

**EXCERPTS FROM THE MINUTES OF A REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF BAY MINETTE, ALABAMA  
HELD ON FEBRUARY 23, 2023**

The City Council of the City of Bay Minette, Alabama met at City Hall in the City of Bay Minette, Alabama on February 23, 2023 at 6:00 p.m., Central Time. The following members of the City Council of the City of Bay Minette, Alabama were:

| <u>PRESENT</u>   | <u>ABSENT</u> |
|------------------|---------------|
| Pete Sellers     |               |
| Mike Phillips    |               |
| Matt Franklin    |               |
| William Taylor   |               |
| Shannon Clemmons |               |

Mayor Robert A. Wills acted as Chairman of the meeting and Tammy Smith City Administrator/Finance Director, acted as Clerk of the meeting. The chairman stated that due notice of the meeting had been posted in accordance with Alabama law and a quorum was present and declared the meeting open for the transaction of business.

\* \* \* \* \*

The Chairman then stated that it would be appropriate to consider the issuance of \$5,185,000 in aggregate principal amount of the City's General Obligation Economic Development Improvement Warrants, Series 2023A, for the purpose of funding certain costs related to the City's financial obligations under a project development agreement for an economic development project and paying the expenses of issuing such Warrants. Councilmember Franklin moved for suspension of the rules for immediate consideration of such ordinance, which motion was seconded by Councilmember Phillips and approved by unanimous vote of the City Council.

\* \* \* \* \*

The following ordinance was thereupon introduced in writing:

**ORDINANCE NO. 1020**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF  
\$5,185,000 OF GENERAL OBLIGATION ECONOMIC DEVELOPMENT  
IMPROVEMENT WARRANTS, SERIES 2023A**

**BE IT ORDAINED** by the City Council of the City of Bay Minette, Alabama, as follows:

**ARTICLE I**

**DEFINITIONS, USE OF WORDS AND  
PHRASES, AND FINDINGS BY THE CITY**

**Section 1.1 Definitions.** The following words and phrases and others evidently intended as the equivalent thereof shall, in the absence of clear implication herein otherwise, be given the following respective interpretations:

**“Bank”** means The Bank of New York Mellon Trust Company, N.A., in its role as Warrant Registrar and Paying Agent.

**“Beneficial Owner”** means the owner of a Warrant or portion thereof for federal tax purposes.

**“Bond Insurer”** means Build America Mutual Assurance Company.

**“Business Day”** means any day other than a Saturday, Sunday or day on which banking institutions are required or authorized to close in the city in which the designated corporate trust agency office of the Bank is located, or on which the Federal Reserve Bank is closed.

**“Capital Improvement Account”** or **“Project Account”** means the account designated as such and created pursuant to Section 8.1 hereof.

**“City”** means the municipal corporation in the State of Alabama known as the City of Bay Minette, Alabama, as it now exists, and any political subdivision resulting from any merger or consolidation thereof with any other political subdivision.

**“City Clerk”** means the city clerk of the City, or any person acting in such capacity for purposes of the issuance of the Warrants.

**“Code”** means the Internal Revenue Code of 1986 as amended.

**“Council”** means the governing body of the City as from time to time constituted.

**“Direct Participant”** means securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations which participate in the Securities Depository with respect to the Warrants.

**“Economic Development Amendment”** means Amendment 772 to the Constitution of Alabama of 1901 (codified as Section 94.01 of the Official Recompilation of the Constitution of Alabama of 1901), as amended by the amendment proposed by Act No. 2022-286 adopted at the 2022 Regular Session of the Legislature of Alabama and ratified on November 8, 2022.

**“Economic Development Project”** shall have the meaning given that term in Section 1.3(a) hereof, subject to being amended and supplemented as provided in Section 8.1 hereof.

**“Government Obligations”** means direct obligations of the United States of America and obligations unconditionally guaranteed by the United States of America (including money market funds investing solely in such obligations of the United States of America).

**“Interest Payment Date”** means, with respect to the Warrants, any January 1 or July 1 prior to payment thereof.

**“Line of Credit Warrant”** means the City’s Taxable General Obligation Warrant, 2022, dated September 8, 2022, issued in the amount of up to \$4,500,000.

**“Overdue Interest”** means interest due but not paid on the Interest Payment Date on which such interest is required to be paid.

**“Municipal Bond Insurance Policy”** means an Insurance Policy issued by the Bond Insurer insuring the payment when due of the principal of and interest on the Warrants or any series thereof as provided therein.

**“Record Date”** means, as to any Interest Payment Date, the December 15 or June 15 immediately preceding such Interest Payment Date.

**“Securities Depository”** has the meaning given that term in Section 3.5 hereof.

**“Treasurer”** shall mean the treasurer or any assistant treasurer of the City.

**“Warrant Authorizing Law”** means Section 2, Chapter 47 of Title 11, Code of Alabama, 1975, as amended.

**“Warrant Fund”** means the special account created pursuant to Section 8.3 hereof.

**“Warrant Holder”** or **“Holder”** means the registered holder, from time to time, of any of the Warrants.

“Warrants,” unless otherwise indicated, means \$5,185,000 in aggregate principal amount of the City's General Obligation Economic Development Improvement Warrants, Series 2023A, as more particularly described in Article II hereof and issued hereunder.

**Section 1.2 Use of Words and Phrases.** The following provisions shall be applied wherever appropriate herein:

Whenever used herein, any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

"Hereby", "herein", "hereinafter", "hereof", "hereunder" and other equivalent words refer to this Ordinance as a whole and not solely to any particular portion thereof in which any such word is used.

The definitions set forth in Section 1.1 hereof shall be deemed applicable whether the words defined are herein used in the singular or plural.

**Section 1.3 Findings of Council.** Having made due and proper investigation of the matters hereinafter referred to, the Council hereby finds and determines:

- (a) The City of Bay Minette, Alabama (the “City”) pursuant to Ordinance No. 0822-04 adopted by the Council on August 1, 2022, approved the execution and delivery of a Project Agreement by and among the City, Novelis Corporation (the “Company”) and Baldwin County (the “County”), The Utilities Board of the City of Bay Minette d/b/a North Baldwin Utilities, and Baldwin County Economic Development Alliance, Inc., dated July 28, 2022 (the “Project Agreement”) to provide for, among other purposes specified therein, facilitating the Company’s construction, equipping and development of a fully integrated, greenfield advanced flat-rolled aluminum products plant (the “Facility”) on a 2,000 +/- acre parcel of land located near Highway 287 and I-65 Highway in Baldwin County (the “Site”), wherein the Company will construct improvements and purchase equipment to enable the Company to conduct aluminum recycling, processing, rolling, finishing, and related operations, and wherein the Company is expected to employ as many as one-thousand (1,000) full-time employees, earning an average hourly wage of at least thirty-one dollars and twenty-five cents (\$31.25), exclusive of fringe benefits, with a total capital investment in constructing and equipping the Facility estimated to be two billion dollars (\$2,000,000,000) or more (the “Economic Development Project”), within the timelines and subject to certain payment and performance obligations of the Company as provided in the Project Agreement.
- (b) In order to provide temporary financing for a portion of the City’s obligations under the Project Agreement the City previously issued the Line of Credit Warrant pursuant to a Financing Agreement, dated September 8, 2022, between the City and Regions Bank, and Ordinance No. 1011 adopted by the City Council on August 15, 2022 (the “Line of Credit Ordinance”). As of the date hereof the City has drawn the sum of

\$1,700,000 under the Line of Credit Warrant and applied such sum toward its obligations under the Project Agreement.

- (c) Pursuant to the Economic Development Amendment, the City is authorized to grant public funds and things of value in aid of or to any individual, firm, corporation or business entity, public or private, for the purpose of promoting the economic and industrial development of the City and to become indebted and issue bonds, warrants, notes or other obligations to a principal amount not exceeding 50% of the assessed value of taxable property in the City.
- (d) Pursuant to the Warrant Authorizing Law and the Economic Development Amendment the City is authorized to issue its warrants, in order to finance the Economic Development Project.
- (e) The public benefits to be realized through the development of the Project are expected to include the creation of a substantial number of construction jobs and permanent service jobs, promote and develop for the public good and welfare trade, commerce, and industry in the City; and to promote the convenience, order, prosperity, and welfare of its citizens. The increased property values, increased tax revenues, additional economic activity, creation of new jobs, and the other benefits described herein will directly benefit the City and serve a valid and sufficient public purpose notwithstanding any benefit to any private business or person.
- (f) The City does not have and does not expect to have in the near future, funds sufficient to enable it to pay all costs of the City's obligations under the Project Agreement and has determined it is necessary, desirable and in the public interest for the City to grant public funds in aid of the Project and the Company, and for such purpose to issue its General Obligation Economic Development Improvement Warrants, Series 2023A, in an aggregate principal amount of \$4,720,000 (the "Warrants").
- (g) The City caused to be published in the *Courier*, the *Islander*, and the *Onlooker* on February 15, 2023 the notice required under the Economic Development Amendment with respect to the issuance of the Warrants, a true and correct copy of which is attached hereto as **Exhibit "A"**.
- (h) The City heretofore issued pursuant to an Ordinance adopted by the Council on December 2, 2013, (the "2013 Ordinance"), its General Obligation Warrants, Series 2013, dated December 1, 2013, originally issued in the aggregate principal amount of \$6,320,000 with a current balance of \$625,000 (the "2013 Warrants").
- (i) The City heretofore issued pursuant to an Ordinance adopted by the Council on February 20, 2018, as supplemented by a supplemental ordinance adopted by the Council on May 24, 2018 (collectively, the "2018 Ordinance"), its General Obligation Economic Development Improvement Warrants, Series 2018 dated May

30, 2018, originally issued and currently outstanding in the aggregate principal amount of \$4,045,000 (the “2018 Warrants”).

- (j) The City heretofore issued pursuant to an Ordinance adopted by the Council on January 18, 2022 (the “2022 Ordinance”), its General Obligation Warrants, Series 2022, originally issued and currently outstanding in the aggregate principal amount of \$5,310,000 (the “2022 Warrants”).
- (k) The City is not in default in the payment of the principal of and the interest on the 2013 Warrants, 2018 Warrants or the 2022 Warrants, the Line of Credit Warrant or under the 2013 Ordinance, 2018 Ordinance, 2022 Ordinance or the Line of Credit Ordinance.
- (l) Immediately after the issuance of the Warrants, the total indebtedness of the City issued under authority of the Economic Development Amendment will not be more than 50% of the assessed valuation of taxable property within the boundaries of the City for the last fiscal year (ended September 30, 2022).
- (m) Neither the City nor any "subordinate entity" or “on behalf of issuer,” as such terms are used in Section 265(b) of the Internal Revenue Code of 1986, as amended, has issued in 2023, or expects to issue within the remainder of 2023, tax-exempt obligations in an amount in excess of \$10,000,000.

## ARTICLE II

### AUTHORIZATION, DESCRIPTION, EXECUTION, PAYMENT AND FORM OF THE WARRANTS

**Section 2.1 Authorization of the Warrants.** Pursuant to the applicable provisions of the constitution and laws of the State of Alabama, and for the purposes of financing or refinancing a portion of the costs of the City’s obligations under the Project Agreement with respect to the Economic Development Project, paying the premium for a municipal bond insurance policy, and paying the costs of issuance thereof, there is hereby authorized to be issued by the City \$5,185,000 in aggregate principal amount of its General Obligation Economic Development Improvement Warrants, Series 2023A.

**Section 2.2 Description of the Warrants.** The Warrants shall be issued only in fully registered form, without coupons, shall be dated the date of their initial issuance and delivery, shall be issued in principal amounts of \$5,000 or any integral multiple thereof, and shall be numbered from R-1 upwards in the order of their issuance and delivery. The Warrants shall bear interest from their date (or in the case of a Warrant registered in the name of a Holder on or after the first Interest Payment Date, from the Interest Payment Date next preceding the date of such registration or, if the date of such registration is an Interest Payment Date, from the date of registration) at the rates shown below (calculated on the basis of a 360-day year of twelve 30-day months), payable on each January

1 and July 1 until payment of the principal amount thereof, beginning July 1, 2023, and shall mature on January 1 in the years and amounts as follows:

| <u>Year of<br/>Maturity</u> | <u>Principal<br/>Amount</u> | <u>Interest<br/>Rate</u> |
|-----------------------------|-----------------------------|--------------------------|
| 2028                        | \$ 525,000                  | 3.000%                   |
| 2033                        | 610,000                     | 3.000%                   |
| 2038                        | 730,000                     | 4.000%                   |
| 2043                        | 895,000                     | 4.000%                   |
| 2048                        | 1,090,000                   | 4.100%                   |
| 2053                        | 1,335,000                   | 4.125%                   |

**Section 2.3 Execution of the Warrants.** The Warrants shall be executed in the name of the City by the manual or facsimile signatures of the Mayor of the City and its City Clerk inscribed or printed or otherwise reproduced thereon (it being herein provided that a condition to the validity of each Warrant is the manual execution on behalf of the Bank of the Registration Certificate endorsed on each Warrant). The Warrants shall be registered by the Treasurer of the City, in the records maintained by the Treasurer, as a claim against the City and the Warrant Fund, which registration shall be made simultaneously as to all the Warrants. The certificate of registration on each of the Warrants shall be executed by the manual or facsimile signature of the Treasurer of the City. The official seal of the City shall be impressed or printed or otherwise reproduced thereon and shall be attested by the aforementioned signature of the City Clerk. The said officers are hereby directed to cause the Warrants to be executed, sealed and registered in the manner provided by this section. Anything herein to the contrary notwithstanding, any assistant city clerk shall be empowered to execute any Warrant in the absence or unavailability of the City Clerk and any assistant treasurer of the City shall be empowered to execute any Warrant in the absence or unavailability of the Treasurer.

**Section 2.4 Places and Medium of Payment of the Warrants.** Principal of and interest on the Warrants shall be payable in lawful money of the United States of America. The principal of the Warrants shall be payable at the designated corporate trust agency office of the Bank, upon presentation and surrender of the Warrants as the same become due and payable. Interest on the Warrants shall be payable by check or draft mailed by the Bank to the lawful holders of the Warrants at the address shown on the registry books of the Bank pertaining to the Warrants as of the Record Date and shall be deemed timely made if so mailed on the Interest Payment Date (or if such Interest Payment Date is not a Business Day, on the Business Day next following such Interest Payment Date).

**Section 2.5 Forms of the Warrants and Related Certificates.** The Warrants, the certificate of registration thereof, the registration thereof as a claim against the Warrant Fund, and the form of assignment thereof shall be in substantially the following forms, with appropriate changes therein to conform to the applicable provisions hereof.

(Form of Warrant)

[FORM OF CAPTION FOR WARRANTS HELD IN BOOK ENTRY FORM]

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R-\_\_\_\_\_

\$\_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF ALABAMA  
CITY OF BAY MINETTE  
GENERAL OBLIGATION ECONOMIC DEVELOPMENT  
IMPROVEMENT WARRANT  
SERIES 2023A

MATURITY DATE

CUSIP NUMBER

INTEREST RATE

THE CITY OF BAY MINETTE, ALABAMA, a municipal corporation in the State of Alabama (the "City"), for value received, hereby acknowledges that it is indebted in the principal sum of

\_\_\_\_\_ DOLLARS

and hereby directs the Treasurer of the City to pay such principal sum to

\_\_\_\_\_

or registered assigns, on the maturity date specified above or such earlier date as this Warrant may be called for redemption, and to pay (but solely out of the Warrant Fund) interest on such principal sum from the date hereof (or in the case of a Warrant registered in the name of the registered Holder hereof on or after July 1, 2023, as evidenced by the Certificate of Registration attached hereto, from the Interest Payment Date next preceding the date of such registration or, if the date of such



registration is an Interest Payment Date, from the date of registration), until such principal sum shall become due and payable, at the per annum rate of interest specified above. Interest shall be payable on January 1 and July 1 in each year, beginning July 1, 2023 (each such date herein called an "Interest Payment Date"), and shall be computed on the basis of a 360-day year with 12 months of 30 days each. Interest shall be payable on overdue principal (and premium, if any) on this Warrant and (to the extent legally enforceable) on any overdue installment of interest on this Warrant at the rate borne hereby.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in the Authorizing Ordinance hereinafter described, be paid to the person in whose name this Warrant is registered at the close of business on the 15th day of the month next preceding such Interest Payment Date.

The Warrants are being issued by means of a book-entry system with no physical distribution of warrant certificates to be made except as provided in the Authorizing Ordinance (as hereinafter defined). One warrant certificate, in the aggregate principal amount of each maturity of the Warrants, registered in the name of Cede & Co. as nominee of the DTC, is being issued and required to be deposited with DTC (or an authorized banking institution acceptable to DTC) and immobilized in its custody. The book-entry system will evidence ownership of the Warrants, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal, interest and any redemption premium payments to beneficial owners of the Warrants by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The City will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, and to participants or persons acting through such participants. While Cede & Co. is the registered owner of this Warrant, notwithstanding the provisions hereinabove contained, payments of principal, interest and any redemption premium on this Warrant will be made in accordance with the existing arrangements between the Paying Agent and DTC.

Subject to the foregoing paragraph, payment of interest on this Warrant due on each Interest Payment Date shall be made by check or draft mailed by the Paying Agent to the person entitled thereto at his address appearing in the Warrant Register maintained with respect to the Warrants. Such payments of interest shall be deemed timely made if so mailed on the Interest Payment Date (or, if such Interest Payment Date is not a business day, on the business day next following such Interest Payment Date). Payment of the principal of (and premium, if any, on) this Warrant and payment of accrued interest on this Warrant due upon redemption shall be made only upon surrender of this Warrant at the designated corporate trust agency office of the hereinafter described Bank. Upon the terms and conditions provided in the Authorizing Ordinance, the Holder of any Warrant or Warrants in an aggregate principal amount of not less than \$500,000 may request that payment of interest on such Warrant or Warrants be made by wire transfer to an account of such Holder maintained at a bank in the continental United States or by any other method providing for same-day funds that is acceptable to the Bank. All such payments shall be made 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.

This Warrant is one of the duly authorized issue of warrants of the City, aggregating \$5,185,000 in principal amount, entitled "General Obligation Economic Development Improvement Warrants, Series 2023A" (the "Warrants") and issued under and pursuant to an ordinance duly adopted by the governing body of the City on February 23, 2023 (the "Authorizing Ordinance") and the constitution and laws of the State of Alabama, including particularly Section 2, Chapter 47, of Title 11 of the Code of Alabama, 1975, as amended, and the amendment to the Constitution of Alabama proposed by Act No. 2004-94, adopted at the 2004 Regular Session of the Legislature of Alabama and ratified on November 2, 2004, as amended by the amendment to the Constitution of Alabama proposed by Act No. 2022-286, adopted at the 2022 Regular Session of the Legislature of Alabama and ratified on November 8, 2022, codified as Section 94.01 of the Official Recompilation of the Constitution of Alabama of 1901. Capitalized terms not otherwise defined herein shall have the meanings assigned in the Authorizing Ordinance.

The Authorizing Ordinance provides that The Bank of New York Mellon Trust Company, N.A. (the "Bank"), will serve as Paying Agent and Registrar with respect to the Warrants unless and until a successor is appointed pursuant to the terms and conditions of the Authorizing Ordinance. For purposes of this Warrant and the Authorizing Ordinance, the principal office of the Bank shall mean the office where the Bank maintains its designated corporate trust agency office.

The indebtedness evidenced by the Warrants is a general obligation of the City for the payment of which the full faith and credit of the City have been irrevocably pledged, pro rata and without preference or priority of one Warrant over another.

Pursuant to the Authorizing Ordinance, the City has established a special fund for the payment of debt service on the Warrants (the "Warrant Fund") that will be held by the Bank. The City has obligated itself to pay or cause to be paid into the Warrant Fund from the taxes, revenues or other funds of the City sums sufficient to provide for the payment of debt service on the Warrants as the same becomes due and payable.

*Optional Redemption.* The Warrants maturing on or after January 1, 2038 will be subject to redemption prior to their maturity, at the option of the City, in whole or in part, on January 1, 2033 and on any date thereafter (in principal amounts of \$5,000 and any integral multiple thereof, and if less than all of the Warrants are to be redeemed, those maturities or portions thereof to be called for redemption shall be selected by the City in its discretion, and if less than all the Warrants of a single maturity are to be redeemed, those to be called for redemption shall be selected by lot), at and for a redemption price equal to 100% of the principal amount of each Warrant or portion thereof redeemed, plus accrued interest to the date fixed for redemption.

*Scheduled Mandatory Redemption.* The Warrants maturing on January 1, 2028 (the "2028 Term Warrants") will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2028 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2024                         | \$100,000                                       |
| 2025                         | 100,000                                         |
| 2026                         | 105,000                                         |
| 2027                         | 110,000                                         |

In the absence of prior optional redemption, 2028 Term Warrants in the aggregate principal amount of \$110,000 will remain to be paid at their stated maturity on January 1, 2028.

The Warrants maturing on January 1, 2033 (the “2033 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2033 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2029                         | \$115,000                                       |
| 2030                         | 120,000                                         |
| 2031                         | 120,000                                         |
| 2032                         | 125,000                                         |

In the absence of prior optional redemption, 2033 Term Warrants in the aggregate principal amount of \$130,000 will remain to be paid at their stated maturity on January 1, 2033.

The Warrants maturing on January 1, 2038 (the “2038 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2038 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2034                         | \$135,000                                       |
| 2035                         | 140,000                                         |
| 2036                         | 145,000                                         |
| 2037                         | 150,000                                         |

In the absence of prior optional redemption, 2038 Term Warrants in the aggregate principal amount of \$160,000 will remain to be paid at their stated maturity on January 1, 2038.

The Warrants maturing on January 1, 2043 (the “2043 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2043 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2039                         | \$165,000                                       |
| 2040                         | 170,000                                         |
| 2041                         | 180,000                                         |
| 2042                         | 185,000                                         |

In the absence of prior optional redemption, 2043 Term Warrants in the aggregate principal amount of \$195,000 will remain to be paid at their stated maturity on January 1, 2043.

The Warrants maturing on January 1, 2048 (the “2048 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2048 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2044                         | \$200,000                                       |
| 2045                         | 210,000                                         |
| 2046                         | 220,000                                         |
| 2047                         | 225,000                                         |

In the absence of prior optional redemption, 2048 Term Warrants in the aggregate principal amount of \$235,000 will remain to be paid at their stated maturity on January 1, 2048.

The Warrants maturing on January 1, 2053 (the “2053 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2053 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2049                         | \$245,000                                       |
| 2050                         | 255,000                                         |
| 2051                         | 265,000                                         |
| 2052                         | 280,000                                         |

In the absence of prior optional redemption, 2053 Term Warrants in the aggregate principal amount of \$290,000 will remain to be paid at their stated maturity on January 1, 2053.

Written notice of the call for redemption of this Warrant (or portion of the principal thereof) shall be forwarded by registered or certified mail to the registered owner hereof, not less than thirty (30) or more than sixty (60) days prior to the date fixed for redemption. In the event that less than all the outstanding principal of this Warrant is to be redeemed, the registered Holder hereof shall surrender this Warrant to the Bank in exchange for a new Warrant of like tenor herewith except in a principal amount equal to the unredeemed portion hereof. Upon the giving of notice of redemption

in accordance with the provisions of the Authorizing Ordinance, the Warrants (or principal portions thereof) so called for redemption and prepayment shall become due and payable on the date specified in such notice, anything herein or in the Authorizing Ordinance to the contrary notwithstanding, and the Holders thereof shall then and there surrender them for payment, and all future interest on the Warrants (or principal portion thereof) so called for prepayment shall cease to accrue after the date specified in such notice, whether or not the Warrants are so presented.

This Warrant is transferable by the registered holder hereof, in person or by authorized attorney, only on the books of the Bank, as Registrar and Transfer Agent of the City, and only upon surrender of this Warrant to such Registrar for cancellation, and upon any such transfer a new Warrant of like tenor herewith will be issued to the transferee in exchange therefor, all as more particularly described in the Authorizing Ordinance. Each Holder hereof, by receiving or accepting this Warrant, shall consent and agree and shall be estopped to deny that this Warrant may be transferred only in accordance with the provisions of the Authorizing Ordinance. Provision is also made in the Authorizing Ordinance for the exchange of Warrants for a like aggregate principal amount and in authorized denominations, all upon the terms and subject to the conditions set forth in the Authorizing Ordinance.

The Registrar shall not be required to transfer or exchange this Warrant during the period of fifteen (15) days next preceding any interest payment date; and, in the event that this Warrant (or any principal portion hereof) is duly called for redemption and prepayment, the Registrar shall not be required to register or transfer this Warrant during the period of forty-five (45) days next preceding the date fixed for such redemption and prepayment.

Registration, transfer and exchange of Warrants, other than to replace mutilated, lost, stolen or destroyed Warrants, shall be without expense to the Holder or transferee, but the Holder shall pay all taxes and other governmental charges, if any, required to be paid in connection with such transfer, registration or exchange.

It has been ascertained and found, and it is hereby certified and recited, that all conditions, actions and things required by the constitution and laws of Alabama to exist, be performed or happen precedent to or in the issuance of this Warrant and the creation of the indebtedness evidenced and ordered paid hereby exist, have been performed and have happened, that such indebtedness has been registered as a claim against the Warrant Fund and is lawfully due without condition, and that the indebtedness evidenced and ordered paid by this Warrant, together with all other indebtedness of the City, was when incurred and is now within every debt and other limit prescribed by the constitution and laws of Alabama.

Unless the Registration Certificate hereon has been executed by the Bank, as Registrar for the Warrants, by manual signature, this Warrant shall not be entitled to any benefit under the Authorizing Ordinance or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the City has caused this Warrant to be executed in its behalf by the Mayor and by the City Clerk of the City, each of whom have caused their signatures to be hereunto imprinted, has caused the official seal of the City to be imprinted hereon, and has caused this Warrant to be dated \_\_\_\_\_.

CITY OF BAY MINETTE, ALABAMA

(SEAL)

By \_\_\_\_\_  
[FORM]  
Its Mayor

ATTEST:

By \_\_\_\_\_  
[FORM]  
City Clerk

\* \* \* \* \*

(Form of Registration as Claim against Warrant Fund)

I hereby certify that this Warrant has been registered by me as a claim against the Warrant Fund referred to in this Warrant.

\_\_\_\_\_  
Finance Director as treasurer of the  
City of Bay Minette, Alabama

\* \* \* \* \*

[Form of Registration Certificate]

This Warrant was registered in the name of the above-registered owner on the date hereinafter set forth.

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.

By \_\_\_\_\_  
Its Authorized Officer

DATE OF REGISTRATION: \_\_\_\_\_

[Form of Statement of Insurance]

Build America Mutual Assurance Company ("BAM"), New York, New York, has delivered its municipal bond insurance policy (the "Policy") with respect to the scheduled payments due of principal of and interest on this Warrant to The Bank of New York Mellon Trust Company, N.A., Birmingham, Alabama or its successor, as paying agent for the Warrants (the "Paying Agent"). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from BAM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of this Warrant, the owner acknowledges and consents (i) to the subrogation and all other rights of BAM as more fully set forth in the Policy and (ii) that upon the occurrence and continuance of a default or an event of default under the Authorizing Ordinance or this Warrant, BAM shall be deemed to be the sole owner of the Warrants for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the Warrant or the Paying Agent for the benefit of such owners under the Authorizing Ordinance, at law or in equity.

The following abbreviations, when used in the inscription on this Warrant or in the assignment below, shall be construed as though they were written out in full according to applicable laws or regulations:

|                    |   |                                                                                                        |
|--------------------|---|--------------------------------------------------------------------------------------------------------|
| TEN COM            | - | As tenants in common                                                                                   |
| TEN ENT            | - | As tenants by the entireties                                                                           |
| JT TEN             | - | As joint tenants with right of survivorship and not as tenants in common and not as community property |
| UNIF TRANS MIN ACT | - | <hr/> (Custodian) (Minor)<br>under Uniform Transfer to Minors Act <hr/> (State)                        |

Additional abbreviations may be used although not in the above list.

\* \* \* \* \*

(Form of 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 the Bond on the books of the within mentioned Bank.

Dated this the \_\_\_\_ 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.

Signature guaranteed:  
(Bank, Trust company or Firm)

By: \_\_\_\_\_  
(Authorized Officer)

Its Medallion Number \_\_\_\_\_

Signature(s) must be guaranteed by an eligible guarantor institution which is a member of a 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)



**ARTICLE III**  
**FURTHER PROVISIONS WITH RESPECT TO**  
**WARRANTS**

**Section 3.1 Home Office Payment Agreement.** Upon the written request of the Holder of any Warrant or Warrants in an aggregate principal amount of not less than \$500,000, the Bank will make payment of interest due on such Warrant or Warrants upon any Interest Payment Date by wire transfer to an account of such Holder maintained at a bank in the continental United States or by any other method providing for payment in same-day funds that is acceptable to the Bank, provided that payment of the principal of and redemption premium (if any) on such Warrant or Warrants shall be made only upon surrender of such Warrant or Warrants to the Bank, as Paying Agent.

**Section 3.2 Interest After Payment Due Date.** The Warrants, any premiums thereon and, to the extent legally enforceable, overdue installments of interest thereon, shall bear interest after the maturity dates thereof or such earlier date as they may be called for redemption, until paid or until money sufficient for the payment thereof shall have been deposited for that purpose with the Bank, at the respective rates borne thereby.

Any provision hereof to the contrary notwithstanding, Overdue Interest shall not be payable to the Warrant Holder solely by reason of such Warrant Holder having been the Holder on the Record Date next preceding the Interest Payment Date on which such interest became due and payable, but shall be payable by the Bank as follows:

(a) Not less than ten (10) days following receipt by the Bank of immediately available funds in an amount sufficient to enable the Bank to pay all Overdue Interest, the Bank shall fix an Overdue Interest Payment Date for payment of such Overdue Interest, which date shall be not more than twenty (20) days following the expiration of the ten-day period after receipt of funds by the Bank;

(b) Overdue Interest shall be paid by check or draft mailed by the Bank to the persons in whose names the Warrants were registered in the registry books of the Bank pertaining to the Warrants on the Overdue Interest Payment Date.

Payment of Overdue Interest in the manner herein prescribed to the persons in whose names the Warrants were registered on the Overdue Interest Payment Date shall fully discharge and satisfy all liability for the same.

**Section 3.3 Temporary Certificates.** Pending the preparation of definitive Warrants the City may execute, and upon request of the City, the Bank shall register and deliver, temporary certificates which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Warrants in lieu of which they are issued, but numbered from R-1 upwards, without other identification numbers, and with

such other appropriate insertions, omissions, substitutions and other variations as the officers executing such temporary certificates may determine, as evidenced by their execution of such temporary certificates.

Any such temporary certificates shall be executed by the manual signatures of the appropriate officers of the City as required in Article II of this Ordinance and be executed and attested by the City Clerk. All such temporary certificates shall have impressed thereon the seal of the City.

If temporary Warrants are issued, the City will cause definitive Warrants to be prepared without unreasonable delay. After the preparation of definitive Warrants, the temporary Warrants shall be exchangeable for definitive Warrants upon surrender of the temporary Warrants at the principal office of the Bank, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Warrants the City shall execute and the Bank shall authenticate and deliver in exchange therefor a like principal amount of definitive Warrants of like tenor, and in authorized denominations. Until so exchanged, temporary Warrants shall in all respects be entitled to the security and benefits of this Ordinance.

**Section 3.4 Payments Due on a Day Other Than a Business Day.** If any payment on the Warrants is due on a day which is not a Business Day, such payment shall be made on the first succeeding date which is a Business Day with the same effect as if made on the day such payment was due.

**Section 3.5 Book Entry System.** The City may from time to time enter into, and discontinue, an agreement with a "clearing agency" (securities depository) registered under Section 17A of the Securities Exchange Act of 1934, as amended (a "Securities Depository"), which is the owner of the Warrants, to establish procedures with respect to the Warrants, not inconsistent with the provisions of this Ordinance; provided, however, that any such agreement may provide:

- (a) that such Securities Depository is not required to present a Warrant to the Paying Agent in order to receive partial payment of principal;
- (b) that a legend shall appear on each Warrant so long as the Warrants are subject to such agreement; and
- (c) that different provisions for notice to such Securities Depository may be set forth therein.

So long as an agreement with a Securities Depository is in effect, the City, the Bank and any paying agent or bond registrar shall not have any responsibility or liability with respect to the payment of principal, purchase price, premium, if any, or interest on the Warrants to the Beneficial Owners or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests or any payments made to such Beneficial Owners.

## ARTICLE IV

### GENERAL OBLIGATION; PROVISION FOR PAYMENT OF OBLIGATIONS

**Section 4.1 General Obligation.** The indebtedness evidenced by the Warrants is and shall be a general obligation of the City and the full faith and credit of the City are hereby irrevocably pledged to the payment of the principal thereof and interest thereon.

**Section 4.2 Continued Levy of Taxes; Maintenance of Warrant Fund.** The City agrees that, so long as the principal of or interest on any of the Warrants remains unpaid, the City will annually levy and collect taxes, insofar as such taxes may be permitted by the present or any future provisions of the Constitution of Alabama, in such amounts as may be necessary to provide for the payment of the principal of and interest on the Warrants. The City further agrees that so long as the principal of or interest on any of the Warrants remains unpaid it will deposit in the Warrant Fund with respect to such Warrants, not later than the 25th day of the month next preceding an Interest Payment Date, an amount which, when added to the amounts then on deposit in such Warrant Fund, will equal the principal, interest and redemption premium (if any) to come due with respect to the Warrants on such Interest Payment Date.

**Section 4.3 Provision for Payment.** (a) If the principal of and interest and redemption premium (if any) on the Warrants is paid in accordance with the terms thereof and this Ordinance, then all covenants, agreements and other obligations of the City to the Holders of such Warrants shall thereupon cease, terminate and become void and be discharged and satisfied. In the event the Warrants are so paid the Bank shall pay to the City any surplus remaining in the Warrant Fund.

(b) Warrants shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this Section 4.3 if

- (1) the City and the Bank (or another bank acting as trustee) enter into an appropriate trust agreement under which there shall be deposited, for payment or redemption of such Warrants and for payment of the interest to accrue thereon until maturity or redemption, and any redemption premium thereon, Government Obligations and cash or any combination of cash and Government Obligations which, together with the income to be derived from such, will produce monies sufficient to provide for the payment, redemption and retirement of such Warrants as and when the same become due;
- (2) the City shall have adopted all necessary proceedings providing for the redemption of any such Warrants that are required to be redeemed prior to their respective maturities and shall have instructed the Bank or other trustee under the aforesaid trust agreement to provide such notices of redemption as are required under this Ordinance;

- (3) the City and the Bank shall have been furnished with an opinion of nationally recognized bond counsel to the effect that the creation of any such trust will not result in subjecting to federal income taxation the interest on any of the Warrants that are to be paid in accordance with such trust; and
- (4) the City and the Bank shall have been furnished a certificate of a firm of certified public accountants satisfactory to the Bank stating that such trust will produce monies sufficient to provide for the full payment and retirement of such Warrants as and when the principal of and interest and redemption premium (if any) on such Warrants shall come due.

**Section 4.4. Retention of Moneys for Payment of Warrants.** The amounts held by the Bank for the payment of the principal of and interest on any Warrants due on any date shall, pending such payment, be held in trust by the Bank for the holders of the Warrants entitled thereto, and for the purposes of this Ordinance the principal of and interest on such Warrants shall no longer be considered to be unpaid. All liability of the City to the Holders of such Warrants and all rights of such Holders against the City under the Warrants or under this Ordinance shall thereupon cease and terminate, and the sole right of such Holders shall thereafter be against such funds. If any Warrant shall not be presented for payment within a period of five (5) years following the date when such Warrant becomes due, whether by maturity, redemption or otherwise, or if the check or draft providing for any payment of interest on any Warrant shall not have been negotiated within such period, the Bank shall return to the City any moneys theretofore held by it for payment of such Warrant or such interest, subject to applicable laws of escheat.

## ARTICLE V

### REDEMPTION PROVISIONS

#### **Section 5.1 Mandatory and Optional Redemption.**

(a) Scheduled Mandatory Redemption. The Warrants maturing on January 1, 2028 (the "2028 Term Warrants") will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2028 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2024                         | \$100,000                                       |
| 2025                         | 100,000                                         |
| 2026                         | 105,000                                         |
| 2027                         | 110,000                                         |

In the absence of prior optional redemption, 2028 Term Warrants in the aggregate principal amount of \$110,000 will remain to be paid at their stated maturity on January 1, 2028.

The Warrants maturing on January 1, 2033 (the “2033 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2033 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2029                         | \$115,000                                       |
| 2030                         | 120,000                                         |
| 2031                         | 120,000                                         |
| 2032                         | 125,000                                         |

In the absence of prior optional redemption, 2033 Term Warrants in the aggregate principal amount of \$130,000 will remain to be paid at their stated maturity on January 1, 2033.

The Warrants maturing on January 1, 2038 (the “2038 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2038 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2034                         | \$135,000                                       |
| 2035                         | 140,000                                         |
| 2036                         | 145,000                                         |
| 2037                         | 150,000                                         |

In the absence of prior optional redemption, 2038 Term Warrants in the aggregate principal amount of \$160,000 will remain to be paid at their stated maturity on January 1, 2038.

The Warrants maturing on January 1, 2043 (the “2043 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2043 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2039                         | \$165,000                                       |
| 2040                         | 170,000                                         |
| 2041                         | 180,000                                         |
| 2042                         | 185,000                                         |

In the absence of prior optional redemption, 2043 Term Warrants in the aggregate principal amount of \$195,000 will remain to be paid at their stated maturity on January 1, 2043.

The Warrants maturing on January 1, 2048 (the “2048 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2048 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2044                         | \$200,000                                       |
| 2045                         | 210,000                                         |
| 2046                         | 220,000                                         |
| 2047                         | 225,000                                         |

In the absence of prior optional redemption, 2048 Term Warrants in the aggregate principal amount of \$235,000 will remain to be paid at their stated maturity on January 1, 2048.

The Warrants maturing on January 1, 2053 (the “2053 Term Warrants”) will be subject to mandatory redemption prior to maturity on the dates and in the principal amounts shown below. Those of the 2053 Term Warrants (or portions thereof) to be so redeemed will be redeemed at and for a redemption price equal to the principal amount thereof plus accrued interest thereon to the redemption date, with those to be redeemed to be selected by lot.

| <u>January 1 of the Year</u> | <u>Principal Amount Required to be Redeemed</u> |
|------------------------------|-------------------------------------------------|
| 2049                         | \$245,000                                       |
| 2050                         | 255,000                                         |
| 2051                         | 265,000                                         |
| 2052                         | 280,000                                         |

In the absence of prior optional redemption, 2053 Term Warrants in the aggregate principal amount of \$290,000 will remain to be paid at their stated maturity on January 1, 2053.

(b) Optional Redemption. The Warrants maturing on or after January 1, 2038 will be subject to redemption prior to their maturity, at the option of the City, in whole or in part, on January 1, 2033 and on any date thereafter (in principal amounts of \$5,000 and any integral multiple thereof, and if less than all of the Warrants are to be redeemed, those maturities or portions thereof to be called for redemption shall be selected by the City in its discretion, and if less than all the Warrants of a single maturity are to be redeemed, those to be called for redemption shall be selected by lot), at and for a redemption price equal to 100% of the principal amount of each Warrant or portion thereof redeemed, plus accrued interest to the date fixed for redemption.

**Section 5.2 Procedure for Redemption; Ordinance Authorizing Redemption.** Not more than sixty (60) or less than thirty (30) days prior to the Redemption Date, the City (or the Bank on

behalf of the City) shall give, or cause to be given, written notice of such redemption and prepayment by United States mail, registered or certified, to the Holders of each of the Warrants to be redeemed, in whole or in part, at the address of such registered Holder as such address appears on the registry books of the Registrar, stating that the Warrants (or principal portions thereof) have been called for redemption and will become due and payable at the Redemption Price, on a specified Redemption Date and that all interest thereon will cease to accrue after the Redemption Date. The holders of any of the Warrants to be redeemed may waive the requirements for notice with respect to the Warrants held by them without affecting the validity of the call for redemption of any other Warrants. The City shall cause to be paid and made available at the office of the Bank, on or prior to the Redemption Date, the total Redemption Price of the Warrants (or portions thereof) so called for redemption on such date. Out of the moneys so deposited with it, the Bank shall make provision for payment of the Warrants (or principal portions thereof) so called for redemption at the Redemption Price and on the Redemption Date.

In addition to the foregoing notice, further notice shall be given by the City to all registered securities depositories and to one or more national information services that disseminate notices of redemption of obligations such as the Warrants. No defect in the further notice required in this paragraph, and no failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as described in the first paragraph of this Section 5.2.

Any optional redemption or prepayment of the Warrants or any portion thereof shall be effected upon a call by the City, as evidenced by a resolution of the Council, for redemption and prepayment of the Warrants to be so redeemed. Any such resolution pertaining to the Warrants shall state (i) that the City is not in default in the payment of the principal of or interest on any of the Warrants to be redeemed or (ii) that all of the Warrants then outstanding are to be retired on the Redemption Date.

**Section 5.3 Result of Redemption of Warrants.** Upon compliance with the requirements set forth in this Article V, and if the City is not on the Redemption Date in default in the payment of the principal of or interest on the Warrants, the Warrants (or principal portions thereof) called for redemption shall become due and payable at the Redemption Price and on the Redemption Date specified in the notice provided for in Section 5.2, and the Holders thereof shall then and there surrender them for redemption; provided, however, that in the event that less than all of the outstanding principal of any Warrant is to be redeemed, the registered Holder thereof shall surrender the Warrant that is to be prepaid in part to the Bank in exchange, without expense to the Holder, for a new Warrant of like tenor except in a principal amount equal to the unredeemed portion thereof. All future interest on the Warrants (or principal portions thereof) so called for redemption shall cease to accrue after the Redemption Date.

## ARTICLE VI

### REGISTRATION AND TRANSFER OF THE WARRANTS

**Section 6.1 Registration and Transfer of the Warrants.** The Warrants shall be registered as to both principal and interest. Each Warrant shall have endorsed thereon a registration certificate substantially in the form provided in Section 2.5 hereof, and a condition to the validity of each Warrant shall be the manual execution of such certificate on behalf of the Bank. The Bank is hereby appointed as the Registrar and Transfer Agent for the Warrants, and shall be authorized to keep at its designated corporate trust agency office, proper registry books in which it shall register the Warrants, as to both principal and interest, noting the registry on the Warrants so presented. Such registration shall conclusively designate the Warrant Holder as the sole person to whom or on whose order the payment of the principal of and interest on the Warrants so registered may be made. After such registration no transfer of a Warrant so registered shall be valid unless it is presented at the said office with written power to transfer, properly stamped if required, in form and with guaranty of signature satisfactory to the Registrar, and such new registration noted thereon by the Registrar. The Registrar shall not be required to transfer or exchange such Warrant during the period of fifteen (15) days next preceding any interest payment date. If any Warrant shall be duly called for redemption pursuant to the provisions hereof, the Registrar shall not be required to transfer such Warrant during the period of sixty (60) days next preceding the date fixed for its redemption.

**Section 6.2 Exchange of Warrants.** Upon request of the Holder of any Warrant, the City shall execute, and the Bank shall register and deliver, upon surrender to the Bank of the Warrant or Warrants, in exchange therefor, a Warrant or Warrants of the same tenor in different authorized principal amounts (of \$5,000 or integral multiples thereof), together aggregating the same principal amount as the then unpaid principal of the Warrant or Warrants so surrendered, all as may be requested by the persons surrendering such Warrant or Warrants.

**Section 6.3 Costs of Registration, Transfer and Exchange.** The registration, transfer and exchange of Warrants (other than pursuant to Section 6.5 hereof) shall be without expense to the Holder or transferee. In every case involving a transfer, registration or exchange, such Holder shall pay all taxes and other governmental charges, if any, required to be paid in connection with such transfer, registration or exchange.

**Section 6.4 Effect of Registration.** The City, the Registrar, and the Paying Agent may deem and treat the person in whose name a Warrant is registered on the books of the Registrar as the absolute owner thereof for all purposes; they shall not be affected by notice to the contrary; and all payments by any of them to the person in whose name a Warrant is registered shall, to the extent of such payment, fully discharge all liability thereof.

**Section 6.5 Replacement of Mutilated, Lost, Stolen or Destroyed Warrants.** In the event that any Warrant is mutilated, lost, stolen or destroyed, the City may execute and deliver a new Warrant of like tenor as that mutilated, lost, stolen or destroyed; provided, that (a) in the case of any



such mutilated Warrant, such Warrant is first surrendered to the City and the Bank, and (b) in the case of any such lost, stolen or destroyed Warrant, there is first furnished to the City and the Bank evidence of such loss, theft or destruction satisfactory to each of them, together with indemnity satisfactory to each of them. The City may charge the Holder with the expense of issuing any such new Warrant.

**Section 6.6    Provisions with Respect to Bank.** (a) Appointment of Bank and Acceptance of Duties. The Bank is herein designated and appointed and shall act as registrar, transfer agent and payment agent with respect to the Warrants. By its acceptance of such duties hereunder, the Bank shall accept and agree to perform the duties required by this Ordinance, subject, however, to the following conditions:

- (i) The Bank shall undertake to perform such duties and only such duties as are specifically set forth in this Ordinance, and no implied covenants or obligations shall be read into this Ordinance against the Bank.
- (ii) In the absence of bad faith or negligence on its part, the Bank may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Bank and conforming to the requirements of this Ordinance; provided, however, that in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Bank, the Bank shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Ordinance.
- (iii) The Bank shall not be answerable for other than its gross negligence or willful default and the Bank may act through its agents and attorneys with respect to any of its duties hereunder.
- (iv) No provision of this Ordinance shall be construed to relieve the Bank from liability for its own gross negligence or willful misconduct, except that no provision of this Ordinance shall require the Bank to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.
- (v) The Bank may consult counsel on any matters connected herewith and shall not be answerable for any action taken or failure to take any action in good faith on the advice of counsel, provided that its action or inaction is not contrary to any express provision hereof.
- (vi) The Bank need not recognize a Holder of a Warrant as such without the satisfactory establishment of his title to such Warrant.
- (vii) Any action taken by the Bank at the request of and with the consent of the Holder of

a Warrant will bind all subsequent Holders of the same Warrant and any Warrant issued hereunder in lieu thereof.

- (viii) The Bank may be a Holder or a pledgee of any of the Warrants as if not Bank hereunder.
- (ix) The Bank shall not be liable for the proper application of any moneys other than those that may be paid to or deposited with it.
- (x) The Bank shall not be liable to pay or allow interest on any moneys to be held by it under this Ordinance or otherwise to invest any such moneys, except as specifically required by this Ordinance or as may be required by law or other written agreement between the City and the Bank.
- (xi) The Bank may make any investments permitted or required hereby through its own investment department, and any Eligible Investments issued or held by it hereunder shall be deemed investments and not deposits.
- (xii) The Bank shall, upon reasonable written request, inform the City of the amount at the time on deposit in any of the special funds or accounts created hereunder.
- (xiii) The recitals of fact herein and in the Warrants are statements by the City and not by the Bank, and the Bank is in no way responsible for the validity or security of the Warrants or the validity of the security afforded hereby.

(b) Resignation by Bank. The Bank and any successor Bank may resign and be discharged from the duties under this Ordinance by causing written notice specifying the effective date, postage prepaid, to the City and to every Holder of a Warrant. Unless the effective date of the Bank's resignation shall coincide with the appointment of a successor Bank by the Holders of the Warrants as herein provided, such date shall be at least sixty (60) days after the date on which notice to the City and the Holders of the Warrants shall have been mailed.

(c) Removal of Bank. The Bank may be removed upon thirty (30) days' notice by an instrument or concurrent instruments in writing delivered to the Bank and to the City and signed by the Holders of a majority in aggregate principal amount of the Warrants then outstanding.

(d) Appointment of Successor Bank; Interim Bank. In case the Bank shall resign, be removed, be dissolved, be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, a successor may be appointed by Holders of a majority in aggregate principal amount of Warrants then outstanding through an instrument or concurrent instruments in writing signed by such Holders. In case of any such resignation or event which causes the Bank to be incapable of acting, the City, by an instrument signed by the Mayor, shall appoint an interim Bank to serve until a successor Bank shall be appointed by the Holders of a majority in aggregate principal amount of the Warrants, as provided above. Whenever necessary to avoid or fill a vacancy

in the office of Bank, the City will appoint an interim Bank in order that there shall at all times be a Bank hereunder. Any interim Bank so appointed by the City shall immediately and without further act be superseded by the Bank appointed by the holders of the Warrants.

The City shall cause notice of the appointment of an interim Bank, in the event that such an appointment is made, to be forwarded by United States registered or certified mail, postage prepaid, to every Holder of a Warrant. When the appointment of a successor Bank, as selected by the Holders of a majority in principal amount of the Warrants then outstanding, becomes effective, the City shall also cause notice of that fact to be given in the manner provided above for the notice required to be given upon the appointment of an interim Bank. Every interim or successor Bank appointed pursuant to this Section shall be a trust company or bank which is qualified to perform all duties of the Bank under this Ordinance and which has, at the time of its acceptance of such appointment, capital, surplus and undivided profits of not less than \$25,000,000, if there be such an institution willing, qualified and able to accept appointment as Bank upon reasonable or customary terms.

(e) Concerning any Successor Bank. Every successor Bank shall execute, acknowledge and deliver to its predecessor and also to the City an instrument in writing accepting its appointment as Bank hereunder, and thereupon such successor Bank, without any further act, deed or conveyance, shall become fully vested with all the rights, powers and duties of its predecessor. Such predecessor shall nevertheless, on the written request of the City or such successor Bank, execute and deliver an instrument transferring to such successor Bank all rights, powers and interests of such predecessor hereunder; and every predecessor Bank shall deliver all securities and moneys held by it as Bank hereunder to its successor.

(f) Merger or Consolidation of Bank. Any corporation into which the bank may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Bank shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Bank, shall be the successor of the Bank hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case the registration certificates with respect to any Warrants shall have been executed by the Bank then in office, any successor by merger or consolidation to such Bank may adopt the registration of such Warrants and deliver such Warrants with the same effect as if such successor Bank had itself registered such Warrants.

(g) Compensation of Bank. Subject to the provisions of any separate agreement with the Bank, the City shall pay to the Bank from time to time reasonable compensation for all services rendered by it under this Ordinance, including its services as registrar and paying agent for the Warrants, and also all its reasonable expenses, charges, counsel fees, costs and expenses and other disbursements and those of its attorneys, agents and employees, incurred in and about the performance of its duties hereunder.

## ARTICLE VII

### EXECUTION AND DELIVERY OF THE WARRANTS; USE OF PROCEEDS THEREFROM; REDEMPTION OF LINE OF CREDIT WARRANT

**Section 7.1 Authority to Execute and Deliver the Warrants.** The Mayor of the City, the City Clerk and Treasurer are hereby authorized and directed to cause the Warrants to be executed, sealed, attested and registered as a claim against the City and the Warrant Fund as provided herein and delivered to the purchaser thereof upon payment to the City of the sale price therefor.

**Section 7.2 Application of Proceeds of Sale; Additional Sums.** The gross proceeds derived from the sale of the Warrants shall be paid to the Bank and shall be used solely for the following purposes:

- (i) The amount of \$25,967.58 shall be paid directly to the Bond Insurer for the premium on the Municipal Bond Insurance Policy;
- (ii) The amount of \$1,700,000.00 shall be paid by the Bank to Regions Bank, as registered owner of the Line of Credit Warrant, in accordance with the instructions included in the Closing Memorandum, and applied, together with a contribution by the City with respect to the interest accrued thereon, to the payment of the redemption price of the Line of Credit Warrant;
- (iii) The amount of \$40,854.25 shall be paid to the Bank and applied to the payment of the costs of issuance of the Warrants listed in the Closing Memorandum; and
- (iv) The remainder of the proceeds of the sale of the Warrants shall be paid by the Bank to Regions Bank, as depository, for deposit in the Project Account and shall be applied for the purposes described in Section 8.1.

The Bank shall establish a clearing account for the purpose of paying the costs of issuance specified in the Closing Memorandum. In the event that any proceeds remain on deposit in such clearing account after the payment of the costs listed in the Closing Memorandum such amount shall be applied as follows: (a) if equal to or greater than \$1,000, such amount shall be transferred to Regions Bank for deposit in the Project Account; and (b) if less than \$1,000, such amount shall be applied to the payment of interest coming due on the Warrants on July 1, 2023.

**Section 7.3 Prepayment and Redemption of Line of Credit Warrant.** The City hereby calls the Line of Credit Warrant for redemption and payment on March 2, 2023 (said date herein called the "Redemption Date"), the said redemption to be effected at a redemption price equal to 100% of the outstanding principal amount of the Line of Credit Warrant plus accrued interest thereon to the Redemption Date. The redemption price, including the outstanding principal amount of the Refunded Bonds and interest accrued and payable thereon to the date of redemption shall be paid, as to the principal amount, from the proceeds of the Warrants and as to the interest thereon, from the general funds of the City. The Mayor or other officers of the City are hereby authorized and directed to give notice of and effect said redemption of the Line of Credit Warrant in the manner provided in the Line of Credit Ordinance, and to take all such other action as shall be necessary or desirable to carry out the foregoing.

## **ARTICLE VIII**

### **PROJECT ACCOUNT; WARRANT FUND AND COVENANTS WITH RESPECT TO WARRANT PROCEEDS**

**Section 8.1 Project Account.** There shall be created a special account the full name of which shall be the "City of Bay Minette Improvements Account, 2023A." The Project Account shall be maintained as a separate account until the moneys in said account shall have been fully expended as hereinafter provided. Except as hereinafter provided, the City will apply the moneys in the Project Account solely for payment of costs of issuance of the Warrants and for the purposes of funding the City's obligations under the Project Agreement. Regions Bank shall be the depository for the Project Account.

The Mayor or any other person designated in writing by the Mayor are hereby authorized and directed to make withdrawals from the Project Account for the purpose of paying the costs of the issuance of the Warrants and the funding of the City's obligations under the Project Agreement or reimbursing the City for payments previously made toward such obligations. The City shall have the right to supplement or revise the improvements comprising the Economic Development Project to be paid from proceeds of the Warrants by resolution or ordinance; provided, that no revisions or addition to the Economic Development Project as herein approved shall adversely affect either the status of the Economic Development Project as a permitted project under the Economic Development Amendment or the excludability of interest on the Warrant for federal income tax purposes.

**Section 8.2 Warrant Fund.** There is hereby created a special account, the full name of which shall be the "City of Bay Minette Warrant Fund, 2023A." The Warrant Fund shall be maintained as a separate fund until payment in full of the principal of and interest on the Warrants. The Bank is hereby designated as the custodian of the Warrant Fund.

Not later than the 25<sup>th</sup> day of each December and June, commencing June, 2023, the City shall deposit into the Warrant Fund an amount equal to (a) the amount of interest which will come

due on the next Interest Payment Date and (b) the amount of principal that will mature or otherwise come due, if any, on the next succeeding January 1 or July 1, respectively; provided, that any such payments shall be adjusted to the extent appropriate to take into account any interest and investment earnings within the Warrant Fund. Monies deposited in the Warrant Fund shall be used by the Bank for the payment of principal, interest and redemption premium (if any) on, the Warrants, and for no other purpose until the payment in full of the Warrants.

**Section 8.3 Investment of Moneys in Accounts.** Pending the expenditure of moneys in the Warrant Fund for any other purpose, the City shall have the privilege at any time and from time to time of investing and reinvesting, or causing to be invested and reinvested, all or part of the moneys at any time on deposit in such account, in Government Obligations or in money market funds consisting of Government Obligations. Pending the expenditure of moneys in the Project Account for any other purpose, the City shall have the privilege at any time and from time to time of investing and reinvesting, or causing to be invested and reinvested, all or part of the moneys at any time on deposit in such account in Government Obligations, money market funds consisting of Government Obligations, or certificates of deposit issued by banks or trust companies having at the time of the deposit combined capital, surplus and undivided profits of not less than \$25,000,000.

The Bank and any other depository for funds held hereunder are hereby directed to invest and reinvest such amounts promptly upon receipt of, and in accordance with, the written instructions of the City. The Bank or any such depository may conclusively rely upon the City's written instructions as to both the suitability and legality of the directed investments. In the absence of written investment instructions from the City, the Bank shall not be responsible or liable for keeping the moneys held by it hereunder fully invested. The Bank shall not be liable for any losses from such directed investments.

**Section 8.3 Security for Funds.** Any money on deposit in any fund or account or held by the Bank or any other depository pursuant to this Ordinance shall, unless invested as provided herein or secured by the Federal Deposit Insurance Corporation (or any successor agency of the United States of America) or under the State of Alabama Security for Alabama Funds Enhancement Program, be secured for the benefit of the City and the Holders by holding on deposit as collateral security direct obligations of the United States of America or securities designated by the Office of the Comptroller of the Currency in 12 CFR 9.10(b) as acceptable collateral for funds held by a national bank in a fiduciary account awaiting investment or distribution, having a market value (exclusive of accrued interest) not less than the amount of money being secured.

**Section 8.4 Covenants with Respect to Exemption of Interest from Federal Income Taxation; Non-Arbitrage Covenant.** The City acknowledges and agrees that the Warrants are to be issued in compliance with the conditions necessary for the interest income thereon to be exempt from federal income taxation pursuant to the relevant provisions of the Code. The City hereby covenants and agrees as follows:

- (a) It will not use or apply the proceeds of the Warrants or direct the investment of moneys in any funds or accounts established or

maintained with respect to the Warrants in such manner as to constitute any Warrant an "arbitrage bond" within the meaning of Section 148 of the Code;

- (b) It will make timely rebate payments to the United States of America with respect to any "excess" arbitrage profits as required by Section 148(f) of the Code;
- (c) It will maintain all records required by Section 148(f) of the Code and the applicable regulations thereunder and shall furnish such data or information regarding compliance with Section 148(f) of the Code as any Holder shall reasonably request in writing, which records shall be furnished to any Holder upon its request;
- (d) It will, within 60 days after a written request therefor, furnish to any Holder a certificate by an independent certified public accountant or opinion of nationally recognized bond counsel stating that as of such date it had made all rebate payments to the United States of America necessary to prevent the Warrants from becoming "arbitrage bonds" under Section 148(f) of the Code;
- (e) It will comply with the terms of the City's Tax Certificate and Agreement with regard to use of proceeds of the Warrants in any private business use; payment of the Warrants shall not be secured by, or derived from, property used in a private business use; proceeds of the Warrants shall not be used to make or finance loans to persons other than governmental units; and proceeds of the Warrants shall not be used in any manner that would cause the Warrants to be or become private activity bonds, as defined in Section 141 of the Code;
- (f) It will not cause or permit the Warrants to be federally guaranteed, within the meaning of Section 149(b) of the Code; and
- (g) It will not in any other way cause or permit the proceeds of the Warrants to be used in a manner which would cause the interest on the Warrants to lose the exemption from federal income taxation as provided under the Code and the applicable regulations thereunder and will comply with all applicable provisions of the Code (including, without limitation, the provisions relating to post-issuance actions affecting tax exemption) to the extent necessary for interest on the Warrants to be excludable from gross income of the holders thereof.

- (h) It has in place procedures providing for compliance with each of the matters described above and for keeping records with respect to such compliance.

## **ARTICLE IX**

### **APPROVAL OF OFFICIAL STATEMENT; AUTHORIZATION OF CONTINUING DISCLOSURE AGREEMENT; APPROVAL OF SALE; MISCELLANEOUS PROVISIONS**

**Section 9.1 Approval of Official Statement.** The Council hereby approves and ratifies the actions heretofore taken by the Underwriter in connection with the preparation and distribution of a Preliminary Official Statement respecting the Warrants, which form has heretofore been deemed final within the meaning of Securities and Exchange Commission Rule 15c2-12. The Commission hereby approves and adopts the final Official Statement dated February 14, 2023 respecting the Warrants, the said final Official Statement to be in substantially the form presented to the meeting of the Council at which this Ordinance is adopted. The Council further authorizes the use and distribution of the said Official Statement by the Underwriter in connection with the reoffering of the Warrants. In evidence of the approval by the Council of the said Official Statement, the Mayor of the City is hereby authorized and directed to sign manually and deliver the said Official Statement, on behalf of the Council, with such changes and additions as the Mayor of the City shall deem necessary or desirable to consummate the sale and issuance of the Warrants, the determination of the definitive form of the said Official Statement by the Mayor of the City to be conclusively established by execution (which may be by facsimile signature) of such document.

**Section 9.2 Authorization of Continuing Disclosure Agreement.** Upon delivery of the Warrants to the purchaser thereof, the Mayor of the City is hereby authorized and directed to execute and deliver for and on behalf of the City the Continuing Disclosure Agreement in substantially the form presented at the meeting of the Council at which this Ordinance is adopted. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Ordinance, failure of the City to comply with the Continuing Disclosure Agreement shall not be considered a default hereunder or with respect to the Warrants; provided, however, any Holder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section 9.2. For purposes of this Section, "Beneficial Owner" means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Warrants (including persons holding Warrants through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Warrants for federal income tax purposes.

**Section 9.3 Sale of Warrants; Approval of Warrant Purchase Agreement.** The Council does hereby ratify and approve (i) the sale of the Warrants to The Frazer Lanier Company, Incorporated (the "Underwriter") at the purchase price of \$5,071,264.15 (which takes into account



net original issue discount of \$61,885.85 and an Underwriter's discount of \$51,850.00, and (ii) the execution by the Mayor of the City of the Warrant Purchase Agreement, dated February 14, 2023, between the City and the Underwriter.

**Section 9.4 Designation Under Section 265 of the Code.** The City hereby designates the Warrants as "qualified tax-exempt obligations" for purposes of paragraph (b)(3)(A) of Section 265 of the Code and, in connection therewith and after due investigation and consideration, finds, determines and declares: (i) that the amount of tax-exempt obligations that have been issued by the City during calendar year 2023 and the reasonably anticipated amount of tax-exempt obligations that will be issued by the City during the remainder of 2023 will not exceed the sum of \$10,000,000; (ii) that neither North Baldwin Utilities nor the Industrial Development Board of the City of Bay Minette has issued during 2023, or expects to issue during the remainder of 2023, any tax-exempt obligations; and (iii) that other than North Baldwin Utilities and the Industrial Development Board of the City of Bay Minette, the City has no "subordinate entities" as that term is used in Section 265 of the Code, which includes entities formed by the City and entities the members of the governing body of which are appointed by the City.

**Section 9.5 Further Acts.** From and after the execution and delivery of the documents hereinabove authorized, the proper officers, directors, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed and are further authorized to take any and all further actions and execute and deliver any and all other documents as may be necessary in the issuance of the Warrants and in the execution and delivery of the Official Statement or as contemplated by this Ordinance.

The Mayor of the City and City Clerk are authorized and directed to prepare and furnish to the purchasers of the Warrants, when the Warrants are issued, certified copies of all the proceedings and records of the Council relating to the Warrants, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Warrants as such facts appear from the books and records in such officers' custody and control or as otherwise known to them.

**Section 9.6 Contractual Provisions.** The provisions of this Ordinance shall constitute a contract between the City and the Holders at any time of the Warrants. Upon payment in full of the principal of and interest on the Warrants the obligations of the City hereunder shall cease with respect thereto.

**Section 9.7 Warrants Payable at Par.** Each bank at which the Warrants may at any time be payable, by acceptance of its duties as Paying Agent therefor, shall be construed to have agreed thereby with the Holders of the Warrants that all remittances made by it on the Warrants shall be made in bankable funds at par and without deduction for exchange, fees or expenses.

**Section 9.8 Bond Insurance.** The Council hereby approves the Commitment to Issue a Municipal Bond Insurance Policy (the "Commitment") between the City and the Insurer, dated

February 7, 2023; and the City further ratifies and approves the execution of the Commitment by the Mayor of the City authorizes the payment of the premium therefor. Subject to the terms and conditions of the Commitment, the Insurer has agreed to issue on the date of delivery of the Warrants, a municipal bond insurance policy for the Warrants insuring the payment of principal of and interest on the Warrants. So long as such Insurance Policy remains in force and effect and the Insurer has performed its obligations thereunder, the following provisions shall govern, notwithstanding anything to the contrary set forth in this Ordinance:

- A. Notice and Other Information to be given to BAM. The City will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Agreement and (ii) to the holders of Warrants or the Paying Agent under this Ordinance.

The notice address of BAM is: Build America Mutual Assurance Company, 200 Liberty Street, 27<sup>th</sup> Floor, New York, NY 10281, Attention: Surveillance, Re: Policy No. \_\_\_\_\_, Telephone: (212) 235-2500, Telecopier: (212) 235-1542, Email: [notices@buildamerica.com](mailto:notices@buildamerica.com). In each case in which notice or other communication refers to an event of default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel at the same address and at [claims@buildamerica.com](mailto:claims@buildamerica.com) or at Telecopier: (212) 235-5214 and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

- B. Amendments, Supplements and Consents.

1. *Amendments.* Wherever any consent of Warrantholders is required under this Ordinance, BAM's consent shall also be required. In addition, any amendment, supplement or modification to this Ordinance that adversely affect the rights or interests of BAM shall be subject to the prior written consent of BAM.

2. *Consent of BAM Upon Default.* Anything herein to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, BAM shall be deemed to be the sole holder of the Warrants for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Warrants or Paying Agent for the benefit of such holders under this Ordinance. The Paying Agent may not waive any default or event of default or accelerate the Warrants without BAM's written consent.

- C. BAM As Third Party Beneficiary. BAM is explicitly recognized as and shall be deemed to be a third party beneficiary of this Ordinance and may enforce any right, remedy or claim conferred, given or granted thereunder.

D. Policy Payments.

1. In the event that principal and/or interest due on the Warrants shall be paid by BAM pursuant to the Policy, the Warrants shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the City, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the City to the registered owners shall continue to exist and shall run to the benefit of BAM, and BAM shall be subrogated to the rights of such registered owners including, without limitation, any rights that such owners may have in respect of securities law violations arising from the offer and sale of the Warrants.
2. Irrespective of whether any such assignment is executed and delivered, the City and the Paying Agent shall agree for the benefit of BAM that:
  - (a) They recognize that to the extent BAM makes payments directly or indirectly (*e.g.*, by paying through the Paying Agent), on account of principal of or interest on the Warrants, BAM will be subrogated to the rights of such holders to receive the amount of such principal and interest from the City, with interest thereon, as provided and solely from the sources stated in this Ordinance and the Warrants; and
  - (b) They will accordingly pay to BAM the amount of such principal and interest, with interest thereon, but only from the sources and in the manner provided in this Ordinance and the Warrants for the payment of principal of and interest on the Warrants to holders, and will otherwise treat BAM as the owner of such rights to the amount of such principal and interest.
3. *Special Provisions for Insurer Default:* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraph B above to the contrary, (1) if at any time prior to or following an Insurer Default, BAM has made payment under the Policy, to the extent of such payment BAM shall be treated like any other holder of the Warrants for all purposes, including giving of consents, and (2) if BAM has not made any payment under the Policy, BAM shall have no further consent rights until the particular Insurer Default is no longer continuing or BAM makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph 3, "Insurer Default" means: (A) BAM has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) BAM shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed

against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of BAM (including without limitation under the New York Insurance Law).

4. Definitions. As used in this Section 9, the following terms shall have the meanings ascribed:

“BAM” shall mean Build America Mutual Assurance Company, or any successor thereto.

“Policy” shall mean the Municipal Bond Insurance Policy issued by BAM that guarantees the scheduled payment of principal of and interest on the Warrants when due.

“Security Documents” shall mean the resolution, trust agreement, ordinance, loan agreement, bond, note and/or any additional or supplemental document executed in connection with the Warrants.

**Section 9.8 Severability.** The various provisions of this Ordinance are hereby declared to be severable. In the event any provisions hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this Ordinance.

**Section 9.10 Repeal of Conflicting Provisions.** All resolutions, orders or parts thereof in conflict with this Ordinance are to the extent of such conflict are hereby repealed.

After discussion, Councilmember Sellers moved that the foregoing ordinance and order be adopted and spread upon the minutes of this meeting, which motion was seconded by Councilmember Clemmons, and, on roll call the following vote was registered:

YEAS

Pete Sellers  
Mike Phillips  
Matt Franklin  
William Taylor  
Shannon Clemmons

NAYS

None

The Chairman thereupon announced that the said ordinance had been carried by unanimous vote of the Council present.

\* \* \* \* \*

There being no further business to come before the meeting, the meeting was, upon motion duly made, seconded and unanimously carried, adjourned.





Mayor

[SEAL]

ATTEST:



City Clerk

## CITY CLERK'S CERTIFICATE

I, Rita Diedtrich, City Clerk of the City of Bay Minette, Alabama, DO HEREBY CERTIFY that the foregoing pages of typewritten material constitute excerpts from the minutes of a regular meeting of the City Council of Bay Minette, Alabama, held on February 23, 2023, pertaining to the City's General Obligation Economic Development Improvement Warrants, Series 2023A, which meeting was called and assembled and was open to the public and at which a quorum was present and acting throughout, and that the original of said minutes appears of record in the minute books of the City Council of Bay Minette, Alabama, which are in my custody and control.

Given under my hand and the seal of the City of Bay Minette, Alabama, this 2<sup>nd</sup> day of March, 2023.

[SEAL]



City Clerk of the  
City of Bay Minette, Alabama

(8185269.9)

**Exhibit “A”**

**Affidavit of Publication of Notice**



# GULF COAST MEDIA

PO Box 1677 • Sumter, SC 29150  
GulfCoastMedia.com

The Courier, The Islander  
The Onlooker & The Baldwin Times  
Office: 251-943-2151 • Legals: 251-345-6805

## PROOF OF PUBLICATION STATE OF ALABAMA • BALDWIN COUNTY

Before me, the undersigned authority in and for said County, in said State, personally appeared April M. Perry who, by me duly sworn, deposes and says that: she is the Legal Representative of the following newspaper listed below, a newspaper of GENERAL CIRCULATION, PUBLISHED and PRINTED in Baldwin County, Alabama, and that there was published in The Courier, The Islander, The Onlooker, & or The Baldwin Times in the issue/s of:

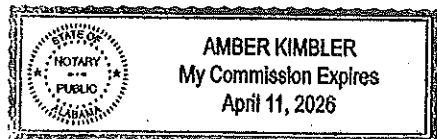
02/15/2023

a legal notice, a copy of which is hereto attached. The sum charged by the Newspaper for said publication does not exceed the lowest classified rate paid by commercial customers for an advertisement of similar size and frequency in the same newspaper(s) in which the public notice appeared.

There are no agreements between the Newspaper and the officer or attorney charged with the duty of placing the attached legal advertising notices whereby any advantage, gain or profit accrued to said officer or attorney.

X April M. Perry  
April M. Perry, Legal Ad Representative

X Amber Kimbler  
Amber Kimbler, Notary Public  
Baldwin County, Alabama  
My commission expires April 11, 2026



Sworn and subscribed to on 02/15/2023.

CITY OF BAY MINETTE-- LEGAL ACCO  
Acct#: 983725  
Ad#: 342547  
Proposed Action  
Amount of Ad: \$258.68  
Legal File# 28655

### NOTICE OF PROPOSED ACTION AT PUBLIC MEETING

Notice is hereby given that during its regular meeting, which will be open to the public and will be held on Thursday, February 23, 2023, at 6:00 o'clock p.m., Central Time, in the Bay Minette Council Chambers at Bay Minette City Hall, 301 D'Olive Street, Bay Minette, Alabama 36507, the City Council of the City of Bay Minette, Alabama will consider an ordinance to authorize the issuance of its general obligation warrants in order to promote, encourage and support economic development within the City of Bay Minette, Alabama (the "City").

On August 1, 2022, the City adopted Resolution #6822-01 of the Bay Minette City Council which authorized the execution and delivery of a Project Agreement, dated July 28, 2022, by and among Novells Corporation (the "Company") and Baldwin County (the "County"), the City, The Utilities Board of the City of Bay Minette d/b/a North Baldwin Utilities, and Baldwin County Economic Development Alliance, Inc., as more particularly described hereinbelow (the "Project Agreement"), for the purpose of promoting the economic and industrial development of the City of Bay Minette.

The Company intends to construct, equip and operate a fully integrated, greenfield advanced flat-rolled aluminum products plant (the "Facility") on a 2,000 +/- acre parcel of land located near Highway 287 and I-65 in Baldwin County (the "Site"), wherein the Company will construct improvements and purchase equipment to enable the Company to conduct aluminum recycling, processing, rolling, finishing, and related operations, and wherein the Company is expected to employ as many as one-thousand (1,000) full-time employees, earning an average hourly wage of at least thirty-one dollars and twenty-five cents (\$31.25), exclusive of fringe benefits, with a total capital investment in constructing and equipping the Facility estimated to be two billion dollars (\$2,000,000,000) or more (the "Project") within the timelines and subject to certain payment and performance obligations of the Company as provided in the Project Agreement. The Company will be a direct beneficiary of the Project Agreement.

Pursuant to the Project Agreement, for the purpose of economic development of the County, the City consented to the grant of certain abatements of City sales and use tax by the County with respect to the Site, waived and delegated to the County the responsibility for all building, construction, license, permit and inspection fees associated with construction of the Project, and granted certain funds, not to exceed five million dollars (\$5,000,000) and other things of value to the Company as set forth in the Project Agreement in consideration of certain capital expenditures incurred directly by the Company in developing, constructing and equipping the Project to be located within the County.

The City by undertaking its obligations pursuant to the Project Agreement will achieve to advance the economic development of the City; to increase employment in the City, and to promote and develop for the public good and welfare trade, commerce, industry, and employment opportunities in the City; and to promote the convenience, order, prosperity, and welfare of its citizens. The increased property values, increased tax revenues, additional economic activity, creation of new jobs, and the other benefits described herein will directly benefit the City and serve a valid and sufficient public purpose notwithstanding any benefit to any private business or person. The City proposes to expend public funds for the benefit of the Company.

The proposed ordinance will authorize the issuance by the City of its general obligation economic development improvement warrants in order to finance the expenditure of up to \$5,000,000 toward the City's obligations under the Project Agreement.

The City Council of the  
City of Bay Minette, Alabama.  
February 15, 2023