

**CITY OF ANNISTON
APRIL 18, 2016
5:30 P.M.**

- **INVOCATION**
- **PLEDGE OF ALLEGIANCE**
- **CALL TO ORDER**
- **ROLL CALL**
- **READING/APPROVAL OF MINUTES OF PREVIOUS MEETING**
- **STAFF ADDITIONS/DELETIONS TO THE AGENDA**
- **ADOPTION OF AGENDA**

I. RECOGNITIONS:

**(a) Anniston High School Boys and Girls Track Team Calhoun County
Champions**

II. RECEIVE INFORMAL PUBLIC COMMENTS

Informal Public Comment – Speaker Protocol

The City of Anniston believes that any member of the general public should be afforded the opportunity to address the City Council provided that designated rules are followed by the speaker. Any member of the public who wishes to address the City Council and offer public comment on items within the City Council's jurisdiction, may do so during the Informal Public Comment period of the meeting. However, no formal action will be taken on matters that are not part of the posted agenda. In order to ensure the opportunity for all those desiring to speak before the Council, there is no yielding of time to another speaker. This opportunity to address City Council may not be used to continue discussion on an agenda item that has already been held as a public hearing. Matters under negotiation, litigation, or related to personnel will not be discussed. If a member of the general public would like to address the City Council during the Informal Public Comment portion of the meeting, please respectfully indicate your desire to address the City Council when the Mayor solicits members of the general public to come forward and speak. You will be recognized by the Mayor and asked to come forward to the podium so that you can address the City Council in accordance with the rules outlined herein. Once the speaker has been recognized to speak, he/she will be given three (3) minutes to address the City Council. The speaker should not attempt to engage the City Council and/or Staff in a discussion/dialogue and the speaker should not ask specific questions with the expectation that an immediate answer will be provided as part of the three (3) minute time frame since that is not the intent of the Informal Public Comment period. If the speaker poses a question or makes a request of the City, the Mayor may refer the issue or request to the City Manager for follow up. At the conclusion of the three (3) minute time period, the speaker will be notified that his/her time has elapsed and the next speaker will be recognized to come forward to the podium and address the City Council. The Mayor may rule out of order any Speaker who uses abusive or indecorous language, if the subject matter does not pertain to the City of Anniston, or if the Speaker(s) attempts to engage the City Council Members in a discussion or dialogue on issues. City Council shall not discuss non-agenda matters because it does not give the public adequate notice. Accordingly, City Council shall be limited to asking factual and clarifying questions of staff, and when appropriate, the Council may consider placing a matter on a future agenda. In addition, it is not reasonable to expect staff to respond to any of a variety of issues on which they may or may not be prepared to respond to on a moment's notice, so the City Manager may respond, or direct staff to respond at a later time.

III. RECEIVE FORMAL PUBLIC COMMENT

Formal Public Comment – City Council Agenda Protocol

The City of Anniston has identified this portion of the meeting to allow individuals an opportunity to formally address the City Council on issues of importance. Anniston requires that individuals who desire to formally address City Council to submit a written request form outlining the subject matter that they intend to discuss so that they can be placed on an upcoming meeting agenda. Members of the public desiring to be placed on the agenda to present or address matters to the City Council must submit a formal “**REQUEST TO BE PLACED ON THE CITY COUNCIL AGENDA**” form to the Office of the City Manager at least 10 days prior to the requested City Council meeting date that you wish to speak. City Council meetings are held on the second and fourth Monday of each month so the request must be submitted no later than 5:00 pm on the Friday which constitutes 10 days prior. The request can be done in person, regular mail, fax or email and the speaker should obtain acknowledgement of the request from the City to demonstrate that the 10 day requirement has been met. The request form may be obtained from the Office of the City Manager or from the City’s website www.anniston.al.gov. The request should state the name of the individual(s) desiring to be heard and the subject matter to be presented to City Council. Requests may be referred, at the discretion of the City Manager, to appropriate staff for mediation prior to being placed on the public agenda. Please be advised that the mere completion of a request form does not entitle the speaker to be added to the agenda.

IV. CONDUCT PUBLIC HEARING

Speaking to a Public Hearing Item

In the interest of time and to ensure the fairness of all persons who appear before the City Council to speak for or against a public hearing item, speakers will be limited to three (3) minutes each to address City Council except as described herein. One speaker for the Petitioner may address the City Council for no more than 10 minutes, unless extended by the Mayor. In an effort help the City Council and the general public to better understand the issues, the Mayor may request that a City staff member address the City Council from the podium. Speakers from the general public may only speak when recognized by the Mayor during the public hearing. Speakers will be asked to come to the podium to address the City Council for three (3) minutes and they shall state their name and resident address for the record. Speakers addressing City Council on a public hearing item should coordinate comments in order to respect City Council’s time constraints. Groups should select a spokesperson to present the major points that summarize their position and opinions. Speakers are urged to be brief and non-repetitive with their comments. Comments shall specifically address the public hearing item before the City Council, and the speaker shall maintain appropriate tone and decorum when addressing the City Council. City Council may ask questions of the applicant, speakers, or staff during these proceedings only for the purpose of clarifying information. The speaker shall not direct derogatory comments to any individual, organization, or business. At the conclusion of the three (3) minute time period, the speaker will be notified that his/her time has elapsed and the next speaker will be recognized to come forward to the podium and address the City Council. Once the public hearing is closed on an item, there will be no further opportunity for formal or informal public input at a City Council meeting.

V. UNFINISHED BUSINESS – None

VI. CONSENT AGENDA

- (a) Resolution authorizing reimbursements to city officials for expenses incurred while traveling away from the city.
- (b) Resolution authorizing the submission of a grant application under TIGER Program.
- (c) Resolution declaring various vehicles and pieces of equipment as surplus and authorizing their sale.
- (d) Motion to appoint Council Member Reddick as the Voting Delegate at the business session of the Annual Convention of the Alabama League of Municipalities on May 16, 2016.

VII. ORDINANCES

- (a) Granting a Non-Exclusive Franchise Agreement to Southern Light, LLC, for the purpose of constructing and maintaining a fiber-optic transmission line within certain public rights-of-way within the City of Anniston, Alabama. **1st Reading**

VIII. OTHER ADDITIONAL OR FURTHER MATTERS THAT MAY COME BEFORE COUNCIL

COUNCIL COMMENTS

ADJOURNMENT

MINUTES

4/4/2016

Anniston, Alabama
April 4, 2016

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 Monday, April 4, 2016, at approximately 5:35 o'clock p.m.

Chief Tony Taylor, Fire Department, prayed the Invocation.

Chief Tony Taylor, Fire Department, led the Pledge of Allegiance to the Flag.

Mayor Stewart called the meeting to order. On call of the roll the following Council Members were found to be present: Council Members Reddick, Selase, Harris and Stewart; absent: Council Member Jenkins. A quorum was present and the meeting opened for the transaction of business.

Brian Johnson, City Manager, was present.

Bruce Downey, City Attorney, was present.

Council Member Selase made a motion to waive the reading of the minutes of March 21, 2016. The motion was seconded by Council Member Harris; and on call of the roll the following vote was recorded: ayes: Council Members Reddick, Selase, Harris and Stewart; nays: none; absent: Council Member Jenkins. The motion carried.

Council Member Harris made a motion to approve the minutes of March 21, 2016. The motion was seconded by Council Member Selase; and on call of the roll the following vote was recorded: ayes: Council Members Reddick, Selase, Harris and Stewart; nays: none; absent: Council Member Jenkins. The motion carried.

Council Member Reddick made a motion to adopt the agenda. The motion was seconded by Council Member Selase; and on call of the roll the following vote was recorded: ayes: Council Members Reddick, Selase, Harris and Stewart; nays: none; absent: Council Member Jenkins. The motion carried.

Brian Johnson, City Manager, read the following proclamation:

(Fair Housing Month)

Mayor Stewart announced that was the time for the public hearing to hear objections to the proposed abatement of identified nuisances (burnt structures) at 1700 Charlotte Avenue and 2408 McCoy Avenue, (grass and debris) at 1021 Pecanwood Drive, 1524 Bacon Avenue, 6103 Weaver Road, 0 Alabama Highway 21 (Lenlock Center), 3005 McKleroy Avenue, 1025 and 1021 West 16th Street, 127 West 20th Street, 5 West 28th Street and 228 Palmetto Avenue; (dangerous structures) at 1624 Walnut Avenue; declared the hearing open and asked if anyone

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wished to address the Council concerning the proposed abatement of identified nuisances at said locations.

Steven Stoworthy addressed the Council concerning the nuisance at 6103 Weaver Road and stated he had cleaned up the property.

Mayor Stewart asked if anyone else wished to address the Council concerning the proposed abatement of identified nuisances at said locations.

No one else addressed the Council concerning the proposed abatement of identified nuisances at said locations.

Mayor Stewart declared the public hearing to hear objections to the proposed abatement of identified nuisances (burnt structures) at 1700 Charlotte Avenue and 2408 McCoy Avenue, (grass and debris) at 1021 Pecanwood Drive, 1524 Bacon Avenue, 6103 Weaver Road, 0 Alabama Highway 21 (Lenlock Center), 3005 McKleroy Avenue, 1025 and 1021 West 16th Street, 127 West 20th Street, 5 West 28th Street and 228 Palmetto Avenue; (dangerous structures) at 1624 Walnut Avenue; closed.

Mayor Stewart announced that was the time for the public hearing on the proposed relocation of the voting box (polling place) located at Moore Avenue Church of Christ, 2200 Moore Avenue, to the Refuge II of Our Lord Jesus Christ Church, 2230 McKleroy Avenue, for the 2016 and all subsequent municipal elections, declared the hearing open and asked if anyone wished to address the Council concerning said proposed relocation of said voting box.

No one addressed the Council concerning said proposed relocation of said voting box.

Alan Atkinson, City Clerk, stated that this was the second public hearing on the proposed relocation of the voting box (polling place) located at Moore Avenue Church of Christ, 2200 Moore Avenue, to the Refuge II of Our Lord Jesus Christ Church, 2230 McKleroy Avenue, for the 2016 and all subsequent municipal elections, and there had been no public comments at either hearing. He stated both public hearings had been advertised in the Anniston Star and on the City of Anniston's website. He stated he had received no written comments concerning the proposed relocation of the voting box (polling place) located at Moore Avenue Church of Christ, 2200 Moore Avenue, to the Refuge II of Our Lord Jesus Christ Church, 2230 McKleroy Avenue, for the 2016 and all subsequent municipal elections.

Mayor Stewart declared the public hearing on the proposed relocation of the voting box (polling place) located at Moore Avenue Church of Christ, 2200 Moore Avenue, to the Refuge II of Our Lord Jesus Christ Church, 2230 McKleroy Avenue, for the 2016 and all subsequent municipal elections, closed.

Council Member Selase made a motion to approve the Consent Agenda items:

(a) Resolution authorizing reimbursements to city officials for expenses incurred while traveling away from the city.

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- (b) Resolution over-ruling objections to the abatement of identified nuisances. Group 2016-01 Burnt Structures
- (c) Resolution over-ruling objections to the abatement of identified nuisances. Group 2016-03 Grass & Debris
- (d) Resolution over-ruling objections to the abatement of identified nuisances. Group 42 Dangerous Structures
- (e) Resolution authorizing the City Manager to execute an Equipment Lease-Purchase Agreement with TCF Equipment Finance, for exercise equipment.
- (f) Resolution authorizing the Mayor to execute an Agreement with the State of Alabama acting by and through the Alabama Department of Transportation for Bicycle and Pedestrian Improvements for Preliminary Engineering and Construction Supplement Agreement 1.
- (g) Motion to award the bid in the amount of \$24,500.00 to Sunny King Ford for the purchase of one regular cab pick-up truck for the Public Works Department.
- (h) Motion to award the bid in the amount of \$30,000.00 to Sunny King Ford for the purchase of one super crew cab pick-up truck for the Public Works Department.

The motion was seconded by Council Member Harris; and on call of the roll the following vote was recorded: ayes: Council Members Reddick, Selase, Harris and Stewart; nays: none; absent: Council Member Jenkins. The motion carried.

Council Member Selase introduced and read Ordinance Number 16-O-7 as follows:

(16-O-7, authorizing issuance by the City of one Limited Obligation Warrant in the principal amount of not-to-exceed \$3,000,000.00 to Second Street Plaza, LLC)

Council Member Selase made a motion for the unanimous consent of the Council Members present for the immediate consideration of Ordinance Number 16-O-7 as introduced and read. The motion was seconded by Council Member Harris; and on call of the roll the following vote was recorded: ayes: Council Members Reddick, Selase, Harris and Stewart; nays: none; absent: Council Member Jenkins. The motion carried. Unanimous consent of the Council Members present having been given for the immediate consideration of Ordinance Number 16-O-7 as introduced and read, Council Member Selase made a motion for the passage and adoption of Ordinance Number 16-O-7 as introduced and read. The motion was seconded by Council Member Harris; and on call of the roll the following vote was recorded: ayes: Council Members Reddick, Selase, Harris and Stewart; nays: none; absent: Council Member Jenkins. The motion carried and Ordinance Number 16-O-7 was passed and adopted.

Council Member Reddick introduced and read Resolution Number 16-R-35 as follows:

(16-R-35, proposed relocation of the voting box (polling place) located at Moore Avenue Church of Christ, 2200 Moore Avenue, to the Refuge II of Our Lord Jesus Christ Church, 2230 McKleroy Avenue, for the 2016 and all subsequent municipal elections)

Council Member Reddick made a motion for the passage and adoption of Resolution Number 16-R-35 as introduced and read. The motion was seconded by Council Member Selase; and on call of the roll the following vote was recorded: ayes: Council Members Reddick, Selase, Harris

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and Stewart; nays: none; absent: Council Member Jenkins. The motion carried and Resolution Number 16-R-35 was passed and adopted.

Brian Johnson, City Manager, addressed the Council and thanked all the City staff and volunteers for all their work during the Noble Street Festival, the Sunny King Criterium and the McClellan Road Race.

Mayor Stewart stated the road races and the festival had been a great accomplishment and thanked everyone for their positive attitudes.

Council Member Harris stated she appreciated the families that opened their homes to the cyclists. She thanked Alan Robison, Museum Director, for his efforts on Business After Hours that had been held at the museums last month.

Council Member Selase thanked the Parks and Recreation department and the Police Department for their help and work with the free spring break events. He thanked everyone for their work on the Second Street Plaza development.

Council Member Reddick stated he had been working as a member of the Alabama Democratic Executive Committee in Montgomery last weekend. He commended the Parks and Recreation Department for their work with the kids during spring break.

There being no further business to come before the meeting at that time Council Member Reddick made a motion the meeting be adjourned. The motion was seconded by Council Member Selase; and on call of the roll the following vote was recorded: ayes: Council Members Reddick, Selase, Harris and Stewart; nays: none; absent: Council Member Jenkins. The motion carried and the meeting was adjourned at approximately 6:04 o'clock p.m.

CONSENT AGENDA

RESOLUTION NO. 16-R-__

A RESOLUTION AUTHORIZING REIMBURSEMENTS TO CITY OFFICIALS FOR EXPENSES INCURRED WHILE TRAVELING AWAY FROM THE CITY

BE IT RESOLVED, by the City Council of the City of Anniston, Alabama, that reimbursement is made by the City of Anniston, Alabama, as follows:

- a. \$150.00 to Jean Ann Oglesby, Farmers Market, registration fees paid for Tammy Parris to attend Food Entrepreneur Conference in Auburn, AL April 27 – 28, 2016.
- b. \$55.00 to Brian Godby, Fire, while attending the Paramedic Hesi Exam at Gadsden State Community College in Gadsden, AL on March 15, 2016.
- c. \$103.25 to Larry Talley, Planning, while attending AAPGMI Conference in Auburn, AL from April 5 – 8, 2016.

PASSED AND ADOPTED this ____ day of April 2016.

**CITY COUNCIL OF THE CITY
OF ANNISTON, ALABAMA**

BY: _____
Vaughn M. Stewart II, Mayor

BY: _____
Jay W. Jenkins, Council Member

BY: _____
David E. Reddick, Council Member

BY: _____
Seyram Selase, Council Member

BY: _____
Mille Harris, Council Member

ATTEST:

Alan B. Atkinson, City

RESOLUTION NO. 16-R-__

AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION UNDER TIGER PROGRAM

WHEREAS, the US Department of Transportation has the authority to award grants through the TIGER Grant Program; and

WHEREAS, the City of Anniston recognizes the importance of the project in completing multi-modal transportation connections.

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

1. That submission of a Grant Application in the amount of \$ 5,000,000 under said program is, hereby, authorized;
2. That the City of Anniston will provide the local share or 20% of the total project cost or \$ 1,250,000;
3. That the Mayor is authorized to sign any and all documents to obtain said grant; and
4. That the Mayor is authorized to sign any and all documents to obtain said grant; and
5. That the Mayor, City Manager, and/or their designated appointee are authorized to submit the grant application through the on-line grant submission process.

PASSED AND ADOPTED this the 18th day of April, 2016.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

By: _____
Vaughn M. Stewart II, Mayor

BY: _____
Jay W. Jenkins, Council Member

BY: _____
David E. Reddick, Council Member

BY: _____
Seyram Selase, Council Member

BY: _____
Millie Harris, Council Member

ATTEST:

Alan B. Atkinson, City Clerk

RESOLUTION NO. 16-R-____

A RESOLUTION DECLARING VARIOUS VEHICLES AND PIECES OF EQUIPMENT AS SURPLUS AND AUTHORIZING THEIR SALE

WHEREAS, the City Council of the City of Anniston, Alabama, hereby finds that those certain motor vehicles/equipment and personal property more particularly described on Exhibit "A" attached hereto and incorporated herein are not now presently being used for municipal purposes, nor are they needed for use by the City of Anniston in the future; and

WHEREAS, the City Council is desirous of selling said motor vehicles/equipment at auction.

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

Section 1. That those certain motor vehicles/equipment and personal property more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes, be and the same are hereby declared surplus to the needs of the City of Anniston.

Section 2. That Alan B. Atkinson, City Clerk of the City of Anniston, be and he is hereby authorized, directed, and empowered to cause said motor vehicles/equipment and personal property to be sold at public auction for the highest and best bid, and that Alan B. Atkinson, City Clerk of the City of Anniston, is hereby authorized, directed, and empowered for and in the name of the City of Anniston to execute title certificates, bills of sale or other documents of conveyance to the purchasers at such auction for cash received for such purposes, provided, however, that all sales of motor vehicles/equipment made by the City at said auction shall be "as is - where is" with no warranties expressed or implied.

Section 3. This resolution shall become effective immediately upon its passage and adoption by the City Council.

PASSED AND ADOPTED this the ____ day of _____, 2016.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

BY: _____
Vaughn M. Stewart, II, Mayor

BY: _____
Jay Jenkins, Council Member

BY: _____
David E. Reddick, Council Member

BY: _____
Seyram Selase, Council Member

BY: _____
Millie Harris, Council Member

ATTEST:

Alan B. Atkinson, City Clerk

EXHIBIT 'A'

VEHICLES

<u>Model</u>	<u>VIN</u>	<u>Mileage/Hours</u>
1997 Chevy 1500 Pickup	2GCEC19RXV1146678	129,755 miles

EQUIPMENT

Norco 2½ Ton Air Lift Jack	Model #82920	
Blackhawk 5 Ton Air Lift Jack	Model #67440	
Miller Bobcat 225 Gas Powered Welder	Serial #KK313504/Stock #903500	449 hours

ORDINANCES

ORDINANCE NO. 16-0-__

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE AGREEMENT TO SOUTHERN LIGHT, LLC, FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING A FIBER-OPTIC TRANSMISSION LINE WITHIN CERTAIN PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF ANNISTON, ALABAMA

WHEREAS, SOUTHERN LIGHT, LLC (hereinafter referred to as the “the Company”) desires to construct a fiber-optic transmission line within certain public rights-of-way within the City of Anniston, Alabama; and

WHEREAS, the Company agrees and recognizes that it is required to obtain consent in the form of a franchise agreement from the City of Anniston in order to construct the proposed fiber-optic transmission line within the corporate limits of the City of Anniston; and

WHEREAS, the City Council wishes to accommodate the Company’s request and grant a franchise agreement for the construction of the proposed fiber-optic transmission line in accordance with the terms and conditions contained herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANNISTON, ALABAMA, AS FOLLOWS:

The City Council of the City of Anniston does hereby grant to SOUTHERN LIGHT, LLC a non-exclusive franchise agreement granting the limited authority to construct a fiber-optic transmission line in the City of Anniston in and along certain rights-of-way outlined in Exhibit A below, subject to the terms and conditions set forth in the following agreement:

AGREEMENT

This Agreement is entered into on this the ___ day of _____, 2016, by and between the City of Anniston, Alabama (hereinafter referred to as the “City”), and SOUTHERN LIGHT, LLC, (hereinafter referred to as the “The Company”).

WITNESSETH:

The City and The Company do hereby mutually covenant and agree as follows:

SECTION 1. Defined Terms. For purposes of this Agreement, the following terms, words and phrases shall have the meanings set forth below. When not inconsistent with the context, words used in the singular number shall include the plural number, and words in the plural number shall include the singular.

1.1 “City” means the City of Anniston, Alabama.

1.2 “City Council” means the City Council of the City of Anniston, Alabama.

1.3 “Gross Receipts” means Local Telecommunications Service Revenues on recurring Telecommunications Services that originate or terminate within the corporate limits of the City. Gross Receipts shall not include revenues arising from or relating to Telecommunication Services that both originate and terminate outside the corporate limits of the City.

1.4 “Local Telecommunications Service Revenues” are defined as all revenues received by the Company from its customer for providing the transport of voice, data and/or video signals within the municipal limits of the City.

1.5 “Person” means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, sole proprietorship, political subdivision, public or private agency of any kind, utility, successor or assign of any of the foregoing, or any other legal entity.

1.6 “Rights-of-way” means the surface and space above and below any public street, boulevard, road, highway, freeway, lane, alley, sidewalk, parkway, driveway, public ways, or other public rights of way, including, public utility easements, dedicated utility strips or rights of way dedicated for compatible uses held by the City or location within the City which shall entitle the City and the Company to use the same for the purpose of installing, operating, repairing and maintaining the System.

1.7 “System” shall mean a system of pipes, transmission lines, meters, equipment and all other facilities associated with the operation of a fiber-optic transmission line by the Company in accordance with the terms and conditions contained in this Agreement.

1.8 “Telecommunications” means the transmission, between or among points specified by the user, or information of the user’s choosing (e.g., data, video, and voice), without change in the form or content of the information as sent and received.

1.9 “Telecommunication Service(s)” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public.

1.10 “Use Fee” means the fee paid by a Provider to the City for locating and maintaining facilities in the Rights-of-Way.

SECTION 2. Grant of Authority. The City hereby grants to the Company the non-exclusive and limited authority to construct, maintain and operate a fiber-optic transmission line within and along the Rights-of-way in the City of Anniston (hereinafter referred to as the “System”) in accordance with the laws and zoning regulations of the City. The Company shall obtain the approval of the City Engineer of the location of the System before constructing, expanding or extending the System within the City pursuant to this Agreement.

SECTION 3. Compensation. The Company shall pay to the City as a right-of-way Use Fee of five percent (5%) of its Gross Receipts during each calendar year of operation under this agreement. Such payments shall be made quarterly during each calendar year, within fifteen (15) days of the close of each quarter. Gross Receipts on Telecommunications Services that originate in one municipality and terminate in another shall be evenly apportioned among the two municipalities for purposes of calculating the Use Fee owed to each municipality by the Company, such that the aggregate Use Fee paid by the Company to the two municipalities shall not exceed five percent (5%) of the Gross Receipts on said Telecommunications Services. An annual financial statement shall be furnished to the City by the Grantee on or before April 1st of each year, or at any time upon reasonable request of the City after thirty (30) days written notice, such report to show Gross Receipts received by the Grantee from its operations within the City for the previous year.

SECTION 4. Duration and Term. Subject to Section 22 of the Official Recompilation of the Constitution of Alabama of 1901, as amended. The franchise agreement granted hereunder shall be for an initial term of ten (10) years (the "Initial Term") commencing on the effective date of this Ordinance and Agreement, unless otherwise lawfully renewed, revoked or terminated as herein provided. Upon the expiration of the Initial Term, the Company or the City shall have the option to renew this Agreement for one additional term of ten (10) years, subject to the terms and conditions contained herein, by giving written notice, sixty (60) days before the expiration of the Initial Term, to the other party of that party's intent to renew this Agreement for the additional term. The effective date of this Ordinance and Agreement shall be further described in Section 29 hereof.

SECTION 5. Grant of Non-Exclusive Authority. The right to use and occupy the rights-of-way for the purposes herein set forth shall not be exclusive, and the City reserves the right to grant the use of said rights-of-way to any person at any time and for any lawful purpose. This Agreement shall not be construed to create any rights beyond the terms, conditions and periods set forth in this Agreement, except as provided herein. The City does not warrant any of the rights granted by this Agreement.

SECTION 6. Reservation of Regulatory and Police Powers. The City, by the granting of this franchise agreement and approving this Agreement, does not surrender or to any extent lose, waive, impair or lessen the lawful powers and rights now, or which may be hereafter, vested in the City under the Constitution and the statutes of the State of Alabama to regulate the use of its rights-of-way by the Company or any person or to charge reasonable compensation for such use, and the Company, by its acceptance of this franchise agreement and Agreement, agrees that all lawful powers and rights, regulatory power, police power or otherwise, that may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. The Company is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City to adopt and enforce ordinances necessary for the safety and welfare of the public and agrees to comply with all applicable laws and ordinances enacted by the City pursuant to such powers. Any conflict between the provisions of this

Agreement and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter.

SECTION 7. Standards of Service.

7.1. Conditions of Street Occupancy. All portions of the System and all associated equipment installed or erected by the Company pursuant to this Agreement shall be located so as to cause minimum interference with the proper use of the rights-of-way and with the rights and reasonable convenience of property owners who own property that adjoins any of such rights-of-way.

7.2 Restoration of Rights-of-way. If during the course of the Company's construction, operation or maintenance of the System there occurs a disturbance of any rights-of-way by the Company, it shall, at its expense, replace and restore such rights-of-way to a condition comparable to the condition of the rights-of-way existing immediately prior to such disturbance to the satisfaction of the City. Such determination shall be in the sole discretion of the City. The work to be done under this Agreement, and the restoration of rights-of-way as required herein, must be completed within the dates specified in any permits authorizing the work. The Company shall perform the work according to the standards and with the materials specified or approved by the City Engineer.

7.3 Relocation at Request of the City. Upon its receipt of reasonable notice, not to be less than forty-five (45) days, except where emergency conditions require shorter notice, the Company shall, at its own expense, protect, support, temporarily disconnect, relocate in the rights-of-way, or remove from the rights-of-way, any property of the Company when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, electrical or telecommunications lines, when such installation or construction is being done directly by or for the City. Should the Company refuse or fail to remove its equipment or plant as provided for herein within forty-five (45) days after written notification, the City shall have the right to do such work or cause it to be done, and the reasonable cost thereof shall be chargeable to the Company.

7.4 Trimming of Trees and Shrubbery. The Company shall reasonably compensate the City for any damages, in such amounts as determined by the City, caused by trimming, cutting or removing trees or shrubbery, or shall, at its own expense, replace all trees or shrubs damaged as a result of any construction, installation, repair or maintenance of the System undertaken by the Company to the satisfaction of the City, in its sole discretion.

7.5. Safety and Permit Requirements. Construction, installation, repair and maintenance of the System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial compliance with applicable federal, state, and local laws, rules and regulations, including all permit requirements and ordinances adopted by the City which are now in effect or are hereafter adopted. The System or parts thereof

shall not unreasonably endanger or interfere with the safety of persons or property in the area.

7.6. Minimum Standards. All of the construction by the Company shall conform, at a minimum, to the minimum standards of the Company. In the event there is a conflict between the standards adopted by the Company and any applicable federal, state or local standards, including ordinances adopted by the City, the stricter standard shall apply.

7.7. Obstructions of Rights-of-Way. Except in the case of an emergency, or with the approval of the City Engineer, no rights-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work. The Company shall not so obstruct the rights-of-way so as to interfere with the natural, free and clear passage of water through the gutters, drains, ditches or other waterways.

7.8. Safety Requirements.

A. The Company shall at all times employ the highest degree of care as is commensurate with the practical operation of its business and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

B. The Company shall install and maintain the System in accordance with the requirements of all applicable regulations of the City, which may be amended from time to time, and in such manner that its operations will not interfere with any installations of the City or of a public utility serving the City.

C. All structures and all lines, equipment and connections in, over, under and upon the rights-of-way, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition and in good order and repair.

D. The Company shall maintain a force of employees at all times sufficient to provide safe, adequate and prompt service for the System.

7.9. Least Disruptive Technology. The Company is encouraged to perform construction and maintenance of the System in a manner resulting in the least amount of damage and disruption to the rights-of-ways. The Company will be required to use trenchless technology for any portion of construction or maintenance projects which lie beneath the paved or improved portion of any roadway to which this Agreement applies, unless otherwise approved by the City Council. The City Engineer may require trenchless technology in other locations, where circumstances prevent or make open-cut methods impractical. The Company may use either the open-cut method or trenchless technology for construction outside the paved or improved portion of any roadway to which this Agreement applies.

SECTION 8. Enforcement and Termination of Agreement.

8.1. Notice of Violation. In the event the Company has not complied with the terms of this Agreement, the City shall notify the Company in writing of the nature of the alleged noncompliance.

8.2. Right to Cure or Respond. The Company shall have 30 days from receipt of the notice described in Section 8.1: (a) to respond to the City by contesting the assertion of noncompliance, (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot, for reasons beyond the control of the Company, be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

8.3. Enforcement. In the event the City, after such meeting, determines that the Company is in default of any provision of this Agreement, the City may pursue any or all of the following remedies:

- A. Seek specific performance of any provision which reasonably lends itself to such a remedy;
- B. Make a claim against any surety or performance bond which may be required to be posted;
- C. Restrain by injunction the default or reasonably anticipated default by the Company of any provision of this Agreement;
- D. Seek any other available remedy permitted by law or in equity;
- E. In the case of a material default of this Agreement, declare the Agreement to be revoked in accordance with the following:

(1) The City shall give written notice to the Company of its intent to revoke the franchise agreement on the basis of noncompliance by the Company. The notice shall set forth the exact nature of the noncompliance. The Company shall have 30 days from such notice to object in writing and to state its reasons for such objection.

(2) The City may, in its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under this Agreement in lieu of revocation of the Agreement.

8.4. Impossibility of Performance. The Company shall not be held in default or noncompliance with the provisions of this Agreement, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages or other events reasonably beyond its ability to control.

SECTION 9. Default. Each of the following shall constitute a material default by the Company:

- (1) Failure to make any payments to the City required to be made as set forth in this Agreement;
- (2) Failure by the Company to construct, maintain and operate the fiber optic lines as further provided in Section 5 hereof;
- (3) Failure to maintain a liability insurance policy that is not cured within thirty (30) days following written notice to the Company;
- (4) Failure to provide or furnish any information required under this Agreement to the City that is not cured within thirty (30) days following written notice to the Company;
- (5) Any breach or violation of any ordinance, rule or regulation or any applicable safety or construction requirements or regulations that present a threat to health or safety that has not been cured within ten (10) days written notice;
- (6) The occurrence of any event relating to the financial status of the Company which may reasonably lead to the foreclosure or other judicial or non-judicial sale of all or any material part of the System or the assets of the Company;
- (7) The condemnation by a public authority, other than the City, or sale or dedication under threat or in lieu of condemnation, of all or substantially all of the facilities; or
- (8) If (a) the Company shall make an assignment for the benefit of creditors, shall become and be adjudicated insolvent, shall petition or apply to any tribunal for, or consent to, the appointment of, or taking possession by, a receiver, custodian, liquidator or trustee or similar official pursuant to state or local laws, ordinances or regulations of any substantial part of its property or

assets, including all or any part of the System; (b) a writ of attachment, execution, distraint, levy, possession or any similar process shall be issued by any tribunal against all or any material part of the Company's property or assets; (c) any creditor of the Company petitions or applies to any tribunal for the appointment of, or taking possession by, a trustee, receiver, custodian, liquidator or similar official for the Company or for any material parts of the property or assets of the Company under the law of any jurisdiction, whether now or hereafter in effect, and a final order, judgment or decree is entered appointing any such trustee, receiver, custodian, liquidator or similar official, or approving the petition in any such proceeding; or (d) any final order, judgment or decree is entered in any proceedings against the Company decreeing the voluntary or involuntary dissolution of the Company.

SECTION 10. Excavation and Installation. Prior to any excavation within the rights-of-way, the Company shall obtain a permit from the City pursuant to this Agreement, and the work shall be performed in accordance with all applicable ordinances and codes and any subsequent ordinances or regulations that may be adopted by the City. Repair and replacement of the rights-of-ways due to the Company's installation, removal, relocation, maintenance and repair of its System or facilities shall be accomplished to the satisfaction of the City.

SECTION 11. Insurance. The Company shall maintain in full force and effect, at its own cost and expense, a comprehensive general liability insurance policy in the amount of \$1,000,000.00 for bodily injury and property damage per person and \$3,000,000.00 as to each occurrence, satisfactory to the City. In addition, the Company shall obtain worker's compensation coverage as required by the laws of the State of Alabama. The City shall be named as an additional insured on the policy, and the Company shall provide the City with a certificate of insurance designating the City as an additional insured on each policy and extension or renewal thereof. An endorsement shall be included with the policy that states that the policy shall not be cancelled without giving thirty (30) days written notice of such cancellation to the City.

SECTION 12. Indemnity and Hold Harmless. The Company agrees to indemnify, defend, and hold harmless the City, its elected officers, employees, agents, and representatives, against all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorney's fees and other costs and expenses of litigation, which may be asserted against or incurred by the City or for which the City may be liable, which arise from the negligence or willful misconduct, of the Company, its employees, agents, or subcontractors arising out of the construction, operation, maintenance, upgrade, repair or removal of the System, except for those claims, costs, losses, expenses, demands, actions, or causes of action which arise from the negligence or willful misconduct. The City does not and shall not waive any rights against the Company which it may have by reason

of this indemnification, or because of the acceptance by, or the Company's deposit with the City of any of the insurance policies described in this Agreement. The indemnification by the Company shall apply to all damages, penalties and claims of any kind, regardless of whether any insurance policy shall have been determined to be applicable to any such damages or claims for damages.

SECTION 13. Disclaimer of Warranties. The City makes no representation or warranty regarding its rights to authorize the installation or operation of the System on any particular right-of-way, and the burden and responsibility for making such determination in advance of the installation shall be upon the Company. This Agreement shall not be construed to deprive the City of any rights or privileges which it now has, or may hereafter have, to regulate the use and control of its streets.

SECTION 14. Warranties and Representations. The Company hereby agrees, represents and warrants that it is legally authorized to enter into this Agreement in accordance with all applicable laws, rules and regulations. Furthermore, the Company further agrees, represents and warrants that this Agreement is legal, valid and binding, and that it is required to obtain authorization and consent from the City prior to the construction, installation, operation or maintenance of the System.

SECTION 15. Other Obligations. Obtaining a right-of-way use agreement pursuant to this Agreement does not relieve the Company of its duty to obtain all other necessary permits, licenses, authority and the payment of fees required by any other City, county, state or federal rules, laws or regulations, and the Company is responsible for all work done in the rights-of-way pursuant to this Agreement, regardless of who performs the work.

SECTION 16. Payment of Costs. The Company shall be responsible for all costs associated with the installation, repair and maintenance of the System and all associated equipment including, but not limited to (1) the costs to repair the rights-of-way due to the installation, repair and maintenance of the System, and (2) the costs incurred in removing or relocating any portion of the System or facilities constructed when required by the City.

SECTION 17. Priority of Use. This Agreement does not establish any priority for the use of the rights-of-way by the Company or any present or future franchisees or permit holders. In the event of any dispute as to the priority of use of the rights-of-way, the first priority shall be to the public generally, the second priority to the City, the third priority to the State of Alabama and its political subdivisions in the performance of their various functions, and thereafter, as between franchisees and other permit holders, as determined by the City in the exercise of its powers, including the police powers and other powers reserved to and conferred on it by the State of Alabama.

SECTION 18. Notice. Every notice or response required by this Agreement to be served upon the City or the Company shall be in writing and shall be deemed to have been duly given to the required party three (3) business days after having been posted in a

properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid as follows:

The notices or responses to the City shall be addressed as follows:

City of Anniston
Attn: Finance Director
1128 Gurnee Avenue
Anniston, Alabama 36202

The notices or responses to the Company shall be addressed as follows:

Southern Light, LLC
ATTENTION: Kelly A. McGriff, Esq.
General Counsel
107 St. Francis Street, Suite 1800
Mobile, AL 36602

SECTION 19. The City and The Company may designate such other address or addresses from time to time by giving written notice to the other party as set forth in this section.

SECTION 20. Application. The terms and conditions contained in this Agreement shall apply to all areas within the corporate limits of the City and those areas annexed by the City after the passage and approval of this Ordinance and Agreement.

SECTION 21. Acceptance. The Company's acceptance of this Agreement shall be in writing in a form approved by the City attorney and shall be accompanied by delivery of all payments, insurance certificates, applications, acceptance fees and performance of other requirements relating to commencement of construction as set forth in this Agreement.

SECTION 22. Assignment. The Company's interest in this Agreement shall not be sold, transferred, assigned or otherwise encumbered or disposed of, either by forced or voluntary sale or otherwise, without the prior written consent of the City Council. The City reserves the right to be reimbursed by the Company for costs incurred by it in reviewing the request for transfer of ownership.

SECTION 23. Miscellaneous. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in singular number shall be held to include the plural and vice versa, unless context requires otherwise. The captions used in connection with the sections of this Agreement are for convenience only and shall not be deemed to construe or limit the meaning of the language contained in this Agreement, or be used in interpreting the meanings and provisions of this Agreement.

SECTION 24. Rules of Construction. The parties hereto acknowledge that each party and its counsel have had the opportunity to review and revise this Agreement, and the normal rule of construction to the effect that any ambiguities are to be resolved against

the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits thereto.

SECTION 25. Governing Law. This Agreement shall be deemed to have been made in the State of Alabama and the validity of the same, its construction, interpretation, enforcement and the rights of the parties hereunder, shall be determined under, governed by and construed in accordance with the substantive laws of the State of Alabama, without giving effect to any choice of law provisions arising thereunder.

SECTION 26. Severability Clause. If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 27. Repealer Clause. Any Ordinance heretofore adopted by the City Council which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 28. Effective Date. This Ordinance shall become effective thirty (30) days after the final enactment and publication thereof upon receipt by the City of Anniston written, unconditional acceptance by the Company of the terms and conditions contained herein.

ADOPTED AND APPROVED this ____ day of _____, 2016.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA

By: _____
Vaughn M. Stewart II, Mayor

By: _____
Jay W. Jenkins, Council Member

By: _____
David E. Reddick, Council Member

By: _____
Seyram Selase, Council Member

By: _____
Millie Harris, Council Member

ATTEST:

CITY CLERK