

Anniston, Alabama

October 17, 2019

The City Council of the City of Anniston, Alabama, met in Special Session in Room B of the Anniston City Meeting Center in the City of Anniston, Alabama, on Thursday, October 17, 2019, at approximately 12:00 o'clock p.m.

Jack Draper, Mayor, prayed the Invocation.

Jack Draper, Mayor, led the Pledge of Allegiance to the Flag.

Mayor Draper called the meeting to order. On call of the roll, the following Council Members were found to be present: Council Members Jenkins, Harris, and Draper, absent: Reddick and Little. A quorum was present and the meeting opened for the transaction of business.

Steven Folks, Interim City Manager, was present.

Bruce Downey, City Attorney, was present.

Mayor Draper made a motion to adopt the agenda with the addition of a motion for a Special Events Retail License for the City of Anniston for the Fat Tire Feast. The motion was seconded by Council Member Harris and on call of the roll the following vote was recorded: ayes: Council Member Jenkins, Harris, and Draper; nays: none. The motion carried and the agenda is adopted.

Bruce Downey, City Attorney, read and introduced Resolution 19-R-197, a Resolution authorizing a Special Economic Development Agreement by the City of Anniston, Alabama and D&K James, LLC:

**19-R-197**

**A Resolution Authorizing a Special Economic Development Agreement by the City of Anniston, Alabama and D&K James LLC**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANNISTON, ALABAMA (THE "COUNCIL") AS GOVERNING BODY OF THE CITY OF ANNISTON, ALABAMA (the "Municipality"), as follows:

Section 1. The Council, upon evidence duly presented to and considered by it, has found and determined, and does hereby find, determine and declare as follows:

- (a) Pursuant to the applicable laws of the State of Alabama, the Municipality and D&K James, LLC (the "Developer") have prepared that certain Special Economic Development Agreement to be dated the date of delivery (the "Special Economic Development Agreement", as set forth hereinafter, for the purposes referenced therein.
- (b) The Municipality is without absolute authority or power under any local constitutional amendment to do any of the actions or undertakings referenced in Amendment No. 772 of the Constitution of Alabama of 1901, as amended ("Amendment No. 772").
- (c) The Municipality is authorized under Amendment No. 772 to become indebted, and to issue obligations as referenced therein, upon the full faith and credit of the Municipality, to a principal amount not exceeding 50% of the assessed value of taxable property therein, as determined for state taxation, in furtherance of the powers and authorities granted in Amendment No. 772.

- (d) Pursuant to, and for the purposes of, Amendment No. 772, it is necessary, desirable and in the public interest for the Municipality to grant public funds for the economic development of the Municipality, and for such purposes to execute and deliver the Special Economic Development Agreement.
- (e) The financial obligations of the Municipality created pursuant to the Special Economic Development Agreement shall not exceed \$500,000.00.
- (f) The expenditure of public funds for the purposes specified in the Special Economic Development Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.
- (g) (1) On October \_\_, 2019, the Municipality caused to be published in the Anniston Star , which newspaper has the largest circulation in the Municipality, the notice required by Amendment No. 772(c)(2), a true and correct copy of which notice is set forth as follows:

LEGAL NOTICE OF PROPOSED ECONOMIC DEVELOPEMTN ACTION AND RELATED PUBLIC EXPENDITURES BY THE CITY OF ANNISTON, ALABAMA

Notice is hereby given that the City Council (the "Council") of the City of Anniston, Alabama (the "City") will meet in public session at \_\_ p.m in October 17, 2019 in Room B of the Anniston City Meeting Center in the City of Anniston, Alabama for the purpose of considering the transaction of business that may properly come before the Council, such business to include, but not be limited to, the authorization by the Council, pursuant to Amendment No. 772 of the Constitution of Alabama of 1901, as amended, of a resolution (the "Resolution") approving the execution and delivery of a Special Economic Development Agreement (the "City Agreement") by the City and D&K James, LLC, an Alabama limited liability company (the "Developer"), to be dated the date of delivery, pursuant to which City Agreement the City shall reimburse the Developer for certain infrastructure cots in an amount not to exceed \$500,00 for purposes referenced in the City Agreement.

The reimbursement of said infrastructure costs will offset a portion of the Developer's total costs associated with the construction and development of a residential subdivision located within the corporate limits of the City.

The City seeks to achieve, by undertaking its obligations pursuant to the City Agreement and the Resolution, to advance the economic base of the City and the prosperity and welfare of the citizens and taxpayers of the City, and to attract additional residents, businesses, development and investment in the areas served by the infrastructure.

The business entity to whom or for whose benefit the City propose to lend its credit or grant public funds or thing of value is the Developer and those businesses who will use or benefit from the infrastructure.

All interested persons may examine and review the City of Agreement, the Resolution, and all other relevant documents and make copies thereof at personal expense, at the

offices of the City Manager during normal business hours, before and after the meeting referenced herein.

Further information concerning the information in this notice can be obtained from the City Manager at the offices thereof during normal business hours.

(2) The information set forth in said notice is true and correct.

(3) Publication of said notice hereby ratified and confirmed

(h) (1) The total indebtedness of the Municipality chargeable against the debt limitation for the Municipality prescribed by Section 225 of the Constitution of Alabama of 1901, as amended, (which indebtedness does not include the obligations under the Special Project Development Agreement issued under Amendment No. 772), is not more than twenty percent of the assessed valuation of the taxable property in the Municipality for the preceding fiscal year (ending September 30, 2019 and on the basis of which taxes became due and payable on October 1, 2020).

(2) The total indebtedness of the Municipality chargeable against the debt limitation for the Municipality prescribed by Amendment No, 722(a) (4) (which indebtedness does include the obligations of the City under the Special Project Development Agreement), is not more than fifty percent of the assessed valuation of the taxable property in the Municipality for the preceding fiscal year (ending September 30, 2019 and on the basis of which taxes became due and payable on October 1, 2020).

Section 2. The Council does hereby approve, adopt, authorize, direct, ratify and confirm:

- (a) the agreements, covenants, and undertakings of the Municipality set forth in the Special Economic Development Agreement, and
- (b) the terms and provisions of the Special Economic Development Agreement, in substantially the form and of substantially the content as set forth as follows, with such changes thereto (by addition or deletion) as the Mayor shall approve, which approval shall not extend or increase the obligations of the municipality thereunder and shall be conclusively evidenced by execution and delivery of the Special Economic Development Agreement as hereinafter provided.

Section 3.

- (a) The Mayor and the City Manager are each hereby authorized and directed to execute and deliver the Special Economic Development Agreement for and on behalf and in the name of the Municipality. The City Clerk is hereby authorized and directed to affix the official seal of the Municipality to the Special Economic Development Agreement and to attest the same.
- (b) The Mayor, the City Manager, and the officers of the Municipality are each hereby authorized and directed to take all such actions, and execute, deliver and perform all such agreements, documents, instruments, notices, and petitions and proceedings, with respect to the Special Economic Development Agreement, as the Mayor and such officers shall determine to be necessary or desirable to carry out the provisions of this resolution or the Special Economic Development Agreement or duly and punctually observe and perform all agreements and obligations of the Municipality under the Special Economic Development Agreement.

Section 4. All prior actions taken, and agreements, documents or notices executed and delivered, by the Mayor or any officer or member of the Council or other representative of the Municipality, in

connection with the agreements covenants, and undertakings of the Municipality hereby approved, or in connection with the preparation of the Special Economic Development Agreement and the terms and provisions thereof, are hereby approved, ratified and confirmed.

Section 5. All ordinances, resolutions, orders, or parts of any thereof, of the council in conflict, or inconsistent, with any provision of this resolution hereby are, to the extent of such conflict or inconsistency, repealed

Section 6. This resolution shall take effect immediately.

PASSED AND ADOPTED on this the 17<sup>th</sup> day of October, 2019.

By:/s/ Jack Draper, Mayor

By:/s/ Jay Jenkins, Council Member

By:/s/ Millie Harris, Council Member

Council Member Harris made a motion to approve a Resolution authorizing a Special Economic Development Agreement by the City of Anniston, Alabama and D&K James, LLC. The motion was seconded by Mayor Draper.

Council Member Harris stated that she wanted to thank Jay Jenkins, Steven Folks, and Bruce Downey for all their work and making this a reality. She stated that Jay Jenkins' expertise in architecture and codes have been invaluable and this even though it is in Ward 4 will help all of Anniston.

Council Member Jenkins stated that he wanted to thank Don and Kenneth for their willingness to partner with the City and furthering their mission to grow the community.

Mayor Draper stated that he wanted to echo and thank city staff for its work and the James Brothers for all of their work and this is significant because it is one of the first residential development in Anniston in a while.

And on call of the roll the following vote was recorded: ayes: Council Member Jenkins, Harris and Draper; nays: none. The motion carried and Resolution 19-R-197 was passed and adopted.

Mayor Draper made a motion to approve a Special Events Retail License for the City of Anniston for the Fat Tire Fest. The motion was seconded by Council Member Jenkins, and on call of the roll the following vote was recorded: ayes: Council Member Jenkins, Harris, and Draper; nays: none. The motion carried.

There being no further business to come before the council at that time Mayor Draper made a motion the meeting be adjourned. The motion was seconded by Council Member Harris; and on call of the roll, the following vote was recorded: ayes: Council Members Jenkins, Harris and Draper nays: none. The motion carried and the meeting was adjourned at approximately 12:05 o'clock.