

**CITY OF ANNISTON**

**April 6, 2021**

**5:30 P.M.**

- **INVOCATION**
- **PLEDGE OF ALLEGIANCE**
- **CALL TO ORDER**
- **ROLL CALL**
- **READING/APPROVAL OF MINUTES OF PREVIOUS MEETING**
  - March 16, 2021 Regular meeting
- **ADDITIONS/DELETIONS TO THE AGENDA**
- **ADOPTION OF AGENDA**

**I. BOARD CONFIRMATION**

**(a)** Kimberly O'Dell – Anniston Historic Preservation

**II. CONDUCT PUBLIC HEARING - Suspended during COVID-19**

**Speaking to a Public Hearing Item**

In the interest of time and to ensure the fairness of all persons who appear before the City Council to speak for or against a public hearing item, speakers will be limited to three (3) minutes each to address City Council except as described herein. One speaker for the Petitioner may address the City Council for no more than 10 minutes, unless extended by the Mayor. In an effort help the City Council and the general public to better understand the issues, the Mayor may request that a City staff member address the City Council from the podium. Speakers from the general public may only speak when recognized by the Mayor during the public hearing. Speakers will be asked to come to the podium to address the City Council for three (3) minutes and they shall state their name and resident address for the record. Speakers addressing City Council on a public hearing item should coordinate comments in order to respect City Council's time constraints. Groups should select a spokesperson to present the major points that summarize their position and opinions. Speakers are urged to be brief and non-repetitive with their comments. Comments shall specifically address the public hearing item before the City Council, and the speaker shall maintain appropriate tone and decorum when addressing the City Council. City Council may ask questions of the applicant, speakers, or staff during these proceedings only for the purpose of clarifying information. The speaker shall not direct derogatory comments to any individual, organization, or business. At the conclusion of the three (3) minute time period, the speaker will be notified that his/her time has elapsed and the next speaker will be recognized to come forward to the podium and address the City Council. Once the public hearing is closed on an item, there will be no further opportunity for formal or informal public input at a City Council meeting.

**(a)** To receive public comments regarding a Resolution approving a certain Project Development Agreement (the “Agreement”) between Cobblestone Hotel Development, LLC.

**III. UNFINISHED BUSINESS – None**

**IV. CONSENT AGENDA**

- (a)** Resolution appointing a member to the Anniston Historic Preservation Commission
- (b)** Resolution approving the City of Anniston’s annual participation in the “Severe Weather Preparedness Sales Tax Holiday” as authorized by Act 2012-256
- (c)** Resolution approving the City of Anniston’s annual participation in the “Back-To-School Sales Tax Holiday” as authorized by Act No. 2017-120
- (d)** Resolution authorizing and directing the City Manager to execute a Professional Services Agreement with Retail Strategies
- (e)** Motion to approve the bid for Public Works and PARD uniforms to Tangibles for the amounts per item listed in the Fact Sheet attached.

**V. RESOLUTIONS**

- (a)** Resolution requiring masks in city buildings, places and spaces for the protection of health and human life
- (b)** Resolution to establish the Community Homelessness Task Force
- (c)** Resolution authorizing a Project Development Agreement and Warrant between the City of Anniston, Alabama and Cobblestone Hotel Development, LLC

**VI. ORDINANCES**

- (a)** Ordinance amending the composition and appointment of the Main Street Anniston Board **1<sup>st</sup> Reading**
- (b)** Ordinance to repeal and replace Chapter 12, Article IV of the Code of Ordinance and to adopt regulations governing disposal and pickup of debris **1<sup>st</sup> Reading**

**VII. ADDITIONAL OR OTHER MATTERS THAT MAY COME BEFORE COUNCIL**

**VIII. RECEIVE INFORMAL PUBLIC COMMENTS – Suspended during COVID-19**

**IX. RECEIVE FORMAL PUBLIC COMMENT – Suspended during COVID-19**

**COUNCIL COMMENTS – Suspended during COVID-19**

**ADJOURNMENT**

# MINUTES

Anniston, Alabama

March 16, 2021

The City Council of the City of Anniston, Alabama, met in Regular Session in Room B at the Anniston City Meeting Center in the City of Anniston, Alabama, on Tuesday, March 16, 2021, at approximately 5:30 o'clock p.m.

LaJuree McCluney, prayed the Invocation.

LaJuree McCluney, led the Pledge of Allegiance to the Flag.

Mayor Draper called the meeting to order. On call of the roll, the following Council Members were found to be present: Council Members Roberts, Smith, Harris, and Draper; absent: Council Member Jenkins. A quorum was present and the meeting opened for the transaction of business.

Steven Folks, City Manager, was present.

Bruce Downey, City Attorney, was present.

Council Member Harris made a motion to waive the reading of and approve the minutes of the February 24, 2021 called meeting. The motion was seconded by Council Member Roberts and on call of the roll the following vote was recorded: ayes: Council Member Roberts, Smith, Harris, and Draper; nays: none. The motion carried and the February 24, 2021 called meeting minutes were approved.

Council Member Roberts made a motion to waive the reading of and approve the minutes of the March 2, 2021 Regular meeting. The motion was seconded by Council Member Smith and on call of the roll the following vote was recorded: ayes: Council Member Roberts, Smith, Harris, and Draper; nays: none. The motion carried and the March 2, 2021 Regular Meeting minutes were approved.

Mayor Draper made a motion to adopt the agenda with the addition of a special recognition and two public hearings for the resolutions over-ruling objections to the abatement of identified nuisances. The motion was seconded by Council Member Harris and on call of the roll the following vote was recorded: ayes: Council Member Roberts, Smith, Harris, and Draper; nays: none. The motion carried and the amended agenda was adopted.

Frazier Burroughs, Parks and Recreation Director, introduced Ms. Carol Bush and the A-town Runners for a Special Recognition.

Carol Bush, Director of the Wiggins Community Center, recognized the A-town Runners.

- Christiyuna Reed
- Aubriyana Patton
- A'aliyah Monroe
- Kamryn Harris
- Ameria Fitten
- Kerrington Phillips
- Zylon Davis
- Amarien Moore
- Toderick Chandler

- Cameron Wiggins
- LaDarrious Walker
- Kwentin Jones
- Damon Morgan

She stated that a couple of years ago they became associated with the Track and Field Coalition USA (TFCUSA), an association that is 30 colleges deep. She stated that 6 of the children introduced were named All-American Athletes:

- Amarien Moore-200 meter, 400 meter and inducted into the coalition (AB Honor Roll)
- Toderick Chandler- 200 meter
- Aubriyana Patton-200 meter
- Christiyuna Reed-200 meter, 400 meter, and inducted into the coalition
- Damon Morgan- voted the most valuable athlete all-around
- Cameron Wiggins- (A Honor Roll)

Ms. Bush stated that to be awarded all-American, a vote was taken by all the coaches in TFC and each of these athletes were awarded the title because they deserved it and worked hard. She stated that Anniston is never without talent.

Mayor Draper opened a public hearing to receive comments regarding the vacation of Falcon Road. No One spoke. Mayor Draper closed the public hearing to receive comments regarding the vacation of Falcon Road.

Mayor Draper opened a public hearing to receive comments regarding the over-ruling objections to the abatement of identified nuisance Group 2021-01 Grass/Debris/Vehicles: 123 McArthur Drive. No one spoke. Mayor Draper closed the public hearing to receive comments regarding the over-ruling objections to the abatement of identified nuisance Group 2021-01 Grass/Debris/Vehicles.

Mayor Draper opened a public hearing to receive comments regarding the over-ruling objections to the abatement of identified nuisance Group 2021-02 Grass/Debris/Vehicles: 12 Blue Mountain, 208 West 20<sup>th</sup> Street, 431 Chestnut Ave, 626 Mulberry Ave, 629 Mulberry Ave, 630 Mulberry, 710 Mulberry Ave, 1924 McKleroy Ave, 2706 Old Quintard, and 3824 George St.

Tana Bryant, Senior Code Enforcement Officer, stated that they have contracts with 629 Mulberry Ave, 630 Mulberry Ave, 710 Mulberry Ave, and 2706 Old Quintard. She stated that they have contracts with the owners and they were given a little extra time.

Mayor Draper closed the public hearing to receive comments regarding the over-ruling objections to the abatement of identified nuisance Group 2021-02 Grass/Debris/Vehicles.

Mayor Draper made a motion to approve the consent agenda:

- (a) Resolution over-ruling objections to the abatement of identified nuisance Group 2021-01 Grass/Debris/Vehicles (21-R-19)
- (b) Resolution over-ruling objections to the abatement of identified nuisance Group 2021-02 Grass/Debris/Vehicles (21-R-20)

(c) Resolution declaring various vehicles and pieces of equipment as surplus and authorizing their sale

(d) Motion to authorize Mayor Jack Draper as the voting delegate at the Annual Convention of the Alabama League of Municipalities on May 14, 2021

The motion was seconded by Council Member Harris and on call of the roll the following vote was recorded: ayes: Council Member Roberts, Smith, Harris, and Draper; nays: none. The motion carried and the consent agenda was approved.

Council Member Harris made a motion to authorize the City of Anniston to join the Calhoun County 9-1-1 District in the issuance of a Request for Proposal (RFP) for emergency ambulance services. The motion was seconded by Council Member Smith.

Mayor Draper made a motion to table the motion to authorize the City of Anniston to join the Calhoun County 9-1-1 District in the issuance of a Request for Proposal (RFP) for emergency ambulance services.

\*The motion failed for lack of second

Council Member Harris stated that this authorization does not mean that the present carrier will not be the same one that we have now that they think so highly of. She stated that she did have some legal questions about not putting out a bid and she believes it should be open to bid.

And on call of the roll the following vote was recorded: ayes: Council Member Roberts, Smith, Harris, and Draper; nays: none. The motion carried.

Mayor Draper introduced an Ordinance adopting regulations for operations of Towing Services (1<sup>st</sup> Reading). (21-O-2)

Mayor Draper made a motion to read the Ordinance adopting regulations for operations of Towing Services by title only. The motion was seconded by Council Member Harris.

Mayor Draper opened a public hearing to receive public comments on reading the Ordinance adopting regulations for operations of Towing Services by title only. No one spoke. Mayor Draper closed the public hearing to receive public comments on reading the Ordinance adopting regulations for operations of Towing Services by title only.

And on call of the roll the following vote was recorded: ayes: Council Member Roberts, Smith, Harris, and Draper; nays: none. The motion carried and the Ordinance will be read by title-only.

Mayor Draper made a motion for unanimous consent for immediate consideration of Ordinance adopting regulations for operations of Towing Services. The motion was seconded by Council Member Smith; and on call of the roll the following vote was recorded: ayes: Council Member Roberts, Smith, Harris, and Draper; nays: none. The motion carried and Ordinance (21-O-2) will be considered for immediate consideration.

Mayor Draper made a motion for passage and adoption of ordinance 21-O-2. The motion was seconded by Council Member Harris and on call of the roll the following vote was recorded: ayes: Council Member Roberts, Smith, Harris, and Draper; nays: none. The motion carried and Ordinance 21-O-2 was passed and adopted.

Council Member Roberts stated to have the track team recognized tonight will go a long way in their minds. He stated they need to continue to give back to the youth and uplift them instead of talking about a race war that does not exist. He stated as leaders they should be onboard with the schools and start recognizing the kids.

There being no further business to come before the council at that time Mayor Draper made a motion that the meeting be adjourned. The motion was seconded by Council Member Harris; and on call of the roll, the following vote was recorded: ayes: Council Members Roberts, Smith, Harris, and Draper; nays: none. The motion carried and the meeting was adjourned at approximately 6:03 o'clock p.m.

## **BOARD CONFIRMATIONS**



City of Anniston  
**BOARDS & COMMISSIONS**  
Application Form

**Applicants are strongly urged to attend several meetings of a board prior to applying**

Name of board or commission: Anniston Historic Preservation Commission

Your name: Kimberly O'Dell Home Phone #: [REDACTED]

Street address: [REDACTED] City: Anniston Zip Code: 36207

Mailing address (if different): Same

Employer: Self-Employed

Your position: Historian/Curriculum Developer Office Phone #: [REDACTED]

My primary residence is within the Anniston city limits: Yes X No     

If no, I reside within Calhoun County: Yes     

Have you previously serve on any city board? If so, which board: NO

Are you aware of any potential conflicts of interest that may arise during your service on this board (i.e., property interest, business interest, etc.)? If so, please explain: None that I am aware

    . Potential conflicts of interest do not preclude appointments.

Please indicate the area(s) of expertise that you can bring to the above board(s), and then list education, experience, reasons for your interest, and other factors that support your interest in serving. **Please use additional sheets if necessary.**

I am a working historian who has published three books on local history including Calhoun County (1998), Anniston (2000), and Anniston Revisited (2015). My published works are pictorial histories of the cities within Calhoun County. I hold a BA (1991) and MA (1992) as well as an MS in Secondary Education History (1994) from Jacksonville State University and an EdS in Adult Education (2003) from Auburn University. In addition to my degrees, I completed the coursework for a PhD at Mississippi State University (1993-1997) with a concentration in social & cultural history. I am a historical education consultant on the Freedom Riders Project, The Spirit of Anniston, the Alabama National Guard, and the Jacksonville Public Library Bicentennial Events. My goal of serving on the commission is to Preserve & Conserve the historic structures & art in Anniston.

Return to:

Alan Atkinson, City Clerk  
P.O. Box 2168  
Anniston, AL 36202

E-Mail: [citymanager@anniston.al.gov](mailto:citymanager@anniston.al.gov)  
Telephone: 256-231-7710  
Fax: 256-236-3421

Signature: Kimberly O'Dell

Date: 8-16-18

Email: [REDACTED]

Fax #:

## **PUBLIC HEARING**

**LEGAL NOTICE  
OF  
PUBLIC MEETING  
OF  
CITY COUNCIL OF ANNISTON, ALABAMA**

Notice is hereby given that the City Council (the "Council") of the City of Anniston, Alabama (the "City") will meet in public session at 5:30 p.m. on April 6, 2021 at the City Meeting Center located at 1615 Noble Street, Anniston, Alabama for the purpose of considering the transaction of business that may properly come before the Council such business to include, but not be limited to, the following:

1. The authorization by the Council, pursuant to Amendment No. 772 to the Constitution of Alabama of 1901, as amended, of a resolution (the "Resolution") approving a certain Project Development Agreement (the "Agreement") between Cobblestone Hotel Development, LLC, a For-Profit Limited Liability Company incorporated under the laws of the State of Wisconsin (the "Developer"), and the City and authorizing certain economic development incentives for the construction and development of a new hotel facility within the City of Anniston (the "Project"). The Project will be located on the real property located at 1200 Noble Street, Anniston, AL 36201 and more particularly described as Lot 5 and Lot 6, Block 134, Anniston City Land Company, as recorded in Plat Book A, Pages 412-416 in the Probate Office of Calhoun County, Alabama (the "Property").

2. The City proposes to lend its credit or grant public funds or thing of value for the benefit of Cobblestone Hotel Development, LLC and its owners, members and shareholders.

3. Pursuant to the Resolution and in accordance with the terms and conditions of the Agreement, the City would resolve to provide the Developer the following economic development incentives: (1) A rebate of 100% of the amount of municipal sales taxes actually remitted to the City and that were paid by the Developer, or on its behalf, in connection with the purchase of construction materials that are reasonably needed or actually used in the construction of the Project; (2) A rebate of 100% of the amount of municipal sales taxes actually remitted to the City and that were paid by the Developer, or on its behalf, in connection with the purchase of furnishings and equipment that are reasonably needed or actually used in the construction of the Project; (3) A rebate of 50% of the amount of municipal lodging taxes actually remitted to the City for lodging in the hotel constructed on the Property; said rebate shall be in effect for a period of 4 years at which time it shall expire; (4) A rebate of 50% of the amount of municipal sales taxes actually remitted to the City as a result of retail sales activity on the Property; said rebate shall be in effect for a period of 4 years at which time it shall expire; (5) A rebate of 100% of the amount of the incremental increase, if any, of the amount of non-educational municipal ad valorem taxes owed on the Property beginning on the first day of October of the year following the year in which the Company is issued a certificate of occupancy for the Project; said rebate shall extend for a period of 4 years at which time it shall expire; (6) A waiver of all permitting fees that would otherwise be due to the City in connection with the construction of the Project; (7) Installation of underground utilities to the Property line, including gas, storm, water, and electrical power, at a cost to the City not to exceed \$100,000, but only to the extent that said underground utilities are not already present; and (8) Installation and construction of certain offsite improvements in the

City's right of way adjoining or servicing the Property, at a cost to the City not to exceed \$50,000, including, by way of example only, walks, pavers, curbing, landscaping, signage, seating and streetscape amenities.

4. The City would further resolve to sell and convey the Property located at 1200 Noble Street, Anniston, AL 36201 to the Developer for a sum total of ten dollars and no cents (\$10.00), provided the Construction Commencement Date and Construction Financing Date occur within 12 months of the expiration of the Contingency Period, as said terms are defined in the Agreement; however, said conveyance shall be subject to the City's right of reversion to the Property in the event that the Developer does not obtain a certificate of occupancy for a hotel located thereon within twenty-four (24) months of the Construction Commencement Date.

5. The economic development incentives stated herein shall be granted by the City to and in aid of the Developer for the purpose of promoting the economic development of the City, in consideration of the investment by the Developer in capital improvements of commercial and related facilities, equipment and property for its development of the Project in the City, and to increase employment in the City, and to increase the tax and revenue base of the City.

6. The City will not own any property aided by the economic development incentives to be granted by the Ordinance unless dedicated to the City under generally applicable public laws, and the Developer is not constructing the same on behalf of the City.

7. All interested persons may examine and review the Resolution, the Agreement and all relevant documents pursuant to which the economic development incentive is to be issued, and make copies thereof at personal expense, at the office of the City Manager of the City of Anniston during normal business hours, before and after the meeting referenced herein.

# CONSENT AGENDA

**RESOLUTION NUMBER 21-R-\_\_\_**

**A RESOLUTION APPOINTING A MEMBER TO THE ANNISTON HISTORIC  
PRESERVATION COMMISSION**

**WHEREAS**, the Council has adopted Ordinance No. 14-O-13, an ordinance amending Division 1, Article XI, Chapter 2 of the Code of Ordinances for the City of Anniston, Alabama Regulating Boards, Commissions and Authorities, in order to, among other things, assign the positions on the City's boards, commissions and authorities to nominations by specific Council Ward Representatives or to the Office of the Mayor so that those who are appointed to serve more fairly and equitably represent the citizenry of the City and to simplify and clarify to Council's nomination and appointment process;

**WHEREAS**, the Council has adopted a schedule of nominations to govern appointments to the Anniston Historic Preservation Commission;

**WHEREAS**, the Council desires to make certain appointments to said Board in accordance with the previously adopted Schedule of Nominations;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Anniston, Alabama as follows:

Section 1. The City Council of the City of Anniston does hereby appoint those persons identified in the Schedule of Nominations for the Anniston Historic Preservation Commission attached hereto as Exhibit A to the board and for the terms set forth therein.

Section 2. That the City Clerk shall cause a copy of this Resolution to be mailed to the above named appointees and to said board.

**PASSED and ADOPTED** this 6<sup>th</sup> day of **April, 2021**.

CITY COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

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Jack Draper, Mayor

---

Jay Jenkins, Council Member

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Demetric Roberts, Council Member

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Ciara Smith, Council Member

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Millie Harris, Council Member

ATTEST:

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Skyler Bass, City Clerk

**EXHIBIT "A"**

**ANNISTON HISTORIC PRESERVATION COMMISSION**

<b>Board Positions</b>	<b>Nominations</b>	<b>Board Member Name</b>	<b>Expiration Date</b>	<b>Explanation</b>
3	City Manager	Kimberly O'Dell	12/31/2024	Appointment

**RESOLUTION NO. 21-R-\_\_**

**A RESOLUTION APPROVING THE CITY OF ANNISTON'S ANNUAL PARTICIPATION IN THE "SEVERE WEATHER PREPAREDNESS SALES TAX HOLIDAY AUTHORIZED BY ACT 2012-256.**

**WHEREAS**, the State Legislature of Alabama passed Act 2012-256 granting municipal governments authority to provide for the exemption of certain covered severe weather preparedness items from the payment of municipal sales tax during a period commencing at 12:01 a.m. on the third Friday in February of each year and ending at twelve midnight on the following Sunday under the same terms, conditions and definitions as provided for the state sales tax holiday for such covered items.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Anniston, Alabama as follows:

Section 1. That approval is granted for the exemption of certain covered severe weather preparedness items from the payment of municipal sales tax for a period commencing at 12:01 a.m. on the third Friday in February of each year and ending at twelve midnight on the following Sunday under the same terms, conditions and definitions as provided for by Act 2012-256 and Alabama Department of Revenue Rule 810-6-3-.66.

**PASSED AND ADOPTED** this the **6<sup>th</sup>** day of **April, 2021**.

CITY COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

BY \_\_\_\_\_  
Jack Draper, Mayor

BY \_\_\_\_\_  
Jay Jenkins, Council Member

BY \_\_\_\_\_  
Demetric Roberts, Council Member

BY \_\_\_\_\_  
Ciara Smith, Council Member

BY \_\_\_\_\_  
Millie Harris, Council Member

ATTEST:

\_\_\_\_\_  
Skyler Bass, City Clerk



**RESOLUTION NO. 21-R-\_\_**

**A RESOLUTION APPROVING THE CITY OF ANNISTON'S ANNUAL PARTICIPATION IN THE "BACK-TO-SCHOOL SALES TAX HOLIDAY" AS AUTHORIZED BY ACT NO. 2017-120**

**WHEREAS**, Section 1 of Alabama Act No. 2017-120 grants municipal governments authority to provide for the exemption of certain covered items from the payment of municipal sales tax during a period commencing at 12:01 a.m. on the third Friday in July of each year and ending at twelve midnight the following Sunday under the same terms, conditions and definitions as provided for the state sales tax holiday.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Anniston, Alabama as follows:

Section 1. That approval is granted for the exemption of certain covered items from the payment of municipal sales tax for the period commencing at 12:01 a.m. on the third Friday in July of each year and ending at twelve midnight the following Sunday under the same terms, conditions and definitions as provided for by Act No. 2017-120 and Alabama Department of Revenue Rule 810-6-3.65.

**PASSED AND ADOPTED** this the 6<sup>th</sup> day of **April, 2021**.

CITY COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

BY \_\_\_\_\_  
Jack Draper, Mayor

BY \_\_\_\_\_  
Jay Jenkins, Council Member

BY \_\_\_\_\_  
Demetric Roberts, Council Member

BY \_\_\_\_\_  
Ciara Smith, Council Member

BY \_\_\_\_\_  
Millie Harris, Council Member

ATTEST:

\_\_\_\_\_  
Skyler Bass, City Clerk

**RESOLUTION NO. 21-R - \_\_\_\_**

**A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER  
TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH RETAIL  
STRATEGIES**

WHEREAS the City Council believes that Retail Strategies has the skill, experience, resources, connections and credibility to provide the Downtown Strategic Visioning Workshops, market and real estate analysis, and strategic planning to be provided by the professional consulting agreement attached as Exhibit A;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Anniston, Alabama as follows:

Section 1. The City Manager is authorized and directed to execute a professional services agreement with Retail Strategies in substantially the same form and content as Exhibit A including a term not to exceed six (6) months and a fee for services rendered not to exceed Twenty-Five Thousand dollars (25,000.00). The City Manager is further authorized to perform and administer the agreement and the City's rights and commitments therein.

PASSED AND ADOPTED this the **6<sup>th</sup>** day of **April, 2021.**

CITY COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

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Jack Draper, Mayor

---

Jay Jenkins, Council Member

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Demetric Roberts, Council Member

---

Ciara Smith, Council Member

---

Millie Harris, Council Member

ATTEST:

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Skyler Bass, City Clerk

**PROFESSIONAL SERVICES AGREEMENT TO PROVIDE  
CONSULTING AND RELATED SERVICES**

**THIS AGREEMENT** (the “Agreement”) is entered into by and between Retail Strategies, LLC, an Alabama limited liability company (hereinafter referred to as “Consultant”) and Anniston, Alabama (hereinafter referred to as “Client”) on this the \_\_\_\_\_ day of \_\_\_\_\_, 2021, ( the “Effective Date”) as follows:

**WHEREAS**, the Client desires to have Consultant perform those consultation services identified on Exhibit A (the “Downtown Strategic Visioning Workshop”) (a copy of the Exhibit is attached hereto and incorporated herein by reference) (the Downtown Strategic Visioning Workshop shall also be referred to herein as the “Project”); and,

**WHEREAS**, Consultant has agreed to provide professional consulting services for the Project to Client as further set forth below.

**W-I-T-N-E-S-S-E-T-H:**

**NOW, THEREFORE**, this Agreement is made and entered into on the date first above written by and between the Client and Consultant, by which Consultant will provide professional consulting and related services to the Client as hereinafter specified:

**1. SCOPE OF SERVICES**

Consultant hereby agrees to provide professional services for Client in the form of consulting and related services for the Project as set out in Exhibit A. These professional services are consulting services and not that of a contractor or other provider.

**2. TERM**

The Term of this Agreement shall commence upon the Effective Date and terminate upon the earlier of (i) the Client’s completion of the Workshop as set forth in Exhibit A, and (ii) six (6) months after the Effective Date.

### **3. COMPENSATION**

As compensation for the consultation services provided herein by Consultant, Client agrees to pay Consultant a total of Twenty-Five Thousand and No/100 (\$25,000.00) Dollars. Consultant will invoice Client immediately upon execution of the Agreement. The Consulting Fees will be paid in installments of immediately available funds as follows and Compensation shall be fully earned when paid and as such are nonrefundable.

<b>Contract Period</b>	<b>Payment Amount</b>
Day 1-30	\$10,000
Day 30-60	\$10,000
Day 60-120	\$5,000

### **4. CLIENT RESPONSIBILITIES**

(a) **Information and Access.** In addition to paying Consultant for services according to the preceding paragraph, the Client shall also provide Consultant access to its relevant personnel, facilities, and materials including, but not necessarily limited to, those items specified in Consultant's proposal to Client, and such records, reports, and information as reasonably requested by Consultant and which is in Client's possession.

(b) **Scheduling of Downtown Strategic Visioning Workshop.** The Parties understand and agree that the Downtown Strategic Visioning Workshop will take place in Anniston, Alabama at a time mutually agreeable to Consultant and Client.

### **5. INTELLECTUAL PROPERTY**

The Client and Consultant, jointly and separately, acknowledge and agree that the intellectual property of both parties shall remain owned by the respective party. With the exception of Consultant's periodic and final reports generated for performance of this Agreement to or for the Client (which shall belong to Client), reports, memorandums, electronic mail, facsimile transmissions and other written and prepared documents shall be owned by the party who authored, generated or who originally possessed the same and nothing in this Agreement shall contravene said rights. The Client acknowledges that all intellectual property developed during the course of this Agreement by Consultant shall belong exclusively to Consultant; provided, however, the

Client may utilize any of the foregoing intellectual property for its internal operations; provided, further, that Client must and will take all reasonable and necessary steps, as well as endeavor to ensure that its employees and agents also comply, with respect to the use, copying, protection and security of the Consultant's intellectual property. Notwithstanding the foregoing, all strategic plans and other materials delivered by Consultant to Client shall belong to and remain the intellectual property of the Client.

**6. APPLICABLE LAWS**

Consultant, in its role as a professional service provider of consulting services, shall abide by all laws, rules and regulations applicable to such services, including the laws of the State of Alabama.

**7. INSURANCE**

Consultant shall carry all appropriate and necessary insurance to be in compliance with state and federal laws regarding the insurance coverage of its employees.

**8. DEFAULT AND TERMINATION**

(a) **Default Termination.** In the event Consultant should violate any of the terms of this Agreement, Client shall provide Consultant with written notice of such default. Consultant shall have a period of thirty (30) days following such notice to cure any alleged default. Should Consultant fail to cure such default in the time period provided, Client shall be permitted to terminate this Agreement. All fees previously paid by Client to Consultant are understood to be fully earned when paid and are not subject to refund following any termination hereunder.

(b) **Automatic Termination.** This Agreement shall automatically terminate upon the completion of the Downtown Strategic Visioning Workshop; provided, however, that the Downtown Strategic Visioning Workshop shall be concluded no later than six (6) months after the Effective Date.

**9. NOTICES/PARTIES REPRESENTATIVES**

All notices, bills, invoices and reports required by this agreement shall be sufficient if sent by the parties hereto in the United States Mail, postage prepaid thereon to the addresses noted below:

Client: Steven D Folks, City Manager  
City of Anniston  
4305 McClellan Blvd  
P.O. Box 2168  
Anniston, AL 36202  
256-241-7162  
sfolks@anniston.al.gov

Consultant: Retail Strategies, LLC  
2200 Magnolia Ave. South, Suite 100  
Birmingham, AL 35205  
Email: sleara@retailstrategies.com  
Fax: (205) 313-3677  
Attention: Stephen P. Leara, Esq. EVP | General Counsel

**10. INDEPENDENT CONTRACTOR**

While Consultant's role will be that of consultant to the Client, Consultant shall be and remain an independent contractor and not act in the role of an agent or legal representative on behalf of the Client. Consultant shall not have the authority to bind or obligate the Client, its officers, agents or employees.

**11. MISCELLANEOUS**

**Third Party Beneficiaries:** It is the intent of the parties hereto that there shall be no third-party beneficiaries to this Agreement.

**Final Integration:** This Agreement, together with any exhibits or amendments hereto, constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. All written or oral understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or

covenant made by any party which is not contained in this Agreement or expressly referred to herein have been relied on by any party in entering into this Agreement.

**Force Majeure:** Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God, terrorism, strikes, lockouts or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.

**Amendment in Writing:** This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.

**Binding Effect:** This Agreement shall bind the parties and their respective personal representatives, heirs, next of kin, legatee, distributees, successors, and assigns. If any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Captions:** The captions of this Agreement are for convenience and reference only, are not a part of this agreement, and in no way define, describe, extend, or limit the scope or intent of this Agreement.

**Construction:** This Agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.

**Governing Law:** This Agreement shall be construed under the laws of the State of Alabama.

**Prohibition on Assignment and Delegation:** No party to this Agreement may assign or delegate its interests or obligations hereunder without the written consent of all other parties hereto obtained in advance of any such assignment or delegation. No such

assignment or delegation shall in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning or delegating party shall in all respects remain liable hereunder irrespective of such assignment or delegation.

**Waiver:** Non-enforcement of any provision of this Agreement by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remaining terms and conditions of the Agreement.

**Agreement Date/Counterparts:** The date of this Agreement is intended as and for a date for the convenient identification of this Agreement and is not intended to indicate that this Agreement was necessarily executed and delivered on said date. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

**Brokerage Rights:** Client acknowledges that affiliates of Consultant act in the capacity of a real estate brokerage service business and may earn fees for services including brokerage, development, leasing and management fees in the performance of such affiliates services which may encompass a portion of the Project. In no event will the Client be responsible for any such fees, to the extent they are earned pursuant to this paragraph.

**CLIENT:**

ANNISTON, ALABAMA

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**CONSULTANT:**

RETAIL STRATEGIES, LLC

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_



## EXHIBIT A

*This section outlines the Services which Retail Strategies (the “Consultant”) will provide to the Anniston, Alabama (the “Client”).*

### IN-MARKET WORKSHOP

- Stakeholder input session hosted and facilitated by Downtown Strategies with property owners, merchants, business owners, community leaders, and elected officials to gain feedback, allow dialogue, and provide immediate support to those needing it most.

### MARKET ANALYSIS

- Identification of market trade area using mobile data analysis
- Trade area demographics (population, income, housing, etc.)
- Market and retail GAP analysis for trade area (i.e. leakage and surplus)
- Tapestry lifestyles – psychographic profile of trade area
- Consumer Spending Pattern Reports
- Commute Patterns Report
- Identification of priority business categories for entrepreneurship, recruitment and/or local expansion
- Downtown Building Inventory
- Downtown Walkability Assessment
- Downtown Neighborhood Demographics

### REAL ESTATE ANALYSIS

- Real Estate analysis deliverable identifying approximately 5 pieces of real estate prime for adaptive re-use, infill, higher and better use, or new development.
- Analysis is provided via marketing flyers for each available or ideal site.

### DOWNTOWN STRATEGIC PLAN

Downtown will be evaluated and a customized, strategic, asset-based and market driven plan will be provided with transformation strategies defined and developed considering the following:

- |                               |                                   |
|-------------------------------|-----------------------------------|
| • Connectivity & Walkability  | • Retail & Restaurant Recruitment |
| • Landscaping & Streetscapes  | • Backfilling Vacancies           |
| • Public Art                  | • Real Estate Analysis            |
| • Historic Preservation       | • Supporting Entrepreneurs        |
| • Special Events & Promotions | • Incentives & Financial Tools    |
| • Wayfinding Signage          | • Zoning & Codes                  |
| • Transportation & Parking    | • Identifying Partnerships        |
| • Messaging & Branding        | • Catalyst Projects               |
|                               | • Community Input Survey Results  |

3/31/2021

## **FACT SHEET**

**SUBJECT:** Evaluation of bids for work jeans, tee shirts, jackets, and coveralls for Public Works and PARD employees.

**FACTS:** This is a budgeted General Fund expenditure.

### **VENDORS SUBMITTING BIDS**

#### **Tangibles**

Work Jeans	\$30.00-\$32.00/ea.
Tee Shirts	\$11.00 – \$14.50/ea.
Jackets	\$72.00-\$74.00/ea.
Coveralls	\$110.00-\$125.00/ea.

#### **Cintas**

No Response

#### **Unifirst**

No Response

**RECOMMENDATION:** The bid should be awarded to Tangibles at the above stated prices.

## RESOLUTIONS

**RESOLUTION NO. 21-R-\_\_**

**A RESOLUTION REQUIRING MASKS IN CITY BUILDINGS, PLACES, AND SPACES  
FOR THE PROTECTION OF HEALTH AND HUMAN LIFE**

WHEREAS, the Council has declared a State of Emergency within the City of Anniston, Alabama based on the serious public health risk posed by the COVID-19 pandemic event;

WHEREAS, the Council finds that the COVID-19 pandemic continues to pose serious threat to the health, life, and safety of the general public, including the citizens and employees of the City;

WHEREAS, the Council finds that masks covering an individual's nose and mouth assist in preventing the spread of COVID-19 and in mitigating the consequences of COVID-19;

NOW THEREFORE, BE IT RESOLVED, in consideration of the concerns for public health and safety, the continued operations of the City and governing body, and the right of the public to open conduct of government, by the Council of the City of Anniston, Alabama as follows:

Section 1. No person shall be permitted on or within any building, place, property, space that is owned, leased, or operated by the City of Anniston unless the person is wearing a mask covering the person's nostrils and mouth or a shield covering the person's entire face and extending below the person's chin.

Section 2. All employees of the City of Anniston shall wear such a mask or face-shield in the course of their employment whenever said employees are within six-feet of another person, including indoor spaces, vehicles, and outdoor spaces, unless exempted by the City Manager for certain times or purposes in order to prevent a job hazard or when necessary to perform a public health and safety function.

Section 3. All citizens and persons within the City of Anniston are encouraged to wear masks or face-shields for the protection of themselves and others whenever they are within six feet of another person.

Section 4. This resolution and the mandates herein shall take effect immediately and remain in effect until repealed by resolution of the Council.

PASSED AND ADOPTED on this the \_\_\_\_ day of \_\_\_\_\_, 2021.

COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

---

Jack Draper, Mayor

---

Jay Jenkins, Council Member

---

Demetric Roberts, Council Member

---

Ciara Smith, Council Member

---

Millie Harris, Council Member

ATTEST:

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Skyler Bass, City Clerk

**RESOLUTION NO. 21-R-**

**RESOLUTION TO ESTABLISH  
COMMUNITY HOMELESSNESS TASK FORCE**

WHEREAS, the Council desires to address the issue of homelessness within the City of Anniston and surrounding communities in a thoughtful, comprehensive, effective and lasting manner that factors-in the diverse spectrum of issues and needs affecting the homeless population;

WHEREAS, the Council finds that homelessness can be best addressed through a broad coalition of community members and organizations with the experience, resources, interests, and commitment to address the causes, conditions, and effects of homelessness;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Anniston, Alabama as follows:

The Council does hereby establish the Community Homelessness Task Force to provide recommendations for addressing homelessness within the community in a considerate, meaningful, and impactful manner, including, but not limited to, policies, plans, programs, strategies and interventions to prevent episodes of homelessness, to provide aid, services and outreach to the homeless population and persons at-risk of homelessness, and to facilitate, empower and coordinate efforts among community partners to improve the response to the homeless population and persons at-risk of homelessness,

The Community Homelessness Task Force shall be compromised as follows: (1) a person appointed by the United Way of East Central Alabama; (2) a person appointed by the Calhoun County Department of Human Resources; (3) a person appointed by the Anniston First United Methodist Church; (4) a person appointed by the Anniston Full Gospel Holy Temple; (5) a person appointed by the Highland Health Services; (6) a person appointed by the Regional Medical Center for Northeast Alabama; (7) a person appointed by the Anniston Housing Authority; (8) a person appointed by the Anniston Fellowship House; (9) a person appointed by the Anniston Police Department; (10) a person appointed by the Community Foundation for Northeast Alabama; (11) a person appointed by the Calhoun County EMA; (12) a person appointed by the Community Enabler Developer; (13) a person appointed by the Interfaith Ministries of Calhoun County; (14) a person appointed by The Right Place; (15) a person appointed by The Salvation Army; (16) a person appointed by the St. Michael's Medical Clinic; and (17) a person appointed by Pooh's Barbershop as a business owner in Downtown Anniston.

The Council appoints Shannon Jenkins with the United Way of East Central Alabama as the Coordinator of the Community Homelessness Task Force to serve as the principal organizer and director of the Task Force and those volunteering to join and participate in its mission.

PASSED AND ADOPTED on this the \_\_\_\_ day of \_\_\_\_\_, 2021.

COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

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Jack Draper, Mayor

---

Jay Jenkins, Council Member

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Demetric Roberts, Council Member

---

Ciara Smith, Council Member

---

Millie Harris, Council Member

ATTEST:

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Skyler Bass, City Clerk

## RESOLUTION 21-R-\_\_\_

### A RESOLUTION AUTHORIZING A PROJECT DEVELOPMENT AGREEMENT AND WARRANT BETWEEN THE CITY OF ANNISTON, ALABAMA AND COBBLESTONE HOTEL DEVELOPMENT, LLC

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BE IT RESOLVED by the City Council of the City of Anniston, Alabama (the “Council”), as governing body of the City of Anniston, Alabama (the “Municipality”), as follows:

Section 1. The Council, upon evidence duly presented to and considered by it, has found and determined, and does hereby find, determine and declare as follows:

(a) Pursuant to the applicable laws of the State of Alabama, the Municipality and Cobblestone Hotel Development, LLC (the “Developer”), have prepared that certain Project Development Agreement to be dated the date of delivery (the “Agreement”), attached hereto, for the purposes referenced therein.

(b) It is necessary, desirable and in the best interests of the taxpayers and citizens of the Municipality for the Municipality to authorize, execute, deliver, and perform the Agreement.

(c) The Municipality possesses all powers necessary to undertake the transactions and obligations described in the Agreement, and the Municipality so acts in accordance with and pursuant to the authority and powers conferred by Amendment 772 to the Constitution of Alabama of 1901 (re-codified as Section 94.01 to the Constitution of Alabama of 1901).

(d) As required under Amendment 772, the Municipality caused notice to be published in The Anniston Star, at least seven days prior to the adoption and execution of this resolution, that a public meeting would be held on April 6, 2021 at 5:30 p.m. in the City Meeting Center in the City of Anniston, Alabama for the purpose of approving an economic development incentive as it is set forth in the Agreement.

(e) The Municipality’s expenditure of public funds and lending of its credit for the purposes specified in the Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private persons or entities, including the Developer.

Section 2. The Council does hereby approve, adopt, authorize, direct, ratify and confirm:

(a) The agreements, covenants, and undertakings of the Municipality set forth in the Agreement; and



(b) The terms and provisions of the Agreement, in substantially the form and of substantially the content as set forth in the attached, with such changes thereto (by addition or deletion) as the City Manager shall deem necessary and appropriate, which approval shall be conclusively evidenced by execution and delivery of the Agreement as hereinafter provided.

Section 3. The Mayor is hereby authorized and directed to execute and deliver the Agreement for and on behalf of, and in the name of, the Municipality. The City Clerk is hereby authorized and directed to affix the official seal of the Municipality to the Agreement and to attest the same.

Section 4. The City Manager and the officers of the Municipality are each hereby authorized and directed to take all such actions, and execute, deliver and perform all such agreements, documents, instruments, notices, and petitions and proceedings, with respect to the Agreement, as the City Manager and such officers shall determine to be necessary or desirable to carry out the provisions of this resolution or the Agreement or duly and punctually observe and perform all agreements and obligations of the Municipality under the Agreement.

Section 5. The Municipality is hereby authorized to issue, execute and deliver the Warrant, the form of which is stated in the Agreement. The Warrant shall be issued as a single warrant, dated the date of its delivery, and shall be payable in such amounts and subject to such terms and conditions as set forth in the Agreement. The Warrant shall not bear interest. The Municipality may, on any date, without premium or penalty, pay in advance the entire unpaid amount of the Warrant or any lesser portion or portions thereof by paying the holder of the Warrant the principal amount to be prepaid. The indebtedness evidenced and ordered paid by the Warrant is and shall be limited obligation of the Municipality. The Warrant shall not be a general obligation of the Municipality and shall not constitute a charge on the general funds or general revenues of the Municipality, and the full faith and credit of the Municipality are not and shall not be pledged to the payment of the Warrant. The Municipality shall have no obligation, legal or moral or otherwise, to make any payment other than from the limited sources, and in the limited amounts, as provided in the Agreement and in the Warrant.

Section 6. All prior actions taken, and agreements, documents or notices executed and delivered, by the City Manager, Mayor or any officer or member of the Council or other representative of the Municipality, in connection with the agreements, covenants, and undertakings of the Municipality hereby approved, or in connection with the preparation of the Agreement and the terms and provisions thereof, are hereby approved, ratified and confirmed.

Section 7. All ordinances, resolutions, orders, or parts of any thereof, of the Council in conflict, or inconsistent, with any provision of this resolution hereby are, to the extent of such conflict or inconsistency, repealed.

Section 8. This resolution shall take effect immediately.

**PASSED AND ADOPTED** on this the **6<sup>th</sup>** day of **April, 2021**.

CITY COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

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Jack Draper, Mayor

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Jay W. Jenkins, Council Member

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Demetric Roberts, Council Member

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Ciara Smith, Council Member

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Millie Harris, Council Member

ATTEST:

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Skylar Bass, City Clerk

## **PROJECT DEVELOPMENT AGREEMENT**

This **PROJECT DEVELOPMENT AGREEMENT** (herein called the “Agreement”), dated \_\_\_\_\_, 2021 (referred to herein as the “Effective Date”), is entered into between the **CITY OF ANNISTON**, a municipal corporation under the laws of the State of Alabama (herein called the “City”), and **COBBLESTONE HOTEL DEVELOPMENT, LLC**, a for profit limited liability company organized and existing under the laws of the State of Wisconsin, or its assigns (herein called the “Company”). The City and the Company are herein sometimes referred to collectively as the “Parties”).

### **RECITALS**

**WHEREAS**, the City has been in the process of revitalizing and enhancing its downtown commercial and business area (the “Anniston Downtown Revitalization Effort”);

**WHEREAS**, by Resolution No. 16-R-98, the Council for the City of Anniston authorized the acceptance and acquisition of the real property located at 1200 Noble Street, Anniston, Alabama 36201, more particularly described as Lot 5 and Lot 6, Block 134, Anniston City Land Company, as recorded in Plat Book A, Pages 412-416 in the Probate Office of Calhoun County, Alabama; ALSO: The Easternmost 120.0 feet of the alley running East and West Between Lot 4 and Lot 5, Block 134, Anniston City Land Company (the “Property”), by donation from the Branch Banking and Trust Company in accordance with the terms of that certain Agreement Regarding Donation of Property referenced therein;

**WHEREAS**, in *City of Anniston, Alabama v. J2 Investments, LLC*, Civil Action No. 11-CV-2018-900530.00, the Circuit Court for Calhoun County, Alabama, entered a Final Judgment on December 17, 2018 ordering, adjudging and decreeing, *inter alia*, the Property reverted to the City in fee simple, as recorded in Deed Book 3242, Pages 435-440 in the Probate Office of Calhoun County, Alabama;

**WHEREAS**, the Property is presently abandoned and undeveloped with no useful purpose and in a condition that degrades the overall aesthetic appeal of the downtown venue and presents a barrier to the Anniston Downtown Revitalization Effort;

**WHEREAS**, due to its current condition, the costs of restoring the Property to a useful purpose exceed the value of the Property, and the City lacks the funds and resources needed to renovate or redevelop the Property for a purpose consistent with the Anniston Downtown Revitalization Effort or for any other municipal purpose;

**WHEREAS**, the Company desires to acquire the Property and to construct a hotel thereon (the “Project”), provided the City grants the Company certain necessary economic development incentives and conveys the Property to the Company pursuant to certain terms and conditions;

**WHEREAS**, the City has determined that the Project will materially further the Anniston Downtown Revitalization Effort by eliminating a highly visible, blighted condition on an important intersection in the downtown area and replacing it with a newly constructed hotel that will promote tourism, further retail and commercial activity, and enhance property values in the area;

**WHEREAS**, the City desires to achieve its goals with respect to major land development within its jurisdiction, such as the Project, through agreements with developers such as those herein set forth;

**WHEREAS**, the City has determined that the Project is situated in an area important for planned commercial and economic development, and that development and use of the Project as aforesaid will inure to the benefit of the City and its citizens by, among other things, (i) redeveloping a blighted but significant commercial property in the downtown area of the City, (ii) providing a much needed venue for overnight accommodations and related activities within the downtown area of the City, (iii) expanding the tax base of the City by attracting commercial activity and development to the downtown area of the City, (iv)

facilitating the development of other portions of the City located in vicinity of the Project, (v) expanding employment opportunities, and (vi) enhancing the overall quality of life for the citizens of the City;

**WHEREAS**, the City recites that it is undertaking the obligations set forth herein pursuant to the authority of Amendment 772 to the Constitution of Alabama of 1901 (recodified as Section 94.01 to the Constitution of Alabama of 1901) (herein called "Amendment 772") and in furtherance of any power or authority authorized in Amendment 772, and that the City has determined that the expenditure of public funds and grant of things of value and the transfer and conveyance of the Property for the purpose specified herein will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

**NOW, THEREFORE**, for and in consideration of the foregoing premises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby covenant, agree and bind themselves as follows:

## **ARTICLE I**

### **REPRESENTATIONS AND WARRANTIES**

#### **SECTION 1.1      Representations and Warranties of the City.**

The City hereby makes the following representations, warranties and findings:

- (a) The City has duly authorized the execution, delivery and performance of this Agreement.
- (b) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the City, to the knowledge of the City, violates, constitutes a default under or a breach of (i) any agreement, instrument, contract, mortgage or indenture to which the City is a party or to which the City or its assets are subject; or (ii) any judgment, decree, order, ordinance, rule, regulation, consent or resolution applicable to the City or any of its assets.
- (c) There is not now pending nor, to the knowledge of the City, threatened, any litigation affecting the City which questions (i) the validity or organization of the City, (ii) the members, titles or positions of the members of the governing, or (iii) the subject matter of this Agreement.

#### **SECTION 1.2      Representations and Warranties of the Company.**

The Company hereby makes the following representations, warranties and findings:

- (a) The Company is duly organized and validly existing as a for profit corporation under the laws of the State of Wisconsin, and the Company has duly authorized its execution, delivery and performance of this Agreement.
- (b) Neither the execution and delivery of this Agreement, nor the performance hereof, by the Company requires any consent of, filing with or approval of, or notice to, or hearing with any person or entity (including, but not limited to, any governmental or quasi-governmental authority).
- (c) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the Company, to the knowledge of the Company, violates, constitutes a default under or a breach of (i) the Company's articles of incorporation, bylaws, or other organizational documents of the Company, (ii) any agreement, instrument, contract, mortgage or indenture to which the Company is a party or to which the Company or its assets are subject, or (iii) any judgment, decree, order, ordinance, rule, regulation, consent or resolution applicable to the Company or any of its assets.
- (d) There is not now pending nor, to the knowledge of the Company, threatened, any litigation affecting the Company which questions (i) the validity or organization of the Company, (ii) the titles or positions of the members of the Company or its officers or the manner in which they are elected or (iii) the subject matter of this Agreement.

**ARTICLE II**  
**CERTAIN OBLIGATIONS OF THE CITY**

**SECTION 2.1                      Transfer of the Property by the City to the Company; Condition of the Property.**

Acting pursuant to the authority of the Code of Alabama 1975, as amended, including without limitation Section 11-63-1, *et seq.*, the City does hereby agree to transfer and convey to the Company fee simple title to the Property, subject to and in accordance with the following:

(a) The Company's performance of this Agreement is contingent upon satisfaction of the following contingencies **on or before December 31, 2021** (hereinafter the "Contingency Period"), except to the extent another date for satisfying a contingency may be specifically set forth below.

- (i) **Utilities.** As provided in Section 2.3 below, the Company determining, in the Company's sole and absolute discretion, that the Property is capable of being serviced with utility service lines for 3-phase electric, natural gas, municipal sewer and municipal water mains and taps from the appropriate public utility or governmental body having jurisdiction, in sufficient quantities, capacities, and with sufficient pressure to permit the operation of the Company's intended use.
- (ii) **Zoning.** The Company's determination that the Property is zoned for the Company's intended usage and such usage complies with local code requirements.
- (iii) **Geotechnical Conditions.** The Company obtaining, at the Company's sole cost and expense pursuant to Section 6.1(d) below, a written report from a qualified geotechnical engineer regarding the existing soil, subsoil and topographical conditions at the Property that is satisfactory to the Company in all respects for the construction and operation of the Company's intended improvements.
- (iv) **Surveys and Title Commitment.** The Company's determination that the Surveys and Title Commitment to be prepared and or delivered pursuant to Section 6.1(a) and (b) (respectively), below are satisfactory to the Company in all respects and that the Property has been properly marked with visible boundary pins put into place by a licensed Alabama surveyor.
- (v) **Building and Site Permits and Approvals.** The Company obtaining all requisite building and site permits and/or government approvals from the appropriate governmental authorities, permitting the construction of its intended improvements compliant with all local code requirements.
- (vi) **Signage.** The Company obtaining approval from the appropriate governmental authorities for signage that the Company determines, in its sole and absolute discretion, appropriate for its intended improvements, including the style, location, and amount of desired signage.
- (vii) **Easements, Covenants and Restrictions.** The Company and the City, and any adjacent property owners, if applicable, agreeing upon an Easements, Covenants and Restrictions Agreement, which, in the Company's sole and absolute discretion, shall meet the Company's needs for its intended usage of the Property.
- (viii) **Financing.** The Company obtaining the necessary and appropriate financing to purchase the Property, including, but not limited to, receiving the necessary capital from the investors of the Company.
- (ix) **Access.** The Company being assured that satisfactory ingress/egress to and from the Property exists via public dedicated roadway(s) and/or non-exclusive easement(s) and curb cuts.

- (x) **Third Party Plan Approval.** The Company's plans and specifications for its intended improvements on the Property being approved by all third parties, if any, which have plan approval rights and jurisdiction over the Property by virtue of any deed restrictions, protective covenants or governmental authority affecting the Property.
- (xi) **Flood Plain.** The Company obtaining satisfactory evidence that the Property either: (i) does not lie within a 100-year flood plain, as established by the U.S. Army Corps of Engineers, or within any area subject to flooding; or (ii) that the cost of obtaining necessary flood plain insurance will not be, in the Company's sole discretion, excessive.
- (xii) **Environmental Conditions.** The Company obtaining, at the Company's sole cost and expense, a satisfactory environmental report from a qualified environmental engineer to the effect that there is no evidence of any storage tanks or solid, toxic or hazardous waste or any form of environmental contamination as defined by local, state or, federal regulations on the Property and that no further environmental investigation is necessary nor any remediation needed.
- (xiii) **Licenses.** The Company obtaining all requisite licenses and permits of any kind necessary for the Company to operate its intended business.
- (xiv) **Public Improvements.** The Company and the City reaching an agreement as to the Public Improvements to be constructed by the City in accordance with Section 2.2 below.
- (xiv) **Feasibility.** The Company obtaining a study, satisfactory to the Company in all respects, of the feasibility of constructing and operating its intended business on the Property.

Prior to expiration of the Contingency Period, the Company shall deliver written notice to the City indicating that the Company has satisfied or waived each of the above-listed contingencies. In the event that the Company notifies the City that it is unable to proceed with this transaction due to a valid failure of any of the above listed contingencies, or if the Company fails to provide the notice set forth in the preceding sentence, this Agreement shall terminate following the City's Cure Period as defined in Section 6.1(e) below. The Company's waiver of any or all of the contingencies set forth in this Section 2.1(a) shall not relieve the City of any obligations set forth in other sections of this Agreement. The Company shall exercise good faith commercially reasonable efforts to secure government approvals and resolution of the above listed contingencies.

(b) Following expiration of the Contingency Period, the Company shall obtain the necessary permits for the construction of the Project within twelve (12) months of the transfer of title pursuant to Section 2.1(e) below. The date on which the last permit is issued for construction of the Project shall be referred to as the "Construction Commencement Date."

(c) Prior to the Construction Commencement Date, the Company shall provide monthly status reports to the City accurately disclosing the Company's progress towards and completion of the pre-construction work on the Project, including the schematic design, the design development, the construction documents, and the permit submittals.

(d) Prior to the expiration of the Contingency Period, the Company shall provide to the City valid and verifiable evidence of a loan commitment, letter of credit, or other commercially reasonable source of financing so as to demonstrate that the Company has sufficient funding, or has access to sufficient funding, in order to pay the costs of constructing the Project. The costs of constructing the Project shall be based on the cost of the work set forth in a construction contract between the Company and its general contractor, BriMark Builders, LLC, which the Company represents and warrants is a responsible general contractor who is properly licensed to perform the work, competent, experienced, and financially able to perform the contract. The date on which the Company delivers to the City the evidence of sufficient funding, as required herein, shall be referred to as the "Construction Financing Date." The Company's

performance of this obligation shall be a condition precedent to the City's obligation to convey and transfer title to the Property.

(e) Within thirty (30) days of the Company's delivery of written notice to the City confirming the Company's satisfaction or waiver of the contingencies to the Company's performance, in accordance with Section 2.1(a), the City shall transfer and convey title to the Company via statutory warranty deed, the form of which deed is attached as Exhibit A hereto, for ten dollars and no cents (\$10.00). A boundary survey and drawing of the Property, as more particularly described in the Recitals above, is attached hereto as Exhibit B.

(f) The statutory warranty deed from the City to the Company shall contain a covenant requiring a reversion of the Property to the City in the event that the Company does not obtain a certificate of occupancy for a hotel located thereon within twenty-four (24) months of the Construction Commencement Date, Excusable Delays, as defined in the Construction Contract, excepted.

(g) In the event Company does not (i) obtain the necessary permits to commence construction of the Project within twelve (12) months of the date on which the City transfers its title in the Property to Company, per Section 2.1(b), or (ii) obtain a certificate of occupancy for a hotel located on the Property within twenty-four (24) months of the Construction Commencement Date, Excusable Delays excepted, Company shall promptly execute and deliver, or cause to be executed and delivered, to the Grantor such documents or instruments necessary to transfer Company's rights, title, and interests in, to, on, above, and under the Property to City.

(h) The City makes no representation or warranty respecting the condition of the Property, which the Company shall acquire on an "as is" basis at the time of transfer of title pursuant to this Agreement. With the exception of the installation and construction of the Public Improvements referenced in Section 2.2 below, the Company shall have no right of recourse against the City for any damage, liability or expense respecting the Property or due to the condition of the Property.

## **SECTION 2.2 Installation and Construction of Certain Offsite Improvements.**

No later than the date the Company is issued a certificate of occupancy for the hotel constructed on the property, the City shall have, at no cost to the Company, completed certain public improvements in the adjoining City owned rights-of-way as set forth in this Section 2.2 below ("Public Improvements").

The Public Improvements to be completed by the City are subject to good faith negotiations between the parties as to the scope, quality and standards of such improvements; however, the total cost of said Public Improvements to the City (including, but not limited to, the reasonable cost of materials, the use or rental of equipment, labor, contractors, and professional services) shall not exceed fifty thousand and no/100 dollars (\$50,000.00). By way of example, the Public Improvements shall include, where feasible and acceptable, installation of fresh concrete sidewalks and curbs adjacent to the project, replacement of street/sidewalk lighting, public signage, landscaping, waste receptacles, ADA compliant loading/unloading for hotel guests, and park benches.

## **SECTION 2.3 Installation of Underground Utilities.**

In the event that the existing underground utilities servicing the Property are not otherwise adequate and sufficient, the City agrees to provide, at the City's own cost and expense, adequate underground utilities running up to the boundary of the Property; however, the total cost of said underground utilities to the City (including, but not limited to, the reasonable cost of materials, the use or rental of equipment, labor, contractors, and professional services) shall not exceed one hundred thousand and no/100 dollars (\$100,000.00). The Company shall provide written notice to the City prior to the expiration of the Contingency Period of any underground utilities that it believes, after reasonable investigation, to be inadequate or insufficient. In the absence of such written notice, the Company shall be deemed to have accepted the adequacy and sufficiency of all existing underground utilities servicing the Property.

**ARTICLE III**  
**ECONOMIC DEVELOPMENT INCENTIVES**

**SECTION 3.1 Definitions.**

“Ad Valorem Tax Baseline” shall mean the amount of non-educational municipal ad valorem taxes owed on the Property based on the assessed valuation of the Property at the time that the City transfers title to the Company.

“Ad Valorem Tax Increase” shall mean the amount of non-educational municipal ad valorem taxes owed on the Property based on the assessed valuation of the Property in each year of the Ad Valorem Tax Payment Term.

“Ad Valorem Tax Payment Commencement Date” shall mean the first day of October of the year following the year in which the Company is issued a certificate of occupancy for the Project.

“Ad Valorem Tax Proceeds” shall mean the amount of the incremental increase, if any, between the Ad Valorem Tax Baseline and the Ad Valorem Tax Increase in each year of the Ad Valorem Tax Payment Term.

“Ad Valorem Tax Payment Term” shall mean the four-year period beginning on the Ad Valorem Tax Payment Commencement Date.

“City Lodging Tax” shall mean the lodging taxes levied by the City on persons and entities engaged in the business of renting or furnishing any room or rooms, lodgings or accommodations to transients in any place in which rooms, lodgings or accommodations are regularly furnished to transients for a consideration (currently, the amount of the City Lodging Tax is six percent (6%) of the charge for the lodging accommodations, including any charge for use or rental of personal property and services furnished in such accommodations).

“City Sales/Use Tax” shall mean 1) any sales tax levied by the City on persons and entities engaged in the business of selling at retail any tangible personal property within the City (subject to exemption of certain property as provided by law) generally measured by the gross sales or receipts of such businesses (currently, the City has a five percent (5%) sales tax), and 2) any sales/use taxes levied by the City on the purchase of materials, furnishings, or equipment incorporated in the Project whether in connection with the construction of the hotel or any other commercial occupancy created within the Project by it and paid by the Company, its General Contractor, or any sub-contractor, provided that said materials, furnishings or equipment are reasonably needed or actually used in the construction or the development of the Project, but shall not include any proceeds or receipts (a) from the levy by the City of any privilege or license taxes not described in the definition of City Sales Tax, (b) from the levy of privilege or license taxes of any kind, type or nature by taxing authorities other than the City, (c) from the levy of any increase in the rate of City Sales Tax enacted after the date of this Agreement.

“City Sales/Use Tax Proceeds” shall mean one hundred percent (100%) of all City Sales and Use Taxes levied by the City and paid by the Company, BriMark, or any sub-contractor.

“City Sales/Use Tax Payment Date” shall mean the first business day of each Quarterly Period, which shall begin on the first business day of the first full Quarterly Period following the date on which the Company commences construction of the Project and shall end on the Quarterly Period following the City Sales/Use Tax Payment Termination Date.

“City Sales/Use Tax Payment Termination Date” shall mean the date on which the Company receives a certificate of occupancy for the Project.



“Economic Development Incentives” shall mean the City’s payment to the Company of the (a) Ad Valorem Tax Proceeds, (b) City Sales/Use Tax Proceeds, (c) Project Lodging Tax Proceeds, and (d) Project Sales/Use Tax Proceeds in accordance with the terms and conditions of this Agreement.

“Project Lodging Tax Proceeds” shall mean fifty percent (50%) of all City Lodging Tax proceeds and receipts paid to the City from businesses located and operating on the Property during the Project Lodging Payment Tax Term, but shall not include any proceeds or receipts (i) from the levy by the City of privilege, license, excise or use taxes not described in the definition of City Lodging Tax, (ii) from the levy of privilege license or excise taxes of any kind, type or nature by taxing authorities other than the City, (iii) from the levy of any increase in the rate of the City Lodging Tax enacted after the effective date of this Agreement.

“Project Lodging Tax Payment Date” shall mean the first business day of each Quarterly Period, which shall begin on the first business day of the first full Quarterly Period following the Project Lodging Tax Commencement Date and shall end on the Quarterly Period following the Project Lodging Tax Termination Date.

“Project Lodging Tax Commencement Date” shall mean the date on which the Company receives a certificate of occupancy for the Project.

“Project Lodging Tax Termination Date” shall mean four (4) years from Project Lodging Tax Commencement Date.

“Project Lodging Tax Payment Term” shall mean the period commencing on the Project Lodging Tax Commencement Date and ending on the Project Lodging Tax Termination Date.

“Project Sales/Use Tax Proceeds” shall mean fifty percent (50%) of all City Sales/Use Tax proceeds and receipts paid to the City from businesses located and operating on the Property during the Project Sales/Use Tax Term, but shall not include any proceeds or receipts (i) from the levy by the City of privilege, license, excise or use taxes not described in the definition of City Sales/Use Tax, (ii) from the levy of privilege license or excise taxes of any kind, type or nature by taxing authorities other than the City, (iii) from the levy of any increase in the rate of the City Sales/Use Tax enacted after the effective date of this Agreement.

“Project Sales/Use Tax Payment Date” shall mean the first business day of each Quarterly Period, which shall begin on the first business day of the first full Quarterly Period following the Project Sales/Use Tax Commencement Date and shall end on the Quarterly Period following the Project Sales/Use Tax Termination Date.

“Project Sales/Use Tax Commencement Certificate” shall mean the certificate delivered by the Company to the City stating that the retail establishments within the Property have opened for business and that the Company desires the payments of the Project Sales/Use Tax Proceeds to commence.

“Project Sales/Use Tax Commencement Date” shall mean the date on which the Company delivers the Project Sales/Use Tax Commencement Certificate to the City.

“Project Sales/Use Tax Termination Date” shall mean four (4) years from Project Sales/Use Tax Commencement Date.

“Project Sales/Use Tax Payment Term” shall mean the period of time beginning on the Project Sales/Use Tax Commencement Date and ending on the Project Sales/Use Tax Termination Date.

“Quarterly Period” shall mean a period of three (3) consecutive calendar months, commencing on the first day of January, April, July and October of each calendar year and ending on the last day of March, June, September and December of each calendar year during the effective term of this Agreement.

**SECTION 3.2      Municipal Sales/Use Tax Rebates; Construction Materials, Furnishings and Equipment.**

- (a) The City hereby agrees to pay to the Company the City Sales/Use Tax Proceeds determined by the City to be due and payable to the Company in accordance with this Agreement.
- (b) The obligation of the City for the payment of the City Sales/Use Tax Proceeds:
  - (i) Is a limited obligation payable solely from the City Sales/Use Tax Proceeds;
  - (ii) Shall never constitute a general obligation or charge against the general credit or taxing powers of the City within the meaning of any constitutional provision or statutory limitation whatsoever;
  - (iii) Shall commence on the first City Sales/Use Tax Payment Date;
  - (iv) Shall cease and expire on the City Sales/Use Tax Payment Termination Date.

**SECTION 3.3      Municipal Sales/Use Tax Rebates; Project Sales/Use Taxes.**

- (a) The City hereby agrees to pay to the Company the Project Sales/Use Tax Proceeds determined by the City to be due and payable to the Company in accordance with this Agreement.
- (b) The obligation of the City for the payment of the Project Sales/Use Tax Proceeds:
  - (i) Is a limited obligation payable solely from the Project Sales/Use Tax Proceeds;
  - (ii) Shall never constitute a general obligation or charge against the general credit or taxing powers of the City within the meaning of any constitutional provision or statutory limitation whatsoever;
  - (iii) Shall commence on the first Project Sales/Use Tax Payment Date;
  - (iv) Shall cease and expire on the Project Sales/Use Tax Payment Date following the Project Sales/Use Tax Termination Date.

**SECTION 3.4      Municipal Lodging Tax Rebate.**

- (a) The City hereby agrees to pay to the Company the Project Lodging Tax Proceeds determined by the City to be due and payable to the Company in accordance with this Agreement.
- (b) The obligation of the City for the payment of the Project Lodging Tax Proceeds:
  - (i) Is a limited obligation payable solely from the Project Lodging Tax Proceeds;
  - (ii) Shall never constitute a general obligation or charge against the general credit or taxing powers of the City within the meaning of any constitutional provision or statutory limitation whatsoever;
  - (iii) Shall commence on the first Project Lodging Tax Payment Date;
  - (iv) Shall cease and expire on the Project Lodging Tax Payment Date following the Project Lodging Tax Termination Date.

**SECTION 3.5      Municipal Ad Valorem Tax Rebate.**

- (a) The City hereby agrees to pay to the Company the Ad Valorem Tax Proceeds determined by the City to be due and payable to the Company in accordance with this Agreement.
- (b) The obligation of the City for the payment of the Ad Valorem Tax Proceeds:
  - (i) Is a limited obligation payable solely from the Ad Valorem Tax Proceeds;

- (ii) Shall never constitute a general obligation or charge against the general credit or taxing powers of the City within the meaning of any constitutional provision or statutory limitation whatsoever;
- (iii) Shall commence on the Ad Valorem Tax Payment Commencement Date;
- (iv) Shall cease and expire at the end of the Ad Valorem Tax Payment Term.

**SECTION 3.6 Municipal Permitting Fees Waiver.**

The City covenants and agrees to waive all municipal permit fees otherwise payable to the City in connection with the development and construction of the Project.

**ARTICLE IV**

**WARRANT FOR ECONOMIC DEVELOPMENT INCENTIVES**

**SECTION 4.1** The obligation of the City to pay the Economic Development Incentives set forth in the preceding Article shall be evidenced by a single limited obligation revenue warrant payable solely from and secured by the pledge of so much of the (a) Ad Valorem Tax Proceeds, (b) City Sales/Use Tax Proceeds, (c) Project Lodging Tax Proceeds and (d) Project Sales/Use Tax Proceeds as shall be necessary to pay the Economic Development Incentives, in form and content as the form of Warrant attached to this Agreement as Exhibit C (the “Warrant”).

**SECTION 4.2** The Warrant shall never constitute a general obligation, or a charge against the general credit or taxing powers, of the City within the meaning of any Constitutional provision or Statutory limitation whatsoever and is subject to, in accordance with *Johnson v Sheffield*, 183 So. 265 (Ala 1938), the law-imposed requirement that, if necessary, there must first be paid from all funds and revenues of the City (including without limitation the amounts which comprise the Economic Development Incentives) the legitimate and necessary governmental expenses of operating the City.

**SECTION 4.3** The Warrant shall not bear interest, shall be dated as of the date of delivery, and shall mature on the Termination Date.

**SECTION 4.4** The Warrant shall be duly executed, sealed, and attested by the City, and shall be registered by the City as a conditional claim against so much of the (a) Ad Valorem Tax Proceeds, (b) City Sales/Use Tax Proceeds, (c) Project Lodging Tax Proceeds and (d) Project Sales/Use Tax Proceeds as shall be necessary to pay the Economic Development Incentives with respect to such Warrant and the Warrant fund established therefor as therein provided.

**SECTION 4.5** The Warrant shall be registered and transferred as provided therein.

**ARTICLE V**

**CERTAIN OBLIGATIONS OF THE COMPANY**

**SECTION 5.1 Construction Activities.**

(a) The Company shall cause all construction and development activities to be conducted in compliance with all applicable laws, ordinances, rules and regulations of any governmental authority, including, without limitation, all applicable licenses, permits, building codes, restrictive covenants, zoning and subdivision ordinances and flood, disaster and environmental protection laws. The Company shall cause all agreements between it and any architect, contractor, subcontractor or other business performing any work in connection with the Project to require such architect, contractor, subcontractor or other business to obtain all necessary permits, licenses and approvals to construct such work except that all fees connected therewith shall be waived in accordance with Section 3.6 above. It is understood and acknowledged that the City’s agreement to waive permitting fees in connection with the construction of the Project does not relieve the Company or its contractors, subcontractors, and agents of their obligation to

obtain any required permits, licenses or approvals that must be obtained from the City or any other governmental authority in connection with the Project that otherwise would be applicable.

(b) Excepting only the Public Improvements referenced in Section 2.2 and the underground utilities referenced in Section 2.3 above, it is hereby understood, acknowledged and agreed that the City shall have no responsibility whatsoever for payment of any contract, invoice or other amount incident to the Company's construction of the Project.

#### **SECTION 5.2 Parking Availability.**

The City represents that it owns and maintains off street parking facilities, presently utilized for such purposes, located immediately to the south of the Project site and to the northwest of the Project site collectively containing not less than 75 parking spaces. The City hereby agrees, notwithstanding any practices to the contrary, to lease, let, or permit not less than 75 parking spaces in such parking facilities to the Company, or its assignees, for the use of its guests and/or employees without the imposition of tolls, rents, or other charges for the use of such parking facilities and the City shall further permit the Company or its successors or assigns to erect such signage as is appropriate designating such facilities for use of the businesses or enterprises located within the Project. The City agrees not to sell, further lease, or permit the usage of the such parking facilities in the future to any other person, firm or entity. The City acknowledges and stipulates that the Company's performance of its obligations under this Agreement shall constitute sufficient consideration for the City's lease, let or permit of said parking spaces.

### **ARTICLE VI**

#### **PURCHASER'S DUE DILIGENCE.**

##### **SECTION 6.1 Due Diligence for Purchaser.**

(a) Delivery of Documents. Within 10 days following the Effective Date of this agreement, the City shall deliver or cause to be delivered to Company, at the City's sole cost and expense, copies of any existing site, boundary, and topographical surveys or reports, and any environmental reports with respect to the Property, and all of the materials relating to the Property in possession of the City or any person, firm or corporation employed by the City for any purpose relating to the Property.

(b) Satisfaction of Merchantable Title and Property. Prior to the expiration of the Contingency Period, the Company shall obtain, at its sole expense, a title opinion, title commitment or report (at its option), and survey to satisfy the Company, in its own discretion, as to whether the City possesses good and merchantable title to the Property and whether the Property is free of any encumbrances or other matters that would affect, impair or impeded the merchantability of the Property or the Company's intended use thereof, subject only to such exceptions acceptable within the sole satisfaction of the Company, and subject to objections and opportunities for the City to "cure" any objections as hereinafter set forth.

(c) Satisfaction of Environmental Concerns. Prior to the expiration of the Contingency Period, the Company may, at its sole expense, commission such level of environmental testing and sampling as it deems necessary within its sole discretion, and receive a report indicating that the subject property meets or exceeds guidelines established by the Alabama Department of Environmental Management for levels of contaminants or matters of concern.

(d) Satisfaction of Geological Conditions of Site. Prior to the expiration of the Contingency Period, the Company shall have the right, at its sole discretion and expense, to enter upon the subject property and conduct such subsurface drillings, sampling, or testing to discover latent soil or geological conditions of the subject property including, without limitation, ground water, radon gas and/or soil conditions requiring structural pilings or unforeseen concrete foundation design necessary for the project approval and acceptance.

(e) **Opportunity to Cure Objections.** The City shall have a period of thirty (30) days from the date of receipt of written notice of any objection by the Company during the Contingency Period to remedy or cure the grounds for the Company's objection (the "Cure Period"). In the event the City does not cure such objections (to the extent the same are able to be cured by the removal thereof) prior to the expiration of the Cure Period, the Company shall have the right to terminate this agreement by written notice to the City, provided said notice to terminate shall be delivered to the City within thirty (30) days of the expiration of the Cure Period.

## **ARTICLE VII**

### **FORCE MAJEURE**

#### **SECTION 8.1 Force Majeure.**

Either party to this Contract may elect to suspend the computation of time for obligations undertaken by such party for Excusable Delay or any event or cause reasonably beyond the control of the party claiming Force Majeure which includes, but is not limited to, flood, storm, hurricane, act of God; a war or civil disturbance, terrorist attack, labor dispute, labor strike, pandemic, epidemic, or the inability to immediately comply with a law, order, rule or regulation.

## **ARTICLE VIII**

### **EVENTS OF DEFAULT AND REMEDIES**

#### **SECTION 9.1 Events of Default by the City.**

(a) Any one or more of the following shall constitute an event of default under this Agreement by the City (herein called a "City Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) the dissolution or liquidation of the City, or the filing by the City of a voluntary petition in bankruptcy, or the City's seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the City as a bankrupt, or any assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or if a petition or answer is filed by the City proposing the adjudication of the City as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) Failure by the City to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of thirty (30) calendar days after written notice thereof from the Company, unless (A) the Company shall agree in writing to an extension of such period prior to its expiration, or (B) during such thirty (30) day period or any extension thereof, the City has commenced and is diligently pursuing appropriate corrective action, or (C) the City is by reason of a Force Majeure Event at the time prevented from performing or observing the agreement or covenant with respect to which the City is delinquent.

(b) If a City Event of Default exists, the sole and exclusive remedy of the Company shall be mandamus or specific performance. The Company shall not be entitled to any other damages whatsoever, including, without limitation, punitive, incidental or consequential damages, whether arising at law, in equity or otherwise.

#### **SECTION 9.2 Events of Default by the Company.**

(a) Any one or more of the following shall constitute an event of default under this Agreement by the Company (herein called a “Company Event of Default”) (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) at any time prior to the completion by the Company of its obligations hereunder, the Company is dissolved or liquidated, or the filing by the Company of a voluntary petition in bankruptcy, or the Company seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the Company as a bankrupt, or any assignment by the Company for the benefit of its creditors, or the entry by the Company into an agreement of composition with its creditors, or if a petition or answer is filed by the Company proposing the adjudication of the Company as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within sixty (60) days; or

(ii) failure by the Company to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of thirty (30) calendar days after written notice thereof from the City, unless (A) the City shall agree in writing to an extension of such period prior to its expiration, or (B) during such thirty (30) day period or any extension thereof, the Company has commenced and is diligently pursuing appropriate corrective action, or (C) the Company is by reason of a Force Majeure Event at the time prevented from performing or observing the agreement or covenant with respect to which it is delinquent.

(b) If a Company Event of Default exists, the City may proceed to protect its rights hereunder by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of the Company herein contained. The City shall not be entitled to any other damages whatsoever, including, without limitation, punitive, incidental or consequential damages, whether arising at law, in equity or otherwise.

**SECTION 9.3 Remedies Subject to Applicable Law.** All rights, remedies and powers provided in this Article IX may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article IX are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

### **ARTICLE X**

#### **MISCELLANEOUS PROVISIONS**

**SECTION 10.1      Severability; Enforceability.** If any term or provision hereof shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

**SECTION 10.2      Entire Agreement.** This Agreement contains the entire agreement of the Parties regarding the transactions described herein and there are no representations, oral or written, relating to the transactions described herein which have not been incorporated herein. Any agreement hereafter made shall be ineffective to change, modify, or discharge this Agreement in whole or in part unless such agreement is in writing and is signed by the party against whom enforcement of any change, modification, or discharge is sought.

**SECTION 10.3      Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall constitute but one and the same agreement.

**SECTION 10.4      Binding Effect; Governing Law.** This Agreement shall inure to the benefit of, and shall be binding upon, the Parties and their respective successors and assigns. This Agreement shall be governed exclusively by, and construed and interpreted in accordance with, the laws of the State of Alabama.

**SECTION 10.5      Notices.**

(a) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the Party or to an officer of the Party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

(i) If to the City:

City of Anniston, Alabama  
4309 McClellan Blvd.  
Anniston, Alabama 36201  
Attn: City Manager

With a copy to:

The Downey Law Firm, LLC  
801 Noble Street, Suite 1005  
Anniston, Alabama 36201  
Attn: Bruce J. Downey IV, Esq.

(ii) If to the Company:

Cobblestone Hotel Development, LLC  
980 American Drive  
Neenah, WI 54956  
Attn: Brian Wogernese

With a copy to:

Cobblestone Hotel Development, LLC

980 American Drive  
Neenah, WI 54956  
Attn: Robyn C. Hansen, Esq.

(b) Any notice or other document required to be delivered under this Agreement shall be deemed to be received as of the date delivered, if delivered personally, or as of 3 days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier. Any Party may change the address for the sending of notifications by providing written notice to the other Party in accordance herewith.

**SECTION 10.6**      **Survival of Covenants.** The covenants in this Agreement shall not terminate until they have been fully performed or have expired by their terms.

**SECTION 10.7**      **No Waiver; Amendments.**

(a) No consent or waiver, express or implied, by any Party hereto or to any breach or default by any other Party in the performance by such other Party of its obligations hereunder shall be valid unless in writing, and no such consent or waiver to or of one breach or default shall constitute a consent or waiver to or of any other breach or default in the performance by such other Party of the same or any other obligations of such Party hereunder. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare such other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder. The granting of any consent or approval in any one instance by or on behalf of any Party hereto shall be construed to waive or limit the need for such consent in any other or subsequent instance.

(b) This Agreement may not be amended except by a written instrument signed by the Company and the City. The Mayor is hereby authorized and directed to execute any amendment to this Agreement on behalf of the City.

**SECTION 10.8**      **Assignment, Pledge, Hypothecation.** The Company, or its successors or assigns, may assign, pledge or hypothecate the Economic Development Incentives, in whole or in part, to any successor, assignee or transferee with the prior written consent of the City, which the City shall not unreasonably withhold, provided that the Company is in compliance with the obligations undertaken by it under this Agreement. Notwithstanding the foregoing, the City acknowledges that a special purpose entity ("SPE") will be formed by the Company to develop, own and operate the Property and this Agreement may be assigned to such SPE without the prior consent of the City.

**SECTION 10.9**      **No Partnership or Joint Venture.** Nothing contained in this Agreement shall constitute or be construed to be a partnership or joint venture among the City and the Company and their respective permitted successors and assigns.

**SECTION 10.10**      **Headings.** The headings of the various Articles and Sections of this Agreement have been included for convenience of reference only and shall not affect in any way the express provisions of this Agreement.

**SECTION 10.11**      **No Third-Party Beneficiaries.** This Agreement is intended only for the benefit of the signing Parties hereto except as provided in Section 10.8 above, and neither this Agreement, nor any of the rights, interest or obligations hereunder, is intended for the benefit of any other person or third-party.

**SECTION 10.12**      **Ambiguity.** The terms, conditions and provisions of this Agreement were agreed to in arm's length negotiations in which each Party was represented by independent counsel of its own choosing. Accordingly, in the event of any ambiguity in this Agreement, such ambiguity shall not be resolved against any Party deemed the principal draftsman of this Agreement or the provision of this Agreement at issue.



[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the City and the Company have each caused this Agreement to be duly executed, all by officers thereof duly authorized thereunto, and have caused this Agreement to be dated and effective as of the date and year first above written.

**CITY OF ANNISTON**

By: \_\_\_\_\_  
Jack Draper

Its: Mayor \_\_\_\_\_

ATTESTED:

\_\_\_\_\_  
City Clerk

STATE OF ALABAMA       )  
  )  
CALHOUN COUNTY        )

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that Jack Draper, whose name, as Mayor of the CITY OF ANNISTON, a municipal corporation under the laws of the State of Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of this instrument, he, as such officer, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Notary Public

(Seal)

My Commission Expires: \_\_\_\_\_

COBBLESTONE HOTEL DEVELOPMENT, LLC  
a Wisconsin limited liability

By: Granite Hospitality Group, LLC  
Managing Member

By: \_\_\_\_\_  
Name: Brian Wogernese  
Title: Managing Member and Sole Affirmative Vote

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that Brian Wogernese, whose name as Managing Member and Sole Affirmative Vote of Granite Hospitality Group, LLC, the Managing Member of Cobblestone Hotel Development, LLC, a for profit corporation organized and existing under the laws of the State of Wisconsin, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of this instrument, he, in such capacity, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

**EXHIBIT A**

**FORM OF STATUTORY WARRANTY DEED**

**STATUTORY WARRANTY DEED**

**STATE OF ALABAMA            )**

**CALHOUN COUNTY            )**

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration to the undersigned grantor, THE CITY OF ANNISTON, ALABAMA, an Alabama municipality, whose address is 4309 McClellan Blvd., Anniston, Alabama 36201 ("Grantor"), in hand paid by SPE TBD, an Alabama business corporation, whose address is TBD ("Grantee"), the receipt and sufficiency whereof are hereby acknowledged, Grantor does hereby GRANT, BARGAIN, SELL and CONVEY unto Grantee that certain parcel of real estate situated in Calhoun County, Alabama, being more particularly described as follows:

Lots 5 & 6, Block 134, Anniston City Land Company, as recorded in Plat Book A, Pages 412-416, in the Probate Office of Calhoun County, Alabama.

ALSO: The Easternmost 120.0 ft. of the alley running East and West between Lots 4 & 5, Block 134, Anniston City Land Company.

Together with any and all rights and appurtenances thereto in any way belonging, and all of the improvements located thereon (said real property, together with said improvements, rights and appurtenances, being herein collectively referred to as the "Property").

Notwithstanding any provision herein to the contrary, Grantor makes no warranties of any nature of any kind, whether statutory, express or implied, with respect to the physical condition of the Property (including, without limitation, and and all improvements located thereon and/or comprising a part thereof), and Grantee by its acceptance of this Deed accepts the physical condition of the Property "AS IS, WITH ALL FAULTS."

Subject, however, to the following exceptions:

1. In the event that the Grantee does not obtain a certificate of occupancy for a hotel constructed on the Property within twenty four (24) months of the "Construction Commencement Date", as that term is defined in that certain Project Development Agreement between Grantor and Grantee, dated \_\_\_\_\_, 2021, the title to the Property shall automatically revert to and vest in the Grantor in fee simple, free and clear of all encumbrances, conditions, and liens not present at the time of the Grantor's execution of this instrument. In such event, Grantee shall execute and deliver or cause to be executed and delivered to the Grantor such documents or instruments requested by Grantor to evidence or otherwise effect the reversion of the land and title to Grantor, and Grantee shall take or cause to be taken such other or additional action as may be required or reasonably requested by the Grantor in order to more carry out and confirm the reversion and re-conveyance of the Property to the Grantor, including without limitation, the execution and delivery of a statutory warranty deed conveying all of Grantee's right, title and interest in, to, and under the Property to the Grantor. Notwithstanding the foregoing sentence, upon Grantor declaring a reversion of the Property, evidenced by execution of recorded document by Grantor, Grantee shall automatically have no further right, title or interest in, to or under the Property and all interests therein shall automatically revert to the Grantor.

2. The provisions hereof shall run with the land and shall be binding upon and shall inure to the benefit of Grantor and Grantee, their respective heirs, successors, assigns and legal representatives.

TO HAVE AND TO HOLD the Property unto Grantee and Grantee's respective heirs, executors, administrators, legal representatives, successors and assigns forever, subject to the matters stated; and Grantor does hereby bind itself and its successors and assigns to warrant and forever defend all singular the Property the Property unto Grantee and Grantee's respective heirs, executors, administrators, legal representatives, successors and assigns, against every person lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise; provided that this conveyance and the warranty of Grantor herein contained are subject to (a) any lien for real property taxes and assessments; (b) all matters of record and off-record affecting the Property; (c) matters affecting the condition of title to the Property created by or with the written consent of Grantee; and (d) any matters which would be shown by inspection, survey of the Property or by inquiry of persons in possession of the Property.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed as of this the \_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF ANNISTON, ALABAMA**

By: \_\_\_\_\_  
Jack Draper, Mayor

ATTESTED:

\_\_\_\_\_  
Skylar Bass, City Clerk

STATE OF ALABAMA )

CALHOUN COUNTY )

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that Jack Draper, whose name, as Mayor of the CITY OF ANNISTON, a municipal corporation under the laws of the State of Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of this instrument, he, as such officer, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

(Seal)

My Commission Expires: \_\_\_\_\_

**EXHIBIT B**

**BOUNDARY SURVEY**





**EXHIBIT C**  
**FORM OF THE WARRANT**

FORM OF WARRANT

**THIS WARRANT DOES NOT BEAR INTEREST**

UNITED STATES OF AMERICA  
STATE OF ALABAMA  
CITY OF ANNISTON, ALABAMA  
LIMITED OBLIGATION WARRANT

The City Treasurer of the **CITY OF ANNISTON, ALABAMA**, a municipal corporation under the laws of the State of Alabama (the “City”), for value received, is hereby ordered to pay to **COBBLESTONE HOTEL DEVELOPMENT, LLC**, a Wisconsin limited liability company or its registered assigns (the “Developer”), such aggregate principal amount as shall equal the amount due from the City to the Developer under and pursuant to that certain Project Development Agreement dated \_\_\_\_\_, 2021 (the “Agreement”) between the City and the Developer, as more particularly set forth below. Capitalized terms used in this warrant and not otherwise defined herein shall have the meaning given to them in the Agreement.

The indebtedness evidenced and ordered paid hereby, and the obligation of the City to pay principal hereof, are and shall constitute limited obligations of the City payable solely from and secured solely by the Economic Development Incentives. Payments of debt service on this Warrant shall be made at such times, in such amounts, and subject to such terms and conditions as set forth for such payments in Article III of the Agreement.

This Warrant shall mature on the date that the City has paid hereunder such amount is needed to pay and fulfill the Economic Development Incentives in the time and manner provided in the Agreement.

The City hereby recites that this Warrant is issued pursuant to the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment 772 to the Constitution of the State of Alabama 1901, as amended (recodified as Section 94.01 of the Official Recompilation of Constitution of Alabama) (the “Authorizing Amendment”), and that certain Resolution No. 21-R-\_\_ duly adopted by the governing body of the City on \_\_\_\_\_, 2021 (the “Warrant Resolution”).

This Warrant bears no interest; all payments which are due and paid pursuant to this Warrant shall be credited dollar for dollar against the outstanding principal balance of this Warrant.

Payments which are due under this Warrant will be paid to the person or entity in whose name this Warrant is registered. Payments which are due under this Warrant shall be made by check or draft mailed by the City to the person entitled thereto at its address appearing in the warrant register maintained by the City with respect to this Warrant. Such payments shall be deemed timely made if so mailed on the date due or, if such date is not a date on which banks are open for business, on the next such day next following such date. Final payment due under this Warrant shall be made only upon surrender of this Warrant to the City.

Each payment of principal made on this Warrant shall be reflected by the notations made by the City on its internal records (which may be kept by computer or other means determined by the City), and the City is hereby authorized so to record thereon all such payments. All payments which are due and paid under this Warrant and the aggregate unpaid principal amount of this Warrant as reflected on the internal

records of the City (whether by computer or otherwise) shall be rebuttable presumptive evidence of the amount paid under this warrant and the principal amount outstanding of this Warrant.

The indebtedness evidenced and ordered paid by this Warrant is limited obligation of the City and the full faith and credit of the City is not pledged to the payment of this Warrant. This Warrant shall not be a general obligation of the City and it shall not constitute a charge on its general funds or its general revenues. The City is not obligated to pay any amount hereunder except from the Economic Development Incentives, and none of the agreements, representations or warranties made or implied in the issuance of this Warrant shall be deemed to impose any liability whatsoever upon the City except to make the payments of the Economic Development Incentives which come due hereunder as hereinabove set forth. The pledge of the Economic Development Incentives made for the benefit of this Warrant and the agreements on the part of the City in the Warrant Resolution and the Agreement are subject only to the law-imposed requirement that, if necessary, the legitimate government expenses of operating the City must first be paid.

The City may, on any date, pay in advance the entire unpaid amount of this Warrant or any lesser portion or portions thereof by paying the Holder the principal to be prepaid without premium or penalty.

This Warrant is nonnegotiable and is transferable only by a transfer duly executed by the person in whose name this Warrant is registered on the registry books on the City with respect to this Warrant. Each Holder hereof, by receiving or accepting this Warrant, shall take subject to all payments made in respect hereof and all terms, provisions, conditions and restrictions herein and in the Agreement whether or not in accordance with the express terms hereof.

It is hereby certified and recited that the limited obligation indebtedness evidenced and ordered paid by this Warrant is lawfully due without condition, abatement or offset of any description; that this Warrant has been registered in the manner provided by law; that all conditions, actions and things required by the Constitution and laws of the State of Alabama to exist, be performed or happen precedent to the issuance of this Warrant exist have been performed and have happened; and that all other indebtedness incurred by the City, was at the time the same was created and is now within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

**IN WITNESS WHEREOF**, the City has caused this limited obligation warrant to be executed and its official seal to be hereunto affixed by its Mayor, and has caused the same to be attested by its City Clerk, both of whom have hereunto subscribed their signatures and are hereunto duly authorized, and has caused this limited obligation warrant to be dated \_\_\_\_\_, 2021.

**CITY OF ANNISTON, ALABAMA**

(SEAL)

BY: \_\_\_\_\_  
Jack Draper, Mayor

Attest:

\_\_\_\_\_  
Skylar Bass, City Clerk

### **Certificate of Registration**

I hereby certify that this limited obligation warrant was at the time of issuance thereof registered by me as a limited obligation claim against the **CITY OF ANNISTON, ALABAMA**.

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Treasurer, City of Anniston, Alabama

## **ORDINANCES**

**ORDINANCE NO. 21-O-\_\_**

**AMENDING THE COMPOSITION AND APPOINTMENT OF  
THE MAINSTREET ANNISTON BOARD**

WHEREAS, a vibrant downtown is vital to attracting visitors, businesses and investment to the City, and preserving and improving downtown Anniston is a priority for the City and its leaders;

WHEREAS, Main Street Alabama, an outgrowth of the Alabama Historical Commission, developed a Main Street Program to provide expertise and assistance to communities to improve infrastructure, encourage rehabilitation of historic structures, encourage and facilitate job and business creation and rejuvenate municipal Main Streets;

WHEREAS, Main Street Alabama stresses public-private partnerships, broad community engagement, and strategies that create jobs, spark new investment, attract visitors, and spur growth;

WHEREAS, by Ordinance No. 15-O-7, as amended, the Council established the "Main Street Anniston Board" to aid and advise in the advocacy of the Main Street District and in the promotion of economic redevelopment of downtown Anniston;

WHEREAS, the Council finds that the purposes of the Main Street Anniston Board and the City's Main Street program will be best served by amending the Board's composition and manner of appointment;

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Anniston, Alabama as follows:

Section 1. The Council of the City of Anniston, Alabama hereby amends and restates Chapter 2, Article XI, Division 8, Section 2.71(c) of "The Code of the City of Anniston, Alabama, 1981" in its entirety as follows:

**DIVISION 8. MAIN STREET ANNISTON BOARD**

**Section 2.71. Creation of board; Membership; Powers and Authority.**

\* \* \* \*

(c) *Membership.* The Main Street Anniston Board shall have nine (9) voting members appointed by a majority vote of the Council. The Mayor shall nominate one (1) member, and the

Councilmembers elected by their respective residential wards shall each nominate two (2) members. Each member of the Board shall serve a two-year term.

Section 2. The provisions, parts, and terms of Chapter 2, Article XI, Division 8, Section 2.71 not expressly amended and restated herein shall remain in full force and effect and are adopted and reincorporated by reference as though set forth in their entirety herein. Any prior ordinances, or provisions, parts, or terms thereof, in conflict with this ordinance are hereby repealed.

Section 3. This Ordinance shall be effective immediately upon its adoption and its publication one (1) time in The Anniston Star, a newspaper of general circulation published in the City of Anniston, Alabama. The City Clerk is hereby ordered and directed to cause a copy of this Ordinance to be published one time in said newspaper.

**PASSED AND ADOPTED** on this the \_\_\_\_ day of **April, 2021.**

COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

---

Jack Draper, Mayor

---

Jay Jenkins, Council Member

---

Demetric Roberts, Council Member

---

Ciara Smith, Council Member

---

Millie Harris, Council Member

ATTESTED:

---

Skyler Bass, City Clerk

**ORDINANCE NO. 21-O-\_\_**

**AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 12, ARTICLE IV  
OF THE CODE OF ORDINANCE AND TO ADOPT REGULATIONS  
GOVERNING DISPOSAL AND PICKUP OF DEBRIS**

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Anniston, Alabama as follows:

Section 1. The City of Anniston's ordinances, laws, and regulations governing Brush, Trash and Leaf Pickup, codified in Chapter 12, Article IV of "The Code of The City of Anniston, Alabama, 1981," and stated in Sections 12.81 through 12.88 therein, are hereby repealed in their entirety.

Section 2. The Council of the City of Anniston, Alabama hereby adopts and codifies Chapter 12, Article IV, Sections 12.81 through 12.87, as set forth herein, which shall state as follows:

**ARTICLE IV. Debris Disposal and Collection.**

**Sec. 12.81. Definitions.**

For the purposes of this article, the following words shall have the meanings respectively ascribed to them by this section:

(a) *Debris*: Any loose natural material consisting especially of trees, limbs, leaves, and grass.

(b) *Households*: Single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(c) *Household waste*: Any solid or liquid material normally generated by the household in the course of ordinary day-to-day living and consumption, including but not limited to garbage, paper products, rags, or trash.

(d) *Person*: Any person, firm, partnership, association, corporation, company or organization of any kind.

(e) *Rubbish*: Any combustible and noncombustible waste materials; rubbish shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials; rubbish shall also include useless or rejected objects, junk and items or things commonly referred to and considered as trash.



(f) *Vacant private property:* Any dwelling, house, building, or other structure that is temporarily or continuously uninhabited or vacant, including any yard, grounds, walk, or driveway thereof.

## **Sec. 12.82. Debris Collection.**

(a) *One Collection per Household.* The City's collection of debris for any household or location shall be limited to one (1) truck load for each regular collection time.

(b) *Schedule for Regular Collection.* The City will collect all types of debris as time, manpower, and equipment allow. The Director of Public Works shall set and adjust the schedule for regular collection of debris subject to the supervision and direction of the City Manager.

(c) *Neat and Orderly Placement.* Any person placing debris for collection shall set and keep the debris in an orderly, neat manner and together at one location meeting the requirements of this Article.

(d) *No Obstructions.* Any person placing debris for collection, the owner of the household disposing of the debris, and/or the person in control of the household disposing of the debris shall ensure that the debris does not obstruct any sidewalks, streets, ways, gutters, or drainage facilities, the flow of vehicle or pedestrian traffic, or the flow of water from, over, across, or through the property, sidewalks, streets, ways, gutters, or drainage facilities.

(e) *Placement of Debris for Collection.* Any person placing debris for collection shall set and keep the debris in a location that is (i) near, but not within, the street or way, (ii) reasonably accessible to the City's employees, vehicles, and equipment, (iii) at least three feet (3') from any obstacles, such as mailboxes, poles, fences, and vehicles, (iv) at least three feet (3') from other types of debris placed for collection, and (v) clear of overhead obstacles that may interfere with the City's vehicles, vacuums, grapplers, and lifting apparatuses, such as wires, tree limbs, and building eaves.

(f) *Collection of Leaves and Grass.* The City will collect loose leaf and grass debris with vacuum trucks as its resources permit. The City will collect bagged leaf and grass debris during its regular curbside collection schedule. Loose or bagged leaf and grass debris shall be separated from all other types of debris, household waste, rubbish, and other materials. Loose leaf and grass debris shall be placed together in a location at least three feet (3') from any other types of debris, such as limbs, logs, brush, and appliances.

(g) *Collection of Limbs, Logs, and Brush.* The City will collect limbs, logs, and brush from the curbside as its resources permit, provided each item of limb, log, or brush debris has a diameter less than ten inches (10"), a length less than ten feet (10'), and weighs less than five hundred pounds (500 lbs.). Limbs, logs, and brush shall be separated from all other types of debris, household waste, rubbish, and other materials. Limbs, logs, and brush shall be placed together at a location that at least three feet (3') from any other types of debris, such as leaves, grass, and appliances. The City shall not collect limbs, logs, and brush from vacant private property.

(h) *Alley Ways.* The City shall not collect debris from alley ways unless the person, household, or property is unable to place debris at a location that allows curbside collection.

(i) *Refusal or Relocation of Debris.* The City may refuse to collect debris or require its relocation before collection when (i) the debris is placed for collection in a manner and location that does not meet the requirements this Article, (ii) collecting the debris from the location may damage any private or public property or equipment, such as fences, utility poles, landscaping, vehicles, and loading equipment, or (iii) collecting the debris from the location may present a hazard or cause injury to any person.

#### **Sec. 12.83. Items and Materials Not Collected.**

The City shall not collect the following materials: (a) Tires; (b) Household waste; (c) Rocks and dirt; (d) Concrete; (e) Concrete block, (f) Brick, (g) Roofing materials; (h) Construction materials; (i) Sheetrock; (j) Paint cans (unless lids have been removed and paint drained); (k) Pesticides; (l) Hazardous waste of any kind, including batteries, corrosives; and (m) Mixed materials (brush and leaves must be separated by 3 feet).

#### **Sec. 12.84. Appliance Removal.**

(a) Persons requiring removal of appliances, including stoves, refrigerators, freezers, water heaters, and air conditioners, shall purchase an appliance removal tag from the City before placing the appliance for collection. The appliance removal tag shall be placed and kept upon the appliance in such a manner as to be clearly visible.

(b) The City shall charge and collect the fees set by this Section before issuing any appliance removal tags:

(1) *Freon Appliance Tag:* The fee for an appliance removal tag for a refrigerator, freezer, air condition, or any other type of appliance containing freon shall be Twenty-Eight Dollars (\$28.00);

(2) *Freon-Removed Appliance Tag:* The fee for an appliance removal tag for a refrigerator, freezer, air condition or any other type of appliance containing freon shall be Five Dollars (\$5.00) with submission of a certificate showing that the freon has been removed from the appliance; and

(3) *Non-Freon Appliance Tag:* Five Dollars (\$5.00) for an appliance tag for collection and removal of any other appliance, including stoves, water heaters, washing machines, and dryers.

(c) The City shall not collect and remove any appliance unless the proper appliance removal tag is attached thereto.

#### **Sec. 12.85. Depositing Materials in Streets or Gutters.**

(a) It shall be unlawful for any person to sweep or deposit any debris, household waste, rubbish, or any other material or article into the public streets, sidewalks, alleys, ways, easements, gutters, or drainage facilities that may impede or obstruct the flow of water from, over, across, or through the property, sidewalks, streets, alleys, ways, gutters, or drainage facilities.

(b) It shall be unlawful for any person to sweep or deposit any debris, household waste, rubbish, or any other material or article into the public streets, sidewalks, alleys, ways, easements, gutters, or drainage facilities that may clog the public's storm drainage system.

(c) It shall be unlawful for any person to sweep or deposit any debris, household waste, rubbish, or any other material or article into the public streets, sidewalks, alleys, ways, easements, gutters, or drainage facilities that may cause an obstruction to traffic or pedestrians.

#### **Sec. 12.86. Contractors.**

(b) It shall be the responsibility of all fence companies, roofers, landscape contractors, building contractors, lawn services, tree services or any person acting as a contractor or engaged in the business of performing work on private property to remove from the premises all residue, debris, household waste, rubbish, materials, or articles of any kind used in, resulting from, or relating to the work. When the work is performed by a permit issued by the City, or when a permit is required for the work, the person performing the work or granted the permit shall remove all such materials before final inspection of the work by the City. In the event the contractor, business or person performing the work does not remove all residue, debris, household waste, rubbish, materials, or articles of any kind used in, resulting from, or relating to the work, the owner of the property or the person in control of the property or the work shall remove the materials from the property. The City shall not collect said materials from the property.

(c) Contractors, business, or persons engaged in the care and maintenance of lawns for commercial or residential properties shall remove and clear all debris resulting from their work, including grass, leaf, limbs, logs, and brush debris, from the public streets, alleys, ways, easements, and property. In the event that the City is required to clean, sweep, or remove any such materials from the public streets, alleys, ways, easements, and property, the City shall charge and collect a fee from the contractor, business, or person performing the work to reimburse the City for its costs for cleaning, sweeping or removing the materials.

#### **Sec. 12.87. Prohibited Acts.**

(a) It shall be unlawful for any person to place debris near, along, or adjacent to any public streets, alleys, ways, easements, and property within the City unless placed in accordance with this Article.

(b) It shall be unlawful for any person to throw, dump, place, leave or deposit debris, household waste, rubbish, and any other waste, trash, garbage, or refuse materials on any public streets, alleys, ways, easements, and property within the City.

(c) It shall be unlawful for any person to throw, dump, place, leave or deposit household waste, rubbish, and any other waste, trash, garbage, or refuse materials on private property unless placed within an authorized container from the City's solid waste contractor(s) and in a manner that prevents such materials from being carried or deposited by the elements onto any public streets, alleys, ways, easements, and property within the City.

(d) It shall be unlawful for the owner or person in control of any private property within the City to fail to keep and maintain the premises free of loose household waste, rubbish, and any other waste, trash, garbage, or refuse materials.

(d) It shall be unlawful for any person acting as a building contractor, landscaping contractor, tree or brush removal contractor, or engaged in the business of performing work on private property to leave any debris, household waste, rubbish, or any other waste, trash, garbage, or refuse materials for collection and removal by the City.

Section 3. Chapter 12, Article IV, Sections 12.81 through 12.87 of "The Code of The City of Anniston, Alabama, 1981," as stated above in Section 2 of this ordinance, shall be the law of the City of Anniston, Alabama, enacted by its governing body, and shall govern and regulate the matters and activities specified therein within the corporate limits of the City of Anniston.

Section 4. This ordinance shall take effect upon its adoption and publication as required by law.

PASSED AND ADOPTED on this the \_\_\_\_ day of \_\_\_\_\_, 2021.

COUNCIL OF THE CITY OF  
ANNISTON, ALABAMA

\_\_\_\_\_  
Jack Draper, Mayor

\_\_\_\_\_  
Jay Jenkins, Council Member

\_\_\_\_\_  
Demetric Roberts, Council Member

\_\_\_\_\_  
Ciara Smith, Council Member

\_\_\_\_\_  
Millie Harris, Council Member

ATTEST:

\_\_\_\_\_  
Skyler Bass, City Clerk