

**EXCERPTS FROM THE MINUTES OF A SPECIAL MEETING OF THE MAYOR AND
COUNCIL OF THE CITY OF MONTEVALLO, ALABAMA
HELD ON JUNE 6, 2022**

A regular meeting of the City Council of the City of Montevallo, Alabama was held at City Hall, 541 Main Street, Montevallo, Alabama 35115 on June 6, 2022, at 12:00 p.m. Upon roll call, the following members of the City Council were:

<u>Present</u>	<u>Absent</u>
David King	Lelia Mitchell
Kenneth Dukes	
Rusty Nix	
Sonya Swords	
Martha Eisenberg	

Mayor Rusty Nix acted as Chairman of the meeting. The Chairman stated that due notice of the time, place and purpose of the special meeting having been posted as required by law, and a quorum being present, the meeting was open for the transaction of business.

* * * * *

The Chairman then stated that it would be in order to consider the adoption of an ordinance relating to the City's general obligation warrant for the purpose of purchasing equipment, all as described in such ordinance. Upon motion duly made and seconded, and upon a roll call, the City Council voted unanimously to suspend the rules in order to consider and vote on an ordinance to authorized such warrant. The following Ordinance was thereupon introduced by Council Member David King:

ORDINANCE NO. 06062022-339

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$279,244 CITY OF MONTEVALLO, ALABAMA GENERAL OBLIGATION WARRANT, SERIES 2022 TO EVIDENCE A LOAN FROM TRUSTMARK NATIONAL BANK FOR MUNICIPAL PURPOSES

BE IT ORDAINED by the City Council of the City of Montevallo, Alabama, as follows:

Section 1. Findings. Having made due and proper investigation of the matters hereinafter referred to, the Council has ascertained and does hereby find and declare that the following facts are true and correct:

- (a) The City has previously determined that it is in the best interest of the City to provide funds to acquire a fire truck for use by the City (the "Equipment"). The estimated cost of the Equipment, when added to other funds available for the purpose, is expected to be \$279,244.
- (b) In order to obtain financing for such amount needed to pay the costs of the Equipment, it is necessary, advisable and in the interest of the public that the City borrow the required funds from Trustmark National Bank (the "Bank") and issue the Warrant hereinafter authorized as evidence of its obligation to such Bank.
- (c) The City is entitled to receive funding under the American Rescue Plan Act ("ARPA") and expects to use a portion of such funds to offset a portion of the costs of the Equipment.
- (d) 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 2022, or expects to issue within the remainder of 2022, tax-exempt obligations in an amount in excess of \$10,000,000.

Section 2. Authorization of Warrant. In order to provide for the payment of the Equipment and the costs of the issuance for the Warrant, and pursuant to the authority contained in Section 11-47-2, Code of Alabama 1975, as amended, there is hereby authorized to be issued by the City its \$279,244.00 General Obligation Warrant, Series 2022 (the "Warrant"). The Warrant shall be dated the date of its delivery and shall contain and be subject to the terms and conditions set forth in the form of Warrant presented herewith and made a part hereof. Such form of Warrant shall be attached as Exhibit A to the minutes of the meeting at which this Ordinance is adopted.

Section 3. Source of Payment; Security. 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 on which the full faith and credit of the City are hereby irrevocably pledged. The City further agrees that, so long as the Warrant remains outstanding and any portion thereof remains unpaid, and to the full extent of the City's power to do so under the constitution and laws of the State

of Alabama, the City will continue to collect and enforce municipal taxes to the extent necessary to pay the principal of and interest on the Warrant.

Section 4. Creation of Warrant Fund. There is hereby created a special trust fund of the City, the full name of which shall be "City of Montevallo, Alabama Warrant Fund, 2022." Trustmark National Bank shall be and remain the Depository for the Warrant Fund. The monies in the Warrant Fund shall be used to pay the principal of and interest on the Warrant as the same shall become due and payable. There shall be paid into the Warrant Fund, on or before the last business day preceding any date on which a payment of principal of or interest on the Warrant is due, an amount which, when added to the amount then on deposit therein, will equal the principal of (if any) and interest on the Warrant coming due on such payment date.

All monies on deposit in the Warrant Fund shall be used for payment of the principal of and interest coming due on the Warrant.

The Warrant Fund shall be and at all times remain public funds impressed with a trust for the purpose for which the Warrant Fund is herein created. The Depository for the Warrant Fund shall at all times keep the monies on deposit with it in the Warrant Fund continuously secured for the benefit of the City and the Holder of the Warrant.

Section 5. Covenant as to Tax-Exempt Obligation. (a) The City hereby designates the Warrant as a qualified tax-exempt obligation for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). In addition, 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.

(b) Upon the occurrence of a Determination of Taxability, as hereinafter defined, the City shall promptly notify the Holder of the Warrant and shall make all payments required by the terms of the Warrant. As used herein, the term "Determination of Taxability" shall mean a determination that the interest income on the Warrant is includable in gross income of the recipient thereof for federal income tax purposes, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following:

(a) The date on which the City determines that the interest income on the Warrant is includable in gross income for federal income tax purposes by filing with the Warrant holder a statement to that effect;

(b) The date on which the City or any Warrant holder shall be advised by private ruling, technical advice or any other written communication from an authorized official of the Internal Revenue Service that, based upon any filings by the City, or upon any review or audit of the City, or

upon any other grounds whatsoever, the interest income on the Warrant is includable in gross income for federal income tax purposes;

(c) The date on which the City shall receive notice from the Warrant holder in writing that the Warrant holder has been advised (i) by any Warrant holder that the Internal Revenue Service has notified such Warrant holder that it has determined that the interest income on the Warrant is includable in gross income for federal income tax purposes or (ii) by any authorized official of the Internal Revenue Service that the interest income on the Warrant is includable in gross income for federal income tax purposes; or

(d) The date on which the City shall receive notice from the Warrant holder, that such Warrant holder has become aware of facts that cause such Warrant holder to determine in good faith that the interest income on the Warrant is includable in gross income for federal income tax purposes;

provided, that no Determination of Taxability shall be deemed to have occurred: (1) as a result of a determination by the City pursuant to the preceding clause (a) unless supported by a written opinion of Bond Counsel acceptable to the Warrant holder and the City that the interest income on the Warrant is includable in gross income for federal income tax purposes; (2) as a result of the event described in the preceding clause (d) if within twenty (20) days after the City has received notice of the event described in said clause (d) the City shall deliver to the Warrant holder giving such notice an opinion of Bond Counsel acceptable to the Warrant holder that the interest income on the Warrant is not so includable; or (3) as a result of the events described in either of the preceding clauses (b) and (c) unless and until (A) the City has been afforded a reasonable opportunity, at its expense, to contest such a determination either through its own action (if permitted by law) or by or on behalf of the Warrant holder and (B) all such contests, if made, have been abandoned by the City or have been finally determined by a court of competent jurisdiction from which no further appeal exists.

Section 6. Application of ARPA Funds. Upon receipt of any ARPA funds designated and available for payment of the costs of the Equipment the City covenants and agrees that it will apply such funds within a reasonable time after receipt to the prepayment and redemption of the Warrant.

Section 7. Authorization. The Mayor and Clerk of the City are hereby authorized and directed to execute and deliver the Warrant to Trustmark National Bank.

Section 8. Contractual Provisions. The provisions of this Ordinance shall constitute a contract between the City and the Holder of the Warrant. Upon payment in full of the principal of and interest on the Warrant the obligations of the City hereunder shall cease.

Section 9. 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 10. Effective Date. This Ordinance shall become effective immediately upon its adoption or otherwise as shall be required by State law.

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

YEAS

David King
Kenneth Dukes
Rusty Nix
Sonya Swords
Martha Eisenberg

NAYS

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

ATTEST:



City Clerk