

**ORDINANCE NO. 2017-24**

**AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF  
A \$12,000,000 GENERAL OBLIGATION WARRANT OF  
THE CITY OF DAPHNE, ALABAMA**

BE IT ORDAINED by the City Council of the City of Daphne in the State of Alabama as follows:

**Section 1. Definitions and Use of Phrases.**

(a) **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 as used herein:

**"Business Day" or "Business Date"** means each day other than a Saturday, a Sunday, or any holiday on which Regions Capital Advantage, Inc. is closed for business.

**"City Clerk"** means the city clerk of the City.

**"City"** means the municipal corporation of Daphne in the State of Alabama and includes its successors and assigns and any municipal corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

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

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

**"Default Rate"** means the per annum rate of interest otherwise applicable to the Warrant plus 3.00%.

**"Depository"** means Regions Bank, in its capacity as the depository for the Warrant Fund.

**"Determination of Taxability"** Determination of Taxability shall mean a determination that the Federal Income Tax Exemption (as hereinafter defined) with respect to the Warrant is or has been lost as a result of any action or failure to act on the part of the City, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following, but if and only if such occurrence is the result of any action or failure to act on the part of the City:

(a) the date on which the City is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that, based upon any filings of the City, or upon any review or audit of the City, the interest on the Warrant is includable in the gross income of each registered owner or former registered owner thereof;

(b) the date on which the City receives notice from the registered owner or any former registered owner of the Warrant in writing that the registered owner or former

registered owner of the Warrant has received from the Internal Revenue Service a statutory notice of deficiency or similar notice which asserts in effect that the interest on the Warrant is includable in the gross income of the registered owner or former registered owner of the Warrant;

(c) the date on which the City is advised in writing by the Commissioner or any District Director of the Internal Revenue Service or otherwise receives notice that there has been issued a public or private ruling of the Internal Revenue Service or a technical advice memorandum issued by the national office of the Internal Revenue Service that the interest on the Warrant is includable for Federal income tax purposes in the gross income of the registered owner or former registered owner of the Warrant;

(d) the date on which the City is advised in writing that a final determination, from which no further right of appeal exists, has been made by a court of competent jurisdiction in the United States of America that the interest on the Warrant is includable in the gross income of the registered owner or former registered owner of the Warrant; or

(e) the date on which an opinion of nationally recognized bond counsel selected by the registered owner or former registered owner of the Warrant shall be delivered to the City to the effect that after consideration of all available facts and circumstances, the interest income on the Warrant is or has been subject to inclusion in gross income for federal income tax purposes; provided, however, no Determination of Taxability shall occur under subparagraph (a), (b) or (c) of this definition unless the City have been afforded the opportunity, at the expense of the City, to contest any such conclusion and/or assessment and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined, and further, no Determination of Taxability shall occur under subparagraph (e) of this definition, if, within 15 days after receipt by the City of the opinion referred to above, the City shall deliver an opinion of nationally recognized bond counsel (which such counsel shall be acceptable to the registered owner and all affected former registered owners of the Warrant) to each registered owner and any former registered owner of the Warrant to the effect that, after consideration of all available facts and circumstances, the interest income on the Warrant is and has continuously remained excluded from gross income for federal income tax purposes. The City shall be deemed to have been afforded the opportunity to contest if it shall have been permitted to commence and maintain any action in the name of the registered owner or any former registered owner of the Warrant to judgment and through any appeals therefrom or other proceedings related thereto; provided, however, that prior to instituting any such contest the City shall take out and file with the then registered owner an appropriate bond for payment of the amounts required to be paid pursuant to the Warrant in the event the contest (including any appeals) is ultimately determined adversely to the City.

**"Eligible Certificate"** means an interest-bearing certificate of deposit issued by any bank, savings and loan association or trust company organized under the laws of the United States of America or any state thereof that is (to the extent not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation) collaterally secured by (a) a pledge of United States Securities (i) having at any date of calculation a market value (taking account of any accrued interest thereon) not less than the principal of and the accrued interest on the certificates of deposit secured thereby, (ii) deposited and pledged with any Federal Reserve Bank or with any bank or trust company organized under the laws of the United States or any

state thereof, and having combined capital and surplus and undivided profits of not less than \$100,000,000, and (iii) for which a receipt signed by the bank or trust company having custody of such collateral securities and containing a sufficient description thereof has been furnished to the Purchaser, or (b) the SAFE Program.

**"Eligible Investments"** means (a) United States Securities, (b) Eligible Certificates, and (c) bank, savings and loan association or trust company deposits (i) fully insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation or (ii) covered by the SAFE Program.

**"Federal Income Tax Exemption"** when used with reference to interest on this Warrant shall mean that such interest is not includable for Federal income tax purposes in the gross income (as defined in Section 61 of the Code or any successor provision thereto) of the registered owner or any former registered owner of this Warrant.

**"Holder"** means the person in whose name the Warrant is registered on the registry books of the City pertaining to the Warrant.

**"Mayor"** means the mayor of the City.

**"Payment Date"** means each July 1 and January 1, commencing July 1, 2017.

**"Project"** means the recreational facility to be constructed, equipped and acquired by the City, which is described in Section 2(a) hereof.

**"Project Fund"** means the special fund of the City created in Section 6(b) hereof.

**"Purchaser"** means Regions Capital Advantage, Inc., in its capacity as the purchaser of the Warrant.

**"Resolution"** and **"Ordinance"** mean, respectively, a resolution or ordinance adopted by the Council.

**"SAFE Program"** means the program for securing public deposits created in the Security for Alabama Funds Enhancement Act, Chapter 14A of Title 41 of the Code of Alabama 1975, as amended.

**"Taxable"** means that the interest income on the Warrant is subject to gross income for Federal income tax purposes under Section 61 of the Code.

**"Taxability Date"** means the date that upon which the Warrant is deemed to be taxable, if applicable.

**"Tax-Exempt Rate"** means a per annum rate of interest equal to 3.18%.

**"Taxable Rate"** means a per annum rate of interest equal to 5.01%.

"United States Securities" means any securities that are direct obligations of the United States of America and any securities with respect to which payment of the principal thereof and the interest thereon is unconditionally guaranteed by the said United States.

"Warrant," without other qualifying words, means the General Obligation Warrant, Series 2017, herein authorized.

"Warrant Fund" means the special fund of the City created in Section 6(a) hereof.

(b) **Use of Words and Phrases.** The following words and phrases, where used in this Ordinance, shall be given the following respective interpretations:

"Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this Ordinance as an entirety and not solely to the particular portion hereof in which any such word is used.

The definitions set forth in Section 1(a) hereof shall be deemed applicable whether the words defined are herein used in the singular or the plural.

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

**Section 2. Findings.** The Council has ascertained and does hereby find and declare as follows:

(a) it is necessary, desirable and in the public interest that the City construct, equip, install and acquire certain recreational facilities located in the City (the "Project") for future use by the City;

(b) in order to provide the funds necessary to acquire the Project, it is necessary, desirable and in the public interest that the City issue, on its full faith and credit, the Warrant hereinafter authorized to be issued.

**Section 3. Authorization of the Warrant.**

(a) **Principal Amount and Interest Rate.** Pursuant to the applicable provisions of the constitution and laws of Alabama, including particularly Section 11-47-2 of the Code of Alabama of 1975, as amended, and for the purposes hereinabove stated, there is hereby authorized to be issued by the City its \$12,000,000 General Obligation Warrant, Series 2017. The Warrant shall be issued as a fully registered warrant, without coupons, shall be dated the date of its issuance, shall bear interest at the Tax-Exempt Rate (unless otherwise adjusted as provided herein) and shall mature and become payable, as to both principal and interest as provided in the form of the Warrant. In the event of a Determination of Taxability, the rate of interest on the Warrant, computed as aforesaid, shall be increased to the Taxable Rate from and after the Taxability Date.

In addition, in the event of the occurrence of a Determination of Taxability at any time, including, without limitation, at any time following the payment in full of the Warrant, the City shall pay:

(a) to each Holder of the Warrant, additional interest in the amount by which (i) the interest which would have accrued on the Warrant from and after (A) the Taxability Date until (B) the earlier to occur of the date of conversion to the Taxable Rate as described herein and the date of payment-in-full of the Warrant, had the Warrant borne interest during such period at a rate per annum equal to the Taxable Rate, exceeds (ii) the amount of interest which was actually paid to such Holder during such period, which such additional interest shall be paid to each Holder and former Holder of the Warrant pro rata on the basis of the portion of the period for which additional interest is paid during which each respective person or entity was the Holder of the Warrant, as evidenced by the registration books maintained by the City; plus

(b) to each Holder or former Holder of the Warrant, the amount of any interest, penalties or additions to Federal income tax which have been paid or are payable by such Holder as a result of the failure to include interest on the Warrant in the gross income of such Holder for Federal income tax purposes; plus

(c) to each Holder of the Warrant, the reasonable costs and expenses (including fees and expenses of attorneys, accountants and other professional advisors) incurred by such Holder in connection with such Determination of Taxability.

To the fullest extent permitted by applicable law, the obligations of the City described in this paragraph shall survive the payment-in-full of the Warrant, and the City shall be obligated to pay the amounts described in (a), (b) and (c) of this paragraph following such payment-in-full of the Warrant. The City shall be obligated to pay such amounts with respect to any Determination of Taxability occurring before or after payment-in-full of the Warrant.

**(b) Place and Manner of Payment.** The principal of and the interest on the Warrant shall be payable by check or draft mailed by the City to the registered Holder of the Warrant at the address shown on the registry books of the City pertaining to the Warrant as of each Payment Date. Payment of such principal and interest shall be deemed to have been timely made if such check or draft is mailed by the City on the due date of such principal and interest (or, if such due date is not a Business Day, on the Business Day immediately following such due date). Anything herein to the contrary notwithstanding, the Holder of the Warrant shall have the right to receive payment of the principal of and the interest on the Warrant by ACH drawn on the Warrant Fund.

**(c) Computation of Interest.** Interest on the Warrant shall be computed on the basis of a 30-day month and a 360-day year for the actual number of days elapsed.

**Section 4. Prepayment Provisions.** Upon written notice no less than five business days in advance of the proposed prepayment date, the outstanding principal of the Warrant may be prepaid at any time prior to maturity, without penalty, and no prepayment premium shall be due. Any amount prepaid shall be applied in inverse order of maturity.

**Section 5. General Obligation.** The indebtedness evidenced and ordered paid by the Warrant is and shall be a general obligation of the City for payment of the principal of and the interest and premium, if any, on which the full faith and credit of the City are hereby irrevocably pledged.

**Section 6. Fund.**

**(a) Warrant Fund.**

**(i) Payments Therein and Use and Continuance Thereof.** There is hereby created a special fund to be designated the "City of Daphne 2017 Warrant Fund," for the purpose of providing for the payment of the principal of and interest on the Warrant, at the respective maturities of said principal and interest, which special fund shall be maintained until the principal of and the interest on the Warrant has been paid in full. Payments into the Warrant Fund shall be made as follows: on or before the second Business Day prior to each Payment Date until and including the second business day prior to June 1, 2038, the City will pay into the Warrant Fund an amount equal to the sum of the interest and the principal that will mature on the Warrant on the then next succeeding Payment Date. All moneys paid into the Warrant Fund shall be used only for payment of the principal of and the interest on the Warrant, upon or after the maturity of such principal and interest; provided, that, if at the final maturity of the Warrant, howsoever the same may mature, there shall be in the Warrant Fund moneys in excess of the amount required to retire the Warrant, then any such excess shall thereupon be returned to the City. When the amount of money on deposit in the Warrant Fund equals or exceeds the aggregate of the principal and interest to maturity on the Warrant, no further payments need be made into the Warrant Fund except to make good the moneys paid therein due to any losses in investments made pursuant to the provisions of subsection (d) of this Section 6 or which may not be immediately available for withdrawal under the provisions of this section.

**(ii) Depository for Warrant Fund.** The City hereby designates the Depository as the depository for the Warrant Fund with respect to payment of principal of and the interest on the Warrant. In the event that the Depository should at any time decline to act as such depository, or should resign as such depository, or should cease to be a member of the Federal Deposit Insurance Corporation (or any agency which may succeed to its duties), or should cease to be duly qualified and doing business within the State of Alabama, then the Council shall by Resolution designate a successor to such depository; provided, that, any such successor depository shall be and remain a member of the Federal Deposit Insurance Corporation (or of any agency which may succeed to its duties) and shall be and remain duly qualified and doing business in the State of Alabama.

**(b) Project Fund.**

**(i) Payments Therein and Use and Continuance Thereof.** There is hereby created a special fund of the City to be designated the "City of Daphne 2017 Warrant Project Fund" which shall be maintained until the costs and expenses incurred by the City in connection with the Project are paid to the extent funds are available in the Project Fund for payment of the same. The City Treasurer will designate a depository for the Project Fund.

**(ii) Investment of Moneys in the Project Fund.** At any time and from time to time as it in its sole discretion shall deem advisable, the City may cause to be invested in Eligible Investments any or all of the moneys in the Project Fund. In the event of any such investment, the securities in which the investment is made shall become a part of the Project Fund and shall be held by the depository for the moneys so invested to the same extent as if they were moneys on deposit in the Project Fund. The City may likewise at any time and from time to time cause any securities in which any such investment shall be made to be sold or otherwise converted into cash, whereupon the net proceeds derived from any such sale or conversion, after payment of all necessary expenses incident to such sale or conversion, shall become a part of the Project Fund. Each depository for the Project Fund shall be fully protected in making investments, sales, and conversions of any such securities upon direction given to it in a Resolution.

**(c) Trust Nature of and Security for the Warrant Fund and Project Fund.** The Warrant Fund and the Project Fund shall be and at all times remain public funds impressed with a trust for the purpose for which the Warrant Fund or the Project Fund, as applicable, is herein created. Each depository for the Warrant Fund or the Project Fund shall at all times keep the moneys on deposit with it in the Warrant Fund or the Project Fund continuously secured for the benefit of the City and the Holder of the Warrant either:

(a) by holding on deposit as collateral security, United States Securities or other marketable securities eligible as security for the deposit of trust funds under regulations of the Board of Governors of the Federal Reserve System, having a market value (exclusive of accrued interest) not less than the amount of moneys on deposit in the Warrant Fund, or

(b) if the furnishing of security in the manner provided in the foregoing clause (i) of this sentence is not permitted by the then applicable law and regulations, then in such other manner as may be required or permitted by the applicable state and federal laws and regulations respecting the security for, or granting a preference in the case of, the deposit of public funds;

provided, however, that it shall not be necessary for such depository so to secure any portion of the moneys on deposit in the Warrant Fund or Project Fund that may be insured by the Federal Deposit Insurance Corporation (or by any agency that may succeed to its duties) or any portion of the said moneys that may be invested pursuant to the provisions of subsection (b)(ii) of this Section 6.

**Section 7. Form of Warrant.** The Warrant shall be in substantially the following form:

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**UNITED STATES OF AMERICA**

R-1

\$12,000,000

**STATE OF ALABAMA  
CITY OF DAPHNE  
GENERAL OBLIGATION WARRANT  
SERIES 2017**

The City Treasurer of the City of Daphne, a municipal corporation under the laws of Alabama (the "City"), is hereby ordered and directed to pay, out of the Warrant Fund created in the Ordinance hereinafter referred to, to

**REGIONS CAPITAL ADVANTAGE, INC.**

or registered assigns, the principal sum of

**TWELVE MILLION DOLLARS**

with interest thereon from the date hereof until the maturity hereof at the Tax-Exempt Rate (defined hereinafter and adjusted as provided herein), computed on the basis of a 30-day month and a 360-day year, payable as shown on the Amortization Schedule attached as Exhibit A hereto. Any capitalized words or phrases used in this Warrant and not otherwise defined shall have the same meaning herein as in the Ordinance hereinafter referred to. In the event of a Determination of Taxability, the rate of interest on this Warrant shall be increased to the Taxable Rate effective as of the Taxability Date, and the Ordinance (defined hereinafter) provides for certain additional payments to be made to certain holders of this Warrant after the Taxability Date.

Tax-Exempt Rate means a per annum rate of interest equal to 3.18%.

The principal of and the interest on this Warrant shall be remitted by the City to the then registered holder hereof at the address shown on the registry books of the City pertaining to this Warrant as of the date of payment of such principal and interest. The ordinance hereinafter referred to provides that all payments by the City to the person in whose name the Warrant is registered shall to the extent thereof fully discharge and satisfy all liability for the same. Payment of such interest shall be deemed to have been timely made if such check or draft is mailed by the City on the due date of such principal and interest. Any transferee of this Warrant takes it subject to all payments of principal and interest in fact made with respect hereto.

This Warrant is issued pursuant to the applicable provisions of the constitution and laws of the State of Alabama, including particularly Section 11-47-2 of the Code of Alabama of 1975, as amended, and an ordinance (the "Ordinance") of the City duly adopted by the governing body of the City.

Any amount of principal of and, to the extent legally enforceable, interest on, this Warrant that shall not be paid when due, shall bear interest at a per annum rate equal to the Default Rate from the scheduled date of payment to the date such payment thereof is made.

Upon written notice to the Holder no less than five business days in advance of the proposed prepayment date, the outstanding principal of the Warrant may be prepaid at any time prior to maturity, without penalty, and no prepayment premium shall be due.

By the execution of this Warrant, the City acknowledges that it is indebted to the payee hereof in the principal amount hereof in accordance with the terms thereof. The indebtedness evidenced and ordered paid by this Warrant is a general obligation of the City for the payment of the principal of and the interest and premium, if any, on which the full faith and credit of the City have been irrevocably pledged.

Both the principal and interest on this Warrant are payable in lawful money of the United States of America, at the office of Regions Capital Advantage, Inc. in Birmingham, Alabama, at par and without discount, exchange, deduction or charge therefor. No covenant or agreement contained in this Warrant or in the Ordinance shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the City in the individual capacity thereof and none of such parties or persons nor any officer executing this Warrant shall be liable personally on this Warrant or be subject to any personal liability or accountability by reason of the issuance of this Warrant.

A late charge shall be due and payable on any installment of principal of, premium (if any) on and, to the extent legally enforceable, interest on, this Warrant which installment shall not have been paid by the tenth day of the month in which such installment is due and payable, in an amount equal to five percent (5%) of such installment.

It is hereby certified and recited that the indebtedness evidenced and ordered paid by this Warrant is lawfully due without condition, abatement or offset of any description; that this Warrant has been registered in the manner provided by law; that all conditions, actions and things required by the constitution and laws of the State of Alabama to exist, be performed or happen precedent to and in the issuance of this Warrant do exist, have been performed and have happened; and that the indebtedness evidenced and ordered paid by this Warrant, together with all other indebtedness of the City, was at the time the same was created and is now within every debt and other limit prescribed by the constitution and laws of the State of Alabama.

This Warrant is, subject to the terms of an investment letter executed and delivered by the original Holder, transferable by the registered holder hereof, in person or by authorized attorney, only on the books of the City and only upon surrender of this Warrant to the City for cancellation, and upon any such transfer a new Warrant of like tenor hereof will be issued to the transferee in exchange therefor, all as more particularly described in the Ordinance. Each holder, by receiving or accepting this Warrant shall consent and agree and shall be estopped to deny that,

insofar as the City is concerned, this Warrant may be transferred only in accordance with the provisions of the Ordinance.

Execution by the City Treasurer of her registration certificate hereon is essential to the validity hereof.

IN WITNESS WHEREOF, the City has caused this Warrant to be executed by its Mayor, has caused its corporate seal to be hereunto affixed or imprinted, has caused this Warrant to be Altered by its City Clerk, and has caused this Warrant to be dated April 10, 2017.

**CITY OF DAPHNE**

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

[SEAL]

Attest:

\_\_\_\_\_  
Its City Clerk

**Registration Certificate**

Date of Registration: \_\_\_\_\_, 2017

This Warrant was registered by me as a claim against the Warrant Fund referred to herein on the date hereinabove set forth.

**CITY OF DAPHNE**

By: \_\_\_\_\_  
Its City Treasurer

**Assignment**

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

Dated this \_\_\_ day of \_\_\_\_\_, 2017.

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.

**EXHIBIT A**

**AMORTIZATION SCHEDULE**

**City of Daphne, AL Loan Amortization Schedule**  
**Interest Rate- 3.18%**

Date	Funding	Annual Payment	Interest	Principal	Balance
4/14/2017	\$ 12,000,000.00				\$ 12,000,000.00
7/1/2017		\$ 81,620.00	\$ 81,620.00	\$ -	\$ 12,000,000.00
1/1/2018			\$ 190,800.00	\$ -	\$ 12,000,000.00
7/1/2018	\$	526,600.00	\$ 190,800.00	\$ 145,000.00	\$ 11,855,000.00
1/1/2019			\$ 188,494.50	\$ -	\$ 11,855,000.00
7/1/2019	\$	524,989.00	\$ 188,494.50	\$ 148,000.00	\$ 11,707,000.00
1/1/2020			\$ 186,141.30	\$ -	\$ 11,707,000.00
7/1/2020	\$	523,282.60	\$ 186,141.30	\$ 151,000.00	\$ 11,556,000.00
1/1/2021			\$ 183,740.40	\$ -	\$ 11,556,000.00
7/1/2021	\$	523,480.80	\$ 183,740.40	\$ 156,000.00	\$ 11,400,000.00
1/1/2022			\$ 181,260.00	\$ -	\$ 11,400,000.00
7/1/2022	\$	876,520.00	\$ 181,260.00	\$ 514,000.00	\$ 10,886,000.00
1/1/2023			\$ 173,087.40	\$ -	\$ 10,886,000.00
7/1/2023	\$	877,174.80	\$ 173,087.40	\$ 531,000.00	\$ 10,355,000.00
1/1/2024			\$ 164,644.50	\$ -	\$ 10,355,000.00
7/1/2024	\$	879,289.00	\$ 164,644.50	\$ 550,000.00	\$ 9,805,000.00
1/1/2025			\$ 155,899.50	\$ -	\$ 9,805,000.00
7/1/2025	\$	878,799.00	\$ 155,899.50	\$ 567,000.00	\$ 9,238,000.00
1/1/2026			\$ 146,884.20	\$ -	\$ 9,238,000.00
7/1/2026	\$	880,768.40	\$ 146,884.20	\$ 587,000.00	\$ 8,651,000.00
1/1/2027			\$ 137,550.90	\$ -	\$ 8,651,000.00
7/1/2027	\$	878,101.80	\$ 137,550.90	\$ 603,000.00	\$ 8,048,000.00
1/1/2028			\$ 127,963.20	\$ -	\$ 8,048,000.00
7/1/2028	\$	878,926.40	\$ 127,963.20	\$ 623,000.00	\$ 7,425,000.00
1/1/2029			\$ 118,057.50	\$ -	\$ 7,425,000.00
7/1/2029	\$	879,115.00	\$ 118,057.50	\$ 643,000.00	\$ 6,782,000.00
1/1/2030			\$ 107,833.80	\$ -	\$ 6,782,000.00
7/1/2030	\$	878,667.60	\$ 107,833.80	\$ 663,000.00	\$ 6,119,000.00
1/1/2031			\$ 97,292.10	\$ -	\$ 6,119,000.00
7/1/2031	\$	879,584.20	\$ 97,292.10	\$ 685,000.00	\$ 5,434,000.00
1/1/2032			\$ 86,400.60	\$ -	\$ 5,434,000.00
7/1/2032	\$	878,801.20	\$ 86,400.60	\$ 706,000.00	\$ 4,728,000.00
1/1/2033			\$ 75,175.20	\$ -	\$ 4,728,000.00
7/1/2033	\$	876,350.40	\$ 75,175.20	\$ 726,000.00	\$ 4,002,000.00
1/1/2034			\$ 63,631.80	\$ -	\$ 4,002,000.00
7/1/2034	\$	876,263.60	\$ 63,631.80	\$ 749,000.00	\$ 3,253,000.00
1/1/2035			\$ 51,722.70	\$ -	\$ 3,253,000.00
7/1/2035	\$	875,445.40	\$ 51,722.70	\$ 772,000.00	\$ 2,481,000.00
1/1/2036			\$ 39,447.90	\$ -	\$ 2,481,000.00
7/1/2036	\$	879,895.80	\$ 39,447.90	\$ 801,000.00	\$ 1,680,000.00
1/1/2037			\$ 26,712.00	\$ -	\$ 1,680,000.00
7/1/2037	\$	880,424.00	\$ 26,712.00	\$ 827,000.00	\$ 853,000.00
1/1/2038			\$ 13,562.70	\$ -	\$ 853,000.00
7/1/2038	\$	880,125.40	\$ 13,562.70	\$ 853,000.00	\$ -

**Section 8. Execution and Registration of Warrant.**

**(a) Execution of Warrant by City.** The Warrant shall be executed on behalf of the City by the Mayor and attested by the City Clerk, and the seal of the City shall be impressed on the Warrant. Signatures on the Warrant by persons who are officers of the City at the times such signatures were written shall continue to be effective although such persons cease to be such officers prior to the delivery of the Warrant, whether initially issued or exchanged for the Warrant initially issued.

**(b) Registration Certificate on Warrant.** A Registration Certificate by the City Treasurer, in substantially the form hereinabove recited, duly executed by the City Treasurer, shall be endorsed on the Warrant and shall be essential to its validity.

**Section 9. Registration and Transfer of Warrant.** The Warrant shall be registered as to both principal and interest, and shall be transferable only on the registry books of the City. The City Treasurer shall keep at her office proper registry and transfer books in which she will note the registration and transfer of the Warrant, all in the manner and to the extent hereinafter specified.

No transfer of the Warrant shall be valid hereunder except upon presentation and surrender of the Warrant at the office of the City Treasurer, subject to the terms of an investment letter executed and delivered by the original Holder, with written power to transfer signed by the registered owner thereof in person or by duly authorized attorney, properly stamped if required, in form and with guaranty of signature satisfactory to the City Treasurer, whereupon the City shall execute, and the City Treasurer shall register and deliver to the transferee, a new Warrant, registered in the name of such transferee and of like tenor as that presented for transfer. The person in whose name a Warrant is registered on the books of the City shall be the sole person to whom or on whose order payments on account of the principal thereof and of the interest and premium, if any, thereon may be made. Each Holder of the Warrant, by receiving or accepting such Warrant, shall consent and agree and shall be estopped to deny that, insofar as the City is concerned, the Warrant may be transferred only in accordance with the provisions of this Ordinance.

Each transferee of the Warrant takes it subject to all payments of principal and interest in fact made with respect thereto.

**Section 10. Expenses of Registration and Transfer.** Any registration or transfer of the Warrant shall be made without charge to the Holder thereof, except that (a) the Holder requesting any such registration or transfer shall pay all taxes and other governmental charges required to be paid in connection with such registration or transfer and (b) the Holder shall pay any expenses incurred in connection with the replacement of a mutilated, lost, stolen or destroyed Warrant in accordance with Section 12 hereof.

**Section 11. Persons Deemed Owners of Warrant.** The City may deem and treat the person in whose name the Warrant is registered as the absolute owner thereof for all purposes; it shall not be affected by notice to the contrary; and all payments by it to the person in whose name the Warrant is so registered, shall to the extent thereof fully discharge and satisfy all liability for the same.

**Section 12. Replacement of Mutilated, Lost, Stolen or Destroyed Warrant.** In the event the Warrant is mutilated, lost, stolen or destroyed, the City may execute and the City shall thereupon register 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 (b) in the case of any such lost, stolen or destroyed Warrant, there is first furnished to the City evidence of such loss, theft or destruction satisfactory to it, together with indemnity satisfactory to the City. The City may charge the Holder with the expense of issuing any such new Warrant.

**Section 13. Sale of Warrant.** The Warrant is hereby awarded and sold to Regions Capital Advantage, Inc., at and for a purchase price equal to its face value (\$12,000,000).

**Section 14. Authorization of Related Documents and Actions.** The Mayor and all other officers of the City are hereby authorized and directed to execute, seal, attest and deliver such other documents and certificates and to take such other actions on behalf of the City as may be necessary to consummate the sale and issuance of the Warrant and to carry out fully the transactions contemplated by this Ordinance.

**Section 15. Use of Proceeds from Sale of Warrant.** The entire principal proceeds of the Warrant shall be paid to the City and applied for the purpose for which the Warrant has been authorized to be issued and to pay the costs of issuance of the Warrant. The Mayor and the City Treasurer are hereby authorized and directed to pay, out of other funds of the City, all expenses incurred by the City in connection with the issuance of the Warrant, including, without limitation, legal fees and the commitment fee of the Purchaser.

**Section 16. Events of Default**

(a) The City agrees that the occurrence of either of the following events shall be an event of default (on "Event of Default") with respect to the Warrant whereupon the registered owner of the Warrant may exercise all remedies available at law or in equity consequent thereupon:

(i) failure to pay the principal of or interest on the Warrant on the date on which any installment of principal of or interest on the Bond shall become due and payable; or

(ii) the occurrence of any of the following: the appointment of a receiver, liquidator or trustee of the City or any of its property or assets; or a general assignment by the City for the benefit of the creditors thereof; or the commencement of proceedings by the City under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, now or hereafter in effect or the commencement of proceedings against the City and not dismissed or un-stayed for a period of 60 days, under any

bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, now or hereafter in effect.

(iii) the occurrence of a default or an event of default as defined in any other agreement or contract under which the City is now or hereafter obligated to the Purchaser, or an affiliate thereof, that is not cured within the applicable cure period provided therein.

(b) The City hereby covenants and agrees that, upon the occurrence of an Event of Default, it will pay to the payee of the Warrant all expenses incident to the collection of any unpaid portion thereof, including a reasonable attorney's fee. The Warrant shall bear interest at the Default Rate from and after maturity or on Event of Default if not then paid.

**Section 17. Covenant as to Tax-Exempt Obligation.** The City acknowledges and agrees that the Warrant is 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 and covenants and agrees that it will not in any way cause or permit the proceeds of the

Warrant to be used in a manner which would cause the interest on the Warrant 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 Warrant to be excludable from gross income of the holders thereof

**Section 18. Agreements and Representations of the City.** So long as any principal of or interest on the Warrant is outstanding and unpaid, the City hereby agrees and represents as follows:

(a) **Insurance.** The City shall maintain in effect insurance against loss or damage by such hazards and risks as are customarily insured by similarly situated municipalities in the State of Alabama and shall, upon request, provide proof of such in form and content acceptable to the Purchaser; and

(b) **Annual Audit and Budget.** The City will cause a copy of its annual audit for each fiscal year to be furnished to the Purchaser within thirty (30) days of the date such audit is furnished to the City, but in any event, within two hundred ten (210) days after the end of such fiscal year. The City will cause a copy of its annual budget for each fiscal year to be furnished to the Purchaser within thirty (30) days of the date such budget is approved by the Council, but in any event by November 15 of each year.

(c) **Other Reporting Requirements.** The Municipality shall furnish to the Purchaser each of the following:

(i) Internal Revenue Service. Promptly upon sending or receiving, any correspondence to or from the Internal Revenue Service concerning the tax-exempt status of the Warrants or any other tax-exempt obligations issued by the City.

(ii) Other Information. Such other information respecting the business, properties or the condition or operations, financial or otherwise, of the City, as the Purchaser may from time to time reasonably request.

(d) **Visitation.** The City shall permit (after having received reasonable advance written notice from the Purchaser), any employees, agents or other representatives of the Purchaser and any attorneys, accountants or other agents or representatives designated by the Purchaser to (a) have access to and visit and inspect any of the accounting systems, books of account, financial records and property, thereof, (b) examine and make abstracts from any such accounting systems, books and records, and (c) discuss the affairs, finances and accounts thereof with the officers, employees or agents, all at such reasonable business times as the Purchaser deems necessary or advisable to protect its interests; provided, however, that the foregoing shall not require the City to divulge confidential information of the City, or information that cannot be disclosed by the City pursuant to applicable law.

(e) **Representations Regarding Private Placement.**

(i) The City acknowledges that Regions Bank and Regions Capital Advantage, Inc. (collectively, "Regions") and their representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to this Ordinance and any information, materials or communications provided by Regions: (a) Regions and its representatives are not recommending an action to any municipal entity or obligated person; (b) Regions and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated person with respect to such Ordinance, information, materials or communications; (c) Regions and its representatives are acting for their own interests; and (d) the City has been informed that City should discuss this Ordinance and any such other information, materials or communications with any and all internal and external advisors and experts that the City deems appropriate before acting on this Ordinance or any such other information, materials or communications.

(ii) The City acknowledges and agrees that the Purchaser is purchasing the Warrants in evidence of a privately negotiated loan and in that connection the Warrants shall not be (i) assigned a separate rating by any municipal securities rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of offering document or official statement or (iv) assigned a CUSIP number by Standard & Poor's CUSIP Service.

It is understood that the delay or failure of the City to comply with the agreements set forth in this Section 18 shall not, in any instance, give rise to any cause of action that would result in monetary damages against the City or the acceleration in payment of all or any portion of the indebtedness evidenced by the Warrant.

**Section 19. Creation of Contract.** The provisions of this Ordinance shall constitute a contract between the City and each Holder of the Warrant. No covenant or agreement contained in the Warrant or in the Ordinance shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the City in the individual capacity thereof and none of such parties or persons nor any officer executing the Warrant shall be liable personally on this Warrant or be subject to any personal liability or accountability by reason of the issuance of this Warrant.

**Section 20. Provisions of Ordinance Severable.** The provisions of this Ordinance are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this Ordinance.

**Section 21. Service, Waiver of Jury Trial.**

(a) Service of process in any action shall be duly served if mailed by registered mail, postage prepaid, to the City at the address below or if served by any other means permitted by law.

City of Daphne, Alabama  
Attn: Mayor  
P.O. Box 400  
Daphne, Alabama 36526

(b) To the extent allowed by law, the City hereby (a) covenants and agrees not to elect a trial by jury of any issue triable of right by a jury, and (b) waives any right to trial by jury fully to the extent that any such right shall now or hereafter exist. This waiver of right to trial by jury is given, knowingly and voluntarily, by the City, and this waiver is intended to encompass individually each instance and each issue as to which the right to a jury trial would otherwise accrue. The Purchaser is hereby authorized and requested to submit this Ordinance for resolution, so as to serve as conclusive evidence of such waiver of the right to jury trial by the City. Further, the City hereby certifies that no representative or agent of the Purchaser (including Purchaser's counsel) has represented, expressly or otherwise, to the City that the Purchaser shall not seek to enforce this waiver of right to jury trial provision.

(c) The waivers made pursuant to this Section shall be irrevocable and unmodifiable, whether in writing or orally, and shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Ordinance. In the event of litigation, this Ordinance may be filed as a written consent to a trial by the court.

**ADOPTED AND APPROVED** this 10<sup>th</sup> day of April, 2017

  
\_\_\_\_\_  
Dane Haygood,  
Mayor

Attest:

  
\_\_\_\_\_  
Rebecca A. Hayes,  
City Clerk

Councilmember Robin LeJeune asked that unanimous consent be given for immediate consideration of and action on said ordinance, and upon the said same being put to vote, the following vote was recorded:

	<b>YEAS:</b>	<b>NAYS:</b>
Councilmembers:	[Tommie Conaway Pat Rudicell Joel Coleman Doug Goodlin Ron Scott Robin LeJeune Joe Davis]	

The Chairman thereupon declared that unanimous consent for immediate consideration of and action on said ordinance had been unanimously carried. Upon a roll call vote, the said Ordinance was thereupon unanimously adopted by the City Council. The Chairman then announced that the motion for adoption of said ordinance had been unanimously carried.

\* \* \*

Upon motion duly made, seconded and unanimously approved, the meeting was adjourned.

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Dane Haygood,  
Mayor of the  
**City of Daphne**

Attest:

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Rebecca A. Hayes,  
City Clerk of the  
**City of Daphne**

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