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**County Debt Setoff Program
Participation Agreement between
the Association of County Commissions of Alabama
and Baldwin County**

Following passage of Act 2014-321, a county in Alabama is authorized to participate in Alabama's income tax refund setoff program, provided any eligible debt due the county is submitted to the Alabama Department of Revenue (hereinafter "THE DEPARTMENT") through the Association of County Commissions of Alabama (hereinafter "THE ASSOCIATION"). THE ASSOCIATION will administer the county debt setoff program (hereinafter "Debt Setoff Program") on behalf of Alabama counties and eligible corporations and instrumentalities of the county. Under this program, THE ASSOCIATION will submit debts to THE DEPARTMENT on behalf of participating counties, corporations, and instrumentalities pursuant to the requirements of the law and procedures set out by THE DEPARTMENT. The Baldwin County Commission (hereinafter "THE COUNTY") has adopted a resolution to participate in Debt Setoff Program, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

Based upon the foregoing, THE ASSOCIATION and THE COUNTY do hereby enter into this agreement for processing income tax refund setoff requests for eligible debts due THE COUNTY under the following terms and conditions :

1. THE COUNTY hereby designates, appoints, and authorizes THE ASSOCIATION to process eligible delinquent debts to THE DEPARTMENT pursuant to procedures established by THE ASSOCIATION and agrees to comply with all applicable provisions of Ala. Code § 40-18-100 et seq. and the procedures established by THE ASSOCIATION for the submission of all eligible debts and the administration of the Debt Setoff Program at the county level.
2. Both parties understand and agree that for purposes of the Debt Setoff Program, an eligible debt is defined as any liquidated sum due and owing THE COUNTY which has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for that sum, provided the amount due is at least \$25 and is at least 60 days delinquent on the date submitted to THE ASSOCIATION.
3. THE COUNTY understands and agrees that THE ASSOCIATION will only accept debts submitted as specified by THE ASSOCIATION and agrees not to submit for setoff any debt that is for less than \$25 or that is not at least 60 days delinquent as of the date submitted to THE ASSOCIATION. THE COUNTY further understands and agrees that THE ASSOCIATION will not research or review the validity of any debt submitted by THE COUNTY prior to submitting the debt to THE DEPARTMENT and that THE COUNTY is responsible for ensuring that it only submits debts for state income tax refund setoff which meet the statutory and program-related requirements set out herein.
4. THE COUNTY agrees to designate a debt setoff coordinator who shall be responsible for submission of all debts and for the administration of the Debt Setoff Program at the county level under the requirements of the law and the procedures established by THE ASSOCIATION. The debt setoff coordinator shall be the

designated county representative authorized to receive notices and communication from THE ASSOCIATION to ensure that the requirements of this agreement and the requirements of the statute are met. The debt setoff coordinator shall supply THE ASSOCIATION with any and all information that in the opinion of THE ASSOCIATION is necessary for the proper implementation of this agreement.

5. THE ASSOCIATION agrees to provide THE COUNTY with all information and tools necessary for proper debt submission including, at a minimum: (1) written procedures detailing the debt submission process; (2) a list of required information related to the debtor, such as name, address, Social Security number, and basis of the debt; and (3) any software or file format data necessary for proper submission of eligible debts by THE COUNTY. THE ASSOCIATION further agrees to update procedures and tools as necessary and, when changes are made, provide adequate notice to THE COUNTY to implement required changes. THE ASSOCIATION agrees to provide THE COUNTY with ongoing technical and program support as necessary to assist THE COUNTY in submitting proper debt information in the proper format.

6. THE COUNTY agrees that it may only utilize the information and tools provided by THE ASSOCIATION pursuant to paragraph 5 of this agreement for all debt submissions and other program requirements. THE COUNTY agrees to utilize the format specified by THE ASSOCIATION to prepare all debt files and adjustments to debt files that THE COUNTY certifies are owed to THE COUNTY and that THE COUNTY desires to have THE ASSOCIATION submit to THE DEPARTMENT for setoff.

7. THE ASSOCIATION agrees to make debt submissions to THE DEPARTMENT on a quarterly basis, beginning January 5, 2015, and further agrees that the quarterly submissions shall include all submissions received from any participants in the Debt Setoff Program which have been received by the deadline set by THE ASSOCIATION for inclusion in that quarterly submission. THE COUNTY understands and agrees that THE ASSOCIATION shall only make debt submissions to THE DEPARTMENT on a quarterly basis, beginning January 5, 2015, that in order to have county debts included in the first quarterly submission to THE DEPARTMENT, THE COUNTY shall submit all required information regarding any eligible debts to THE ASSOCIATION no later than December 1, 2014 and that thereafter, the quarterly submissions shall only include debt submissions received from THE COUNTY prior to the debt submission deadline set by THE ASSOCIATION.

8. THE COUNTY understands and agrees that it shall update its debt submissions on a regular basis, which updates shall include information related to payments received by THE COUNTY for previously-submitted debts and any new or additional debts to be submitted to THE DEPARTMENT by THE ASSOCIATION as provided in paragraph 7.

9. Both parties understand and agree that THE DEPARTMENT will regularly provide THE ASSOCIATION with a list of debts that have been set off based upon debt submissions received from THE ASSOCIATION. THE ASSOCIATION agrees that, once it receives notice from THE DEPARTMENT that a debtor's refund has been set off in payment of a debt due THE COUNTY, it will, on behalf of THE COUNTY, mail notice of the setoff to the debtor and to any person who has filed a joint tax return with the debtor (hereinafter "joint filer"), and that the notice shall include all information required to be included pursuant to Ala. Code § 40-18-103(d). THE ASSOCIATION further agrees that a copy of the notice will be provided to THE COUNTY at the time it is mailed. Both parties agree that THE ASSOCIATION will only be responsible for mailing the notice and that any further matters related to a debt setoff, including conducting review hearings authorized under Ala. Code § 40-18-104 and payment of any refund of monies due to a debtor or a joint filer, shall be handled at the county level.

10. THE COUNTY agrees that, in compliance with Ala. Code §§ 40-18-103 and 40-18-104, it shall be responsible for providing a debtor or joint filer an opportunity for review upon receipt of a properly-filed contest. THE COUNTY agrees to comply with all requirements of the law related to allowing for a review, and in order to comply with these provisions of the law, shall adopt and implement The County Tax Refund Setoff Program Review Hearing Procedures developed by THE ASSOCIATION, which procedures include each of the following requirements: setting a review hearing and notifying the debtor of the date of such hearing; conducting the review; notifying the person filing a contest of the final determination regarding set off of the debt; and providing notice of the right to appeal to Circuit Court.

11. Both parties understand that THE DEPARTMENT shall transfer to THE ASSOCIATION any funds collected as setoff of a state income tax refund pursuant to debt submissions received from THE ASSOCIATION on behalf of participants in the Debt Setoff Program. Both parties further understand and agree that THE DEPARTMENT shall regularly distribute reports to THE ASSOCIATION detailing which refunds were setoff as a result of debt submissions received from THE ASSOCIATION. Both parties agree that THE ASSOCIATION shall distribute setoff funds received from THE DEPARTMENT on a quarterly basis beginning April 4, 2015, and that distribution will be made to participants in the program in the same order that funds are received from THE DEPARTMENT based upon the reports received from THE DEPARTMENT.

12. THE ASSOCIATION agrees to distribute all participants in the program a monthly summary of state income tax refunds that are being set off by THE DEPARTMENT based upon debt submissions received by THE ASSOCIATION.

13. THE COUNTY understands and agrees that, pursuant to Ala. Code § 40-18-103(a), THE ASSOCIATION shall retain \$25 from each refund that is set off on behalf of THE COUNTY. Both parties understand and agree that this fee shall not reduce the amount of the debt due to be paid to THE COUNTY but shall instead be an additional fee and first charge on any refund monies set off from the debtor. Both parties also understand and agree that this fee shall be retained by THE ASSOCIATION regardless of whether any monies set off from a debtor's income tax refund are returned to the debtor or a joint filer by THE COUNTY pursuant to paragraph 14.

14. THE COUNTY agrees that, in compliance with Ala. Code § 40-18-103(f), it will establish an escrow account and will hold all setoff funds received in the escrow account until a final determination of the validity of the debt is made, which means the funds will be held until either: (1) thirty (30) days after date of notice of setoff if no contest is filed within that time frame or (2) there is a final determination that the debt is due following a review hearing in the event a contest of the setoff is filed. THE COUNTY further agrees that, in the event a debtor or joint filer is entitled to a return of all or any portion of monies held from his or her state income tax refund on behalf of THE COUNTY, THE COUNTY shall be responsible for returning said monies to the debtor or joint filer, and that, where applicable, this shall include the \$25 fee retained by THE ASSOCIATION as provided in paragraph 13.

15. THE COUNTY understands and warrants that by submission of any delinquent debt submitted to THE ASSOCIATION for setoff, THE COUNTY has complied with all of the provisions of the Ala. Code § 40-18-100 et. seq., the procedures adopted by THE ASSOCIATION, and the terms of this agreement. By signing this agreement, THE COUNTY agrees to hold THE ASSOCIATION free and harmless against any and all damages, claims, actions, injuries, liability, or proceedings arising from the failure of THE COUNTY to so

perform. THE COUNTY shall be responsible for the repayment of any sums received by it, including interest, penalties and court costs, to a debtor or joint filer in the event a court of competent jurisdiction rules that said repayment is due to a debtor or joint filer.

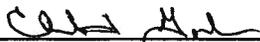
16. Both parties understand and agree that all information exchanged with each other and/or THE DEPARTMENT pursuant to this agreement and any procedures established for the implementation, operation, or administration of the Debt Setoff Program, including but not limited to printed, written, oral or computer-formatted information, shall be held in the strictest confidence, and shall be used solely for the business purposes that are the subject of this agreement. Both parties shall maintain confidentiality of such information not only during the course of the performance of this agreement, but following its termination.

17. Both parties agree that this participation agreement shall remain and continue in full force and effect until or unless modified or terminated in writing by either party upon 90 days written notice to the other party. Upon termination of this agreement all sums due and owing from either party to the other shall remain a lawful obligation of the party and be due and payable. Following termination of the agreement, THE ASSOCIATION shall erase all data files related to THE COUNTY from its debt setoff system upon termination.

18. By signing this contract, the contracting parties affirm, for the duration of the 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.

19. This Agreement represents the full and final understanding of the parties with respect to the subject matter described herein and supersedes any and all prior agreements or understandings, written or oral, express or implied. This Agreement may be modified or amended only by a written statement signed by both parties.

Executed on this the 7 day of October, 2014.



Charles F Gruber, Chairman
Baldwin County Commission



Sony Brasfeld, Executive Director
Association of County Commissions of Alabama



STATE OF ALABAMA)

COUNTY OF BALDWIN)

**RESOLUTION # 2015-005
OF THE
BALDWIN COUNTY COMMISSION**

**RESOLUTION TO PARTICIPATE IN COUNTY TAX SETOFF PROGRAM AS
RELATED TO ACT NO. 2014-321.**

WHEREAS, Act No. 2014-321 authorizes counties to participate in Alabama's state income tax refund setoff program established and operated pursuant to *Ala. Code § 40-18-100, et seq.*, to collect through setoff of a debtor's Alabama income tax refund, any liquidated sum of at least \$25.00 due and owing to the county through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for that sum; and

WHEREAS, pursuant to *Ala. Code § 40-18-103*, the Association of County Commissions of Alabama (the "Association") or an entity established through the Association may submit eligible debts to the Alabama Department of Revenue (the "Department") on behalf of a county provided the county provides the Association with required information related to the debtor and the debts due; and

WHEREAS, the Association has developed a county tax setoff program which complies with the requirements of *Ala. Code § 40-18-100, et seq.*, whereby the Association will submit county debts to the Department on behalf of counties that have executed a participation agreement with the Association, which agreement sets out the procedures for debt submission and receipt of funds collected as a result of state income tax refund set off by the Department; and

WHEREAS, the inability to collect outstanding debts due to the county in its Baldwin County *Solid Waste Collection program* increases the financial burdens the county commission faces in its efforts to continuously provide efficient and quality services to the citizens it represents; and

WHEREAS, the Baldwin County Commission believes that participation in this program will be an effective method to collect delinquent debts due to the county from the nonpayment of *solid waste collection fees*; and

WHEREAS, the Baldwin County Commission is willing to comply with all requirements for participation in this program including the execution of a participation agreement with the Association and the adoption of procedures to allow any debtor to contest a setoff through the statutory procedures set out in *Ala. Code § 40-18-103 and § 40-18-104*; now therefore

BE IT RESOLVED, BY THE BALDWIN COUNTY COMMISSION, IN REGULAR SESSION ASSEMBLED, that it does hereby adopt a county tax setoff program for the collection of delinquent *solid waste collection fees* whereby it will utilize the Alabama's income tax refund setoff program for the collection of delinquent debts due to the county from the nonpayment of *solid waste collection fees*.

BE IT FURTHER RESOLVED, that the county commission will comply with the requirements of the law related to participation in Alabama's income tax refund setoff program, will execute a participation agreement with the Association to allow for debt submissions to the Department and receipt of funds received as a result of state income tax refund set off by the Department for delinquent debts due the county, and will develop procedures to allow any debtor to contest a setoff through the statutory procedures set out in *Ala. Code § 40-18-103 and § 40-18-104*.

BE IT FURTHER RESOLVED, that a public notice announcing the county tax setoff program will be distributed to media outlets in the county, will be posted on the bulletin board in the Baldwin County Courthouse, will be posted on the home page of the county website, Baldwin County Courthouse in Bay Minette, Baldwin County Satellite Courthouses in Foley and Fairhope and Baldwin County Central Annex in Robertsedale.

IN WITNESS WHEREOF, the Baldwin County Commission has caused this Resolution to be executed in its name and on its behalf by its Chairman on this the 7th day of October, 2014.

Charles F. Gruber

Charles F. Gruber, Chairman
Baldwin County Commission

ATTEST:

David A. Z. Brewer
David A. Z. Brewer, County Administrator
Baldwin County Commission

