EFFECTIVE DATE


This resolution and order shall become effective on the 1st day of October, 2013. This resolution and order shall remain in full force and effect and apply to the remaining months of the year 2013 and each calendar year thereafter from year to year.

STATE OF ALABAMA)

COUNTY OF MOBILE)

I, John Pafenbach, Administrator, Mobile County Commission, hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Mobile County Commission in its regular meeting held September 23, 2013.

IN WITNESS WHEREOF, I hereunto set my hand and the official Seal of the Mobile County Commission on this the 23rd day of September 2013.



John Pafenbach
County Administrator