



Legislation Text

File #: 24-0197, Version: 1

A RESOLUTION AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT BY THE CITY OF FOLEY, ALABAMA AND OCTAVE FOLEY, LLC

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA:

ARTICLE 1

Definitions

For purposes hereof:

Agreement means the Economic Development Agreement by the City and the Beneficiary attached to this Resolution as Exhibit B.

Amendment No. 772 means Section 94.01 of the Constitution of Alabama of 2022 (formerly known as Amendment No. 772 to the Constitution of Alabama of 1901, as amended).

Beneficiary means Octave Foley, LLC .

Bond Counsel means Maynard Nexsen PC.

City means the City of Foley, Alabama.

Council means the City Council of the City.

Octave Foley Development shall have the meaning assigned in the Agreement.

Public Notice means the notice attached to this Resolution as Exhibit A.

ARTICLE 2

Representations

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) The delivery and performance of the Agreement by the City will provide for the economic growth and development of the City in furtherance of the public interest thereof.

(b) The expenditure of public funds for the purposes specified in the Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(c) The City caused the Public Notice to be published on March 20, 2024 in *The Onlooker*, which newspaper is of circulation in the City.

(d) The aggregate indebtedness of the City (including without limitation the Total City Commitment under the Agreement) which will be outstanding under, and chargeable against the limitation upon indebtedness prescribed by, Amendment No. 772 on the Effective Date of the Agreement will not exceed fifty percent (50%) of the assessed valuation of the taxable property of the City as assessed for state taxation for the tax year ending September 30, 2023.

(e) The representations of the City on Section 3.01 of the Agreement are true and correct.

ARTICLE 3

Authorization

(a) The Council approves and authorizes the terms and provisions of, the representations and warranties of the City set forth in, and the obligations and transactions to be undertaken by the City pursuant to, the Agreement, with such changes thereto (by addition or deletion) which (i) do not (individually or in the aggregate) create any additional obligation, or extend or increase any stated obligation, of the City under the Agreement and (ii) the officers of the City conclusively approve by execution and delivery of the Agreement as provided by this Resolution.

(b) The Council authorizes and directs the Mayor, Finance Director, and City Clerk of the City to do and effect all of the following:

(1) execute under seal, register, and attest the Agreement,

(2) execute deliver, file and record such certificates, documents and notices with respect to such matters of fact as Bond

Counsel determines to be necessary in connection with the Agreement,

- (3) deliver the Agreement when advised by Bond Counsel and
- (4) effect the performance of the Agreement.

ARTICLE 4

Ratification

The Council ratifies and confirms all prior action taken, and all certificates, documents, petitions, proceedings and public notices delivered, by or on behalf of the City in furtherance of the transactions herein authorized.

ARTICLE 5

Effect of Resolution

The Council authorizes this Resolution to take effect immediately and repeals any provision of any resolution, order, ordinance, or proceeding of the City to the extent of any conflict or inconsistency thereof with the provisions of this Resolution.