

**MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
THE CITY OF FOLEY PUBLIC FACILITIES COOPERATIVE DISTRICT**

**Project User Fee Resolution
(Foley Square II Project)**

The Board of Directors of The City of Foley Public Facilities Cooperative District met in public session at the office of the District at City Hall, 407 East Laurel Avenue, in the City of Foley, Alabama, at 7:00 a.m. on May 11, 2016.

The meeting was called to order by Mr. Ebert, who acted as Chair of the meeting, and the roll was called with the following results:

Present: A. Clyde Abrams, Jr.
 David J. Rauch
 Charles J. Ebert, III
 Roderick W. Burkle
 C. Rick Blackwell
 Ralph G. Hellmich
 Vera J. Quaites

Absent: _____

The Chair stated that due notice of the date, time, place and purpose of this meeting had been (a) posted on May 10, 2016 at the place of meeting, the Library, and the Inspections Office in the City, and (b) given to all members of the Board of Directors and that each member had signed a waiver of notice. Said waiver signed by each director was ordered inserted in the minutes of this meeting at the end thereof.

The Chair stated that the meeting was open for the transaction of business.

* * *

Thereupon, the following resolution was introduced in writing, duly seconded and unanimously adopted by the vote of all members of the Board of Directors present:

A RESOLUTION ELECTING OFFICERS

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FOLEY PUBLIC FACILITIES COOPERATIVE DISTRICT that the election or appointment of the following named persons to the following offices is hereby made and approved for a term ending on such date as their successors are chosen and qualify in their stead:

<u>Name</u>	<u>Office</u>
Charles J. Ebert, III	Chair of the Board of Directors
David J. Rauch	Vice-Chair
Roderick W. Burkle	Secretary-Treasurer
Ralph C. Hellmich	Assistant Secretary-Treasurer

Thereupon the following resolution was introduced in writing, duly seconded and unanimously adopted by the vote of all members of the Board of Directors present:

A RESOLUTION IMPOSING PROJECT USER FEES AND
AUTHORIZING A NOTE PAYABLE THEREFROM

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FOLEY
PUBLIC FACILITIES COOPERATIVE DISTRICT, as follows:**

Section 1. Definitions.

For purposes of this Resolution, the following terms shall have the following meanings:

City shall mean the City of Foley, Alabama.

District shall mean The City of Foley Public Facilities Cooperative District, and its successors and assigns.

Enabling Act shall mean Chapter 99B of Title 11 of the Code of Alabama 1975.

Foley Square shall mean the commercial facilities and properties of real and personal property located in the City, which consist of approximately 110,000 square feet of commercial retail facilities.

Gross Sales shall mean the actual sales price of, or the value proceeding or accruing from, or other charge or consideration paid or payable for, all tangible personal property or lodging and accommodations sold, leased, licensed, delivered, or rented, and all places of amusement or entertainment conducted or operated, and all services performed, by any Person, whether for wholesale, retail, cash, credit, trade-ins or otherwise, without reserve or deduction for inability or failure to collect. Each installment or credit sale shall be treated as a sale for the full price in the month during which such sale is made, regardless of whether or when a Person receives payment therefor. No franchise or capital stock tax and no income or similar tax based on income or profits shall be deducted from Gross Sales. Gross Sales shall not include (a) any exchange of merchandise between stores simultaneously owned by a Person where such exchange is made solely for the convenient operation of said Person's business and not for the purpose of consummating a sale made in the Project Fee Area, (b) returns to shippers or manufacturers, (c) cash or credit refunds to customers on transactions (not to exceed the actual selling price of the item returned) otherwise included in Gross Sales, (d) sales of trade fixtures, machinery and equipment after use thereof in the conduct of a Person's business, (e) amounts collected and paid by a Person to any government for any sales or excise tax, (f) the amount of any discount on sales to employees, and (g) the amount of rent paid for the lease of real property.

Lease Agreement shall mean that certain Lease Agreement dated September 1, 2009, by the District and the City with respect to the Project and other public facilities referenced therein, recorded as Instrument Number 1201725 in the Office of the Judge of Probate of Baldwin County, Alabama.

Note shall mean the Limited Obligation Note (Foley Square II Project), Series 2016-A, dated the date of delivery, by the District to the City, with respect to the payment of the Project User Fees to the City, as attached hereto on Exhibit C.

Note Maturity Date shall mean the first to occur of:

- (1) the fifteenth anniversary of the Validation Date; or
- (2) the date on which the City shall have received an aggregate amount of Project User Fees equal to \$3,500,000; or
- (3) the date of cancellation of the Note by the City.

Person shall include natural persons, sole proprietorships, corporations (which shall be deemed to include business trusts), unincorporated organizations, associations, companies, institutions, entities, joint ventures, partnerships, and limited liability companies and limited liability partnerships.

Pledged Project User Fees shall mean all Project User Fees which shall have been received by the District, less all amounts deducted therefrom and retained by the City as payment of costs of collection thereof, which costs are one percent (1.00%) of the gross amount of Project User Fees collected for each calendar month.

Project shall mean and include the capital improvements providing benefit to Foley Square, heretofore or hereafter made, and paid for, by the City through the Series 2009 Revenue Bonds and other contributions by the City, as more particularly described on Exhibit A hereto.

Project Facility shall mean any facility within, or forming a part of, Foley Square which is benefited or served, directly or indirectly, by any part of the Project.

Project Fee Area shall mean and include the area within Foley Square.

Project User Fee shall mean a fee for use of the Project imposed by this Resolution upon every Project User Fee Payer in an amount equal to one percent of Gross Sales.

Project User Fee Agreement shall mean that certain Project User Fee (Foley Square) Agreement dated the date of delivery by the District and the City, as attached hereto on Exhibit B.

Project User Fee Fund shall mean the account or fund created in Section 5(d).

Project User Fee Payer shall mean and include every Person who conducts any activity, or engages in any transaction, within the Project Fee Area which creates, produces, or results in, Gross Sales.

Series 2009 Revenue Bonds shall mean (1) collectively, (i) the Revenue Bonds, Series 2009, issued by the District to finance the Project and other public facilities for lease to, and use by, the City pursuant to the Lease Agreement and (ii) the Revenue Bonds, Series 2016 issued by the District to refinance a portion of the Revenue Bonds, Series 2009 of the District and (2) and any bonds or obligations at any time issued by the District to refund such Bonds or refunding obligations.

Users shall mean all persons who use, or benefit from, any Project Facility.

Validation Date shall mean that date on which a judgment entered by the Circuit Court of Baldwin County, Alabama validating and confirming the Note and the Project User Fees shall have become forever conclusive in accordance with, and as provided in, Article 7 of Chapter 81 of Title 11 of the Code of Alabama 1975.

Section 2. Representations; Continuation of Agreements; Consideration.

The Board of Directors of the District, upon evidence duly presented to and considered by it, has found and determined, and does hereby find, determine and declare as follows:

(a) The City has heretofore expended funds on behalf of the District, with such funds constituting a loan from the City to the District, to pay for the capital improvements which constitute the Project;

(b) The District has heretofore issued the Series 2009 Revenue Bonds and applied the proceeds thereof to reimburse the City for the costs of the Project.

(c) Pursuant to the Lease Agreement:

(1) The District has leased portions of the Project to the City for payments of rent at times and in amounts sufficient to pay the principal of and interest on the Series 2009 Revenue Bonds when due and payable;

(2) The District has contractually agreed, under Section 8.04 thereof, to pay to the City, when and as received, the Project User Fees levied by the District pursuant to resolution of the District adopted July 6, 2009, for use in respect of the obligations of the City under the Lease Agreement as long as the Lease Agreement is in effect.

(d) Since the issuance of the Series 2009 Revenue Bonds and the delivery of the Lease Agreement, the City has advanced funds for the benefit of the District to effect capital improvements to the Project, including without limitation additions to the Project and maintenance and repair of portions of the original Project, as provided in Section 4.03 of the Lease Agreement.

(e) In consideration of the additional financial contributions of the City with respect to the Project and the continuation of the Lease Agreement in effect by the City for the benefit of the District, and to provide certain additional revenues from facilities benefited by the Project for the benefit of the City and the District with respect to the payment of the Series 2009 Revenue

Bonds and other amounts advanced by the City, the District and the City have agreed and determined:

(1) to continue in effect:

(i) the levy of the Project User Fees as provided herein until the Note Maturity Date, and

(ii) the agreements and obligations of the City and the District originally set forth in Section 8.04 of the Lease Agreement, with respect to the use of the Project User Fees, as provided in the Project User Fee Agreement; and

(2) the contractual agreement of the District, pursuant to the Project User Fee Agreement, to pay the Project User Fees to the City shall be evidenced by the Note.

(f) The Project constitutes a “project” under, and for purposes of, the Enabling Act.

Section 3. Imposition of Project User Fees.

(a) (1) Pursuant to the Enabling Act, including, without limitation, Section 11-99B-11 thereof, for the use and benefit of the Project, the District does hereby, subject to Section 3(b), impose the Project User Fees on the Project User Payers.

(2) Each Project User Fee Payer may collect the Project User Fees from each purchaser, as a User, in any transaction which creates, produces, or results in, Gross Sales, in an amount equal to one percent of Gross Sales created or produced in, or resulting from, such transaction.

(3) The Project User Fees imposed by this Resolution shall be in addition to all other fees and licenses and taxes imposed or levied by law.

(4) All Project User Fees paid pursuant to this Resolution shall be conclusively presumed to be fees paid by the Users for the use of and benefit from the Project.

(b) In order that the District, as a public corporation, produce revenue as provided under the Enabling Law by means consistent with those considerations of public policy by which the State of Alabama, the City of Foley, Alabama, and other local governmental authorities in Baldwin County, Alabama, produce revenue for governmental and public purposes, the District does hereby exempt from the payment of the Project User Fee any transaction or property to the extent such transaction or property is exempt from taxation under the laws of the State of Alabama or other any political subdivision thereof, such that those persons or transactions exempt from the payment of any state or local tax with respect to Gross Sales are likewise exempt from the payment of the Project User Fee with respect to the Project.

Section 4. Period of Levy and Collection of Project User Fees.

The imposition of the Project User Fees shall be effective on the first day of the month next succeeding the Validation Date and shall continue in effect until the Note Maturity Date.

Section 5. Payment of Project User Fees; Collection by City; Project User Fee Fund.

(a) The Project User Fees shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which such fees accrue.

(b) The Project User Fees shall be remitted to, or at the direction of, the District on forms prescribed by the District or its designee.

(c) The District may agree that the City collect the Project User Fees, for and on behalf of the District, pursuant to such agreements as the Chairman of the District shall approve and as shall not impose, directly or indirectly, any cost, liability, or obligation on the District. The District may further agree that the City may charge a collection fee in the amount of one percent (1.00%) of the gross amount of Project User Fees collected for each calendar month, which collection fee shall be payable solely from the Project User Fees.

(d) (1) There is hereby created a special fund in the name of the District designated the "Project User Fee (Foley Square) Fund" (herein referred to as the "Project User Fee Fund") which shall be held, invested and applied by the City, on behalf of the District, as provided in this Resolution.

(2) The District shall deposit in the Project User Fee Fund, when and as received, all Pledged Project User Fees. The amounts on deposit in the Project User Fee Fund may be invested as provided by law for funds of the City.

(e) The District shall apply the amounts on deposit in the Project User Fee Fund as provided in Section 6 of this Resolution and the Project User Fee Agreement.

Section 6. Use of Project User Fees; Contractual Agreement of District under Enabling Law

(a) The District shall apply all amounts in the Project User Fee Fund solely to the payment of the principal of the Note when and as the same becomes due and payable.

(b) The District covenants and agrees the conveyance by the District of the Pledged Project User Fees to the City, as provided herein and in the Project User Fee Agreement, and as evidenced by the Note, shall constitute a contractual agreement of the District for purposes of Section 11-99B-11(4) of the Code of Alabama 1975.

Section 7. Records.

Each Project User Fee Payer shall keep and maintain an accurate and complete set of records, books and other information sufficient to allow the District, or the City as assignee of the

District, to determine the correct amount of the Project User Fees to be paid by such Project User Fee Payer under this Resolution, which records, books and other information shall be open and available for inspection by the District, or the City as assignee of the District, upon request at a reasonable time and location. The District, or the City as assignee of the District, may examine and audit the records, books and other information maintained by each Project User Fee Payer pursuant hereto for the purposes of determining the correct amount of the Project User Fees to be paid thereby.

Section 8. Confidentiality.

The District, or the City as assignee of the District, shall not disclose or divulge, except to the City, any information secured in arriving at the amount of any Project User Fee to be paid by any Project User Fee Payer without the prior written consent of such Person.

Section 9. Penalties and Remedies.

(a) If any Project User Fee Payer shall fail to pay to the District, or the City as assignee of the District, the amount of Project User Fees due under this Resolution on any date established under Section 4(a) therefor, the District shall add a late fee of ten percent (10%) of the unpaid amount of the Project User Fees to the amount due hereunder from such Project User Fee Payer.

(b) The District, or the City as assignee of the District, shall have and may exercise all rights and remedies available at law or in equity for the administration and enforcement of the provisions of this Resolution, including specifically and without limitation all provisions, rights and remedies of the sales and use tax statutes of the State of Alabama for the enforcement and collection of sales and use taxes by the State of Alabama.

Section 10. The Project User Fee Agreement.

(a) The District hereby authorizes and approves the terms, provisions, execution and delivery of the Project User Fee Agreement.

(b) The Project User Fee Agreement shall be duly executed on behalf of the District by the Chairman of its Board of Directors, and sealed with its corporate seal and attested by its Secretary or Assistant Secretary.

(c) The Project User Fee Agreement shall be in the form and of the content, and contain the terms and provisions, as provided in the form thereof on Exhibit B hereto.

Section 11. The Note.

(a) In consideration and evidence of the contractual agreements of the District to the City under the Project User Fee Agreement and this Resolution, the District hereby authorizes the issuance of the Note to the City, as a limited obligation of the District payable solely from, and secured by a pledge of, the Pledged Project User Fees.

(b) The Note shall be in the form and of content, and contain the terms and provisions, as provided in the form thereof on Exhibit C hereto.

(c) The Note shall be duly executed on behalf of the District by the Chairman of its Board of Directors, and sealed with its corporate seal and attested by its Secretary or Assistant Secretary.

Section 12. Approval of Prior Actions.

All prior actions taken, and agreements, documents or notices executed and delivered, by the Chairman or any officer of the District or other representative thereof, in connection with the agreements, covenants, and undertakings of the District set forth herein, are hereby approved.

Section 13. Effect of Headings.

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 14. Binding Effect Upon Successors and Assigns.

All the covenants, stipulations, promises and agreements in this Resolution contained by or on behalf of the District shall inure to the benefit of and bind its successors and assigns.

Section 15. Governing Law.

This Resolution shall be construed in accordance with and governed by the laws of the State of Alabama.

Section 16. Severability.

The provisions of this Resolution are severable. In the event that any one or more of such provisions or the provisions of the Note shall, for any reason, be held illegal or invalid, such illegality or invalidity shall not affect the other provisions of this Resolution or of the Note, and this Resolution and the Note shall be construed and enforced as if such illegal or invalid provision had not been contained herein or therein.

Section 17. Repeal of Conflicting Provisions.

All resolutions, or parts of any thereof, of the District in conflict, or inconsistent, with any provision of this Resolution hereby are, to the extent of such conflict or inconsistency, repealed.

Section 18. Provisions of Resolution a Contract.

The terms, provisions and conditions set forth in this Resolution constitute a contract between the District and the holder from time to time of the Note and shall remain in full force and effect until the principal of and interest on the Note shall have been paid in full.

Section 19. Validation.

The District desires, before the issuance of the Note, to validate the legality of all proceedings had or taken in connection therewith, the validity of the Project User Fees as the means provided for the payment of the Note, and the validity of all covenants and provisions contained in this Resolution and the Note, by filing a petition against the taxpayers and citizens of the City in the Circuit Court of Baldwin County, Alabama. A complaint to validate such Note, proceedings, and covenants shall be filed and validation proceedings shall be instituted in the name of the District and the members of the governing body of the District. Maynard, Cooper & Gale, P.C., Birmingham, Alabama, is hereby designated and appointed as the attorneys of the District to file such complaint, institute such proceedings, and to take all steps necessary to complete such validation proceedings in accordance with the provisions of Article 7 of Chapter 81 of Title 11 of the CODE OF ALABAMA 1975. Any actions heretofore taken by such attorneys in connection with the filing of such petition or such validation proceedings are hereby ratified and confirmed.

Section 20. Immediate Effect.

The provisions of this Resolution shall take effect immediately.

EXHIBIT A

Project Description

The Project includes the following public improvements which serve or benefit Foley Square:

- Public roads, streets and bridges
- Facilities for the provision of water and sewer service
- Storm drainage facilities
- Capital improvements to County Road 20 by the City

Exhibit B

Project User Fee Agreement

PROJECT USER FEE (FOLEY SQUARE) AGREEMENT

Dated _____, 2016

between

THE CITY OF FOLEY PUBLIC FACILITIES COOPERATIVE DISTRICT

and

CITY OF FOLEY, ALABAMA

This Agreement was prepared by Heyward C. Hosch of Maynard, Cooper & Gale, P.C., 1901 Sixth Avenue North, 2400 Regions/Harbert Plaza, Birmingham, Alabama 35203.

STATE OF ALABAMA
BALDWIN COUNTY

PROJECT USER FEE (FOLEY SQUARE) AGREEMENT

THIS AGREEMENT dated _____, 2016, between **THE CITY OF FOLEY PUBLIC FACILITIES COOPERATIVE DISTRICT**, a public corporation under the laws of the State of Alabama and its successors and assigns (the “District”), and **CITY OF FOLEY, ALABAMA**, a public corporation under the laws of the State of Alabama and its successors and assigns (the “City”).

Recitals

Pursuant to and for the purposes expressed in Chapter 99B of Title 11 of Code of Alabama (1975) (the “Enabling Law”), the District and the City have executed and delivered this Agreement to provide for the use of the Project User Fees (the “Project User Fees”) levied by the District pursuant to the Enabling Law and the Resolution thereof adopted on May 11, 2016 (the “Project User Fee Resolution”).

Agreement

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants and agreements herein contained, the District and the City hereby covenant, agree and bind themselves as follows:

ARTICLE 1

Definitions

For all purposes of this Agreement capitalized terms used herein without definition shall have the respective meanings assigned thereto in the Recitals hereto or in the Project User Fee Resolution defined in the Recitals hereto.

ARTICLE 2

Representations; Continuation of Agreements; Consideration

The City and the District hereby represent, warrant and certify as follows:

(a) The City has heretofore expended funds on behalf of the District, with such funds constituting a loan from the City to the District, to pay for the capital improvements which constitute the Project;

(b) (1) The District has heretofore issued the Series 2009 Revenue Bonds and applied the proceeds thereof to reimburse the City for the costs of the Project.

(2) The District has heretofore issued the Series 2016 Revenue Bonds to refund a portion of the Series 2009 Bonds.

(c) Pursuant to the Lease Agreement, as ratified and confirmed by the Special Agreement dated April 28, 2016 by the District, the City and the Trustee:

(1) The District has leased portions of the Project to the City for payments of rent at times and in amounts sufficient to pay the principal of and interest on the Series 2009 Revenue Bonds and Series 2016 Revenue Bonds when due and payable;

(2) The District has contractually agreed, under Section 8.04 thereof, to pay to the City, when and as received, the Project User Fees levied by the District pursuant to resolution of the District adopted July 6, 2009, for use in respect of the obligations of the City under the Lease Agreement as long as the Lease Agreement is in effect.

(d) Since the issuance of the Series 2009 Revenue Bonds and the delivery of the Lease Agreement, the City has advanced funds for the benefit of the District to effect capital improvements to the Project, including without limitation additions to the Project and maintenance and repair of portions of the original Project, as provided in Section 4.03 of the Lease Agreement.

(e) In consideration of the additional financial contributions of the City with respect to the Project and the continuation of the Lease Agreement in effect by the City for the benefit of the District, and to provide certain additional revenues from facilities benefited by the Project for the benefit of the City and the District with respect to the payment of the Series 2009 Revenue Bonds and other amounts advanced by the City, the District and the City have agreed and determined:

(1) to continue in effect:

(i) the levy of the Project User Fees until the Note Maturity Date, and

(ii) the agreements and obligations of the City and the District originally set forth in Section 8.04 of the Lease Agreement, with respect to the use of the Project User Fees, as provided in this Agreement; and

(2) the contractual agreement of the District pursuant to this Agreement to pay the Pledged Project User Fees to the City shall be evidenced by the Note.

(f) The Project constitutes a “project” under, and for purposes of, the Enabling Act.

ARTICLE 3

The Project User Fees

Section 3.01 Pledge of Project User Fees

(a) The District does hereby grant, bargain, sell, convey, assign and transfer to the City, without warranty or recourse, all right, title and interest of the District in and to the Pledged Project User Fees;

(b) The District shall cause all of the proceeds of the Pledged Project User Fees to be delivered and transferred to the City when and as received by the District, for use thereby in respect of reimbursement to the City for the costs of the Project paid thereby and of the obligations of the City under the Lease Agreement as long as the same is in effect;

(c) The District shall not, without the prior written consent of the City, sell, transfer or convey the Pledged Project User Fees or any portion thereof or create or incur, or permit or suffer to be created or incurred, any mortgage, lien, or encumbrance upon the Pledged Project User Fees or the Project User Fee Fund or any part thereof.

(d) The District makes no warranty or representation, and gives no assurance, that the Pledged Project User Fees shall be collected in any amount or that the amounts thereof collected shall be sufficient for any purpose or use of the City with respect thereto.

Section 3.02 Collection of Project User Fees

(a) Pursuant to Section 5(c) of the Project User Fee Resolution, the District hereby appoints and engages the City to collect the Project User Fees for and on behalf of the District and agrees the City may charge a collection fee in the amount of one percent (1.00%) of the gross amount of Project User Fees collected for each calendar month, which collection fee shall be payable solely from the Project User Fees.

(b) The City hereby agrees to collect, hold, invest and apply the Pledged Project User Fees for the benefit of the District as provided in the Project User Fee Resolution and herein.

(c) The City hereby agrees to hold the Project User Fee Fund for the District as provided in the Project User Fee Resolution.

Section 3.03 Use of Project User Fees

The District shall apply all amounts in the Project User Fee Fund solely to the payment of the principal of the Note when and as the same becomes due and payable.

Section 3.04 Contractual Agreement of District under Enabling Law

The District covenants and agrees the conveyance by the District of the Pledged Project User Fees to the City, as provided herein and in the Project User Fee Resolution, and as evidenced by the Note, shall constitute a contractual agreement of the District for purposes of Section 11-99B-11(4) of the Code of Alabama 1975.

ARTICLE 4

Termination

To provide for the continued collection of Project User Fees by the City under Section 3.02, this Agreement shall continue in force and effect until, and shall terminate on, the Note Maturity Date.

ARTICLE 5

Provisions of General Application

Section 5.01 Execution Counterparts

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.02 Binding Effect; Governing Law

(a) This Agreement shall inure to the benefit of, and shall be binding upon, the District, the City and their respective successors and assigns.

(b) This Agreement shall be governed exclusively by the applicable laws of the State of Alabama without regard to conflict of law principles.

Section 5.03 Enforceability

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

IN WITNESS WHEREOF, the District and the City have each caused this Agreement to be executed, sealed and attested in its name by officers thereof duly authorized thereunto and to be dated the date and year first above written.

**THE CITY OF FOLEY PUBLIC FACILITIES
COOPERATIVE DISTRICT**

By _____
Charles J. Ebert, III Its: Chair

S E A L

Attest: _____
Roderick W. Burkle Its: Secretary

CITY OF FOLEY, ALABAMA

By _____
John E. Koniar Its: Mayor

S E A L

Attest: _____
Victoria Southern, MMC Its: City Clerk

EXHIBIT C

Form of Note

THIS NOTE HAS NOT BEEN REGISTERED (i) UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON THE EXEMPTION PROVIDED BY SECTION 4(2) OF SAID ACT, OR (ii) UNDER ANY STATE SECURITIES LAW, IN RELIANCE UPON APPLICABLE EXEMPTIONS, AND MAY NOT BE TRANSFERRED WITHOUT REGISTRATION EXCEPT PURSUANT TO AN EXEMPTION THEREFROM.

THIS NOTE DOES NOT BEAR INTEREST

UNITED STATES OF AMERICA
STATE OF ALABAMA

THE CITY OF FOLEY PUBLIC FACILITIES COOPERATIVE DISTRICT
LIMITED OBLIGATION NOTE
(FOLEY SQUARE II PROJECT)
SERIES 2016-A

No. R-1

DATED DATE:

THE CITY OF FOLEY PUBLIC FACILITIES COOPERATIVE DISTRICT, a public corporation organized and existing under and by virtue of the laws of the State of Alabama (the "District"), for value received, hereby promises to pay, solely from Pledged Project User Fees, to

THE CITY OF FOLEY, ALABAMA,

an amount equal to the lesser of

(a) \$3,500,000; or

(b) the aggregate amount of Pledged Project User Fees which shall be actually received by the District on or before the Note Maturity Date; without interest, in installments, on the first day of _____, 2016 (being the second month next succeeding the Validation Date) and continuing on the first day of each month thereafter, until and including the Note Maturity Date, in amounts equal to the Pledged Project User Fees on deposit in the Project User Fee Fund on each such date of payment.

Authority for Issuance

This Note is issued pursuant to the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Chapter 99B of Title 11 of the Code of Alabama 1975 (collectively the "Enabling Law"), and that certain resolution of the Board of Directors of the District dated May 11, 2016 (the "Authorizing Resolution") and that certain Project User Fee (Foley Square) Agreement dated _____, 2016 (the "Agreement") by the District and the City of Foley, Alabama (the "City").

Capitalized terms used hereinbefore and hereinafter without definition shall have the respective meanings assigned thereto in the Authorizing Resolution.

This Note is issued in consideration and evidence of the contractual agreements and obligations of the District to the City under the Agreement.

Payment

The District may, on any date, pay in advance the entire unpaid principal amount of this Note or any lesser portion or portions thereof by paying to the City the principal amount to be prepaid without premium or penalty.

Payment of this Note shall be made to or as directed by the City; provided the final payment of principal of this Note shall be made only upon presentation and surrender of this Note to the District for cancellation.

Each payment of principal made on this Note shall be reflected by the notations made by the District on its internal records (which may be kept by computer or by other means determined by the District) and the District is hereby authorized so to record thereon all such payments. All payments of principal on this Note and the aggregate unpaid principal amount of this Note reflected on the internal records of the District (whether by computer or otherwise) shall be rebuttably presumptive evidence of the principal amount of this Note outstanding and unpaid.

All payments of principal of this Note by the District shall be made at par in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, and shall be valid and effectual to satisfy and discharge the liability of the District upon this Note to the extent of the amounts so paid.

The person in whose name this Note is registered shall be deemed and regarded as the absolute owner hereof for all purposes and payment of the principal of this Note shall be made only to or upon the order of the City or his legal representative, and neither the District nor any agent of the District shall be affected by any notice to the contrary.

Security

This Note is a limited obligation of the District payable solely from the Pledged Project User Fees as provided in the Authorizing Resolution.

Pursuant to the Agreement, the Pledged Project User Fees are pledged to the payment, and for the benefit, of this Note.

This Note shall never constitute a charge against the general credit or taxing powers of the District within the meaning of any constitutional provision or statutory limitation whatsoever.

General

No covenant or agreement contained in this Note or in the Authorizing Resolution shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the District in the individual capacity thereof and none of such parties or persons nor any officer executing this Note shall be liable personally on this Note or be subject to any personal liability or accountability by reason of the issuance of this Note.

It is hereby recited, certified and declared that the indebtedness evidenced and ordered paid by this Note is lawfully due without condition, abatement or offset of any description, that this Note has been registered in the manner provided by law, that all acts, conditions and things required by the constitution and laws of the State of Alabama to happen, exist and be performed precedent to and in the execution, registration and issuance of this Note and the adoption of the Authorizing Resolution have happened, do exist and have been performed in due time, form and manner as so required by law.

IN WITNESS WHEREOF, the District, acting by and through its Board of Directors, as the governing body thereof, has caused this Note to be executed in its name and on its behalf by the Chairman of the Board of Directors, has caused its corporate seal to be affixed hereto and the same attested by the Secretary of the District, and has caused this Note to be dated the date and year first above written.

**THE CITY OF FOLEY PUBLIC FACILITIES
COOPERATIVE DISTRICT**

By _____
Charles J. Ebert, III, Chairman

S E A L

Attest: _____
Roderick W. Burkle, Secretary

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Baldwin County, State of Alabama entered on the _____ day of _____, 2016.

/s/
Clerk of Circuit Court of Baldwin County,
State of Alabama

* * *

There being no further business to come before the meeting, it was moved and seconded that the meeting be adjourned. Motion carried.

Minutes approved:

Charles J. Ebert, III, Chairman

S E A L

Attest: _____
Roderick W. Burkle, Secretary

**NOTICE OF MEETING
OF
THE CITY OF FOLEY PUBLIC FACILITIES COOPERATIVE DISTRICT**

Notice is hereby given that The City of Foley Public Facilities Cooperative District (the “District”), shall hold a public meeting at the offices of the District at City Hall, 407 East Laurel Avenue, in the City of Foley, at 7:00 a.m. on May 11, 2016, for the purposes of: electing officers for the District; authorizing certain user fees to finance a portion of the costs of the acquisition of a public project; authorizing the issuance of a note payable solely from such user fees; and transacting such other business or taking such further action as may be conducted or taken at a regular meeting of the Board of Directors.

The meeting shall be open to the public and all interested persons may attend.

Further information may be obtained at the above-referenced office of the District during normal business hours.

WAIVER

The undersigned, constituting all of the members of the Board of Directors of The City of Foley Public Facilities Cooperative District, hereby waive any and all notice of the date, time, place and purposes of a meeting of the said Board of Directors called to be held at the office of the District at City Hall, 407 East Laurel Avenue, in the City of Foley, Alabama at 7:00 a.m. on May 11, 2016, for the purposes of: electing officers for the District, authorizing certain user fees to pay a portion of the costs of the acquisition of a public project; authorizing the issuance of a note payable solely from such user fees; and transacting such other business or taking such further action as may be conducted or taken at a regular meeting of the Board of Directors. We do hereby waive any and all irregularities in said notice and any other or further notice of such meeting, and we do hereby consent and agree that a special meeting of the Board of Directors shall be held at the time and place and for the purposes stated in said notice.

Charles J. Ebert, III

Roderick W. Burkle

Ralph G. Hellmich

David J. Rauch

Vera J. Quaites

Cecil "Rick" Blackwell

A. Clyde Abrams

CERTIFICATE OF SECRETARY

The undersigned duly elected, qualified and acting Secretary of The City of Foley Public Facilities Cooperative District hereby certifies that: (1) the above and foregoing pages constitute a complete, verbatim and compared copy of excerpts from all those parts of the minutes of a meeting of the Board of Directors of the District duly held on May 11, 2016, pertaining to the matters referenced therein, the original of which is on file and of record in the minute book of the Board of Directors in my custody; (2) the resolutions set forth in such excerpts are complete, verbatim and compared copies of such resolutions as introduced and adopted by the Board of Directors on such date and have not been repealed, amended, or changed; (3) the foregoing Notice was posted on May 10, 2016 at the place of meeting in the City of Foley; and (4) and the foregoing Waiver of Notice following the excerpts from the minutes of such meeting is a complete, verbatim and compared copy of such Waiver of Notice which has been inserted in the minute book of the Board of Directors immediately following the minutes of such meeting.

IN WITNESS WHEREOF, I have hereunto set my hand as Secretary of the District and have affixed the official seal of the District on _____, 2016.

Secretary of The City of Foley
Public Facilities Cooperative District

S E A L