

LEGAL NOTICE OF ACTION PROPOSED TO BE TAKEN BY THE CITY OF PELL CITY, ALABAMA, FOR THE BENEFIT OF PELL CITY PARTNERS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, IN RELATION TO THE PROPOSED RENOVATION AND MODIFICATION OF A RETAIL DEVELOPMENT LOCATED IN THE CITY OF PELL CITY, ALABAMA.

Pursuant to Amendment No. 772 to the Constitution of Alabama (1901) (Section 94.01 of the Recompiled Constitution of Alabama and hereinafter referred to as “Amendment No. 772”), the City Council (the “Council”) of the City of Pell City (the “City”) gives notice that it, as the governing body of the City, will conduct a public hearing at a special meeting to be held on Thursday, August 3, 2017, at 6:00 p.m. at City Hall, 1905 First Avenue North, Pell City, Alabama 35125, for the purpose of receiving comments and questions from any interested member of the public regarding the City’s consideration of approving and authorizing the execution and delivery of a Redevelopment Reimbursement Agreement (the “Agreement”), by and among the City, St. Clair County, Alabama (the “County”), and Pell City Partners, LLC, a Delaware Limited Liability Company (“Developer”), and immediately following said public hearing, the Council shall consider the approval and authorization of the execution and delivery of the Agreement. All members of the public are invited to attend the public hearing and public meeting. Those unable to attend are encouraged to submit their written opinions to the Council prior to the meeting as provided below.

BACKGROUND

Conditioned on the incentives described herein and more fully set forth in the Agreement, Developer proposes to renovate and modify a commercial shopping center located at 803 - 1027 Martin Street South, Pell City, AL 35128 (the “Project Site”), a portion of which has previously been leased and occupied by Kmart/Sears, which real property is more particularly described in Exhibit A of the Agreement.

Developer proposes to renovate, redevelop, and modify the single, commercial leasing space located on the Project Site that was previously occupied by Kmart/Sears to create three, separate commercial leasing spaces with a combined total of not less than ninety thousand square feet (90,000 s.f.) of gross leasable retail space (collectively the “Retail Center”).

Developer proposes to renovate, redevelop, and modify the Retail Center and the Project Site (the “Project”) in accordance with certain plans and drawings submitted to the City and County (the “Development Plan”).

Developer proposes to fund the Project and has requested that the City provide certain funding, rebates, incentives, and other assistance for the Project, all of which is detailed in the Agreement.

The Project is expected to provide substantial tax revenue for the City, provide employment opportunities for citizens of the City, and attract customers from outside the City to make retail purchases within the City.

The members of the Developer are: ACP Holdings, LLC - Pell City Series; Russell

Oldham; Brad Milsaps; Robert Jackson; Russell Buster; All Star Capital, LLC; Brian Waller Irrevocable Trust Dated Dec. 31, 2012; Jerry Bostelman Irrevocable Trust; Angela Bostelman Irrevocable Trust; Jeff Haithcoat; Scott Arthur; Jason and Darby Farmer Revocable Trust Dated Aug. 30, 2011; Ken Tittle; Roman's Empire LLC; Will Levy; IRA Innovations, LLC FBO Terri B. Ward IRA; Jason Reed; and Ray Hensler.

Amendment No. 772 authorizes the City to enter into agreements for the purpose of promoting the economic and industrial development of the City.

At the public hearing, the Council will seek to determine whether the entry into the Agreement and transactions described therein will promote the economic development of the City, will increase the tax revenues of the City, and will improve the quality of life for citizens of the City, and further, will determine whether the expenditure of the public funds for the purposes specified in the Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefits accruing to any private entity or entities, and further, will determine whether the entry into the Agreement and transactions described therein is in the best interest of the health, safety and welfare of the citizens of the City.

SUMMARY OF THE TERMS OF THE AGREEMENT

All capitalized terms not defined herein are defined in the Agreement.

SUMMARY OF DEVELOPER'S OBLIGATIONS:

The proposed Agreement obligates Developer, subject to the terms and conditions in the Agreement, to perform the following, among other things:

1. Developer agrees at its sole cost and expense to renovate and redevelop the Retail Center and the Project Site pursuant to and in accordance with the Development Plan. The Retail Center shall be leased to businesses which generate retail sales payable to the City and the County (the "Public Bodies") and shall contain no less than ninety thousand square feet (90,000 s.f.) of gross leasable retail space.

2. Developer agrees at its sole cost and expense to construct the Infrastructure, the façade, and all other aspects of the renovation and redevelopment of the Project Site and Retail Center in accordance with the Development Plan, the Infrastructure Plan, the Façade Plan, and all other plans, specifications, and drawings required by the Public Bodies for the completion of the renovation and redevelopment of the Project Site and Retail Center.

3. Developer shall be responsible for all costs of the construction of the Project. Developer shall be responsible for payment of its own fees incurred in connection with the development of the Project, including, but not limited to, legal, accounting, engineering, surveying, title work, architectural, construction, and environmental services.

4. Upon completion of the renovation and redevelopment of the Project in accordance with the proposed Agreement, Developer shall lease and operate the Retail Center for retail purposes only during the term of the Agreement.

SUMMARY OF THE CITY'S OBLIGATIONS:

The proposed Agreement obligates the City, subject to the terms and conditions in the Agreement, to perform the following, among other things:

1. In consideration of and subject to the conditions contained in the Agreement, and as an inducement for Developer's agreement to renovate, redevelop, and operate the Retail Center on the Project Site, the City proposes to pay to Developer the City Assistance upon the terms and conditions contained in the Agreement.

2. "City Assistance" means an amount equal to one-half (1/2) of the City Tax Revenue actually collected and received by the City from the Net Taxable Sales in excess of the Annual Threshold generated by the Retail Center located on the Project Site for each Fiscal Year during the term of the Agreement, subject to the limitations set forth in the Agreement.

3. "Annual Threshold" means Net Taxable Sales in excess of \$5,000,000.00 generated by the Retail Center on the Project Site calculated annually for each Fiscal Year during the term of the Agreement, which represents the baseline of sales for which there shall be no payment to Developer of City Assistance or County Assistance.

4. "City Tax Revenue" means the revenue actually collected and received by the City from a three and one-half percent (3½%) general sales tax levied by and paid to the City that is derived solely from the operation of the Retail Center; specifically excluding, however, any taxes levied or that may be levied for educational purposes by the City and excluding any increase of the rate or rates of all or any portion of either of the said taxes.

5. "Net Taxable Sales" means the retail sales generated from the operation of the Retail Center on the Project Site that are taxable by the City and/or the County and for which taxes are actually assessed, collected, and remitted to the City and/or the County.

6. The combined total of the City Assistance and the County Assistance shall not exceed the lesser of: (i) \$600,000.00 (the total amount of the City Assistance shall not exceed \$466,666.67 and the total amount of the County Assistance shall not exceed \$133,333.33), or (ii) the amount of the actual out-of-pocket expenses incurred and paid by the Developer for the approved façade improvements as set out in the Development Plan.

7. The City Assistance and the County Assistance shall be paid solely for façade improvements at the Retail Center on the Project Site as set out in the Development Plan and for no other purposes, and, as a condition precedent to any payments of City Assistance or County Assistance, Developer shall provide documentation in such form as is reasonably satisfactory to each of the City and County demonstrating Developer's payment of the approved façade improvements to the Retail Center; otherwise, Developer shall not be entitled to the payment of the City Assistance or the County Assistance as provided in the Agreement.

8. The City Assistance shall be paid to Developer solely by the City and solely from

the City Tax Revenue actually assessed, collected, and remitted to the City from the Net Taxable Sales in excess of the Annual Threshold generated by the Retail Center located on the Project Site. The City's obligation to make such payments is not a general obligation of the City, but is limited to the sales taxes actually assessed, collected, and remitted as City Tax Revenue resulting from the operation of the Retail Center located on the Project Site.

9. The obligation of the City to pay the City Assistance and the obligation of the County to pay the County Assistance shall terminate on the first of the following to occur: (i) the conclusion of the Term (i.e., the anniversary date of five (5) years from the date the first retail tenant opens for business in the renovated and expanded Retail Center), or (ii) such time as the Developer has received the lesser of (a) the combined sum of \$600,000.00 of City Assistance and County Assistance, or (b) if less than \$600,000.00, the combined amount of City Assistance and County Assistance in the amount of the actual out-of-pocket costs incurred and expended by Developer solely for approved façade improvements made to the Retail Center and for no other purpose.

CONCLUSION

Drafts of the Redevelopment Reimbursement Agreement may be inspected at the office of the City Clerk at City Hall, 1905 First Avenue North, Pell City, Alabama 35125, during regular business hours prior to the scheduled meeting.

In sum, the Developer would receive certain benefits if the Council authorizes the City to enter into the Agreement and provide the above-described incentives for the Project. The Council seeks to determine at its public meeting whether the expenditure of the public funds and the provisions of things of value in connection with the incentives and transactions summarized above and fully described in the Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to Developer or any other private person, entity, or entities.

The public benefits sought to be achieved by the adoption of the Agreement include (i) the renovation, redevelopment, and improvement of the Retail Center and Project Site, which is expected to generate annual Net Taxable Sales in the approximate amount of Fifteen Million and No/100 Dollars (\$15,000,000.00) and the creation of an estimated fifty (50) full and part time jobs, many of which may be filled by residents of the City; (ii) the promotion of local economic and commercial development and the stimulation of the local economy; (iii) increasing the City's tax base, which will result in additional tax revenues for the City and additional tax revenues for public schools in the City; (iv) promoting the location, relocation, expansion, and retention of commercial enterprises in the City; (v) preserving and improving the aesthetic quality of commercial development, which supports and improves the economic health of the City; and (vi) the increase of tax revenues and employment opportunities within the City.

All members of the public are invited to attend the meeting of the Council. The public hearing will provide an opportunity for all interested members of the public to submit comments. Those unable to attend are encouraged to submit their written opinions to the City prior to the meeting. Written comments may be submitted at the office of the City Clerk at City Hall, 1905

First Avenue North, Pell City, Alabama 35125, during regular business hours prior to the scheduled meeting.