

ORDINANCE 22-2568

ORDINANCE AUTHORIZING THE LEASE OF UNNEEDED MUNICIPAL REAL PROPERTY OF THE CITY OF HOOVER, ALABAMA

WHEREAS, the City of Hoover, Alabama leased the following property to the Alabama Department of Revenue (“ALDOR”) for a period of five (5) years from 12:01 a.m. local time on the 1st day of August, 2017 until midnight on the 31st day of July, 2022:

Office space at the City of Hoover Public Safety Center, located at 2020 Valleydale Road, Hoover, Alabama 35244 consisting of approximately 18,678 including office and storage space (the “Property”);

WHEREAS, the lease gave ALDOR an option to renew the lease at the end of the term for an additional five (5) year period with a \$1.50 increase in the cost of square footage;

WHEREAS, the monthly rent for the second five year period of the lease will be \$25,682.25 and the annual rent shall be \$308,187.00;

WHEREAS, ALDOR has sent a written request to the City requesting to renew the lease on the Property;

WHEREAS, ALDOR desires to add certain amendments to the lease such that lease as amended is substantially in the form set forth in Exhibit A hereto; and

WHEREAS, the City Council of the City of Hoover desires to extend the lease for an additional five (5) year period and agrees to the amendments requested by ALDOR.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Hoover, in regular meeting duly assembled, a quorum being present, as follows:

SECTION 1. It is hereby established and declared that the Property is not currently needed for public or municipal purposes and will not be needed by the City for municipal purposes for the next five (5) calendar years.

SECTION 2. Having received ALDOR’s written request to renew the lease on the Property, the City Council hereby declares it to be in the best interest of the public and the City of Hoover, Alabama to lease such real property to ADOR for a period of (5) five years with an effective date of 12:01 a.m. on August 1, 2022 and ending at midnight on July 31, 2027 with the terms and conditions as contained in Exhibit A. This use is a public purpose. It is further declared to be in the best interest of the public and the City of Hoover to lease the real property to ADOR at a rate equal to fair market value for the term of the lease, in which the monthly rent for the term shall be \$25,682.25 and the annual rent shall be \$308,187.00.

SECTION 3. It is also hereby established and declared that a public purpose is served by ADOR leasing the municipal property described in Section 1 and that the leasing of this municipal

property confers a direct public benefit in furtherance of the public health, safety and welfare. ADOR operates a taxpayer service center in the City of Hoover and provides vital services to the residents of the City.

SECTION 4. Pursuant to the authority granted by Section 11-47-21 of the *Code of Alabama* (1975), the Mayor of the City of Hoover is hereby authorized and directed to execute an Amendment to lease agreement with ADOR in the name of the City of Hoover, Alabama to lease the municipal property described in Section 1 herein. Such lease shall be in substantially the form attached hereto as Exhibit A.

SECTION 5. This ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED this 20th day of June, 2022.

APPROVED:

John Lyda, President of Council

Frank V. Brocato, Mayor

ATTESTED BY:

Wendy Dickerson, City Clerk

Exhibit A

OFFICE – AMENDMENT

CITY OF HOOVER,
“LANDLORD”,

AND

ALABAMA DEPARTMENT OF REVENUE
“TENANT”,

DATED: MAY 10, 2022

2020 Valleydale Road, Hoover, AL 35244
SHELBY COUNTY

Center for Dispute Resolution. This right of the Agency to the use of alternative methods to attempt to resolve a dispute is not a waiver of the Agency's right to assert sovereign immunity.

Not a Debt of the State. Under no circumstances shall the commitment under this Lease constitute a debt to the State of Alabama as prohibited by Section 213, Constitution of Alabama 1901, as amended by Amendment No. XXVI. Instead, it is understood and agreed that during any fiscal year of the State of Alabama occurring during the Term of this Lease, the Agency's commitments under this Lease are payable solely from amounts appropriated by the Alabama Legislature for the Tenant as reduced by any proration declared pursuant to Alabama law applicable to such fiscal year. The Lessor's sole remedy for the settlement of any and all disputes arising under the terms of this Lease shall be limited to the filing of a claim with the Board of Adjustment for the State of Alabama.

Montgomery City Clause. In the event the State of Alabama or an entity thereof constructs, purchases, or expands an office building in the City of Montgomery for occupancy by Agency, or in the event existing State-owned office space becomes available in the City of Montgomery for occupancy by Agency, the Agency may cancel this Lease by giving written notice to Lessor of no less than six (6) months.

Immigration Laws. Pursuant to Alabama Code §31-13-9(k), by signing this contract, the contracting parties affirm, for the duration of this agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

Binding Effect; Choice of Law. This Lease will bind any party who legally acquires any rights or interest in this Lease from Lessor or Agency, provided that Lessor will have no obligation to Agency's successor unless the rights or interests of Agency's successor are acquired in accordance with the terms of this Lease. All provisions of this Lease must be construed as covenants running with the land. This Lease shall be governed by the laws of the State of Alabama.

Attachments

Exhibit A -- Lease Renewal-1

Exhibit B -- Disclosure Statement

All other provisions of the existing Lease will remain the same and in full force.

SIGNATURE PAGE FOLLOWS

EXHIBIT A

OSM Form A (Aug. 2014)

STATE OF ALABAMA
GOVERNMENTAL REAL ESTATE LEASE

STATE OF ALABAMA)
COUNTY OF SHELBY)
DEPARTMENT OF REVENUE)

PARTIES

THIS LEASE IS MADE THIS 1st day of August, 2017, by and between the Owner, individual, partnership, or corporation whose name is The City of Hoover and address is 2020 Valleydale Road, in the City of Hoover, Alabama, hereinafter called LESSOR, AND Department of Revenue, an agency, institution, department of the State of Alabama hereinafter called AGENCY.

TERM OF LEASE

The term of this lease shall begin at 12:01 am local time on the 1st day of August, 2017, and end on midnight on the 31st day of July, 2022.

THE DEMISED PREMISES

This lease covers the demised premises located in Shelby County, in the city of Hoover, at the address 2020 Valleydale Road. The demised premises contains approximately 18,678 square feet at \$15.00 per square foot of office and storage, etc. This is a five year lease with a five year option to renewal.

RENT

The monthly rent for the first five (5) years of the lease shall be \$23,347.50, twenty three thousand three hundred forty seven dollars and fifty cents. And the annual rent shall be \$280,170.00, two hundred eighty thousand one hundred seventy dollars and zero cents.

OSM Lease No.
2006-030-R1

TENANT IMPROVEMENTS

LESSOR shall, at LESSOR'S sole cost and expense, perform the improvement shown on the attached Exhibit "A". All improvements shall be made within 90 days after final execution of the lease agreement.

COVENANTS OF AGENCY

The said AGENCY hereby covenants with the LESSOR:

- (a) to use and occupy the premises as office and storage purposes only and for no other object of purpose without written consent of the LESSOR;
- (b) not to assign this lease or to sublet the demised premises, or any portion thereof, without written consent of the LESSOR;
- (c) to keep the premises in good order, reasonable wear and tear expected;
- (d) to permit LESSOR and his representatives to enter the premises or any part thereof during regular business hours for the purpose of inspecting or exhibiting same or making such repairs or alterations as may be necessary for safety or preservation thereof or at any time to address an emergency;
- (e) to permit LESSOR to place on the premises reasonable "For Rent" or "For Sale" signs and not to interfere with same, provided that such signs do not interfere with the conduct of AGENCY's business;
- (f) to surrender possession of the premises upon the termination of this lease, or any extension hereof as herein provided, in as good condition as when received, reasonable wear and tear and accidents happening by fire and other casualties expected;
- (g) AGENCY agrees to use reasonable care to conserve energy and utilities;
- (h) to reimburse LESSOR for housekeeping services, as specified in LESSOR's housekeeping contract specifications, provided for the lease premises in the amount of \$0.58 per foot per month under the current housekeeping contract. Such that the AGENCY will owe the additional \$1083.32 per month; if the current housekeeping contract is modified, AGENCY agree to reimburse the LESSOR the revised per square footage amount upon

submittal in advance by LESSOR of sworn invoices stating the amount due hereunder as required by law and regulations of the State Finance Department.

COVENANTS OF LESSOR

The LESSOR hereby covenants with the AGENCY:

(a) not to discontinue any service or facility herein contracted for;

(b) to keep the demised premises in good repair including but not limited to, lighting, heating, air conditioning, roof, access, egress, sanitary facilities, water facilities, and other services incidental to the demised premises;

(c) that in the event the LESSOR, after receiving notice in writing from AGENCY in regard to a specific condition, fails, refuses, or neglects to correct said condition, or in the event of an emergency constituting a hazard to health or safety of the AGENCY'S employees, property, or invitees, it shall then be lawful for the AGENCY, in addition to any other remedy the AGENCY may have, to make such repair at its own expense and deduct the amount from the rent that may become due hereunder;

(d) unless otherwise waived or amended in writing, LESSOR shall provide AGENCY with services including, but not limited to heating, air conditioning, sewerage, water, elevator and janitorial service, and will pay the related utility bills and expenses thereof, all of which are included in and covered by the rental payments (janitorial to be paid pursuant to the above);

(e) the lease shall become null and void in the event said leased premises should be totally destroyed by fire, or other casualty including acts of God, and the liability of the AGENCY for rents thereafter occurring under the lease shall cease upon the said happening of any said events, but if said leased premises are partially damaged by fire or other casualty, including acts of God, then the same shall be repaired and restored by the LESSOR as speedily as possible, at the LESSOR'S own expense, and from date of such damage until completion of such repairs, rent shall abate;

(f) LESSOR agrees to indemnify and hold the AGENCY harmless for and against any and all liability, loss, damage, cost, and expenses, including court cost and attorney fees (whether or not litigation be commenced) of whatever nature or type, that the AGENCY may

OSM Form A (Aug. 2014)

suffer, be put to pay or layout by reason of LESSOR'S failure to make leased facilities conform to all applicable local, state, and federal requirements so as to be accessible to individuals with disabilities.

NOT A DEBT OF THE STATE

Under no circumstances shall the commitment of the AGENCY under this lease constitute a debt to the State of Alabama as prohibited by Section 213, official Recompilation of the Constitution of Alabama of 1901, as amended. Instead, it is understood and agreed that during any fiscal year of the State of Alabama occurring during the term of this lease, the AGENCY's commitments under this lease are payable solely from amounts appropriated by the Alabama Legislature for the AGENCY as reduced by any proration declared pursuant to Alabama law applicable to such fiscal year.

CANCELLATION PRIVILEGE

It is expressly understood and agreed by the parties hereto that the AGENCY shall have the option to terminate this lease at the end of any fiscal year of the State of Alabama in the event the State Legislature fails to appropriate sufficient funds to AGENCY to make the rental payments for the ensuing fiscal year. It is further agreed that in the event of the proration of the fund from which payment under this lease is to be made, the lease will be subject to termination at the option of the AGENCY.

EARLY TERMINATION

This Lease may be terminated by the Tenant in accordance with this clause, in whole, or from time to time in part, whenever the Tenant shall determine that such termination is in the best interest of the State as determined by the Director of Finance in his sole discretion. The Tenant will pay the portion of unamortized tenant improvements and commissions associated with the remaining Lease term. However, the Landlord shall not be reimbursed for any anticipatory rentals, expense, or profits which have not been earned up to the date of termination. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rent shall accrue after the effective date of termination.

OSM Form A (Aug. 2014)

SUBORDINATION

The AGENCY'S rights under this lease shall remain subordinate to any bona-fide mortgage or deed to secure debt which is now, or may hereafter be placed upon the premises; provided that the AGENCY'S tenancy shall not be disturbed nor shall the covenants and conditions of this lease be invalidated or changed.

SUCCESSORS and ASSIGNS

All the terms, covenants and conditions of this lease shall be binding upon and inure to the benefit of, and be enforceable by, LESSOR and AGENCY and their heirs, successors, executors, administrators and assigns; provided, however, that AGENCY shall not assign or transfer any of AGENCY's rights under this lease without the prior written consent of LESSOR.

CURE DEFAULT

Upon default in any covenants or obligations under this lease, the non-defaulting party shall give the defaulting party written notice of the nature of the default. If the default is for payment of money, the defaulting party must cure the default by payment of the amount within thirty days of the date of the notice or the date specified in the notice, whichever period is the longer. Any other default must be cured within a reasonable time after the date of the notice or by the date specified in the notice, whichever is the longer, provided however that any cure period must take into consideration the nature of the default and provide a reasonable time to cure.

If the default is not cured within the time allowed, the non-defaulting party may cancel this lease without further obligation, or may cure the default. The cost of curing a default of the AGENCY shall become additional rent to be paid in monthly installments over the remainder of the lease term. Should the cured default be paid by the AGENCY, the cost will be due and payable upon AGENCY's written demand on the LESSOR, or AGENCY may deduct that cost from future rent.

Other than as provided in this section, the LESSOR's sole remedy to collect money due under the terms of this lease, or arising out of, or related to the landlord-tenant relationship, shall be the filing of a claim with the Alabama State Board of Adjustment.

OSM Form A (Aug. 2014)

EXEMPTION

The AGENCY notwithstanding any provision of this lease or amendments hereto, does not release or waive, expressly or implied its right to assert sovereign immunity or any other affirmative defense it may have under law.

NOTICES

All notices or other communications between the parties shall be in writing and shall be delivered by personal delivery, commercially recognized overnight courier, or prepaid United States registered or certified mail, return receipt requested, addressed as set forth below. If any notice is delivered in person or by overnight courier, such notice shall be deemed duly given upon receipt. If any notice is delivered by United States registered or certified mail, return receipt requested, such notice shall be deemed duly given upon the earlier of receipt or three (3) days after deposit with the United States mail service. LESSOR and AGENCY may from time to time by written notice to the other designate another address for receipt of future notices. All notices and other communications shall be addressed and sent to the following addresses:

To AGENCY:
Alabama Department of Revenue
50 North Ripley Street
Suite 4116
Montgomery, AL 36132

To LESSOR:
City of Hoover
2020 Valleydale Road
Hoover, AL 35244

RENEWAL OPTION

The LESSOR does hereby grant and give the AGENCY an option to renew this lease at the end of the term of this lease upon agreement(s) with a \$1.50 increase for 5 additional years by giving LESSOR a ninety (90) day written notice prior to the expiration of the then existing term of its intention to so renew or extend.

HOLDOVER TERM

If the AGENCY remains in possession of the premises after the end of the lease term stated above, or any extension or renewal thereof, then such holding over will be deemed a

month-to-month tenancy at the same rental and under the same conditions as are in effect at the time such holding over begins.

SEVERABILITY

If any provision of the lease shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the term of this lease, be enacted, then that conflicting provision in the lease shall be deemed null and void.

ENTIRE AGREEMENT

This lease and all other documents referenced herein, constitute the entire agreement and the understanding between the parties with respect to the subject matter hereof and supersedes all other previous and contemporaneous negotiation and agreements between the parties.

COUNTERPART EXECUTION

This lease may be executed in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of the terms hereof to produce or account for more than one of such counterparts.

The Parties have executed this lease effective on the date first written above.

LESSOR: City of Hoover

BY: Frank V. Buecas
Representative

6-20-18
Date Signed

APPROVED FOR LEGALITY:

BY: [Signature]
Attorney, City of Hoover

6-22-18
Date Signed

AGENCY: Alabama Department of Revenue

BY: Vernon Barnett
Vernon Barnett, Commissioner

7-23-18
Date Signed

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APPROVED FOR LEGALITY:

BY: [Signature]
Revenue Attorney

7-12-18
Date Signed

RECOMMENDED:

BY: [Signature]
Office of Leasing Management

7-26-18
Date Signed

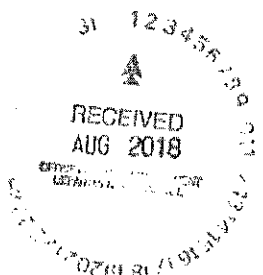
APPROVED:

BY: [Signature]
Governor, State of Alabama

7/31/18
Date Signed

[Signature]
Dept. of Finance, Legal Div.

By: [Signature]
Assistant Finance Director
Real Property Management



OSM Lease No
2006-030-R1



EXHIBIT B
STATE OF ALABAMA
Disclosure Statement

(Required by Act 2001-955)

ENTITY COMPLETING FORM

ADDRESS

CITY, STATE, ZIP TELEPHONE NUMBER

STATE AGENCY/DEPARTMENT THAT WILL RECEIVE GOODS, SERVICES, OR IS RESPONSIBLE FOR GRANT AWARD

ADDRESS

CITY, STATE ZIP TELEPHONE NUMBER

This Form is provided with:

- Contract Proposal Request for Proposal Invitation to Bid Grant Proposal

Have you or any of your partners, divisions, or any related business units previously performed work or provided goods to any State Agency/Department in the current or last fiscal year?

- Yes No

If yes, identify below the State Agency/Department that received the Goods or Services, the type(s) of goods or services previously provided, and the amount received for the provision of such goods or services.

STATE AGENCY/DEPARTMENT	TYPE OF GOODS/SERVICES	AMOUNT RECEIVED

Have you or any of your partners, divisions or any related business units previously applied and receive any grants from any State Agency/Department in the current or last fiscal year?

- Yes No

If yes, identify the State Agency/Department that awarded the grant, the date such grant was awarded, and the amount of the grant.

STATE AGENCY/DEPARTMENT	DATE GRANT AWARDED	AMOUNT OF GRANT

1. List below the name(s) and address(es) of all public officials/public employees with whom you, members of your immediate family, or any of your employees have a family relationship and who may directly personally benefit financially from the proposed transaction. Identify the State Department/Agency for which the public officials/public employees work. (Attach additional sheets if necessary.)

NAME OF PUBLIC OFFICIAL/EMPLOYEE	ADDRESS	STATE DEPARTMENT/AGENCY

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EXHIBIT B (CONTINUED)

2. List below the name(s) and address(es) of all family members of public officials/public employees with whom you, members of your immediate family, or any of our employees have a family relationship and who may directly personally benefit financially from the proposed transaction. Identify the public officials/public employees and State Department/Agency for which the public officials/public employees work. (Attach additional sheets if necessary.)

NAME OF FAMILY MEMBER	ADDRESS	NAME OF PUBLIC OFFICIAL/ PUBLIC EMPLOYEE	STATE DEPARTMENT/ AGENCY WERE EMPLOYED

If you identified individuals in items one and/or two above, describe in detail below the direct financial benefit to be gained by the public officials, public employees, and/or their family members as the result of the contract, proposal, request for proposal, invitation to bid, or grant proposal. (Attach additional sheets if necessary.)

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Describe in detail below any indirect financial benefits to be gained by any public official, public employee, and/or family members of the public official or public employee as the result of the contract, proposal, request for proposal, invitation to bid, or grant proposal. (Attach additional sheets if necessary.)

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List below the name(s) and address(es) of all paid consultants and/or lobbyists utilized to obtain the contract, proposal, request for proposal, invitation to bid, or grant proposal:

NAME OF PAID CONSULTANT/LOBBYIST	ADDRESS

By signing below, I certify under oath and penalty of perjury that all statements on or attached to this form are true and correct to the best of my knowledge. I further understand that a civil penalty of ten percent (10%) of the amount of the transaction, not to exceed \$10,000.00 is applied for knowingly providing incorrect or misleading information.

Signature

Date

Notary's Signature

Date

Date Notary Expires

Act 2001-955 requires the disclosure statement to be completed and filed with all proposals, bids, contracts, or grant proposals to the State of Alabama in excess of \$5,000.