

**EXCERPTS FROM THE MINUTES OF A MEETING OF
THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA**

Adoption of Ordinance for Approval of Conveyance of Property

The City Council of the City of Foley, Alabama met in public session at City Hall in the City of Foley, Alabama, at 5:30 p.m. on September 6, 2016.

The meeting was called to order by the President, and the roll was called with the following results:

Present: J. Wayne Trawick
 Vera J. Quaite
 Rick Blackwell
 Charles J. Ebert III
 Ralph G. Hellmich

Absent: _____

The Mayor, Hon. John E. Koniar, was also present.

* * *

The President stated that a quorum was present and that the meeting was open for the transaction of business.

* * *

Thereupon, the following ordinance was introduced in writing by the President, and considered by the City Council:

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA (the "City") as follows:

Section 1. The City has heretofore, upon evidence duly presented to and considered by it, found and determined, and does hereby find, determine and declare that:

(a) The City has heretofore acquired certain real estate located in the Foley Industrial Park on Foley Beach Express, within the corporate limits of the City. Certain of such real estate has been conveyed to The Industrial Development Board of the City of Foley, Alabama (the "IDB") and shall be re-conveyed by the IDB to the City for purposes hereof.

(b) Development Consulting, Inc., an Alabama corporation (the "Corporation"), has requested the City to sell and convey title in fee simple in and to the real estate described on Appendix A (collectively, the "Property") in the Foley Industrial Park to the Corporation for the location thereon of corporate offices and distribution and service facilities.

(c) The Property is not needed for the public or municipal purposes of the City.

(d) (1) The City is authorized under Amendment No. 750 of the Constitution of Alabama of 1901, as amended, to sell and convey title in fee simple to the Property to the Corporation on terms and for consideration approved by the governing body of the City.

(2) The expenditure of public funds by the sale of any portion of the Property for an amount less than the original purchase price paid by the City therefor will serve valid and sufficient public purposes notwithstanding any incidental benefit accruing to any private entity.

(3) On August 24, 2016, the City caused to be published in The Onlooker, which newspaper has the largest circulation in the City, the notice required by Amendment No. 750, a true and correct copy of which notice is attached to this Ordinance as Appendix B (the "Notice").

(4) The information set forth in the Notice is true and correct.

(5) Publication of the Notice is hereby ratified and confirmed.

(e) It is necessary, desirable and in the best interests of the taxpayers and citizens of the City that the City sell and convey the Property to the Corporation on such terms and for such consideration as the governing body of the City shall approve.

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

(a) the sale and conveyance to the Corporation by statutory warranty deed of title in fee simple to the Property for a total price of \$408,940.

(b) the terms and provisions of any agreements of purchase and sale by the City, the IDB and the Corporation with respect to the purchase of the Property by the Corporation;

(c) the terms and provisions of, and the transactions to be undertaken pursuant to, the Statutory Warranty Deed with respect to the Property set forth in Appendix C hereto.

Section 3. The documents described in Section 2 of this Ordinance (herein collectively the "DCI Documents") are approved in substantially the form and of substantially the content as the DCI Documents presented to and considered by the City Council, with such changes or additions thereto or deletions therefrom as the officer of the City executing those of the DCI Documents to which the City is a party signatory thereto shall approve, which approval shall be conclusively evidenced by execution of the DCI Documents by such officer as hereinafter provided.

Section 4. The DCI Documents presented to, considered and adopted by the City Council shall be filed in the permanent records of the City.

Section 5. The Mayor of the City is hereby authorized and directed to execute, acknowledge and deliver the DCI Documents for and on behalf of and in the name of the City. The City Clerk of the City is hereby authorized and directed to attest the same.

Section 6. The officers of the City, or any one or more of them, are hereby authorized and directed to do and perform or cause to be done or performed in the name and on behalf of the City such other acts, and execute, deliver, file and record such other instruments, documents, certificates, notifications and related DCI Documents, all as shall be required by law or necessary or desirable to carry out the provisions and purposes of this Ordinance and the DCI Documents.

Section 7. Any prior actions taken or agreements made or documents executed by any officers of the City in connection with the DCI Documents and the transactions herein authorized and approved are hereby hereby ratified, confirmed and approved.

Section 8. This Ordinance shall take effect immediately and all resolutions, ordinances, orders, or parts thereof in conflict or inconsistent with any provision herein hereby are, to the extent of such conflict or inconsistency, repealed.

Certificate of Publication

I certify that the foregoing Ordinance was published in *The Foley Onlooker*, a newspaper of general circulation in the City of Foley, Alabama, in its issue of _____, 2016.

By: _____
Vickey Southern, CMC
City Clerk

Duly passed and adopted this ____ day of September, 2016.

President

[SEAL]

Attest: _____
City Clerk

Transmitted to and approved by the Mayor this ____ day of September, 2016.

By: _____
Mayor of the City of Foley, Alabama

Appendix A

DESCRIPTION OF PROPERTY

Appendix B

**LEGAL NOTICE OF MEETING AND ECONOMIC DEVELOPMENT
ACTION TO BE CONSIDERED BY CITY COUNCIL**

LEGAL NOTICE OF MEETING
AND ECONOMIC DEVELOPMENT ACTION
TO BE CONSIDERED BY THE CITY COUNCIL OF
THE CITY OF FOLEY, ALABAMA, ON SEPTEMBER 6, 2016

Notice is hereby given that the City Council (the "Council") of the City of Foley, Alabama (the "City") will meet in special public session at 5:30 p.m. on Tuesday, September 6, 2016, in the Council meeting chambers at City Hall in the City, for the purpose of considering the transaction of business which may properly come before the Council, such business to include, but not be limited to, the authorization by the Council, pursuant to Amendment No. 750 to the Constitution of Alabama of 1901, as amended, and Section 11-47-20 of the Code of Alabama 1975, of the conveyance of certain real estate to Development Consulting, Inc., an Alabama corporation, (the "Corporation"), as more particularly described below.

The City has heretofore acquired certain real estate located in the Foley Industrial Park on the Foley Beach Express, within the corporate limits of the City. Certain of such land has been conveyed to The Industrial Development Board of the City of Foley, Alabama (the "IDB"). The City and the IDB have been requested to sell approximately 18 acres of such real estate to the Corporation. The Corporation provides products and services to the commercial and residential construction industry. The Corporation has represented to the City and the IDB that the Corporation intends to locate corporate offices and distribution and service facilities on such real estate.

The business entity to whom or for whose benefit the City proposes to lend its credit and grant public funds or things of value will be the Corporation, and any affiliates or subsidiaries thereof.

All interested persons may examine and review the documents and proceedings of the City and the IDB providing for the conveyance of such real estate to the Corporation, and obtain further information pertaining thereto, at the office of the City Administrator of the City at City Hall, 407 East Laurel Avenue, in the City, during normal business hours, before and after the meeting referenced herein.

Appendix C

FORM OF STATUTORY WARRANTY DEED

SEND TAX NOTICE TO:
Development Consulting, Inc.

Foley, Alabama 36535

STATE OF ALABAMA)
BALDWIN COUNTY)

STATUTORY WARRANTY DEED

THIS STATUTORY WARRANTY DEED was executed and delivered as of _____, 2016 (herein the "Effective Date") by the **CITY OF FOLEY, ALABAMA**, a municipal corporation organized under the laws of the State of Alabama (herein the "Grantor"), and **DEVELOPMENT CONSULTING, INC.**, a corporation organized under the laws of the State of Alabama (herein the "Grantee").

KNOW ALL MEN BY THESE PRESENTS, that in consideration of the payment of Ten Dollars (\$10.00) and other good and valuable consideration paid to the Grantor by the Grantee, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey unto the Grantee the real estate situated in the City of Foley, Baldwin County, Alabama, and described on Exhibit A hereto, together with all rights, tenements, hereditaments, and appurtenances thereto belonging or in any way appertaining (the "Property");

SUBJECT AND SUBORDINATE TO THE FOLLOWING (the "Permitted Encumbrances");

1. All taxes and assessments heretofore or hereafter assessed;
2. Mineral and mining rights no owned by the Grantor;
3. Easements, restrictions, covenants, rights-of-way and all other matters of record;

PROVIDED, HOWEVER, the Grantor expressly reserves for itself and its successors and assigns:

(a) If, on the second anniversary of the Effective Date, the Grantee shall have failed to commence construction of capital improvements on the Property, the right and option to purchase the Property for the amount of \$408,940 during the period beginning on the second anniversary of the Effective Date and ending on the third anniversary of the Effective Date ; provided, if the Grantor shall have failed to exercise such right and option at the end of such one-year period, such right and option shall continue in full force and effect until the Grantee shall have notified the Grantor in writing of the expiration of such one-year period, whereupon such right and option shall continue for 30 days after receipt of such notice by the Grantor. Any notice by Grantee to Grantor under the immediately preceding sentence shall be addressed to the Grantor at City Hall, Foley, Alabama. Any exercise by the Grantor of such right and option, or any other notice from Grantor to Grantee, shall be addressed to the address shown for the Property on the ad valorem tax records of Baldwin County, Alabama. Any notice exercising such right and option shall be effective when

deposited in United States first class mail with sufficient postage affixed. All other notices shall be effective upon receipt. The Grantee shall deliver title to the Property by general warranty deed to the Grantor within a reasonable time after exercise by the Grantor of the right and option reserved hereunder.

(b) If, during the period beginning on the Effective Date and ending on the twenty-fifth anniversary thereof, the Grantee shall receive a bonafide offer to purchase the Property, which offer is acceptable to the Grantee, the right and option to purchase the Property upon the same terms and provisions as are part of such offer, and by acceptance hereof the Grantee agrees immediately after receipt of such offer to give to the Grantor a copy of such offer and to sell and convey the Property to the Grantor at any time within forty-five (45) days after such copy is received by the Grantor. The Grantor shall exercise such option by notice in writing to the Grantee and a contract of sale shall be executed by the parties and title closed within a reasonable time thereafter.

TO HAVE AND TO HOLD the Property, together with all and singular the rights, members and appurtenances thereof to the same being, belonging or in any way appertaining, to the use and benefit of the Grantee and its successors and assigns, forever, but subject to the Permitted Encumbrances and reserved rights and options of the Grantor herein. Except for the Permitted Encumbrances, which are accepted and acknowledged by the Grantee through its execution of this Statutory Warranty Deed, the Grantor shall warrant and forever defend title to the Property from and against the claims of all persons claiming by, through or under Grantor, but not further or otherwise.

[Signature page follows]

IN WITNESS WHEREOF, the Grantor has caused this Statutory Warranty Deed to be executed in its name under seal and the same attested by an officer thereof duly authorized as of the Effective Date.

CITY OF FOLEY, ALABAMA

By: _____

Mayor

[S E A L]

Attest _____

City Clerk

ACCEPTANCE BY GRANTEE

The Grantee hereby accepts the conveyances made by the foregoing Statutory Warranty Deed and in consideration thereof hereby (1) consents and agrees to the rights and options reserved by the Grantor, and (2) assumes and agrees to be bound by, and duly and punctually comply with, observe and perform, all conditions, covenants, provisions, restrictions, and terms referenced or set forth in said Statutory Warranty Deed or otherwise now or hereafter applicable to the Property.

IN WITNESS WHEREOF, the Grantee has caused this Statutory Warranty Deed to be executed in its name under seal and the same attested by an officer thereof duly authorized thereunto as of the Effective Date.

DEVELOPMENT CONSULTING, INC.

By: _____

Name: _____

Its: _____

[S E A L]

Attest _____

Secretary

STATE OF ALABAMA)

BALDWIN COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as Mayor of the City of Foley, Alabama, an Alabama municipal corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said municipal corporation.

Given under my hand and official seal this ____ day of _____, 2016.

Notary Public

[SEAL]

My Commission Expires:_____

STATE OF ALABAMA)
_____ COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of Development Consulting, Inc., an Alabama corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

Given under my hand and official seal this ____ day of _____, 2016.

Notary Public

[SEAL]

My Commission Expires:_____

This instrument was prepared by:

Heyward C. Hosch
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North
Suite 2400 AmSouth/Harbert Plaza
Birmingham, Alabama 35203-2618
(205) 254-1000

Exhibit A

Legal Description of Property

It was moved by Councilperson _____ that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance be given. The motion was seconded by Councilperson _____ and was unanimously carried, those voting aye being:

Ayes: J. Wayne Trawick
Vera J. Quaite
Rick Blackwell
Charles J. Ebert III
Ralph Hellmich

Nays:

The President declared the motion carried.

After said ordinance had been discussed and considered in full by the Council, it was moved by Councilperson _____ that said ordinance be now placed upon its final passage and adopted. The motion was seconded by Councilperson _____. The question being put as to the adoption of said motion and the final passage and adoption of said ordinance, the roll was called with the following results:

Ayes: J. Wayne Trawick
Vera J. Quaite
Rick Blackwell
Charles J. Ebert III
Ralph Hellmich

Nays:

The President thereupon declared said motion carried and the ordinance passed and adopted as introduced and read.

* * *

There being no further business to come before the meeting, it was moved and seconded that the meeting be adjourned. Motion carried.

Each of the undersigned does hereby approve the above and foregoing minutes of the City Council of the City of Foley, Alabama and does hereby waive all notice of the date, time, place and purpose of the meeting of the City Council referenced therein and does hereby consent and agree that such meeting of the Council be held at and for such date, time, place and purpose.

Minutes approved:

President of Council

Member of Council

Member of Council

Member of Council

Member of Council

S E A L

Attest: _____
City Clerk

STATE OF ALABAMA

BALDWIN COUNTY

CERTIFICATE OF CITY CLERK

I, the undersigned, do hereby certify that (1) I am the duly elected, qualified and acting Clerk of the City of Foley, Alabama (the "Municipality"); (2) as Clerk of the Municipality I have access to all original records of the Municipality and I am duly authorized to make certified copies of its records on its behalf; (3) the above and foregoing pages constitute a complete, verbatim and compared copy of excerpts from the minutes of a meeting of the City Council of the Municipality duly held on September 6, 2016, the original of which is on file and of record in the minute book of the City Council in my custody; (4) the ordinance set forth in such excerpts is a complete, verbatim and compared copy of such ordinance as introduced and adopted by the City Council on such date; and (5) said ordinance is in full force and effect and has not been repealed, amended or changed.

IN WITNESS WHEREOF, I have hereunto set my hand as Clerk of the Municipality and have affixed the official seal of the Municipality, this _____ day of _____, 2016.

Clerk of the City of Foley, Alabama

SEAL