

March 10, 2020

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

The City Council of the City of Athens, Alabama met in regular session at the Athens Municipal Building, 200 Hobbs Street West, Athens, Alabama, on March 10, 2020 at 5:30 p.m. The meeting was called to order by Councilman Frank Travis, President of the Council. Upon roll call, the following were found to be present: Councilmembers Harold Wales, Wayne Harper, Frank Travis and Chris Seibert. Tanner Cannon led the Pledge of Allegiance. Annette Barnes, City Clerk, was present and recorded the minutes of the meeting. Harold Wales offered the invocation. The Chairperson stated that a quorum was present and that the meeting was open for transaction of business.

The Chairperson stated that the Minutes of the February 24, 2020 City Council Meeting had been submitted for approval. Councilman Seibert moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Harper and was unanimously carried. The Chairperson stated that the Minutes of the February 24, 2020 City Council Work Session Meeting had been submitted for approval. Councilman Seibert moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Harper and was unanimously carried.

Kelly Range, 303 Brookwood Drive, Athens, voiced his support for the proposed decrease in the alcohol tax for the local package stores. He also addressed the Council regarding the issue of litter in the City and the need to enforce our existing litter ordinance.

Allyn Griffin, 1122 E. Pryor Street, Athens, addressed the Council with several questions related to the proposed Publix anchored shopping center, such as: (1) is there a timeline for construction of the Highway 31 improvements and the roundabout on Pryor Street; (2) if the sidewalks are to be constructed on the north side of Pryor Street, where there are steep ditches, how will the engineering address this and (3) will the project agreement fail to go through if certain contract provisions aren't met?

Joseph Cannon, 17304 Drake Drive, Athens, voiced his appreciation for the Council's support of the sewer extension to Westgate Subdivision. He also voiced his support for the proposed decrease in the alcohol tax rate for the local package stores stating that this is a great opportunity to help small business.

Janaya Malone, Sanderfer Road, Athens and a member of the Mayor's Youth Commission, addressed the Council concerning the need for a place for the youth to hang out in Athens.

**Councilman Seibert introduced the following resolution:**

#### **RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that the travel expenses in the following amount be approved for Electric Department personnel.

Kegan Puckett TVPPA-Lab 3-Lineman Apprentice Program	\$126.04
Damian Pugh TVPPA-Lab 3-Lineman Apprentice Program	\$130.75
Steve Romero TVPPA-Lab 3-Lineman Apprentice Program	\$ 95.55

The motion was seconded by Councilman Wales and was unanimously carried.

**Councilman Seibert introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that the Water Services Department be authorized to purchase a Ford F-150 Crewcab pickup truck from Long-Lewis Ford via the State of Alabama Purchasing Contract in the amount of \$27,682.50 to replace the existing Unit 68, a 2007 Ford Crewcab pickup truck for use by Water Services Department Water Treatment Plant.

The motion was seconded by Councilman Wales and was unanimously carried.

**Councilman Seibert introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that the Water Services Department be authorized to purchase a new Ford Transit 350 Van from Cues to replace the existing Unit 67 for use by the Water Services Department.

The motion was seconded by Councilman Wales and was unanimously carried.

**Councilman Harper introduced the following resolution:**

**RESOLUTION NUMBER 2020 - 1671**

**A RESOLUTION CONCERNING SEWER SERVICE IN WESTGATE SUBDIVISION AND WHISPERING PINES SUBDIVISION**

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**WHEREAS**, from time to time and as its resources permit, the City of Athens desires to expand sewer service throughout the municipality;

**WHEREAS**, the Athens Sewer Department will extend sewer service to within 500 feet of the newly-approved Whispering Pines Subdivision (and such extension will be in accord with the Athens Sewer Department's *City of Athens Utilities Water / Sewer Line Extension Policy*);

**WHEREAS**, the City Council desires that this extension will be routed and configured so that sewer service can also be provided to the existing Westgate Subdivision where sewer service is not available;

**WHEREAS**, the total cost to design and construct this sewer extension, along with the associated upgrades to the Watercross sewer pump station, is expected to be approximately \$700,000.00;

**WHEREAS**, this undertaking shall be referred to in this Resolution as the "Project";

**WHEREAS**, the City Council desires to provide the above-referenced funds for the Project from the City's General Fund, with the expectation and understanding that the Athens Sewer Department will repay the General Fund within twelve (12) months of the expenditure;

**WHEREAS**, the Athens Sewer Department will commence the design of the Project upon the adoption of this Resolution;

**WHEREAS**, the owner/developer of the Whispering Pines Subdivision has agreed to pay \$40,000 to the Athens Sewer Department, which is a portion of the cost of the upgrades to the Watercross sewer pump station;

**WHEREAS**, upon the construction of the Project, the property owners in the Watercross Subdivision will have the opportunity to connect to the new sewer lines by (a) disconnecting from septic, installing a line to the new sewer, and retiring their septic tank (which will involve site-specific expense and work for the homeowner), and (b) paying the appropriate fees to the City (which fee will be in the amount of \$4,000.00 per homeowner if they commit to make a connection and such payment within sixty (60) days of formal announcement by the Athens Sewer Department); and

**WHEREAS**, the Athens City Council finds and determines that public sewer service, the Project, and all of the matters set forth herein serve a valuable public purpose.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** on March 10, 2020 at 5:30 p.m., as follows:

1. The sum of Seven Hundred Thousand and 00/100 Dollars (\$700,000.00) is hereby appropriated from the City's General Fund in support of the costs of the design and construction of the Project, and the Mayor and City Clerk/Treasurer are authorized to make those funds available to the Athens Sewer Department for such purpose. The City Council expresses its expectation that these funds will be repaid to the General Fund by the Athens Sewer Department within twelve (12) months of their expenditure, and reserves the authority to ensure such repayment.

2. The Manager of the Athens Sewer Department, upon the Mayor's approval, is hereby authorized and directed, in the name of and for account of the City, to enter into an agreement with the owner/developer of the Whispering Pines Subdivision, for the owner/developer's payment of \$40,000 to the Athens Sewer Department, which is a portion of the cost of the upgrades to the Watercress sewer pump station (and containing such other terms/provisions as are not inconsistent therewith).

3. The Manager of the Athens Sewer Department, upon the Mayor's approval, is authorized to institute a program whereby the property owners in the Watercress Subdivision will be permitted to connect to the Project's new sewer lines upon payment of an impact and tapping fee of \$4,000.00 per home/regular residential lot if they commit to a connection and make such payment within sixty (60) days of a formal announcement by the Athens Sewer Department, subject to such additional terms and provisions as determined by the Athens Sewer Department that are not inconsistent herewith.

4. The Mayor is authorized to take actions and execute such other and further documents as may be necessary to effect and carry out the transactions contemplated by this Resolution and/or the agreements referenced herein, including but not limited to approving and executing further agreement(s) that are consistent with and involved in carrying out the transactions contemplated by this Resolution.

**ADOPTED** this the 10<sup>th</sup> day of March, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ William R. Marks  
MAYOR, CITY OF ATHENS, ALABAMA

Councilmember Seibert moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Harper thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Seibert and upon the said motion being put to vote the

following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilman Wales introduced the following resolution:**

**RESOLUTION NUMBER 2020 - 1672**

**A RESOLUTION CONCERNING THE DEMOLITION OF A STRUCTURE AT 533 BROWNSFERRY STREET**

**WHEREAS**, in Resolution No. 2019-1603 adopted on January 14, 2019, the Athens City Council called for the demolition of an unsafe residential structure (referred to herein as the “Structure”) located at the real property described as follows:

Address: 533 Brownsferry Street, Athens, Alabama

PARCEL # 10-03-08-2-003-030.000

Legal Description

The following land lying and being in Limestone County, Alabama, and more particularly described as follows:

The West part of Lot No. 1 of the Coleman Addition of said Town of Athens, according to Map of said Addition made by Perry Henderson, Surveyor, in the year 1904, and as found on file in the Office of the Clerk of said Town of Athens, and the Probate Judge of said County of Limestone, being more particularly described as beginning at the Northeast corner of the intersection of First Street and Coleman Avenue of said Addition to said Town of Athens, said beginning point being further described as the Southwest corner of said Lot No. 1, according to said Map of said Coleman Addition, and running thence from said point of beginning North 5 degrees 45 minutes West along the East margin of Coleman Avenue, 73 feet to the South margin of Browns Ferry Street; thence North 43 degrees 50 minutes East along the South margin of Brown Ferry Street, 112-1/2 feet; thence South 31 degrees 40 minutes East 172 feet to the North margin of First Street; thence West along the North margin of First Street, 160 feet to the point of beginning.

(herein referred to as the “Property”);

**WHEREAS**, the owner did not appeal from the City Council’s determination;

**WHEREAS**, since that time, the owner has not taken any action to address the unsafe Structure;

**WHEREAS**, the *Finding of Public Nuisance, Notice and Order to Remedy and Notice of Lis Pendens* recorded by city officials in the property records of Limestone County, Alabama, has remained in place since August 13, 2018, and puts all persons on notice of the City’s activities with respect to the Property;

**WHEREAS**, since that time, the Structure has deteriorated further;

**WHEREAS**, the City provided all known persons who hold a property interest in the Property with notice of the City Council’s meeting on March 10, 2020, where such persons could hear the report from city officials as to the existing condition of the Structure, address the City Council concerning this matter, and to show cause, if any, why the Structure should not be demolished as ordered by the City Council in its Resolution 2019-1603; and

**WHEREAS**, the City Council has heard from city officials and interested parties, finds that the Structure remains an unsafe structure, that the unsafe condition of the Structure has increased since the date of Resolution 2019-1603, and determined that the City can wait no longer on carrying out the demolition ordered by Resolution 2019-1603.

**THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** on March 10, 2020 at 5:30 p.m., as follows:

1. The Structure shall be demolished by the City of Athens as ordered by Resolution 2019-1603.
2. The Mayor (and/or his designee) is authorized to contract, on behalf of the City of Athens, with a third party(ies) for an asbestos survey, and then the demolition of the Structure for a cost not in excess of \$15,000.00. Should the demolition work be expected to cost in excess of \$15,000.00, then the appropriate municipal official is directed to begin a competitive bidding process with respect to the demolition work, and the City Council will consider the award of any resulting contract.

**ADOPTED** this the 10<sup>th</sup> day of March, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

The motion was seconded by Councilman Harper and was unanimously carried.

**Councilman Wales introduced the following resolution:**

**RESOLUTION NUMBER 2020 - 1673**

**A RESOLUTION CONCERNING TOYOTA BOSHOKU AMERICA, INC.**

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**WHEREAS**, on April 22, 2019, the City of Athens entered into a Tax Abatement Agreement with Toyota Boshoku America, Inc. (the "Company"), relating to the abatement of certain state and local non-educational taxes;

**WHEREAS**, the Company has requested that the City permit it to assign portions of the benefits of that agreement to AKI USA Corporation, an Alabama corporation, and Toyota Boshoku AKI USA, LLC, an Alabama limited liability company;

**WHEREAS**, such assignments would also recognize the corrected and accurate estimated project completion date of March 31, 2022, as opposed to March 31, 2020;

**WHEREAS**, these assignments would not alter the total amounts or investments related to the agreement, but would accurately recognize the contributions to the project from different corporate entities working with the Company to accomplish the project; and

**WHEREAS**, the Athens City Council has no objection to the assignments, finding that they promote the interests of the City with respect to the agreement and that they serve a valuable public purpose.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** on March 10, 2020 at 5:30 p.m., as follows:

1. The Mayor of the City is hereby authorized and directed, in the name of and for account of the City, to consent to (i) the *Partial Assignment of Abatement Agreement*, by and between Toyota Boshoku America, Inc. and Toyota Boshoku AKI USA, LLC; and (ii) the *Partial Assignment of Abatement Agreement*, by and between Toyota Boshoku America, Inc. and AKI USA Corporation, a Alabama corporation, in substantially the form as shown and attached hereto as Attachment 1 and Attachment 2.

2. The Mayor is authorized to take actions and execute such other and further documents as may be necessary to effect and carry out the transactions contemplated by this Resolution and/or the agreements referenced herein, including but not limited to approving and executing further agreement(s) that are consistent with and involved in carrying out the transactions contemplated by this Resolution.

**ADOPTED** this the 10<sup>th</sup> day of March, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ William R. Marks  
MAYOR, CITY OF ATHENS, ALABAMA

#### **ATTACHMENT 1**

#### **PARTIAL ASSIGNMENT OF TAX ABATEMENT AGREEMENT**

This Partial Assignment of Tax Abatement Agreement (the "Assignment") is entered into as \_\_\_\_\_, 2020 by and between **Toyota Boshoku America, Inc.** a Michigan corporation qualified to do business in Alabama (the "Assignor") and **Toyota Boshoku AKI USA, LLC**, a Alabama limited liability company (the "Assignee")

**WHEREAS**, pursuant to the Tax Abatement Agreement entered into April 22, 2019 by the City Council of Athens Alabama (the "Granting Authority") and Toyota Boshoku America, Inc., the Granting Authority abated the following taxes with respect to the "Project" (as defined in the Tax Abatement Agreement):

1. All state and local non-educational property taxes that are not required to be used for educational purposes or for capital improvements for education for ten (10) years.
2. All construction related transaction taxes on tangible personal property and taxable services except those local construction related transaction taxes levied for educational purposes or for capital improvements for education.

**WHEREAS**, the Tax Abatement Agreement reflects an initial estimated Project completion date of March 31, 2020; the actual Project completion date is March 31, 2022 and;

**WHEREAS**, Assignee will be making capital improvements to the real property of the Project and Assignee will purchase certain equipment and other tangible personal property for the Project and;

**WHEREAS**, Assignee is an affiliate of Assignor and the parties have mutually determined that it is in the best interest of both parties to assign a portion of the tax abatements on taxable items to be incorporated into the Project to Assignee and;

**WHEREAS**, Assignor and Assignee desire that Assignor formally transfer and assign to Assignee a portion of the rights, title and interest of Assignor in, to, and under the Tax Abatement Agreement so that the tax abatements on taxable items to be incorporated into the Project may be claimed by Assignee.

**AGREEMENT**

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment by Assignor. Assignor hereby assigns, transfers, sets over, grants and conveys to Assignee \$1,650,000 of Assignor’s right, title and interest under the Tax Abatement Agreement with respect to Assignor’s projected \$55,900,000 investment in the Project.
2. Assumption by Assignee. Assignee hereby accepts this Assignment and agrees to assume all of the obligations of Assignor relating to and arising out of the Assignor’s obligations under the Tax Abatement Agreement with respect to the \$1,650,000 assigned portion of the Project.
3. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns
4. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Alabama

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Tax Abatement Agreement as of \_\_\_\_\_, 2020.

**ASSIGNOR**

**ASSIGNEE**

**Toyota Boshoku America, Inc.**

**Toyota Boshoku AKI USA, LLC**

**CONSENT**

The City Council of Athens Alabama hereby consents to the above Partial Assignment of Abatement Agreement and revision of the Project completion date to March 31, 2022.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2020

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

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

Title: \_\_\_\_\_

**ATTACHMENT 2**

**PARTIAL ASSIGNMENT OF TAX ABATEMENT AGREEMENT**

This Partial Assignment of Tax Abatement Agreement (the” Assignment”) is entered into as \_\_\_\_\_, 2020 by and between **Toyota Boshoku America, Inc.** a Michigan corporation qualified to do business in Alabama (the “Assignor”) and **AKI USA Corporation**, a Alabama corporation (the “Assignee”)

**WHEREAS**, pursuant to the Tax Abatement Agreement entered into April 22, 2019 by the City Council of Athens Alabama (the “Granting Authority”) and Toyota Boshoku America, Inc., the Granting Authority abated the following taxes with respect to the “Project” (as defined in the Tax Abatement Agreement):

1. All state and local non-educational property taxes that are not required to be used for educational purposes or for capital improvements for education for ten (10) years.
2. All construction related transaction taxes on tangible personal property and taxable services except those local construction related transaction taxes levied for educational purposes or for capital improvements for education.

**WHEREAS**, the Tax Abatement Agreement reflects an initial estimated Project completion date of March 31, 2020; the actual Project completion date is March 31, 2022 and;

**WHEREAS**, Assignee will be making capital improvements to the real property of the Project and Assignee will purchase certain equipment and other tangible personal property for the Project and;

**WHEREAS**, Assignee and Assignor each own a 50% membership interest in TOYOTA BOSHOKU AKI USA, LLC, and the parties have mutually determined that it is in the best interest of both parties to assign a portion of the tax abatements on taxable items to be incorporated into the Project to Assignee and;

**WHEREAS**, Assignor and Assignee desire that Assignor formally transfer and assign to Assignee a portion of the rights, title and interest of Assignor in, to, and under the Tax Abatement Agreement so that the tax abatements on taxable items to be incorporated into the Project may be claimed by Assignee.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment by Assignor. Assignor hereby assigns, transfers, sets over, grants and conveys to Assignee \$7,325,000 of Assignor's right, title and interest under the Tax Abatement Agreement with respect to Assignor's projected \$55,900,000 investment in the Project.

2. Assumption by Assignee. Assignee hereby accepts this Assignment and agrees to assume all of the obligations of Assignor relating to and arising out of the Assignor's obligations under the Tax Abatement Agreement with respect to the \$7,325,000 assigned portion of the Project.

3. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns

4. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Alabama

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Tax Abatement Agreement as of February \_\_\_\_, 2020.

**ASSIGNOR**

**ASSIGNEE**

**Toyota Boshoku America, Inc.**

**AKI USA Corporation**

**CONSENT**

The City Council of Athens Alabama hereby consents to the above Partial Assignment of Abatement Agreement and revision of the Project completion date to March 31, 2022.

Dated this \_\_\_\_ of \_\_\_\_\_, 2020

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

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

Title: \_\_\_\_\_



The motion was seconded by Councilman Harper and was unanimously carried.

**Councilman Harper introduced the following resolution:**

**Resolution to Allocate a Portion of the FY 2019 Capital Appropriation**

**WHEREAS**, on January 13, 2020, the City Council approved a FY 2019 budget amendment to appropriate \$1,650,000,000 for capital expenditures, of which \$950,000 was allocated to the Public Works Department, leaving an unallocated balance of \$700,000; and

**WHEREAS**, on January 27, 2020, the City Council allocated \$53,515.80 of the \$700,000 balance to the Public Works Department to fund Aerial Photography Services for the GIS Consortium, leaving an unallocated balance of \$646,484.20;

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA**, to allocate a portion of the remaining FY 2019 capital appropriation as follows:

Cemetery, Parks & Recreation	\$	250,000
Information Technology		<u>70,000</u>
Total	\$	320,000

The motion was seconded by Councilman Wales and was unanimously carried.

**Councilman Seibert introduced the following ordinance:**

**ORDINANCE NUMBER 2020 - 2109**

**AN ORDINANCE AMENDING THE ATHENS ALCOHOLIC BEVERAGE ORDINANCE RELATING TO THE LICENSE TAX APPLICABLE TO PACKAGE STORES**

**WHEREAS**, the City Council desires to amend the Athens Alcoholic Beverage Ordinance so that the fifteen percent (15%) additional license tax applicable to the gross receipts derived from the sale of alcoholic beverages is reduced to ten percent (10%) in the case of privately-owned package stores.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA**, while in regular session on March 10, 2020, at 5:30 p.m., as follows:

**Section 1.** Section 6-79(a)(7) of the *Code of Ordinances of the City of Athens* is hereby amended so that it states as follows:

(7) *Lounge retail liquor license (class II)*. Each person licensed by the state alcoholic beverage control board to operate a class II lounge retail liquor license (which includes, but is not limited to, private package stores with such license) under the Alcoholic Beverage Licensing Code (Code of Ala. 1975, § 28-3A-1, et seq.) shall pay to the city an annual license fee of \$2,000.00. In addition to said stated license fee, each person shall pay to the city, on or before the 15th day of the next calendar month, for the privilege of having engaged in such business in the subject month, an additional license tax of 15 percent (except that in the case of privately-owned Class II lounge retail liquor licensees that operate their licensed premises primarily for the off-premises sale of alcoholic beverages, such percentage shall be 10 percent) of gross receipts of such business derived from the sale of all alcoholic beverages, except beer and table wine, received during such subject calendar month.

**Section 2.** If any provision of this ordinance, or the application thereof to any person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or

application of this ordinance that can be given effect without the invalid provisions or application, and to this end, the provisions of this code and such amendments and statutes are declared to be severable.

**Section 3.** No other provisions of the City Code are amended by this Ordinance, unless specifically stated and referenced herein.

**Section 4.** The provisions of this Ordinance shall be included and incorporated in the *Code of Ordinances of the City of Athens* as an addition or amendment thereto, and shall be appropriately renumbered as necessary to conform to the uniform numbering system of the Code.

**ADOPTED** this the 10<sup>th</sup> day of March, 2020.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ William R. Marks  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ Annette Barnes  
CITY CLERK, CITY OF ATHENS, ALABAMA

Councilmember Harper moved that unanimous consent be given for immediate consideration of and action on said ordinance, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said ordinance had been unanimously carried. Councilmember Seibert thereupon moved that the ordinance be finally adopted, which motion was seconded by Councilmember Harper and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said ordinance had been unanimously carried.

**Councilman Wales introduced the following resolution:**

#### **RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to authorize the Mayor to enter into an agreement with Skipper Consulting, Inc. for traffic engineering and planning services for a proposed signal at US-31 to service the Athens Middle School and proposed Mid-Town retail development immediately across from the school. The design budget is \$43,850.00 and shall be funded from the City of Capital Infrastructure Fund.

Councilmember Harper moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Seibert, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Wales thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Seibert and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilman Seibert introduced the following resolution:**

#### **RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to authorize the Mayor to enter into an agreement with Morell Engineering, Inc. for engineering services for a dedicated left-turn lane from Hobbs St. to US-31, ALDOT roadway permit for the US-31 traffic signal in front of the Athens Middle School, Roundabout on

Pryor St., and connector from the Mid-Town property to Pryor St. roundabout. The design budget is \$101,500.00 and shall be funded from the City Capital Infrastructure Fund.

Councilmember Harper moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Wales, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Seibert thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Harper and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilman Wales introduced the following resolution:**

#### **RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to authorize the Mayor to enter into an agreement with Morell Engineering, Inc. for engineering services for the design of the proposed Jimmy Gill Park. The design budget is \$74,000.00 and shall be funded from the City of Capital Infrastructure Fund.

Councilmember Seibert moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Harper, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said resolution had been unanimously carried. Councilmember Wales thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Harper and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Seibert, Wales, Travis, and Harper; NAYS: None. The President thereupon announced that the motion for the adoption of the said resolution had been unanimously carried.

**Councilman Harper made for “Introduction Only” the following ordinance:**

#### **ORDINANCE NUMBER 2020 - \_\_\_\_\_**

#### **AN ORDINANCE CONCERNING THE DISPLAY OF RETAIL MERCHANDISE ON PUBLIC SIDEWALKS**

**WHEREAS**, from time to time, shops and stores in the city have historically utilized a small portion of the sidewalks outside of their businesses to display merchandise;

**WHEREAS**, there has been little need for the City to actively manage those activities, as they have traditionally been very limited in size, scope, and duration;

**WHEREAS**, the increased use of the public sidewalks by businesses has resulted in a need for the City’s regulation;

**WHEREAS**, it is very important that public sidewalks remain accessible and easily traversed by all persons, including those with physical challenges, including elderly and disabled persons;

**WHEREAS**, it is also preferable that the public sidewalks are kept in an uncluttered, neat and orderly appearance;

**WHEREAS**, this Ordinance is intended to provide reasonable and common-sense limits to the use of the sidewalks by businesses for the display of merchandise;

**WHEREAS**, Alabama law provides that no private enterprise may utilize the streets, sidewalks, and other public places of the city without the consent of the City;

**WHEREAS**, Alabama law provides that the City may manage and regulate the use of the public ways and sidewalks in the city through its police power in the interest of, among other things, traffic regulation and public health and safety;

**WHEREAS**, the City Council supports a limited use of the sidewalks in connection with retail sales (as it has recently demonstrated through the adoption of its sidewalk dining ordinances), but it desires to place reasonable limits on the use of the public sidewalks to ensure accessibility by all persons;

**WHEREAS**, the City Council is prepared to adopt more stringent regulations in the future in the event that businesses do not adhere to the terms and spirit of this Ordinance; and

**WHEREAS**, businesses that violate city ordinances may be subject to penalties by the municipal court and may be subject to the revocation or suspension of their business licenses.

**THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** while in regular session on \_\_\_\_\_, 2020 at 5:30 p.m., as follows:

**Section 1.** Section 74-15 shall be added to Article I of Chapter 74 of the *City Code of the City of Athens, Alabama*, as follows:

**Sec. 74-15. – Placement of Items on Streets, Sidewalk in connection with the Sale of Merchandise.**

- (a) Except as set forth in (b), it shall be unlawful for any person engaged in the business of selling books, housewares, novelties, clothing, antiques, packaged foodstuffs, or any other item of personal property or merchandise, to place or maintain such items on a public sidewalk, public way, or public street.
- (b) The prohibition set forth in (a) shall not apply to items that are located in an area that is within ten (10) feet of the entrance to the retail establishment and directly adjacent to the property on which the business is situated, so long as:
- (i) there is at least a minimum sidewalk width of four (4) feet of completely unencumbered paved sidewalk (or five (5) feet in cases where a raised sidewalk directly abuts a street curb) that is open for pedestrian use maintained adjacent to the business, and the items are all located on the side of the sidewalk that is adjacent to the building in which the business is located;
  - (ii) there is a direct pathway from the entrance of the business to the unencumbered portion of the sidewalk that is also completely unencumbered and at least four (4) feet in width;
  - (iii) there is at least a minimum four (4) foot by four (4) foot turning space at the top of any sidewalk curb ramp;
  - (iv) if there is more than one entrance to the business, this exception shall only be applicable to two (2) of those entrances, as selected by the owner of the business;
  - (v) the items placed in such area are weighted such that they do not blow onto other areas of the public sidewalk, public way, or public street;
  - (vi) no trash, rubbish, or debris is placed or maintained in such area;
  - (vii) the items placed within such area are kept clean, free of standing water, free from fading, free from rust, free from deterioration, upright, and in a neat and orderly manner;
  - (viii) the placement of such items does not interfere with, block, or obstruct any item lawfully placed or maintained upon the public sidewalk, public way, or public street by the City of Athens (including, for example, a street sign, fire hydrant, light pole, planter, or bench);
  - (ix) the business does not have any other signs, planters, or other items (whether such things are for sale or not) located outside of such area and on a public sidewalk, public way, or public street;

(x) the items placed within such area do not have sharp edges or corners that may be reasonably expected to injure persons that make contact with such items;

(xi) the entrance is a door that is not wider than five (5) feet (and if wider than that, only five (5) feet of the surface of the door may be used for the calculations hereunder); the measurement is made while the door is closed; and if the door is recessed from the main building line, then the measurements shall be made as if the door is flush with the main building line; and

(xii) the free passage of pedestrians along the sidewalk is not otherwise prevented or substantially impaired.

(c) The placement of items meeting the criteria of (b) are nonetheless subject to being moved at any time and without any notice to the owner of the items or related business by (or at the direction of) the City upon the City's need to access such areas.

(d) The placement of items meeting the criteria of (b) shall not be viewed as an encumbrance of a street, sidewalk, or other public way under Section 74-4(a), or an obstruction under Section 74-10.

(e) This Section 74-15 does not apply to activities that are permitted pursuant to Article IV of Chapter 74 of the City Code of the City of Athens, Alabama (Sidewalk Dining).

**Section 2.** This ordinance shall become effective on April 10, 2020.

**Section 3.** If any provision of this ordinance, or the application thereof to any person, thing or circumstances, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the provisions or application of this ordinance that can be given effect without the invalid provisions or application, and to this end, the provisions of this code and such amendments and statutes are declared to be severable.

**Section 4.** No other provision of the Code of Ordinances of the City of Athens (the "City Code") is amended by this Ordinance, unless specifically stated and referenced herein.

**Section 5.** The provisions of this Ordinance shall be included and incorporated in the City Code as an addition or amendment thereto, and shall be appropriately renumbered as necessary to conform to the uniform numbering system of the City Code.

**ADOPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
FRANK B. TRAVIS, CITY COUNCIL PRESIDENT

\_\_\_\_\_  
WILLIAM R. MARKS, MAYOR

**ATTEST:**

\_\_\_\_\_  
ANNETTE BARNES, CITY CLERK

\* \* \*

There being no further business to come before the meeting, Council President Travis asked if there were any objections to adjourning the meeting. There being none, the meeting was duly and properly adjourned.

/s/ Frank Travis  
PRESIDENT, CITY COUNCIL

ATTEST:

/s/ Annette Barnes

CITY CLERK