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VIA FIRST CLASS MAIL AND ELECTRONIC MAIL

Thomas Albritton
Alabama Ethics Commission
Post Office Box 4840
Montgomery, Alabama 36130-4840

DRAFT

RE: Request for Ethics Opinion Regarding the Use of County
Vehicles by County Commissioners and Officials/Employees

Dear Thomas:

I am writing this letter as County Attorney for Baldwin County on behalf of the Baldwin County Commission. The purpose of this letter is to request an opinion on issues relating to the use of County-owned vehicles by Baldwin County officials and employees.

First, Baldwin County Commissioners are available to receive calls and requests for their services related to official duties at all times, and Commissioners perform work at Commission offices, travel around the County and attend numerous meetings, conferences and events related to the performance of their official duties. Baldwin County is a very large County, and Commissioners and employees must often commute fairly significant distances while tending to County business. In order to provide needed transportation, Commissioners may be assigned County-owned vehicles which are used for official business, and the vehicles may be taken home. Due to time constraints and the requirements of their official duties, it is sometimes necessary for Commissioners to take care of personal business while traveling on official business as opposed to returning home to obtain a personal vehicle. For example, at least one Baldwin County Commissioner owns property where he runs his personal business which is on the general route between the regular meeting place in Bay Minette, Alabama, and his residence, which is some distance away given the size of Baldwin County. Under the circumstances and in order to minimize travel time and lost productivity, a Commissioner needs to be able to tend to personal business while in route on County business or traveling to and from home, as opposed to taking the time and expense to drive to his/her residence and obtain a personal vehicle to tend to personal business. Additionally, there are other County officers/employees who are assigned a County-owned vehicle to perform their official duties,

and it would minimize travel time and lost productivity if those officials and employees could use such vehicles to make interim personal stops or tend to personal business so long as those stops are on the general route of travel on County business or travel to or from the officers/employees' personal residences.

Second, there are some Baldwin County employees whose duties may require them to travel to different parts of the County to perform their job duties. Baldwin County has offices in several locations throughout the County, with some of those locations being miles apart. Some employees may live in one part of the County and work in another, and on certain days, their duties will require them to travel to an entirely different part of the County. Some employees' residences may lie between his or her assigned County office and the location where the employee may be required to work for the day, requiring the employee to drive to the employee's permanent office, pick up a County vehicle and then backtrack to the assigned job site for the day. Baldwin County desires to minimize the excessive employee travel and lost productivity by allowing certain employees to drive County-owned vehicles to and from their residences, when deemed necessary.

At this time, the Baldwin County Vehicle Policy limits the personal use of County vehicles. Depending upon the response to this request for Ethics Opinion, the County Commission is considering amending the policy to allow for limited personal use of County vehicles consistent with the ethics rules.

Section 36-25-5(a) and (c) provide:

(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.

* * *

(c) No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy. Provided, however, nothing in this subsection shall be deemed to limit or otherwise prohibit communication between public officials or public employees and eleemosynary or membership

organizations or such organizations communicating with public officials or public employees.

Question 1. May Baldwin County Commissioners use County-owned and assigned vehicles to stop at their personal business offices or property or take care of personal business while traveling on County business or traveling to and from their residence as long as the stops and/or office visits are either on the general route or require only minimal deviation from the route?

Question 2. May other county officials or employees use County-owned and assigned vehicles to stop to take care of personal business while traveling on County business or traveling to and from their residence as long as the stops are either on the general route or require only minimal deviation from the route?

Question 3. May Baldwin County employees who are required to travel to different areas around Baldwin County be authorized to drive County-owned vehicles to their homes when they must travel to areas of the County which are away from their County assigned office?

Your assistance in answering these questions will be greatly appreciated. If you need any additional information, or if we can be of any further assistance, please let us know.

Yours very truly,

David J. Conner
For the Firm