
This Agreement, and any interest herein or obligation hereunder, is not negotiable and may not be assigned or delegated by any party hereto except as specifically provided herein.

FINANCING AGREEMENT

Effective Date: December __, 2022

CITY OF FOLEY, ALABAMA

and

UNITED BANK

\$XXX

General Obligation Warrant, Series 2022

Of

City of Foley, Alabama

This Agreement was prepared by Ann W. Todd and Heyward C. Hosch of Maynard, Cooper & Gale, PC

FINANCING AGREEMENT

This Agreement is made and entered by and among the following persons each of whom is identified herein as follows:

City: **City of Foley, Alabama**

Lender: **United Bank, and registered assigns**

Recitals and Agreement

For and in consideration of the agreements of the Lender to extend credit to the City pursuant to the terms of this Agreement for the within Governmental Purposes, and of the obligations undertaken by the City pursuant to this Agreement with respect thereto, the City and the Lender hereby covenant and agree as follows:

ARTICLE 1

Principles of Construction; Definition of Terms

Section 1.01 Principles of Construction of Agreement

For purposes of this Agreement:

- (a) The terms “agree”, “shall”, and “will” when used in this Agreement with respect to the observance or performance of any agreement, duty or requirement to take, or forbear from taking, any action by the City or the Lender, means that such agreement, duty or requirement is imperative and enforceable by available remedies at law or in equity against the Person charged therewith.
- (b) All references in this Agreement to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this Agreement as originally executed.
- (c) The terms “in this Agreement,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.
- (d) The Article and Section headings in this Agreement are for convenience only and shall not affect the construction of this Agreement.

Section 1.02 Definitions of Capitalized Terms

For purposes of this Agreement:

Act of Insolvency means the commencement by the City of a voluntary case or proceeding pursuant to any bankruptcy, insolvency, moratoria, reorganization, or similar law.

Actual/360 Basis means a method of computing interest or other charges hereunder on the basis of an assumed year of 360 days for the actual number of days elapsed, meaning that interest or other charges accrued for each day will be computed by multiplying the rate applicable on that day by the unpaid principal balance (or other relevant sum) on that day and dividing the result by 360.

Agreement means this Financing Agreement as at any time amended, restated, or supplemented.

Agreement Obligations means the financial obligations of the City pursuant to Article 6.

Applicable Law means (i) the applicable provisions of all constitutions, statutes, common law, rules, regulations, orders, judgments and decrees of any Governmental Authority of competent jurisdiction in the premises and (ii) all laws and rules of law which provide legal or equitable rights and remedies for creditors.

Authorized Purpose Costs means all costs of the acquisition, construction, and installation of the Financed Property including without limitation: (i) the cost of labor, materials and supplies furnished or used in the acquisition, construction, installation or equipping, of the Financed Property, (ii) acquisition, transportation and installation costs for the Financed Property, (iii) fees for architectural, engineering and supervisory services, (iv) the principal of and interest on any indebtedness incurred by the City to pay any costs set forth in (i) through (iii) prior to the issuance of the Warrant, (v) expenses incurred in the enforcement of any remedy against any contractor, subcontractor, materialmen, vendor, supplier or surety, (vi) expenses incurred by the City or the Lender in connection with the financing of the Financed Property including legal, consulting and accounting fees, (vii) reimbursement to the City for any of the foregoing costs, fees and expenses set forth in (i) through (vi) above, paid with the personal funds of the City.

Business Day means any day other than a Saturday, a Sunday, or a day on which the Lender is authorized to be closed under general law or regulation applicable in the place where the Lender performs this Agreement.

City means the City of Foley, Alabama.

Code means the Internal Revenue Code of 1986, as amended.

Date of Taxability means the first date on which interest on the Warrant is determined to be Taxable pursuant to a Determination of Taxability.

Default Rate means the per annum rate of interest specified in the Warrant as the “Default Rate”.

Determination of Taxability means a final decision that interest on the Warrant is Taxable by administrative determination of the Internal Revenue Service, or judicial decision of a court of competent jurisdiction, in a proceeding in which the City was provided an opportunity to participate to the extent permitted by Applicable Law and with respect to which all periods for administrative or judicial review shall have expired.

Effective Date means the date set forth on the cover page hereof as the “Effective Date”.

Finance Director means the Finance director of the city and any successor office to the duties and functions thereof.

Financed Property means capital improvements to facilities of the City for use (i) as a municipal public library and (ii) by the Public Works Department of the City.

Governing Law means: (i) the Constitution of Alabama of 1901, as amended, (ii) Section 11-47-2 of the Code of Alabama 1975; and (iii) the applicable provisions of the laws of the State.

Governmental Authority means (i) the United States of America, (ii) the State of Alabama and any political subdivision (within the meaning of 26 CFR Section 1.103-1), and (iii) any agency, authority, board, bureau, commission, court, department, division, instrumentality, tribunal thereof or other organization of competent jurisdiction established by the United States of America or the State of Alabama.

Governmental Purposes means the acquisition and placement in service of the Financed Property.

Lender means, on any date of determination, the Person in whose name the Warrant is registered in the Register.

Mayor means the chief executive officer of the city and any successor office to the duties and functions thereof.

Person means any natural person, corporation, general or limited partnership, limited liability company or partnership, joint venture, association, trust, unincorporated organization and Governmental Authority.

Register means the registration book of ownership of the Warrant maintained by the Register pursuant to Section 4.03.

Registrar means the City appointed as such pursuant to Section 4.03, for maintenance of the Register and registration of ownership of the Warrant.

State means the State of Alabama.

Taxable means, on any date of determination, that interest on the Warrant is includible in the gross income of the Lender for purposes of federal income taxation under Section 103 of the Code; provided, however, interest on the Warrant shall not be "Taxable" if interest on the Warrant is includible in any calculation of income for purposes of an alternative minimum tax or any other type of taxation other than the regular federal tax imposed on income.

Taxable Rate means the effective rate of interest on the Warrant on the Date of Taxability.

Tax Certificate and Agreement means that certain Tax Warrant and Agreement dated the date of delivery by the City and the City in connection with the Warrant

U.S. Currency means lawful currency of the United States of America.

Warrant means the General Obligation Warrant, Series 2022, issued by the City pursuant to this Agreement.

Warrant Fund means the Fund established pursuant to Section 6.02.

Warrant Proceeds Fund means the fund established pursuant to Section 5.03.

ARTICLE 2

Representations

Section 2.01 The City

The City delivers this Agreement on the Effective Date pursuant to the authorization thereof by proceedings duly had and taken by the governing body thereof under the authority of the Governing Law having found and determined precedent thereto:

- (a) no approval of, or filing with, any Governmental Authority is required for the validity, or performance by the City, of this Agreement;
- (b) no litigation is pending, or threatened in writing, in which a result adverse to the City would have a material and adverse effect upon the validity, or performance by the City, of this Agreement;
- (c) the delivery and performance of this Agreement by the City will not cause or result in a default or violation under any contractual agreement, or order or ruling of any Governmental Authority, binding upon, or in effect with respect to, the City;
- (d) the acquisition, construction and long-term financing of the Financed Property by the City is in the best interests of the taxpayers and citizens of the City;
- (e) the City is not in default with respect to any indebtedness or obligation of the City;
- (f) no proceedings with respect to the City have ever been taken pursuant to Chapter 9 of Title 11 of the United States Code or Section 11-81-3 of the Code of Alabama 1975 or any similar federal or state law with respect to creditors' rights;
- (g) the period of usefulness of the Financed Facilities will extend beyond the final maturity date of the Warrants;
- (h) the expenditure of the proceeds of the Warrant for the Financed Property will serve a valid and sufficient public purpose notwithstanding any incidental benefit accruing to any private entity or entities.;
- (i) the indebtedness evidenced and ordered paid by the Warrant is lawfully due without condition, abatement or offset of any description; and
- (j) the principal amount of the Warrant, together with all other indebtedness of the City, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

Section 2.02 The Lender

The Lender delivers this Agreement on the Effective Date pursuant to due authorization thereof in compliance with the applicable laws of the State, having found and determined precedent thereto: (i) the Lender has made all filings and notices, and obtained all approvals or consents of, any Governmental Authority required for the business operations of the Lender in the State and the validity, and performance by the Lender, of this Agreement; (ii) no litigation is pending, or threatened in writing, that involves the organization, election or qualification of its directors or officers, or corporate powers, of the Lender; and (iii) the delivery and performance of this Agreement by the Lender will not cause or result in a default or violation under any contractual agreement or order or ruling of any Governmental Authority binding upon, or in effect with respect to, the Lender.

ARTICLE 3

Purpose; Duration and Termination of Agreement

Section 3.01 Purpose of Agreement

The City represents the purpose of this Agreement, and the issuance of the Warrant, is to provide for the acquisition of the Financed Property by the long-term financing thereof at favorable interest costs whereby the taxpayers and citizens of the City, for whose benefit and use the Financed Property is provided and employed, may pay the costs thereof ratably during the reasonably expected economic lives of the Financed Property, in accordance with applicable standards of governmental finance of public property.

Section 3.02 Duration and Termination of Agreement

The City and the Lender agree that this Agreement, and all agreements, obligations and undertakings of each thereof herein, will become effective on the Effective Date and will continue in full force and effect thereafter until the Agreement Obligations shall have been indefeasibly paid in full and no amount thereof is subject to recession or repayment upon any Act of Insolvency with respect to the City or any other Person; whereupon this Agreement and all agreements, obligations and undertakings herein will, without recourse, forthwith terminate and be discharged without notice to, or action by, any Person, except with respect to any specific agreement or covenant hereof which by its terms expressly survives termination of this Agreement, and the Lender shall, upon the request and expense of the City, deliver to the City proper instruments acknowledging satisfaction and termination of this Agreement.

ARTICLE 4

The Warrant

Section 4.01 Authorization and Terms of Warrant

The City authorizes the issuance of the Warrant pursuant to the Governing Law and the terms of this Agreement in the principal amount, bearing interest at the per annum rates, on the terms, and in the form, as set forth on Appendix A; provided, the Warrant shall not be (i) assigned a separate rating by any credit or securities rating agency, (ii) assigned a CUSIP number, (iii) registered with any securities depository, or (iv) offered or sold in connection with the distribution of any offering document, official statement or other document of the City, providing information with respect to the terms of the Warrant and this Agreement and financial information and operating data of the City for the purpose of acquiring the Warrant or an interest therein.

Section 4.02 Registration, and Determination, of Ownership of the Warrant

- (a) The City shall provide for registration of the ownership of the Warrant in such form and manner as shall comply with Section 149(a) of the Code.
- (b) The City shall act as registrar (the “Registrar”) for the purpose of maintaining a registration book (the “Register”) wherein the City shall register the Warrant in the name of the owner thereof upon initial issuance, and upon each transfer pursuant to Article 9, thereof.
- (c) The City and the Lender agree the Person in whose name the Warrant is registered in the Register is the lawful owner of the Warrant for all purposes of this Agreement and, to the extent permitted by Applicable Law, none of the City or the Lender shall be affected by any claim or notice to the contrary.

Section 4.03 Execution of Warrants

The City authorizes and directs the Mayor, Finance Director, and City Clerk of the City to execute, seal, attest, and register, without further notice to, or action by, the City:

- (1) the Warrant on the initial date of delivery thereof pursuant to Section 5.01; and
- (2) each Warrant to be delivered upon transfer pursuant to Article 9.

ARTICLE 5

Delivery of, and Payment for, the Warrant; Application of Proceeds of Warrant

Section 5.01 Delivery of and Payment for the Warrant

On the Effective Date the City shall deliver the Warrant to the Lender and the Lender shall pay the purchase price of the principal amount of the Warrant by deposit thereof in the Warrant Proceeds Fund.

Section 5.02 Warrant Proceeds Fund

- (a) The City creates a special fund denominated the “Warrant Proceeds Fund” to be held and administered by the Lender for the deposit and application of the proceeds of the Warrant.
- (b) The Lender shall invest and secure the amounts in the Warrant Proceeds Fund as provided by written instruction by the City to the Lender in compliance with Applicable Law.
- (c) The City authorizes and directs the Mayor and Finance Director to requisition from the Lender proceeds of the Warrant from the Warrant Fund and apply such proceeds to the payment of Authorized Purpose Costs when and as such proceeds are needed therefor and in compliance with the representations of the City in the Tax Certificate and Agreement.

Section 5.03 No Warranty by Lender

The City covenants and agrees that: (i) the Lender is not, and is not an agent of, a manufacturer, supplier, contractor or warranty provider with respect to the Financed Property; (ii) the City has selected and caused the purchase of the Financed Property and has selected each supplier and warranty provider, and the City expressly disclaims any reliance upon the Lender with respect thereto; (iii) to the extent the City is entitled to any warranties and other rights provided by warranty providers with respect to the Financed Property, the City is relying solely and exclusively on such warranty providers for an accurate and complete statement of any such express warranties and other rights and any disclaimers or limitations of such rights or of remedies; and (iv) the Financed Property is of size, design and capacity selected by the City, and that the Lender has not made, and does not make, any representation, warranty, or covenant, express or implied, with respect to any matter, including without limitation, the value, merchantability, condition, quality, durability, design, construction, operation, fitness for use or suitability of the Financed Property in any respect whatsoever or in connection with or for the purposes and uses of the City, or any other representation, warranty or covenant of any kind or character, express or implied, with respect thereto, and the Lender shall not be obligated or liable for actual, incidental, consequential, punitive, or other damages of or to the City or any other Person or entity arising out of or in connection with the use or performance of the Financed Property and the maintenance thereof or for the suitability thereof for the purposes of the City.

ARTICLE 6

Payment by the City of Agreement Obligations as General Obligation

Section 6.01 Agreement Obligations as General Obligation of the City

- (a) The City pledges the full faith and credit thereof for the payment in full when due of the Agreement Obligations as a general obligation of the City on an equal and proportionate basis of payment with all present and future general obligation indebtedness of the City and subject to the prior payment, from all funds and revenues of the City, of the necessary and legitimate expenses of operation of the City.
- (b) The Agreement Obligations are not a direct, indirect or contingent obligation, or charge against the general credit, funds, revenues or taxing power, of any Governmental Authority other than the City.

Section 6.02 Payment of Warrant; Warrant Fund

- (a) The City authorizes, directs and orders the Mayor and Finance Director to pay the principal of, and interest on, the Warrant solely from the amounts on deposit in the Warrant Fund in full when due in time, form and manner as provided in the Warrant.
- (b) The City establishes, by separate account or by specific recodation on the financial records of the City, a special fund designated the “Series 2022 Warrant Fund” to be held, funded, and applied by the City solely for the payment of the principal of and interest on the Warrants.
- (c) The City authorizes and directs the Finance Director to:
 - (1) deposit into the Warrant Fund, from all lawfully available funds and revenues of the City, such amounts at such times as shall provide sufficient funds therein for the payment of the principal of, and interest on, the Warrant as provided therein; and
 - (2) provide for the investment and security of the Warrant Fund as required by Applicable Law for public funds; and
 - (3) apply all amounts in the Warrant Fund to the payment of the principal of and interest on the Warrants in full when due; provided, that (i) all money transferred to or deposited in the Warrant Fund shall be applied to the payment of principal of, and interest on, the Warrants within 13 months from the date of such transfer or deposit and (ii) all income and profits received from investment of money in the Warrant Fund shall be applied to the payment of principal of, and interest on, the Warrants within 12 months from the date of receipt of such income or profits.

(d) The Lender agrees that all payments to the of principal of and interest on the Warrants on behalf of the City are valid and effectual to discharge, satisfy and terminate the liability of the City therefor to the extent of the amounts so paid.

Section 6.03 Payments Upon Determination of Taxability

The City covenants and agrees to pay, from all lawfully available funds and revenues of the City, in U.S. Currency immediately available to the Lender upon the occurrence of a Determination of Taxability, on demand (i) an amount equal to the difference between (A) the amount of interest that would have accrued on the Warrant at the Taxable Rate from the Date of Taxability to (but not including) the Date of Taxability, and (B) the amount of interest actually paid to the Lender during such period, and (ii) any interest, penalties or charges owed by the Lender as a result of interest on the Warrant becoming Taxable together with any and all attorneys' fees, court costs, or other out-of-pocket costs incurred by the Lender in connection therewith.

Section 6.04 Payment of Costs of Lender

The City covenants and agrees to pay, from all lawfully available funds and revenues of the City, in U.S. Currency immediately available, to the Lender the reasonable costs and expenses (including without limitation legal expenses) incurred by the Lender in the enforcement of performance or observance of any obligation or agreement of the City in this Agreement, upon written demand therefor and verification thereof.

Section 6.05 Exempt Persons

The Lender agrees that no recourse under or upon any covenant or agreement of this Agreement or of the Warrant, or for any claim based thereon or otherwise in respect thereof, will be had against any past, present or future officer, employee, or member of the governing body, of the City, or of any successor of any thereof, and all such liability of every name and nature, either at common law or in equity or by constitution or statute, and any and all such rights and claims against every such officer, employee, or member of the governing body, of the City as such, are hereby expressly waived and released as a condition of, and as a consideration for, the delivery of this Agreement and the issuance of the Warrant.

ARTICLE 7

General Covenants of the City

Section 7.01 Provision of Information

The City shall provide to the Lender such information respecting the business, properties, condition or operations, financial or otherwise, of the City, as the Lender may from time to time reasonably request in writing and as shall not be subject to any applicable privacy laws, rules or regulations, or be subject to any privilege, within 15 Business Days of such request.

Section 7.02 Compliance with Applicable Law

- (a) The City agrees to comply in all material respects with Applicable Law.
- (b) The City agrees it will not act in any manner that may cause Lender to reasonably believe that the City has engaged in or intends to engage in any suspicious activity as described in or contemplated under the Bank Secrecy Act, the USA Patriot Act, or any other similar or related law, whether now or hereafter in effect, or under any regulation issued pursuant to any such law, or shall the name of the City (or a derivation thereof) appear on a list of suspects issued to financial institutions by the Office of Foreign Assets Control, the Financial Crimes Enforcement Network, the Federal Reserve City, or any other Governmental Authority.

Section 7.03 Prohibited Uses of Proceeds

The City shall not use any proceeds of the Warrant in any manner that causes or might cause a violation of Regulation T, Regulation U or Regulation X of the City of Governors of the Federal Reserve System as in effect from time to time or any other regulation thereof or to violate the Federal Securities Exchange Act.

Section 7.04 Covenants for Federal Tax Exemption for Interest on Warrant

The City covenants and agrees, for the benefit of the Lender, that the City will observe, perform and comply with all agreements thereof in the Tax Certificate and Agreement and will not take any action, or omit to take any action, that would cause the interest on the Warrant to be or become Taxable.

Section 7.05 Special Agreements and Representations for Lender

(a) The City agrees, represents and understands as follows:

(1) The Lender and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services.

(2) With respect to this Agreement and any other information, materials or communications provided by the Lender: (i) the Lender and its representatives are not recommending an action to any municipal entity or obligated person; (ii) the Lender and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated person with respect to this Agreement, information, materials or communications; (iii) the Lender and its representatives are acting for their own interests; and (iv) the City has been informed that the City should discuss this Agreement and any such other information, materials or communications with any and all internal and external advisors and experts that the City deems appropriate before acting on this Agreement or any such other information, materials or communications.

(b) The City represents and warrants to the Lender that the City is not a Person named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of any such Person. The City further represents and warrants to the Lender that the City is not directly or indirectly, engaged in, nor facilitating, the transactions contemplated by this transaction on behalf of any Person named as a Specially Designated National and Blocked Person.

ARTICLE 8

Remedies

The City agrees that the Lender may, in its discretion, refuse to make advances of funds in the Warrant Proceeds Fund (if any), and exercise all remedies for **the** enforcement of this Agreement as provided by Applicable Law, including without limitation the right of mandamus for the performance by the Mayor and the Finance Director of the specific direction and duty thereto to pay the Agreement Obligations as provided in Article 6, under upon the occurrence of:

- (1) failure by the City to pay in full when due any amount of the Agreement Obligations; or
- (2) an Act of Insolvency with respect to the City.

ARTICLE 9

Transfer of Warrant and this Agreement

The City and the Lender agree:

- (a) The Lender may transfer this Agreement and the Warrant upon delivery to the City, as Registrar of:
 - (1) the Warrant with assignment thereon properly completed and executed; and
 - (2) this Agreement for execution by the Finance Director of the Registration of Ownership of Agreement;
 - (3) an instrument in writing duly authorized by the transferee, and executed by legal representatives thereof, in form and of content as the instrument set forth on Appendix C hereto, with necessary changes in detail; and
 - (4) payment of any tax or charge of a Governmental Authority, and the expenses, if any, of the Registrar, incurred in connection therewith.
- (b) Upon surrender for transfer of this Agreement and the Warrant the City shall:
 - (1) pursuant to Section 4.03, execute in the name of the designated transferee(s) a new Warrant of the same tenor, terms, and outstanding principal amount as the Warrant so presented for transfer; and
 - (2) execute, in the name of the designated transferee(s) the Registration of Ownership of Agreement hereon; and
 - (3) deliver this Agreement and the new Warrant as directed in writing by the Lender.
- (c) If the City receive satisfactory evidence of the destruction, loss or theft of the Warrant, the City will execute, register and deliver to the Lender a new Warrant under this Agreement of the same tenor, terms and outstanding principal amount as the Warrant, upon receipt by the City of such indemnity as the City may require and payment of any expense and governmental charge with respect thereto.
- (d) Each Warrant issued upon any transfer or replacement of the then outstanding Warrant shall be the valid obligation of the City and be entitled to the same security and benefits under this Agreement as the Warrant surrendered upon such transfer or otherwise replaced.

ARTICLE 10

Notices

The City and the Lender covenant and agree:

(a) All notices, demands, consents, or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the Person or to an officer of the Person to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by private delivery service as set forth on [IRS.gov/PDS](https://www.irs.gov/PDS), addressed as follows:

Name	Address	Contact Person
City	407 East Laurel Avenue Foley, Alabama 36535	Finance Director
Lender		

(b) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next Business Day, if sent by private delivery service.

(c) Anything in this Agreement to the contrary notwithstanding, the address of the Lender in this Article may be amended, upon transfer of this Agreement to a successor as Lender, by written notice of the address of such successor Lender delivered by the successor Lender to the City in the manner provided in this Article.

ARTICLE 11

Provisions of General Application

The City and the Lender (each a “party”) covenant and agree as follows:

- | | |
|-------------------------------------|--|
| (a) Governing Law: | This Agreement is governed by, and will construed in accordance with, the laws of the State of Alabama without regard to principles of conflict of laws. |
| (b) Binding Effect: | This Agreement is enforceable by, and binding upon, the respective successors and assigns of each party. |
| (c) Counterparts: | This Agreement may be executed in several counterparts each of which shall constitute the same agreement. |
| (d) Enforceability: | If any provision of this Agreement shall be unenforceable, the remaining provisions hereof will not be affected thereby and will remain in full force and effect. |
| (e) Amendments | This Agreement may only be amended by written instrument duly authorized, executed and delivered by each party or as provided in Article 10 |
| (f) No Jury Trial: | Each party (i) irrevocably waives, to the extent permitted by law, any right to trial by jury in any action or proceeding under, or related to, this Agreement and (ii) agrees that no Person has represented (by expression or implication) that a party hereto would not seek to enforce such waiver in the event of litigation. |
| (g) No Joint Venture: | This Agreement does not operate, and cannot be construed, to create a joint venture or partnership by or among the parties. |
| (h) No Other Beneficiaries: | This Agreement is solely for the benefit of the parties and the successors and assigns thereof, and any stated third-party beneficiary, and no other Person has or may enforce any benefit, interest or rights under or by virtue of this Agreement. |
| (i) Final and Full Contract: | This Agreement constitutes the final and full contractual agreement of the parties and replaces and supersedes all prior or other agreements (written or oral) relating to the subject matter hereof. |

IN WITNESS WHEREOF, the City and the Lender have each caused this Agreement to be executed in its name, under seal, and attested to the extent provided, by an officer or officers thereof duly authorized thereunto.

CITY OF FOLEY, ALABAMA

By_____

Mayor

S E A L

Attest: _____

City Clerk

UNITED BANK

as Lender

By_____

Its_____

REGISTRATION OF OWNERSHIP OF AGREEMENT

The exclusive ownership of all right, title and interest of the Lender in and to this Agreement is vested solely in the Person in whose name this Agreement shall have been then most recently registered by the City by execution of this Registration of Ownership of Agreement by the Finance Director of the City as provided below:

Date of Registration	Name of Lender as Owner	Finance Director of City

APPENDIX A

This Warrant has not been registered under the Securities Act of 1933, as amended, or under the Alabama Securities Act, in reliance upon applicable exemptions. The Registered Owner may transfer this Warrant, or any interest herein, only in compliance with applicable federal and state securities laws and in compliance with the within-referenced Agreement, subject to all payments of principal hereof and interest hereon theretofore made.

UNITED STATES OF AMERICA

STATE OF ALABAMA

CITY OF FOLEY, ALABAMA

GENERAL OBLIGATION WARRANT, SERIES 2022

Registered Owner:

Number:

No. R-

Dated Date:	Original Principal Amount:	Interest Rate:	Maturity Date:
_____, 2022	\$XXX	Applicable Rate	_____ 1, 2042

The City of Foley, Alabama (the “City”), for value received, hereby acknowledges itself indebted to the above Registered Owner, or registered assigns, in the above principal amount of _____ Dollars on the terms provided herein.

Authorization; Agreement

The City has issued this Warrant pursuant to the authority of the Constitution of Alabama of 1901, as amended, the laws of the State of Alabama, and the terms of that certain Financing Agreement dated December ____, 2022 (the “Agreement”) by the City and the above Registered Owner, as Lender.

This Warrant is subject to and governed by the terms of the Agreement.

Definition of Terms

The City has incorporated and used in this Warrant certain capitalized terms as such terms are defined in the Agreement.

Determination of Interest

Applicable Rate

The outstanding principal amount of this Warrant shall accrue interest at a fixed per annum rate of interest for the applicable period below determined on an Actual/360 Basis:

- (a) 3.840% during the period beginning on the above Dated Date and ending on (and including) the calendar day immediately preceding the Date of Taxability; and
- (b) 4.378% during the period beginning on (and including) the Date of Taxability and continuing thereafter until (but not including) the date on which the principal amount of this Warrant is paid in full and retired.

Default Rate

Any amount of the principal of this Warrant which shall not be paid when due shall accrue interest at a Default Rate of three percent (3%) per annum in excess of the then effective rate of interest on this Warrant determined on an Actual/360 Basis for the period beginning on (and including) the date on which such principal amount was became due and payable and continuing thereafter until (but not including) the date on which such principal amount is paid in full and retired.

Terms of Payment of Warrant

The City authorizes, directs and orders the Mayor and the Finance Director of the City to pay to the Registered Owner of this Warrant, in U.S. Currency immediately available, solely from funds in the Warrant Fund:

- (a) on _____, 2023, and continuing on the first Business Day of each month thereafter, until the first Business Day of _____, 2042, the amount due on each such date as set forth on the Warrant Payment Schedule attached as Schedule A, which amount shall be applied first to the payment of interest accrued and then to the reduction of the principal amount of this Warrant; and
- (b) on the above Maturity Date an amount equal to the principal amount of this Warrant outstanding on such date and interest accrued thereon to (but not including) such date.

The City may, at its option, prepay the principal amount of this Warrant in whole, or in part from time to time, on Business Day upon five Business Days' notice to the Registered Owner and tender to the Registered Owner on the prepayment date of an amount equal to the principal amount of this Warrant to be prepaid, plus interest accrued thereon to (but not including) the prepayment date, without premium or penalty, whereupon the Registered Owner will apply the principal amount so prepaid to the reduction of the outstanding principal amount of this Warrant in inverse order of the scheduled principal payments set forth on Schedule A to this Warrant.

Transfer of Warrant

The registered owner of this Warrant may transfer this Warrant only as provided in Article 9 of the Agreement and subject to (i) all payments of principal of and interest on this Warrant theretofore made and (ii) all rights and defenses of the City and the City at law or in equity.

Estoppel

The City recites, certifies and declares that the indebtedness evidenced and ordered paid by this Warrant is lawfully due without condition, abatement or offset of any description, that this Warrant has been registered in the manner provided by law, that all acts, conditions and things required by the Constitution of Alabama of 1901, as amended, and laws of the State of Alabama, to happen, exist and be performed precedent to and in the authorization, execution, registration and issuance of this Warrant and the adoption of the Agreement, have happened, do exist and have been performed in due time, form and manner as so required by law, and that the principal amount of this Warrant, together with all other indebtedness of the City, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

Testimony

IN WITNESS WHEREOF, the City has caused this Warrant to be executed in its name and on its behalf, under seal, by the undersigned officers of the City duly authorized thereunto on the above Dated Date.

CITY OF FOLEY, ALABAMA

By: _____

Mayor

[SEAL]

Attest:

City Clerk

REGISTRATION CERTIFICATE

The undersigned Finance Director of the City of Foley Alabama, certifies that this Warrant has been duly registered in the manner provided by law as a claim against the City of Foley Alabama, and the Warrant Fund provided therefor under the Agreement referenced herein.

Finance Director of the City of Foley, Alabama

ASSIGNMENT

For value received, _____ hereby sell(s), assign(s) and transfer(s) unto _____ this Warrant and hereby irrevocably constitute(s) and appoint(s) _____ attorney to transfer this Warrant on the registration books of the within named City with full power of substitution in the premises.

Dated: _____

NOTE: The name signed to this assignment must correspond with the name of the payee written on the face of the within Warrant in all respects, without alteration, enlargement or change whatsoever.

Signature Guaranteed:*

(Bank or Trust City)

By _____
(Authorized Officer)

Medallion Number: _____

* Signature(s) must be guaranteed by an eligible City institution which is a member of the recognized signature guarantee program, i.e., Securities Transfer Agents Medallion Program (STAMP), Stock Exchanges Medallion Program (SEMP), or New York Stock Exchange Medallion Signature Program (MSP).

THE PRINCIPAL AMOUNT OF THIS WARRANT MAY BE REDEEMED IN PART PRIOR TO MATURITY; ACCORDINGLY, ANY PERSON WHO INTENDS TO ACQUIRE THIS WARRANT MUST VERIFY THE OUTSTANDING PRINCIPAL AMOUNT OF THIS WARRANT PRIOR TO ACQUIRING THE SAME.

Schedule A
to
General Obligation Warrant, Series 2022
City of Foley, Alabama

APPENDIX B

CITY OF FOLEY, ALABAMA

Requisition for Advance of Warrant Proceeds

To: United Bank , as Lender

**Re: Warrant Proceeds Fund under Financing Agreement dated December __, 2022, by City of
Foley, Alabama, and United Bank, as Lender**

Date: _____

Req. No. _____

1. Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the above Agreement.
2. The City delivers this Requisition to the Lender for an advance of \$_____ of the principal amount of the Warrant from the Warrant Proceeds Fund for the payment of Authorized Purpose Costs.
3. The City represents that this Requisition is delivered pursuant to the above Agreement by an authorized officer of the City.

CITY OF FOLEY, ALABAMA

By _____

Authorized City Representative

APPENDIX C

CERTIFICATE OF _____

From: _____

To: City of Foley, Alabama

Date: _____

Re: General Obligation Warrant No. R-____, Series 2022, of the City of Foley, Alabama

The undersigned _____ (the "Lender"), certifies and represents to and for the benefit of the City of Foley, Alabama, as follows:

1. On the date hereof the Lender has acquired the above Warrant (the "Warrant") issued by the City of Foley, Alabama (the "City") under that certain Financing Agreement dated December __, 2022 (the "Agreement"), by the City and the Lender.

2. The Lender makes the following agreements, certifications, representations and warranties for reliance thereupon by the City in connection with the acquisition of the Warrant by the Lender:

(a) The Lender is a "qualified institutional buyer" within the meaning, and for the purposes, of 17 CFR Section 230.144A.

(b) The Lender has (i) sufficient knowledge and experience in business and financial matters to enable the Lender to evaluate the merits and risks of extending credit to the City by ownership of the Warrant and (ii) determined to acquire the Warrant based solely upon an independent evaluation by the Lender of the Agreement, and of such corporate, financial and general information regarding the City, as the Lender deems necessary, without reliance on any other person or entity or legal counsel to the City.

(c) The Lender has acquired the Warrant solely for its own account, in evidence of a loan made to the City in the ordinary course of business of the Lender, with the present intention to hold the Warrant until maturity (or prepayment) without disposition, encumbrance or transfer of the Warrant or of any interest therein, provided, however, the Lender reserves the right to assign, transfer or dispose of the Warrant, or any interest therein, in accordance with its own judgment and agreements with respect thereto.

(d) The Lender covenants and agrees that the Lender will comply with all applicable federal and state securities laws and requirements of the Agreement in connection with any assignment, distribution, pledge, sale or other disposition of the Warrant, or any interest therein

(e) Notices to the Lender under the Agreement shall be delivered to:

(f) The Lender takes the Agreement and the Warrant subject to all payments theretofore made by the City with respect to the Agreement Obligations and all rights and defenses of the City thereto at law or in equity.

3. The Lender certifies the Lender has caused this Warrant to be executed and delivered to the City by an officer thereof duly authorized thereunto in its name and effective on the above date.

By: _____