

July 26, 2010

STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.

The City Council of the City of Athens, Alabama met in regular session at the Athens Police Department Court Room, 951 Hobbs Street East in the said City on July 26, 2010, at 5:30 p.m. The meeting was called to order by Councilman William R. Marks, President of the Council. Upon roll call the following were found to be present: Councilmembers Mignon Bowers, Harold Wales, Jimmy Gill, William R. Marks and Mildred Caudle. Councilmember Mayor Dan Williams was present and led the pledge of allegiance. John Hamilton, City Clerk, was present and recorded the minutes of the meeting. Milly Caudle 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 July 12, 2010 City Council Meeting had been submitted for approval. Councilwoman Caudle moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Wales and was unanimously carried. The Chairperson stated that the Minutes of the July 12, 2010 City Council Work Session Meeting had been submitted for approval. Councilwoman Caudle moved that the reading of the Minutes be suspended and that the Minutes be approved as recorded. The motion was seconded by Councilman Wales and was unanimously carried.

A public hearing was held to hear comments on the rezoning request of St. Paul's Catholic Church located at 1900 Highway 72 West. Roy Shaw spoke in favor of. No one spoke against.

The public hearing was closed.

**Councilwoman Caudle introduced the following ordinance:**

**STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.**

**ORDINANCE NUMBER 2010-1761**

**AN ORDINANCE TO REZONE PROPERTY FOR ST. PAUL'S CATHOLIC CHURCH , FROM R-1-1  
TO B-3 HIGHWAY BUSINESS DISTRICT. PROPERTY IS LOCATED AT 1900 HIGHWAY 72  
WEST.**

WHEREAS, the City Council of the City of Athens, Alabama, has heretofore adopted, "The Zoning Ordinance of the City of Athens, Alabama," and,

WHEREAS, the Planning Commission of the City of Athens, Alabama, has made a recommendation to the City Council of the City of Athens, Alabama, that the hereinafter described area should be rezoned from R-1-1 Low Density Single Family Residential District to B-3 Highway Business District.

The City Council of the City of Athens, Alabama, finds that "The Zoning Ordinance of the City of Athens, Alabama," should be amended so as to rezone the hereinafter described area as "B-3".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, as follows:

That all of the hereinafter described area or real estate is hereby zoned "B-3 Highway Business District" in accordance with and defined by "The Zoning Ordinance of the City of Athens, Alabama," and that the

area which is zoned as aforesaid is situated in Athens, Limestone County, Alabama, and is more particularly described as follows:

Commence at an existing railroad spike at the Southwest corner of Section 7, Township 3 South Range 4 West, Thence South 86 degrees 30 minutes 13 seconds East along the south boundary of said Section 7 a distance of 1519.42 feet to a point, thence North 00 degrees 30 minutes 50 seconds East a distance of 67.97 feet to an existing 5/8" rebar with cap stamped: "Ronnie G. Coffman RLS 15455" on the north right-of-way of U.S. Hwy. No. 72, said 5/8" rebar being the Point of True Beginning of the tract herein described,

Thence from the Point of True Beginning continue North 00 degrees 30 minutes 50 seconds East a distance of 470.03 feet to a point, passing an existing concrete monument at a distance of 420.03 feet,

Thence South 87 degrees 29 minutes 35 seconds East a distance of 409.82 feet to a point on the west boundary of Lot 4 of Bailey Subdivision as recorded in Plat Book "C" Page 16 in the Office of the Judge of Probate  
Of Limestone County, Alabama,

Thence South 00 degrees 20 minutes 25 seconds West a distance of 471.36 feet to an existing concrete monument at the southwest corner of said Bailey Subdivision, said point also being on the north right-of-way of said U. S. Highway No. 72, passing an existing concrete monument at a distance of 50.00 feet,

Thence North 87 degrees 18 minutes 55 seconds west along the north right-of- way of said U. S. Highway No. 72 a distance of 411.29 feet to the Point of True Beginning and containing 4.43 acres, more or less.

ADOPTED and APPROVED this, the 26<sup>th</sup> day of July, 2010.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ Dan Williams  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton  
CITY CLERK, CITY OF ATHENS, ALABAMA

Councilmember Bowers 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 Bowers, Wales, Gill, Marks and Caudle; 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 Caudle thereupon moved that the ordinance be finally adopted, which motion was seconded by Councilmember Gill and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; NAYS: None. The President thereupon announced that the motion for the adoption of the said ordinance had been unanimously carried.

A public hearing was held to hear comments on the annexation and zoning request of Earl and Mary Marbut for property located at Pepper Road and Oakdale Road. No one spoke in favor or against.

The public hearing was closed.

**Councilman Wales introduced the following ordinance:**

**STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.**

**ORDINANCE NUMBER 2010-1762**

AN ORDINANCE TO ANNEX PROPERTY FOR EARL AND MARY MARBUT. LAND CONTAINS 120 ACRES AND IS LOCATED ON PEPPER ROAD AND OAKDALE ROAD.

WHEREAS, on the 18<sup>th</sup> day of May, 2010, Earl W. Marbut and Mary P. Marbut, being the owners of all of the real property hereinafter described, did file with the City Clerk a petition asking that the said tracts or parcels of land be annexed to and become a part of the City of Athens; and

WHEREAS, said petitions did contain the signatures of all of the owners of the described territory and a map of said property showing its relationship to the corporate limits of the City of Athens, Alabama; and

WHEREAS, the governing body did determine that it is in the public interest that said property be annexed into the City of Athens, and it did further determine that all legal requirements for annexing said real property have been met pursuant to Section 11-42-20 through 11-42-24, Code of Ala. 1975;

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

SECTION 1. The City Council of the City of Athens, Alabama, finds and declared as the legislative body of the City that it is in the best interest of the citizens of the City, and the citizens of the affected area, to bring the territory in Section 2 of this ordinance into the City of Athens.

SECTION 2. The boundary lines of the City of Athens, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Athens, Alabama, and in addition thereto the following described territory, to wit:

A tract or parcel of land consisting of the Southeast Quarter of Section 11, Township 3 South, Range 4 West, less and except the Northeast Quarter of the Southeast Quarter of Section 11, Township 3 South, Range 4 West, containing 120 acres, more or less. This includes the northern half of Pepper Road and the western half of Oakdale Road.

SECTION 3. This ordinance shall be published as provided by law, and a certified copy of same, together with certified copies of the petitions of the property owners, shall be filed with the Probate Judge of Limestone County, Alabama.

SECTION 4. The territory described in this ordinance shall become a part of the corporate limits of Athens, Alabama, upon publication of this ordinance as set forth in Section 3, above.

SECTION 5. The territory described in this ordinance shall, upon becoming a part of the corporate limits of Athens, Alabama, be zoned as AG Agricultural District, in accordance with the Zoning Ordinance of the City of Athens, Alabama.

ADOPTED and APPROVED this, the 26<sup>th</sup> day of July, 2010.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,

CITY OF ATHENS, ALABAMA

/s/ Dan Williams

MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton

CITY CLERK, CITY OF ATHENS, ALABAMA

Councilmember Bowers moved that unanimous consent be given for immediate consideration of and action on said ordinance, which motion was seconded by Councilmember Gill, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; 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 Wales thereupon moved that the ordinance be finally adopted, which motion was seconded by Councilmember Gill and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; 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 ordinance:**

**STATE OF ALABAMA,  
LIMESTONE COUNTY,  
CITY OF ATHENS.**

**ORDINANCE NUMBER 2010-1763**

AN ORDINANCE TO ZONE PROPERTY FOR THE EARL MARBUT LAND, CONTAINING 120 ACRES, AS AG AGRICULTURAL DISTRICT. LAND IS LOCATED ON PEPPER ROAD AND OAKDALE ROAD.

WHEREAS, the City Council of the City of Athens, Alabama, has heretofore adopted, "The Zoning Ordinance of the City of Athens, Alabama," and,

WHEREAS, the Planning Commission of the City of Athens, Alabama, has made a recommendation to the City Council of the City of Athens, Alabama, that the hereinafter described and newly annexed area should be zoned as AG Agricultural District.

The City Council of the City of Athens, Alabama, finds that "The Zoning Ordinance of the City of Athens, Alabama," should be amended so as to zone the hereinafter described area as "AG".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, as follows:

That all of the hereinafter described area or real estate is hereby zoned "AG Agricultural District" in accordance with and defined by "The Zoning Ordinance of the City of Athens, Alabama," and that the area which is zoned as aforesaid is situated in Athens, Limestone County, Alabama, and is more particularly described as follows:

A tract or parcel of land consisting of the Southeast Quarter of Section 11, Township 3 South, Range 4 West, less and except the Northeast Quarter of the Southeast Quarter of Section 11, Township 3 South, Range 4 West, containing 120 acres, more or less. This includes the northern half of Pepper Road and the western half of Oakdale Road.

ADOPTED and APPROVED this, the 26<sup>th</sup> day of July, 2010.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ Dan Williams  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton  
CITY CLERK, CITY OF ATHENS, ALABAMA

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

Julia Hatchett Nelson, 511 S. Clinton Street, requested the Historical Preservation Ordinance be updated on the City of Athens website. She also questioned the legal boundaries of this ordinance.

**Councilwoman Bowers introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to approve the payment of budgeted travel/education expenses for specified Water/Wastewater employees in the total amount of \$511.20.

John Stockton (Water Services)	AWWA Annual Conference Chicago, Illinois June 20-25, 2010	\$511.20
-----------------------------------	---	----------

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

**Councilman Gill introduced the following resolution:**

**RESOLUTION NUMBER 2010-1150**

WHEREAS, Open Range has requested to co-locate to the telecommunications facility located at 154 East Elm Street , Athens, AL to provide high speed internet and voice services essentially within the corporate limits and police jurisdiction of the city of Athens and;

WHEREAS, Open Range has complied with City's Ordinance No. 2009-1740, Chapter 78 and has demonstrated the need for the co-location to this wireless facility to deliver reliable services in the identified area, and;

WHEREAS, both the City and Open Range customers in Athens will benefit from the high speed internet and voice services; and;

WHEREAS, the City's consultant, The Center for Municipal Solutions (CMS), recommends the granting of a Special Use Permit for co-location on the facility located at 108 East Elm Street consists of an existing 200' foot guyed tower;

THEREFORE, BE IT RESOLVED by the City Council of the City of Athens, Alabama that Open Range is hereby granted a Special Use Permit to co-locate their equipment at 108 East Elm Street . As recommended by CMS, the Special Use Permit is subject to compliance with the following conditions prior to the issuance of said permit and/or a Certificate of Completion:

1. The facility must be modified, activated and be providing enhanced service *no later than ninety (90) days after the issuance of the Special Use Permit or other applicable authorization, subject to commonly accepted force majeure exceptions acceptable to the City.* Open Range may petition the City of an extension of this for good cause shown, but the decision whether or not to grant the extension shall exclusively be the prerogative of the City. Once Open Range has met all the conditions of the permit and any other requirements of the City and a building permit is issued, they must notify the City's consultant for all inspections.
2. At the completion of construction and prior to the final inspection being conducted, Open Range shall provide to CMS an unredacted, signed copy of the contractor's final (sign-off) report showing in detail all work performed.
3. At the completion of construction, the Applicant must notify the City's consultant and provide proof that all inspections have been satisfactorily completed and the project is ready for a final on-site inspection. Upon passing the final inspection, a recommendation to issue a Certificate of Occupancy shall be made.
4. Open Range shall not be permitted to actually provide service commercially until the Certificate of Occupancy or its functional equivalent is issued or risk forfeiting its Permit.
5. The Certificate of Occupancy shall not be issued until all fees and costs associated with this Permit, including inspections, have been paid.

ADOPTED and APPROVED this, the 26<sup>th</sup> day of July, 2010.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ Dan Williams  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton  
CITY CLERK, CITY OF ATHENS, ALABAMA

The motion was seconded by Councilman Wales with four yeas and one abstention by Councilwoman Bowers.

**Councilman Wales introduced the following resolution:**

**RESOLUTION NUMBER 2010-1151**

**A RESOLUTION CONCERNING AN ECONOMIC DEVELOPMENT PROJECT**

WHEREAS, this resolution concerns an economic development project in the City of Athens involving Wilkinson Alabama, LLC ("Wilkinson") and Custom Polymers PET, LLC ("CP-PET");

WHEREAS, Wilkinson proposes to lease certain real property and improvements and to sublease the same to CP-PET in connection with CP-PET's expanding industrial recycling plastics business;

WHEREAS, said real property is more specifically described as: Lot 2 of Elm Street Industrial Complex according to the plat of said subdivision recorded in Plat Book G, at Page 124 in the records of the Office of the Judge of Probate of Limestone County, Alabama (the "Property");

WHEREAS, the Property contains approximately 19 acres, and includes a 50,000 square foot building;

WHEREAS, the City Council believes that the proposed economic development project will create new jobs in the City, will generate additional tax revenues for the City, will increase commerce in the City and will generally promote the economic development of the City;

WHEREAS, the activities to be authorized by this resolution will assist in said economic development and will constitute an economic development project for the City;

WHEREAS, the activities to be authorized by this resolution are permitted under the laws of the State of Alabama, including but not limited to § 11-63-2 of the *Code of Alabama* and Amendment No. 772 of the *Constitution of Alabama*;

WHEREAS, the activities to be authorized by this resolution; the public benefits sought to be achieved thereby; and each individual, firm, corporation, and other business entity to whom or for whose benefit the City proposes to lend its credit or grant public funds or thing of value, have been described in reasonable detail and/or identified in a notice published in the *Athens News Courier* at least seven days prior to this meeting, a copy of which is attached hereto as **Exhibit A**, and incorporated in this paragraph as if set out in full herein; and

WHEREAS, the City Council finds that the actions contemplated by this Resolution serve a valuable public purpose.

**THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** on July 26, 2010 at 5:30 p.m., as follows:

1. The Mayor is authorized in the name of and for account of the City of Athens to loan to the Industrial Development Board of the City of Athens, Alabama (the "IDB") the sum of One Million Three Hundred Thousand and 00/100 Dollars (\$1,300,000.00), in addition to existing loans to the IDB, for

the purpose of promoting the economic and industrial development of the City of Athens. The Mayor is further authorized to execute and endorse a promissory note in substantially the form as is attached hereto as **Exhibit B**, and to contractually bind the City with respect to the same. The Mayor is further authorized to accept an Assignment of Leases, Rentals, and Income from the IDB, in a form and manner acceptable to the Mayor, pledging security for such promissory note.

2. It is hereby determined that the expenditures of public funds for the purposes specified in this resolution and in the exhibits hereto (which are incorporated herein by reference), will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

3. To the extent that the same is necessary, the City does hereby acknowledge and consent to the termination of that certain "Lease-Purchase Agreement," by and between the IDB and CP-PET, dated as of June 11, 2008, as the same may have been thereafter amended.

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.

ADOPTED and APPROVED this, the 26<sup>th</sup> day of July, 2010.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ Dan Williams  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton  
CITY CLERK, CITY OF ATHENS, ALABAMA

**CERTIFICATION OF CITY CLERK**

STATE OF ALABAMA )  
LIMESTONE COUNTY )

I, John Hamilton, City Clerk of the City of Athens, Alabama, do hereby certify that the above and foregoing is a true and correct copy of a Resolution duly adopted by the City Council of the City of Athens, Alabama, on the 26<sup>th</sup> day of July, 2010.

Witness my hand and seal of office this \_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
John Hamilton, City Clerk

## EXHIBIT A

### NOTICE OF PROPOSED ACTION AT PUBLIC MEETING

Notice is hereby given that during a regular meeting, which will be open to the public and will be held on Monday, July 26, 2010, at 5:30 o'clock, P.M., Central Time, at the City Council Chambers in the Athens Police Department of the City of Athens, Alabama, the City Council for the City of Athens, Alabama will consider adopting a resolution(s) in connection with an economic development project, described in reasonable detail herein.

The economic development project relates to Wilkinson Alabama, LLC ("Wilkinson") and Custom Polymers PET, LLC ("CP-PET"). CP-PET currently leases certain real property and improvements from the Industrial Development Board of the City of Athens, Alabama (the "IDB") in connection with CP-PET's industrial recycling plastics business, and is in the third year of a lease-purchase agreement in connection with that property, and in which CP-PET can elect not to purchase the property. The property is more specifically described as follows: Lot 2 of Elm Street Industrial Complex according to the plat of said subdivision recorded in Plat Book G, at Page 124 in the records of the Office of the Judge of Probate of Limestone County, Alabama (the "Property"). The Property contains approximately 19 acres, and includes a 50,000 square foot industrial facility.

Wilkinson and CP-PET propose that the IDB terminate the existing lease-purchase agreement and enter into a new lease-purchase agreement with Wilkinson. Under the new lease purchase agreement, Wilkinson would lease the Property from the IDB for five years, beginning on or about August 1, 2010, and be required to purchase the property from the IDB on or before the end of that five year term. Wilkinson would pay rent in the amount of \$33,233.39 per month. The purchase price for the Property would be \$3,585,000.00, plus interest at the rate of seven and one-half percent (7.5%) per annum less certain charges, including any rent paid over the term of the lease purchase agreement. At the commencement of the lease purchase agreement, Wilkinson would pay the IDB \$330,000.00 as a nonrefundable security deposit/earnest money, which would also be credited towards the purchase price at closing (a portion of this amount would be derived from earnest money previously paid by CP-PET in connection with the current lease). As a part of this transaction, Wilkinson would invest \$1,000,000.00 of its funds for additional improvements to the Property, and, after such expenditure, the IDB would fund \$1,300,000.00 in further construction improvements to the Property. Such improvements would be made in connection with the addition of a new building to house CP-PET's expansion of its industrial recycling activities. In the event of a default where the rent or purchase price is not paid when due, the IDB would retain ownership of the Property, including all of the new construction improvements on the Property. As a part of this transaction, Wilkinson would warrant certain increases in jobs and utility receipts from CP-PET's business operations in the city. Wilkinson would sublease the Property to CP-PET in connection with its industrial recycling business. CP-PET would provide a guarantee Wilkinson's payment of rent to the IDB.

In connection with the above transaction, the resolution considered by the City Council would provide for a loan to the IDB in the amount of \$1,300,000.00, at 7.5% interest per annum, as evidenced by a promissory note. The promissory note would also refinance the IDB's existing indebtedness to the City that is secured by the rents and income from the current lease of the Property. The resolution would also provide for the IDB's assignment to the City of all of its income, rents and proceeds from the rent, use, and sale of the Property, including the lease-purchase agreement with Wilkinson.

The City believes that the proposed economic development project will create new jobs in the City, will generate additional utility and tax revenues for the City, will increase commerce in the City and will generally promote the economic development of the City. The activities described herein will assist in said economic development and will constitute an economic development project for the City. The City's lending of its credit, and granting of public funds or things of value as described herein will benefit Wilkinson and CP-PET. The IDB would also be benefitted by receiving public funds, albeit the IDB is a public corporation.

THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA

Publication: Saturday, July 17, 2010

**EXHIBIT B**

**NON-NEGOTIABLE DEMAND NOTE**

\$3,291,031.82  
8/15/2010

Dated:

WHEREAS, the Industrial Development Board of the City of Athens, an Alabama public corporation whose address is of 200 West Hobbs Street, Athens, AL 35611 (the "Borrower") has previously borrowed funds from The City of Athens, Alabama, an Alabama municipal corporation of Limestone County, Alabama, whose address is 200 West Hobbs Street, Athens, AL 35611 (the "Lender") in the amount of Two Million Forty-Four Thousand Four Hundred Sixty-Five and 00/100 Dollars (\$2,044,465.00), as recognized and set forth in that certain Non-Negotiable Demand Note between Assignor and Assignee dated June 10, 2008, and in loan transactions carried out thereafter in connection with such note;

WHEREAS, as of August 15, 2010, the balance owed by Borrower to Lender with respect to the aforementioned debts was One Million Nine Hundred Ninety-One Thousand Thirty-One and 82/100 (\$1,991,031.82) as of 8/15/2010, with interest accruing at the rate of five percent (5%) per annum; and

WHEREAS, on this date and as shown herein, Lender has agreed to refinance the existing debt referenced above, and to loan Borrower additional funds in the amount of One Million Three Hundred Thousand Dollars and 00/100 (\$1,300,000.00), such that the current balance of the outstanding loan and debt as of this date is Three Million Two Hundred Ninety-One Thousand Thirty-One and 82/100 Dollars (\$3,291,031.82), plus interest as set forth herein.

**THEREFORE, FOR VALUE RECEIVED**, the Borrower promises to pay to the Lender, or at its address stated above or at such other address as Lender may from time to time designate, the principal sum of Three Million Two Hundred Ninety-One Thousand Thirty-One and 82/100 Dollars (\$3,291,031.82), together with interest thereon computed daily at the rate of 7.5% per annum until paid in full. All outstanding principal and interest of this Note shall be payable in part or in full upon demand of the Lender.

All payments shall be applied first to accrued but unpaid interest and any balance shall be applied in reduction of principal. The principal and interest shall be payable in lawful money of the United States which shall be legal tender for public and private debts at the time of payment. Borrower may prepay the outstanding principal balance of this promissory note, or any part thereof, at any time and from time to time, without premium or penalty.

The outstanding principal balance of this promissory note, together with accrued and unpaid interest, shall become immediately due and payable at the option of Lender upon the failure of Borrower to make any payment of interest or principal due under the terms of this promissory note within ten (10) days after the due date thereof.

With respect to all amounts due under the terms of this promissory note, Borrower hereby waives (i) all rights of exemption of property from levy or sale under execution or other process for the collection of debts under the Constitution or laws of the United States or any State thereof, (ii) demand, presentment, protest, notice of dishonor, notice of nonpayment, suit against any party, diligence in collection, and all other requirements necessary to enforce this promissory note, and (iii) any receipt from Lender for any collateral now or hereafter deposited, if any, as security for the obligations of Borrower hereunder.

This promissory note is secured by that certain Assignment of Leases, Rentals, and Income executed by Borrower in favor of Lender of even date.

In no event shall the amount of interest due or payable hereunder exceed the maximum rate of interest allowed by applicable law, and in the event such payment is inadvertently paid by Borrower or inadvertently received by Lender, then such excess sum shall be credited as payment of principal, unless Borrower elects to have such excess sum refunded to Borrower forthwith. It is the express intent hereof that Borrower not pay and Lender not receive, directly or indirectly, interest in excess of that which may be legally paid by Borrower under applicable law. All rights and remedies of Lender under the terms of this promissory note and applicable statutes or rules of law shall be cumulative, and may be exercised successively or concurrently. Borrower agrees that there are no defenses, equities or setoffs with respect to the obligations set forth herein. The obligations of Borrower hereunder shall be binding upon and enforceable against Borrower and his heirs, personal representatives and assigns. This promissory note is being made, executed and delivered to the Lender in the State of Alabama, and shall be governed by, and construed in accordance with, the laws of the State of Alabama without regard to any conflicts of laws provision. Any provision of this promissory note which may be unenforceable or invalid under any law shall be ineffective only to the extent of such unenforceability or invalidity without affecting the enforceability or validity of any other provision hereof.

The Non-Negotiable Demand Note dated June 10, 2008 between the Borrower and Lender, along with all subsequent loans arising out of and related to the same, is hereby cancelled and has been renewed, refinanced, modified, and replaced by the present promissory note.

IN WITNESS WHEREOF, Borrower has executed this promissory note as of the day and year first above written.

**THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF ATHENS**

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

STATE OF ALABAMA )  
 )  
LIMESTONE COUNTY )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_, whose name as authorized agent of the Industrial Development Board of the City of Athens, an Alabama public corporation, is signed to the foregoing Non-Negotiable Demand Note and who is known to me, acknowledged before me on this day that, being informed of the contents of the Non-Negotiable Demand Note, he/she, in his/her capacity as such authorized agent and with full authority, executed the same voluntarily for and as the act of said board on the day the same bears date.

Given under my hand this the \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
{SEAL}

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

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

**Councilwoman Caudle introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, to accept the low bid from North America Fire Equipment Co., Inc. in the amount of \$10,470. Line item #301.500.85002 will be charged.

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

**Councilman Gill introduced the following resolution:**

**RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA, that the Manager of the Gas Department is authorized to purchase a 19.180 tract of land from Mrs. Betty Hancock and Mr. R. C. Beddingfield for \$210,000 and that there be appropriated up to \$212,000 in the Gas Department FY 2010 budget to cover this purchase and other associated real estate closing costs.

Councilmember Caudle moved that unanimous consent be given for immediate consideration of and action on said resolution, which motion was seconded by Councilmember Bowers, and upon the said motion being put to vote the following vote was recorded: YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; 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 Gill thereupon moved that the resolution be finally adopted, which motion was seconded by Councilmember Wales and upon the said motion being put to vote the following vote was recorded:

YEAS: Councilmembers Bowers, Wales, Gill, Marks and Caudle; 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 2010-1152**

**A RESOLUTION DECLARING PUBLIC NUISANCES  
SUBJECT TO ABATEMENT IN THE LAKES AT WATERCRESS AND THE SPRINGS AT  
WATERCRESS SUBDIVISIONS  
(OVERGROWN GRASS AND WEEDS)**

WHEREAS, the City of Athens is authorized by state law to abate nuisances within the City, such as an abundance of weeds and vegetation that is injurious to the general public health, safety, and general welfare by being unsightly and providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, or pests;

WHEREAS, it has been brought to the attention of this City Council that weeds and vegetation located on certain and numerous properties are injurious to the general public health, safety, and general welfare by being unsightly and providing breeding grounds and shelter for rats, mice, snakes, mosquitoes, and other vermin, insects, or pests; and

**THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, ALABAMA** on July 26, 2010 at 5:30 p.m., as follows:

1. This resolution concerns certain real properties located in The Lakes at Watercress and the Springs at Watercress subdivisions. The properties are further described as follows:

Lots and other tracts of real property situated on or near Watercress Drive, Blair Drive, Spring View Drive, Carillon Drive, and Windermere Drive more specifically described as follows:

(a) Lot Numbers 1, 2, 3, 4, 5, 6, 7, 13, 14, 17, 18, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59 as shown by the Final Plat of the Lakes at Watercress Replat, found at Plat Book H, Page 133, recorded in the Office of the Judge of Probate of Limestone County, Alabama; and

(b) Lot Numbers 3, 4, 6, 7, 8, 10, 11, 14, 29, 41, and 45 as shown by the Final Plat of the Springs at Watercress Replat, found at Plat Book G, Page 306, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further

identified by a Surveyor's Affidavit at RLPY Book 2007, Page 65086, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further still identified in a Ratification of Subdivision Plat at RLPY Book 2007, Page 89676, recorded in the Office of the Judge of Probate of Limestone County, Alabama; and

(c) The Southeast Quarter of the Northwest Quarter of Section 1, Township 3 South, Range 5 West; the South half of the South half of the Northeast Quarter of Section 1, Township 3 South, Range 5 West; the North half of the Northeast Quarter of the Southwest Quarter of Section 1, Township 3 South, Range 5 West; the North Half of the Northwest Quarter of the Southeast Quarter of Section 1, Township 3 South, Range 5 West; 2 ½ acres taken evenly off the North Side of the East Half of the Northeast Quarter of the Southeast Quarter of Section 1, Township 3 South, Range 5 West; the Northwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 1, Township 3 South Range 5 West, LESS AND EXCEPT 2 ½ acres taken evenly off the South Side thereof;

LESS AND EXCEPT the lots, common areas, and other parcels or tracts of real property, as shown by the Final Plat of the Lakes at Watercress Replat, found at Plat Book H, Page 133, recorded in the Office of the Judge of Probate of Limestone County, Alabama;

LESS AND EXCEPT the lots, common areas, and other parcels or tracts of real property, as shown by the Final Plat of the Springs at Watercress Replat, found at Plat Book G, Page 306, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further identified in a Surveyor's Affidavit at RLPY Book 2007, Page 65086, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further still identified in a Ratification of Subdivision Plat at RLPY Book 2007, Page 89676, recorded in the Office of the Judge of Probate of Limestone County, Alabama; and

(d) A tract or parcel of land in the North Half of the South Half of the Northeast Quarter of Section 1, Township 3 South, Range 5 West; particularly described

as beginning at the Southeast corner of the North Half of the South Half of the Northeast Quarter of said Section 1, and run thence North along the East boundary line of said section to the point of intersection of the section line with the center line of a ditch; thence Northwesterly direction, a Westerly direction, and a Southwesterly direction along the centerline of said ditch as it curves to the left, to the point of intersection of the center line of said ditch with the South boundary line of the North Half of the South Half of the Northeast Quarter of said Section 1; thence North 88 degrees East along the South boundary of the North Half of the South Half of the Northeast Quarter of said section to the point of beginning;

LESS AND EXCEPT the lots, common areas, and other parcels or tracts of real property, as shown by the Final Plat of the Lakes at Watercress Replat, found at Plat Book H, Page 133, recorded in the Office of the Judge of Probate of Limestone County, Alabama; and

LESS AND EXCEPT the lots, common areas, and other parcels or tracts of real property, as shown by the Final Plat of the Springs at Watercress Replat, found at Plat Book G, Page 306, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further identified in a Surveyor's Affidavit at RLPY Book 2007, Page 65086, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further still identified in a Ratification of Subdivision Plat at RLPY Book 2007, Page 89676, recorded in the Office of the Judge of Probate of Limestone County, Alabama; and

(e) A tract or parcel of land located in the East one-half of the Northeast Quarter of the Southeast Quarter of Section 1, Township 3 South, Range 5 West, Limestone County, Alabama, and being more particularly described as follows:

Commencing at an existing P. K. Nail at the Southeast Corner of the Northeast Quarter of the Southeast Quarter of Section 1, Township 3 South, Range 5 West, thence North 02 degrees 26 minutes 26 seconds East along the East Boundary of said Section 1 and the centerline of Lucas Ferry Road a distance of 995.48 feet to a P. K. Nail set at the

POINT OF TRUE BEGINNING of the herein described tract; thence from the Point of True Beginning, North 87 degrees 33 minutes 32 seconds West and parallel with the South boundary of the North one-half of the South one-half of said Section 1 a distance of 656.54 feet to a 5/8 inch rebar set with plastic cap stamped "RLS 15455 Ronnie G. Coffman", on the West boundary of the East one-half of the Northeast Quarter of the Southeast Quarter of said Section 1, passing a 5/8 inch rebar set with plastic cap stamped "RLS 15455 Ronnie G. Coffman" on the West right-of-way of Lucas Ferry Road at a distance of 40.00 feet; thence North 02 degrees 23 minutes 29 seconds East along the West boundary of the East one-half of the Northeast Quarter of the Southeast Quarter of said Section 1 a distance of 166.10 feet to a 5/8 inch rebar set with plastic cap stamped "RLS 15455 Ronnie G. Coffman"; thence South 87 degrees 33 minutes 32 seconds East and parallel with the South boundary of the North one-half of the South one-half of the said Section 1 a distance of 656.68 feet to a P. K. Nail set in the centerline of Lucas Ferry Road and the East boundary of said Section 1, passing a 5/8 inch rebar set with plastic cap stamped "RLS 15455 Ronnie G. Coffman", on the West right-of-way of Lucas Ferry Road at a distance of 616.68 feet; thence South 02 degrees 26 minutes 26 seconds West along the East Boundary of said Section 1 and the centerline of Lucas Ferry Road a distance of 165.97 feet to the POINT OF TRUE BEGINNING and containing 2.502 acres, more or less.

ALSO: A tract or parcel of land located in the East one-half of the Northeast Quarter of the Southeast Quarter of Section 1, Township 3 South, Range 5 West, Limestone County, Alabama, and being more particularly described as follows:

Commencing at an existing P. K. Nail at the Southeast corner of the Northeast Quarter of the Southeast Quarter of Section 1, Township 3 South, Range 5 West, thence North 02 degrees 26 minutes 26 seconds East along the East boundary of said Section 1 and the centerline of Lucas Ferry Road a distance of 829.52 feet to a P. K. Nail set at the Point of True Beginning of the herein described tract; thence from the Point of True Beginning, North 87 degrees 33 minutes 32 seconds West and parallel with the South

boundary of the North one-half of the South one-half of said Section 1 a distance of 656.40 feet to a 5/8 inch rebar set with plastic cap stamped "RLS 15455 Ronnie G. Coffman", on the West right-of-way of Lucas Ferry Road at a distance of 40.00 feet; thence North 02 degrees 23 minutes 29 seconds East along the West Boundary of the East one-half of the Northeast Quarter of the Southeast Quarter of said Section 1 a distance of 166.10 feet to a 5/8 inch rebar set with plastic cap stamped "RLS 15455 Ronnie G. Coffman"; thence South 87 degrees 33 minutes 32 seconds East and parallel with the South boundary of the North one-half of the South one-half of said Section 1 a distance of 656.54 feet to a P. K. Nail set in the centerline of Lucas Ferry Road and the East boundary of said Section 1, passing a 5/8 inch rebar set with plastic cap stamped "RLS 15455 Ronnie G. Coffman", on the West right-of-way of Lucas Ferry Road at a distance of 616.54 feet; thence South 02 degrees 26 minutes 26 seconds West along the East boundary of said Section 1 and the centerline of Lucas Ferry Road a distance of 165.96 feet to the Point of True Beginning and containing 2.502 acres, more or less.

LESS AND EXCEPT; 40.00 FEET EVENLY OFF THE East side of the above described property for right-of-way of Lucas Ferry Road containing 0.152 acres, more or less; and

LESS AND EXCEPT the lots, common areas, and other parcels or tracts of real property, as shown by the Final Plat of the Lakes at Watercress Replat, found at Plat Book H, Page 133, recorded in the Office of the Judge of Probate of Limestone County, Alabama; and

LESS AND EXCEPT the lots, common areas, and other parcels or tracts of real property, as shown by the Final Plat of the Springs at Watercress Replat, found at Plat Book G, Page 306, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further identified in a Surveyor's Affidavit at RLPY Book 2007, Page 65086, recorded in the Office of the Judge of Probate of Limestone County, Alabama, and further still identified in a Ratification of Subdivision Plat at RLPY Book 2007, Page 89676, recorded in the Office of the Judge of Probate of Limestone County, Alabama.

2. The abundance of overgrown grass and weeds on said properties is hereby declared to be a public nuisance subject to abatement by the City pursuant to § 11-67-60 of the *Code of Alabama*. Any mature trees located on these properties are expressly not included within this definition and are not declared to be nuisances.

3. A public hearing on this matter shall be held at the City Council's regular meeting on August 23, 2010, at 5:30 P.M.

4. City officials are directed to issue such notices concerning the same as the law may require.

ADOPTED and APPROVED this, the 26<sup>th</sup> day of July, 2010.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL,  
CITY OF ATHENS, ALABAMA

/s/ Dan Williams  
MAYOR, CITY OF ATHENS, ALABAMA

ATTEST:

/s/ John S. Hamilton  
CITY CLERK, CITY OF ATHENS, ALABAMA

**CERTIFICATION OF CITY CLERK**

STATE OF ALABAMA )  
LIMESTONE COUNTY )

I, John Hamilton, City Clerk of the City of Athens, Alabama, do hereby certify that the above and foregoing is a true and correct copy of a Resolution duly adopted by the City Council of the City of Athens, Alabama, on the 26<sup>th</sup> day of July, 2010.

Witness my hand and seal of office this \_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
John Hamilton, City Clerk

The motion was seconded by Councilwoman Caudle and was unanimously carried.

There being no further business to come before the meeting, the same was, upon motion by Councilman Gill and second by Councilman Wales, duly and properly adjourned.

/s/ William R. Marks  
PRESIDENT, CITY COUNCIL

ATTEST:

/s/ John S. Hamilton  
CITY CLERK