

**RESOLUTION 2021-R-48**

**AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT  
WITH FRESHWATER LAND TRUST**

**WHEREAS**, Freshwater Land Trust (“Land Trust”) is a publicly supported, tax-exempt nonprofit organization whose mission includes the acquisition, conservation and connection of lands that help protect rivers and streams and provide recreational opportunities for the community in central Alabama;

**WHEREAS**, the Land Trust is the owner of certain real property containing four (4) acres, more or less, located in the City of Irondale, Jefferson County, Alabama adjacent to the Cahaba River (known herein as the “Property”) and is more particularly described as follows:

That part of the Northeast quarter of the Northwest quarter of Section 23, Township 17 South, Range 1 West, situated in Jefferson County, Alabama, more particularly described as follows: Commence at the Northeast corner of said quarter-quarter section and run in a southerly direction along the east line of said quarter-quarter section for a distance of 595.92 feet, to the southerly right of way line of U. S. Highway 78; thence turn a deflection angle of 84 degrees 50 minutes 48 seconds left and run northeasterly along said right of way for a distance of 50.78 feet to the POINT OF BEGINNING; thence turn an interior angle 180 degrees 00 minutes 00 seconds right and run southwesterly along said right of way line for a distance of 220.75 feet to the beginning of a curve to the right with a radius of 5854.58 feet, a central angle of 06 degrees 09 minutes 56 seconds and a chord length of 629.72 feet; thence turn an interior angle to chord of said curve of 183 degrees 04 minutes 58 seconds right and run along the arc of said curve in a southwesterly direction for a distance 630.02 feet; thence turn an interior angle from chord of said curve of 93 degrees 04 minutes 58 seconds right and run in a southwesterly direction for a distance of 168.90 feet, more or less, to the center of the Cahaba River; thence run a meandering line along the Cahaba River in a northeasterly direction to the POINT OF BEGINNING;

**WHEREAS**, the City and the Land Trust entered into a Maintenance Agreement of the Property on May 19, 2020 in order to develop a publicly accessible canoe launch, to be known as the “Moon River Canoe Launch; and

**WHEREAS**, the City of Irondale, Alabama (“City”) and the Land Trust also desire to enter into a Ground Lease agreement for the lease of the Property by the City.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Irondale at a regular meeting, duly assembled, a quorum being present, as follows:

**SECTION 1. LEASE WITH THE LAND TRUST AUTHORIZED.** Mayor James D. Stewart, Jr. is authorized to execute a Ground Lease agreement for the Property with the Land Trust. Such agreement shall be in substantially the form attached hereto as Exhibit 1.

**SECTION 2. PUBLIC PURPOSE SERVED.** It is hereby established and declared that a public purpose is served through the execution of the Ground Lease agreement with the Land Trust to provide for a canoe launch recreational facility on the Property. The entering into of this Ground Lease agreement by the City confers a direct public benefit in furtherance of the public health, safety and welfare through the establishment of public recreational facilities as allowed by Alabama law.

**ADOPTED** this 2nd day of June, 2021.

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David Spivey, City Council President

**APPROVED:**

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James D. Stewart, Jr., Mayor

**ATTESTED:**

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Lue Jackson, City Clerk

**CERTIFICATION**

I, Lue Jackson, City Clerk of the City of Irondale, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Irondale at its regular meeting held on June 2, 2021, as same appears in the minutes of record of said meeting.

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Lue Jackson, City Clerk

**EXHIBIT 1**

*Ground Lease Agreement*

## GROUND LEASE

THIS GROUND LEASE (this "Lease") is made as of June \_\_\_\_\_, 2021 ("Commencement Date"), between the **City of Irondale, Alabama**, an Alabama municipal corporation ("Tenant"), and **Freshwater Land Trust**, an Alabama non-profit corporation ("Landlord").

In consideration of the mutual agreements contained in this Lease, Landlord leases to Tenant the real property located in the City of Irondale, Jefferson County, Alabama, more particularly shown in Exhibit A attached to this Lease (collectively referred to as the "Land"), together with all appurtenant easements, rights and privileges (the Land and such easements, rights and privileges are hereinafter referred to collectively as the "Leased Premises" or "Property"). The Leased Premises includes any improvements now or hereafter located on the Land.

THIS LEASE is made upon the following terms and conditions:

**Section 1. TERM.** The term of this Lease (the "Term") shall be forty (40) years commencing on the Commencement Date and expiring a period of forty (40) years from the date thereof. Either Landlord or Tenant may terminate this Lease at any time with at least thirty (30) days' notice to the other pursuant to the provisions of Section 10 hereof.

**Section 2. RENT.** During the Term, Tenant shall maintain the Property pursuant to the provisions set forth in Section 4 hereof and shall be responsible for all costs related to such ("Rent"). No other Rent amounts shall be due from Tenant to Landlord under the terms of this Lease.

### **Section 3. ALTERATIONS.**

3.1 Canoe Launch. In accordance with the terms of the May 19, 2020, Maintenance Agreement between the parties, attached to this Lease as Exhibit B (the "Maintenance Agreement"), Landlord shall be responsible for payment to construct the Parking Lot, as defined in the Maintenance Agreement, as part of the existing publicly accessible Canoe Launch. During the time of such construction and thereafter for the Term of this Lease, Landlord or its agent will provide comprehensive general liability insurance covering the Property with maximum limits of liability of not less than \$1,000,000 for personal injury to or death of any one person and \$2,000,000 for personal injury to or death of any group of persons as a result of one accident. Such policy shall name Tenant as an additional insured thereon. Landlord or its agent will indemnify and hold Tenant and its officers, employees, representatives and agents harmless from any liability of any kind, including court costs and reasonable attorney fees, related to the construction of the Parking Lot, as defined in the Maintenance Agreement, with the exception of any negligent, willful or wanton conduct or acts of Tenant or its employees, officers, representatives, agents, contractors, subcontractors, licensees, invitees, successors, and assigns.

3.2 Alterations. Landlord and Tenant acknowledge the Property was acquired by Landlord for conservation purposes, and the Property is subject to Master Plan Covenants dated April 29, 2008, recorded in Book LR200805, Page 17035 (the "Covenants"). At any time during the Term, Tenant, at its sole expense and after notice to and prior written approval by the Landlord,

may make alterations and additions to the Property, provided that the additions and alterations shall be constructed expeditiously with good materials in a good and workmanlike manner and in accordance with all requirements imposed by law, the Maintenance Agreement, and the Covenants. All alterations and additions made in accordance with this Section shall become part of the Property and shall remain the property of Tenant during the Term.

**Section 4. USE OF THE PROPERTY; MAINTENANCE.** Tenant and Landlord agree that the Leased Premises shall be used and occupied only for a Canoe Launch, community use, and public events. The Leased Premises shall not be used for any purpose other than the foregoing permitted uses unless the advance written consent of Landlord be first obtained, which consent shall be granted or withheld in Landlord's sole discretion. Throughout the Term, Tenant, at its sole cost and expense, shall keep and maintain the Property in accordance with the terms of the Maintenance Agreement.

**Section 5. COMPLIANCE WITH LAWS.** If any additions, alterations, changes, repairs or other work of any nature, structural or otherwise, shall be required or ordered or become necessary to the Canoe Launch or the Parking Lot (as defined in the Maintenance Agreement) at any time during the Term because of any law, ordinance, regulation and/or other governmental rule, the entire expense of the same, irrespective of when the same shall be incurred or become due, shall be the sole liability of Tenant.

**Section 6. TAXES, ASSESSMENTS AND OTHER CHARGES.** Landlord shall pay, prior to delinquency, all taxes, assessments, levies, fees, fines, penalties and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, which are during the Term hereof imposed or levied upon or assessed against the (A) Property, (B) any Rent or (C) this Lease, the leasehold estate hereby created, or which arise in respect of Tenant's possession or use of the Property, unless such taxes, assessments, levies, fees, fines, penalties and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, are caused by Tenant's breach of the Maintenance Agreement or the negligent, willful or wanton acts of Tenant or its employees, officers, representatives, agents, contractors, subcontractors, licensees, invitees, successors, and assigns.

**Section 7. UTILITIES.** No utility services are furnished to or consumed on the Property, including, but not limited to, electricity, gas, water, and sewer.

**Section 8. INSURANCE.** During the Term, Tenant shall provide and keep in force, at its sole cost and expense, comprehensive general liability insurance covering the Property and providing coverage with maximum limits of liability of not less than \$1,000,000 for personal injury to or death of any one person, \$2,000,000 for personal injury to or death of any group of persons as a result of one accident, and \$1,000,000 for property damage. Such policy shall name Landlord as an additional insured. As set forth in Section 3.1 hereof and during the Term, Landlord shall provide and keep in force, at its sole cost and expense, comprehensive general liability insurance covering the Property and providing coverage with maximum limits of liability of not less than \$1,000,000 for personal injury to or death of any one person, \$2,000,000 for personal injury to or death of any group of persons as a result of one accident, and \$1,000,000 for property damage. Such policy shall name Tenant as an additional insured.



**Section 13. COUNTERPARTS.** This Lease may be executed by Landlord and Tenant in one or more counterparts.

**Section 14. GOVERNING LAW.** This Lease shall be governed, construed and enforced in accordance with the laws of the State of Alabama.

**Section 15. HEADINGS; ENTIRE AGREEMENT.** The headings used in this Lease are inserted for convenience and are not to be considered in the construction of the provisions of this Lease. This Lease constitutes the entire agreement of the parties and may be amended or modified only in writing signed by both parties, and all prior agreements or understandings between the parties, either oral or written, are superseded by this Lease, except as referenced otherwise herein.

TENANT:

THE CITY OF IRONDALE, ALABAMA

By: \_\_\_\_\_  
James D. Stewart, Jr.

Its: Mayor

Date: \_\_\_\_\_

STATE OF ALABAMA )

COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **James D. Stewart, Jr**, whose name as Mayor of the City of Irondale, Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents thereof, he, in such capacity and with full authority, executed the same voluntarily for and as the act of said municipal corporation.

Given under my hand and official seal, this the \_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

LANDLORD:

FRESHWATER LAND TRUST

By: \_\_\_\_\_

(Signature)

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ALABAMA )

COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Rusha Smith**, whose name as Executive Director of Freshwater Land Trust, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents thereof, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the \_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

## **EXHIBIT A**

### **Land**

That part of the Northeast quarter of the Northwest quarter of Section 23, Township 17 South, Range 1 West, situated in Jefferson County, Alabama, more particularly described as follows: Commence at the Northeast corner of said quarter-quarter section and run in a southerly direction along the east line of said quarter-quarter section for a distance of 595.92 feet, to the southerly right of way line of U. S. Highway 78; thence turn a deflection angle of 84 degrees 50 minutes 48 seconds left and run northeasterly along said right of way for a distance of 50.78 feet to the POINT OF BEGINNING; thence turn an interior angle 180 degrees 00 minutes 00 seconds right and run southwesterly along said right of way line for a distance of 220.75 feet to the beginning of a curve to the right with a radius of 5854.58 feet, a central angle of 06 degrees 09 minutes 56 seconds and a chord length of 629.72 feet; thence turn an interior angle to chord of said curve of 183 degrees 04 minutes 58 seconds right and run along the arc of said curve in a southwesterly direction for a distance 630.02 feet; thence turn an interior angle from chord of said curve of 93 degrees 04 minutes 58 seconds right and run in a southwesterly direction for a distance of 168.90 feet, more or less, to the center of the Cahaba River; thence run a meandering line along the Cahaba River in a northeasterly direction to the POINT OF BEGINNING.

**EXHIBIT B**

**Maintenance Agreement**