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Anniston, Alabama
April 26, 2011

The City Council of the City of Anniston, Alabama, met in Regular Session in the Council Chamber in the City Hall of the City of Anniston, Alabama, on Tuesday, April 26, 2011, at approximately 5:01 o'clock p.m.

Council Member Little prayed the Invocation.

Council Member Little led the Pledge of Allegiance to the Flag.

Mayor Robinson called the meeting to order. On call of the roll the following Council Members were found to be present: Council Members Spain, Palmore, Little, Dawson and Robinson; absent: none. A quorum was present and the meeting opened for the transaction of business.

Don A. Hoyt, City Manager, was present.

Cleo Thomas, City Attorney, was present.

Mayor Robinson made a motion to add to the agenda a resolution authorizing and approving execution of a contract with BancorpSouth Equipment Finance. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Council Member Little made a motion to add to the agenda a motion for RMC to cease any expansion until the Board can meet with the Council. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Robinson; nays: none; abstentions: Council Member Dawson. The motion carried.

Council Member Little made a motion to remove from the table a motion to authorize the City Attorney to proceed with legal action to collect on the unpaid invoice to the Anniston Star in the amount of \$1,855.40 for records requests of Councilmen's emails of January 14, 2010. The motion was seconded by Council Member Spain; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Council Member Dawson asked if we provided the Anniston Star what they asked for.

Don Hoyt, City Manager, stated that we provided the Anniston Star what they asked for.

Council Member Dawson asked if they used the information we provided to them.

Mr. Hoyt stated he did not know if they used the information we provided to them.

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Council Member Spain stated he was going to vote for this motion and let it take whatever course that the law allows.

On call of the roll on Council Member Little's motion to authorize the City Attorney to proceed with legal action to collect on the unpaid invoice to the Anniston Star in the amount of \$1,855.40 for records requests of Councilmen's emails of January 14, 2010 and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Dawson; nays: Mayor Robinson. The motion carried.

Council Member Dawson made a motion to remove from the table a motion to approve a Lounge Retail Liquor – Class I ABC license for Audrey A. Hamby d/b/a Woo Woo's Tiki Bar located at 3805 Alabama Highway 202 within the police jurisdiction. The motion was seconded by Council Member Palmore; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Council Member Spain asked if the information on the application had been verified.

Don Hoyt, City Manager, stated the distances on the application had been verified. He stated they had checked on the criminal background of the applicant.

On call of the roll on Council Member Dawson's motion to approve a Lounge Retail Liquor – Class I ABC license for Audrey A. Hamby d/b/a Woo Woo's Tiki Bar located at 3805 Alabama Highway 202 within the police jurisdiction and Council Member Palmore's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, and Dawson; nays: none; abstentions: Council Members Little and Robinson. The motion carried.

Council Member Dawson reintroduced and read Ordinance Number 11-O-7 as follows:

ORDINANCE NUMBER 11-O-7

AN ORDINANCE CREATING AND DESIGNATING THE TYLER HILL
HISTORIC DISTRICT

WHEREAS, the Anniston Historic Preservation Commission (hereinafter "the Commission") has advised the City Council that it has conducted a historic survey of Tyler Hill Historic District, and has conducted a public hearing upon its proposed recommendation to designate the Tyler Hill Historic District as a local historic district, and

WHEREAS, the City Council has further been advised that the Commission published notices in The Anniston Star, a newspaper of general circulation published in the City of Anniston, Alabama, said notices being not less than 15 days prior to the public hearing and the second notice being not less than 5 days prior to the public hearing, and

WHEREAS, the City Council has further been advised that the commission mailed written notice of the said public hearing to all owners of properties within the proposed historic district, and

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WHEREAS, in its March 2010 meeting, the Anniston Historic Preservation Commission approved the proposal for the creation of Tyler Hill Historic District and has, by resolution, recommended the designation of this area as a historic district to the City Council.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Anniston, Alabama, as follows:

Section 1. In accordance with the provisions of Ordinance No. 91-0-18 passed and adopted by the City Council of the City of Anniston on the 24th day of April, 1991, the City Council does hereby designate the following described property within the City of Anniston as a historic district:

Leighton Avenue at the parcels at the southwest and southeast corners of its intersection with E. 6th Street; the south side of E. 7th Street including the two parcels at the southwest corner of its intersection with Lapsley Avenue; both sides of E. 6th Street between Leighton and Goodwin Avenues; and the north side of E. 6th Street between Goodwin and Knox Avenues; including the area known as Tyler Hill in Anniston, Alabama, and including the following addresses: 528 and 529 Leighton Avenue; 305 to 519 E. 6th Street; and 318 to 326 E. 7th Street.

Section 2. The Anniston Historic Preservation Commission is hereby directed, within 30 days of the adoption of this ordinance to notify the owners of each structure within this designated historic district of the necessity of obtaining a Certificate of Appropriateness prior to undertaking any material change in appearance of their property in accordance with Section IV (C) (5) of Ordinance No. 91-0-18.

Section 3. That this Ordinance shall become effective upon its publication one time in The Anniston Star, a newspaper of general circulation published in the City of Anniston, Alabama, and the City Clerk of the City of Anniston is hereby ordered and directed to cause a copy of this Ordinance to be published one time in said newspaper.

PASSED AND ADOPTED this the 26th day of April, 2011.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

By: /s/ Gene Robinson, Mayor

By: /s/ John Spain, Council Member

By: /s/ Herbert N. Palmore, Council Member

By: /s/ Benjamin L. Little, Council Member

By: /s/ David Dawson, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Council Member Dawson made a motion for the passage and adoption of Ordinance Number 11-O-7 as reintroduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Ordinance Number 11-O-7 was passed and adopted.

Mayor Robinson introduced and read Ordinance Number 11-O-8 as follows:

(11-O-8, revising the City's street opening, cutting and excavation policy; first reading)

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Council Member Little made motion for the unanimous consent of the Council to introduce and read by title Ordinance Number 11-O-9. The motion was seconded by Council Member Dawson.

Mayor Robinson asked if anyone wished to address the Council either in favor of or in opposition to the introduction and reading by title of Ordinance Number 11-O-9.

No one addressed the Council either in favor of or in opposition to the introduction and reading by title of Ordinance Number 11-O-9.

On call of the roll on Council Member Little's motion for the unanimous consent of the Council to introduce and read by title Ordinance Number 11-O-9 and Council Member Dawson's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Unanimous consent of the Council having been granted for the introduction and reading by title of Ordinance Number 11-O-9, Council Member Little introduced and read by title Ordinance Number 11-O-9 as follows:

(11-O-9, nuisance ordinance; first reading)

Mayor Robinson introduced and read Resolution Number 11-R-36 as follows:

(11-R-36, agreement with L.P. Campbell Company)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 11-R-36 as introduced and read. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 11-R-36 was passed and adopted.

Council Member Spain introduced and read Resolution Number 11-R-37 as follows:

(11-R-37, Recreational Trails Program Grant pre-application to ADECA)

Council Member Spain made a motion for the passage and adoption of Resolution Number 11-R-37 as introduced and read. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 11-R-37 was passed and adopted.

Council Member Palmore introduced and read Resolution Number 11-R-38 as follows:

(11-R-38, reimbursements for travel expense)

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Council Member Palmore made a motion for the passage and adoption of Resolution Number 11-R-38 as introduced and read. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 11-R-38 was passed and adopted.

Mayor Robinson introduced and read Resolution Number 11-R-39 as follows:

(11-R-39, declaring vehicles and equipment surplus)

Mayor Robinson made a motion for the passage and adoption of Resolution Number 11-R-39 as introduced and read. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 11-R-39 was passed and adopted.

Council Member Little introduced and read Resolution Number 11-R-40 as follows:

RESOLUTION NUMBER 11-R-40

WHEREAS, the City Council (the "Governing Body") of the City of Anniston, AL (the "Buyer"), acting for and on behalf of the Buyer hereby finds, determines and adjudicates as follows:

1. The Buyer desires to enter into a Contract with the Exhibits attached thereto in substantially the same form as attached hereto as Exhibit "A" (the "Contract") with BancorpSouth Equipment Finance, a division of BancorpSouth Bank (the "Seller") for the purpose of presently purchasing the equipment as described therein for the total cost specified therein (collectively the "Equipment").
2. It is in the best interest of the residents served by Buyer that the Buyer acquire the Equipment pursuant to and in accordance with the terms of the Contract; and
3. It is necessary for the Buyer to approve and authorize the contract.
4. The Buyer desires to designate the Contract as a qualified tax-exempt obligation of Buyer for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986 (the "Code").

NOW, THEREFORE, BE IT RESOLVED by this Governing Body for and on behalf of the Buyer as follows:

Section 1. The Contract and Exhibits attached thereto in substantially the same form as attached hereto as Exhibit "A" by and between the Seller and the Buyer is hereby approved and Gene D. Robinson, as Mayor of the City of Anniston (the "Authorized Officer") is hereby authorized and directed to execute said contract on behalf of the Buyer.

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Section 2. The Delivery Order is being issued in calendar year 2011.

Section 3. Neither any portion of the gross proceeds of the Contract nor the Equipment identified to the Contract shall be used (directly or indirectly) in a trade or business carried on by any person other than a governmental unit, except for such use as a member of the general public.

Section 4. No portion of the rental payments identified in the Contract (a) is secured, directly or indirectly, by property used or to be used in a trade or business on by a person other than a governmental unit, except for such use as a member of the general public, or by payments in respect of such property; or (b) is to be derived from payments (whether or not to Buyer) in respect of property or borrowed money used or to be used for a trade or business carried on by any person other than a governmental unit.

Section 5. No portion of the gross proceeds of the Contract are used (directly or indirectly) to make or finance loans to persons other than governmental units.

Section 6. The Authorized Officer is further authorized for and on behalf of the Governing Body and the buyer to do all things necessary in furtherance of the obligations of the Buyer pursuant to the Contract, including execution and delivery of all other documents necessary or appropriate to carry out the transactions contemplated thereby in accordance with the terms and provisions thereof.

PASSED AND ADOPTED this the 8th day of March, 2011.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

By: /s/ Gene Robinson, Mayor

By: /s/ John Spain, Council Member

By: /s/ Herbert N. Palmore, Council Member

By: /s/ Benjamin L. Little, Council Member

By: /s/ David Dawson, Council Member

ATTEST:

/s/ Alan B. Atkinson, City Clerk

Council Member Little made a motion for the passage and adoption of Resolution Number 11-R-40 as introduced and read. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and Resolution Number 11-R-40 was passed and adopted.

Mayor Robinson announced that was the time for the public hearing on an application for a Restaurant Retail Liquor ABC license for Los Arcos VII LLC d/b/a Los Arcos located at 5630 McClellan Boulevard, declared the hearing open and asked if anyone wished to address the Council either in favor of or in opposition to said application for a Restaurant Retail Liquor ABC license for Los Arcos VII LLC d/b/a Los Arcos located at 5630 McClellan Boulevard.

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No one addressed the Council either in favor of or in opposition to said application for a Restaurant Retail Liquor ABC license for Los Arcos VII LLC d/b/a Los Arcos located at 5630 McClellan Boulevard.

Mayor Robinson declared the public hearing on an application for a Restaurant Retail Liquor ABC license for Los Arcos VII LLC d/b/a Los Arcos located at 5630 McClellan Boulevard, closed.

Council Member Spain asked if the information on the application for a Restaurant Retail Liquor ABC license for Los Arcos VII LLC d/b/a Los Arcos located at 5630 McClellan Boulevard had been validated.

Don Hoyt, City Manager, stated the information on the application for a Restaurant Retail Liquor ABC license for Los Arcos VII LLC d/b/a Los Arcos located at 5630 McClellan Boulevard had not been validated.

Council Member Spain made a motion to table a proposed motion to approve the application for a Restaurant Retail Liquor ABC license for Los Arcos VII LLC d/b/a Los Arcos located at 5630 McClellan Boulevard. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, and Dawson; nays: Mayor Robinson. The motion carried.

Council Member Spain made a motion to approve a Special Events Retail license application for East Alabama Shrine Club of Zamora Temple of Birmingham Inc. d/b/a The Country Cash located at 1615 Noble Street. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Dawson and Robinson; nays: none; abstentions: Council Member Little. The motion carried.

Council Member Spain made a motion to table a proposed motion to approve the protocol set for scheduling a work session. The motion was seconded by Council Member Dawson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried.

Council Member Spain made a motion to approve the transfer of lake properties from MDA to the City within 45 days. The motion was seconded by Council Member Little.

Council Member Dawson stated as he understood this already this was going to be an open public facility that will be under the liability position of the MDA.

Toby Bennington, Planning Director, stated the zoning would be the governance of the City and the overlay would be at the governance of the City as well.

Council Member Dawson stated that he understood the current zoning overlay the lakes were for public use and not for building homes around them.

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Toby Bennington stated that Reilly Lake was zoned for public use and Yahoo Lake was in an area that was for planned residential but was in a holding district and that application would not be finalized and applied until the property is cleaned up.

Council Member Dawson stated that both lakes were in need of clean up at this time. He stated he felt it would prudent to take the land swap and take the properties that are available and useable currently. He stated what they want to happen at the lakes is exactly what has been zoned and planned to happen and the lakes and if they could keep the City out of liability for that and can receive the properties being offered to the City he felt that would be a wise and prudent move.

Council Member Palmore stated they would open these lakes to anyone until they were sure it was safe for the public.

Council Member Spain stated he did not believe they could get these lakes developed the way the City wants them developed if the City is not in control of the lakes. He stated he had committed to citizens that the City would keep control of the lakes.

Council Member Little stated he felt the MDA would want to promote this property for sale. He stated this would be an important recreational area for the City. He stated he had problems with the day to day legal counsel of the MDA.

Mayor Robinson stated they should take the land swap offered by the MDA. He stated it would many years and millions of dollars before the lakes would be ready for recreational use. He stated the properties being offered were ready for use now.

On call of the roll on Council Member Spain's motion to approve the transfer of lake properties from MDA to the City within 45 days and Council Member Little's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore and Little; nays: Council Members Dawson and Robinson. The motion carried.

Council Member Little made a motion to call to the RMC Board's attention the Council's concerns about their expansion outside the service area and whether that expansion will compromise its ability to serve the people of Anniston and Calhoun County. The motion was seconded by Council Member Spain.

Council Member Little stated that the City of Anniston passed an ordinance to create the hospital board and he thought if something happens the hospital reverts back to the City and they would be liable for some things. He stated the Council was not being informed on what is going on. He stated he had heard complaints from RMC workers about lack of raises and layoffs.

Council Member Palmore stated he had total confidence in the person he had appointed to the RMC board. He stated he would like to meet with the board so they could be informed of what is going on.

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Council Member Spain stated he had confidence in the person he had appointed to the RMC board and he had discussed this expansion with that member. He stated it could be problematic to expand when they should be trying to provide the very best care possible to the people of this community. He stated he would just like to have all the questions answered.

Council Member Dawson stated he did not know about the expansion. He stated this expansion type is called outreach and many hospitals are doing this type of expansion. He stated they needed to bring more patients into RMC to offset the deficit they are experiencing. He stated this was a practical way to generate more patients and revenue.

Council Member Little stated that the hospital expansion would not necessarily mean better care. He stated that the City had responsibility in this situation. He stated they needed some questions answered.

Council Member Dawson stated he was just explaining this expansion was going on. He stated he agreed that they needed more open communication with the hospital board.

Council Member Spain stated they needed better and more open communication with the hospital board.

Mayor Robinson stated the Council was trying to encroach on the hospital board and tell them how to conduct their business. He stated they should try to micromanage to hospital, their administration or their board. He stated he commended the hospital board for this expansion.

On call of the roll on Council Member Little's motion to call to the RMC Board's attention the Council's concerns about their expansion outside the service area and whether that expansion will compromise its ability to serve the people of Anniston and Calhoun County and Council Member Spain's second to said motion the following vote was recorded: ayes: Council Members Spain, Palmore and Little; nays: Council Members Dawson and Robinson. The motion carried.

Alan Atkinson, City Clerk, advised that copies of the following Bid Fact Sheet had been given to the Council:

(HVAC at the botanical gardens)

Jay Jenkins, architect, addressed the Council concerning the HVAC bid at the Botanical Gardens and stated that the Council had allocated \$100,000.00 this year for capital improvements at this facility. He stated there was a base bid of \$100,177.83 and two alternates with option "A" providing all HVAC needs for this facility at a price of \$174,559.83 with \$163,473.00 as the bid price and \$11,086.83 for total design cost.

Council Member Palmore stated they had allocated \$100,000 for the botanical gardens and the museum should seek outside help for the additional cost.

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Council Member Spain made a motion that the bid in the total amount \$174,559.83 with \$163,473.00 by Modern Heating and Cooling and \$11,086.83 by Munroe and Jenkins and Whorton Engineering for HVAC improvements to the Anniston Botanical Gardens be accepted. The motion was seconded by Mayor Robinson; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Little, Dawson and Robinson; nays: none; abstentions: Council Member Palmore. The motion carried.

Trudy Munford, WE, 2226 McDaniel Avenue, addressed the Council concerning the status of the plan presented to the Council on behalf of WE.

Sandra Walker, 28 Old Coach Road, addressed the Council concerning the MDA and City having a plan to develop the lake properties at McClellan.

Council Member Little stated there would be a Ward 3 meeting next Thursday at 15th Street and Cooper Avenue. He asked what was happening with the Alabama Land Trust at the airport.

There being no further business to come before the meeting at that time Council Member Dawson made a motion the meeting be adjourned. The motion was seconded by Council Member Little; and on call of the roll the following vote was recorded: ayes: Council Members Spain, Palmore, Little, Dawson and Robinson; nays: none. The motion carried and the meeting was adjourned at approximately 6:42 o'clock p.m.