

**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 and Related
Transactions for the Establishment of an Armory for the Alabama National
Guard by the Armory Commission of Alabama in the City of Foley, Alabama**

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 _____, 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 AND RELATED TRANSACTIONS FOR THE ESTABLISHMENT OF AN ARMORY FOR THE ALABAMA NATIONAL GUARD BY THE ARMORY COMMISSION OF ALABAMA IN THE CITY OF FOLEY, ALABAMA

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

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) Pursuant to Sections 11-47-20, 31-4-11 and 31-4-17 of the Code of Alabama 1975, and Ordinance No. 1162-11 and Ordinance No. 1196-12 heretofore adopted by the governing body of the City, the City has heretofore conveyed certain real property to The Armory Commission of Alabama (the "Armory Commission") for the establishment thereon of an Armory for the Alabama National Guard within the corporate limits of the City, upon the terms and conditions set forth in that certain Statutory Warranty Deed dated March 21, 2013 (the "Original Deed").

(b) The Armory Commission has requested the conveyance of Lots 8A and 8B, Foley Beach Express Industrial Park, Unit 7, as recorded on Slide 2445-B, in the office of the Probate Judge, Baldwin County, Alabama (the "Subject Property") from the City for the construction thereon of a vehicle maintenance facility.

(c) (1) The City is authorized under the Constitution and laws of the State of Alabama, including particularly and without limitation Sections 11-47-20, 31-4-11 and 31-4-17 of the Code of Alabama 1975, to convey to the Armory Commission title in fee simple to the Subject Property without consideration;

(2) For purposes of Section 11-47-20 of the Code of Alabama 1975, the Subject Property is not needed for the public or municipal purposes of the City; and

(3) For purposes of Section 31-4-11 of the Code of Alabama 1975, no permanent building has been constructed on the Subject Property and conveyance of the Subject Property to the Armory Commission will not prevent the reasonable use of any structure for the purpose for which it was constructed.

(d) It is necessary, desirable and in the best interests of the taxpayers and citizens of the City that the Armory be supported by the proposed vehicle maintenance facility on the Subject Property and that the City convey the Subject Property to the Armory Commission by statutory warranty deed on the same terms and conditions as set forth in the Original Deed.

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

(a) the conveyance to the Armory Commission, without consideration, by statutory warranty deed of title in fee simple to the Subject Property, solely for use as a vehicle maintenance facility, subject to a right of reversion, in form and of content satisfactory to the City, of such title to the City if the facility is not placed in service within a period of time mutually acceptable to the City and the Armory Commission;

(b) the provision of utilities to the Subject Property pursuant to such agreements among the City, the Armory Commission, and the providers of such utilities as shall be satisfactory thereto;

(c) the delivery to the Armory Commission of such title report, or title opinion, with respect to the Subject Property, as shall be satisfactory thereto;

(d) the delivery of such agreements by the Armory Commission and the City as shall be necessary or desirable to provide for the acquisition and construction of the vehicle maintenance facility by the Armory Commission on the Subject Property; and

(e) the terms and provisions of, and the transactions to be undertaken pursuant to, the Statutory Warranty Deed with respect to the Subject Property set forth in Exhibit A hereto.

3. The documents described in Section 2 of this Ordinance (herein collectively the “Armory Documents”) are approved in substantially the form and of substantially the content as the Armory 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 Armory Documents to which the City is a party signatory thereto shall approve, which approval shall be conclusively evidenced by execution of the Armory Documents by such officer as hereinafter provided.

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

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

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 Armory Documents, all as shall be required by law or necessary or desirable to carry out the provisions and purposes of this Ordinance and the Armory Documents.

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

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 _____, 2016.

President

[SEAL]

Attest: _____
City Clerk

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

By: _____
Mayor of the City of Foley, Alabama

Exhibit A

FORM OF STATUTORY WARRANTY DEED

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"), to and in favor of **THE ARMORY COMMISSION OF ALABAMA**, a public corporation organized under the laws of the State of Alabama (herein the "Grantee"), for the purposes hereinafter described.

RECITALS:

- A. The Grantor holds fee title in and to that certain tract of property located in Baldwin County, Alabama, more particularly described on Exhibit A attached hereto and incorporated by reference (the "Subject Property")
- B. The Grantor agrees to convey and donate the Subject Property to the Grantee in fee simple so long as the Subject Property is used solely for the location and construction of a vehicle maintenance facility for the Alabama National Guard, and such facility is designed and constructed within the respective periods of time set forth herein.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that in consideration of the premises recited above, which are incorporated herein by reference thereto, and as a free and voluntary gift with donative intent, but subject to the conditions and the possibility of reverter described hereinbelow, the Grantor does hereby GRANT, BARGAIN, SELL and CONVEY the Subject Property to the Grantee, together with all of the rights, tenements, hereditaments, and appurtenances thereto belonging or in any way appertaining;

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;
- 4. The condition that the Grantee, its successors and assigns, (i) shall only use the Subject Property for the location, construction and operation by the Grantee of a vehicle maintenance facility for the Alabama National Guard (the "Facility"), (ii) shall commence the design of the the Facility by March 21, 2016, (iii) shall commence construction of the Facility at the Subject Property by March 21, 2019, and (iv) shall diligently pursue such construction to completion and cause such armory to be placed in service within a reasonable period of time from commencement of construction; and

5. A right of reversion is hereby reserved and retained by the Grantor as follows: The Subject Property may revert to the Grantor without the necessity of re-entry and repossession or any other action on the part of the Grantor, other than notification in writing to the Grantee of proposed action not less than thirty (30) days prior to the filing of a written notice of such reversion by the Grantor in the Office of the Judge of Probate of Baldwin County, Alabama, upon violation by the Grantee, or its successors or assigns, of the conditions set forth in Paragraph 4 above. Grantor shall not be required to pay, and Grantee shall not be entitled to receive, any compensation or reimbursement for any improvements made to the Subject Property before or upon the occurrence of the right of reversion herein reserved to the Grantor. In the event that no notice of reversion is filed in the Office of the Judge of Probate of Baldwin County, Alabama, by March 21, 2019, this right of reversion and any covenant or restriction on the use of this property by the Grantee shall terminate immediately.

TO HAVE AND TO HOLD the Subject 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 the right of reversion herein reserved to the Grantor. 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 Subject 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 right of reversion 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 Subject 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 as of the Effective Date.

THE ARMORY COMMISSION OF ALABAMA

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 The Armory Commission of Alabama, an Alabama public 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 Subject Property

Lots 8A and 8B, Foley Beach Express Industrial Park, Unit 7, as recorded on Slide 2445-B, in the office of the Probate Judge, Baldwin County, Alabama.

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:

Member 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 _____, 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