

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

RECEIVED

JUN 8 1981

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
JAMES E. VANDEGRIFT, CLERK

UNITED STATES OF AMERICA,
Plaintiff,
v.
JEFFERSON COUNTY, et al.,
Defendants.

CIVIL ACTION NO.
75-P-0666-S

JOHN W. MARTIN, et al.,
Plaintiffs,
v.
CITY OF BIRMINGHAM, et al.,
Defendants.

CIVIL ACTION NO.
74-Z-17-S

ENSLEY BRANCH OF THE N.A.A.C.P.,
et al.,
Plaintiffs,
v.
GEORGE SEIBELS, et al.,
Defendants.

CIVIL ACTION NO.
74-Z-12-S

CONSENT DECREE WITH THE CITY OF BIRMINGHAM

The plaintiffs filed their complaints in these consolidated actions against the City of Birmingham and others to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. §1221, et seq., the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. §3766(c)(1), the Civil Rights Acts of 1866 and 1871, 42 U.S.C. §1981, 42 U.S.C. §1983, and the Fourteenth Amendment to the Constitution of the United States. In their complaints, the plaintiffs alleged that the City of Birmingham and the other named defendants had engaged in a pattern or practice of discrimination based on race and sex with

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respect to recruitment, hiring, assignment, promotion, discipline, and other terms and conditions of employment. The City of Birmingham has denied the allegations in the plaintiffs' complaints.

The parties to this Consent Decree are the plaintiffs in the consolidated actions captioned above and two of the named defendants in those actions, the City of Birmingham and Richard Arrington, acting in his official capacity as the Mayor of the City of Birmingham. By entering into this Consent Decree the parties express their desire to avoid the burdens and expense of any further litigation in these actions and to insure that any disadvantages to blacks and women that may have resulted from any past discrimination against them are remedied so that equal employment opportunities will be provided to all. The parties waive any findings of fact and conclusions of law on all outstanding issues solely pertaining to the City of Birmingham except for costs and attorneys' fees. The parties will seek to reach agreement on the amount of attorneys' fees and costs for the private plaintiffs in these consolidated actions. If agreement cannot be reached on the amount of such fees and costs, this matter shall be submitted to the Court for determination. The United States waives any entitlement it may have to recovery of costs. This Decree shall not constitute an adjudication or admission by the City of Birmingham or others signatory to this Decree of any violation of law, executive order or regulations. The parties accept this agreement as final and binding among the parties signatory hereto as to the issues resolved herein.

The plaintiffs recognize the adoption by the City of Birmingham of Sections 2-4-51 through 2-4-56 of the Birmingham City Code ("the fair hiring ordinance"), the annual preparation and implementation by each department of the City of Birmingham of affirmative action plans in accordance with the fair hiring ordinance, and the issuance by the Mayor of the City of Birmingham of Administrative Directive AA-1 and Executive Order 17-77, as

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evidence of good faith efforts by the City of Birmingham to take meaningful affirmative action to increase minority and female participation throughout the City's work force. —

Now therefore, on the basis of the foregoing representations of the plaintiffs, the City of Birmingham and the Mayor of the City of Birmingham, and all trial proceedings and discovery filed herein to date, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I. GENERAL PROVISIONS

1. The defendant City of Birmingham, its officials, agents, employees, and all persons in active concert or participation with them in the performance of city functions (herein collectively referred to as the City) are permanently enjoined and restrained from engaging in any act or practice which has the purpose or effect of unlawfully discriminating against any employee of, or any applicant or prospective applicant with, the City of Birmingham because of such individual's race, color or sex. Specifically, the City shall not discriminate on the basis of race, color or sex in recruiting, hiring, promotion, upgrading, training, job assignments, discharge or other disciplinary measures, compensation, or other terms and conditions or privileges of employment. Further, the City shall not retaliate against or in any way take action against any person because that person opposes or has opposed alleged discriminatory policies or practices in the City of Birmingham, or because of that person's participation in or cooperation with the investigation and trial of these actions, or in any proceedings therein.

2. Nothing herein shall be interpreted as requiring the City to hire unnecessary personnel, or to hire, transfer, or promote a person who is not qualified, or to hire, transfer or promote a less qualified person, in preference to a person who is demonstrably better qualified based upon the results of a job related selection procedure. Nothing herein shall prohibit the City from discharging or disciplining employees for just cause in

accordance with applicable law, provided however that any such actions are taken and executed in a non-discriminatory manner without regard to race or sex, and are otherwise consistent and in conformity with the City's obligations under this Decree.

3. Remedial actions and practices required by the terms of, or permitted to effectuate and carry out the purposes of, this Consent Decree shall not be deemed discriminatory within the meaning of paragraph 1 above or the provisions of 42 U.S.C. 2000e-2(h), (j), and the parties hereto agree that they shall individually and jointly defend the lawfulness of such remedial measures in the event of challenge by any other party to this litigation or by any other person or party who may seek to challenge such remedial measures through intervention or collateral attack. If any collateral lawsuit involving this Consent Decree arises in state court, then the City shall notify counsel for the plaintiffs and remove such action to the United States District Court.

4. In the event plaintiffs seek to enforce any provision of this Decree they shall provide notice of their intentions to:

City Attorney
City of Birmingham
600 City Hall
Birmingham, Alabama 35203

Such notice shall state, with reasonable particularity, the nature of the alleged violation and the relief sought. The parties shall have a period of thirty (30) days within which to resolve the matter informally. If the parties fail to resolve the matter plaintiffs may, upon expiration of the thirty-day period, apply to the Court for an appropriate enforcement order.

II. GOALS

5. In order to correct the effects of any underrepresentation of blacks and women in the City's workforce caused by any alleged prior discriminatory employment practices, the City agrees to adopt as a long term goal, subject to the availability of qualified applicants, the employment of blacks and women in each job classification in each department of the City of Birmingham in percentages which approximate their respective percentages in the civilian labor force of Jefferson County as defined

by the 1970 Federal Census. As a means of achieving the long term goal established by this Decree the City may prefer residents of the City for appointment. This long term goal shall be appropriately modified to reflect any changes in the racial and sexual composition of the applicable civilian labor force as reflected by the 1980 Census. The parties also preserve the right to adjust, through agreement and subject to the approval of the Court, any of the goals provided by this Decree where it can be shown that a professional degree, license or certificate is required to perform the duties of any particular job or jobs in the City's workforce and that blacks and/or women hold such degrees, licenses or certificates in percentage terms which are inconsistent with the goals provided.

A. Goals for Blacks

6. In order to achieve the long term goal in the job classifications set forth below, and subject to the availability of qualified black applicants for those jobs, the City shall establish and attempt to achieve an annual goal of making probational appointments to vacancies in permanent, full-time positions in the classified service of black applicants at the rates set forth below or at the rate of black representation among applicants, whichever is higher.

<u>Job Classification</u>	<u>Interim Annual Goal</u>
1. Account Clerk	50%
2. Automotive Mechanic	50%
3. Building Inspector	33%
4. Construction Equipment Operator	50%
5. Firefighter	50%
6. Gardener	50%
7. Heavy Equipment Operator	50%
8. Labor Supervisor	50%
9. Police Officer	50%
10. Police Radio Dispatcher	50%
11. Police Sergeant	50%
12. Fire Lieutenant	50%
13. Public Works Supervisor	50%
14. Construction Supervisor	50%
15. Refuse Truck Driver	50%
16. Revenue Examiner	50%
17. Secretary	50%
18. Senior Clerk	50%
19. Senior Sanitation Inspector	33%
20. Zookeeper	50%

7. In order to achieve the long term goal in the job classifications within the job groups identified below, and subject to the availability of qualified black applicants for the jobs in those job groups, the City shall establish and attempt to achieve an annual goal of making probational appointments to vacancies in permanent, full-time positions in the classified service of black applicants at the rates set forth below or at the rate of black representation among applicants, whichever is higher. Attached as Appendix A to this Consent Decree is a listing of each of the job classifications included within each of the job groups set forth in this paragraph.

<u>Job Group</u>	<u>Interim Annual Goal</u>
Group I - Engineering Department	
1) Professionals	25%
2) Technicians	25%
Group II - Finance Department	
1) Professionals	
2) Technicians	25%
Group III - Inspection Services Department	
1) Technicians (other than Building Inspector)	25%
2) Skilled Craft Workers	25%
Group IV - Traffic Engineering Department	
1) Technicians	25%
Group V - Office of Housing	
1) Professionals	25%

8. In order to correct the effects of any past underrepresentation of blacks in the Police and Fire departments of the City of Birmingham, and to further insure the achievement of the long term goal established by this Decree, the City shall, subject to the availability of qualified black candidates, promote at least two (2) blacks to the next four (4) lieutenant vacancies in the Police Department and shall promote at least one (1) black

to the next two (2) captain vacancies in the Police Department. The City shall, subject to the availability of qualified black candidates, promote at least one (1) black to the next two (2) captain vacancies in the Fire department. Thereafter, and until the long term goal of this Decree is met in the Police and Fire departments, the City shall seek to achieve the interim goals of promoting blacks to vacancies in lieutenant and captain positions in the Police Department and to vacancies in the positions of captain and battalion chief in the Fire Department at twice the black percentage representation in the job classifications from which promotional candidates are traditionally selected for those jobs.

B. Goals For Women

9a. In order to overcome the effects of any prior under-representation of women in the job classifications listed below and to correct for the effects of the Personnel Board's prior practice of restricting its job announcements in many of these positions to "males only", the City shall establish and attempt to meet an annual interim goal of making probational appointments of female applicants to vacancies in permanent, full-time positions in the classified service in the job groups listed below at the rates set forth next to each job group or at the rate of female representation among applicants, whichever is higher. Attached as Appendix B to this Consent Decree is a listing of each of the job classifications included within each of the job groups set forth in this paragraph.

<u>Job Group</u>	<u>Interim Annual Goal</u>
Group I - Police Department	25%
Protective Services (Police Officer)	
Group II - Police Department	25%
Protective Services (Police Sergeant)	
Group III - Fire Department	15%
Protective Services	

Group IV - Engineering Department	30%
Professionals	
Technicians	
Para-professionals	
Group V - Inspection Services Departments	20%
Professionals	
Technicians	
Skilled Craft Workers	
Group VI - Municipal Garage	20%
Skilled Craft Workers	
Service/Maintenance Workers	
Group VII - Office of Housing	20%
Professionals	
Group VIII - Streets & Sanitation	20%
Technicians	
Service/Maintenance Workers	
Group IX - Traffic Engineering	30%
Professionals	
Technicians	
Skilled Craft Workers	
Service/Maintenance Workers	
Group X - Parks & Recreation	20%
Skilled Craft Workers	
Service/Maintenance Workers	
Group XI - Parking Authority	30%
Protective Services	

9b. With respect to promotions to sworn positions in the police department above the rank of sergeant, the City shall, subject to the availability of qualified female applicants, seek to insure that women are promoted to such positions in percentages which are approximately equivalent to their percentage representation in the job classifications from which promotional candidates are traditionally selected.

C. Implementation of Goals

10a. In order further to insure the possibility of achieving the goals for blacks and women set forth in this Decree, the

City shall request the Personnel Board selectively to certify to the City for appointment qualified blacks and females whenever such action is necessary to provide the City with a certification list that contains sufficient numbers of blacks and females to meet the goals set forth in this Decree. More specifically, in cases where candidates have been found unqualified or unavailable for appointment, the City shall request that the Personnel Board certify sufficient numbers of qualified blacks and women to meet the goals of this Decree. In this regard the City may request that the Personnel Board certify qualified blacks and females who are not incumbent employees of the City of Birmingham. In determining the City's compliance with the goals of this Decree, the appointment of a black female shall count toward both black and female hiring and promotion goals.

10b. In the event the Personnel Board declines, or is unable, to furnish lists containing qualified blacks or females, or in the event the Personnel Board declines to eliminate from its consideration of eligibles non-validated promotional potential ratings, the City, notwithstanding any state or local law, shall take whatever actions are required to comply with the terms of this Decree. Such actions may include, but are not limited to:

(i) Directly recruiting blacks or females, for the purpose of supplementing any non-conforming list furnished by the Personnel Board.

(ii) Considering existing black and female City employees for promotion, whether or not such candidate was certified by the Personnel Board and supplementing any such non-conforming list furnished by the Personnel Board with such persons as are deemed qualified by the City.

III. AFFIRMATIVE ACTION PLANS

11. On an annual basis for five years after entry of this Decree, each department of the City shall submit to the Office of the Mayor, in writing, an affirmative action plan designed to increase the employment and promotions of blacks and women in the respective department, and to otherwise promote the implementation of this Decree. The plan shall set forth the affirmative steps to be taken to increase the employment and upgrading of blacks and women.

12. A copy of the affirmative action plan for each department, when approved by the Mayor, shall be posted in a conspicuous and prominent place in the main office of each department of the City, and a copy of each plan shall be prominently posted by the Director of Personnel in a public area in City Hall.

13. Each department head shall submit to the Mayor semi-annual evaluation reports of the department's affirmative action plan. The report shall also include a review of the department's progress in achieving the specific goals of this Decree and of the department's affirmative action plan, noting the goals which were achieved and those not yet achieved, the reason for any failure to achieve goals, and the remedial action being taken to overcome any such failure.

IV. RECRUITMENT

14. The City shall continue to develop and reassess its present affirmative recruitment program designed to inform blacks and women of job opportunities with the City for the purpose of securing sufficient qualified applicants to enable the City to meet the hiring goals set forth herein. The recruitment program shall include maintaining contacts with area high schools, technical and vocational schools, colleges, and organizations which have traditionally expressed an interest in providing minority and female applicants or which indicate such interest in the future, and informing them of employment opportunities with the City. In addition, where appropriate, advertising of employment

opportunities shall be placed with or in advertising media primarily directed to black and female audiences for the purpose of emphasizing to blacks and women the availability of employment opportunities with the City. As part of its recruitment program the City shall utilize black and female recruiters for the Police and Fire Departments.

V. JOB POSTING

15. The City shall inform its employees of all opportunities for promotion or transfer. The City shall insure that all written announcements received from the Personnel Board for hiring, promotion and training opportunities with the City are made available to all of its employees reasonably in advance of any scheduled examinations or training for such positions. Such announcements shall be posted in conspicuous places so that reasonable notice is given to the City's employees of such employment opportunities.

16. Notices of vacancies within a department in either permanent, part-time or temporary positions shall be posted separately and in conspicuous places from notices of vacancies in other departments. With respect to promotions and/or training opportunities in the Police, Fire, and Streets and Sanitation departments, the City shall insure that written notification of promotion or training opportunities in jobs in those departments are contained on separate bulletin boards and in conspicuous places at each precinct, fire house or division of such departments. The City shall also seek to insure that such announcements remain on the bulletin board for the specified period of time, and that they are not taken down or otherwise tampered with by unauthorized persons.

VI. SEX RESTRICTIONS IN JOB ANNOUNCEMENTS AND CERTIFICATIONS

17. The City shall not request that the Personnel Board restrict any job announcements or certifications on the basis of sex except where, pursuant to a proper validation study, gender

is determined to constitute a bona fide occupational qualification within the meaning of Section 703(e) of Title VII for the job(s) listed in such announcements or certifications, and such determination is approved in writing by the United States. If such approval is not granted, the City reserves the right upon proper motion to petition the Court for approval of the determination.

VII. HEIGHT-WEIGHT REQUIREMENTS

18. The City shall not use or follow any minimum height or weight requirements which have an adverse impact against blacks or women as selection criteria for any classified service position, nor shall it abide by any such requirements if they are instituted and administered by the Personnel Board.

VIII. ELIGIBILITY TO APPLY FOR PROMOTION TO CERTAIN JOBS

19a. The City shall not require police officers to serve more than three years uninterrupted service in rank (or two years uninterrupted service in rank for candidates who have two years of college credits) in order to be eligible to take the promotional examination for police sergeant, nor shall it require police sergeants to serve more than two years uninterrupted service in rank in order to be eligible to take the promotional examination for police lieutenant. Employees who have obtained permanent status as police lieutenant shall not be deemed ineligible for promotion to the next higher rank based upon any minimum length of service or time in rank.

19b. The City shall not require firefighters to serve more than two years uninterrupted service in rank in order to be eligible to take the promotional examination for the position of fire lieutenant. Employees who have obtained permanent status as fire lieutenant or fire captain shall not be deemed ineligible for promotion to the next higher rank based upon any minimum length of service or time in rank.

19c. For purposes of subparagraphs a and b the term "uninterrupted" service shall include any time spent as a probationary

employee.

20. In order to be eligible to take the promotional examinations for the positions of public works supervisor, ~~or~~ construction supervisor, an employee must have permanent status as a truck driver, refuse truck driver, labor supervisor, heavy equipment operator or construction equipment operator. In order to be eligible to take the promotional examination for the position of sanitation inspector, an employee must have permanent status as a truck driver or semi-skilled laborer.

21. Any employee who has worked full-time in an unclassified laborer position for twelve consecutive months shall be eligible to apply to take the promotional examinations for the following classifications: semi-skilled laborer, truck driver, refuse truck driver, equipment service worker, automotive mechanic helper. As used in this paragraph, the term laborer shall include the classification of building service worker, laborer, and refuse collector.

22. Any employee who has obtained permanent status as a semi-skilled laborer or truck driver shall be eligible to apply to take the promotional examinations for the following classifications: truck driver, refuse truck driver, labor supervisor, heavy equipment operator, equipment service worker, automotive mechanic helper.

23. Any employee who has obtained permanent status as a truck driver, heavy equipment operator, refuse truck driver, or labor supervisor shall be eligible to apply to take the promotional examination for the classification of construction equipment operator.

IX. PROMOTIONAL POTENTIAL RATINGS

24. The City may continue to use the Personnel Board's current promotional potential rating system in departments where it is shown to have no adverse impact. The City shall discontinue the use of the Personnel Board's current promotional potential rating system in the following departments in which departments such ratings have been demonstrated to have had an adverse impact on blacks: Streets and Sanitation, Police, Fire, Parks and Recreation.

25. The City further agrees to discontinue the use of the Personnel Board's current promotional potential rating system to determine eligibility for promotion in any other department where, based upon any two successive rating cycles (one cycle consisting of 6 months), there is evidence of adverse impact against blacks. In determining adverse impact under this subpart the parties agree to rely upon section 4D of the Uniform Guidelines.

X. BACKGROUND INVESTIGATIONS

26. Background investigations shall be conducted in such a manner so as not unlawfully to discriminate on the basis of race or sex. Applicants for employment shall not be disqualified automatically on the basis of an arrest or conviction record, a military discharge that is less than honorable, or a poor credit rating. In considering the effect of a criminal conviction upon an applicant's qualifications, the City shall consider at least the following factors: (1) the nature of the position the applicant is seeking; (2) the nature of the crime; (3) the period of time elapsed since the conviction; and (4) the success or failure of rehabilitation efforts.

27. The City shall establish a written policy concerning background investigations within the Police Department within 90 days after this Decree is entered. As part of that policy, the Police Department shall provide applicants who have been rejected on the basis of the background investigation written notice of the specific reason(s) for their rejection. An applicant who has received such notice shall be allowed ten (10) days to respond orally or in writing and to provide relevant information concerning the basis for rejection. The City shall insure that such oral or written response and relevant information is reviewed by an individual(s) who did not participate in the applicant's initial background investigation, and that this review shall occur before the rejection becomes final. The Department's background investigation policy shall be reviewed periodically to insure that it is administered in a non-discriminatory manner,

and that any components, aspects or elements of the background investigation process which result in a disproportionate disqualification of blacks or women are either eliminated or shown to be job related in accordance with the requirements of the Uniform Guidelines. The policy shall also provide that any black or female applicant rejected for a job by reason of an adverse background investigation shall be replaced on the next certification list for such job by an applicant of the same race or gender.

XI. SUPERVISORY INSTRUCTION

28. The City shall inform supervisory personnel that the City shall not discriminate against or harass any employee or potential employee on the basis of race or sex. In addition, the City will instruct such personnel about their responsibility in regard to equal employment opportunity and affirmative action. Supervisory personnel will be evaluated, in part, on the basis of their equal employment opportunity and affirmative action efforts and results, as well as their cooperation with the Affirmative Action Officer.

XII. DISMISSALS FROM THE POLICE AND FIRE TRAINING ACADEMIES

29. The City agrees that prior to the dismissal of a black or female from the police or fire training academy, it shall notify any such black or female in writing of the specific reason(s) that person is subject to dismissal from the academy, and he or she shall be given an opportunity to respond orally or in writing within 10 days to responsible training academy officials with respect to any matters which concern their academy performance. Copies of any correspondence, notes, memoranda or recordings concerning any matters covered by this paragraph shall be retained by the City and shall be available for inspection by attorneys for the plaintiffs upon request.

XIII. FACILITIES

30. The parties recognize that the City has engaged and is continuing to engage in affirmative efforts to eliminate vestiges of racial segregation in employees' facilities. The City hereby

agrees to take steps to insure that such facilities will be maintained in a racially integrated fashion in the future.

XIV. AFFIRMATIVE ACTION OFFICER

31. The City shall appoint an Affirmative Action Officer who shall have the following responsibilities:

(a) Advise black and female employees of the terms of this decree;

(b) Post his or her office hours and location and copies of this Decree in conspicuous places within each department or operational unit of the City;

(c) Receive and investigate complaints of race and sex discrimination and conciliate such complaints when appropriate, and notwithstanding any other provisions of law, establish a written procedure which shall govern such complaints;

(d) Maintain a complete record of all actions taken in pursuit of the duties outlined above, including all correspondence directed to or from the City of Birmingham with respect to any complaints or investigations undertaken pursuant to this Consent Decree and any investigatory files; and

(e) To review, prior to final selection, a department head's written justification for failure to select certified black or female applicants in jobs in which blacks or females are underrepresented. The Affirmative Action Officer shall submit his or her written comments together with the appointing authority's written justification to the Office of the Mayor, prior to final selection.

XV. AFFIRMATIVE ACTION COMMITTEES

32. The City shall appoint separate affirmative action committees for the Police Department, the Fire Department, and the Streets and Sanitation Department. Each committee shall be composed of not less than 3 nor more than 5 members who are City

employees, and who may be either incumbents in their respective departments or individuals selected from outside such departments. Such committees shall meet periodically to review the job assignment and disciplinary policies in their respective departments in order to insure that such policies are maintained and administered in a manner that does not unlawfully discriminate against any employee because of race or sex. Such committees shall report quarterly (or more than quarterly if required by specific matters) to the mayor or his designee. In appointing the members of such committees the City shall insure that there are at least two blacks and one female among the members of each such committee. Each committee member shall be compensated for committee work at the same rate the committee member receives in his or her job with the City.

XVI. INDIVIDUAL RELIEF

A. Relief for Named Private Plaintiffs

33. The individual named plaintiffs in the Martin case, (filed on January 7, 1974) are John W. Martin, Major Florence, Ida McGruder, Sam Coar, Wanda Thomas, Eugene Thomas, and Charles Howard. The City of Birmingham agrees to provide the following relief for the named plaintiffs in the Martin case, without awaiting any further action by the Personnel Board.

a. Ida McGruder alleged in the complaint in the Martin case that the City of Birmingham discriminated against her on the basis of race in failing to hire her to a position as a key punch operator after she was certified to that position as qualified by the Personnel Board on several occasions in 1973. The position of key punch operator is now known as data entry operator. The City of Birmingham agrees to hire Ida McGruder to the first data entry operator vacancy which occurs after final approval of this Decree by this Court. Ms. McGruder's remedial City seniority date and adjusted classification seniority date shall be May 1, 1973. Ms. McGruder shall also receive back pay relief as provided in paragraph 34a of this Decree. At the time Ms. McGruder fills a data entry operator vacancy with the City, she shall be paid at the highest pay step for that classification.

b. Major Florence claims he was discriminated against on the basis of race in that he has been denied promotional opportunities in the Streets and Sanitation Department by the City and the Personnel Board. The City agrees to promote Mr. Florence to the position of public works supervisor as provided in paragraph 47a and Appendix C of this Decree. Mr. Florence's adjusted classification seniority date for public works supervisor shall be June 3, 1974. Mr. Florence shall also receive back pay relief as provided by paragraph 34a of this Decree.

c. Sam Coar alleged in the complaint that he was discriminatorily discharged from the Streets and Sanitation Department of the City of Birmingham in 1972 after 8 years of employment as an unclassified laborer. The City of Birmingham agrees to hire Sam Coar to a position as a truck driver in the Streets and Sanitation Department for the first truck driver vacancy which occurs after final approval of this Consent Decree by this Court. At the time Mr. Coar fills a truck driver vacancy with the City, he shall be paid at the highest step for that classification. Mr. Coar's remedial city seniority date shall be March 3, 1964, the date Mr. Coar entered the unclassified service of the City of Birmingham. Mr. Coar's adjusted classification seniority date for truck driver shall be January 1, 1973. Mr. Coar shall also receive back pay relief pursuant to paragraph 34a of this Decree.

d. Eugene Thomas alleged in the complaint that he was denied a position as a police officer with the City of Birmingham because of race. The City of Birmingham agrees to hire Mr. Thomas for the first police officer vacancy which occurs after final approval of this Decree, provided that Mr. Thomas satisfactorily passes the standard physical examination for the police officer position. Mr. Thomas shall also receive back pay relief as provided in paragraph 34a of this Decree. Mr. Thomas' remedial city seniority and adjusted classification seniority shall date from July 1, 1973. At the time Mr. Thomas fills a police officer vacancy with the City under this Decree, he shall be paid at the highest pay step for that classification.

e. John W. Martin alleged in the complaint that he was rejected for the position of security guard with the City of Birmingham because of race, after he had been certified by the Personnel Board as qualified for that position. Mr. Martin was subsequently hired by the City of Birmingham in another position. Mr. Martin shall receive back pay relief as provided in paragraph 34a of this Decree, but waives any claim to any other individual relief.

f. Charles Howard alleged in the complaint that he was denied a position as a firefighter with the City of Birmingham because of the racially discriminatory firefighter test. Mr. Howard shall receive back pay relief as provided in paragraph 34a of this Decree, but waives any claim to any other relief.

g. Wanda Thomas claims she was discriminated against by Jefferson County, not by the City of Birmingham. She therefore does not seek any relief against the City of Birmingham.

Each of the individual named plaintiffs, with the exception of Wanda Thomas, agrees to sign the release contained in Appendix E of this Decree. The plaintiffs do not waive any claims they may have for monetary relief or any other relief to which they may be entitled against any other defendants in these or any other actions.

B. Back Pay and Other Individual Relief In The Actions Brought By the United States and Private Plaintiffs

34. The City agrees to pay the sum of \$265,000 in full and complete settlement of the claims against the City of Birmingham for monetary relief in these consolidated actions. Any back pay awards to be made from such sum shall be subject to income tax withholding and the employee's share of social security. Within sixty-five (65) days after provisional approval of the Consent Decree by the District Court, or final approval of the Decree by the Court, whichever occurs first, the City agrees to pay the sum of \$265,000 in full and complete settlement of the claims against the City of Birmingham for monetary relief in these consolidated actions. This sum shall be deposited in separate trust accounts

bearing interest at commercial rates as follows:

a. A fund in the total amount of \$30,000 shall be set aside for the individual private plaintiffs referred to in paragraph 33. Within ten (10) days after the date this Decree is given final approval by the Court, the Clerk shall pay the following amounts to the following named plaintiffs, together with the interest accrued thereon.

Major Florence	\$8,500
Ida McGruder	\$6,500
Sam Coar	\$6,500
Eugene Thomas	\$4,000
John Martin	\$3,500
Charles Howard	\$1,000

These amounts shall be in full satisfaction of all claims of the named plaintiffs for monetary relief against the City of Birmingham in these consolidated actions including claims they may have as members of any of the subclasses.

b. A fund in the total amount of \$5,000.00 shall be set aside for the members of Subclass No. 1 in Appendix C (the Police and Fire test subclass). Members of this subclass shall also be eligible for back pay relief under the Personnel Board Decree.

c. A fund in the total amount of \$65,000.00 shall be set aside for the members of Subclass No. 2 in Appendix C (the Unclassified Service subclass).

d. A fund in the total amount of \$137,000.00 shall be set aside for the members of Subclass No. 3 in Appendix C (the Streets and Sanitation promotional subclass).

e. A fund in the total amount of \$6,000.00 shall be set aside for the members of Subclass No. 4 (the Policewomen subclass).

f. A fund in the total amount of \$22,000.00 shall be set aside for the members of Subclass No. 5 (the Rejected Applicant subclass).

The amounts described in paragraphs b through f above, together with the interest accrued thereon, shall be paid to members

of the appropriate subclasses as described in Appendix D. Payments from these separate funds shall be pursuant to Court order.

35. The amount of back pay relief allocated for each subclass listed in Appendix C has been determined by a calculation of the relative economic injury suffered by each of the subclasses. The amount of individual back pay relief for subclass members will be determined as described in Appendix D after the individual subclass members submit proof of claim forms in accordance with the provisions of paragraph 36 below.

36. Within ten (10) days after the Court gives final approval to the Consent Decree, written notice will be given by the City by certified mail, return receipt requested, to each of the members of the subclasses identified in Appendix C. Notice to such individuals will be sent to their last known address. The form of the notice is attached as Appendix G. Proof of claim forms (attached as Appendices H through L) will be included with the individual notice to class members. Each subclass member shall have sixty (60) days from the date of mailing to respond to this notice and to file his or her proof of claim form with the Clerk of the Court.

37. Within forty-five (45) days after receipt of all timely proof of claim forms, counsel for the plaintiffs will submit to the Court and counsel for the City a report listing each subclass member who, in their view, is entitled to participate in the individual relief provisions of this Consent Decree. In preparing this report counsel for the plaintiffs shall be allowed access to the City's records and files after reasonable notice of no less than three (3) days, and any review of such records and files shall occur during normal working hours. Plaintiffs shall include a description of the job offer and remedial seniority, if any, to be offered by the City to the subclass member and the monetary relief, if any, to be afforded by the City to such person. In no event will the sum of the individual monetary awards to be paid by the City of Birmingham to the members of the subclasses identified in Appendix C, and to individual private

plaintiffs identified in paragraph 33, exceed the sum of \$265,000, plus any interest accrued thereon.

38. The City shall have ten (10) days from receipt of the plaintiffs' report on individual relief to notify, in writing, counsel for the plaintiffs of any objection(s) it may have to the job offer and/or seniority dates for the individuals identified in such report. If there is any such objection(s), the parties shall first attempt to reach a voluntary resolution of the matter(s). In the event the parties are unable to resolve such objection(s), they may petition the court for a resolution of such objections(s). The City agrees not to challenge any of the individual back pay awards to be made under this Consent Decree.

39. Remedial City seniority date, as that term is used in this Decree, shall mean the employee's seniority for purposes of promotion, vacation as accrued, sick leave, and longevity pay, but such date shall not be utilized for pension purposes. However, employees with remedial City seniority dates may elect, if state law permits, to pay into the City's pension system the amount of money the employee would have paid into the system had such employee been in active uninterrupted service with the City from such remedial date. Such election must be made and the required sum of money paid into the pension fund within six (6) months after the date the employee enters the City's service under the provisions of this decree or, in the case of current City employees, within six (6) months of their being notified that the Court has given final approval to their remedial seniority rights under this Decree. Adjusted classification seniority, as that term is used in this Decree, shall mean the employee's seniority for layoff and recall in the jobs to be offered to individuals under Part XVI of this Decree.

40. Upon final determination of the awards of individual relief to be made under this Decree, the City of Birmingham shall within five (5) days thereafter notify by certified mail each of the subclass members who filed a timely request to be considered

for individual relief of their proposed awards of relief, if any, as set forth in the plaintiffs' report submitted to the Court. This notice shall also inform each of these individuals of their right to object to the relief, if any, as contained in the report, and that they must file their objections in writing with the Clerk of the Court within fifteen (15) days of their receipt of this notice.

41. If any such objections are filed, the Court shall thereafter, and as soon as practicable, schedule a hearing at which it will rule upon any objections to the report which have been timely filed. At the conclusion of such hearing the Court shall determine whether to give final approval or disapproval to the awards of individual relief.

C. Implementation of Individual Relief

42. Immediately upon final approval by the Court of the awards of individual relief for subclass members to be made under this Decree, the City will begin to implement part XVI of this Decree as described herein. However, the City shall implement the relief for the named private plaintiffs as provided in paragraphs 33(a) through 33(f) of this Decree.

43. Any person entitled to individual relief (including the named private plaintiffs), in order to obtain such relief, must sign a notarized release which will be provided that person by the City (Appendix E) and return such notarized release to the City within thirty (30) days of that person's receipt thereof. Any such individual who either does not sign such a notarized release or, alternatively, and absent good cause, does not return such signed notarized release to the City within thirty (30) days of that person's receipt thereof shall be deemed to have waived his or her entitlement to such relief. Such release shall provide that the relief to which that person is entitled under part XVI of this Decree, if accepted, shall be in full and final settlement of any and all claims against the City of Birmingham based upon allegations of race or sex discrimination occurring

prior to the date such release is signed. Such release shall be in the form exemplified by Appendix E attached hereto, or such other form upon which the plaintiffs and the City may agree and the Court approve.

44. The City of Birmingham shall send a notice to each of the subclass members entitled to individual relief informing them that the Court has given final approval to their right to such relief under this Decree. This notification shall be in writing, be made by certified mail, return receipt requested, and shall be approved as to substance and form by the plaintiffs prior to mailing. Included with such notice will be a copy of this Decree and the release form as described in paragraph 43 above. With respect to those individuals who are eligible for consideration to fill a future vacancy in a classified service position, the notice shall clearly and specifically inform such persons of the qualification requirements they will have to meet in order to be appointed to that position. Such notification also shall state that if the recipient has any questions about the notice, he or she may contact the Affirmative Action Officer, the Director of Personnel for the City or counsel for the plaintiffs whose names, addresses and phone numbers shall be listed in the notice, or their own counsel.

45. As the City receives releases from the named private plaintiffs and subclass members entitled to a back pay award under this Decree, it shall apply to the Court for Orders directing the Clerk of the Court to issue checks to such persons in the amount of his or her back pay award.

46. Subject to the provisions of paragraph 47a, each of the persons who are determined to be entitled to an offer of employment with the City pursuant to the plaintiffs' report as set forth in paragraph 37, shall be entitled to priority appointments to future vacancies in such positions in the order provided in plaintiffs' report.

47a. The individuals named in Appendix C as members of subclass 3 are blacks who the parties have already determined are entitled to priority promotional opportunities in the Streets and

Sanitation Department. Immediately upon final approval of this Consent Decree by the Court, those individuals shall be deemed by the City to be qualified for promotion to the jobs listed next to their names in the Appendix. The City agrees to promote these individuals to the first permanent full time vacancies which occur in the job listed next to their names after the Court grants final approval to this Decree. Where two or more persons named in this subclass are entitled to fill a future vacancy in the same position, priority of appointments shall be determined by the date of hire seniority dates listed next to their names in that Appendix.

47b. Except for the individuals who are named as members of subclass 3 in Appendix C who are eligible for priority promotional opportunity in the Streets and Sanitation department, each individual entitled to a job offer under this Decree and pursuant to the plaintiffs' report shall be required satisfactorily to demonstrate his or her qualifications for the job to be offered in accordance with the current qualification requirements for the job as established by the City and the defendant Jefferson County Personnel Board, provided that such requirements are administered in a nondiscriminatory manner, do not unlawfully discriminate either in purpose or effect against blacks or women, and do not otherwise conflict with the provisions of paragraph 1 of this Decree. The City agrees to waive any age requirements which may currently bar any such individual from obtaining employment with the City if such individual met such age requirements at the time of application. No such class member shall be required to pass any test or meet any other qualification standard which has been shown to have an adverse impact on blacks or women.

XVIII. NOTICE AND FAIRNESS HEARING

48a. Within ten (10) days after provisional approval of this Consent Decree by the Court, notice, in the form attached as Appendix F-1, will be issued by publication in the Sunday edition of the Birmingham News for two consecutive weeks, and in the Birmingham Times on one weekday directed to all interested persons

informing them of the general provisions of this Decree and of their right to review a copy of the Decree which will be on file with the Clerk of the Court. Within this same ten (10) day period, individual notice will also be given of the general provisions of this Decree by the City to the subclasses identified in Appendix C. The cost of mailing and publication of any notices to be made under this Decree shall be paid by the City. The form of this notice is attached as Appendix F-2. Both the notices by publication and the individual notices shall inform persons to whom such notices are directed of their right to be heard and to file objections, if any, to this Decree. Such objections must be filed with the Clerk of the Court by a date to be set by the Court in its Order granting provisional approval to this Decree. The Court shall thereafter, and on a date(s) to be fixed by the Court in its Order granting provisional approval to the Decree, schedule a fairness hearing at which those persons who file timely objections to the Decree will be heard. At the close of such hearing, or as soon as practicable thereafter, the Court shall rule upon such objections and grant final approval or disapproval to this Consent Decree. The Court shall, however, withhold final approval of the awards of individual relief to be made under this Decree, except the relief to be granted the individual named plaintiffs in the Martin case and the offers of promotion to be made to individuals named in Appendix C, until those class members who file a timely response to the notice of right to present a claim for relief under paragraph 36 above, are notified of their individual awards, if any, and are afforded an opportunity to be heard and to file any objections they may have to those awards.

48b. In the event there are objections to the Consent Decree which the Court overrules, the Court shall not implement the Decree until thirty days after the entry of an Order finally approving the Decree.

XVIII. RECORDKEEPING

49. The City shall retain during the period of this Decree necessary records concerning the implementation of this Decree.

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These records shall be made available to the plaintiffs for inspection and copying upon written request.

50. The City's records shall include the following:

(a) A list of all organizations and schools which are contacted for recruitment purposes, showing the date that any notice of job opportunity was mailed to them, the position and number of positions to be filled from that notice, and the date through which applications could be received for the job which was advertised, including a summary or compilation of all other recruitment efforts aimed at minorities and women, together with the date of said efforts and the names and positions of the City's employees who made the contact and the nature of the contact.

(b) All written applications and related records for all persons seeking employment with the City, including applications for transfer or promotion within or among departments, for a period of at least five (5) years, and shall include on such applications identification of the applicant by race and sex. Such records shall also contain a statement of the reasons why any applicant was found not to be qualified for the position(s) applied for.

(c) With respect to any applicant who is certified for hire or promotion and who is not selected for the vacancy for which that applicant is certified, the City shall record in writing the reason(s) for the applicant's not being selected for that vacancy. Also, the City shall record and maintain any other written records or comments on an applicant for certification in accordance with paragraph 31(e) above.

(d) All written communications between the City and applicants for employment, transfer and promotion.

(e) All written communications between the City and employees concerning discipline and discharge, as

well as all written reports concerning these matters.

XIX. REPORTING

51. Within ten days after adoption of the City's annual affirmative action plans and reports for each department, the City shall furnish a copy of every plan and report to the plaintiffs.

52. Within 60 days of the entry of this decree and thereafter semi-annually, the City shall report to the plaintiffs, the following information:

(a) A summary showing the total number of employees by race and sex in each job classification for each department of the City in both the classified and unclassified service.

(b) A list of all probational appointments for permanent full-time positions, by job classification and department, during the reporting period indicating the race and sex of the persons hired or promoted.

53. Within 60 days of the entry of this Decree and thereafter on an annual basis, the City shall report to the plaintiffs the following information:

(a) A list of all persons, by job classification, department, race and sex, to whom positions have been offered and whether or not the positions were accepted.

(b) A list of all promotions to permanent full-time positions in the classified service, by job classification and department, during the reporting period indicating the race, sex, date of initial hire in the classified service and date of the promotion.

(c) A breakdown of the applicant flow for employment with the City which indicates by race and sex the number of applicants for each department and job classification in the classified and unclassified service, and the number of applicants hired, rejected and pending for each job classification and department. Applicant hires shall be separately identified as to

Comprehensive Employment Training Act (CETA) positions.

(d) A summary report of the recruiting activities conducted by the City and the results of those activities.

(e) A report of the City's implementation of the individual relief provisions of this Decree. This report shall include a statement of the monetary payments, if any, that have been made to individuals entitled to such relief. This report shall further identify each individual who has been offered a job with remedial seniority under this Decree, and whether the job offer was accepted or rejected. For any individual who was disqualified from an offer of employment under Part XVI of this decree, a specific statement of the reasons for disqualification shall be included in this report.

(f) A list of the sworn personnel terminated from either the Police Department or the Fire Department, identifying each individual by race, sex, date of hire, date of termination, probational or permanent status, and rank. In addition, the report shall explain the reason each individual was terminated.

(g) Within thirty (30) days of establishment or revision, a copy of the written policy concerning background investigations required by paragraph 27.

XX. EFFECT OF COMPLIANCE

54. Compliance with the terms and conditions of this Consent Decree shall constitute compliance by the City with all obligations arising under Title VII of the Civil Rights Act of 1964, as amended, the State and Local Fiscal Assistance Act of 1972, as amended, the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Civil Rights Acts of 1866 and 1871, 42 U.S.C. §1981 and §1983, and the Fourteenth Amendment to the

Constitution of the United States as raised by the plaintiffs' complaints. Insofar as any of the provisions of this Consent Decree or any actions taken pursuant to such provisions may be inconsistent with any state or local civil service statute, law or regulation, the provisions of this Consent Decree shall prevail in accordance with the constitutional supremacy of federal substantive and remedial law.

XXI. RETENTION OF JURISDICTION

55. The Court retains jurisdiction of this action for such further relief or other orders as may be appropriate. At any time after six (6) years subsequent to the date of the entry of the Consent Decree, any party may move the Court upon forty-five (45) days notice to the other, to dissolve this Consent Decree. In considering whether the Consent Decree shall be dissolved, the Court will take into account whether the purposes of this Consent Decree have substantially been achieved.

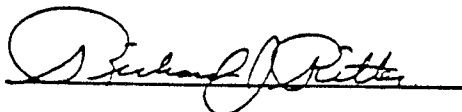
Entered and Ordered this ____ day of _____, 1981.

UNITED STATES DISTRICT JUDGE

AGREED AND CONSENTED TO:

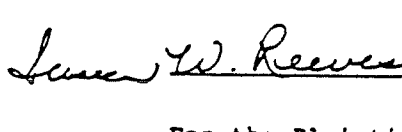
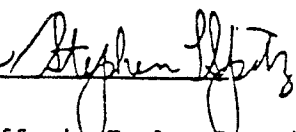
For Plaintiff United States

DATED:



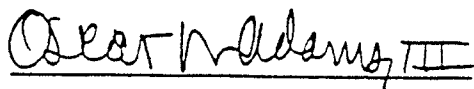
May 19, 1981

For the Plaintiffs in Martin, et al.
v. City of Birmingham, et al.

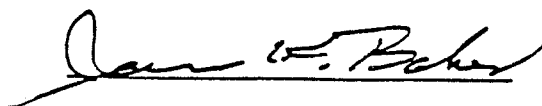
May 19, 1981

For the Plaintiffs in Ensley Branch of the
N.A.A.C.P., et al. v. Seibels, et al.



May 19, 1981

For the Defendant City of Birmingham



May 19, 1981

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Appendix A

Group I - Engineering Department

1. Professionals:
 - (1) Graduate Engineer
 - (2) Sr. Graduate Engineer
 - (3) Airplane Pac. Engineer
 - (4) Sr. Civil Engineer
 - (5) Chief Civil Engineering
 - (6) Chief Design Engineering
2. Technicians:
 - (1) Civil Engineer
 - (2) Engineering Technician
 - (3) Sr. Engineering Technician
 - (4) Chief of Party
 - (5) Engineering Inspector
 - (6) Sr. Engineering Inspector
 - (7) Construction Cost Analyst
 - (8) Media Spec.
 - (9) Engineering Drafter
 - (10) Sr. Engineering Drafter
 - (11) Sr. Row Agent

Group II - Finance Department

1. Professionals:
 - (1) Sr. Auditor
 - (2) Sr. Accountant
 - (3) Principal Accountant
 - (4) Chief Accountant
 - (5) Accountant
 - (6) Auditor
 - (7) Revenue Examiner

Group III - Inspection Services Department

1. Technicians:
(other than
Building
Inspectors)
 - (1) Maintenance Mechanic
 - (2) Electrical Inspector
 - (3) Chief Electrical Inspector
 - (4) Elevator Inspector
 - (5) Chief Elevator Inspector
 - (6) Plumbing Inspector
 - (7) Gas Inspector
 - (8) Chief Pl/Gas Inspector
 - (9) Chief Building Inspector
 - (10) Zoning Inspector
 - (11) Weights & Measures Inspector
 - (12) Sr. Weights & Measures Inspector
2. Skilled Craft
Worker:
 - (1) Maintenance Mechanic
 - (2) WWTP Maintenance Worker
 - (3) Cabinet Maker
 - (4) Plumber
 - (5) Refrigerator & Heating Mechanic
 - (6) Painter
 - (7) Painter Supervisor
 - (8) Electrician

Appendix A Cont'd.

Group IV - Traffic Engineering Department

1. Technicians:
- (1) Traffic Planning Technician
 - (2) Sr. Traffic Planning Technician
 - (3) Traffic Analyst
 - (4) Traffic Construction Supervisor
 - (5) Supv. of Traffic Construction
Supervisor
 - (6) Traffic Operators Supervisor
 - (7) Street Light Inspector

Group V - Office of Housing

1. Professionals:
- (1) Housing Rehabilitation
Specialist
 - (2) Sr. Housing Rehab.
 - (3) Pr. Housing Rehab.
 - (4) Housing Relocation Officer

Appendix B

Group I - Police Department

1. Protective Service: (1) Police Officer

Group II - Police Department

1. Protective Service: (1) Police Sergeant

Group III - Fire Department

1. Protective Service: (1) Firefighter
(2) Fire Prevention Inspector
(3) Fire Communications Operator

Group IV - Engineering Department

1. Professionals: (1) Graduate Engineer
(2) Sr. Graduate Engineer
(3) Airplane Fac. Engineer
(4) Sr. Civil Engineer
(5) Chief Civil Engineering
(6) Chief Design Engineering
2. Technicians: (1) Civil Engineer
(2) Engineering Technician
(3) Sr. Engineering Technician
(4) Chief of Party
(5) Engineering Inspector
(6) Sr. Engineering Inspector
(7) Construction Cost Analyst
(8) Media spec.
(9) Engineering Drafter
(10) Sr. Engineering Drafter
(11) Sr. Row Agent
3. Para-Professionals: (1) Engineering Aide
(2) Sr. Engineering Aide

Group V - Inspection Services Department

1. Professionals: (1) Architect
(2) Architect Drafter
(3) Plans Examiner
(4) Zoning Coordinator
2. Technicians: (1) Communications Technician
(2) Electrical Inspector
(3) Chief Electrical Inspector
(4) Elevator Inspector
(5) Chief Elevator Inspector
(6) Plumbing Inspector
(7) Gas Inspector

Appendix B Cont'd.

Group V - Inspection Services Department (cont'd.) —

2. Technicians:
 - (8) Chief Pl/Gas Inspector
 - (9) Building Inspector
 - (10) Chief Building Inspector
 - (11) Zoning Inspector
 - (12) Weights & Measures Inspector
 - (13) Sr. Weights & Measures Inspector
3. Skilled Craft Worker:
 - (1) Maintenance Mechanic
 - (2) Auto Mechanic
 - (3) WWTF Maintenance Worker
 - (4) Cabinet Maker
 - (5) Plumber
 - (6) Plumber
 - (7) Painter
 - (8) Painter Supervisor
 - (9) Electrician

Group VI - Municipal Garage

1. Skilled Craft Worker:
 - (1) Auto Mechanic
 - (2) Auto Shop Supervisor
 - (3) Auto Repair Expert
2. Service/Main-tenance Worker:
 - (1) Service Station Attendant
 - (2) Equipment Service Worker
 - (3) Sr. Equipment Service Worker
 - (4) Auto Mechanic Helper
 - (5) Building Service Worker
 - (6) Laborer

Group VII - Office of Housing

1. Professionals:
 - (1) Housing Rehabilitation Specialist
 - (2) Sr. Housing Rehab.
 - (3) Pr. Housing Rehab.
 - (4) A/HOUS Rehab. Officer
 - (5) Housing Relocation Officer

Group VIII - Streets & Sanitation

1. Technicians:
 - (1) Sanitation Inspector
 - (2) Sr. Sanitation Inspector
 - (3) Street Paving Spec.
2. Service Maintenance Worker:
 - (1) Driver Messenger
 - (2) Dist. Sit. Attn.
 - (3) Truck Driver
 - (4) Semi-skilled laborer
 - (5) Shop Helper
 - (6) Guard
 - (7) Building Service Worker
 - (8) Laborer
 - (9) Refuse Collector

Appendix B Cont'd.

Group IX - Traffic Engineering

1. Professionals: (1) Traffic Systems Engineer
 (2) Sr. Traffic Systems Engineer
2. Technicians: (1) Traffic Planning Technician
 (2) Sr. Traffic Planning Technician
 (3) Traffic Analyst
 (4) Traffic Control Supervisor
 (5) Supv. Traffic Control -
 Supervisor
 (6) Traffic Opns. Supervisor
 (7) Street Light Inspector
3. Skilled Craft Worker: (1) Traffic Signals Markings
 Worker
 (2) Traffic Signals Markings
 Crew Leader
 (3) Laborer
4. Service/Maintenance Worker: (1) Traffic Signs, Signals &
 Markings Workers
 (2) Traffic Signs, Signals &
 Markings Crew Leader

Group X - Parks & Recreation

1. Skilled Craft Worker: (1) Maintenance Mechanic
 (2) Park Maintenance Supervisor
 (3) Park Maintenance Supt.
 (4) Mason
 (5) Carpenter
 (6) Plumber
 (7) Painter
 (8) Sign Painter
 (9) Painter Supervisor
 (10) Electrician
2. Service/Maintenance Worker: (1) Zookeeper
 (2) Truck Driver
 (3) Semi-skilled Laborer
 (4) Shop Helper
 (5) Stadium Maintenance Supervisor
 (6) Greenhouse Worker
 (7) Gardener
 (8) Landscape Supervisor
 (9) Hort. Dist. Supv.
 (10) Guard
 (11) Maintenance Repair Worker
 (12) Laborer
 (13) Refuse Collector

Group XI - Parking Authority

1. Protective Service: (1) Security Officer

APPENDIX C

Subclass No. 1

All black persons who took the 10-C Policeman Test which resulted in the eligibility lists for police officers in the City of Birmingham which were in effect between April 25, 1975, and January 10, 1977, and the 20-B Firefighter Test which resulted in the eligibility lists for firefighters in effect between July 8, 1976, and January 10, 1977, who have not been hired for police officer or firefighter positions by the City of Birmingham or who subsequent to the entry of this Court's Order on January 10, 1977, were hired by the City of Birmingham but who may have been hired earlier but for their rank on such eligibility lists.

Subclass No. 2

All blacks who prior to the entry of this Decree were hired and assigned to laborer positions in the unclassified service of the City of Birmingham who, at any time after March 24, 1972, worked as laborers in the unclassified service and who prior to the entry of this Decree, were reclassified into the classified service. Listed below are named individuals who the parties to this Decree acknowledge are properly members of this subclass. Additional names may be added to this subclass pursuant to the provisions of paragraph 36 of this Decree:

Birmingham Streets and Sanitation Department

- | | |
|------------------------|-----------------------|
| 1. James Addie | 23. Curtis W. King |
| 2. Burnice Anthony | 24. Avance Lomax |
| 3. Willie Allen | 25. James Lowery |
| 4. Johnnie Bridges | 26. Robert Lowery |
| 5. Johnny Brown | 27. Carl E. Morris |
| 6. Eugene Carlton | 28. Elbert Muse |
| 7. Elmo Carter | 29. Trennon Nickerson |
| 8. John Carter | 30. Henry Paige |
| 9. Herman Copes | 31. Earnest Perry |
| 10. Otis Dickerson | 32. Sammie Robinson |
| 11. John Foster | 33. Edgar Sanders |
| 12. Rickey K. Graham | 34. Anthony Scales |
| 13. Roy Harris | 35. James Shuford |
| 14. Melvin Harris | 36. Gus Smith |
| 15. Emmitt Hicks | 37. Jessie Staten |
| 16. Adam Horne | 38. Otis Taylor |
| 17. David Horton | 39. Winston Thomas |
| 18. James Hudson | 40. Wilson Tucker |
| 19. Alex Huggins | 41. Morris Weatherly |
| 20. Bruno Huggins, Jr. | 42. Willie Wells |
| 21. Norman Jackson | 43. Richard Whitaker |
| 22. Houston Kennedy | 44. I.C. Williams |

APPENDIX D

The allocation of back pay amounts among the members of each subclass listed in Appendix C who file timely proof of claim forms shall be determined according to the following guidelines:

- a. Subclass No. 1 - All subclass members will share equally in the back pay allocated to this subclass under the Decree. In addition, individual members of this subclass may be entitled to back pay under the Consent Decree with the Personnel Board. If members of this subclass also applied for a police officer, firefighter, or deputy sheriff position(s) with any other defendant jurisdiction(s) in these consolidated actions, such persons shall not be deemed to have waived any back pay or other rights which they may have against that jurisdiction(s). Back pay may be denied to members of this subclass who refused prior offers of employment with the City as police officers or firefighters.
- b. Subclass No. 2 - Members of this subclass shall receive back pay according to the following formula:
 1. A calculation will be made of the difference between the annual pay of each subclass member in the unclassified service at the time of his reclassification and the annual pay he received in a classified service position at the time of reclassification. Some adjustments may be made in individual cases if there is evidence that an unclassified worker should have been reclassified in a higher paying job than the one he received at the time of reclassification.
 2. This difference will be multiplied by the number of years (rounded off to the nearest year)

that the subclass member served in the unclassified service between March 24, 1972, and the date the subclass member was reclassified into a classified service position.

3. Each member of this subclass shall receive a proportion of the amount set aside for this subclass in accordance with his relative economic injury as calculated above.

- c. Subclass No. 3 - Back pay shall be determined for this subclass according to the merits of the individual claim and the relative economic injury suffered by the claimant. The amount of back pay for a subclass member may vary depending upon the pay rate of the job for which a promotion claim is made, the subclass member's qualifications for promotion and length of service with the City, and any evidence that such individual had previously expressed an interest in obtaining a promotion in the job which is the subject of his claim. Set forth below are the guidelines which will be used for determining individual back pay awards on claims for the jobs listed below. Under each job title is a listing of categories of potential claimants in descending order of priority, i.e. individuals with claims within category 1 will, absent unusual circumstances, receive a larger back pay award than individuals who have claims which fall within category 2 etc.

No person will be eligible for back pay under more than one category for each of the job classifications listed below. Back pay awards for persons who file claims for more than one job may be reduced in cases where there is an overlap between

the back pay period for the jobs involved. The purpose of any such reduction(s) is to preclude the possibility of a "windfall" or double recovery for such claimant.

Public Works Supervisor And
Construction Supervisor

Category No. 1 This category consists of subclass members who have been employed in the Streets and Sanitation Department of the City of Birmingham on a continuous basis since at least January 1, 1974, in a permanent, full time position as a Refuse Truck Driver, Heavy Equipment Operator, or Truck Driver in either the classified or unclassified service; and who demonstrate that, at any time between January 1, 1975 and October 31, 1979, they expressed an interest to the City or the Personnel Board in being considered for a promotion to a Public Works Supervisor or Construction Supervisor position.

Category No. 2 This category consists of subclass members who have been employed in the Streets and Sanitation Department of the City of Birmingham on a continuous basis since at least January 1, 1974, in a permanent, full time position as a Refuse Truck Driver, Heavy Equipment Operator or Truck Driver in either the classified or unclassified service.

Category No. 3 This category consists of subclass members who were employed in the Streets and Sanitation Department of the City of Birmingham on or after March 24, 1972, and who after that date were employed in a permanent

full time position with the City as a Refuse Truck Driver, Heavy Equipment Operator or Truck Driver in either the classified or unclassified service.

Category No. 4 This category consists of subclass members who were employed in the Streets and Sanitation Department of the City of Birmingham on or after March 24, 1972, and who accumulated at least ten (10) continuous years of service in the Streets and Sanitation Department as a classified and/or unclassified employee.

Category No. 5 This category shall consist of the claims of any remaining subclass members for these jobs.

Construction Equipment Operator

Category No. 1 This category consists of subclass members who have been employed in the Streets and Sanitation Department of the City of Birmingham, and who demonstrate that at any time between March 24, 1972, and October 31, 1979, they performed the work of a Construction Equipment Operator while classified as a Truck Driver, Semi-skilled Laborer or Unclassified Laborer in the Streets and Sanitation Department of the City.

Category No. 2 This category consists of subclass members who have been employed in the Streets and Sanitation Department of the City of Birmingham on a continuous basis since at least January 1, 1974; who, on or after March 24, 1972, were employed in a permanent full time position as as a Truck Driver or a Semi-skilled Laborer, and who demonstrate that at

any time after March 24, 1972, they expressed an interest to the City or the Personnel Board in being considered for a promotion to a Construction Equipment Operator position.

Category No. 3 This category consists of subclass members who have been employed in the Streets and Sanitation Department of the City of Birmingham on a continuous basis since at least January 1, 1974, and who, on or after March 24, 1972, were employed in a permanent full time position as a Truck Driver or Semi-skilled Laborer.

Category No. 4 This category consists of subclass members employed in the Streets and Sanitation Department of the City of Birmingham on or after March 24, 1972, who accumulated at least ten (10) years continuous years of service in the Streets and Sanitation Department as a classified and/or unclassified employee.

Category No. 5 This category consists of subclass members employed in the Streets and Sanitation Department of the City of Birmingham on or after March 24, 1972 who, after that date, were employed in a permanent full time position with the City as a Truck Driver or Semi-skilled Laborer in either the classified or unclassified service.

Category No. 6 This category consists of the claims of any remaining subclass members for this job.

Labor Supervisor

Category No. 1 This category consists of subclass members who have been employed in the

Streets and Sanitation Department of the City of Birmingham on a continuous basis since at least January 1, 1974, and who demonstrate that between March 24, 1972, and December 1, 1978, they expressed an interest to the City or the Personnel Board in being promoted to a Labor Supervisor position, and who, at the time they expressed such interest, were employed as a Truck Driver or Semi-skilled Laborer in either the classified or unclassified service.

Category No. 2 This category consists of subclass members who have been employed in the Streets and Sanitation Department of the City of Birmingham on a continuous basis since at least January 1, 1974, and who, between March 24, 1972 and December 1, 1978, were employed in a permanent full time position as a Truck Driver or Semi-skilled Laborer in either the classified or unclassified service.

Category No. 3 This category consists of subclass members who, on or after March 24, 1972, were employed in the Streets and Sanitation Department of the City of Birmingham, and who worked in a permanent full time position as a Truck Driver or Semi-skilled Laborer in either the classified or unclassified service.

Category No. 4 This category consists of the claims of any remaining subclass members for this job.

Heavy Equipment Operator

Category No. 1 This category consists of subclass members who have been continuously employed in the Streets and Sanitation Department of the City of Birmingham since at least

January 1, 1974, and who, on or after March 24, 1972, expressed an interest to the City or the Personnel Board in being promoted to a position as a Heavy Equipment Operator, and who, at the time they expressed such an interest, were employed as a Semi-skilled Laborer in either the classified or unclassified service.

Category No. 2 This category consists of subclass members who at any time between March 24, 1972, and July 1, 1978, took the written promotional examination for Heavy Equipment Operator, and who, prior to January 1, 1979, were not promoted to a permanent, full time vacancy in that job.

Category No. 3 This category consists of subclass members who have been continuously employed in the Streets and Sanitation Department of the City of Birmingham since at least January 1, 1974, and who, on or after March 24, 1972, were employed in a permanent full time position as a Semi-skilled Laborer in either the classified or unclassified service.

Category No. 4 This category consists of the claims any remaining subclass members for this job.

Refuse Truck Driver

Category No. 1 This category consists of subclass members who have been continuously employed in the Streets and Sanitation Department of the City of Birmingham since January 1, 1974, and who, on or after March 24, 1972, can demonstrate that they expressed an interest to the City or the Personnel Board in

being considered for a promotion to a Refuse Truck Driver position, and who at the time they expressed such an interest were employed as a Semi-skilled Laborer or as a Laborer in the unclassified service.

Category No. 2 This category consists of subclass members who have been continuously employed in the Streets and Sanitation Department of the City of Birmingham since January 1, 1974, and who, on or after March 24, 1972, were employed in a permanent full time position as a Semi-skilled Laborer or as a Laborer in the unclassified service.

Category No. 3 This category consists of subclass members who, on or after March 24, 1972, were employed by the City of Birmingham as a Semi-skilled Laborer or as a Laborer in the unclassified service, and who accumulated at least ten (10) years continuous service in the Streets and Sanitation Department as a classified and/or unclassified employee.

Category No. 4 This category consists of the claims of any remaining subclass members for this job.

- d. Subclass No. 4 - Back pay for members of this subclass shall be based upon the difference in earnings between traffic citation officers and/or police women and police sergeants. Members of this class who demonstrate that on or after March 24, 1972, they were assigned to the Youth Aid Division and performed the same or similar duties as male sergeants in that Division, shall receive a back pay award based upon the number of years worked in the Youth Aid Division on and after March 24, 1972.

- e. Subclass No. 5 - Individual back pay for the members of subclass No. 5 shall be computed as follows. The number of actual vacancies filled by black persons in the positions and departments identified in Appendix C during the period from March 24, 1972, through January 7, 1974, will be subtracted from the number of vacancies in those positions that would have been expected to be filled by black persons if the proportion of black hires approximated the proportion of blacks who were certified for those vacancies during that period. This calculation will determine the black hire differential for each position. Back pay will be distributed to class members on a pro rata basis according to the relative black hire differential among the positions identified in the subclass definition.

Those individuals who turned down an offer for the position to which they were certified, failed to appear for an interview for such position after receiving notice of such interview, or whose pre-employment backgrounds clearly demonstrate that such persons were not minimally qualified for employment for such positions, shall be ineligible for back pay.

APPENDIX E

RELEASE

For and in consideration of the sum of [sum spelled out] Dollars (\$____) and all other relief to be provided me by the City of Birmingham pursuant to the provisions of the Consent Decree With the City Of Birmingham entered by the Honorable _____, United States District Judge, on [____ date _____] in the consolidated actions of United States v. Jefferson County, et al., Civil Action Nos. 75-P-0666-S, 74-Z-17-S, 74-Z-12-S, I [full name of claimant], for myself and for my heirs, executors, administrators and assigns hereby release and discharge the City of Birmingham, its Mayor, officials, agents, and employees of and from all legal and equitable claims arising out of the subject matter of these consolidated actions or any other legal, equitable or administrative claims or causes of action arising out of alleged discrimination on the basis of either race or sex by the City of Birmingham, in violation of any Federal, state or local equal employment opportunity laws, statutes, regulations or ordinances occurring prior to the date of the execution of this Release. I further agree to discontinue any pending claim or action, whether legal, equitable or administrative, alleging race or gender discrimination by the City of Birmingham, its Mayor, and employees except with respect to any questions of attorneys fees and/or costs which may be pending in said actions.

I understand and agree that none of the parties hereby released, nor any other party, admits that I have any just claim against them or anyone else in respect to my said employment with the City of Birmingham, or application thereof, and that none of the parties hereby released, nor any other party, admits or has admitted liability to me or anyone else on account of any payment herein recited to have been made to me, or otherwise.

018844

I carefully have read this Release as well as the accompanying Consent Decree entered [____ date ____]; I fully comprehend and understand that by signing this Release I am releasing my claim for back pay and that I am entitled to no other payment of monies for any claim of employment discrimination prior to the date this Release is executed from the City of Birmingham except as recited herein.

I further certify and warrant that I have had the opportunity to consult an attorney prior to execution of this Release; that I am of lawful age; and, that I am signing this Release of my own free act and deed.

Signed this ____ day of _____, 1981.

(Signature)

Social Security Number _____

Subscribed and sworn to before me
this undersigned authority on this
____ day of _____, 1981, to certify
which witness my hand and seal of office.

NOTARY PUBLIC

018845

APPENDIX F-1

NOTICE OF PROPOSED SETTLEMENT AGREEMENTS
AND CONDITIONAL CLASS CERTIFICATION

There are currently before the United States District Court for the Northern District of Alabama proposed partial settlement agreements in the following consolidated employment discrimination actions: Ensley Branch of the N.A.A.C.P., et al. v. City of Birmingham, et al. (C.A. No. 74-2-12-S); John W. Martin, et al. v. City of Birmingham, et al. (C.A. No. 74-2-17-S) and United States of America v. Jefferson County, et al. (C.A. No. 75-P-0666-S).

The proposed settlement agreements are in the form of two Consent Decrees. One of the Consent Decrees is between each of the plaintiffs in the above actions and the defendants Jefferson County Personnel Board, its Director and the members of the Board (hereinafter Personnel Board or Board). The other Consent Decree is between these same plaintiffs and the City of Birmingham and its Mayor (hereinafter the City of Birmingham). The Consent Decrees will resolve all of the plaintiffs' claims of employment discrimination against blacks and women by these defendants. The Consent Decrees do not resolve the plaintiffs' claims of employment discrimination by the remaining defendant jurisdictions in these actions. These remaining defendants are: Jefferson County, Jefferson County Health Department, and the cities of Bessemer, Fairfield, Fultondale, Gardendale, Homewood, Hueytown, Midfield, Mountain Brook, Pleasant Grove, Tarrant and Vestavia Hills.

On _____, 1981 the District Court entered an Order granting provisional approval to both Decrees, subject to further hearings. In that Order the Court withheld final approval of the Consent Decrees until after hearing any objections which may be filed to them, as further explained in Part II of this Notice.

I.
Class Certification Ruling

On _____, 1981 the District Court entered an Order pursuant to Rule 23 (b) (2) of the Federal Rules of Civil Procedure in the Ensley Branch and Martin actions. In that Order the

Court conditionally certified for purposes of these settlement agreements the following classes of black individuals who may be eligible to present a claim for back pay and other relief under the Consent Decrees.

1. All black persons who took the 10-C Policeman Test which resulted in the eligibility lists for police officers and deputy sheriffs which were in effect between April 25, 1975 and January 10, 1977, and the 20-B Firefighter Test which resulted in the eligibility lists for firefighters in effect between July 8, 1976, and January 10, 1977, who have not been hired for police officer, deputy sheriff or firefighter positions by any of the defendant jurisdictions in these consolidated actions, or who subsequent to the entry of this Court's Order on January 10, 1977, were hired by any of the defendant jurisdictions but may have been hired earlier but for their rank on such eligibility lists.

2. All blacks who prior to the submission of the Consent Decree with the City of Birmingham to the Court on May 19, 1981 were hired and assigned to laborer positions in the unclassified service of the City of Birmingham; who, at any time after March 24, 1972, worked as laborers in the unclassified service; and who, prior to the submission of this Decree to the Court, were reclassified into the classified service.

3. All blacks who were denied promotional opportunities in the Streets and Sanitation Department of the City of Birmingham at any time between March 24, 1972 and May 19, 1981, the date of the submission of the Consent Decree with the City of Birmingham to the Court.

4. All black persons who were certified by the Personnel Board for positions with the City of Birmingham in the Police Department as police officers, key punch operators, or clerk typists, or in the Finance Department as clerk typists or intermediate clerks, but who were not hired for those positions during the period from March 24, 1972, through January 7, 1974.

There is also a class of women who are eligible to present a claim for relief under the Consent Decree with the City of Birmingham. This class consists of all women who, prior to May 24, 1975, were hired by the City of Birmingham as traffic citation officers or policewomen and who, on and after March 24, 1972, were assigned to the Youth Aid Division of the City Police Department. The claims of this class are being presented solely as part of the action brought by the United States.

II.

Notice of Right To File Objections to the Consent Decrees and Fairness Hearing

This notice is directed to all persons who have an interest which may be affected by the Consent Decrees. Copies of the Decrees and the entire file in this proceeding are on file in the office of the Clerk of the Court for the Northern District of Alabama. They may be examined in the Clerk's office during normal working hours (Mon.-Fri. 8 a.m.-4:30 p.m.). The address of the Clerk's office is 1800 Fifth Avenue North, Birmingham, Alabama 35203. Any person who wishes to register an objection(s) to either of the Consent Decrees must file such objection(s) in writing with the Clerk of the Court by _____ p.m., _____, 1981. Objections filed after that date will not be considered by the Court in determining whether to grant final approval to the Consent Decrees.

On _____, 1981, at _____ o'clock the District Court will hold a fairness hearing at which it will consider any timely filed objections to the Consent Decrees. Individual objectors may appear at that hearing with or without the assistance of legal counsel.

III.

General Summary of the Consent Decree With The Jefferson County Personnel Board

These Consent Decrees contain a number of general injunctive

provisions, including goals for blacks and women, each of which are designed to correct for the effects of any alleged past discrimination and to insure equal employment opportunities for all applicants and employees with the City and in the civil service system administered by the Personnel Board. The Consent Decrees also provide for back pay relief for certain classes listed above. Details of the general injunctive provisions and the back pay relief are set out in the Consent Decrees, an expanded notice sent to class members, and the court files, all of which are available in the office of the Clerk of the Court, or through the attorneys for the plaintiff classes, whose names and addresses are as follows:

Attorneys for the United States:

Richard J. Ritter
United States Department of Justice
Civil Rights Division
Federal Enforcement Section
Room 4517
Washington, DC 20530
(202) 633-4086

Caryl Privett
Assistant United States Attorney
Northern District of Alabama
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Birmingham, Alabama 35203
(205) 254-1785

Attorneys for the Plaintiffs in Martin, et al.
v. the City of Birmingham:

Stephen L. Spitz
Lawyers Committee for
Civil Rights Under Law
Suite 520
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Washington, DC 20005
(202) 628-6700

Susan Reeves
Reeves & Still
2027 First Avenue North
Suite 400
Birmingham, AL 35203
(205) 322-7479

Attorney for the Plaintiffs in NAACP v. Seibels:

Oscar William Adams, III
1600 2121 Building
Birmingham, AL 35203
(205) 324-4445

APPENDIX F-2

NOTICE OF PROPOSED SETTLEMENT AGREEMENTS
AND CONDITIONAL CLASS CERTIFICATION

There are currently before the United States District Court for the Northern District of Alabama proposed partial settlement agreements in the following consolidated employment discrimination actions: Ensley Branch of the N.A.A.C.P., et al. v. City of Birmingham, et al. (C.A. No. 74-Z-12-S); John W. Martin, et al. v. City of Birmingham, et al. (C.A. No. 74-Z-17-S) and United States of America v. Jefferson County, et al. (C.A. No. 75-P-0666-S).

The proposed settlement agreements are in the form of two Consent Decrees. One of the Consent Decrees is between each of the plaintiffs in the above actions and the defendants Jefferson County Personnel Board, its Director and the members of the Board (hereinafter Personnel Board or Board). The other Consent Decree is between these same plaintiffs and the City of Birmingham and its Mayor (hereinafter the City of Birmingham). The Consent Decrees will resolve all of the plaintiffs' claims of employment discrimination against blacks and women by these defendants. The Consent Decrees do not resolve the plaintiffs' claims of employment discrimination by the remaining defendant jurisdictions in these actions. These remaining defendants are: Jefferson County, Jefferson County Health Department, and the cities of Bessemer, Fairfield, Fultondale, Gardendale, Homewood, Hueytown, Midfield, Mountain Brook, Pleasant Grove, Tarrant and Vestavia Hills.

On _____, 1981 the District Court entered an Order granting provisional approval to both Decrees, subject to further hearings. In that Order the Court withheld final approval of the Consent Decrees until after hearing any objections which may be filed to them, as further explained in Part II of this Notice.

I.

Class Certification Ruling

On _____, 1981 the District Court entered an Order pursuant to Rule 23 (b) (2) of the Federal Rules of Civil Procedure in the Ensley Branch and Martin actions. In that Order the

Court conditionally certified for purposes of these settlement agreements the following classes of black individuals who may be eligible to present a claim for back pay and other relief under the Consent Decrees.

1. All black persons who took the 10-C Policeman Test which resulted in the eligibility lists for police officers and deputy sheriffs which were in effect between April 25, 1975 and January 10, 1977, and the 20-B Firefighter Test which resulted in the eligibility lists for firefighters in effect between July 8, 1976, and January 10, 1977, who have not been hired for police officer, deputy sheriff or firefighter positions by any of the defendant jurisdictions in these consolidated actions, or who subsequent to the entry of this Court's Order on January 10, 1977, were hired by any of the defendant jurisdictions but may have been hired earlier but for their rank on such eligibility lists.

2. All blacks who prior to the submission of the Consent Decree with the City of Birmingham to the Court on May 19, 1981 were hired and assigned to laborer positions in the unclassified service of the City of Birmingham; who, at any time after March 24, 1972, worked as laborers in the unclassified service; and who, prior to the submission of this Decree to the Court, were reclassified into the classified service.

3. All blacks who were denied promotional opportunities in the Streets and Sanitation Department of the City of Birmingham at any time between March 24, 1972 and May 19, 1981, the date of the submission of the Consent Decree with the City of Birmingham to the Court.

4. All black persons who were certified by the Personnel Board for positions with the City of Birmingham in the Police Department as police officers, key punch operators, or clerk typists, or in the Finance Department as clerk typists or intermediate clerks, but who were not hired for those positions during the period from March 24, 1972, through January 7, 1974.

There is also a class of women who are eligible to present a claim for relief under the Consent Decree with the City of Birmingham. This class consists of all women who, prior to May 24, 1975, were hired by the City of Birmingham as traffic citation officers or policewomen and who, on and after March 24, 1972, were assigned to the Youth Aid Division of the City Police Department. The claims of this class are being presented solely as part of the action brought by the United States. -

II.

Notice of Right To File Objections to
the Consent Decrees and Fairness Hearing

This notice is directed to all persons who have an interest which may be affected by the Consent Decrees. Copies of the Decrees and the entire file in this proceeding are on file in the office of the Clerk of the Court for the Northern District of Alabama. They may be examined in the Clerk's office during normal working hours (Mon.-Fri. 8 a.m.-4:30 p.m.). The address of the Clerk's office is 1800 Fifth Avenue North, Birmingham, Alabama 35203. Any person who wishes to register an objection(s) to either of the Consent Decrees must file such objection(s) in writing with the Clerk of the Court by _____ p.m., _____, 1981. Objections filed after that date will not be considered by the Court in determining whether to grant final approval to the Consent Decrees.

On _____, 1981, at _____ o'clock the District Court will hold a fairness hearing at which it will consider any timely filed objections to the Consent Decrees. Individual objectors may appear at that hearing with or without the assistance of legal counsel.

III.

General Summary of the Consent Decree With The
Jefferson County Personnel Board

This Consent Decree contains a number of general injunctive provisions each of which are designed to insure equal employment opportunities for all applicants and employees in the civil service system administered by the Personnel Board. The Personnel

Board has agreed to review its testing and other selection procedures to insure that they do not unlawfully discriminate against either blacks or women.

To correct for the effects of any alleged past discrimination against blacks by the Personnel Board, the Consent Decree provides for interim annual certification goals in nineteen (19) classified service positions. These goals range from 33% to 50%. The jobs to which these certification goals apply are:

- | | |
|---|--|
| 1. Accountant | 12. Refuse Truck Driver |
| 2. Account Clerk | 13. Revenue Examiner |
| 3. Animal Control Officer | 14. Secretary |
| 4. Auditor | 15. Senior Clerk |
| 5. Automotive Mechanic | 16. Stenographer |
| 6. Construction Equipment Operator | 17. Truck Driver |
| 7. Engineering Aide | 18. Waste Water Treatment Plant Operator |
| 8. Heavy Equipment Operator | 19. Zookeeper |
| 9. Intermediate Clerk | |
| 10. Labor Supervisor | |
| 11. Public Works Supervisor (including Construction Supervisor and Landfill Supervisor) | |

The Consent Decree also incorporates a prior Order of the District Court entered on January 10, 1977 concerning the certification of blacks for police officer, deputy sheriff and firefighter positions. That Order requires, among other things, that the number of blacks certified for these jobs approximate the number of black applicants for those positions.

To correct for the effects of any alleged past discrimination against women by the Personnel Board, the Consent Decree provides for annual certification goals for women in fourteen (14) classified service jobs. The goals range from 10% to 25%. The jobs to which these certification goals apply are:

- | | |
|----------------------------------|---------------------------------|
| 1. Drafter | 8. Police Radio Dispatcher* |
| 2. Engineering Aide | 9. Radio Dispatcher* |
| 3. Engineering Drafter | 10. Revenue Examiner |
| 4. Engineering Technician | 11. Security Officer |
| 5. Firefighter | 12. Sr. Civil Engineer |
| 6. Graduate Engineer | 13. Stores Clerk |
| 7. Police Officer/Deputy Sheriff | 14. Traffic Planning Technician |

*Goals apply only to certifications to Fultondale, Gardendale, Midfield, Mountain Brook, and Tarrant.

All of the annual certification goals are subject to the availability of qualified black and female applicants, and they

do not preclude the certification of qualified males and non minorities. These goals are also temporary or interim measure because they are designed to end when certain minimum employment levels are reached. These levels are defined in terms of the percentage of blacks and women in the civilian labor force of Jefferson County.

The Consent Decree also provides for a lowering of the time in grade requirements prescribed by the Board for promotions in certain sworn police and fire department positions, such as police sergeant and fire lieutenant; the elimination of minimum height and weight requirements in all classified service jobs, including police officer and firefighter; and the elimination of promotional potential ratings in certain departments of the City of Birmingham and Jefferson County where such ratings had an adverse impact on blacks. Those departments are: City of Birmingham - Streets and Sanitation, Police, Fire, and Parks and Recreation; Jefferson County - Cooper Green Hospital, General Services.

Promotional eligibility requirements in certain public works and streets and sanitation positions have been revised to expand the pool of employees eligible for promotional consideration. For example, if this Consent Decree is finally approved by the Court, employees in unclassified laborer and semi-skilled laborer positions would be eligible to take promotional examinations for jobs such as refuse truck driver and heavy equipment operator. In the past, employees in these jobs were not eligible to take these promotional examinations.

The Consent Decree provides for \$35,000.00 in back pay for a class of blacks who took the Personnel Board's written tests for police officer positions which resulted in eligibility lists in effect between April 25, 1975, and January 10, 1977, or who took the tests for firefighter positions which resulted in eligibility lists in effect between July 8, 1976 and January 10, 1977. Back pay for individual class members will be contingent on the filing of timely proof of claim forms with the Clerk of the Court.

The Decree also provides for the priority certification of nineteen (19) named black individuals to various jobs in the Streets and Sanitation Department of the City of Birmingham. These jobs include public works supervisor, labor supervisor, construction equipment operator and refuse truck driver.

IV.
General Summary of the Consent
Decree With The City of Birmingham

The Consent Decree contains injunctive provisions which are designed to insure equal employment opportunities with the City for all persons without regard to race or sex in hiring, promotion, training, job assignments, discharge, and other terms and conditions of employment.

To correct for the effects of any alleged past discrimination against blacks and women, the Decree contains interim annual hiring and promotion goals for blacks and women. The goals are subject to the availability of qualified black and female applicants, and they do not preclude the hiring or promotion of qualified males and non-minorities. The goals are temporary or interim measures because they are designed to end when the percentage of blacks and women in the affected jobs or groups of jobs approximate the percentage of blacks and women in the labor force of Jefferson County.

The City has agreed to interim annual hiring and promotion goals for blacks in the following specific job categories:

- | | |
|------------------------------------|---------------------------------|
| 1. Account Clerk | 11. Police Sergeant |
| 2. Automotive Mechanic | 12. Fire Lieutenant |
| 3. Building Inspector | 13. Public Works Supervisor |
| 4. Construction Equipment Operator | 14. Construction Supervisor |
| 5. Firefighter | 15. Refuse Truck Driver |
| 6. Gardener | 16. Revenue Examiner |
| 7. Heavy Equipment Operator | 17. Secretary |
| 8. Labor Supervisor | 18. Senior Clerk |
| 9. Police Officer | 19. Senior Sanitation Inspector |
| 10. Police Radio Dispatcher | 20. Zookeeper |

The Consent Decree also provides for annual employment goals for blacks in certain groups of jobs in the following departments: Engineering, Finance, Inspection Services, Traffic Engineering, and Housing.

The Consent Decree provides for annual hiring and promotional goals for women in police officer and police sergeant positions, and in groups of jobs in the following departments: Fire, Engineering, Inspection Services, Municipal Garage, Housing, Streets and Sanitation, Traffic Engineering, Parks and Recreation and Parking Authority.

The City has agreed to lower the time in grade requirement for promotions in several sworn positions in the Police and Fire Departments such as police sergeant and fire lieutenant, and it has agreed to expand the pool of employees eligible to apply for promotions to jobs in the Streets and Sanitation Department. The City has also agreed to discontinue the use of promotional potential ratings in the Police, Fire, Streets and Sanitation, and Park and Recreation Departments.

The Consent Decree provides for \$30,000.00 in back pay for six (6) of the named plaintiffs in the Martin action, and for \$235,000.00 in back pay for four subclasses of blacks and a subclass of women. These subclasses consist of: (1) blacks who took the police officer tests for the City of Birmingham which resulted in eligibility lists in effect between April 25, 1975, and January 10, 1977, and the firefighter tests for the City of Birmingham which resulted in eligibility lists in effect between July 8, 1976, and January 10, 1977; (2) blacks in unclassified laborer positions with the City who between March 24, 1972 and May 19, 1981 were reclassified into the classified service; (3) blacks who between March 24, 1972 and May 19, 1981, were denied promotional opportunities in the Streets and Sanitation department of the City; (4) women employed as traffic citation officers or policewomen who, between March 24, 1972, and May 27, 1975, were assigned to the Youth Aid Division of the City Police department; and (5) blacks who were certified but not hired for certain positions in the Police and Finance departments of the City between March 24, 1972, and January 7, 1974.

The back pay amounts set aside for each of the subclasses identified above are: Class 1 (\$5,000.00), Class 2 (\$65,000.00), Class 3 (\$137,000.00), Class 4 (\$6,000.00), Class 5 (\$22,000.00).

Procedures for allocating the amounts of back pay among members of each of the subclasses are set out in Appendix D to the Consent Decree with the City of Birmingham. Each subclass member will be required, after final approval of the Consent Decree, to file a proof of claim form in order to be eligible for an award of back pay.

The Consent Decree provides for priority hiring and/or promotions and remedial seniority for several of the named plaintiffs in the Martin case, and for nineteen (19) named members of subclass 3 in the Streets and Sanitation department of the City of Birmingham. Certain other members of each of the five subclasses may be eligible for priority hiring or promotional opportunities and remedial seniority based upon the individual facts of their claims. Their relief is to be determined after they submit the appropriate proof of claim forms.

V.
Attorneys' Fees and Costs

Neither of the Consent Decrees contains an award of attorney fees or costs for counsel for the plaintiffs. The amount of attorneys' fees and costs as finally determined will NOT REDUCE the amounts to be distributed as back pay to any of the subclass members or named plaintiffs under either of the Consent Decrees.

If you have any questions with respect to this notice, the Consent Decree, or the procedures for filing your proof of claim form, you may call or write any of the attorneys listed below:

Attorneys for the United States:

Richard J. Ritter
United States Department of Justice
Civil Rights Division
Federal Enforcement Section
Room 4517
Washington, DC 20530
(202) 633-4086

Caryl Privett
Assistant United States Attorney
Northern District of Alabama
200 Federal Courthouse
Birmingham, Alabama 35203
(205) 254-1785

Attorneys for the Plaintiffs in Martin, et al.
v. the City of Birmingham:

Stephen L. Spitz
Lawyers Committee for
Civil Rights Under Law
Suite 520
733 Fifteenth Street, N.W.
Washington, DC 20005
(202) 628-6700

Susan Reeves
Reeves & Still
2027 First Avenue North
Suite 400
Birmingham, AL 35203
(205) 322-7479

Attorney for the Plaintiffs in NAACP v. Seibels:

Oscar William Adams, III
1600 2121 Building
Birmingham, AL 35203
(205) 324-4445

APPENDIX G

Notice To [Subclass definition]:

This announcement is to inform you of your right to present a claim for individual relief under a Consent Decree between the plaintiffs and the City of Birmingham in the consolidated actions of: Ensley Branch of the N.A.A.C.P. et al. v. City of Birmingham, et al., C.A. No. 74-2-12-S; John W. Martin, et al. v. City of Birmingham, C.A. No. 74-2-17-S; and United States of America v. Jefferson County, et al., C.A. No. 75-P-0666-S.

If you are a member of the subclass described in the caption of this notice you may fill out the attached proof of claim form and mail it to the Clerk of the Court for Northern District of Alabama. Enclosed for your use is an unstamped envelope containing the mailing address of the Clerk of the Court.

If you wish to present a claim for individual relief under the Consent Decree, your proof of claim form must be received by the Clerk of the Court by no later than _____ p.m. on _____, 1981. If you do not file this proof of claim form with the Clerk of the Court by that date then, absent good cause shown, you will be deemed to have waived your right to present a claim for individual relief under the Consent Decree.

After your proof of claim form is filed, you will be contacted by attorneys for the plaintiffs. They will review with you your proof of claim form and the relevant facts which support your claim. Thereafter, these attorneys will make a recommendation to the Court whether your claim merits an award of individual relief under the Consent Decree. Such an award may include a job offer or promotion with the City, remedial seniority and/or back pay. The City has reserved the right to review and to object to any individual job offers and/or remedial seniority dates proposed by counsel for the plaintiffs on your behalf which have not been previously agreed upon by the parties under the

Consent Decree. The City has agreed not to contest any of the individual back pay determinations. If any objections are raised by the City to any proposed job offers and/or remedial seniority for you, and if the parties are unable to resolve such objections, then the Court will determine the appropriate relief, if any, for you under this Consent Decree.

After final determinations have been made of the individual awards of relief to be made under this Consent Decree, you will be notified of your individual award, if any. If you do not receive an award of individual relief under the Consent Decree, or if you are not satisfied with the amount of relief provided to you, you will have the right to file an objection to the resolution of your claim with the Clerk of the Court. That objection will be subsequently ruled upon by the District Court. The procedures for filing any such objections will be explained to you in the notice you will receive informing you of your award of relief, if any.

If you have any questions with respect to this notice, the Consent Decree, or the procedures for filing your proof of claim form, you may call or write any of the attorneys listed below:

Attorneys for the United States:

Richard J. Ritter
United States Department of
Justice
Civil Rights Division
Washington, DC 20530
(202) 633-4086

Caryl Privett
Assistant United States
Attorney
Northern District of Alabama
200 Federal Courthouse
Birmingham, Alabama 35203
(205) 254-1785

Attorneys for the Plaintiffs in Martin, et al.
v. the City of Birmingham:

Stephen L. Spitz
Lawyers Committee for
Civil Rights Under Law
Suite 520
733 Fifteenth Street, N.W.
Washington, DC 20005
(202) 628-6700

Susan Reeves
Reeves & Still
2027 First Avenue North
Suite 400
Birmingham, AL 35203
(205) 322-7479

APPENDIX H
Proof of Claim Form

Please list your:

Name: _____

Current Address: _____

Current Telephone Number: _____

Please check the appropriate box or boxes if you fall within either or both of the classes described below. If you check either of the boxes, please complete this proof of claim form by supplying the information requested below.

☐ I am a black person who took a written test administered by the Personnel Board of Jefferson County for a job as a police officer with the City of Birmingham. I wish to present a claim for relief under the Consent Decree with the City of Birmingham.

☐ I am a black person who took a written test administered by the Personnel Board of Jefferson County for a job as a firefighter with the City of Birmingham. I wish to present a claim for relief under the Consent Decree with the City of Birmingham.

If you check either of the boxes above, please indicate in the space provided below whether you were ever contacted by the City of Birmingham for employment as a police officer or firefighter, and the approximate date(s) of such contact to the best of your recollection. Also, please indicate whether you were ever offered employment with the City as a police officer or firefighter, and the date you began employment with the City if you accepted such a job offer.

Please sign and date this proof of claim form and return it to the Clerk of the Court in the enclosed self-addressed envelope.

Signature
Date: _____

APPENDIX I

Proof of Claim Form

Please list your:

Name: _____

Current Address: _____

Current Telephone Number: _____

Please check the box provided below if the statement next to the box applies to you and you wish to present a claim for relief under the Consent Decree with the City of Birmingham.

☐ I am a black person who worked for the City of Birmingham as an unclassified laborer on or after March 24, 1972 and who was later brought into the classified service on _____ (fill in approximate date) as a _____ (fill in job title). I wish to present a claim for relief under the Consent Decree with the City of Birmingham.

Please sign and date this proof of claim form and return it to the Clerk of the Court in the enclosed self-addressed envelope.

Signature

Date: _____

APPENDIX J

Proof of Claim Form

Please list your:

Name: _____

Current Address: _____

Current Telephone Number: _____

Please check the box provided below if the statement next to the box applies to you. If you check the box, please complete the proof of claim form by supplying the information requested below.

☐

I am a black person who was employed by the City of Birmingham in the Streets and Sanitation Department on or after March 24, 1972 in either a classified or unclassified position, and I was denied the opportunity to apply for a promotion to a higher paying position in the Streets and Sanitation Department after that date. I wish to present a claim for relief under the Consent Decree with the City of Birmingham.

I.

Please supply the following additional information:

Please list the job(s) which you claim you were denied promotional opportunities in:

[Please note: You may list a job(s) in the space provided above even if you were not eligible to apply for it under the promotion policies of the City of Birmingham or the Personnel Board of Jefferson County.]

2. How long have you been employed in the Streets and Sanitation Department of the City of Birmingham? (Include classified and unclassified service time) _____

3. List the approximate date when you were first hired by

the City. (If you were first hired as an unclassified laborer please list that date)_____

4. Please list all of the job in which you have worked on a permanent full time basis in the Streets and Sanitation Department of the City and the approximate dates you worked in those jobs.

5a. Have you ever taken a written promotional examination for the job of Heavy Equipment Operator in the Streets and Sanitation Department of the City? Yes____ No____

b. If you answer to a is yes please indicate the date(s) you took the examination. _____

c. Please indicate whether at any time prior to January 1, 1979 you ever received a promotion to a permanent full time position as a Heavy Equipment Operator in the Streets and Sanitation Department of the City. Yes____ No____

6. Have you ever expressed an interest to any official of the City of Birmingham or the Personnel Board of Jefferson County about being promoted to any of the jobs you have listed in your answer to 1 above? If so, please supply the following information in the space provided below: (1) the approximate date(s) that you expressed such an interest, (2) the person to whom such interest was expressed, (3) the job you were in at the time you expressed your interest, and (4) indicate whether you were ever offered such a promotion by the City or the Personnel Board.

Please sign and date this proof of claim form and return it to the Clerk of the Court in the enclosed self-addressed envelope.

Signature

Date: _____

APPENDIX K

Proof of Claim Form

Please list your:

Name: _____

Current Address: _____

Current Telephone Number: _____

Please check the box immediately below if the statement next to the box applies to you. If you check the box, please complete the proof of claim form by supplying the information requested below.

☐

I am a female who prior to May 27, 1975, was hired by the City of Birmingham as a traffic citation officer or police-woman and who, on or after March 24, 1972, was assigned to the Youth Aid Division of the City Police Department. I wish to present a claim for relief under the Consent Decree with the City of Birmingham.

If you were originally hired as a traffic citation officer and were subsequently promoted or reclassified to a position as a policewoman, please indicate whether you were credited with your seniority as a traffic citation officer at the time you became a policewoman.

Please sign and date this proof of claim form and return it to the Clerk of the Court in the enclosed self-addressed envelope.

Signature

Date: _____

APPENDIX L

Proof of Claim Form

Please list your:

Name: _____

Current Address: _____

Current Telephone Number: _____

Please check the appropriate box or boxes if you fall within any of the classes described below. If you check any of the boxes, please complete the proof of claim form by supplying the information requested below.

☐ I am a black person who applied for a job as a police officer with the City of Birmingham between March 24, 1972 and January 7, 1974, and I was not hired or offered employment by the City in that job. I wish to present a claim for relief under the Consent Decree with the City of Birmingham.

☐ I am a black person who applied for a job as a key-punch operator with the City of Birmingham between March 24, 1972, and January 7, 1974, and I was not hired or offered employment by the City in that job. I wish to present a claim for relief under the Consent Decree with the City of Birmingham.

☐ I am a black person who applied for a job as a clerk typist with the City of Birmingham between March 24, 1972, and January 7, 1974, and I was not hired or offered employment by the City in that job. I wish to present a claim for relief under the Consent Decree with the City of Birmingham.

☐ I am a black person who applied for a position as an intermediate clerk with the City of Birmingham between March 24, 1972, and January 7, 1974, and I was not hired or offered employment by the City in that job. I wish to present a claim for relief under the Consent Decree with the City of Birmingham.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Date: _____