

February 10, 2020

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

The City Council of the City of Athens, Alabama met in regular session at the Athens Municipal Building, 200 Hobbs Street West in Athens, Alabama, on February 10, 2020 at 5:30 p.m. The meeting was called to order by Councilman Frank Travis, President of the Council. Upon roll call, the following were found to be present: Councilmembers Harold Wales, Wayne Harper, Frank Travis and Chris Seibert. Mayor Marks introduced Christopher Hogan, a student at the Athens Renaissance School, who joined him in leading the Pledge of Allegiance. Annette Barnes, City Clerk, was present and recorded the minutes of the meeting. Wayne Harper offered the invocation. The Chairperson stated that a quorum was present and that the meeting was open for transaction of business.

The Chairperson stated that the Minutes of the January 27, 2020 City Council Meeting had been submitted for approval. Councilman Wales moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Seibert and was unanimously carried. The Chairperson stated that the Minutes of the January 27, 2020 City Council Work Session Meeting had been submitted for approval. Councilman Wales moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Seibert and was unanimously carried.

Limestone County Commission Chairman, Collin Daly, joined Mayor Marks in recognizing the following students whose art was selected in the Martin Luther King, Jr. art contest sponsored by the City of Athens and Limestone County: Eli Henson, 1<sup>st</sup> place; Karli Anne Holcomb, 2<sup>nd</sup> place and Brynlee Landtroop, 3<sup>rd</sup> place.

Angie Jordan, with the Muscular Dystrophy Association, recognized the Athens Fire Department for their partnership with MDA in raising funds through the Fill the Boot campaign.

A report on costs of demolition of the unsafe structure at 923 N. Clinton Street was presented to the Council.

Erik Waddell, City Building Inspector, spoke in favor of the resolution to assess the costs against the property. He reported that the City Council had previously voted to condemn the structure and that the clean-up of the property has been completed.

**Councilman Harper introduced the following resolution:**

**RESOLUTION NUMBER 2020 - 1665**

**A RESOLUTION FIXING AND ASSESSING COSTS ASSOCIATED WITH THE DEMOLITION AND ABATEMENT OF AN UNSAFE STRUCTURE AT 923 N. CLINTON STREET**

**WHEREAS**, this Resolution is authorized by § 46-280, *et seq.* of Article IX of Chapter 46 of the *City Code of Athens, Alabama*, and other state and local law, and/or § 11-40-30, *et seq.* of the *Code of Alabama*, in addition to other legal authority;

**WHEREAS**, in Resolution No. 2019-1625, this Athens City Council required the demolition of the remains of an unsafe building or structure (herein referred to as the “Structure”) located at the following real property:

Address: 923 N. Clinton Street, Athens, AL 35611

PARCEL # 10-03-05-1-001-040.000

Legal Description

The following land lying and being in Limestone County, Alabama, and more particularly described as follows:

Forty feet evenly off the South side of Lot 11, and all of Lots 12, 13, and 14, all in Block 11 of the Pinehurst Addition to the Town of Athens, Alabama, in accordance with map thereof recorded in the Office of the Judge of Probate of Limestone County, Alabama, and being the same real estate conveyed to the grantors herein by deed recorded in Fiche 155, Frame 39 in the Probate Office of Limestone County, Alabama.

(herein referred to as the "Property");

**WHEREAS**, the demolition and removal was carried out;

**WHEREAS**, persons who may hold a property interest in the Property include the following persons: **Jerry Freeman; Janet Freeman; Compass Bank**; and the **United States Department of the Treasury**, as well as any and all unknown parties, including any persons claiming a present interest in the property described herein and including persons claiming any future, contingent, reversionary, remainder, or other interest therein, who may claim any interest in such property, such persons' whereabouts being unknown and which cannot be ascertained with reasonable diligence; and

**WHEREAS**, pursuant to Resolution No. 2019-1625, the City Clerk has presented this City Council with the report of Erik Waddell, the appropriate municipal official, (attached hereto as **Exhibit A**) of the costs associated with the demolition of the Structure so that this Council may adopt a resolution fixing all costs reasonably incurred in connection therewith and assessing such costs against the Property.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** on February 10, 2020, at 5:30 P.M. p.m., as follows:

1. The report of costs associated with the demolition of the Structure on the Property and attached hereto as **Exhibit A** is accepted, and the costs shown therein are hereby fixed as reasonably incurred in connection therewith and assessed as costs against the Property.

2. The amount of **\$2,270.85** shall be a special and final assessment against the Property, and shall constitute a lien thereon.

3. A certified copy of this Resolution and its exhibits shall be filed with the Office of the Judge of Probate of Limestone County, Alabama. Previously, the City of Athens caused (i) a "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" to be filed with respect to this matter, to wit, on April 8, 2019, in RLPY Book 2019, Page 19726 in the Office of the Judge of Probate of Limestone County, Alabama.

4. Pursuant to Ordinance § 11-40-33 of the *Code of Alabama*, the City Attorney shall provide a certified copy of this Resolution and its exhibits to the Limestone County Revenue Commissioner, who shall add the amount of the lien to the next regular ad valorem tax bills for taxes levied against the Property, collect the same as if it were a tax, and remit the same to the City of Athens. Pursuant to § 11-40-35 and § 46-280, *et seq.* of Article IX of Chapter 46 of the *City Code of Athens, Alabama*, the City elects to have the revenue commissioner collect the assessment by adding it to the tax bill, and then collecting the assessment using all methods available for collecting ad valorem taxes.

**ADOPTED** this the 10<sup>TH</sup> day of February, 2020.

*/s/ Frank Travis*  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

**EXHIBIT A**

**REPORT TO ATHENS CITY COUNCIL OF THE COST OF DEMOLITION OF STRUCTURE AT 923 N. CLINTON STREET**

To: Athens City Council, Athens City Clerk

This report of the costs associated with the demolition of a structure at 923 N. Clinton Street, Athens, Alabama, shall be submitted to the Athens City Council at a regular meeting at 5:30 P.M. on February 10, 2020. At such time, the City Council shall hear the report, and thereupon may adopt a resolution fixing the costs which it finds to be reasonably incurred in the demolition and assessing those costs against the property.

The demolition of the unsafe structure was called for by the Athens City Council in its Resolution No. 2019-1625, dated June 24, 2019.

The City of Athens, Alabama incurred the following costs associated with the demolition of the unsafe structure:

Certified Mail/Mail Notice Costs	\$ 34.00
<i>Lis Pendens</i> Filing Fee	\$ 69.00
Publication Costs (Athens News Courier)	\$ 284.40
Title Search	\$ 150.00
Legal Fees	\$ 483.45
Demolition Costs (demolition)	\$ 1,250.00

**GRAND TOTAL:** \$2,270.85

The motion was seconded by Councilman Wales and was unanimously carried.

Marcia Day, 16274 E. Glenn Valley, Athens, expressed her gratitude to the Council for the responsiveness of Public Works Director, James Rich, Sanitation Director, Earl Glaze and Street Department Manager, Dolph Bradford regarding a situation on Watercress Drive that she recently called to their attention.

Mae Davis, Plainview Circle, Athens, addressed the Council regarding issues with rubbish left on the side of Plainview Circle, holes on Plato Jones Street and the need for striping on Brownsferry Street.

Teresa Todd, Yarbrough Road, Athens, expressed her appreciation to Public Works Director, James Rich, for his assistance with getting a street light installed at the corner of Highway 251 and Yarbrough Road.

Allynn Griffin, 1122 E. Pryor Street, Athens, addressed the Council about the proposed roundabout to be constructed in connection with the new Publix shopping center. He expressed his concerns about whether the City intends to take part of his property through eminent domain as part of the roundabout construction. Mayor Marks assured Mr. Griffin that no part of his property would be needed for this project and further explained that the City’s Planning Commission would review a complete site plan of the project, likely within the next 90 days.

**Councilman Seibert introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to approve travel expenses for the following personnel from the Mayor’s Office.

Amy Golden

Alabama City/County Managers' Association  
Winter Conference  
January 22, 2020 – January 24, 2020  
Birmingham, Alabama

\$ 96.30

The motion was seconded by Councilman Harper and was unanimously carried.

**Councilman Wales introduced the following resolution:**

**RESOLUTION NUMBER 2020 - 1666**

**A RESOLUTION FOR THE PURCHASE OF SERVICES FOR COMMISSIONING THE NEW RECREATION CENTER LOCATED AT 21821 SPORTSPLEX LOOP FROM ENVIRONMENTAL SYSTEMS CORPORATION UNDER THE SUPERVISION OF THE CITY OF ATHENS PUBLIC WORKS DEPARTMENT**

**WHEREAS, ENVIRONMENTAL SYSTEMS CORPORATION** of Huntsville, Alabama has provided a proposal for commissioning the new Recreation Center located at 21281 Sportsplex Loop;

**WHEREAS, ENVIRONMENTAL SYSTEMS CORPORATION** has provided a proposal to the City of Athens Public Works Department for their consideration and validation;

**WHEREAS,** the City of Athens Public Works Department recommends that the contract for Commissioning Services be purchased for the New Recreation Center in the amount of \$25,290.00 or \$0.35/sq. ft. and come from proceeds of the 2018 General Obligation Warrant. \$60,000 was originally budgeted for this service.

**THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA**

that:

Section 1. The contract for the purchase of commissioning services for the recreation center shall be awarded to Environmental Systems Corporation of Huntsville, Alabama, in the amount of \$25,290.00, to be funded from the proceeds of the 2018 General Obligation Warrant Improvement Fund.

Section 2. Ronnie Marks, in his capacity as Mayor, is authorized, on behalf of the City of Athens, to sign the above-referenced contract for Commissioning Services. The Mayor is further authorized to carry out the terms of such contract, and to execute such other and additional documents that may be necessary and/or required in order to facilitate the transaction described herein.

Section 3. This resolution shall become effective immediately upon its adoption.

**ADOPTED** this the 10<sup>th</sup> day of February, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

Councilmember Harper moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Seibert, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Wales thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Seibert and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilman Wales introduced the following ordinance:**

**ORDINANCE NUMBER 2020 - 2105**

**AN ORDINANCE RENEWING A NONEXCLUSIVE FRANCHISE TO KNOLOGY, INC. CONCERNING A CABLE TELEVISION SYSTEM**

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**WHEREAS**, Knology, Inc. (“Knology”) has a non-exclusive franchise to operate a cable system in the City, initially granted to Private Cable, Inc. by Ordinance 94-1180;

**WHEREAS**, the initial franchise has been subsequently transferred and assigned, such that Knology now holds that franchise;

**WHEREAS**, the City Council desires to extend that certain non-exclusive franchise initially granted by Ordinance No. 94-1180;

**WHEREAS**, the franchise was last extended by Ordinance No. 2019-2069, such that it would be extended through March 1, 2020;

**WHEREAS**, the City and Knology desire to extend the franchise for another year;

**WHEREAS**, Knology is agreeable to such extension pursuant to the same terms as set forth in Ordinance No. 94-1180, as amended by Ordinance No. 2012-1847;

**WHEREAS**, the public has been afforded adequate notice and opportunity for comment; and

**WHEREAS**, the City Council intends that the franchise will be extended as set forth herein.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA**, while in regular session on Monday, February 10, 2020, at 5:30 p.m., as follows:

1. The City hereby extends its grant of a nonexclusive franchise to occupy or use the Public ways to provide Cable Service to all Persons located in the Service Area to Knology under the same definitions, terms, and conditions as set forth in Ordinance No. 94-1180, and any amendments thereto, until March 1, 2021, unless sooner terminated in accordance with the terms thereof.

2. This Ordinance is conditioned upon Knology filing with the City its unconditional acceptance of the Franchise and agreement to comply with and abide by all the provisions, terms, and conditions set forth herein and in Ordinance No. 94-1180, and any amendments thereto, in a form acceptable to the City.

**ADOPTED** this the 10<sup>th</sup> day of February, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ William R. Marks  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ Annette Barnes

CITY CLERK, CITY OF ATHENS, ALABAMA

Councilmember Seibert moved that unanimous consent be given for immediate consideration of and action on said ordinance, which motion was seconded by Councilmember Harper, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said ordinance had been unanimously carried. Councilmember Wales thereupon moved that the ordinance be finally adopted, which motion was seconded by Councilmember Harper and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said ordinance had been unanimously carried.

**Councilman Harper introduced the following ordinance:**

**ORDINANCE NUMBER 2020 - 2106**

**AN ORDINANCE EXTENDING A NONEXCLUSIVE FRANCHISE TO SPECTRUM SOUTHEAST, LLC  
(CHARTER) CONCERNING A CABLE TELEVISION SYSTEM**

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**WHEREAS**, Spectrum Southeast, LLC (referred to herein as “Charter”) has a non-exclusive franchise to operate a cable system in the City, the original terms of which are found in Ordinance No. 88-1030;

**WHEREAS**, the franchise found at Ordinance No. 88-1030 was assigned/extended to Charter and has been continuously extended by the City Council and Charter;

**WHEREAS**, the franchise was last extended by Ordinance No. 2019-2070;

**WHEREAS**, the City and Charter desire to extend the franchise for another year;

**WHEREAS**, Charter is agreeable to such extension pursuant to the same terms as set forth in Ordinance No. 88-1030;

**WHEREAS**, the parties continue to reserve all rights under the formal procedures of Section 626 of the Cable Act and do not waive any rights related thereto;

**WHEREAS**, the public has been afforded adequate notice and opportunity for comment; and

**WHEREAS**, the City Council intends that the franchise will be extended as set forth herein.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA**, while in regular session on Monday, February 10, 2020, at 5:30 p.m., as follows:

1. The City hereby extends its grant of a nonexclusive franchise to occupy or use the Public Ways to provide Cable Service to all Persons located in the Service Area (and consents to the assignment as explained above) to Charter under the same definitions, terms, and conditions as set forth in Ordinance No. 88-1030, and any amendments thereto, until March 1, 2021, unless sooner terminated in accordance with the terms thereof.

2. This Ordinance is conditioned upon Charter filing with the City its unconditional acceptance of the Franchise and agreement to comply with and abide by all the provisions, terms, and conditions set forth herein and in Ordinance No. 88-1030, and any amendments and extensions thereto, in a form acceptable to the City.

**ADOPTED** this the 10<sup>th</sup> day of February, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ William R. Marks  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ Annette Barnes  
CITY CLERK, CITY OF ATHENS, ALABAMA

Councilmember Seibert moved that unanimous consent be given for immediate consideration of and action on said ordinance, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said ordinance had been unanimously carried. Councilmember Harper thereupon moved that the ordinance be finally adopted, which motion was seconded by Councilmember Seibert and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said ordinance had been unanimously carried.

**Councilman Wales introduced the following resolution:**

#### **RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to accept the low bid of \$341,498 from KVA, Inc., Greer, SC, for the Control House with switchboards to be used in the Moss Spring Substation.

Councilmember Harper moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Seibert, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Wales thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Seibert and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilman Harper introduced the following resolution:**

#### **RESOLUTION NUMBER 2020 - 1667**

#### **A RESOLUTION CONCERNING A CONTRACT WITH DR. ROBERT E. PITMAN REGARDING PROFESSIONAL VETERINARY SERVICES**

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WHEREAS, the City Council desires to further amend the “Contract Between City of Athens and Dr. Robert E. Pitman, DVM” previously entered into between the City of Athens, Alabama (the “City”), and Dr. Robert E. Pitman of Athens, Alabama (“Pitman”), dated November 8, 2006, as amended on October 26, 2010 and as further amended on

December 1, 2013 and on December 1, 2016 (the “Contract”) by extending the length of the term of the Contract such that it expires on December 31, 2022, and increasing the amount of compensation due for the services rendered under such Contract; and

WHEREAS, the City Council finds that this is a contract for professional veterinary service and provides for all of the attendant public benefits recognized therein, such as animal adoption, humane care, and humane euthanasia of animals.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** while in regular session on February 10, 2020 at 5:30 p.m., as follows:

1. The Mayor is hereby authorized, on behalf of the City of Athens, to execute the Fourth Amendment to Contract between the City and Pitman in substantially the form shown in **Exhibit A** to this Resolution, and to take all such actions as may be necessary to carry out and enforce the terms of that agreement.
2. The Mayor is further authorized to take actions and execute such other and further documents as may be necessary to effect and carry out the transactions contemplated by this Resolution.
3. The general fund 2020 operating budget (line item 100.524.90197 – Animal Contract) is hereby amended to include an annual expense of \$143,000, (an increase of \$21,000 from the budget originally adopted for FY 2020).

**ADOPTED** this the 10th day of February, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

#### **EXHIBIT A**

#### **FOURTH AMENDMENT TO CONTRACT**

This is the fourth amendment to the “Contract Between the City of Athens and Dr. Robert E. Pitman, DVM” previously entered into between the City of Athens, Alabama, a municipal corporation organized under the laws of the State of Alabama (the “City”) and Dr. Robert E. Pitman of Athens, Alabama (“Pitman”), dated November 8, 2006 (the “Contract”, attached hereto), as amended on October 26, 2010, and as further amended on December 1, 2013 and on December 1, 2016.

#### **WITNESSETH:**

**WHEREAS**, the City and Pitman desire to further amend the Contract by extending the length of the term of the Contract; and increasing the amount of compensation due for the services rendered under such Contract;

**NOW, THEREFORE**, in consideration of the above, the parties hereto hereby agree as follows:

**A. Section 2 of the Contract is hereby further amended to read as follows:**

2. **Payment of Fees to Pitman.** Commencing with the payment due in January, 2020, as consideration for Pitman’s performance of all of the duties and responsibilities set forth herein, the City shall pay Pitman the sum of \$11,916.67 per month. Pitman shall be paid on a monthly basis. The City shall pay Pitman on or before the tenth day of each month.

**B. Section 9 of the Contract is hereby further amended to read as follows:**

9. **Term of Contract.** This contract shall be for a term commencing on December 1, 2006 and ending at the close of business on December 31, 2022.

**C. Section 13 of the Contract is hereby further amended to read as follows:**

13. **Notices.** All notices issued by Pitman pursuant to this Contract shall be sent, via certified and regular mail, to the City in care of the City Clerk/Treasurer, at the following address, or to any different representative of the City as may be directed by the Mayor:

City Clerk/Treasurer  
City of Athens  
200 West Hobbs Street  
Athens, AL 35611

All notices issued by the City pursuant to this Contract shall be sent, via certified and regular mail, to Pitman at the following address:

Dr. Robert E. Pitman  
1701 Highway 72 East  
Athens, AL 35611

**D. All of the other terms and conditions of the Contract, as amended, shall remain the same.**

IN WITNESS HEREOF, the undersigned have set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

THE CITY OF ATHENS, ALABAMA

BY: \_\_\_\_\_  
TITLE: Mayor

Attest:

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

\_\_\_\_\_  
DR. ROBERT E. PITMAN

STATE OF ALABAMA     )  
LIMESTONE COUNTY    )

I, the undersigned Notary Public in and for said County in said State, hereby certify that Dr. Robert E. Pitman whose name is signed to the foregoing Fourth Amendment to Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the same, he executed for the same voluntarily on the day the same bears date.

Given under my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

Councilmember Seibert moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Harper thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Seibert and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilman Harper introduced the following resolution:**

**RESOLUTION NUMBER 2020 - 1668**

**WHEREAS**, the Department of Justice Office of Community Oriented Policing Services (COPS Office) is making funding available under the 2020 COPS Hiring Program (CHP) to further the department’s mission of advancing public safety through community policing by addressing the department’s goal of assisting state, local, and tribal efforts to prevent or reduce crime and violence.

**WHEREAS**, the City of Athens acting by and through its City Council proposes to apply for funds from the 2020 COPS Hiring Program for the purpose of hiring 7 new police officers, and

**NOW, THEREFORE**, be it resolved by the City Council of the City of Athens as follows:

**WILLIAM R. MARKS, MAYOR**, is hereby authorized to execute and submit an application with appropriate assurances to the Department of Justice requesting grant funds from the 2020 COPS Hiring Program to hire 7 new police officers for the Athens Police Department; and

**THAT, THE CITY OF ATHENS** understands if awarded the grant to hire 7 new police officers the 2020 COPS Hiring Program Grant will pay 75% of the new police officers salary and benefits for a period of three years and upon completion of the 3<sup>rd</sup> year of funding the City of Athens will be responsible for paying 100% of the salary and benefits of all 7 newly hired officers for the fourth year with local funds.

**READ AND ADOPTED** this the **10th** day of **February 2020**.

/s/ William R. Marks

MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ Annette Barnes

CITY CLERK, CITY OF ATHENS, ALABAMA

The motion was seconded by Councilman Seibert and was unanimously carried.

**Councilman Seibert introduced the following resolution:**

**RESOLUTION NUMBER 2020 - 1669**

**A RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT PROJECT WITH  
ATHENS ASSOCIATES, LLP**

**WHEREAS**, Athens Associates, LLP, an Alabama limited liability partnership (the “Company”), intends to redevelop and construct a new Publix supermarket anchored shopping center at the site of the former Kmart department store at 104 US Highway 31 in Athens (the “Project”);

**WHEREAS**, the City Council (the “Council”) of the City of Athens (the “City”) has determined that it is in the City’s best interest to provide economic development incentives to the Company in order to facilitate the development, construction and establishment of the Project, and that such expenditure will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to the Company or any other private entities;

**WHEREAS**, the Project is expected to result in the creation of 150 new jobs, result in the redevelopment and construction of the former Kmart site, and to include improved retail square footage space of approximately 48,387 square feet in the Supermarket, and 11,200 square feet in adjoining retail space;

**WHEREAS**, the Council wishes to extend economic development incentives to the Project;

**WHEREAS**, the activities to be authorized by this resolution; the public benefits sought to be achieved thereby; and each individual, firm, corporation, and other business entity to whom or for whose benefit the City proposes to lend its credit or grant public funds or thing of value, have been described in reasonable detail and/or identified in a notice published in the *Athens News Courier* (which this City Council finds and determines is the newspaper having the largest circulation in the county or municipality), at least seven days prior to this meeting at least seven days prior to this meeting;

**WHEREAS**, such public notice is attached to this Resolution as Attachment A and incorporated hereto as if set forth fully herein; and

**WHEREAS**, pursuant to a project agreement, the City and the Company wish to memorialize the general terms of their agreement with respect to the development of the Project.

**THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA**

on February 10, 2020, at 5:30 p.m., as follows:

1. The Mayor of the City is hereby authorized and directed, in the name of and for account of the City, to enter into a contract between the City and the Company, in substantially the same form as is attached hereto (and entitled the "Project Agreement") as Attachment B, with such non-substantive changes or additions thereto or deletions therefrom as the Mayor shall approve, which approval shall be conclusively evidenced by his execution of such instrument. The City Clerk of the City is hereby authorized and directed to affix the official seal of the City to such instrument and to attest the same.

2. It is hereby determined that the expenditures of public funds for the purposes specified in this resolution (and in Attachment B) will serve valid and sufficient public purposes, including (i) promoting, improving and expanding economic and commercial development/activity, (ii) increasing the number and diversity of employment opportunities for citizens of the City, and (iii) enhancing the overall quality of life for the citizens of the City, notwithstanding any incidental benefit accruing to any private entity or entities.

3. The Mayor is authorized to take actions and execute such other and further documents as may be necessary to effect and carry out the transactions contemplated by this Resolution and/or the agreement referenced herein, including but not limited to authorizing the issuance of warrants; the expenditure and use of municipal funds as set forth in those agreements; and approving and executing further agreement(s) that are consistent with and involved in carrying out the transactions contemplated by this Resolution.

4. This Resolution shall become effective upon the Council's adoption of an accompanying Ordinance directing and authorizing the Mayor to pay sales tax proceeds in the manner specified in the Project Agreement.

**ADOPTED** this the 10<sup>th</sup> day of February, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

## ATTACHMENT 1

### NOTICE OF PROPOSED ACTION AT PUBLIC MEETING

Notice is hereby given that during a regular meeting, which will be open to the public and will be held on February 10, 2020, at 5:30 o'clock, P.M., Central Time, at the City Council Chambers in Athens City Hall, at 200 Hobbs Street W, Athens, Alabama 35611, the City Council for the City of Athens, Alabama (the "City") will consider adopting a resolution in connection with an economic development project, described in reasonable detail herein.

The economic development project relates to Athens Associates, LLP (the "Company"), which intends to develop a proposed Publix supermarket (the "Supermarket") on certain real property located at 104 US Highway 31, Athens, Alabama (the "Property"). (This is the site of the former K-Mart in Athens.) The City believes that the proposed economic development project will create new jobs in the City, will generate additional tax revenues for the City, will increase commerce in the City and will generally promote the economic development of the City. It is anticipated that the project will result in the creation of at least 150 new jobs, will result in the redevelopment and construction of a new grocery anchored shopping center, and will include improved retail square footage space of approximately 48,387 square feet in the Supermarket, and 11,200 square feet in adjoining retail space. The assistance described herein will encourage economic development and will constitute an economic development project for the City. The City's granting of public funds or things of value as described herein will benefit the Company.

The City Council will consider the adoption of a resolution authorizing the City of Athens to enter into a Project Agreement with the Company. Through the Project Agreement, the City would commit to adding a new signalized intersection at the eastern edge of the Property and Highway 31, which would benefit both the Property and Athens Middle School. The City would also commit to constructing a public road and intersection with Pryor Street on the north portion of the Property. (Publix' interest in this proposed economic development project is contingent on the Property's access to Pryor Street.) The Company would provide property necessary for the Pryor Street intersection, and would pay all of the City's expenses in connection with that work.

Thereafter, the City would annually pay the Company in arrears one hundred percent (100%) of the proceeds from the City's sales tax (levied pursuant to Chapter 18, Articles 2 and 9 of the City Code) actually received by the City from the Supermarket and other businesses located on the Property (except for relocations of existing businesses in the City), net of certain costs, for a period of six (6) years, or until a maximum sum is paid by the City to the Company in an amount that is equivalent to the amount that was previously paid by the Company to the City in connection with the Pryor Street work referenced above, whichever comes first. The obligation of the City in this regard would be evidenced by the issuance of a warrant. The City's payment obligations would be conditioned upon the opening and operation of the Supermarket, as described in more particularity in the Project Agreement, among other things.

THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA

Publication: Saturday, February 1, 2020

## ATTACHMENT 2

### PROJECT AGREEMENT – CITY OF ATHENS AND ATHENS ASSOCIATES, LLP

This Project Agreement (this "**Agreement**") is entered into as of the \_\_\_ day of February, 2020, by and among the **CITY OF ATHENS, ALABAMA**, an Alabama municipal corporation (the "**City**") and **ATHENS ASSOCIATES, LLP**, a limited liability partnership under the laws of the State of Alabama, or its assigns (the "**Company**").

#### RECITALS:

This Agreement relates to the following real property that is located in Athens, Alabama, and identified by the Limestone County Revenue Commissioner's office: (a) 10 02 04 4 000 033.001; (b) 10 02 04 4 000 033.007; (c) 10 02 04 4 000 033.002; (d) 10 02 04 4 000 033.003; and (e) 10 02 04 4 000 033.006. This property is located along Highway

31 and Pryor Street, and is the site of a former K-Mart department store and parking lot. The above-described property is referred to throughout this Agreement as the “**Property**”.

The Property is owned by persons or entities operating in conjunction with, or under the control of, the Company.

The Company expects and intends to develop a new grocery anchored shopping center on the Property, including a Publix supermarket, and, in doing so, reasonably expects, based upon the Company and its associates’ experience in developing similar projects, that such development will (i) result in the creation of approximately 150 new jobs, and (ii) include improved retail square footage space of approximately 48,387 square feet in the proposed Publix supermarket, 11,200 square feet in adjoining retail space and outparcel(s).

The City has agreed, based upon the expectations set forth above and other benefits to the City, to assist the Company as provided herein. The Company has agreed to construct and establish the Project as provided herein. Pursuant to the applicable laws of the State of Alabama referenced herein and for the purposes referenced herein, the City and the Company have delivered this Agreement.

The City has approved the transaction contemplated hereby after notice to the public in accordance with the requirements of Amendment 772 to the *Constitution of Alabama*, codified as § 94.01 of the *Constitution of Alabama*.

**NOW, THEREFORE**, in consideration of the premises, the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree, as follows:

#### **I. DEFINITIONS**

For purposes of this Agreement, the following terms shall have the following meanings:

“**Annual Period**” shall mean a period of twelve consecutive calendar months, commencing on the same day of the year as the Commencement Date for Sales Tax.

“**City Sales Tax**” for any Annual Period shall mean the privilege license tax levied by the City during such Annual Period pursuant to Chapter 18, Articles 2 and 9 of the City Code of the City (commonly called sales and use taxes), or any substitute therefor, which consists of (i) a privilege or license (commonly called sales) tax on persons 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) or in the business of conducting places of amusement or entertainment within the City, generally measured by the gross sales or receipts of such businesses and (ii) an excise (commonly called a use) tax on the storage, use or other consumption of tangible personal property (subject to exemptions of certain property as provided by law) within the City, generally measured by the sales price of such property.

“**City Sales Tax Proceeds**” for any Annual Period shall mean and include all proceeds and receipts of the City Sales Tax.

“**Commencement Date for Sales Tax**” shall mean the date that is the first day of the month following the date of the City’s issuance of a municipal business license for the operation of a Publix supermarket at the location of the Project.

“**Enabling Law**” shall mean, collectively, (1) § 94.01 of the *Constitution of Alabama*, and (2) § 11-47-2 of the *Code of Alabama* (1975).

“**Payment Date**” shall be the same day of the year during each year of the Sales Tax Term, beginning with the date that is fourteen (14) months after the Commencement Date for Sales Tax, and being the same day of the year of each succeeding year.

“**Project**” shall mean the development, establishment, and operation of a grocery anchored shopping center on the Property, including a Publix supermarket and space for other restaurant and retail businesses on the Property (with an improved retail space of approximately 48,387 square feet in the proposed Publix supermarket, 11,200 square feet in adjoining retail space and outparcel(s)).

**“Project City Sales Tax Payments”** shall mean one hundred percent (100%) of the City Sales Tax Proceeds actually received by the City from the Project during the Annual Period for which such amount is determined, net of all costs incurred by the City to collect the City Sales Tax Proceeds within the Property. However, the Project City Sales Tax Payments will not include any City Sales Tax Proceeds received by the City from the Project where, in the sole judgment of the City, the same arise from or relate to any business or business activity that has relocated to the Property, on or after the date of this Agreement, from another location within the corporate limits of the city of Athens.

**“Series 2020 Warrant”** shall have the meaning set forth in Section IV.F of this Agreement.

**“Subsequent Project Owner”** shall mean a person to whom the Company sells all of the Project’s retail square footage space.

**“Sales Tax Term”** shall mean the period of time beginning on the Commencement Date for Sales Tax and ending on the Sales Tax Termination Date.

**“Sales Tax Termination Date”** shall mean: (1) the earlier of: (a) the day immediately following the first Payment Date that is six years and two months after the Commencement Date for Sales Tax, whether or not the aggregate Project City Sales Tax Payments at that time have equaled the Total City Sales Tax Commitment; or (b) the Payment Date on which the City shall have paid as Project City Sales Tax Payments an aggregate amount equal to the Total City Sales Tax Commitment; or

(2) if earlier than the dates specified in clause (1) above, the date after the Commencement Date for Sales Tax on which a Publix supermarket shall cease to operate or does not operate in the Property on a daily basis, except that if such cessation of operations shall be the result of fire, tornado, storm or other hazard, the Sales Tax Termination Date as so determined shall not occur until the date that is six (6) months after the date of cessation of operations.

**“Total City Sales Tax Commitment”** shall mean the total and cumulative amount that the Company has paid to the City through the operation of Article IV of this Agreement.

## **II. HIGHWAY 31 PROJECT.**

A. **City Design and Construction of Highway 31 Project.** The City will cause the construction of a public works project to be awarded on a competitive bid basis which adds a new signalized intersection with turn lane arrows, if applicable, at the eastern edge of the Property and Highway 31 (the **“Highway 31 Project”**). The Highway 31 Project will enable access from the Project to Highway 31 in reasonably the same form as shown in the Site Plan attached hereto as **Exhibit A**. The Highway 31 Project will be designed by the City in a form and manner that satisfies all applicable standards and objectives of the City, with the cost of the Highway 31 Project borne by the City.

B. **City Consultation with Company.** The City agrees to consult in good faith with the Company, from time to time, concerning the design, cost, progression and schedule of the Highway 31 Project. The Company recognizes that while the City cannot warrant or promise any date of completion of the Highway 31 Project, the City will, commencing upon the execution of this Agreement by the parties, work diligently and in good faith in an effort to cause the Highway 31 Project to be completed on a reasonable timeline that is acceptable to the Company. The City agrees to include provisions for liquidated damages (to encourage adherence to contract timelines) in the City’s agreement with any general contractor relating to the construction of the Highway 31 Project.

C. **Company Conveyances to City for Highway 31 Project.** The Company agrees to cause the conveyance to the City, at no cost to the City, of any portion of the Property that is reasonably deemed needed by the City in order to construct the Highway 31 Project, including but not limited to the irrevocable dedication of any strip of land on the eastern edge of the Property that the City’s engineers reasonably deem is needed in order have sufficient land for the Highway 31 Project improvements. In conjunction with such conveyance, the Company will provide the City with a title opinion from an Alabama licensed attorney, or a title commitment from a title company acceptable to the City, showing that the grantor of such conveyance owns an unrestricted fee simple interest in the property and has the full power and authority to convey the same to the City.

D. **Suspension or Termination of Highway 31 Project.** If the City, in its reasonable discretion, concludes that (1) significant work on the Project has been suspended for a period of at least six (6) months, (2) the

Project has been cancelled, or (3) the Project has been altered such that it does not include a Publix supermarket on the Property, then the City may, from time to time, delay, suspend or terminate its obligations under this Article II by providing notice of the same to the Company.

### **III. PRYOR STREET PROJECT.**

A. **City Design and Construction of Pryor Street Project.** The City will cause the construction of a public works project to be awarded on a competitive bid basis which adds a new intersection at the northern edge of the Property and Pryor Street (the "***Pryor Street Project***"). The Pryor Street Project will enable access from the Project to Pryor Street, so that the intersection with Pryor Street has a roundabout in reasonably the same form as shown on the Site Plan attached hereto as **Exhibit A**. The Pryor Street Project shall include, without limitation, construction of the right of way from the roundabout to the parking lot for the Property, in reasonably the same form as shown on the Site Plan. Notwithstanding the foregoing, if the City reasonably determines that conditions are such that a roundabout is not feasible, then the City, in good faith consultation with the Company, may utilize a different intersection design alternative such that both eastbound and westbound traffic on Pryor Street has access to the Project. The Pryor Street Project will be designed by the City in a form and manner that satisfies all applicable standards and objectives of the City.

B. **Cost of Pryor Street Project Borne by Company.** The cost of the Pryor Street Project (including any and all charges and expenses arising from or relating to the design and construction of the Pryor Street Project, including but not limited to architectural charges and fees, general contractor payments and fees, and charges for professional services (such as surveying)), shall be borne by the Company, in the following manner: (1) the City shall cause invoices to be issued to the Company, requiring payment for any and all such obligations, charges and expenses actually incurred, in the manner and schedule as directed by the City; and (2) the Company shall pay any and all such invoices within twenty (20) days of receipt. The Company recognizes that the City may not pay such obligations, charges and expenses until it has received payment from the Company for the same, and thus, that any delay by the Company in paying the City for such charges and expenses upon receipt of an invoice may result in a delay to the Project. The Company understands and agrees that the City will use such payments to pay for the City's costs and expenses arising from or relating to the Pryor Street Project and/or to reimburse the City for the City's payment of such costs and expenses.

C. **Company's Letter of Credit.** Within thirty (30) days of the date of this Agreement, the Company shall present to the City, in a manner and form acceptable to the City and in substantially the same form as shown in **Exhibit B** hereto, an irrevocable letter of credit as security for the Company's payment of all charges and expenses referenced in this **Article III** of the Agreement, in the amount of Eight Hundred Thousand and 00/100 Dollars (\$800,000.00). The following terms shall apply to such letter of credit:

1. The letter of credit shall be issued by a United States commercial bank having a credit rating on its senior unsecured debt of (i) "A3" or higher from Moody's, or (ii) "A-" or higher from S&P, or such other credit or financial institution acceptable to the City.

2. If the City determines, in its reasonable discretion, that the costs and expenses of the Pryor Street Project are likely to exceed \$800,000.00, then the City shall notify the Company of the reason for the same, and give the Company an opportunity to present a proposal to reduce the cost thereof. The Company shall have ten (10) business days (or such greater period of time if agreed upon by the City and the Company) to present such a proposal to the City, but in the event the City and the Company are unable to reasonably agree to such a proposal within such timeframe that reduces the cost of the Pryor Street Project to less than \$800,000, then, within twenty (20) days of the City's request, the Company shall obtain and present an amended or replacement irrevocable letter of credit, in a manner and form acceptable to the City, for a higher and different amount as requested by the City, in its reasonable discretion.

3. At any time, the Company may request a reduction in the amount of the letter of credit, and the City shall allow a reduction in the amount if, in the City's reasonable discretion, the remaining expected costs and expenses of the Pryor Street Project will be lower than the then-present amount of the letter of credit.

4. In the event that the Company does not pay the invoices of the City as set forth in this Article III, then the City may present for payment and draw upon the letter of credit as needed in order to pay such invoices.

5. The letter of credit may be drawn upon by the City, in whole or in part and on repeated occasions, as needed to satisfy the obligations hereunder, and shall be payable to the City immediately (upon the demand of the City upon the City's presentation of the letter of credit at a location of the financial institution within 100 miles of Athens, Alabama). The City shall provide the Company with written notice of its intent to draw on the letter of credit at least five (5) business days prior to the City doing so.

6. The term of the letter of credit shall be for at least one (1) year, or such shorter term as the City may agree, and shall automatically renew for successive one (1) year periods. The Company will provide any replacement letters of credit, in a form and manner acceptable to the City as set forth herein, to ensure that the end of any term of a letter of credit does not create a failure of the letter of credit requirements hereunder. If the Company has not provided such a replacement letter of credit to the City within thirty (30) days prior to the date of the expiration of the term of the letter of credit, then the City may draw upon the then-current letter of credit, and hold the proceeds as security for the Company's obligations under this Article III of the Agreement, to be used by the City as payment for such obligations.

7. The Company shall keep the irrevocable letter of credit (or any replacement letter of credit) in effect until the City provides the Company and the issuing bank with written notice that (a) all of the costs and expenses referenced in this Article III of the Agreement have been invoiced and paid in full by the Company, and (b) the letter of credit may be cancelled. The City will provide written notice to the Company and the issuing bank upon satisfaction of such obligations.

8. The Company's presentation of the letter of credit as set forth herein, and its continuing validity, is a condition precedent to any obligation of the City under this Agreement.

D. **City's Consultation with Company.** The City agrees to consult in good faith with the Company, from time to time, concerning the design, cost, progression and schedule of the Pryor Street Project. The Company recognizes that while the City cannot warrant or promise any date of completion of the Pryor Street Project, the City will, commencing upon the execution of this Agreement by the parties, work diligently and in good faith in an effort to cause the Pryor Street Project to be completed on a reasonable timeline that is acceptable to the Company. The City agrees to include provisions for liquidated damages (to encourage adherence to contract timelines) in the City's agreement with any general contractor relating to the construction of the Pryor Street Project. Any liquidated damages recovered by the City from its general contractor in connection with the Pryor Street Project, less reasonable attorneys' fees and costs of collection actually incurred by the City in connection with such recovery, shall belong to and be paid to the Company.

E. **Company Conveyances to City for Pryor Street Project.** The Company agrees to cause the conveyance to the City, at no cost to the City, of any portion of the Property that is reasonably deemed needed by the City in order to construct the Pryor Street Project, including but not limited to the irrevocable dedication of any strip of land on the northern portion of the Property that the City's engineers reasonably deem is needed in order have sufficient land for the Pryor Street Project improvements. In conjunction with such conveyance, the Company will provide the City with a title opinion from an Alabama licensed attorney, or a title commitment from a title company acceptable to the City, showing that the grantor of such conveyance owns an unrestricted fee simple interest in the property and has the full power and authority to convey the same to the City.

F. **Suspension or Termination of Pryor Street Project.** If the City, in its reasonable discretion, concludes that (1) significant work on the Project has been suspended for a period of at least six (6) months, (2) the Project has been cancelled, or (3) the Project has been altered such that it does not include a Publix supermarket on the Property, then the City may, from time to time, delay, suspend or terminate its obligations under this Article III by providing notice of the same to the Company.

#### **IV. SALES TAX PAYMENTS.**

A. **Deadline for Commencement Date for Sales Tax.** The Company hereby agrees that the Commencement Date for Sales Tax will occur on or before March 1, 2025, or else there shall be an Event of Default hereunder.

B. **Duration of Article IV Obligations.** The obligations of the City and the Company set forth in this Article IV shall arise on the date hereof and shall continue until the end of the Sales Tax Term.

C. **Expense Reimbursement Obligations.** The Company agrees to pay any reasonable out-of-pocket expenses incident to the negotiation, drafting and approval hereof, including but not limited to the fees and disbursements of legal counsel for the City related to the same. The Company agrees that if the Company has not paid the same prior to the first Payment Date, the City may pay the same by a deduction of set-off from the Project City Sales Tax Payments.

D. **Nature, Amount and Duration of Obligation of City.**

1. The City hereby agrees to pay to the Company in arrears on each Payment Date during the Sales Tax Term the Project City Sales Tax Payments reasonably determined by the City to be due and payable on such Payment Date. The obligation of the City for the payment of the Project City Sales Tax Payments:

a. is a limited obligation payable solely from the City Sales Tax Proceeds;

b. 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;

c. shall commence on the first Payment Date after the Commencement Date for Sales Tax; and

d. shall not include any payment attributable to Project City Sales Tax Proceeds received by the City after the last day of the last Annual Period in the Sales Tax Term.

2. The maximum amount of the Project City Sales Tax Payments that the City shall pay under this Agreement and the Series 2020 Warrant shall be limited to and shall not exceed the Total City Sales Tax Commitment.

3. The City shall have no obligation to pay any amount under this Agreement and the Series 2020 Warrant (a) prior to the date on which a Publix supermarket opens for business at the Project, or (b) from and after the Sales Tax Termination Date.

E. **Determination and Payment of Project City Sales Tax Payments.**

1. On each Payment Date, the City shall: (a) determine the Project City Sales Tax Payments (if any) to be made for the then immediately preceding Annual Period; and (b) pay to the Company, as owner of the Series 2020 Warrant, such amount of Project City Sales Tax Payments as determined under this Section IV.E.1.a.

2. The City will permit any attorneys, accountants or other agents or representatives designated by the Company to (a) have access to and visit and inspect any of the accounting systems, books of account, and financial records and properties of the City which pertain to the City Sales Tax Proceeds and the determination of Project City Sales Tax Payments, (b) examine and make abstracts from any such accounting systems, books and records, and (c) discuss the affairs, finances and accounts of the City pertaining to the City Sales Tax Proceeds and the determination of Project City Sales Tax Payments, with its officers, employees or agents, all at reasonable business times and upon reasonable notice; *provided*, however, that nothing herein shall require the disclosure of any information made confidential by law or contract.

F. **The Series 2020 Warrant**

1. The obligation of the City to pay the Project City Sales Tax Payments hereunder shall be evidenced by a single limited obligation revenue warrant payable solely from, and secured by a pledge of, so much of the City Sales Tax Proceeds as shall be necessary to pay the Project City Sales Tax Payments, in form and of content as the form of warrant attached to this Agreement as **Exhibit C** (the “*Series 2020 Warrant*”).

2. The Series 2020 Warrant shall not bear interest, shall be issued in the principal amount equal to the Total City Sales Tax Commitment, shall be dated the date of delivery, and shall mature on the Sales Tax Termination Date.

3. The Series 2020 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 City Sales Tax Proceeds as shall be necessary to pay the Project City Sales Tax Payments with respect to such warrant and the warrant fund established therefor as therein provided.

4. The Series 2020 Warrant shall be delivered to the Company by the City after the City's completion of the Pryor Street Project and upon the City's determination of the Total City Sales Tax Commitment.

5. The Series 2020 Warrant shall be registered and may be transferred as provided therein.

**G. Special Agreements of the City.**

1. All proceedings of the governing body of the City heretofore had and taken, and all resolutions and orders adopted pursuant thereto with respect to the levy and collection of the City Sales Tax, are hereby ratified and confirmed in all respects from and after the effective date thereof.

2. The City covenants and agrees:

a. The City shall, as long as this Agreement and the Series 2020 Warrant shall be outstanding, continue to levy and to provide for the assessment and collection of the City Sales Tax at rates not less than those in effect on the date of this Agreement; *provided*, that nothing herein shall prevent the City from granting any "sales tax holiday" generally applicable to sales of certain categories of items throughout the City.

b. Except to the extent provided hereunder or required by state law, the City shall not apply any of the City Sales Tax Proceeds which are allocable to or included as part of Project City Sales Tax Payments for the payment of any governmental expenses of operating the City other than costs of collection of such taxes, as herein provided.

**V. EVENTS OF DEFAULT AND REMEDIES.**

A. **Event of Default.** Any one or more of the following shall constitute an event of default by the City or the Company hereunder (an "*Event of Default*") under this Agreement (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):

1. default in the performance, or breach, of any covenant or warranty of the City in this Agreement, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the City by the Company a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the City shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default;

2. default in the performance, or breach, of any covenant of the Company set forth in Article II or III of this Agreement, and the continuance of such default or breach for a period of 5 days after there has been given, by registered or certified mail, to the Company by the City a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder; or

3. default in the performance, or breach, of any covenant or warranty of the Company in this Agreement (other than one set forth in Article II or III), and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Company by the City a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Company shall have a reasonable period of time within which to cure such default,

provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default.

B. **Remedies.** Each party hereto may (subject to Section V.C below) proceed to protect its rights and interests by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of any other party herein contained or in aid of the exercise of any power or remedy available at law or in equity.

C. **Remedies Subject to Available Law.** All rights, remedies and powers provided by this Agreement 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 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.

## VI. **REPRESENTATIONS AND WARRANTIES**

A. **City's Representations and Warranties.** The City hereby represents and warrants as follows:

1. The City has taken all necessary action required by the Enabling Law or any other applicable law to authorize this Agreement and the obligations hereunder, and by proper corporate action the City has duly authorized the execution, delivery and performance of this Agreement.

2. The Warrant shall be issued and delivered to the Company, upon condition that this Agreement is enforceable against the City in accordance with the terms hereof.

3. The issuance of the Warrant for the purposes set forth in this Agreement will result in direct financial benefits to the City.

4. No consent, approval, or authorization from any governmental authority or third party is required to be obtained by the City in connection with the execution, delivery, and performance by City of this Agreement.

5. This Agreement is binding on City and enforceable against City in accordance with its terms. Neither the execution of this Agreement nor consummation of the transactions contemplated hereby will (i) result in a breach of, default under or acceleration of any agreement to which City is a party or by which City is bound, or (ii) violate any restriction, court order, agreement or other legal obligation to which City is subject.

B. **Company's Representations, Warranties and Covenants.** The Company hereby represents and warrants as follows:

1. The Company has all necessary corporate power and authority to enter into and perform its obligations hereunder and by proper action the Company has duly authorized the execution, delivery and performance of this Agreement.

2. The Company is either the owner in fee simple of the Property, or has such influence and control over those persons who own the Property in fee simple, as to have all necessary power and authority to acquire and construct the Project, and to perform the Company's obligations, as contemplated herein.

3. The Company will be a party to a lease agreement providing for the lease and operation of a portion of the Project's retail space as a Publix supermarket.

4. The Company reasonably anticipates that the Project will result in the creation of approximately 150 new jobs to be situated at the Project; provided, however, that the creation of such new jobs shall not be a commitment of the Company hereunder.

5. The Company reasonably anticipates that the Publix supermarket in the Project will include approximately 48,387 square feet of improved commercial space; provided, however, that the square footage of the Publix supermarket shall not be a commitment of the Company hereunder.

6. In the event that any part or all of the conveyances to the City described herein are set aside by any court of competent jurisdiction due to any defect in the title to any part of the Property, the Company agrees that it will take any and all legal measures available to correct such defects in title to the Property, and to see and ensure that the Property is properly conveyed as described in this Agreement.

7. This Agreement, when executed and delivered, will constitute the valid and binding obligations of the Company, enforceable in accordance with the terms and conditions set forth herein.

8. The Company's execution and delivery of this Agreement and Company's compliance with the provisions thereof will not conflict with or constitute a breach of, or a default under, any of the provisions of any applicable law, rule, regulation or order of any court, administrative agency, bureau, board, commission, office, authority, department or other governmental entity.

9. Company is not a party to or bound by any agreement or obligation or subject to any restriction or to any applicable law, rule, regulation or order of any court, administrative agency, bureau, board, commission, office, authority, department or other governmental entity, which might result in a material impairment of the rights or abilities of Company to perform its obligations hereunder.

10. There are no judgments, orders, suits, actions, garnishments, attachments or proceedings of any nature by or before any court, commission, board or other governmental body pending, or to the knowledge of Company threatened, which involve or affect, or could involve or affect: (a) the Property, or any part thereof; (b) the validity or enforceability of this Agreement; or (c) any risk of any judgment or liability being imposed upon Company which could materially adversely affect Company's ability to observe or perform fully its agreements and obligations hereunder.

## VII. MISCELLANEOUS

A. **Severability Clause.** The provisions of this Agreement or the Warrant shall be severable. In the event any provision this Agreement or the Warrant shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining provisions hereof or thereof.

B. **Prior Agreements Cancelled.** This Agreement shall completely and fully supersede all other prior agreements, both written and oral, among the parties hereto relating to the matters contained herein. None of the parties hereto shall hereafter have any rights under any of such prior agreements but shall look to this Agreement for definition and determination of all of their respective rights, liabilities and responsibilities relating to the matters contained herein.

C. **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute but one and the same agreement.

D. **No Third Party Beneficiaries.** This Agreement shall inure to the benefit solely of the parties hereto and their permitted successors and assigns, and no other person or entity is an intended beneficiary hereof or shall have any right to enforce the provisions hereof.

E. **Notice.**

1. 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:

a. if to the City:

City Hall  
City of Athens  
200 West Hobbs Street  
Athens, Alabama 35611  
Attention: Mayor  
Attention: City Clerk

b. if to the Company:

Athens Associates, LLP  
c/o Lewis Development and  
Management Company, LLC  
2140 11th Avenue South,  
Suite 405  
Birmingham, Alabama 35205  
Attn: Jimmy Lewis

With a copy to:  
Ming Commercial Real Estate Group,  
LLC  
116 N. Marion Street  
Athens, Alabama 35611  
Attention: Bill Ming

2. Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier.

**F. Delegation and Assignment of this Agreement.**

1. The City shall have no authority or power to, and shall not, delegate to any person the duty or obligation to observe or perform any agreement or obligation of the City hereunder. Nothing in this section, however, shall prevent the City from engaging appropriate consultants, experts, agents or outside representatives to perform the City's obligations under this Agreement on behalf of the City.

2. The City shall not have any authority or power to, and shall not, assign to any person any right of the City hereunder or any interest of the City herein.

3. The Company may, after the Commencement Date for Sales Tax, transfer or assign to any person all of its rights, title and interest in this Agreement, including the Series 2020 Warrant, only to a Subsequent Project Owner that expressly assumes the obligations of the Company hereunder, or to a lender or collateral agent as security for a loan with respect to the Project, in either case upon not less than thirty (30) days prior written notice to the City. No other assignment or transfer by the Company of its rights, title or interest in this Agreement is permitted without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. In no event shall the City be required to make payments to or have any obligation to respond to or give notices to any party other than the Company or, after any assignment as permitted hereby, to a single assignee.

**G. Amendments.** This Agreement may be amended or supplemented only by an instrument in writing duly authorized, executed and delivered by each party hereto.

**H. No Joint Venture.** Nothing in this Agreement shall create any joint venture, partnership or other relationship between the parties. The City shall not by virtue of this Agreement be deemed to have any ownership interest in the Property or the Project and shall have no liability arising out of the operation of the Project by the Company, its successors or assigns.

**I. Governing Law.** This Agreement shall be governed exclusively by the laws of the State of Alabama, without regard to its conflicts of laws provisions.

**J. Time of the Essence.** Time is of the essence of each provision of this Agreement.

**K. Waiver.** No waiver of any breach, violation or default of this Agreement shall be construed as a waiver of any subsequent breach, violation or default hereof.

**L. Drafting.** The parties hereto acknowledge that each of them has had the opportunity to contribute to the drafting of this Agreement, and, as a consequence, that the Agreement should not be construed for or against any party to it.

**M. Attorney Fees.** If either party institutes an action or proceeding against the other relating to the provisions of this Agreement or any default hereunder, the unsuccessful party to such action or proceeding will reimburse the successful party therein for the reasonable expenses of attorneys' fees and disbursements and litigation expenses incurred by the successful party.

**N. Delay Event; Time of the Essence.** Notwithstanding the other timeframes set forth above, if a Delay Event occurs, the City's obligations hereunder will be extended for so long as such Delay Event occurs and is continuing,

and for so long thereafter as the City continues to reasonably pursue completion of the Highway 31 Project and the Pryor Street Project. A “**Delay Event**” means any cause(s) or matter(s), whether of the kind herein enumerated or otherwise, and whether or not within the exclusive or partial control of the City, which the City could not reasonably foresee or expect at the time it entered into this Agreement, and which obstructs, impedes or interferes with the City’s reasonable efforts relating to the construction of the public roadways. Such term includes, but is not limited to: (i) acts of God; (ii) strikes or lockouts; (iii) conditions arising from a change in governmental laws, orders, rules or regulations, provided the City shall not knowingly enact any law or regulation which disproportionately affects the Project compared to similarly situated developments; (iv) acts of public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, tornados, hurricanes, floods, and/or washouts; (v) walkouts between the City, its engineers, general contractor and subcontractors engaged to perform work on the Highway 31 Project or the Pryor Street Project; (vi) any unforeseen soil or other natural conditions that delay or prevent construction of the Highway 31 Project or the Pryor Street Project; (vii) any unforeseen environmental hazards that delay or prevent construction of the Highway 31 Project or the Pryor Street Project; (viii) any governmental permitting or approval process (other than one within the exclusive control of the City) that delays or prevents construction of the Highway 31 Project or the Pryor Street Project; (ix) the inability of the City, its contractors, or its subcontractors to acquire, or the delays on the part of the same in acquiring, at reasonable costs, and after the exercise of due diligence, materials and supplies for the purpose of being used in connection with the Highway 31 Project or the Pryor Street Project; and/or (x) extreme inclement weather conditions that delay or prevent construction of the Highway 31 Project or the Pryor Street Project. Except as set forth above time shall be the essence with respect to each obligation of the parties hereunder. The City shall notify the Company within a reasonable time upon the occurrence of any Delay Event, including the estimated amount of the delay. The City shall use reasonable efforts to mitigate the effects of any Delay Event.

O. **City’s Design and Construction of Public Improvements.** In satisfying its obligations as set forth herein, the City retains its sole authority to design and construct public improvements and public roadways, and does not, through the operation of this Agreement, delegate, share, or require the approval of any other person or entity with respect to the same.

P. **Excluded Liabilities.** The City shall neither assume nor pay for nor be liable for any of the Company’s agreements, liabilities, debts, responsibilities or obligations with respect to the Property or otherwise, whether direct, fixed or contingent, and whether existing or arising at any time prior or subsequent to the date of this Agreement, except and only to the extent otherwise provided herein.

**IN WITNESS WHEREOF**, the City has caused this Agreement to be executed in its name, under seal, and the same attested, by an officer thereof duly authorized thereunto, and the Company 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 ATHENS, ALABAMA**

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

ATTEST: \_\_\_\_\_  
Its Clerk

**ATHENS ASSOCIATES, LLP**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF ALABAMA )  
LIMESTONE COUNTY )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that William R. Marks, whose name as Mayor of the City of Athens, Alabama, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the same, he, in his capacity as such authorized agent 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 this the \_\_\_\_ day of \_\_\_\_\_, 2020.

{SEAL}

\_\_\_\_\_  
Notary Public  
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 authorized agent of Athens Associates, LLP, an Alabama limited liability partnership, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the same, he/she, in his/her capacity as such authorized agent 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 this the \_\_\_\_ day of \_\_\_\_\_, 2020.

{SEAL}

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

**EXHIBIT A**



To Whom It May Concern:

By order of our client, Athens Associates, LLP, with a primary place of business at \_\_\_\_\_ (hereinafter known as "AA") and for account of same, we hereby establish our Irrevocable Standby Letter of Credit ("Letter of

**IRREVOCABLE PERFORMANCE STANDBY LETTER OF CREDIT**  
(REF. NO.)

Issuing Bank:	_____
Amount:	U.S. \$800,000.00 currency
Issue Date:	_____
Expiration Date:	_____
Beneficiary:	City of Athens, Alabama Attn: City Clerk PO Box 1089 Athens, AL 35611
Applicant:	Athens Associates, LLP [Complete Address]

Credit"). We hereby authorize you to draw on (Name and Address of Bank) up to an aggregate amount of Eight Hundred Thousand and 00/100 Dollars (\$800,000.00) to be immediately available to the City of Athens, Alabama when accompanied by the following documents:

1. Your sight draft on us at any of our business locations, including but not limited to the following business location within 100 miles of the City of Athens, Alabama: \_\_\_\_\_  
\_\_\_\_\_;

2. A statement purportedly signed by a corporate officer of the City of Athens, Alabama stating that:

"We hereby certify that Customer has failed to satisfy charges or obligations owed to the City of Athens, Alabama, which may include, but not be limited to, nonpayment of charges and expenses arising from or relating to the design and construction of the Pryor Street Project, and the amount drawn represents amounts due to be paid to the City of Athens, Alabama as a result thereof. We hereby demand payment in the amount of (Written Amount and Figures) (\$\_\_\_\_) under your Standby Letter of Credit No. \_\_\_\_\_";

3. A copy of your written notice sent via express mail courier to AA, dated at least five (5) business days prior to presentation of any claim hereunder, evidencing that Beneficiary gave written notification to:

Athens Associates, LLP  
[Address]

This notification to AA states therein that "AA is in breach of its contract obligations by failing to (Specify Reason). Accordingly, we intend to claim (Specify Amount) in the event AA fails to cure such default within 5 (five) business days from the date of this notice." And

This Letter of Credit is not transferable.

Partial drawings hereunder are permitted, until the amount of this Letter of Credit is reduced to zero.

This Letter of Credit will automatically expire on the earliest of:

- (i) The date that the amount of this Letter of Credit is reduced to zero;
- (ii) the date this Letter of Credit is returned for cancellation by Beneficiary; or
- (iii) the expiration date set forth above.

Drafts must be drawn and presented at our office at (location) not later than (Expiration Date).

Any draft drawn hereunder must be endorsed and marked: "Drawn under (Issuing Bank Name), Irrevocable Standby Letter of Credit No. \_\_\_\_\_" and indicate the date drawn.

We hereby agree with the drawers, endorsers and bona fide holders of all drafts drawn under and in strict compliance with the terms of this credit, that such drafts will be honored only upon presentation to the [Issuing bank].

All opening bank charges including, but not limited to fees or commissions shall be for Applicant's account:

This Letter of Credit and any drafts presented hereunder, sets forth in full the Issuing Bank's undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any other document, instrument or agreement.

Authorized Signatures(s)

**EXHIBIT C**

**THIS WARRANT HAS NOT BEEN REGISTERED (i) UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON THE EXEMPTION PROVIDED BY SECTION 4(2) OF SAID ACT, OR (ii) UNDER ANY STATE SECURITIES LAW, IN RELIANCE UPON APPLICABLE EXEMPTIONS, AND MAY NOT BE TRANSFERRED WITHOUT REGISTRATION EXCEPT PURSUANT TO AN EXEMPTION THEREFROM.**

**THIS WARRANT DOES NOT BEAR INTEREST**

**UNITED STATES OF AMERICA  
STATE OF ALABAMA**

**CITY OF ATHENS, ALABAMA  
LIMITED OBLIGATION PROJECT REVENUE WARRANT,  
SERIES 2020**

No. \_\_\_\_\_

**DATED DATE:**

\_\_\_\_\_, 202\_\_

**MATURITY DATE:**

Termination Date

**CITY OF ATHENS, ALABAMA**, an Alabama municipal corporation (the "Issuer"), for value received, hereby acknowledges that it is indebted in the principal sum of

\_\_\_\_\_ **DOLLARS**  
(\$\_\_\_\_\_)

and hereby directs its Treasurer to pay (but solely out of the Project City Sales Tax Payments deposited in the Series 2020 Warrant Fund hereinafter designated) such principal sum to

**ATHENS ASSOCIATES, LLP**

or registered assigns (the "Holder"), without interest, on each Payment Date, until and including the first to occur of (i) payment in full of the principal amount hereof or (ii) the Maturity Date specified above.

**Authority for Issuance**

This warrant is issued pursuant to the authority of the constitution and laws of the state of Alabama, including particularly and without limitation § 94.01 of the Official Recompilation of the Constitution of Alabama of 1901 and § 11-47-2 of the Code of Alabama (1975) (collectively, the "Enabling Law"), and that certain Project Agreement dated February \_\_, 2020 (the "Agreement") between the Issuer and Athens Associates, LLP, an Alabama limited liability partnership.

Capitalized terms used hereinbefore and hereinafter without definition shall have the respective meanings assigned thereto in the Agreement.

Reference is made to the provisions of the Agreement, to and by which all of which provisions the Holder, by acceptance of this warrant, assents and agrees to be bound. To the extent of any conflict between the terms hereof and the terms of the Agreement, as the same may be amended from time to time, the terms of the Agreement shall be determinative, and any assignee or subsequent Holder hereof shall take subject to any such amendment.

## **Payment**

Payment of this warrant shall be made to the Holder at the address shown on the registration books maintained by the Issuer; provided the final payment of principal of this warrant shall be made only upon presentation and surrender of this warrant to the Issuer for cancellation.

Each payment of principal made on this warrant shall be reflected by the Issuer on the books maintained by the Issuer with respect to this warrant. Upon written request therefor, the Issuer will provide to the Holder from time to time the unpaid principal amount hereof.

All payments of principal of this warrant by the Issuer shall be made at par in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, and shall be valid and effectual to satisfy and discharge the liability of the Issuer upon this warrant to the extent of the amounts so paid.

The person in whose name this warrant is registered on the books of the Issuer shall be deemed and regarded as the absolute owner hereof for all purposes and payment of the principal of this warrant shall be made only to or upon the order of the Holder hereof, and neither the Issuer nor any agent of the Issuer shall be affected by any notice to the contrary.

## **Source of Payment**

This warrant is a limited obligation of the Issuer payable solely from the Project City Sales Tax Payments as provided in the Agreement.

This warrant shall never constitute a charge against the general credit or taxing powers of the Issuer within the meaning of any constitutional provision or statutory limitation whatsoever.

The Issuer has established a special fund designated "Series 2020 Warrant Fund" (the "Series 2020 Warrant Fund") for the payment of this warrant and has obligated itself to pay or cause to be paid into the Series 2020 Warrant Fund, solely from the Project City Sales Tax Payments, sums sufficient to provide for the payment of this warrant in accordance with the terms and conditions of this Agreement.

## **Prepayment and Redemption**

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

## **Registration and Transfer**

This warrant is registered in the name of the Holder on the book of registration maintained for that purpose by the Issuer. This warrant may be transferred only (a) to an assignee of the rights of the "Company" under the Agreement, as permitted thereby, and (b) upon surrender hereof to the Issuer for the transfer, together with the written request of the Holder addressed to the Issuer, and recordation of such transfer on said book of registration and endorsement hereon by the Issuer. In no event shall the Issuer be required to recognize any transfer purporting to bifurcate the rights hereunder or under the Agreement among two or more persons or entities. Upon presentation to the Issuer for transfer, this warrant must be accompanied by a written instrument or instruments of transfer satisfactory to the Issuer, in form of the Assignment attached hereto, duly executed by the Holder or his attorney duly authorized in writing, and the Issuer shall endorse on the schedule attached hereto for such purpose the principal amount of this warrant unpaid. No service charge shall be made for any transfer or exchange hereinbefore referred to, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

**General**

No covenant or agreement contained in this warrant or in the Agreement shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the Issuer in the individual capacity thereof and none of such parties or persons nor any officer executing this warrant shall be liable personally on this warrant or be subject to any personal liability or accountability by reason of the issuance of this warrant.

It is hereby recited, certified and declared that the 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 this warrant represents a valid claim against the Series 2020 Warrant Fund, that all acts, conditions and things required by the constitution and laws of the State of Alabama to happen, exist and be performed precedent to and in the execution, registration and issuance of this warrant, the adoption of the resolution and order approving the Agreement, and the execution and delivery of the Agreement, have happened, do exist and have been performed in due time, form and manner as so required by law and that the principal amount of this warrant, together with all other indebtedness of the Issuer, are within every debt and other limit prescribed by the constitution and laws of the State of Alabama.

**IN WITNESS WHEREOF**, the Issuer has caused this warrant to be executed in its name and on its behalf by the Mayor of the Issuer, has caused its corporate seal to be affixed hereto and the same attested by the Clerk of the Issuer, and has caused this warrant to be dated the date and year first above written.

**CITY OF ATHENS, ALABAMA**

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

[S E A L]

ATTEST: \_\_\_\_\_  
Its Clerk

**Registration Certificate**

I hereby certify that this warrant has been duly registered by me as a claim against City of Athens, in the State of Alabama, and the Series 2020 Warrant Fund referred to herein.

\_\_\_\_\_  
Treasurer of City of Athens, Alabama

**Registration of Ownership**

This warrant is recorded and registered on the warrant register of City of Athens in the name of the last owner named below. The principal of this warrant shall be payable only to or upon the order of such registered owner.

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Signature of Authorized Officer of Issuer</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Endorsement by Issuer of Unpaid  
Principal on Date of Transfer**

<u>Date of Transfer</u>	<u>Principal Unpaid</u>	<u>Signature of Authorized Officer of Issuer</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Assignment**

For value received, \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ this warrant and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney to transfer this warrant on the books of the within named Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_,

NOTE: The name signed to this assignment must correspond with the name of the payee written on the face of the within warrant in all respects, without alteration, enlargement or change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
 (Bank or Trust Company)  
 By \_\_\_\_\_  
 (Authorized Officer)

Medallion Number: \_\_\_\_\_

\*Signature(s) must be guaranteed by an eligible guarantor institution which is a member of the recognized signature guarantee program, i.e., Securities Transfer Agents Medallion Program (STAMP), Stock Exchanges Medallion Program (SEMP), or New York Stock Exchange Medallion Signature Program (MSP)

Councilmember Harper moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Seibert thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Harper and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilman Seibert introduced the following ordinance:**

**ORDINANCE NUMBER 2020 - 2107**

**AN ORDINANCE CONCERNING AN ECONOMIC DEVELOPMENT PROJECT WITH ATHENS ASSOCIATES, LLP**

\_\_\_\_\_  
**WHEREAS**, the City Council has adopted a Resolution directing the Mayor to execute a Project Agreement by and between the City of Athens (the "City") and Athens Associates, LLP (the "Company"), relating to the redevelopment and construction a new Publix supermarket anchored shopping center at the site of the former Kmart department store at 104 US Highway 31 in Athens (the "Project"); and

**WHEREAS**, the City Council wishes to enact an Ordinance allowing for the Mayor's payment of certain municipal sales tax proceeds to the Company.

**THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** on February 10, 2020, at 5:30 p.m., as follows:

1. The Mayor of the City is hereby authorized and directed, in conjunction with and pursuant to the Project Agreement between the City and the Company, to annually pay the Company in arrears one hundred percent (100%) of the proceeds from the City's sales tax (levied pursuant to Chapter 18, Articles 2 and 9 of the City Code) actually received by the City from the Project, net of certain costs, for a limited period of time and under certain restrictions, in the manner that is fully described in the Project Development Agreement.

2. This Ordinance shall work as an exception to (and not as a repeal of) the application of any other ordinance (or part thereof) that is inconsistent with this Ordinance and the operation of the referenced Project Agreement; and in such case, shall be an exception only for the duration of the Project Agreement.

**ADOPTED** this the 10<sup>th</sup> day of February, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

Councilmember Harper moved that unanimous consent be given for immediate consideration of and action on said ordinance, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said ordinance had been unanimously carried. Councilmember Seibert thereupon moved that the ordinance be finally adopted, which motion was seconded by Councilmember Wales and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said ordinance had been unanimously carried.

\* \* \*

There being no further business to come before the meeting, Council President Travis asked if there were any objections to adjourning the meeting. There being none, the meeting was duly and properly adjourned.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL

ATTEST:

/s/ Annette Barnes  
CITY CLERK