



City of Foley, AL

407 E. Laurel Avenue
Foley, AL 36535

Legislative File

File Number: 21-0311

File ID: 21-0311

Type: Ordinance

Status: Second Reading

Version: 2

Reference:

In Control: City Council

File Created: 05/28/2021

File Name: An Ordinance Declaring Certain Real Property Surplus and No Longer Needed for Municipal Purposes and Authorizing the Conveyance of Same to the Baldwin County Commission

Final Action:

Title: (Second Reading) An Ordinance For County Lease Termination, Sale and Parking

Notes:

Sponsors:

Enactment Date:

Attachments: CMOB210055-PLAT, Termination of Lease Agreement with Baldwin County, Reciprocal Easement Agreement with Baldwin County, SWD to Baldwin County

Enactment Number:

Contact:

Hearing Date:

Drafter: ktaylor@cityoffoley.org

Effective Date:

Related Files:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
2	City Council	07/06/2021	approved on first reading				Pass

Text of Legislative File 21-0311

(Second Reading) An Ordinance For County Lease Termination, Sale and Parking

DESCRIPTION OF TOPIC: (who, what, when, where, why, and how much)

On June 2, 1969, the City of Foley and the Baldwin County Commission entered into a long-term lease agreement (99 years) for PPIN# 64600 located at the northwest corner of North Poplar Street and East Berry Avenue for the purpose of a barn and maintenance headquarters of the Baldwin County Highway Department and other related uses. This location has been selected for the First Responders Safe Room. This parcel will be

subdivided into two separate adjacent parcels. The City desires to convey the east half of the parcel to Baldwin County for the continued use of a barn and maintenance headquarters. The west half of the parcel will be the First Responders Safe Room site.

WHEREAS, the City of Foley owns certain real property located at the northwest corner of North Poplar Street and East Berry Avenue which the City leased to the Baldwin County Commission on or around June 2, 1969 for a 99-year term; and

WHEREAS, the City and the Baldwin County Commission mutually desire to terminate the Lease at this time even though it has term remaining; and

WHEREAS, the City has subdivided the property that is currently leased to Baldwin County into two lots; and

WHEREAS, the City desires to convey title to the eastern lot created from the subdivided property to the Baldwin County Commission, and the City desires to retain title to the western lot; and

WHEREAS, the City and the Baldwin County Commission mutually desire to enter into a cross-parking agreement whereby either party can park vehicles on the other party's portion of the subdivided property, and walk between the parcels;

NOW, THEREFORE, BE IT ORDAINED by the Foley City Council as follows:

SECTION 1. That the City Council hereby finds and declares that the following property is no longer needed for municipal purposes, and that it is in the best interests of the City of Foley to convey the same to the Baldwin County Commission:

Lot 1 of the Replat of a Portion of Lots 10, 11 and 12 of the Summit Addition to Foley (Map Book 1, Page 30)

(the "Subject Property")

SECTION 2. That, pursuant to Code of Alabama, Section 11-47-20 and applicable law, the Mayor and City Clerk of the City of Foley are hereby authorized and directed to execute, acknowledge, attest and deliver a Statutory Warranty Deed to the Baldwin County Commission for the Subject Property along with any other necessary documents to effectuate the conveyance of the Subject Property.

SECTION 3. That 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, and notifications, all as shall be required by law or necessary or desirable to carry out the provisions and purposes of this Ordinance, including any such documents as are required to (i) terminate the lease dated June 2, 1969 between the City and the Baldwin County Commission; (ii) convey title to the Subject Property; and (iii) create the cross-parking agreement between the Subject Property and the land retained by the City of Foley which had previously been leased to the Baldwin County Commission.

SECTION 4. That any prior actions taken or agreements made or documents executed by any officers of the City in connection with the Baldwin County Commission and the transactions herein authorized and approved are hereby ratified, confirmed and approved.

SECTION 5. That this Ordinance shall take effect immediately after its publication as required by law, and all resolutions, ordinances, orders, or parts thereof in conflict or inconsistent with any provision herein are, to the extent of such conflict or inconsistency, hereby repealed.

SECTION 6. The terms and provisions of this ordinance are severable. If any part or portion of this ordinance is declared invalid, void, or unconstitutional, that portion shall be deemed severed, and the remaining portions of the ordinance shall remain in full force and effect.

SECTION 7. All ordinances or parts of ordinances, in any manner conflicting herewith are hereby repealed.

SECTION 8. This ordinance shall become effective upon its publication as required by law.

GENERAL SURVEYOR'S NOTES

- SOURCES OF INFORMATION USED TO FACILITATE THIS SURVEY WERE PREVIOUS SURVEYS BY THIS AND OTHER FIRMS, THE RECORDED SUBDIVISION PLAT, AND/OR OTHER RECORDED DOCUMENTS SHOWN HEREON.
- DEED BOOK 383, PAGE 588 (PARCEL 3) DESCRIBES THE WEST 40' OF THE NORTH 1/2 OF THE SW 1/4 OF SECTION 21-T7S-R4E AS BEING CONVEYED TO PUBLIC R.O.W. IT IS PRESUMED THAT SAID 40' RUNS ALONG THE EAST SIDE OF THE CENTER LINE OF JAMBER STREET AS SHOWN, FROM BERRY AVENUE SOUTH APPROXIMATELY 635'. THEN JAMBER REMAINS TO BE 50' WIDE TO THE INTERSECTION OF SECTION AVENUE.
- TAX PARCELS 105-54-05-21-3-000-014-004 IS OWNED BY THE CITY OF FOLEY AND IS RECORDED AS A PUBLIC R.O.W. NAMED BERRY STREET. THERE HAS BEEN NO INFORMATION PROVIDED ON FILED AT THE TIME OF THIS SURVEY, STARTING THE NORTH OF THE PUBLIC STREET. THERE HAS BEEN NO INFORMATION PROVIDED ON FILED AT THE TIME OF THIS SURVEY, STARTING THE NORTH OF THE PUBLIC STREET.
- IT IS ASSUMED TO BE A 60' WIDE R.O.W. AS SHOWN ON THE BALDWIN COUNTY TAX MAP. THERE HAS BEEN NO RECORDED DEED FOUND, OR PROVIDED, THAT GIVES A DESCRIPTION FOR THIS SURVEYED PARCEL. DEED BOOK 315, PAGE 282 CONVEYS THE MAJORITY OF THIS LOT 10 AND LAND WITHIN THE SUMMIT ADDITION TO FOLEY, A DIVISION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 7 SOUTH, RANGE 4 EAST. A NEW DESCRIPTION OF THIS SITE WILL BE WRITTEN BASED UPON THE STATEMENTS AND RECORD DOCUMENTS SHOWN ON THIS SURVEY.
- THIS IS A PERMANENT NATIONAL GEODETIC SURVEY (NAD83) VERTICAL BENCHMARK WITH A DESIGNATION "A 531", PD "2014791", AND HAS A PUBLISHED ELEVATION OF 82.66 FEET (NAVD83). BESSIE'S BENCHMARK IS A CONCRETE POLE WITH AN INS CONTINUOUSLY OPERATING REFLECTOR STATION (CORS) CODES OF "A60" WITH DESIGNATION "FOLEY CORNERS".
- NO TITLE SEARCH, TITLE OPINION OR ABSTRACT WAS PERFORMED BY THIS FIRM. THERE MAY BE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, RIGHTS-OF-WAY, OR OTHER INSTRUMENTS OF RECORD WHICH COULD AFFECT THE BOUNDARIES OF THIS PROPERTY THAT WERE NOT FURNISHED AT TIME OF SURVEY.
- FIELD WORK FOR THIS SURVEY WAS COMPLETED ON JUNE 04/25/2021.
- ALL ELEVATIONS ARE BASED ON NORTH AMERICAN DATUM 1983, ALABAMA WEST ZONE; STATE PLANE GRID NORTH, DERIVED BY GLOBAL POSITIONING SYSTEM OPERATIONS; ALL DISTANCES SHOWN ARE HORIZONTAL DISTANCES. ALL MEASUREMENTS WERE MADE IN ACCORDANCE WITH U.S. STANDARD FEET.
- ELEVATIONS ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988. CONTOURS ARE SHOWN AT ONE FOOT INTERVALS.
- THE SURVEYED PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION OF "7" BY THE FEDERAL EMBROIDERY MANAGEMENT AGENCY (FEMA), AS SCALED FROM FLOOD HAZARD RATE MAP NO. 01030308EN, WITH A REVISION DATE OF IDENTIFICATION OF APRIL 19, 2019, FOR COMMUNITY NO. 010007, IN BALDWIN COUNTY, STATE OF ALABAMA.
- NO UNDERGROUND UTILITIES WERE DETECTED OR SHOWN UNLESS INDICATED.
- THIS IS A BOUNDARY AND TOPOGRAPHIC SURVEY.
- THE SURVEYED PROPERTY LIES WITHIN SECTION 21, TOWNSHIP 7 SOUTH, RANGE 4 EAST.

OWNER/DEVELOPER

CITY OF FOLEY
PO BOX 1700
FOLEY, AL 36535

SURVEYOR

STUART L. SMITH
AL LICENSE NO. 27403

SITE DATA

TAX PARCEL 105-54-05-21-3-000-014-004

TOTAL SITE AREA = 3.49 ACRES (151,725 S.F.)

TOTAL NUMBER OF LOTS = 2

SMALLEST LOT = 1.74 ACRES (75,776 S.F.)

LARGEST LOT = 1.74 ACRES (75,776 S.F.)

ZONING

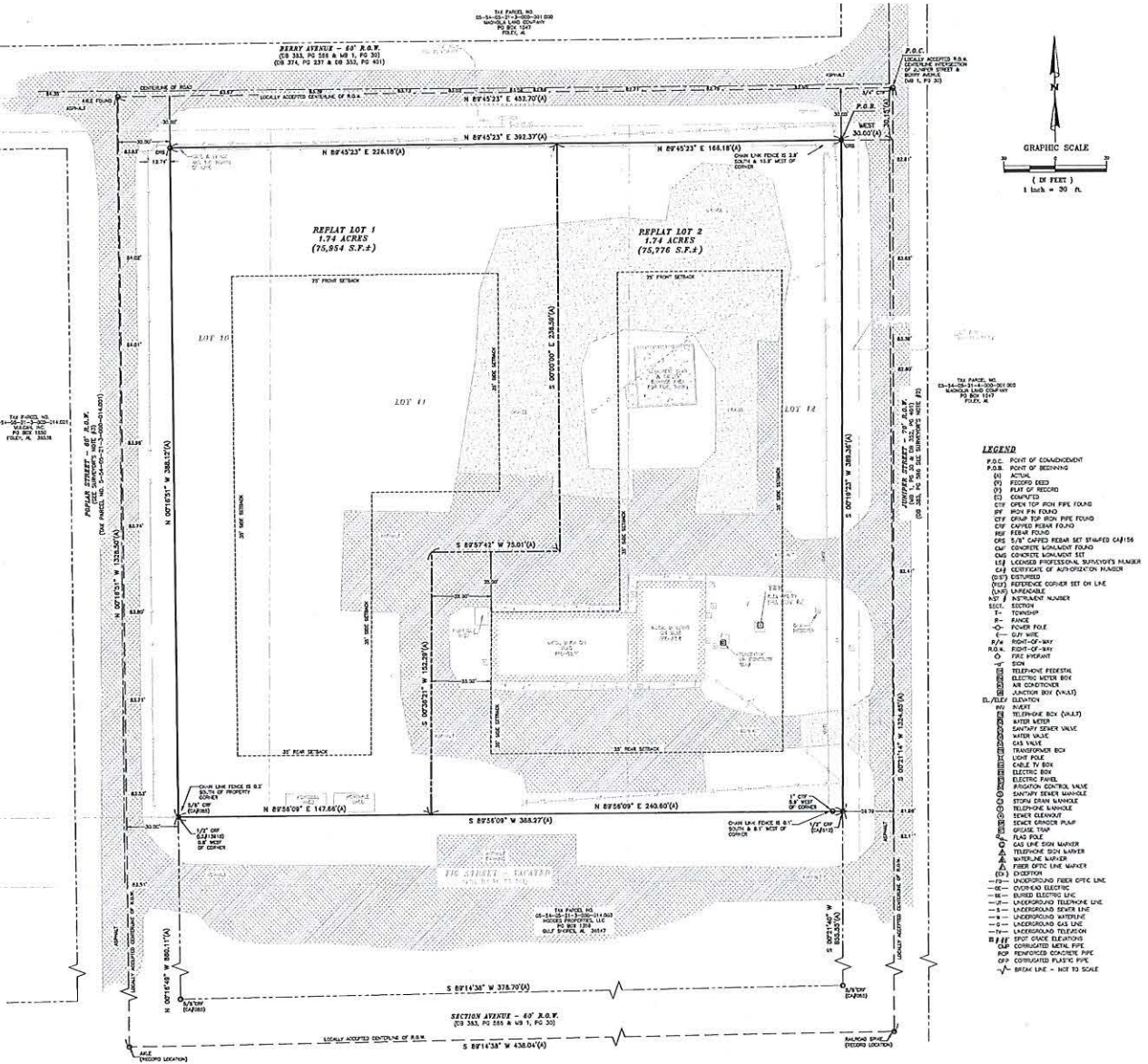
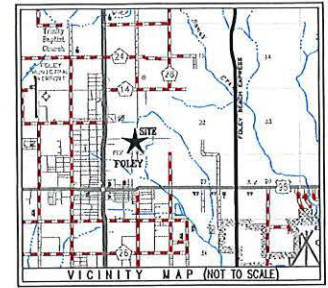
CITY OF FOLEY
MID-HIGH INDUSTRIAL

ZONING REQUIREMENTS

- 35' FRONT SETBACK
- 35' REAR SETBACK
- 35' SIDE SETBACK
- 50' MINIMUM HEIGHT REQUIREMENT

UTILITIES

- POWER - ALABAMA UTILITIES
- SEWER - ALABAMA UTILITIES
- WATER - ALABAMA UTILITIES
- TELE - CANTERBURY



- ### LEGEND
- P.O.C. POINT OF COMMENCEMENT
 - P.O.B. POINT OF BEGINNING
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REPLAT
OF A PORTION OF LOTS 10, 11 & 12 OF THE SUMMIT ADDITION TO FOLEY, A
DIVISION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF
SECTION 21, TOWNSHIP 7 SOUTH, RANGE 4 EAST
(MAP BOOK 1, PAGE 30)

LEGAL DESCRIPTION

(DESCRIPTION FROM SURVEY - SEE SURVEYOR'S NOTE #4)
HAY OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 7 SOUTH, RANGE 4 EAST, AS SHOWN ON PLAT THEREOF RECORDED IN MAP BOOK 1, PAGE 30 IN THE OFFICE OF THE
RECORDS, BALDWIN COUNTY, ALABAMA, LESS THE NORTH 10 FEET OF SAID LOTS AND THE EAST 10 FEET OF SAID LOT 12 AS SHOWN IN DEED BOOK 374, PAGE 237
RECORDED IN SAID PUBLIC OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING FROM A 3/4" CHIRPED TOP IRON PIPE AT THE POINT-OF-WAY CENTERLINE INTERSECTION OF JAMBER STREET AND BERRY AVENUE (STREET) AS SHOWN ON THE
SUBDIVISION PLAT FOR SUMMIT ADDITION TO FOLEY, A DIVISION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 7 SOUTH, RANGE 4 EAST, RECORDED IN
MAP BOOK 1, PAGE 30 IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA, THENCE RUN SOUTH 02°11'14" WEST ALONG SAID CENTERLINE OF JAMBER STREET A
DISTANCE OF 30.15 FEET TO A POINT THENCE LEAVING SAID CENTERLINE WEST A DISTANCE OF 30.20 FEET TO A 5/8" IRON NAIL WITH CAP (CAP150) ON THE WEST POINT-OF-WAY
OF JAMBER STREET FOR THE EASE OF RECORDS, THENCE RUN SOUTH 01°18'32" WEST ALONG SAID WEST POINT-OF-WAY A DISTANCE OF 219.34 FEET TO A 1/2" IRON NAIL WITH
CAP (CAP150), THENCE LEAVING SAID WEST POINT-OF-WAY SOUTH 89°58'59" WEST A DISTANCE OF 308.27 FEET TO A 5/8" IRON NAIL WITH CAP (CAP150) LING ON THE EAST
POINT-OF-WAY OF JAMBER STREET, THENCE RUN NORTH 01°18'32" WEST ALONG SAID EAST POINT-OF-WAY A DISTANCE OF 318.12 FEET TO A 5/8" IRON NAIL WITH CAP (CAP150)
LYING ON THE SOUTH POINT-OF-WAY OF BERRY AVENUE, THENCE RUN NORTH 89°45'33" EAST A DISTANCE OF 312.37 FEET TO THE POINT OF BEGINNING, SAID DESCRIBED PARCEL
CONTAINING 2.18 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATION

I HEREBY STATE THAT ALL PARTS OF THIS SURVEY AND DRAWINGS HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF
THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

STUART L. SMITH, PLS.
ALABAMA LICENSE NUMBER 27403

*SIGNATURE IS INVALID WITHOUT SIGNATURE & SEAL OF A LICENSED LAND SURVEYOR

REPLAT
PRELIMINARY/FINAL

CITY OF FOLEY
BERRY STREET
TAX PARCEL 05-54-05-21-3-000-014-004
SEC. 21 - T7S - R4E

GMC Project #
CMOB210050

ISSUE	DATE
DRAWN BY: SLS	
CHECKED BY: SLS	

2039 Main Street
Daphne, AL 36526
T 251.626.2626
GMCNETWORK.COM

GMC
GOODWIN, MILLS, & CAWOOD, INC.

sheet 1 of 2

STATE OF ALABAMA

COUNTY OF BALDWIN

TERMINATION OF LEASE AGREEMENT

THIS TERMINATION OF LEASE AGREEMENT (this "Agreement") is entered into as of the ____ day of _____, 2021 (the "Effective Date") by and between the City of Foley, an Alabama municipal corporation ("Lessor") and Baldwin County, a political subdivision of the State of Alabama ("Lessee").

WHEREAS, Lessor and Lessee entered into a Lease and Agreement dated June 2, 1969 (the "Lease"), pursuant to which Lessee leased from Lessor certain real property located in the City of Foley, Baldwin County, Alabama described on Exhibit "A" hereto; and

WHEREAS, the Lease or a memorandum of the Lease was recorded in the real property records in the office of the Judge of Probate of Baldwin County, Alabama at _____; and

WHEREAS, Lessor and Lessee mutually desire to terminate the Lease;

NOW, THEREFORE, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee do hereby mutually agree that the Lease is hereby terminated and canceled, effective as of the Effective Date, and neither party shall have any further rights, duties, obligations or responsibilities thereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date set forth above.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

LESSOR:

CITY OF FOLEY, an Alabama municipal corporation

By: _____
Ralph Hellmich
Its Mayor

ATTEST:

Kathryn Taylor
City Clerk

LESSEE:

BALDWIN COUNTY

By: _____
Name: _____
Title: _____

RECIPROCAL EASEMENT AGREEMENT

This **RECIPROCAL EASEMENT AGREEMENT** (the "Agreement") is made this _____ day of _____, 2021, by and between City of Foley, an Alabama municipal corporation ("City"), and Baldwin County, a political subdivision of the State of Alabama ("County", and together with City, each an "Owner" and collectively, the "Owners").

WITNESSETH

WHEREAS, City is the owner of that certain tract of land described on Exhibit "A" attached hereto and made a part hereof by this reference (the "City Tract"); and

WHEREAS, County is the owner of that certain tract of land described on Exhibit "B" attached hereto and made a part hereof by this reference (the "County Tract"); and

WHEREAS, the City Tract and the County Tract are adjacent to each other and are located as shown on Exhibit "C" attached hereto and made a part hereof by this reference; and

WHEREAS, each Owner mutually desires to impose certain easements upon their respective City Tract and County Tract for the mutual and reciprocal benefit of the other Owner as more particularly set forth below; and

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Owners hereby grant, covenant and agree as follows:

1. Access and Parking Easements. Subject to any express conditions, limitations or reservations contained herein, the following non-exclusive access and parking easements are hereby created:

(a) An easement for the benefit of and as an appurtenance to the County Tract for access, ingress and egress over, upon, through and across the City Tract, together with the right to park vehicles on the City Tract within existing parking spaces or as otherwise directed by the owner of the City Tract.

(b) An easement for the benefit of and as an appurtenance to the City Tract for access, ingress and egress over, upon, through and across the County Tract, together with the right to park vehicles on the County Tract within existing parking spaces or as otherwise directed by the owner of the County Tract.

2. No Obstruction. Neither Owner shall construct or maintain any gates, fences, walls, curbs other obstructions which impair or prevent the full and intended reasonable use of the easements granted in this Agreement.

3. Effective Date. This Agreement shall become effective upon the date first written above.

4. Headings. The headings of the paragraphs contained herein are intended for reference purposes only and shall not be used to interpret the agreements contained herein or the rights granted hereby.

5. Governing Law. The laws of the State of Alabama shall govern the interpretation, validity, performance, and enforcement of this Agreement.

6. Covenant Running with the Land. The rights, agreements, duties, obligations and easements set forth in this Agreement shall be deemed to be covenants running with the land, which rights, agreements, duties, obligations and easements shall remain in full force and effect and be binding upon the owner of each tract and its successors-in-title. The fee owner of each tract may grant the benefit of any easement contained herein to the tenants and other occupants of the tracts for the duration of such occupancy, and to the customers, employees, agents and business invitees thereof, but such grant is not intended nor shall it be construed as creating any rights in or for the benefit of the general public nor shall it affect any real property outside of the tracts.

[Signatures Commence on the Following Page]

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first above written.

CITY OF FOLEY

By: Ralph Helmich

Its: Mayor

ATTEST:

By: Kathryn Taylor

Its: City Clerk

STATE OF ALABAMA:
COUNTY OF BALDWIN:

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that RALPH HELMICH and KATHRYN TAYLOR, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this ____ day of _____, 2021.

NOTARY PUBLIC
My Commission expires:
(Notary Seal)

BALDWIN COUNTY

By: _____
Name: _____
Title: _____

STATE OF ALABAMA
COUNTY OF MOBILE

I, the undersigned Notary Public in said State, hereby certify that _____
whose name as _____ of Baldwin County, 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 the instrument, he/she, as such officer and with full authority, executed the same
voluntarily for and as the act of said entity on the day the same bears date.

Given under my hand and official seal on this the ____ day of _____, 2021.

Notary Public
My Commission expires: _____
(NOTARY SEAL)

This instrument prepared by:

Casey Pipes
Helmsing, Leach, Herlong, Newman & Rouse, P.C.
P.O. Box 2767
Mobile AL 36652
(251) 432-5521
jcp@helmsinglaw.com

STATE OF ALABAMA
COUNTY OF BALDWIN

STATUTORY WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS THAT the CITY OF FOLEY, an Alabama Municipal Corporation, (hereinafter called "Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration this day in hand paid to Grantor by BALDWIN COUNTY, a political subdivision of the State of Alabama (hereinafter called "Grantee"), the receipt and sufficiency of which are hereby acknowledged, does, subject to all matters and exceptions hereinafter mentioned, hereby GRANT, BARGAIN, SELL and CONVEY unto the said Grantee, and to the successors and assigns of said Grantee, all of Grantor's interest in and to that real property in the County of Baldwin, State of Alabama, described on Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD said property, together with all and singular, the rights, members, privileges, tenements, improvements, hereditaments, easements and appurtenances thereunto belonging or in anywise appertaining; subject, however to the matters and exceptions to which reference is hereinbelow made, unto the said Grantee, and the successors and assigns of the Grantee, FOREVER.

The property is conveyed subject to existing utility and drainage easements, rights of way, restrictive covenants, and all other matters applicable to said property and of record in the office of the Judge of Probate of Baldwin County, Alabama, and to zoning restrictions and building set-back lines, if any, as well as to the lien for ad valorem taxes hereafter falling due, which taxes Grantee assumes and agrees to pay when due. Grantor reserves any mineral interests that are available.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed on this the ____
day of _____, 2021.

CITY OF FOLEY

By: Ralph Helmich
Its: Mayor

ATTEST:

By: Kathryn Taylor
Its: City Clerk

STATE OF ALABAMA:
COUNTY OF BALDWIN:

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that RALPH HELMICH and KATHRYN TAYLOR, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this ____ day of _____, 2021.

NOTARY PUBLIC
My Commission expires:
(Notary Seal)

GRANTEE'S ADDRESS:

THIS INSTRUMENT PREPARED BY:

CASEY PIPES

Helmsing, Leach, Herlong, Newman & Rouse, P.C.

Post Office Box 2767

Mobile, Alabama 36652

(251) 432-5521

jcp@helmsinglaw.com