

May 7, 2024
CALL FOR SPECIAL MEETING

WHEREAS, there exist certain matters which the below signed Mayor and Council Members of the City of Gautier desire to handle prior to the next regular meeting; and

NOW, THEREFORE, the undersigned Mayor and Council Members of the City of Gautier hereby call for a Special Meeting of the City Council, said meeting to be held in the Gautier Municipal Building, 3330 HWY 90, Gautier, Mississippi, on May 7, 2024 at 5:30pm. This Special Meeting is called in accordance with Section 21-9-39, Mississippi Code of 1972. The agenda of said Special Meeting shall be as follows:

AGENDA
CITY OF GAUTIER
May 7, 2024 at 5:30 PM

I. Call to Order

II. Agenda Order Approval

III. Business Agenda

1. Executive Session – Approval of a contract with Blackwater Resources Development Company

Adjourn Special Call Meeting

www.gautier-ms.gov

/s/ Casey Vaughan
MAYOR VAUGHAN

/s/ Adam Colledge
COUNCILMAN COLLEDGE

/s/ Gordon Gollott
COUNCILMAN GOLLOTT

/s/ Rusty Anderson
COUNCILMAN ANDERSON

/s/ Dante Elbin
COUNCILMAN ELBIN

/s/ Richard Jackson
COUNCILMAN JACKSON

/s/ Cameron George
COUNCILMAN GEORGE

**CITY OF GAUTIER
Business Agenda Item #1
Fact Sheet**

Council Meeting:

May 7, 2024

Title:

**Approval of the Redevelopment Agreement
between the City of Gautier and Blackwater
Development Company, LLC**

Introduced by:

Contact Person/Telephone

Paula Yancey 497-8000

Summary Explanation: Approval of the Redevelopment Agreement between the City of Gautier and Blackwater Development Company, LLC

EXHIBITS FOR REVIEW

Resolution	☐
Ordinance	☐
Contract/Agreement	☐
Minutes	☐
Plan Maps	☐
Order	☒
Other	☐
Submittal Authorization	City Manager

**Staff Recommendation:
Approval**

Motion Made by:

Vaughan	☐	Colledge	☐	George	☐	Jackson	☐	Gollott	☐	Anderson	☐	Elbin	☐
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Second Made by:

Vaughan	☐	Colledge	☐	George	☐	Jackson	☐	Gollott	☐	Anderson	☐	Elbin	☐
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Voted as follows:		Ayes	Nays	Abstained	Absent
Mayor	Vaughan	☐	☐	☐	☐
At Large	Colledge	☐	☐	☐	☐
Ward 1	George	☐	☐	☐	☐
Ward 2	Jackson	☐	☐	☐	☐
Ward 3	Gollott	☐	☐	☐	☐
Ward 4	Anderson	☐	☐	☐	☐
Ward 5	Elbin	☐	☐	☐	☐

Action Taken:

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 000-2024

WHEREAS, Blackwater Development Company, LLC is a limited liability company with demonstrable experience with projects similar to that contemplated at the former Singing River Mall Site (hereinafter, "the Property"), including turnkey developments or redevelopment projects, including, but not limited to, retail stores, full-service hotels, offices, medical facilities, commercial space, residential properties and other related properties; and

WHEREAS, the economic prosperity of the City, as well as the welfare of its citizens, may be enhanced by the potential development, construction, and operation of commercial development to be located on the Property, thereby resulting in improvements and promotion of the public good, the general welfare, trade, commerce, employment opportunities, economic development and revitalization, and the promotion of tourism in the City; and

WHEREAS, as such, City Staff desires to enter into a Redevelopment Agreement with Blackwater Development Company, LLC in order to obtain Developer and Consultant services as described in the attached agreement; and

WHEREAS, the Mayor and Council Members hereby find that entering this Redevelopment Agreement is in the best interest of the City of Gautier;

IT IS THEREFORE ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the Redevelopment Agreement with Blackwater Development Company, LLC is hereby approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary for this purpose.

Motion was made by **BLANK**, seconded by **BLANK**, and the following vote was recorded:

AYES:

NAYS:

MAYOR

ATTEST:

CITY CLERK

BLANK by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of May 7, 2024.

REDEVELOPMENT AGREEMENT

THIS **REDEVELOPMENT AGREEMENT** ("Agreement") having an effective date of _____, 2024 ("Effective Date") by and between the CITY OF GAUTIER, MISSISSIPPI, a municipality formed under the laws of the State of Mississippi ("City"), and BLACKWATER DEVELOPMENT COMPANY, LLC an Alabama limited liability company ("Developer"). The City and Developer may collectively hereinafter be referred to as the "Parties" or individually as a "Party".

RECITALS

WHEREAS, the City is the fee simple owner of that certain parcel of land being 52.76 acres, more or less, located in Lots 1, 2, 3, 6, and 7, Block 1, Singing River Mall Subdivision, and U.S. Government Lot 2, Fractional Section 35, Township 7 South, Range 7 West, City of Gautier, Jackson County, Mississippi, pursuant to that certain Warranty Deed dated November 8, 2021, recorded in Book 2048, Page 488, in the land records of the Chancery Clerk of Jackson County, Mississippi (the "Property"), such Property commonly referred to as the "Singing River Mall site". *See Development Map, marked as Exhibit "A";* and

WHEREAS, Developer is a limited liability company with demonstrable experience with projects similar to that contemplated at the Property, including turnkey developments or redevelopment projects, including, but not limited to, retail stores, full-service hotels, offices, medical facilities, commercial space, residential properties and other related properties, as well as ownership, management and operation of such properties, as set forth in House Bill 1724, 2019 Legislative Session, Mississippi Legislature (the "House Bill"); and

WHEREAS, the economic prosperity of the City, as well as the welfare of its citizens, may be enhanced by the potential development, construction, and operation of commercial development to be located on the Property, thereby resulting in improvements and promotion of the public good, the general welfare, trade, commerce, employment opportunities, economic development and revitalization, and the promotion of tourism in the City; and,

WHEREAS, it is the intent of the Parties that the development of the Property will create economic growth in and surrounding the Property, and that the City will realize economic, social and community benefits from its development and/or redevelopment;

WHEREAS, it is the intent of the City to enter into this Agreement to retain the services of Developer as its "master developer and consultant" to assist with the development of the Property as a master development, in accordance with the terms and conditions set forth herein; and,

WHEREAS, the execution and delivery of this Agreement on behalf of the City and Developer has been duly authorized.

NOW, THEREFORE, in consideration of mutual covenants and agreements herein, and such other good and valuable consideration, the City and Developer hereby agree as follows:

1. Agreement.

(a) The City hereby retains Developer as its exclusive master developer of the Property. In such role, Developer shall market the Property for development opportunities with the right to pursue development opportunities itself, with other tenants or occupants or to procure third party purchasers or related opportunities for the City and provide consulting services to the City with regard to any third party opportunities it receives from other tenants, occupants or purchasers. The Parties hereby mutually agree that the City is giving the Developer an exclusive right to perform under this Agreement for the time period and purposes set forth herein. Each of the Parties agree that neither will enter into any other agreement or arrangements which would permit any other entity other than Developer to undertake the study, planning, design, promotion or pursuit of a development or developments within the Property.

(b) Notwithstanding the foregoing, or any other provision herein, the City shall have the right to develop the Property for its own uses (by way of example only, a park, museum, city building, tourist or recreational site or other similar use) directly, and City shall owe Developer no compensation in regard to any such development uses. Additionally, the parties hereto recognize that certain tenants, occupants, or purchasers have approached and may in the future approach the City independently, and without the assistance of Developer. In those circumstances, the City will engage Developer as a Consultant only, as detailed below.

(c) Within five (5) business days from the Effective Date (if not previously provided), the City shall deliver to Developer copies, if any, of all existing surveys in the City's possession for the Property together with any other documents, if any, related to the Property, including without limitation title policies and commitments (and corresponding documents), environmental reports and permits, engineering reports and permits, soil reports, utility information, permits and other governmental approval information, and any other information in the City's possession that would be helpful to Developer in its development of the Property. The City, by execution of this Agreement, authorizes its agents or contractors to release any of the foregoing material, in hard copy format and/or electronically, at no cost to Developer. Developer may order a new survey of the Property from a licensed land surveyor or engineer. Developer is already in possession of an existing "Belk Redevelopment Agreement" between the City and Belk Stores of Mississippi, LLC which governs the ability of the City and its assigns, successors, agents, and contractors to develop the Property, and Developer enters this Agreement with a full appreciation of the legal implications and restrictions contained therein.

(d) From and after the Effective Date, the City grants to Developer the following rights:

(i) To pursue the marketing, planning, design and promotion of one or more proposed development projects or opportunities of the Property (individually or collectively, a "Proposed Project") which shall mean, development or redevelopment projects to be undertaken at the Property, including, but not limited to, construction, management, operation, ownership, leasing and maintenance of retail stores, full-service hotels, offices, medical facilities, commercial space, residential properties and other related properties, and which may be part of an urban renewal project under Title 43, Chapter 35, Mississippi Code of 1972, as amended from time to

time. The Parties agree that the term “Proposed Project” shall comply with the definition of a “Project” in the House Bill. Proposed Projects may include, without limitation, developer opportunities to be effected by third party occupants, tenants or purchasers or development opportunities to be effected directly by Developer or an affiliate of Developer.

(ii) To enter onto the Property to show the Property to prospective tenants, occupants, or purchasers;

(iii) To post and maintain signs that advertise the Property for sale or lease. Developer shall be responsible for paying for the marketing, advertising, promotional costs, and expenses relating to the Developer’s efforts including, but not limited to sales brochures and literature, advertising and media, promotional videos, photography, its attorneys’ fees, and any other promotional expenses or marketing costs related to the Property;

(iv) To do its feasibility studies, including, without limitation, the following (collectively, the “Feasibility Studies”): (A) to enter upon the Property to perform such tests, surveys, inspections and examinations of the Property as Developer deems advisable, including soil and environmental tests (including core drilling and related inspections); (B) to make investigations with regard to title to the Property, matters of survey, flood plain of the Property, wetlands on the Property, utilities availability, zoning and building code, handicapped accessibility and other applicable governmental requirements with regard to the Property and the use thereof; (C) to conduct market feasibility studies and any and all such other studies as Developer may deem necessary or appropriate in order to determine the feasibility of the Property for Developer’s Intended Use; and (D) to obtain the necessary permits and approvals from the applicable governmental or quasi-governmental authorities; Developer shall have full access to the Property for the purpose of performing its Feasibility Studies.

(e) The City desires that Developer bring forth all feasible Proposed Projects regardless of whether the Proposed Project requires a lease or sale of a portion of the Property, such that the City can decide whether it will agree to such a lease or sale, which shall be in the sole discretion of the City Council upon recommendation of the City Manager. The City has full authority to decline Proposed Projects for any reason whatsoever. If the Developer presents a Proposed Project for the Property which is recommended by the City Manager for approval by the City Council, the City Manager and Developer will negotiate in good faith toward a compensation agreement, financial incentive or other financial terms of such Proposed Project (“Compensation Agreement”), which shall dictate the terms of the Developer’s compensation or financial incentive for the Proposed Project. This shall be done on a case-by-case basis for each Proposed Project. Compensation Agreements must be approved by the Parties prior to acceptance of a Proposed Project by the City. Once a Proposed Project is approved by both Parties, the terms of such approval shall govern the Proposed Project thereafter. In those circumstances where tenants, occupants, or purchasers have approached and may in the future approach the City independently, and without the assistance of Developer, the Parties will negotiate in good faith toward a “Consultant Compensation Agreement”, which shall dictate the Developer’s compensation for the Proposed Project. This shall be done on a case-by-case basis for each such Proposed Project. Consultant Compensation Agreements must be approved by the Parties prior to acceptance of a Proposed Project by the City.

(f) The Parties agree that Proposed Projects are subject to and contingent upon compliance with all laws of the State of Mississippi relating to the sale and lease of real property by a municipality.

(g) The City hereby agrees to reimburse Developer reasonable and actual travel expenses incurred during execution of Developer's obligations under this Agreement. Prior to incurring said expenses in excess of \$500 per month, Developer must obtain authorization from the City Manager in order to be reimbursed.

2. Term. The term ("Term") of this Agreement shall be from the Effective Date through and until such term expiration date ("Term Expiration Date") that is the earlier of: (a) three (3) years from the Effective Date, or (b) thirty (30) days from the date that either Party delivers written notice to the other Party of such Party's intent to terminate this Agreement early; provided that in the event, as of the Term Expiration Date, Developer possesses a letter of intent from business or entity committing to proceed with a Proposed Project, this Agreement shall be extended as to that Proposed Project only (and the Property which is the subject thereof) until such time as the Proposed Project is approved or declined by the Parties.

3. Further Assurances and Cooperation. The Parties shall reasonably cooperate and execute such other documents and instruments reasonably requested by the other Party to more clearly evidence or carry out the provisions of this Agreement. Each Party shall cooperate with the other as reasonably appropriate to facilitate performance by the other Party of its obligations under this Agreement, and each shall keep the other informed of agreements and discussions with third parties which may affect the Properties and the Parties' obligations under this Agreement.

4. Representations and Warranties.

(a) The City hereby represents and warrants to Developer as follows:

(i) The City has fee simple interest in the Property, subject to the restrictions in the Belk Redevelopment Agreement.

(ii) There is only one pending or threatened condemnation or similar proceeding or assessment affecting any Property, or any part thereof. This involves a right of way acquisition by Mississippi Department of Transportation, and a taking of a small portion of Parcel "C" on the attached Development Map.

(iii) There is no agreement to which the City is a party or is binding on the City which is in conflict with this Agreement. There is no action or proceeding pending, or to the City's actual current knowledge threatened, against the City which challenges or impairs the City's ability to execute or perform its obligations under this Agreement.

(iv) The City has not engaged any third-party real estate brokers or agents with the present right or authority to market, sale or lease any Property.

(b) Developer hereby represents and warrants to the City as follows:

(i) Developer has the full right and authority to consummate or cause to be consummated the actions contemplated herein. This Agreement and all of the documents to be delivered by Developer have been and will be properly authorized and properly executed and will constitute the valid and binding obligations of Developer, enforceable in accordance with their terms; and

(ii) Developer is properly organized and existing under the laws of the State of Alabama.

5. Miscellaneous. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid, such illegal or invalid term or provision shall not affect the balance of the terms and provisions hereof. In the event any action or suit is brought by reason of any breach of this Agreement or any other dispute between the parties concerning this Agreement, then the prevailing party shall be entitled to have and recover from the other party all costs and expenses if allowed under the laws of the State of Mississippi. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Mississippi. The Developer may not assign this Agreement or the obligations hereunder to any other party without the express, written consent of the City. This Agreement is to be deemed to have been prepared jointly by the parties hereto, and if any inconsistencies or ambiguities exist herein, they shall not be interpreted or construed against either party as the drafter. The parties shall take such actions and execute such documents as each may reasonably request, to carry out the purposes of this Agreement. All paragraph headings are inserted for convenience only and shall not be used in any way to modify, limit, construe or otherwise affect this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Facsimile or "pdf" signatures on this Agreement shall be valid the same as originals. As used herein, the term "business day" means any day other than a Saturday, a Sunday or a federal or State holiday. Whenever action must be taken (including the giving of notice or the delivery of documents) under this Agreement during a certain period of time (or by a particular date) that ends (or occurs) on a non-business day, then such period (or date) shall be extended until the immediately following Business Day. Time is of the essence in the execution and performance of this Agreement and of each of its provisions. This Agreement sets forth the entire agreement between the parties, merges all prior and contemporaneous agreements, understandings, warranties or representations, and may be canceled, modified or amended only as set forth herein or by a written instrument executed by both the City and Developer. No waiver of any provision or condition of the contract by any party shall be valid unless in writing, signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default. All references to Exhibits contained herein are references to exhibits attached hereto, all of which are made a part hereof for all purposes the same as if set forth herein verbatim, it being expressly understood that if any Exhibit attached hereto which is to be executed and delivered at an Option Closing contains blanks, the same shall be completed correctly and in accordance with the terms and provisions contained herein and as contemplated herein prior to or at the time of execution and delivery thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DEVELOPER:

Blackwater Development Company, LLC

By: _____

Name: _____

Its: _____

Notice Address:

700 Montgomery Highway, Suite 186

Birmingham, AL 35216

Telephone: 205-969-1000

Email: legal@blackwaterresources.com

Attention: Legal Department

With copy to:

700 Montgomery Highway, Suite 186

Birmingham, AL 35216

Telephone: 205-969-1000

Email: john@blackwaterresources.com

Attention: John Abernathy

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that _____, whose name as _____ of Blackwater Development Company, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such _____ and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal, this the ____ day of _____, 2024.

Notary Public

My Commission Expires: _____

CITY OF GAUTIER, MISSISSIPPI

By: _____

Name: _____

Its: _____

Notice Address:

Telephone: _____

Email: _____

ATTEST:

By: _____

Name: _____

Its: _____

STATE OF MISSISSIPPI

COUNTY OF JACKSON

Personally appeared before me, the undersigned authority in and for the said county and state, on this ____ day of _____, 2024, within my jurisdiction, the within named Paula Yancey and Teresa Montgomery, who acknowledged they are the City Manager and City Clerk, respectively, of the City of Gautier, Mississippi, and that for and on behalf of said city and as its act and deed, they executed the above and foregoing instrument, after first having been duly authorized so to do.

Notary Public

My Commission Expires:

EXHIBIT A

Delineation of the Property



GAUTIER TOWN COMMONS MASTER PLAN GAUTIER, MISSISSIPPI

- DEVELOPMENT SUB-PARCELS
- L : RESIDENTIAL / SERVICE HOLDING
- I, J, K : OFFICE / MEDICAL
- A, B, C, D : MULTI-FAMILY / RETAIL
- COMMERCIAL
- M : CITY HALL
- G : MULTI-FAMILY / SERVICE HOLDING
- E : ARTS CENTER
- ENTERTAINMENT
- BELK : EXISTING BELK BUILDING
- P : EXISTING BUILDING
- H : OVERLOOK PARKING
- F : HOSPITALITY
- N : BELK PARCEL
- PERPETUAL ACQUIRED CORPUS
- BELK SUB-PARCEL
- O : BELK SUB-PARCEL
- TOWN CENTER (BELK + DEVELOPMENT PARCELS)
- Pylon SITE
- MONUMENT SIGN

