

RESOLUTION NO. 2024-72

BE IT RESOLVED AND ORDERED, by the City of Cullman (the "City"), as follows:

Section 1. Findings. The Commission has ascertained and does hereby find and declare as follows:

WHEREAS, for several years the City has explored opportunities to enhance economic development within its corporate limits of Cullman County, Alabama (the "County"), including through the attraction of major "big box" retailers; and

WHEREAS, MTN LTD, an Alabama limited partnership (the "Company") owns fee simple title to approximately seven (7) acres of real property located at the corner of King Edwards Street S.W. and the CSX railroad tracks in the City of Cullman (the "City"), as more particularly shown on Exhibit A to the Development Agreement herein authorized (the "Site "); and

WHEREAS, the City has determined that due to its location and configuration, the Site's highest and best use to the public is to serve as the site for a major "big box" retail store; and

WHEREAS, the Company has approached the County and the City with plans to construct on the Site an approximately 55,000 square foot "big box" sporting goods retail store to be operated by a nationally-recognized retailer defined in the Development Agreement as a "Permitted Operator" (the "Sporting Goods Store"); and

WHEREAS, the Company has reported to the City that, due to rising construction and labor costs and certain public infrastructure improvements required in connection with development of the Sporting Goods Store, the Company will require financial assistance of up to \$833,000 from the County and up to \$1,167,000 from the City in order to locate to, and construct and develop the Sporting Goods Store on, the Site, all as more particularly set forth and described in the Development Agreement; and

WHEREAS, the City has determined it necessary, wise, and in the public interest to incentivize development of the Sporting Goods Store by agreeing to share a portion of its receipts of sales and use taxes collected by such entity from the operations of the Sporting Goods Store, so long as the same is operated by a Permitted Operator (as defined in the Development Agreement), which such payments would be made over a period of up to ten (10) years following the Sporting Goods Store opening to the public for

business, all as more particularly set forth and described in the Development Agreement herein authorized; and

WHEREAS, the City expects the Sporting Goods Store to substantially expand and enhance the prosperity, contentment, and general welfare of the County and its residents by, among other things, (i) aiding in the elimination and remediation of blight and similar effects resulting from underuse of the Site; (ii) promoting enhancement and adaptive reuse of a high-visibility area of the City; (iii) bringing substantial commercial activity to an under developed area and fostering the use and development of underutilized commercial properties around the Site; (iv) helping improve the appearance and vibrancy of undeveloped areas of the City; (v) expanding commercial activity within the City; (vi) facilitating the growth and development of commercial sites and developments around the Site; (vii) supporting and expanding industrial and economic development within the City; and (viii) expanding jobs and employment opportunities within the City; and

WHEREAS, Amendment No. 772 to the Constitution of Alabama of 1901, now codified as Section 94.01 of the Constitution of Alabama ("Amendment 772") authorizes the City to grant public funds and things of value in aid of or to private business enterprises for the purpose of promoting the economic development of the City after compliance with certain conditions set forth in Amendment 772;

WHEREAS, the County, the City, and the Company desire to memorialize their agreements and understandings respecting the Project in a Sporting Goods Store Development Agreement, the form of which is attached as Exhibit I hereto; and

WHEREAS, the agreements and obligations of the City under the Development Agreement herein authorized are hereby determined by the County to be in the public interest and, further, are being made under and in furtherance of any power and authority authorized by Amendment 772, and the City hereby determines that the expenditure of public funds as set forth in the Development Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

Section 2. Authorization of Development Agreement. (a) The Cullman City Council does hereby authorize and approve, and the Mayor and the City Clerk of the City are hereby authorized to execute and deliver, for and on behalf of the City, the Sporting Goods Store Development Agreement among the County, the City, and the Company in substantially the form attached as Exhibit I hereto, with such changes thereto as the parties thereto (the Mayor is hereby authorized to act on behalf of the City for such purpose) shall determine to be necessary or desirable (the "Development Agreement"). The City Clerk is hereby authorized to affix the seal of the City to the Development Agreement and to attest the same.

(b) The Mayor and the City Clerk are hereby authorized to execute, seal, attest and deliver such amendments to the Development Agreement, and to execute, seal, attest, and deliver such other instruments, notices, documents, certificates, and agreements and to take such other actions by and on behalf of the City, as may be necessary or desirable to fulfil the transactions contemplated by the Development Agreement.

Section 5. The various provisions of this Resolution are hereby declared to be severable. In the event any provision hereof shall be held invalid, illegal, or unenforceable for any reason, the invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Resolution shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

DONE this the 24th day of June, 2024.

President of the City Council

ATTESTED BY:

City Clerk

APPROVED by the Mayor this the 24th day of June, 2024.

Mayor

EXHIBIT I
FORM OF DEVELOPMENT AGREEMENT