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# AGENDA REPORT

**Meeting Date:** September 20, 2023

**Item Number:** 2

**Prepared By:** Jason Greiner

## Subject

Consider and act upon the Amended and Restated Performance Agreement between the WEDC and Firewater Investments, LLC.

## Recommendation

Motion to approve the Amended and Restated Performance Agreement between the WEDC and Firewater Investments, LLC, and further authorize the Executive Director to execute any and all necessary documents.

## Discussion

As the Board will recall, the WEDC approved a Performance Agreement with Firewater Investments, LLC, and FWIRE, LLC (Project 2021-6a) in an amount not to exceed \$300,000 on June 21, 2023.

During the process of construction, real estate became available in Downtown Wylie and Herman Marshall opened a tasting room to provide additional exposure for their product while the distillery was still being remodeled. As a result, Herman Marshall has integrated the downtown location for purposes of the tasting room and administrative functions of their business while utilizing the distillery location for production. As a result, they are not utilizing the distillery as their primary location and they have established their home address downtown. While Firewater can still meet the current terms of the agreement with regard to the relocation of the distillery, the Amended and Restated Performance Agreement properly accounts for both locations and allows some additional flexibility with regard to reporting standards at more than one facility. It's important to note that this Amended and Restated Agreement is required more from a compliance or legal perspective and not from the typical need for an extension or overall amendment of payment terms, incentive amounts, or deliverables.

### Attachment

- Amended and Restated Performance Agreement
- Original Performance Agreement