

CITY OF ANNISTON

March 15, 2022

5:30 P.M.

- **INVOCATION**
- **PLEDGE OF ALLEGIANCE**
- **CALL TO ORDER**
- **ROLL CALL**
- **READING/APPROVAL OF MINUTES OF PREVIOUS MEETING**
 - March 1, 2022 Regular meeting
- **ADDITIONS/DELETIONS TO THE AGENDA**
- **ADOPTION OF AGENDA**

I. PUBLIC HEARING

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 consideration of a resolution approving an amendment to that certain Development Agreement between Blackwater Development Company, LLC and the City in order to provide for, promote and incentivize the development of approximately 37.34 acres of commercial property belonging to the City
- (b) To receive public comments regarding consideration of a Lounge Retail Liquor – Class I alcohol license for The Lush Garden LLC d/b/a The Lush Garden located at 209 E 7th Street within the corporate city limits

II. UNFINISHED BUSINESS – None

III. CONSENT AGENDA

- (a) Resolution reappointing members to the McClellan Development Authority
- (b) Resolution appointing member to the Historic Preservation Commission
- (c) Motion to approve the bid for new restrooms at Anniston Museum Natural History to Bradshaw & Pitts in the amount of \$160,700.00
- (d) Motion to approve a Lounge Retail Liquor – Class I alcohol license for The Lush Garden LLC d/b/a The Lush Garden located at 209 E 7th Street within the corporate city limits
- (e) Motion to approve a Special Events Retail Alcohol License for City of Anniston d/b/a Noble Street Festival on Saturday, April 9, 2022 within the corporate limits on Noble Street

IV. RESOLUTIONS

- (a) Resolution authorizing First Amendment to Development Agreement between the City of Anniston, Alabama and Blackwater Development Company, LLC.

V. MOTIONS

- (a) A motion to suspend the rule requiring the City Council to meet on the first Tuesday of April, 2022

VI. ADDITIONAL OR OTHER MATTERS THAT MAY COME BEFORE COUNCIL

VII. PUBLIC COMMENTS

Public Comment – Speaker Protocol

The City of Anniston believes that any member of the general public should be afforded the opportunity to address the City Council provided that designated rules are followed by the speaker. Any member of the public who wishes to address the City Council and offer public comment on items within the City Council's jurisdiction, may do so during the Public Comment period of the meeting. However, no formal action will be taken on matters that are not part of the posted agenda. In order to ensure the opportunity for all those desiring to speak before the Council, there is no yielding of time to another speaker. This opportunity to address City Council may not be used to continue discussion on an agenda item that has already been held as a public hearing. Matters under negotiation, litigation, or related to personnel will not be discussed. Members of the general public who would like to address the City Council during the Public Comment portion of the meeting, may do so in accordance with the rules outlined in Ordinance 21-O-22 adopted by the City Council on November 2, 2020 as stated:

Section 12. Members of the public may address the Council or speak on matters of public concern during the period of the meeting agenda reserved for public comments, subject to the following procedures:

(a) No person shall be allowed to speak during public comments unless he or she submits a Request to Speak During Public Comments form to the Office of the City Manager no later than 3:00 P.M. on the Friday before the Council meeting. The request shall identify the speaker by name and residential address and shall specify the date of the meeting in which the speaker desires to offer public comments.

(b) The period for public comments shall be open to the **first ten (10) persons** who submit a timely request to speak during the meeting at hand.

(c) In advance of each meeting, the City Manager shall provide the Council a list of the persons authorized to speak during the period for public comments, not to exceed ten (10) persons, which shall identify the speakers in the order in which their requests were made. The presiding officer shall call on each person from the list. Once recognized, each person shall be provided no more than **three (3) minutes** to complete his or her public comments.

(d) Those persons who make a timely request, after the first ten (10) requests, shall be first on the list of persons authorized to speak during the period for public comments in the next meeting, unless he or she asks to be removed from the list.

Section 13. All comments made by members of the Council shall be restricted to the matter under consideration and shall be addressed to the presiding officer, except during the period of the meeting reserved for Council Comments. All comments made by members of the Council shall be restricted to three (3) minutes, unless the presiding officer grants exception for good cause.

Section 14. No comments shall be permitted by a member of the Council or by a member of the public that is of a disparaging nature or which would constitute a personal attack on the integrity of any member of the Council or the staff of the City.

Once the speaker has been recognized to speak, he/she should not attempt to engage the City Council and/or Staff in a discussion/dialogue and the speaker should not ask specific questions with the expectation that an immediate answer will be provided as part of the three (3) minute time frame since that is not the intent of the Public Comment period. If the speaker poses a question or makes a request of the City, the Mayor may refer the issue or request to the City Manager for follow up. 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. The Mayor may rule out of order any Speaker who uses abusive or indecorous language, if the subject matter does not pertain to the City of Anniston, or if the Speaker(s) attempts to engage the City Council Members in a discussion or dialogue on issues. City Council shall not discuss non-agenda matters because it does not give the public adequate notice. Accordingly, City Council shall be limited to asking factual and clarifying questions of staff, and when appropriate, the Council may consider placing a matter on a future agenda. In addition, it is not reasonable to expect staff to respond to any of a variety of issues on which they may or may not be prepared to respond to on a moment's notice, so the City Manager may respond, or direct staff to respond at a later time.

(a) Jim Pritchett – 2116 West 'C' Street, Anniston 36201

(b) Lance Dyer – 207 Shipley Road, Anniston 36207

VIII. COUNCIL COMMENTS

ADJOURNMENT

MINUTES

Anniston, Alabama

March 1, 2022

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 1, 2022, at approximately 5:30 o'clock p.m.

Jay Jenkins, Council member, prayed the Invocation.

Jay Jenkins, Council member, 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 Jenkins, Roberts, Smith, Harris, and Draper; absent: none. 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 Roberts made a motion to waive the reading of and approve the minutes of the February 15, 2022 regular meeting. The motion was seconded by Council Member Smith and on call of the roll the following vote was recorded: ayes: Council Member Jenkins, Roberts, Smith, Harris, and Draper; nays: none. The motion carried and the February 15, 2022 regular meeting minutes were approved.

Mayor Draper made a motion to adopt the agenda. The motion was seconded by Council Member Smith and on call of the roll the following vote was recorded: ayes: Council Member Jenkins, Roberts, Smith, Harris and Draper; nays: none. The motion carried and the agenda was adopted.

Mayor Draper introduced a resolution to amend the FY2022 budget for the General Operating Fund (22-R-14)

Council Member Jenkins made a motion for passage and adoption of a resolution to amend the FY2022 budget for the General Operating Fund. The motion was seconded by Council Member Harris and on call of the roll the following vote was recorded: ayes: Council Member Jenkins, Roberts, Smith, Harris and Draper; nays: none. The motion carried and the resolution was passed and adopted.

Mayor Draper introduced an ordinance authorizing the issuance, and making provision for the payment, of \$7,540,000 General Obligation Warrants, Series 2022 (22-O-2)

Mayor Draper made a motion to read the ordinance 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 authorizing the issuance, and making provision for the payment, of \$7,540,000 General Obligation Warrants, Series 2022 by title only. No one spoke. Mayor Draper closed the public hearing to receive public comments on reading the ordinance authorizing the issuance, and making provision for the payment, of \$7,540,000 General Obligation Warrants, Series 2022 by title only.

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

Mayor Draper made a motion for unanimous consent of immediate consideration. The motion was seconded by Council Member Roberts and on call of the roll the following vote was recorded: ayes: Council Member Jenkins, Roberts, Smith, Harris and Draper; nays: none. The motion carried.

Council Member Harris made a motion for passage and adoption of the ordinance authorizing the issuance, and making provision for the payment, of \$7,540,000 General Obligation Warrants, Series 2022. The motion was seconded by Council Member Jenkins and on call of the roll the following vote was recorded: ayes: Council Member Jenkins, Roberts, Smith, Harris and Draper; nays: none. The motion carried and the ordinance was adopted.

Jim Pritchett, 2116 West C Street, addressed the city council on the issues he is facing with the wrecker rotation ordinance.

Ronald Clark, 1400 Glendale Road, addressed the city council on being declined from being exempt for garbage service after years of being exempt.

Council Member Jenkins had no comment.

Council Member Roberts stated that the council does not get everything right but they are doing things to the best of their abilities. He stated that what they will continue to work together.

Council Member Smith had no comment.

Council Member Harris stated that she expresses thankfulness for our democratic process in which two people have the right to come and express their opinions. She stated that the council will address both of their issues.

Mayor Draper stated that we are all in this together. He stated that the council learning how their actions effects the citizens is important.

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 Roberts; and on call of the roll, the following vote was recorded: ayes: Council Members Jenkins, Roberts, Smith, Harris and Draper; nays: none. The motion carried and the meeting was adjourned at approximately 5:48 p.m. o'clock p.m.

CONSENT AGENDA

RESOLUTION NUMBER 22-R-___

**A RESOLUTION APPOINTING MEMBERS TO THE MCCLELLAN DEVELOPMENT
AUTHORITY**

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 McClellan Development Authority;

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 reappoint those persons identified in the Schedule of Nominations for the McClellan Development Authority 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 15th day of **March, 2022**

CITY 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

EXHIBIT "A"

MCCLELLAN DEVELOPMENT AUTHORITY

Board Positions	Nominations	Board Member Name	Expiration Date	Explanation
1	Ward 1	Tim Garner	03/31/2025	Reappointment
4	Ward 4	Jim McClellan	03/31/2025	Reappointment

RESOLUTION NUMBER 22-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 **15th** day of **March, 2022**.

CITY 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

EXHIBIT "A"

ANNISTON HISTORIC PRESERVATION COMMISSION

Board Positions	Nominations	Board Member Name	Expiration Date	Explanation
4	City Manager	Kevin Cheatwood	12/31/2024	Appointment

FACT SHEET

SUBJECT: Evaluation of bids for the Anniston Museum of Natural History new restroom

VENDORS SUBMITTING BIDS

	Base Bid	Unit Price 1 (undercut soils)	Unit Price 2 (backfill soils)	Unit Price 3 (backfill stone)	Unit 4 (fabric)
Bradshaw & Pitts	\$160,700	\$85/cy	\$90/cy	\$120/cy	\$50/cy
Hurst Construction	\$200,587	\$60/cy	\$60/cy	\$60/ton	\$7/sqyd
Hutto Construction	\$208,396	\$50/cy	\$50/cy	\$40/ton	\$4/cy
Kilgore Construction	\$161,800	\$21/cy	\$21/cy	\$42.50/cy	\$6.8/sqyd

RECOMMENDATION: The bid should be awarded to the bidder with the lowest base bid, which is Bradshaw & Pitts in the amount of \$160,700.00

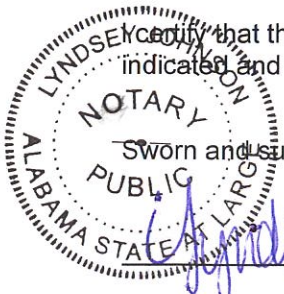
CERTIFIED TABULATION OF BIDS

PROJECT:

NEW RESTROOM
ANNISTON MUSEUM OF NATURAL HISTORY
800 MUSEUM DRIVE
ANNISTON, AL 36206

ARCH# 21076
AS TABULATED BELOW, BIDS WERE RECEIVED
DATE: 03/03/2022 TIME: 3:30 PM CST
PLACE: ANNISTON CITY HALL
MAIN CONFERENCE ROOM
4309 MCCLELLAN BLVD
ANNISTON, ALABAMA

CONTRACTOR	SURETY	BASE BID	UNIT PRICE # 1 UNDERCUT SOILS	UNIT PRICE # 2 BACKFILL SOILS	UNIT PRICE # 3 BACKFILL STONE	UNIT PRICE # 4 FABRIC	REMARKS
BRADSHAW AND PITTS, LLC 3100 Red Morris Pkwy Anniston, AL 36207	Markel Insurance Company	\$160,700	\$85/cy	\$90/cy	\$120/cy	\$50/cy	
HURST CONSTRUCTION, LLC 49720 AL-21 Munford, AL 36268	Atlantic Specialty Insurance Company	\$200,587	\$60/cy	\$85/cy	\$60/ton	\$7/sqyd	
HUTTO CONSTRUCTION, LLC 664 Patton Chapel Rd Lincoln, AL 35096	FCCI Insurance Company	\$208,396	\$50/cy	\$70/cy	\$40/ton	\$4/cy	
KILGORE CONSTRUCTION, INC 3555 US Hwy 78 E b Anniston, AL 36207	Granite RE	\$161,800	\$21/cy	\$22.50/cy	\$42.50/cy	\$6.80/sqyd	



I certify that the above bids were received sealed and were publicly opened and read aloud at the time and place indicated and that this is a true and correct tabulation of all bids received for this project.

Sworn and subscribed before me this 4 day of March

By: WILLIAM WHITTAKER
Typed or printed Name and Title of Architect or Engineer

My Commission Expires:
04/27/2025 L.S.

Notary Public

Signature



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20220218090122322

Private Clubs / Special Retail / Special Events / Wine Festival or Wine Festival
Participants licenses ONLY

Private Club

Does the club charge and collect dues from elected members?

Number of paid up members:

Are meetings regularly held?

How often?

Is business conducted through officers regularly elected?

Are members admitted by written application, investigation, and ballot?

Has Agent verified membership applications for each member listed?

Has at least 10% of members listed been confirmed and highlighted?

Agent's Initials:

For what purpose is the club organized?

Does the property used, as well as the advantages, belong to all the members?

Do the operations of the club benefit any individual member(s), officer(s), director(s), agent(s), or employee(s) of the club rather than to benefit of the entire membership?

Special Retail

Is it for 30 days or less?

More than 30 days?

Franchisee or Concessionaire of above?

Other valid responsible organization:

Explanation:

Special Events / Special Retail (7 days or less)

Starting Date: Ending Date:

Special terms and conditions for special event/special retail:

Wine Festival / Wine Festival Participant licenses (5 Days or Less)

Starting Date: Ending Date:

Special terms and conditions for special event/special retail:

Other Explanations

Is the lessor involved in any way with the alcohol beverage business?: THE LESSOR
OWNS THE PROPERTY AND THE BUSINESS



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20220309135719739

Private Clubs / Special Retail / Special Events / Wine Festival or Wine Festival
Participants licenses ONLY

Private Club

Does the club charge and collect dues from elected members?

Number of paid up members:

Are meetings regularly held?

How often?

Is business conducted through officers regularly elected?

Are members admitted by written application, investigation, and ballot?

Has Agent verified membership applications for each member listed?

Has at least 10% of members listed been confirmed and highlighted?

Agent's Initials:

For what purpose is the club organized?

Does the property used, as well as the advantages, belong to all the members?

Do the operations of the club benefit any individual member(s), officer(s), director(s), agent(s), or employee(s) of the club rather than to benefit of the entire membership?

Special Retail

Is it for 30 days or less?

More than 30 days?

Franchisee or Concessionaire of above?

Other valid responsible organization:

Explanation:

Special Events / Special Retail (7 days or less)

Starting Date: 04/09/2022 Ending Date: 04/09/2022

Special terms and conditions for special event/special retail:

THE ALCOHOL SERVICE AND CONSUMPTION AREA SHALL BE WITHIN THE BARRICADED AREA ALONG NOBLE STREET, 9TH, 10TH, 11TH AND 12TH STREET. NO ALCOHOLIC BEVERAGES SHOULD BE ALLOWED BEYOND THESE IDENTIFIED POINTS.

Wine Festival / Wine Festival Participant licenses (5 Days or Less)

Starting Date: Ending Date:

Special terms and conditions for special event/special retail:

Other Explanations

License Covers: NOBLE, 9TH, 10TH, 11TH AND 12TH STREET

Are there any special restrictions, instructions, and/or conditions for this license?: THE SERVICE AND CONSUMPTION AREA SHALL BE MAINTAINED BY THE USE OF BARRICADES. NO ALCOHOL SHOULD BE ALLOWED TO TRAVEL OUTSIDE THE CONTROLLED AREA.

Is the lessor involved in any way with the alcohol beverage business?: THE CITY OF ANNISTON OWNS THE REAL PROPERTY BEING USED FOR THIS EVENT.

RESOLUTIONS

RESOLUTION NO. 22-R-__

**AUTHORIZING FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF ANNISTON, ALABAMA AND
BLACKWATER DEVELOPMENT COMPANY, LLC**

BE IT RESOLVED by the Council for the City of Anniston (the "Council"), as governing body for 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 Blackwater Development Company, LLC (the "Developer"), have prepared that certain First Amendment to Development Agreement to be dated the date of delivery (the "Agreement"), as set forth hereinafter as Exhibit A, 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 Council 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 March 15, 2022 at 5:30 p.m. in the Anniston City Meeting Center 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 hereinafter, 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 provided by this resolution.

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 in order to duly and punctually observe and perform all agreements and obligations of the Municipality under the Agreement.

Section 5. All prior actions taken, and agreements, documents or notices executed and delivered, by the Mayor, City Manager, or any officer 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 6. This resolution shall take effect immediately upon its passage and adoption.

PASSED and ADOPTED on this the 15th day of March, 2022.

Jack Draper, Mayor

Jay Jenkins, Council Member

Demetric Roberts, Council Member

Ciara Smith, Council Member

Millie Harris, Council Member

ATTESTED

Skylar Bass, City Clerk

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT**

Dated March __, 2022

by

CITY OF ANNISTON, ALABAMA

and

BLACKWATER DEVELOPMENT COMPANY, LLC

DEVELOPMENT AGREEMENT

This **FIRST AMENDMENT TO DEVELOPMENT AGREEMENT** is made and entered as of March __, 2022 by the **CITY OF ANNISTON, ALABAMA**, an Alabama municipal corporation (the "**Municipality**"), and **BLACKWATER DEVELOPMENT COMPANY, LLC** (the "**Developer**").

Recitals

The Municipality and the Developer have heretofore delivered that certain Development Agreement dated as of March __, 2020 (the "**Original Development Agreement**") for the purposes referenced therein.

The Municipality and the Developer have delivered this Agreement to extend the term of the Original Development Agreement for another two years running from the date first written above (referred to herein as the "Effective Date of First Amendment to Development Agreement").

It is Developer's continued expectation and intention to expand and increase the tax and revenue base of the Municipality by development of all or a portion of the Property for use by commercial and service facilities of any kind.

Agreement

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants and agreements herein contained, the Municipality and the Developer hereby covenant and agree as follows:

ARTICLE 1

Recitals; Definitions

(a) The Recitals hereto are incorporated herein and made a part hereof by this reference thereto.

(b) Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the Original Development Agreement.

ARTICLE 2

Amendment of Original Development Agreement

The Municipality and the Developer hereby amend Section 2 of the Original Development Agreement, which shall be restated in its entirety as follows:

2. **Term.** The term ("Term") of this Agreement shall be from the Effective Date through and until such term expiration date ("Term Expiration Date") that is the earlier of: (a) two (2) years from the Effective Date of First Amendment to Development Agreement, (b) conveyance of all of the Property to Developer in accordance with the

terms of this Agreement, or (c) sixty (60) days from the date that either Party delivers written notice to the other Party of such Party's intent to terminate this Agreement early; provided that in the event, as of the Term Expiration Date, Developer possesses a letter of intent from business or entity, excluding an Existing Business, committing to proceed with a Proposed Project, this Agreement shall be extended as to that Proposed Project only (and the Property which is the subject thereof) so long as Developer exercises the Option for the Property which is subject of the Proposed Project within sixty (60) days of the Term Expiration Date, unless the time period for closing is extended by mutual agreement of the Parties.

ARTICLE 3

Ratification and Confirmation of Original Development Agreement

The Original Development Agreement, as hereby amended, is hereby ratified and confirmed in all respects.

ARTICLE 4

General Provisions

The Municipality and the Developer covenant and agree that (1) this instrument has been delivered in, and shall be governed by and construed in accordance with the laws of, the State of Alabama; (b) all covenants, promises and agreements in this instrument contained by or on behalf of the Municipality for the benefit of the Developer shall bind and inure to the benefit of the respective successors and assigns of the Municipality and the Developer; (3) this instrument may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument; and (4) if any provision in this instrument shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or in any way impaired thereby.

IN WITNESS WHEREOF, the Municipality has caused this Agreement to be executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and the Developer has executed this Agreement under seal, and the parties have caused this Agreement to be dated the date and year first above written.

CITY OF ANNISTON, ALABAMA

SEAL

By _____
Mayor

ATTEST: _____
City Clerk

**BLACKWATER DEVELOPMENT
COMPANY, LLC**

By: _____ (L.S.)