LINE OF CREDIT AGREEMENT

Effective Date: June __, 2020

by

CITY OF FOLEY, ALABAMA

and

THE FIRST, A NATIONAL BANKING ASSOCIATION
as Lender

$10,000,000
maximum principal amount
Revolving Line of Credit

MAYNARD
COOPER GALE

Heyward C. Hosch
Maynard, Cooper & Gale, PC
1901 Sixth Avenue North
2400 Regions/Harbert Plaza
Birmingham, Alabama 35203

LINE OF CREDIT AGREEMENT

June __, 2020

This Line of Credit Agreement is made as of the above date for the purposes referenced herein by:

City: City of Foley, Alabama

Lender: The First, A National Banking Association, and the successors and assigns thereof

Recitals

The City and the Lender have duly authorized, executed and delivered this Line of Credit Agreement and the within-referenced Warrant for the within-referenced Governmental Purposes.

Agreement

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements herein, the City and the Lender hereby agree as follows:

ARTICLE 1

Definitions

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.

Advance means an advance to the City pursuant to this Agreement of any amount of the Revolving Credit Amount.

Agreement means this Agreement as it may from time to time be supplemented, modified or amended.

Applicable Law means:

(1) Section 11-47-2 of the Code of Alabama 1975; and

(2) all applicable provisions of all constitutions, statutes, rules, regulations, and all binding orders, judgments, and decrees of any Governmental Authority having jurisdiction in the premises.

Authorized City Representative means the Mayor, the City Administrator, and Treasurer of the City.

Business Day means and includes any day (i) which is not a Saturday or a Sunday and (ii) on which the office of the Lender where this Agreement is performed is not authorized or required by law to be closed.

Credit Agreement Obligations means, collectively, the obligations of the City for the payment of:

(1) the Revolving Credit Loan under Section 3.04; and

(2) the payment of certain costs under Section 5.02.

Fiscal Year means the period beginning on October 1 of one calendar year and ending on the next succeeding September 30.

Governmental Authority means any federal, state, county, municipal, or other government, domestic or foreign, and any agency, authority, department, commission, bureau, board, court or other instrumentality thereof.

Governmental Purposes means the payment of working capital expenditures and capital expenditures of the City.

Lender means The First, A National Banking Association, and upon transfer of this Agreement, the Person in whose name this Agreement is registered on the Registration of Ownership of Agreement.

Person means and includes any individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization and any Governmental Authority.

Revolving Credit Interest Rate means a rate of interest equal to 2.95% per annum.

Revolving Credit Loan means the aggregate principal amount of all Advances at any time outstanding under this Agreement.

Revolving Credit Loan Fund means the fund established pursuant to Section 3.04(a) hereof.

Revolving Credit Amount means the amount of $10,000,000.

Revolving Credit Maturity Date means June __, 2023.

State means the State of Alabama.

Treasurer means (i) any Person appointed by the governing body of the City as the custodian or depository of the public funds of the City pursuant to Applicable Law and (ii) in the absence of any such Person so appointed to such duties, the Mayor of the City.

Warrant means the General Obligation Warrant (Federally Taxable Line of Credit), Series 2020-TF, as issued and transferred pursuant to the provisions of this Agreement.

Warrant Register will have the meaning assigned in Section 6.02.

ARTICLE 2

Representations

Section 2.01. Representations by City

The City certifies and represents that:

(a) The City has duly authorized the delivery and performance of this Agreement and the issuance of the Warrant as provided herein pursuant to the authority of, and in compliance with, Applicable Law.

(b) The delivery of this Agreement and the Warrant for the Governmental Purposes is in the best interests of the taxpayers and citizens of the City.

(c) The City is not in default with respect to any indebtedness of the City and no such default is imminent.

(d) The delivery and performance of this Agreement by the City will not cause or create a default under, or violation of (i) any contractual agreement which is enforceable against the City at law or in equity or (ii) any order or ruling of any Governmental Authority applicable to or enforceable against the City at law or in equity.

(e) The total indebtedness of the City which will be outstanding on the date of each Advance, and which is chargeable against the limitation upon indebtedness of the City prescribed by Section 225 of the Constitution of Alabama of 1901, as amended, will not exceed 20% of the assessed value of the taxable property within the jurisdiction of the City for the then next preceding Fiscal Year of the City.

(f) There is not litigation pending, or threatened in writing, which (i) affects the validity of this Agreement or the Warrant or (ii) if adversely determined, would have a material and adverse effect upon the financial condition of the City or the ability of the City to pay the Credit Agreement Obligations.

Section 2.02. Representations of Lender

The Lender certifies and represents:

(a) The Lender is (i) duly qualified to do business, and is in good standing, in the State of Alabama, and (ii) a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended) or an "accredited investor" (as defined in 17 CFR Section 230.501(a)).

(b) The Lender has duly authorized, executed and delivered this Agreement.

(c) 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 on the terms of this Agreement, (ii) in fact evaluated, without reliance on any other Person or counsel to the City, such corporate, financial and general information about the City as the Lender has determined to be necessary to make an informed judgment with respect to the extension of credit to the City under this Agreement, and (iii) reviewed, and determined to be acceptable in form and content, all certificates and legal opinions to be delivered by or on behalf of the City in connection with this Agreement.

(d) The Lender has delivered this Agreement, and acquired the Warrant, solely for its own account in the ordinary course of the commercial lending business of the Lender, with the intention to hold this Agreement and the Warrant until final maturity and without any present intention to effect a distribution, sale or transfer of any interest (in whole or in part) of the Lender in and to this Agreement or the Warrant.

(e) The Lender will, in connection with any distribution, encumbrance, sale or transfer of any interest (in whole or in part) in and to this Agreement and the Warrant, comply with all applicable federal and state securities and regulations thereunder and the requirements of this Agreement.

ARTICLE 3

Revolving Credit Loan

Section 3.01 Establishment

The Lender establishes the Revolving Credit Loan, as a revolving line of credit in an aggregate principal amount not exceeding the Revolving Credit Amount, for the benefit of the City on the terms of this Agreement.

Section 3.02 Advances

(a) The Lender will make Advances of the Revolving Credit Amount to, or as directed by, the City upon receipt of a written request therefor by an Authorized City Representative, provided the Lender will not make any Advance in any amount:

(1) on or after the Revolving Credit Maturity Date;

(2) which would cause the aggregate principal amount of the Revolving Credit Loan to exceed the Revolving Credit Amount; and

(3) if any event shall have occurred and be continuing which would entitle the Lender to exercise remedies under Section 7.02 of this Agreement with respect to the Revolving Credit Loan.

(b) The City may borrow, re-pay and re-borrow, the full amount of the Revolving Credit Amount in compliance with this Agreement.

Section 3.03 Accrual of Interest

The principal amount of each Advance at any time outstanding will accrue interest from the date of such Advance until payment thereof in full at the Revolving Credit Interest Rate on the basis of a 360-day year of 12 consecutive months of 30 days each.

Section 3.04 Payment of Revolving Credit Loan

(a) The City hereby establishes a special fund designated the "Revolving Credit Loan Fund" which shall be held by the City as a separate fund or account or recorded as a special account in an existing fund of the City. The City will cause to be on deposit in, or credited to, the Revolving Credit Loan Fund an amount sufficient to pay in full when due the principal of and interest on the Revolving Credit Loan.

(b) The City authorizes and directs the Treasurer to pay to the Lender, at the address or account and in the manner directed by the Lender in writing, solely from the Revolving Credit Loan Fund or otherwise available for such purpose, the principal of and interest on the Revolving Credit Loan in full when due in each Fiscal Year at par in immediately available funds and lawful money of the United States of America:

(1) on the first day of July 2020 and continuing on the first day of each January, April, July and October thereafter, until (but not including) April 2023, the interest accrued on the Revolving Credit Loan, without presentation of the Warrant therefor; and

(2) on any Business Day such amount of the outstanding principal of the Revolving Credit Loan and interest accrued thereon to (but not including) such date, as will be directed in writing by an Authorized City Representative;

(3) on the Revolving Credit Maturity Date, the outstanding principal amount of the Revolving Credit Loan and interest accrued thereon to (but not including) such date, upon presentation and surrender of the Warrant therefor.

(c) If any payment of principal of or interest on the Revolving Credit Loan is due on a day which is not a Business Day, such payment will be made on the first succeeding day which is a Business Day with the same effect as if made on the day such payment was due.

(d) All payments by the City of principal of and interest on the Revolving Credit Loan will be valid and effectual to satisfy and discharge the liability of the City therefor to the extent of the amounts so paid.

Section 3.05 The Warrant

(a) The City authorizes and directs the issuance of the Warrant, in form and of content as set forth on Exhibit A, to the Lender on the Effective Date in evidence of the indebtedness of the City outstanding from time to time under the Revolving Credit Loan.

(b) The Warrant will 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 financial information and operating data of the City for the purpose of acquiring the Warrant or an interest therein.

(c) The City authorizes and directs the Mayor and Clerk of the City to execute, seal and attest, and the Treasurer of the City to register, the Warrant, as provided therefor and to deliver the Warrant on the Effective Date to the Lender simultaneously with the delivery of this Agreement.

ARTICLE 4

Source of Payment of Credit Agreement Obligations

Section 4.01 General Obligation

(a) The City hereby pledges the full faith and credit thereof for the payment in full when due of the Credit 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 of the necessary and legitimate expenses of operation of the City.

(b) The Credit 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 4.02 Exemption from Personal Liability

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 5

Agreements of City

Section 5.01 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: (a) the Lender and its representatives are not recommending an action to any municipal entity or obligated person; (b) 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; (c) the Lender and its representatives are acting for their own interests; and (d) 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.

Section 5.02 Payment of Costs of Lender

The City agrees to pay the reasonable costs and expenses incurred by the Lender with respect to the protection of the interests of the Lender, or the enforcement by the Lender of the obligations of the City, under this Agreement, within 30 days of receipt by the City of written demand therefor and appropriate verification thereof.

ARTICLE 6

Registration and Transfer of Agreement and Warrant

Section 6.01 Registration of Warrant

(a) The City will register the ownership of the Warrant in a register (the "Warrant Register") maintained by the City for such purpose.

(b) The City will treat the Person in whose name the Warrant is registered as the absolute owner thereof for all purposes.

Section 6.02 Transfer of Agreement and Warrant

(a) The Lender may assign, convey or transfer this Agreement and the Warrant upon delivery to the City of:

(1) this Agreement for execution by the Treasurer of the Registration of Ownership of Agreement hereon;

(2) the Warrant for transfer as provided herein;

(3) the Certificate set forth on Exhibit B authorized, completed, and executed by the Person who shall acquire this Agreement and the Warrant;

(4) payment of all expenses of the City incurred in connection therewith.

(b) The City will, upon receipt of the foregoing:

(1) execute, in the name of the designated transferee, the Registration of Ownership of Agreement hereon;

(2) execute and register, in the name of the designated transferee, a new warrant of the tenor of and bearing the next higher number than the warrant surrendered;

(3) deliver this Agreement and the new warrant as directed in writing by the Lender.

Section 6.03 Authorization of Officers

The City authorizes and directs:

(a) the Treasurer of the City, upon presentation of this Agreement for transfer, to register this Agreement in the name of the designated transferee by execution of the Registration of Ownership of Agreement hereon as provided in Section 6.02; and

(b) the Mayor and City Clerk of the City, upon surrender of the Warrant for transfer, to execute, seal, and attest, and the Treasurer to register, a new warrant as provided in Section 6.02.

ARTICLE 7

Provision of Agreement a Contract; Remedies

Section 7.01 Contract

The terms, provisions and conditions set forth in this Agreement constitute a contract between the City and the Lender and will remain in effect until the principal of and interest on the Warrant will have been paid in full.

Section 7.02 Remedies

(a) The City agrees that the Lender may, in its discretion, refuse to make any Advances, 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 Treasurer of the specific duties thereof under Section 3.04, upon the occurrence of:

(1) Failure by the City to pay in full when due any amount of the Credit Agreement Obligations; or

(2) An Act of Insolvency with respect to the City.

(b) In case of the occurrence of any Act of Insolvency with respect to the City, the Lender will, to the extent permitted by Applicable Law, be entitled and empowered to intervene in such proceedings, to file and prove a claim or claims for the whole amount owing and unpaid and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Lender (including any claim for reasonable compensation to the Lender, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities reasonably incurred, and all advances made, by the Lender except as a result of its negligence or bad faith) allowed in such judicial proceedings, to collect and receive any moneys or other property payable or deliverable on any such claims, and to take such other action therein as the Lender may deem necessary or appropriate to protect its interests.

(c) The City agrees that (i) no delay or omission of the Lender to exercise any right or power arising upon the happening of any breach or event of default will impair any such right or power or will be construed to be a waiver of any such breach or event of default or any acquiescence therein, and every power and remedy given to the Lender may be exercised from time to time and as often as will be deemed expedient by the Lender in its sole discretion; (ii) no course of dealing and no delay or failure of the Lender in exercising any right, power or privilege under this Agreement or the Warrant will affect any other or future exercise thereof or exercise of any right, power or privilege; nor will any single or partial exercise of any such right, power or privilege or any abandonment or discontinuance of steps to enforce such a right, power or privilege preclude any further exercise thereof or of any other right, power or privilege; and (iii) the rights and remedies of the Lender under this Agreement and the Warrant are cumulative and not exclusive of any rights or remedies which the Lender would otherwise have under this Agreement or the Warrant, at law or in equity.

ARTICLE 8

Term of Agreement

(a) The agreement of the Lender to make Advances to the City pursuant to this Agreement will be and remain in force and effect from and after the Effective Date, without regard to prepayment in full from time to time of the Revolving Credit Loan or whether any amount of the Revolving Credit Loan shall be outstanding at any time, until, but not including, the Revolving Loan Maturity Date.

(b) The agreement of the City to pay the Credit Agreement Obligations shall be and remain in force and effect from and after the Revolving Credit Maturity Date until the Credit Agreement Obligations shall have been paid in full and no claim for the repayment or return of any amount thereof may be validly made under any law or rule of law.

ARTICLE 9

Provisions of General Application

The City and the Lender agree:

(a) <u>Governing Law</u>: This Agreement will be governed by and construed in accordance with the laws of the State of Alabama without regard to principles of conflict of laws.

(b) <u>Binding Effect</u>: This Agreement will be enforceable by and binding upon the respective successors and assigns of the undersigned.

(c) <u>Counterparts</u>: This Agreement may be executed in several counterparts each of which will constitute one and the same Agreement.

(d) <u>Amendment</u>: This Agreement may be amended only in writing duly authorized, executed and delivered by each party to this Agreement.

(e) <u>Enforceability</u>: If any provision herein will be unenforceable, the parties agree the remaining provisions hereof will not be affected thereby and will remain in full force and effect.

(f) <u>Notices</u>: Any notice given hereunder by any party will be delivered simultaneously to all parties hereto at the address set forth on the signature page or most recently provided in writing by each such party for such purpose.

(g) <u>No Jury Trial</u>: Each party hereto hereby (1) 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 (2) 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.

(h) <u>No Joint Venture</u>: This Agreement will not operate or be construed to create a joint venture or partnership among the parties hereto.

(i) <u>No Other Beneficiaries</u>: This Agreement is solely for the benefit of the parties hereto and the successors and assigns thereof and no other person will have any benefit, interest or rights under or by virtue of this Agreement.

(j) <u>Final and Full Contract</u>: This Agreement will constitute the final and full contractual Agreement of the parties and will supersede all prior or other Agreements (written or oral) by the parties 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, by an officer or officers thereof duly authorized thereunto, all as of the day and year first above written.

CITY OF FOLEY, ALABAMA

By: ______________________________

Name: ______________________________

Its: Mayor

[S E A L]

Attest:

By: ______________________________

Name: ______________________________

Its: City Clerk

THE FIRST, A NATIONAL BANKING ASSOCIATION

By: ______________________________

Name: ______________________________

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 Treasurer of the City as provided below:

Date of Registration	Name of Lender as Owner	Treasurer of City
June __, 2020	The First, A National Banking Association	____________
____________	____________	____________
____________	____________	____________
____________	____________	____________
____________	____________	____________
____________	____________	____________

EXHIBIT A

<u>Form of Warrant</u>

This Warrant has not been registered under the Securities Act of 1933, as amended, or under any state securities law, in reliance upon applicable exemptions.

UNITED STATES OF AMERICA
STATE OF ALABAMA

CITY OF FOLEY, ALABAMA

GENERAL OBLIGATION WARRANT
(FEDERALLY TAXABLE LINE OF CREDIT)
SERIES 2020-TF

Number:	Dated Date:	Maximum Principal Amount:	Interest Rate:	Maturity Date:
No. R-___	**June __, 2020**	**$10,000,000**	**2.95%**	**June __, 2023**

Registered Owner: ________________________________

Authorization

For Value Received the City of Foley, Alabama (the "City") does hereby, pursuant to Line of Credit Agreement dated the above Dated Date by the City and the above Registered Owner (the "Agreement"), authorize, order and direct the Treasurer of the City to pay to the above Registered Owner the principal of, and interest accrued at the above Interest Rate on, each Advance made pursuant to the Agreement solely from the Revolving Credit Loan Fund created by the Agreement in due amount, time, currency, form and manner as provided in the Agreement.

The City has made and issued this Warrant pursuant to the Agreement in evidence of the Revolving Credit Loan thereunder.

This Warrant is governed by, and subject to, the Agreement and the applicable laws of the State of Alabama (without regard to principles of conflict of laws).

The City has registered this Warrant in the name of the Registered Owner who may transfer this Warrant only in compliance with the Agreement and applicable federal and state securities laws.

Estoppel

The City hereby 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 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.

IN WITNESS WHEREOF, City of Foley, Alabama, has caused this Warrant to be executed in its name and on its behalf by the Mayor of the City, under seal, and the same attested by the Clerk of the City, and has caused this Warrant to be dated the above Dated Date.

CITY OF FOLEY, ALABAMA

By:____
Mayor

S E A L

Attest:______________________________
City Clerk

REGISTRATION CERTIFICATE

The undersigned hereby certifies that this Warrant has been duly registered as a claim against the City of Foley, in the State of Alabama.

____
Treasurer of the City of Foley, Alabama

ASSIGNMENT

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

Dated this ____ day of ______________, ____.

____

NOTE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Warrant in every particular, without alteration, enlargement or change whatsoever.

By________________________________
(Authorized Officer)

EXHIBIT B

Certificate and Agreement upon Acquisition of Line of Credit Agreement

CERTIFICATE AND AGREEMENT UPON
ACQUISITION OF LINE OF CREDIT AGREEMENT

From: ____________________________

To: City of Foley, Alabama

Date: ________________, 20__

Re: Line of Credit Agreement dated June __, 2020, by the Lender and the City of Foley, Alabama

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On the date hereof, the undersigned _______________________________ delivers this Certificate and Agreement to the City of Foley, Alabama, under the above Line of Credit Agreement (the "Agreement"), upon acquisition of the interests, and assumption of the obligations, of the "Lender" under the Agreement and in compliance therewith the undersigned agrees, certifies, covenants and represents:

1. For value received, the undersigned has acquired the interests, and undertakes and agrees to observe and perform the obligations, of the "Lender" under the Agreement.

2. The undersigned has reviewed and agrees to the terms and provisions of the Agreement.

3. Notices to the undersigned under the Agreement shall be delivered to :

    ____

    ____

    ____

4. The undersigned makes all representations of the "Lender" under Section 2.02 of the Agreement on the date hereof.

5. The undersigned takes the Agreement subject to all payments theretofore made by the City with respect to the Credit Agreement Obligations and all rights and defenses of the City at law or in equity.

6. The City may rely upon this Certificate and Agreement for all purposes of the Agreement.

In Witness Whereof, the undersigned has caused this Certificate and Agreement to be executed, under seal, by an officer thereof duly authorized thereunto.

____

By: ________________________________

Its: ________________________________