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**ORDINANCE NO. 824-13**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF  
GENERAL OBLIGATION REFUNDING WARRANTS, SERIES 2013**

**ADOPTED BY**

**THE**

**CITY COUNCIL OF THE CITY OF HELENA, ALABAMA**

**ON**

**MAY 6, 2013**

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**AN ORDINANCE AUTHORIZING THE ISSUANCE OF  
GENERAL OBLIGATION REFUNDING WARRANTS, SERIES 2013**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HELENA, ALABAMA, AS FOLLOWS:**

**ARTICLE 1**

**DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION**

**SECTION 1.1 Definitions**

For all purposes of this ordinance, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the meaning indicated:

**“Authorized City Representative”** shall mean the Mayor or the Clerk-Treasurer of the City or any other officer or agent of the City authorized by the City’s governing body to act as “Authorized City Representative”.

**“Business Day”** shall mean any day other than a Saturday, a Sunday or a day on which the Paying Agent is required or authorized to be closed under general law or regulations applicable in the place of the Principal Office of the Paying Agent.

**“Capital Improvements”** shall mean governmental facilities and equipment for governmental use.

**“City”** shall mean the City of Helena, Alabama, a municipal corporation organized under the laws of the State of Alabama.

**“Construction Fund”** shall mean the “General Obligation Refunding Warrants, Series 2013 Construction Fund” established pursuant to Article 6.

**“Continuing Disclosure Agreement”** shall mean the Continuing Disclosure Agreement executed and delivered by the City in connection with the issuance of the Series 2013 Warrants.

**“Costs of Issuance Fund”** shall mean the fund established pursuant to Section 7.3.

**“Debt Service”** shall mean the principal, premium (if any) and interest payable on the Series 2013 Warrants.

**“Debt Service Fund”** shall mean the “General Obligation Refunding Warrants, Series 2013 Debt Service Fund” established pursuant to Article 6.

**“Defaulted Interest”** shall have the meaning stated in Section 3.8.

**“Enabling Law”** shall mean Section 11-47-2 of the *Code of Alabama 1975*.

**“Escrow Trust Agreement”** shall mean that certain Escrow Trust Agreement dated as of May 8, 2013, between the City and Regions Bank, as escrow trustee, respecting the refunding of the Series 2005 Warrants.

**“Escrow Trustee”** shall mean Regions Bank, as Escrow Trustee under the Escrow Trust Agreement.

**“Federal Securities”** shall mean direct obligations of, or obligations the payment of which is guaranteed by, the United States of America.

**“Financing Documents”** shall mean this ordinance, the Purchase Agreement and the Series 2013 Warrants.

**“Financing Participants”** shall mean the City and the Paying Agent.

**“Fiscal Year”** shall mean the fiscal year of the City, as established from time to time by applicable law.

**“Holder”**, when used with respect to any Series 2013 Warrants, shall mean the person in whose name such Series 2013 Warrant is registered in the Warrant Register.

**“Insurer”** or **“AGM”** means Assured Guaranty Municipal Corp., a New York stock insurance company, or any successor thereto or assignee thereof.

**“Interest Payment Date”**, when used with respect to any installment of interest on a Series 2013 Warrants, shall mean the date specified in such Series 2013 Warrants as the fixed date on which such installment of interest is due and payable.

**“Internal Revenue Code”** shall mean whichever of the following shall be applicable in the context: the Internal Revenue Code of 1954, as amended; the Internal Revenue Code of 1986, as amended; and the transition rules of related legislation.

**“Opinion of Counsel”** shall mean an opinion from an attorney or firm of attorneys with experience in the matters to be covered in the opinion. Except as otherwise expressly provided in this ordinance, the attorney or attorneys rendering such opinion may be counsel for one or more of the Financing Participants.

**“Outstanding”**, when used with respect to Series 2013 Warrants, shall mean, as of the date of determination, all Series 2013 Warrants authenticated and delivered under this ordinance, except:

(1) Series 2013 Warrants cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;

(2) Series 2013 Warrants for whose payment or redemption money in the necessary amount has been deposited with the Paying Agent for the Holders of such Series 2013 Warrants, provided that, if such Series 2013 Warrants are to be redeemed, notice of such redemption has been duly given pursuant to this ordinance or provision therefor satisfactory to the Paying Agent has been made; and

(3) Series 2013 Warrants in exchange for or in lieu of which other Series 2013 Warrants have been authenticated and delivered under this ordinance.

**“Paying Agent”** shall mean the agent of the City appointed as such pursuant to Section 3.10 for the purpose of paying Debt Service on the Series 2013 Warrants.

**“Policy”** shall mean the municipal bond insurance policy issued by the Insurer guaranteeing the scheduled payment when due of the principal of and interest on the Series 2013 Warrants as provided therein.

**“Post-Default Rate”** shall mean the interest rates borne by the Series 2013 Warrants. Interest at the Post-Default Rate shall be computed on the basis of an assumed year of 360 days with 12 months of 30 days each.

**“Principal Office of the Paying Agent”** shall mean the office where the Paying Agent maintains its principal corporate trust office in the State of Alabama.

**“Principal Payment Date”**, when used with respect to any Series 2013 Warrants, shall mean the date specified in such Series 2013 Warrants as the fixed date on which the principal of such Series 2013 Warrants is due and payable.

**“Purchase Agreement”** shall mean the Warrant Purchase Agreement between the City and the Underwriter in respect of the sale of the Series 2013 Warrants.

**“Qualified Investments”** shall mean:

- (1) Federal Securities;
- (2) An interest in any trust or fund that invests solely in Federal Securities or repurchase agreements with respect to Federal Securities; and
- (3) a certificate of deposit issued by, or other interest-bearing deposit with, any bank organized under the laws of the United States of America or any state thereof, provided that (i) such bank has capital, surplus and undivided profits of not less than \$25,000,000, (ii) such deposit is insured by the Federal Deposit Insurance Corporation or (iii) such deposit is secured by pledging Federal Securities having a market value (exclusive of accrued interest) not less than the face amount of such deposit (less the amount of such deposit insured by the Federal Deposit Insurance Corporation).

**“Regular Record Date”** for the interest payable on any Interest Payment Date on the Series 2013 Warrants shall mean the date specified in Section 3.8.

**“Series 2005 Warrants”** means the City’s General Obligation Warrants, Series 2005, dated December 1, 2005, outstanding in the aggregate principal amount of \$2,745,000 which are being refunded in advance of maturity by the Series 2013 Warrants.

**“Series 2013 Warrants”** shall mean the General Obligation Refunding Warrants, Series 2013, authenticated and delivered pursuant to this ordinance.

**“Special Record Date”** for the payment of any Defaulted Interest on Series 2013 Warrants shall mean the date fixed by the Paying Agent pursuant to Section 3.8.

**“Warrant Payment Date”** shall mean each date (including any date fixed for redemption of Series 2013 Warrants) on which Debt Service is payable on the Series 2013 Warrants.

**“Warrant Register”** shall mean the register or registers for the registration and transfer of Series 2013 Warrants maintained pursuant to Section 3.6.

## **SECTION 1.2      General Rules of Construction**

For all purposes of this ordinance, except as otherwise expressly provided or unless the context otherwise requires:

- (a) Defined terms in the singular shall include the plural as well as the singular, and vice versa.
- (b) All accounting terms not otherwise defined herein have the meaning assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles. All references herein to “generally accepted accounting principles” refer to such principles as they exist at the date of application thereof.
- (c) All references in this ordinance to designated “Articles”, “Sections” and other subdivisions are to the designated articles, sections and subdivisions of this ordinance as originally executed.
- (d) The terms “herein”, “hereof” and “hereunder” and other words of similar import refer to this ordinance as a whole and not to any particular article, section or other subdivision.
- (e) The term “person” shall include any individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization and any government or any agency or political subdivision thereof.
- (f) The term “including” means “including without limitation” and “including, but not limited to”.

## **ARTICLE 2**

### **REPRESENTATIONS AND WARRANTIES**

#### **SECTION 2.1      Findings, Representations and Warranties**

The governing body of the City makes the following findings, representations and warranties as the basis for the undertakings on its part herein contained:

- (a) The City has heretofore financed the construction of various governmental facilities through the issuance of its Series 2005 Warrants originally issued in the aggregate principal amount of \$3,080,000 and now outstanding in the aggregate principal amount of \$2,745,000.
- (b) The City will realize a savings in the City’s net interest cost and receive additional funds to construct Capital Improvements by refunding and retiring the Series 2005 Warrants.
- (c) The City has determined that it is desirable and in the best interest of the City and its inhabitants to refund and retire the Series 2005 Warrants and fund the Capital Improvements, and for such purpose, the City shall issue the Series 2013 Warrants.
- (d) Immediately after the issuance of the Series 2013 Warrants, the total indebtedness of the City chargeable against the debt limitation for the City described by the Constitution of the State of Alabama will not be more than 20% of the assessed valuation of taxable property within the corporate limits of the City for the last fiscal year (ended on the next preceding September 30).

## ARTICLE 3

### THE SERIES 2013 WARRANTS

#### SECTION 3.1 Authorization of Series 2013 Warrants

Pursuant to the authority to do so contained in the applicable provisions of the constitution and laws of Alabama, including particularly the Enabling Law, there is hereby authorized to be issued a series of Warrants entitled "General Obligation Refunding Warrants, Series 2013" (herein called the "Series 2013 Warrants"). The Series 2013 Warrants shall be issued for the purposes specified in Section 2.1.

#### SECTION 3.2 Principal Amounts, Interest Rates, Maturities and Payment Terms

(a) The aggregate principal amount of the Series 2013 Warrants that may be authenticated and delivered and Outstanding shall be \$3,115,000.

(b) The Series 2013 Warrants shall be issuable as fully registered warrants without coupons in the denomination of \$5,000 or any multiple thereof. Each Series 2013 Warrant shall have a single principal maturity. The Series 2013 Warrants shall be numbered separately from 1 upward.

(c) The Series 2013 Warrants shall mature on December 1 in the years 2013 through 2035 (each such maturity date being herein called a "Principal Payment Date"). All Series 2013 Warrants with the same maturity shall bear interest at the same rate. The principal amount and applicable interest rate of Series 2013 Warrants maturing on each Principal Payment Date (subject to adjustment as provided above) is as follows:

| Year of Maturity | Principal Amount Maturing | Applicable Interest Rate |
|------------------|---------------------------|--------------------------|
| 2013             | \$30,000                  | 2.000%                   |
| 2014             | \$110,000                 | 2.000%                   |
| 2015             | \$110,000                 | 2.000%                   |
| 2016             | \$115,000                 | 2.000%                   |
| 2017             | \$115,000                 | 2.000%                   |
| 2018             | \$120,000                 | 2.000%                   |
| 2019             | \$120,000                 | 2.000%                   |
| 2020             | \$125,000                 | 2.000%                   |
| 2021             | \$125,000                 | 1.750%                   |
| 2022             | \$130,000                 | 2.000%                   |
| 2023             | \$130,000                 | 2.250%                   |
| 2024             | \$135,000                 | 2.400%                   |
| 2025             | \$135,000                 | 2.600%                   |
| 2026             | \$140,000                 | 2.700%                   |
| 2027             | \$145,000                 | 2.850%                   |
| 2028             | \$150,000                 | 2.950%                   |
| 2029             | \$155,000                 | 3.000%                   |
| 2030             | \$160,000                 | 3.050%                   |
| 2031             | \$165,000                 | 3.100%                   |
| 2032             | \$170,000                 | 3.200%                   |
| 2033             | \$170,000                 | 3.250%                   |
| 2034             | \$180,000                 | 3.300%                   |
| 2035             | \$180,000                 | 3.350%                   |

Series 2013 Warrants maturing on December 1, 2021 or thereafter, or any smaller principal amount of such Series 2013 Warrants that is a multiple of the smallest authorized denomination, may be redeemed at the option of the City on December 1, 2020 or any date thereafter at the applicable redemption price of 100% of the principal amount plus accrued interest thereon to the redemption date.

(d) The Series 2013 Warrants shall be dated May 1, 2013 and shall bear interest from such date, or the most recent date to which interest has been paid or duly provided for, until the principal thereof shall become due and payable, at the applicable rate per annum set forth in subsection (c) above. Interest on the Series 2013 Warrants shall be payable on December 1 and June 1 in each year, beginning December 1, 2013 (each such date being 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 on overdue principal and premium and (to the extent legally enforceable) on any overdue installment of interest on the Series 2013 Warrants shall be payable at the Post-Default Rate.

(e) Interest on the Series 2013 Warrants payable on any Interest Payment Date prior to the maturity or redemption thereof (in whole or in part) shall be payable by check or draft mailed by the Paying Agent to the registered Holders of the Series 2013 Warrants at their addresses appearing in the Warrant Register. Such payments of interest shall be deemed timely made if so mailed on the Interest Payment Date. Payment of the principal of (and premium, if any, on) the Series 2013 Warrants and payment of accrued interest on the Series 2013 Warrants due upon redemption on any date other than an Interest Payment Date shall be made only upon surrender thereof at the Principal Office of the Paying Agent. Debt Service on the Series 2013 Warrants payable at maturity shall be payable only upon surrender thereof at the Principal Office of the Paying Agent.

(f) Subsection (e) of this section to the contrary notwithstanding, upon the written request of the Holder of Series 2013 Warrants in an aggregate principal amount of not less than \$100,000, the Paying Agent will make payment of the Debt Service due on such Series 2013 Warrant on any Warrant 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 Paying Agent, provided that:

- (1) such written request contains adequate instructions for the method of payment;
- (2) the Holder agrees to pay the Paying Agent's customary charge for handling such wire transfer; and
- (3) payment of the principal of (and redemption premium, if any, on) such Series 2013 Warrant and payment of accrued interest on such Series 2013 Warrant due upon redemption on any date other than an Interest Payment Date shall be made only upon surrender of such Series 2013 Warrant to the Paying Agent.

### **SECTION 3.3 Form of Series 2013 Warrants**

The Series 2013 Warrants and the authentication certificate shall be substantially in the following form, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this ordinance:

[Form of Series 2013 Warrants]

NOTICE: Unless this warrant is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to City of Helena, Alabama or its agent for registration of transfer, exchange, or payment, and any warrant 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.

**CITY OF HELENA, ALABAMA**

**GENERAL OBLIGATION REFUNDING WARRANT**

**SERIES 2013**

No. \_\_\_\_\_ \$ \_\_\_\_\_

Maturity Date: \_\_\_\_\_ Interest Rate: \_\_\_\_\_ CUSIP: \_\_\_\_\_

The **CITY OF HELENA, ALABAMA**, a municipal corporation organized under the laws of the State of Alabama (the "City"), for value received, hereby acknowledges that it is indebted in the principal sum of

\_\_\_\_\_ **DOLLARS**

and hereby directs its Treasurer to pay (but solely out of the Debt Service Fund referred to below) such principal sum to

\_\_\_\_\_,

or registered assigns, on the maturity date specified above and to pay (but solely out of the Debt Service Fund) interest hereon from the date hereof, or the most recent date to which interest has been paid or duly provided for, until the principal hereof shall become due and payable at the per annum rate of interest specified above. Interest shall be payable on December 1 and June 1 in each year, beginning December 1, 2013 (each such date being 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 (but solely out of the Debt Service Fund) 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 Post-Default Rate specified in the Warrant Ordinance referred to below.

The interest so payable on any Interest Payment Date will, as provided in the Warrant Ordinance, be paid to the person in whose name this warrant is registered at the close of business on the Regular Record Date for such interest, which shall be the 15th day (whether or not a Business Day) of the month next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered Holder on such Regular Record Date, and shall be paid to the person in whose name this warrant is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Paying Agent, notice of such Special Record Date being given to Holders of the Series 2013 Warrants not less than 10 days prior to such Special Record Date.

Payment of interest on this warrant due on any 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 by the Paying Agent. 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 on any date other than an Interest Payment Date shall be made only upon surrender of this warrant at the Principal Office of the Paying Agent. Upon the terms and conditions provided in the Warrant Ordinance, the Holder of Series 2013 Warrants in an aggregate principal amount of not less than \$100,000 may request that payment of Debt Service on such Series 2013 Warrant 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 Paying Agent, provided that such Holder agrees to pay the Paying Agent's customary charge for handling such wire transfer. 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 a duly authorized issue of warrants of the City, aggregating \$3,115,000 in principal amount, entitled "General Obligation Refunding Warrants, Series 2013" (the "Series 2013 Warrants") and issued under and pursuant to an ordinance duly adopted by the governing body of the City (the "Warrant Ordinance") and the constitution and laws of the State of Alabama, including particularly Article 1, Chapter 47, Title 11 (Section 11-47-2) of the *Code of Alabama 1975*. Capitalized terms not otherwise defined herein shall have the meanings assigned in the Warrant Ordinance.

In accordance with the terms of the Warrant Ordinance, Regions Bank, has been appointed to serve as "Paying Agent" with respect to the Series 2013 Warrants unless and until a successor is appointed pursuant to the terms and conditions of the Warrant Ordinance. For purposes of this warrant and the Warrant Ordinance, the Principal Office of the Paying Agent shall mean the office where the Paying Agent maintains its corporate trust office in Birmingham, Alabama, or such other office within the State of Alabama as shall be designated by the Paying Agent by written notice to the City and the Holders of the Series 2013 Warrants.

**The indebtedness evidenced by the Series 2013 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 Series 2013 Warrant over another.**

Pursuant to the Warrant Ordinance the City has established a special fund for the payment of Debt Service on the Series 2013 Warrants (the "Debt Service Fund") that will be held by the Paying Agent. The City has obligated itself to pay or cause to be paid into the Debt Service Fund, as provided in the Warrant Ordinance, from taxes, revenues or other general funds of the City sums sufficient to provide for the payment of Debt Service on the Series 2013 Warrants as the same becomes due and payable.

In the manner and with the effect provided in the Warrant Ordinance, the Series 2013 Warrants are subject to redemption prior to maturity as follows:

***Optional Redemption.*** Series 2013 Warrants maturing on December 1, 2021 or thereafter, or any smaller principal amount of such Series 2013 Warrants that is a multiple of the smallest authorized denomination, may be redeemed at the option of the City on December 1, 2020 or any date thereafter at the applicable redemption price of 100% of the principal amount plus accrued interest thereon to the redemption date.

If less than all Series 2013 Warrants Outstanding are to be redeemed, the particular Series 2013 Warrants to be redeemed may be specified by the City by written notice to the Paying Agent, or, in the absence of timely receipt by the Paying Agent of such notice, shall be selected by the Paying Agent by lot or by such other method as the Paying Agent shall deem fair and appropriate; provided, however, that (i)

the principal amount of Series 2013 Warrants of each maturity to be redeemed must be a multiple of the smallest authorized denomination of Series 2013 Warrants, and (ii) if less than all Series 2013 Warrants with the same stated maturity are to be redeemed, the Series 2013 Warrants of such maturity to be redeemed shall be selected by lot by the Paying Agent.

Any redemption shall be made upon at least 30 days' notice in the manner and upon the terms and conditions provided in the Warrant Ordinance.

If less than all Series 2013 Warrants Outstanding with the same maturity are to be redeemed, the particular Series 2013 Warrants to be redeemed shall be selected not less than 30 nor more than 60 days prior to the redemption date (except as noted below) by the Paying Agent from the Outstanding Series 2013 Warrants of such maturity which have not previously been called for redemption.

If a trust is established for payment of less than all Series 2013 Warrants of the same maturity, the Series 2013 Warrants of such maturity to be paid from the trust shall be selected by the Paying Agent within 7 days after such trust is established and shall be identified by a separate CUSIP number or other designation satisfactory to the Paying Agent. The Paying Agent shall notify Holders whose Series 2013 Warrants (or portions thereof) have been selected for payment from such trust and shall direct such Holders to surrender their Series 2013 Warrants to the Paying Agent in exchange for Series 2013 Warrants with the appropriate designation.

Upon any partial redemption of any Series 2013 Warrant, the same shall, except as otherwise permitted by the Warrant Ordinance, be surrendered in exchange for one or more new Series 2013 Warrants of the same maturity and in authorized form for the unredeemed portion of principal. Series 2013 Warrants (or portions thereof as aforesaid) for whose redemption and payment provision is made in accordance with the Warrant Ordinance shall thereupon cease to be entitled to the benefits of the Warrant Ordinance and shall cease to bear interest from and after the date fixed for redemption.

As provided in the Warrant Ordinance and subject to certain limitations therein set forth, this warrant is transferable on the Warrant Register maintained at the Principal Office of the Paying Agent, upon surrender of this warrant for transfer at such office, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the City and the Paying Agent duly executed by, the registered Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Series 2013 Warrants of authorized denominations and of the same maturity and aggregate principal amount will be issued to the designated transferee or transferees.

The Series 2013 Warrants are issuable as fully registered, book-entry only warrants in the denomination of \$5,000 each or any integral multiple thereof. The Series 2013 Warrants are registered in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York. As provided in the Warrant Ordinance and subject to certain limitations therein set forth, Series 2013 Warrants are exchangeable for a like aggregate principal amount of Series 2013 Warrants, of any authorized denominations and of the same maturity, as requested by the Holder surrendering the same.

For so long as the Series 2013 Warrants are registered in the name of DTC or its nominee, the Paying Agent shall transfer and exchange Series 2013 Warrants only on behalf of DTC or its nominee, in accordance with the Warrant Ordinance. Neither the City nor the Paying Agent shall have any responsibility for transferring or exchanging any Beneficial Owner's (as defined in Blanket Letter of Representations between the City and DTC) interest in any Series 2013 Warrants.

No service charge shall be made for any transfer or exchange hereinbefore referred to, but the City may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

The City, the Paying Agent and any agent of the City or the Paying Agent may treat the person in whose name this warrant is registered as the owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this warrant is overdue, and neither the City, the Paying Agent nor any agent shall be affected by notice to the contrary.

It is hereby certified, recited and declared 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 as a claim against the Debt Service Fund in the manner provided by law; that all acts, conditions and things required by the constitution and laws of the State of Alabama to happen, exist and be performed precedent to and in the issuance of this warrant have happened, do exist and have been performed; and that the indebtedness evidenced and ordered paid by this warrant, together with all other indebtedness of the City, is within every debt and other limit prescribed in the constitution and laws of the State of Alabama.

It is hereby certified, recited and declared that unless the certificate of authentication hereon has been executed by the Paying Agent by manual signature, this warrant shall not be entitled to any benefit under the Warrant Ordinance or be valid or obligatory for any purpose.

**IN WITNESS WHEREOF**, the City has caused this warrant to be duly executed under its official seal.

Dated: May 1, 2013.

**CITY OF HELENA, ALABAMA**

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

[S E A L]

Attest:

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

**Registration As Claim Against  
Debt Service Fund**

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

\_\_\_\_\_  
Treasurer

**Certificate of Authentication**

This warrant is one of the Series 2013 Warrants issued pursuant to the within-mentioned Warrant Ordinance.

Date of Authentication: \_\_\_\_\_

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

**Assignment**

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

Dated: \_\_\_\_\_.

\_\_\_\_\_  
**NOTE:** The name signed to this assignment must correspond with the name of the payee written on the face of the within warrant in all respects, without alteration, enlargement or change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank or Trust Company)

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

Medallion Number: \_\_\_\_\_

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

### **Statement of Insurance**

Assured Guaranty Municipal Corp. ("AGM"), 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 Series 2013 Warrant to Regions Bank, an Alabama banking corporation, or its successor, as paying agent for the Series 2013 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 AGM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The owner of this Series 2013 Warrant acknowledges and consents to the subrogation rights of AGM as more fully set forth in the Policy.

### **SECTION 3.4 Execution and Authentication**

(a) The Series 2013 Warrants shall be executed on behalf of the City by its Mayor under its seal reproduced thereon and attested by its City Clerk, and the certification of registration of each Series 2013 Warrant as a claim against the Debt Service Fund shall be executed by the Treasurer of the City. The signature of any of these officers on the Series 2013 Warrants may be manual or, to the extent permitted by law, facsimile. Series 2013 Warrants bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the City shall bind the City, notwithstanding that such individuals or any of them shall have ceased to hold such offices prior to the authentication and delivery of such Series 2013 Warrants or shall not have held such offices at the date of such Series 2013 Warrants.

(b) No Series 2013 Warrants shall be secured by, or be entitled to any lien, right or benefit under, this ordinance or be valid or obligatory for any purpose, unless there appears on such Series 2013 Warrant a certificate of authentication substantially in the form provided for herein, executed by the Paying Agent by manual signature, and such certificate upon any Series 2013 Warrants shall be conclusive evidence, and the only evidence, that such Series 2013 Warrant has been duly authenticated and delivered hereunder.

### **SECTION 3.5 Temporary Series 2013 Warrants**

(a) Pending the preparation of definitive Series 2013 Warrants, the City may execute, and upon request of the City, the Paying Agent shall authenticate and deliver, temporary Series 2013 Warrants which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Series 2013 Warrants in lieu of which they are issued, with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Series 2013 Warrants may determine, as evidenced by their execution of such Series 2013 Warrants.

(b) If temporary Series 2013 Warrants are issued, the City will cause definitive Series 2013 Warrants to be prepared without unreasonable delay. After the preparation of definitive Series 2013 Warrants, the temporary Series 2013 Warrants shall be exchangeable for definitive Series 2013 Warrants

upon surrender of the temporary Series 2013 Warrants at the Principal Office of the Paying Agent, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Series 2013 Warrants, the City shall execute and the Paying Agent shall authenticate and deliver in exchange therefor a like principal amount of definitive Series 2013 Warrants of authorized denominations. Until so exchanged, temporary Series 2013 Warrants shall in all respects be entitled to the security and benefits of this ordinance.

### **SECTION 3.6 Registration, Transfer and Exchange**

(a) The City shall cause to be kept at the Principal Office of the Paying Agent a register (herein referred to as the "Warrant Register") in which, subject to such reasonable regulations as it may prescribe, the City shall provide for the registration of Series 2013 Warrants and registration of transfers of Series 2013 Warrants entitled to be registered or transferred as herein provided. The Paying Agent is hereby appointed "Warrant Registrar" for the purpose of registering Series 2013 Warrants and transfers of Series 2013 Warrants as herein provided.

(b) Upon surrender for transfer of any Series 2013 Warrants at the Principal Office of the Paying Agent, the City shall execute, and the Paying Agent shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Series 2013 Warrants of any authorized denominations and of the same maturity and aggregate principal amount.

(c) At the option of the Holder, Series 2013 Warrants may be exchanged for a like aggregate principal amount of Series 2013 Warrants, of any authorized denominations and of the same maturity, upon surrender of the Series 2013 Warrants to be exchanged at the Principal Office of the Paying Agent. Whenever any Series 2013 Warrants are so to be surrendered for exchange, the City shall execute, and the Paying Agent shall authenticate and deliver, the Series 2013 Warrants which the Holder making the exchange is entitled to receive.

(d) All Series 2013 Warrants surrendered upon any exchange or transfer provided for in this ordinance shall be promptly cancelled by the Paying Agent.

(f) All Series 2013 Warrants issued upon any transfer or exchange of Series 2013 Warrants shall be the valid obligations of the City and entitled to the same security and benefits under this ordinance as the Series 2013 Warrants surrendered upon such transfer or exchange.

(g) Every Series 2013 Warrant presented or surrendered for transfer or exchange shall (if so required by the City or the Paying Agent) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the City and the Paying Agent duly executed, by the Holder thereof or his attorney duly authorized in writing.

(h) No service charge shall be made for any transfer or exchange of Series 2013 Warrants, but the City may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Series 2013 Warrants.

(i) The City shall not be required (i) to transfer or exchange any Series 2013 Warrants during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Series 2013 Warrants and ending at the close of business on the day of such mailing, (ii) to transfer or exchange any Series 2013 Warrants so selected for redemption in whole or in part, or (iii) to exchange any Series 2013 Warrants during a period beginning at the opening of business on any Regular Record Date and ending at the close of business on the relevant Interest Payment Date therefor.

### **SECTION 3.7 Mutilated, Destroyed, Lost and Stolen Series 2013 Warrants**

(a) If (i) any mutilated Series 2013 Warrant is surrendered to the Paying Agent, or the City and the Paying Agent receives evidence to their satisfaction of the destruction, loss or theft of any Series 2013 Warrants, and (ii) there is delivered to the City and the Paying Agent such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the City or the Paying Agent that such Series 2013 Warrants has been acquired by a bona fide purchaser, the City shall execute and upon its request the Paying Agent shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Series 2013 Warrants, a new Series 2013 Warrant of like tenor and principal amount, bearing a number not contemporaneously Outstanding.

(b) Upon the issuance of any new Series 2013 Warrants under this section, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith.

(c) Every new Series 2013 Warrant issued pursuant to this section in lieu of any destroyed, lost or stolen Series 2013 Warrants shall constitute an original additional contractual obligation of the City, whether or not the destroyed, lost or stolen Series 2013 Warrants shall be at any time enforceable by anyone, and shall be entitled to all the security and benefits of this ordinance equally and ratably with all other Outstanding Series 2013 Warrants.

(d) The provisions of this section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Series 2013 Warrants.

### **SECTION 3.8 Payment of Interest on Series 2013 Warrants; Interest Rights Preserved**

(a) Interest on any Series 2013 Warrants which is payable on any Interest Payment Date shall be paid to the person in whose name that Series 2013 Warrant is registered at the close of business on the Regular Record Date for such interest, which shall be the 15th day (whether or not a Business Day) of the month next preceding such Interest Payment Date. Payment of the principal of (and premium, if any, on) the Series 2013 Warrants and payment of accrued interest due upon redemption on any date other than an Interest Payment Date shall be made only upon surrender of the Series 2013 Warrant at the Principal Office of the Paying Agent.

(b) Any interest on any Series 2013 Warrants which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date solely by virtue of such Holder having been such Holder; and such Defaulted Interest shall be paid by the City to the persons in whose names such Series 2013 Warrants are registered at the close of business on a special record date (herein called a "Special Record Date") for the payment of such Defaulted Interest, which shall be fixed in the following manner. The City shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Series 2013 Warrant and the date of the proposed payment (which date shall be such as will enable the Paying Agent to comply with the next sentence hereof), and at the same time the City shall deposit with the Paying Agent an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment, such money when deposited to be held solely for the benefit of the persons entitled to such Defaulted Interest as in this subsection provided. Thereupon, the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Paying Agent of the notice of the proposed payment. The Paying Agent shall promptly notify the City of such Special Record Date and, in the name and at the expense of the City,

shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of a Series 2013 Warrants at his address as it appears in the Warrant Register not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names the Series 2013 Warrants are registered on such Special Record Date.

(c) Subject to the foregoing provisions of this section, each Series 2013 Warrants delivered under this ordinance upon transfer of or in exchange for or in lieu of any other Series 2013 Warrants shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Series 2013 Warrants and each such Series 2013 Warrants shall bear interest from such date that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

### **SECTION 3.9 Persons Deemed Owners**

The City, the Paying Agent and any agent of the City or the Paying Agent may treat the person in whose name any Series 2013 Warrant is registered as the owner of such Series 2013 Warrant for the purpose of receiving payment of Debt Service on such Series 2013 Warrant (subject to Section 3.8) and for all other purposes whatsoever whether or not such Series 2013 Warrant is overdue, and, to the extent permitted by law, neither the City, the Paying Agent nor any such agent shall be affected by notice to the contrary.

### **SECTION 3.10 Paying Agent**

(a) Regions Bank, an Alabama banking corporation, is hereby appointed "Paying Agent" for the purpose of paying Debt Service on the Series 2013 Warrants on behalf of the City. By its acceptance of such duties hereunder, the Paying Agent shall accept and agree to perform the duties required by this ordinance, subject, however, to the following conditions:

(1) The Paying Agent 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 Paying Agent.

(2) In the absence of bad faith or gross negligence on its part, the Paying Agent 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 Paying Agent 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 Paying Agent, the Paying Agent shall be under a duty to examine the same to determine whether they conform to the requirements of this ordinance.

(3) No provision of this ordinance shall be construed to relieve the Paying Agent from liability for its own gross negligence or willful misconduct, except that no provision of this ordinance shall require the Paying Agent 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.

(4) The Paying Agent 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.

(5) The Paying Agent need not recognize a Holder of a Series 2013 Warrant as such without the satisfactory establishment of his title to such Series 2013 Warrant pursuant to the requirements of this ordinance.

(6) Any action taken by the Paying Agent at the request of and with the consent of the Holder of a Series 2013 Warrant will bind all subsequent Holders of the same Series 2013 Warrant and any Series 2013 Warrant issued hereunder in lieu thereof.

(7) The Paying Agent may be a Holder or a pledgee of any of the Series 2013 Warrants as if not Paying Agent hereunder.

(8) The Paying Agent shall not be liable for the proper application of any moneys other than those that may be paid to or deposited with it.

(9) The Paying Agent 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 Paying Agent.

(10) The Paying Agent may make any investments permitted or required hereby through its own investment department, and any Qualified Investments issued or held by it hereunder shall be deemed investments and not deposits.

(11) The Paying Agent shall, upon reasonable request, inform the City of the amount at the time on deposit in any of the special funds or accounts created hereunder.

(12) The recitals of fact herein and in the Series 2013 Warrants are statements by the City and not by the Paying Agent, and the Paying Agent is in no way responsible for the validity or security of the Series 2013 Warrants or the validity of the security afforded hereby.

(b) The Debt Service on the Series 2013 Warrants shall, except as otherwise provided herein, be payable at the Principal Office of the Paying Agent.

(c) The Paying Agent may be removed at any time (i) by an instrument or concurrent instruments in writing delivered to the Paying Agent and the City signed by the Holders of a majority in aggregate principal amount of the Series 2013 Warrants then Outstanding, or (ii) if no default exists with respect to the payment of the Series 2013 Warrants, by a written notice delivered to the Paying Agent and signed on behalf of the City by an Authorized City Representative.

(d) The Paying Agent may resign and be discharged from the duties hereby created by causing written notice specifying the effective date of such resignation to be forwarded by United States registered or certified mail, postage prepaid, to the City, to the Insurer, and to every Holder of a Series 2013 Warrant. Unless the effective date of the Paying Agent's resignation shall coincide with the appointment of a successor Paying Agent as herein provided, such date shall be at least thirty (30) days after the date on which notice to the City and the Holders of the Series 2013 Warrants shall have been mailed.

(e) If the bank designated as Paying Agent pursuant to subsection (a) of this section shall resign or be removed or shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of it or of its property shall be appointed or any public officer shall take charge or control of it or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, the City shall appoint a successor Paying Agent. Any successor Paying Agent must have capital and

surplus of not less than \$50,000,000, must be subject to supervision or examination by federal or State of Alabama authority, and must have a corporate trust office within the State of Alabama. The City shall give notice of the appointment of any such successor Paying Agent by first-class mail, postage prepaid, to the Holders of Series 2013 Warrants as their names or addresses appear in the Warrant Register.

(f) Any corporation into which the Paying Agent may be merged or with whom it may be consolidated, or any corporation resulting from any merger or consolidation to which the Paying Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Paying Agent, shall be the successor of the Paying Agent 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 Series 2013 Warrants shall have been executed by the Paying Agent then in office, any successor by merger or consolidation to such Paying Agent may adopt the registration of such Series 2013 Warrants and deliver such Series 2013 Warrants with the same effect as if such successor Paying Agent had itself registered such Series 2013 Warrants.

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

### **SECTION 3.11 Book Entry Only System**

(a) The registration and payment of Series 2013 Warrants shall be made pursuant to the Book-Entry Only System (the "Book-Entry Only System") administered by The Depository Trust Company ("DTC") in accordance with the Blanket Letter of Representations attached to and incorporated by reference in this ordinance as *Exhibit A* (the "Letter of Representations") until such System is terminated pursuant to Section 3.11(c).

(b) While Series 2013 Warrants are in the Book-Entry Only System the following provisions shall apply for purposes of this ordinance and shall supersede any contrary provisions of this ordinance:

(1) Notwithstanding the fact that DTC may hold a single physical certificate for each stated maturity for purposes of the Book-Entry Only System, the term "Series 2013 Warrants" shall mean each separate Security (as defined in the Letter of Representations) issued pursuant to the Book-Entry Only System, and the term "Holder" shall mean the person identified on the records of DTC as the owner of the related Security.

(2) The terms and limitations of this ordinance with respect to each separate Series 2013 Warrants shall be applicable to each separate Security registered under the Book-Entry Only System.

(3) All notices under this ordinance to Holders of Series 2013 Warrants from either the City or the Paying Agent shall be delivered by the City or the Paying Agent, as the case may be, to DTC for distribution by DTC in accordance with the Letter of Representations. All notices under this ordinance to or from persons other than a Holder of a Series 2013 Warrants shall be delivered directly to such person as provided in this ordinance and shall not be delivered through DTC or the Book-Entry Only System.

(4) All payments of Debt Service on the Series 2013 Warrants shall be made by the Paying Agent to DTC and shall be made by DTC to the Participants (as such term is defined in the Letter of Representations) as provided in the Letter of Representations. All such payments

shall be valid and effective fully to satisfy and discharge the City's obligations with respect to such payments.

(5) The Beneficial Owners (as such term is defined in the Letter of Representations) of the Series 2013 Warrants, by their acquisition of any beneficial interest in a Series 2013 Warrants or Series 2013 Warrants, and the Participants severally agree that the City and the Paying Agent shall not have any responsibility or obligation to any Participant or any Beneficial Owner with respect to (1) the accuracy of any records maintained by DTC or any Participant; (2) the payment by DTC or any Participant of any amount due to any Beneficial Owner in respect of the principal of, purchase price of, premium (if any) and interest on the Series 2013 Warrants; (3) the delivery or timeliness of delivery by DTC or any Participant of any notice due to any Beneficial Owner which is required or permitted under the terms of this ordinance to be given to Beneficial Owners; or (4) any consent given or other action taken by DTC or its nominee, as owner.

(c) If the City and the Paying Agent concur that it would be in the best interests of the Holders of the Series 2013 Warrants for the Book-Entry Only System to be discontinued (in whole or in part), such Book-Entry Only System shall be discontinued (in whole or in part) in accordance with the provisions of the Letter of Representations. In addition, the Book-Entry Only System may be discontinued (in whole or in part) at any time by the City or the Paying Agent acting alone in accordance with the Letter of Representations.

#### **SECTION 3.12 Payments Due on a Day Other Than a Business Day**

If any payment on the Series 2013 Warrants is due on a day which is not a Business Day, such payment shall be made on the first succeeding day which is a Business Day with the same effect as if made on the day such payment was due.

#### **SECTION 3.13 Cancellation**

All Series 2013 Warrants surrendered for payment, redemption, transfer or exchange shall be promptly cancelled by the Paying Agent. No Series 2013 Warrants shall be registered in lieu of or in exchange for any Series 2013 Warrants cancelled as provided in this section, except as expressly provided by this ordinance.

### **ARTICLE 4**

#### **REDEMPTION OF SERIES 2013 WARRANTS**

##### **SECTION 4.1 General Applicability of Article**

(a) The Series 2013 Warrants shall be redeemable in accordance with the redemption provisions set forth in the form of the Series 2013 Warrants contained in Section 3.3 and the provisions of this article.

(b) The Series 2013 Warrants shall be redeemed in accordance with the optional redemption provisions of the Series 2013 Warrants only upon direction of the City.

##### **SECTION 4.2 Election to Redeem; Notice to Paying Agent**

The election of the City to exercise any right of optional redemption shall be evidenced by a certified ordinance of the governing body of the City delivered to the Paying Agent. In case of any

redemption at the option of the City of less than all the Outstanding Series 2013 Warrants, the City shall, at least 60 days prior to the date fixed by the City for redemption of Series 2013 Warrants (unless a shorter notice shall be satisfactory to the Paying Agent), notify the Paying Agent of such redemption date and of the principal amount and maturities of Series 2013 Warrants to be redeemed.

#### **SECTION 4.3      Selection by Paying Agent of Series 2013 Warrants to be Redeemed**

(a) If less than all Series 2013 Warrants Outstanding are to be redeemed, the particular Series 2013 Warrants to be redeemed may be specified by the City by written notice to the Paying Agent, or, in the absence of timely receipt by the Paying Agent of such notice, shall be selected by the Paying Agent by lot or by such other method as the Paying Agent shall deem fair and appropriate; provided, however, that (i) the principal amount of Series 2013 Warrants of each maturity to be redeemed must be a multiple of the smallest authorized denomination of Series 2013 Warrants, and (ii) if less than all Series 2013 Warrants with the same stated maturity are to be redeemed, the Series 2013 Warrants of such maturity to be redeemed shall be selected by lot by the Paying Agent.

(b) The Paying Agent shall promptly confirm to the City in writing the Series 2013 Warrants selected for redemption and, in the case of any Series 2013 Warrants selected for partial redemption, the principal amount thereof to be redeemed.

(c) For all purposes of this ordinance, unless the context otherwise requires, all provisions relating to the redemption of Series 2013 Warrants shall relate, in the case of any Series 2013 Warrants redeemed or to be redeemed only in part, to the portion of the principal of such Series 2013 Warrants which has been or is to be redeemed.

#### **SECTION 4.4      Notice of Redemption**

(a) Unless waived by the Holders of all Series 2013 Warrants then Outstanding, notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the redemption date, to each Holder of Series 2013 Warrants to be redeemed at his address appearing in the Warrant Register.

(b) All notices of redemption shall state:

(1) the redemption date,

(2) the redemption price,

(3) the principal amount of Series 2013 Warrants to be redeemed, and, if less than all Outstanding Series 2013 Warrants are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Series 2013 Warrants to be redeemed,

(4) that on the redemption date the redemption price of each of the Series 2013 Warrants to be redeemed will become due and payable and that the interest thereon shall cease to accrue from and after said date, and

(5) the place or places where the Series 2013 Warrants to be redeemed are to be surrendered for payment of the redemption price.

(c) Notice of redemption of Series 2013 Warrants to be redeemed at the option of the City shall be given by the City or, at the City's request, by the Paying Agent in the name and at the expense of the City.

(d) The City and the Paying Agent shall, to the extent practical under the circumstances, comply with the standards set forth in the United States Securities and Exchange Commission's Exchange Act Release No. 23856 dated December 3, 1986, regarding redemption notices, but their failure to do so shall not in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed in this section.

#### **SECTION 4.5 Deposit of Redemption Price**

Prior to any redemption date, the City shall deposit with the Paying Agent an amount of money sufficient to pay the redemption price of all the Series 2013 Warrants which are to be redeemed on that date. Such money shall be held solely for the benefit of the persons entitled to such redemption price.

#### **SECTION 4.6 Series 2013 Warrants Payable on Redemption Date**

(a) Notice of redemption having been given as aforesaid, the Series 2013 Warrants so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Series 2013 Warrants shall cease to bear interest. Upon surrender of any such Series 2013 Warrants for redemption in accordance with said notice, such Series 2013 Warrants shall be paid by the City at the redemption price. Installments of interest due prior to the redemption date shall be payable to the Holders of the Series 2013 Warrants registered as such on the relevant Record Dates according to the terms of such Series 2013 Warrants and the provisions of Section 3.8.

(b) If any Series 2013 Warrants called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the redemption date at the Post-Default Rate.

#### **SECTION 4.7 Series 2013 Warrants Redeemed in Part**

Any Series 2013 Warrants which is to be redeemed only in part shall be surrendered at the Principal Office of the Paying Agent (with, if the City or the Paying Agent so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the City and the Paying Agent duly executed by, the Holder thereof or his attorney duly authorized in writing), and the City shall execute and the Paying Agent shall authenticate and deliver to the Holder of such Series 2013 Warrants, without service charge, a new Series 2013 Warrant or Series 2013 Warrants, of the same maturity and of any authorized denomination or denominations, as requested by such Holder in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Series 2013 Warrants so surrendered.

### **ARTICLE 5**

#### **SOURCE OF PAYMENT, ETC.**

##### **SECTION 5.1 General Obligation**

The indebtedness evidenced and ordered paid by the Series 2013 Warrants shall be a general obligation of the City for the payment of Debt Service on which the full faith and credit of the City are hereby irrevocably pledged, pro rata and without preference or priority of one Series 2013 Warrant over another. The City hereby covenants and agrees to levy and collect taxes, to the maximum extent permitted by law, at such rate or rates as shall make available tax proceeds which, when added to the revenues of the City from other sources available for such purposes, will be sufficient to pay reasonable expenses of carrying on the necessary governmental functions of the City and to pay Debt Service on the Series 2013 Warrants as the same shall become due and payable.

## **SECTION 5.2      Provision for Payment of Series 2013 Warrants**

(a) If Debt Service on the Series 2013 Warrants is paid in accordance with the terms of the Series 2013 Warrants and this ordinance, then all covenants, agreements and other obligations of the City to the Holders of the Series 2013 Warrants shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Paying Agent shall pay to the City any surplus remaining in the Debt Service Fund.

(b) Series 2013 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 if the Paying Agent is provided with the following:

(1) a trust agreement between the City and any bank or other financial institution having corporate trust powers making provision for the retirement of such Series 2013 Warrants by creating for that purpose an irrevocable trust fund sufficient to provide for payment and retirement of such Series 2013 Warrants (including payment of the interest that will accrue thereon until and on the date they are retired, as such interest becomes due and payable), either by redemption prior to their respective maturities, by payment at their respective maturities or by payment of part thereof at their respective maturities and redemption of the remainder prior to their respective maturities, which said trust fund shall consist of (i) Federal Securities which are not subject to redemption prior to their respective maturities at the option of the issuer and which, if the principal thereof and the interest thereon are paid at their respective maturities, will produce funds sufficient so to provide for payment and retirement of all such Series 2013 Warrants or (ii) both cash and such Federal Securities (or a combination thereof) which together will produce funds sufficient for such purpose, or (iii) cash sufficient for such purpose; provided, however, that said trust agreement shall require all cash held on deposit in such trust to be kept continuously secured by holding on deposit as collateral security therefor Federal Securities having a market value at least equal at all times to the amount to be secured thereby, unless such cash is kept on deposit in U.S. dollar denominated deposit accounts and certificates of deposit with banks or savings associations that are qualified public depositories under Chapter 14A of Title 41 of the *Code of Alabama 1975*;

(2) a certified copy of a duly adopted ordinance or resolution of the governing body of the City calling for redemption those of such Series 2013 Warrants that, according to said trust agreement, are to be redeemed prior to their respective maturities; and

(3) evidence satisfactory to the Paying Agent that, if the principal of and the interest on the investments (if any) forming part of the trust fund provided for in the preceding subparagraph (1) are paid on the respective due dates of such principal and interest, said trust fund will produce funds sufficient to provide for the full payment and retirement of such Series 2013 Warrants.

(c) Any trust established pursuant to this section may provide for payment of less than all Series 2013 Warrants Outstanding or less than all Series 2013 Warrants of any remaining maturity.

(d) If any trust provides for payment of less than all Series 2013 Warrants with the same maturity, the Series 2013 Warrants of such maturity to be paid from the trust shall be selected by the Paying Agent by lot by such method as shall provide for the selection of portions (in authorized denominations) of the principal of Series 2013 Warrants of such maturity of a denomination larger than the smallest authorized denomination. Such selection shall be made within 7 days after such trust is established. This selection process shall be in lieu of the selection process provided for in Section 4.3 if and to the extent that Series 2013 Warrants payable from such trust are to be redeemed prior to maturity.

After such selection is made, the Series 2013 Warrants that are to be paid from such trust (including the Series 2013 Warrants issued in exchange for such Series 2013 Warrants pursuant to the transfer or exchange provisions of this ordinance) shall be identified by a separate CUSIP number or other designation satisfactory to the Paying Agent. The Paying Agent shall notify Holders whose Series 2013 Warrants (or portions thereof) have been selected for payment from such trust and shall direct such Holders to surrender their Series 2013 Warrants to the Paying Agent in exchange for the Series 2013 Warrants with the appropriate designation. The selection of the Series 2013 Warrants for payment from such trust pursuant to this section shall be conclusive and binding on the Holders, the City and the Paying Agent.

### **SECTION 5.3      Officers, Etc. Exempt from Individual Liability**

No recourse under or upon any covenant or agreement of this ordinance, or of any Series 2013 Warrants, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future officer or member of the governing body of the City, or of any successor, either directly or through the City, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this ordinance and the Series 2013 Warrants issued hereunder are solely corporate obligations, and that no personal liability whatever shall attach to, or is or shall be incurred by, any officer or member of the governing body of the City or any successor, or any of them, because of the issuance of the Series 2013 Warrants, or under or by reason of the covenants or agreements contained in this ordinance or in any Series 2013 Warrants or implied therefrom.

## **ARTICLE 6**

### **DEBT SERVICE FUND AND CONSTRUCTION FUND**

#### **SECTION 6.1      The Debt Service Fund**

(a) There is hereby established a special fund with the Paying Agent entitled "General Obligation Refunding Warrants, Series 2013 Debt Service Fund" (herein called the "Debt Service Fund"). Money in the Debt Service Fund shall be used solely for the payment of Debt Service on the Series 2013 Warrants as the same shall become due and payable.

(b) On or before the 25th day of each November and May, beginning November, 2013, the City will deposit into the Debt Service Fund an amount equal to Debt Service payable on the Series 2013 Warrants on the next succeeding Warrant Payment Date. If on any Warrant Payment Date the balance in the Debt Service Fund is insufficient to pay the Debt Service on the Series 2013 Warrants due and payable on such date, the City shall forthwith pay any such deficiency into the Debt Service Fund.

#### **SECTION 6.2      Transfer of Funds**

The Treasurer for the City shall collect such taxes, revenues and other general funds of the City available for the payment of Debt Service on the Series 2013 Warrants and shall deposit the same in the Debt Service Fund in the amounts and at the times required by Section 6.1.

#### **SECTION 6.3      The Construction Fund**

There is hereby created a special account, the full name of which shall be the "General Obligation Warrants, Series 2013 Construction Fund." The Construction Fund shall be maintained as a separate fund until the moneys in said fund shall have been fully expended as hereinafter provided. The Paying Agent is hereby designated as the initial depository of the Construction Fund; provided, that the City may from

time to time appoint one or more additional depositories and thereafter and from time to time direct that any or all of the amounts on deposit in the Construction Fund be held by such depositories. Any such depository shall be a bank or trust company authorized to do business in the State of Alabama and which is a member of the Federal Deposit Insurance Corporation (or any successor agency of the United States of America). The City will apply the moneys in the Construction Fund solely for payment of the costs of Capital Improvements described in Section 2.1 of this Authorizing Ordinance.

Moneys may be withdrawn from the Construction Fund by check, draft or order, signed on behalf of the City by its duly authorized officers. The Depository or Depositories shall be fully protected in paying out any moneys at the time on deposit in the Construction Fund on checks, drafts or orders signed as hereinabove provided by an authorized officer of the City, and the said depository shall not be liable for the misapplication by the City of any moneys at any time forming a part of the Construction Fund if such moneys shall be so disbursed without knowledge or reason on the part of said depository to believe that such disbursement constitutes a misapplication of funds.

#### **SECTION 6.4      Security for Debt Service Fund**

Any money on deposit in the Debt Service Fund or otherwise held by the Paying Agent pursuant to this ordinance shall be impressed with a trust for the purpose for which the Debt Service Fund is created and shall, unless invested as provided herein or secured by the Federal Deposit Insurance Corporation (or any successor agency of the United States of America), be secured for the benefit of the City and the Holders of the Series 2013 Warrants either:

- (1) by holding on deposit as collateral security Federal Securities, or other marketable securities eligible as security for the deposit of public funds under regulations of the Comptroller of the Currency, having a market value (exclusive of accrued interest) not less than the amount of money being secured, or
- (2) if the furnishing of security in the manner provided in the foregoing paragraph (1) is not permitted by the then applicable laws and regulations, then in such manner as may be required or permitted by the applicable State of Alabama and Federal laws and regulations respecting the security for, or granting a preference in the case of, the deposit of public funds.

#### **SECTION 6.5      Investment of Funds**

(a) The Paying Agent shall invest or reinvest any money on deposit in the Debt Service Fund not then needed for the payment of Debt Service on the Series 2013 Warrants in Qualified Investments upon receipt of written direction from the City, acting through an Authorized City Representative. All such investments must mature or be subject to redemption at the option of the Holder on or prior to the respective date or dates when cash funds will be required for purposes of the Debt Service Fund. Any investment made with money on deposit in the Debt Service Fund shall be held by or under control of the Paying Agent and shall be deemed at all times a part of the Debt Service Fund.

(b) All interest accruing on such investments in the Debt Service Fund and any profit realized therefrom shall be deposited in the Debt Service Fund and shall be credited to the deposits required by Section 6.1. Any losses resulting from liquidation of investments shall be charged to the Debt Service Fund and shall be added to the next ensuing deposit specified in Section 6.1. The Paying Agent shall sell and reduce to cash a sufficient portion of such investments whenever the cash balance in the Debt Service Fund is insufficient to pay Debt Service on the Series 2013 Warrants when due.

(c) Any investment of money in the Debt Service Fund or Construction Fund may be made by the Paying Agent through its own bond department or investment department, and any certificates of deposit issued by the Paying Agent shall be deemed investments rather than deposits.

(d) The City may, at any time and from time to time, invest any or all moneys in the Construction Fund in Qualified Investments or in such other investments as shall at the time be permitted under the laws of the State of Alabama for city funds upon receipt of written direction from the City, acting through an Authorized City Representative. In the event of any such investment, the securities in which the investment is made shall become a part of the Construction Fund and, subject to the obligation of the City to make rebate payments as provided in Section 6.6 below, shall be held by the depository for the moneys so invested to the same extent as if they were moneys on deposit in such fund.

#### **SECTION 6.6 Covenants with Respect to Exemption of Interest from Federal Income Taxation; Non-Arbitrage Covenant**

The City acknowledges and agrees that the Series 2013 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 Series 2013 Warrants or direct the investment of moneys in any funds or accounts established or maintained with respect to the Series 2013 Warrants in such manner as to constitute any Series 2013 Warrants 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 sixty (60) days after a written request of the Paying Agent therefor, furnish to the Paying Agent and 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 Series 2013 Warrants from becoming “arbitrage bonds” under Section 148(f) of the Code;

(e) Proceeds of the Series 2013 Warrants shall not be used in any private business use, payment of the Series 2013 Warrants shall not be secured by, or derived from, property used in a private business use, and proceeds of the Series 2013 Warrants shall not be used to make or finance loans to persons other than governmental units, in any case that would cause the Series 2013 Warrants to be or become private activity bonds, as defined in Section 141 of the Code;

(f) It will not cause or permit the Series 2013 Warrants to be federally guaranteed, within the meaning of Section 149(b) of the Code;

(g) It will not in any other way cause or permit the proceeds of the Series 2013 Warrants to be used in a manner which would cause the interest on the Series 2013 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 Series 2013 Warrants to be excludable from gross income of the Holders thereof; and

(h) The City hereby designates the Warrants as “qualified tax-exempt obligations” for the purposes of paragraph (3) of subsection (b) of Section 265 of the Code. The City does hereby represent that the only public corporation eligible to issue tax-exempt obligations for whom it appoints the members of such entity’s governing body is the Helena Utilities Board. The foregoing public corporation has not issued and is not expected to issue during this calendar year any tax exempt obligations. Based on the foregoing, the City does hereby further represent that it reasonably anticipates that the amount of neither “qualified tax-exempt obligations” nor “tax-exempt obligations” which will be issued by the City or by what might be considered its “subordinate entities” under the Code during this calendar year will exceed \$10,000,000.

## **ARTICLE 7**

### **SALE AND DELIVERY OF SERIES 2013 WARRANTS**

#### **SECTION 7.1 Sale of Series 2013 Warrants**

(a) The Series 2013 Warrants are hereby authorized to be sold to Joe Jolly & Co., Inc. (the “Underwriter”), on the terms and conditions set forth herein and in the Purchase Agreement attached to and incorporated by reference in this ordinance as *Exhibit B*.

(b) The Underwriter shall be under no duty to inquire as to the application of the proceeds of the Series 2013 Warrants. Nevertheless, such proceeds shall be held and applied solely for the purposes specified in this ordinance.

#### **SECTION 7.2 Official Statement, Purchase Agreement, Continuing Disclosure Agreement, Escrow Trust Agreement and Other Documents**

(a) The governing body of the City does hereby approve and authorize the Purchase Agreement, the Continuing Disclosure Agreement, and the Official Statement in substantially the form presented at the meeting of the City Council at which this ordinance was adopted and approved. The Mayor of the City is hereby authorized and directed to complete the Official Statement with (i) information relating to the terms of sale of and interest rates on the Series 2013 Warrants as herein provided and as provided in the Purchase Agreement, (ii) such information regarding reoffering prices or yields on the Series 2013 Warrants as shall be provided by the purchaser of the Series 2013 Warrants and (iii) such changes or additions thereto or deletions therefrom as the executing officers shall approve and shall be acceptable to the purchaser of the Series 2013 Warrants. The Mayor of the City is hereby authorized and directed to date the Official Statement as of an appropriate date and to execute and deliver the Purchase Agreement, the Continuing Disclosure Agreement, and the Official Statement in the name and on behalf of the City in substantially the form presented at this meeting, with such changes or additions thereto or deletions therefrom as the officer executing the same shall approve, which approval shall be conclusively evidenced by his or her execution of such instruments.

(b) The Series 2013 Warrants shall be sold pursuant to the Purchase Agreement which has been presented to the governing body of the City and is hereby approved.

(c) The Series 2005 Warrants shall be refunded pursuant to the Escrow Trust Agreement to be entered into by the City and Escrow Trustee, the form of which has been presented to the governing body of the City and is hereby approved. In order to refund the Series 2005 Warrants, the Mayor of the City is hereby authorized and directed to execute and deliver the Escrow Trust Agreement for and in the name

and behalf of the City. The Escrow Trust Agreement shall be in such form as the Mayor of the City, acting with the advice and recommendation of the employees of and advisors to the City, shall determine to be necessary or desirable in order to consummate the transactions authorized by this ordinance, the determination of the definitive form of the Escrow Trust Agreement by the Mayor of the City to be conclusively established by his execution of the same.

(d) The Mayor of the City and any person or persons designated and authorized by either of such officers to act in the name and on behalf of the City, or any one or more of them, are authorized to do and perform or cause to be done and performed in the name and on behalf of the City such other acts, to pay or cause to be paid on behalf of the City such related costs and expenses, and to execute and deliver or cause to be executed and delivered in the name and on behalf of the City such other notices, requests, demands, directions, consents, approvals, orders, applications, certificates, agreements, further assurances or other instruments or communications, under the seal of the City or otherwise, as they or any of them may deem necessary, advisable, or appropriate in order to carry into effect the intent of the provisions of this ordinance and to demonstrate the validity of the Series 2013 Warrants, the absence of any pending or threatened litigation with respect to the Series 2013 Warrants and the transactions contemplated by this ordinance, and the exemption of interest on the Series 2013 Warrants from State of Alabama income taxation.

(e) Each act of any officer or officers of the City or any person or persons designated and authorized to act by any officer of the City, which act would have been authorized by the foregoing provisions of this ordinance except that such action was taken prior to the adoption of this ordinance, is hereby ratified, confirmed, approved and adopted.

### **SECTION 7.3 Application of Proceeds**

The proceeds from the sale of the Series 2013 Warrants shall be delivered to the Paying Agent for deposit in a clearance account and shall be applied by the Paying Agent for the following purposes and in the following order:

(a) the amount (if any) received as accrued interest on the sale of the Series 2013 Warrants shall be deposited in the Debt Service Fund;

(b) \$2,885,896.87 shall be deposited with the Escrow Trustee for deposit in the escrow fund established under the Escrow Trust Agreement to provide for the payment of the interest on the Series 2005 Warrants due on June 1, 2013 and redemption of all of the Series 2005 Warrants on December 1, 2013;

(c) \$180,000.00 shall be deposited in the Construction Fund to pay for Capital Improvements;

(d) the issuance expenses specified on the closing statement executed and delivered by an Authorized City Representative at closing shall be paid as provided in such closing statement; and

(e) the balance (if any) specified on the closing statement executed and delivered by an Authorized City Representative at closing will be deposited in a separate account held by the Paying Agent (the "Costs of Issuance Fund") and will be applied to the payment of issuance expenses in connection with the Series 2013 Warrants that are not paid pursuant to subparagraph (d) above.

Each request for payment of issuance expenses out of the Costs of Issuance Fund shall be accompanied by an invoice or invoices from the payee named (or, if the City is requesting reimbursement, from the person to whom the City made payments for the issuance expenses) showing that the amount requested to be paid is or was due and payable for the purpose requested. After an Authorized City Representative has certified to the Paying Agent that all issuance expenses have been paid, the Paying Agent shall transfer any remaining funds in the Costs of Issuance Fund to the Debt Service Fund.

#### **SECTION 7.4     Redemption of Series 2005 Warrants**

The City hereby calls for redemption on December 1, 2013, the Series 2005 Warrants maturing on and after December 1, 2013, at and for a redemption price equal to 101% of their par or face value plus accrued interest thereon to the date fixed for redemption, and the paying agent therefor is hereby authorized and directed to give notice of said redemption not more than 60 nor less than 30 days prior to said date by giving a written notice of such redemption to the holders of each of the Series 2005 Warrants at the address of such registered holder as such address appears on the registry books of the said paying agent.

### **ARTICLE 8**

#### **MISCELLANEOUS**

##### **SECTION 8.1     Agreement to Pay Attorneys' Fees**

If the City should default under any of the provisions of this ordinance and the Holder of any Series 2013 Warrants should employ attorneys or incur other expenses for the collection of any payments due hereunder or the enforcement of performance or observance of any agreement or covenant on the part of the City herein contained, the City will (to the extent legally enforceable) on demand therefor pay to such Holder the reasonable fees of such attorneys and such other expenses so incurred.

##### **SECTION 8.2     Provisions of Ordinance a Contract**

The terms, provisions and conditions set forth in this ordinance constitute a contract between the City and the Holders of the Series 2013 Warrants and shall remain in effect until the Debt Service on the Series 2013 Warrants shall have been paid in full or provision for such payment has been made in accordance with Section 5.2.

##### **SECTION 8.3     Separability Clause**

If any provision in this ordinance or in the Series 2013 Warrants shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

##### **SECTION 8.4     Governing Law**

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

##### **SECTION 8.5     Designation of Time for Performance**

Except as otherwise expressly provided herein, any reference in this ordinance to the time of day shall mean the time of day in the city of the Principal Office of the Paying Agent.

#### **SECTION 8.6 Notices to Holders of the Series 2013 Warrants; Waiver**

(a) Where this ordinance provides for notice to any Holder of a Series 2013 Warrant of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to such Holder at the address of such Holder as it appears in the Warrant Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice.

(b) In any case where notice to Holders of the Series 2013 Warrants is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders of the Series 2013 Warrants. Where this ordinance provides for notice in any manner, such notice may be waived in writing by the person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders of the Series 2013 Warrants shall be filed with the City and the Paying Agent, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

#### **SECTION 8.7 Amendment of Uses of Series 2013 Warrants Proceeds**

The City may amend or change the uses of Series 2013 Warrant proceeds contained in this ordinance, provided that: (1) the governing body of the City adopts an ordinance setting forth such amendment or change and (2) the uses, as so amended or changed, are eligible for financing with proceeds of warrants issued pursuant to the Enabling Law, and (3) such amendment or change will not cause the amount of the Series 2013 Warrants chargeable against the City's constitutional limitation on indebtedness to increase.

#### **SECTION 8.8 Inspection of Records**

The City will at any and all times, upon the request of the Paying Agent, afford and procure a reasonable opportunity for the Paying Agent by its representatives to inspect any books, records, reports and other papers of the City relating to the performance by the City of its covenants in this ordinance, and the City will furnish to the Paying Agent any and all information as the Paying Agent may reasonably request with respect to the performance by the City of its covenants in this ordinance.

#### **SECTION 8.9 Repeal of Conflicting Provisions**

All ordinances and orders or parts thereof in conflict with this ordinance are, to the extent of such conflict, hereby repealed.

#### **SECTION 8.10 Effect of Headings and Table of Contents**

The article and section headings herein and in the table of contents are for convenience only and shall not affect the construction hereof.

#### **SECTION 8.11 Remedies**

In the event that the City should default in the payment of the principal of or interest on the Series 2013 Warrants, or should fail to comply with any of the other covenants and agreements contained in this ordinance, the Holders of the Series 2013 Warrants shall be entitled to exercise all available remedies under the laws of the State of Alabama, whether in law or at equity.

## **ARTICLE 9**

### **PROVISIONS WITH RESPECT TO THE INSURER**

#### **SECTION 9.1 Applicability of Provisions With Respect to the Insurer**

As long as Assured Guaranty Municipal Corp. is the Insurer and as long as no Insurer Default exists, the provisions of this Article 9 shall be applicable to the Series 2013 Warrants. If the provisions of this Article 9 conflict with any other provision of this ordinance as relates to the Series 2013 Warrants, then the provisions of this Article 9 shall govern.

#### **SECTION 9.2 Definitions**

For purposes of this ordinance, except as otherwise expressly provided or unless the context otherwise requires:

**“Insurer Default”** shall mean any one or more of the following events:

- (a) the Insurer shall fail to pay a claim properly made under the terms of the Policy; or
- (b) the Insurer shall declare that it is not obligated to honor future claims on the Policy.

An Insurer Default shall “exist” if an Insurer Default shall have occurred and be continuing.

#### **SECTION 9.3 Control Rights**

The Insurer shall be deemed to be the sole Holder of the Series 2013 Warrants for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Series 2013 Warrants insured by it are entitled to take pursuant to the section or article of this ordinance pertaining to (i) defaults and remedies and (ii) the duties and obligations of the Paying Agent. Remedies granted to the Holders shall expressly include mandamus.

#### **SECTION 9.4 Consent and Approval Rights**

(a) If acceleration is permitted under this ordinance, the maturity of Series 2013 Warrants insured by the Insurer shall not be accelerated without the consent of the Insurer and in the event the maturity of the Series 2013 Warrants is accelerated, the Insurer may elect, in its sole discretion, to pay accelerated principal and interest accrued on such principal to the date of acceleration (to the extent unpaid by the City) and the Paying Agent shall be required to accept such amounts. Upon payment of such accelerated principal and interest accrued to the acceleration date as provided above, the Insurer's obligations under the Policy with respect to such Series 2013 Warrants shall be fully discharged.

(b) No grace period for a covenant default shall exceed 30 days or be extended for more than 60 days, without the prior written consent of the Insurer. No grace period shall be permitted for payment defaults.

(c) Upon the occurrence of an extraordinary optional, special or extraordinary mandatory redemption in part, the selection of Series 2013 Warrants to be redeemed shall be subject to the approval of the Insurer. The exercise of any provision of this ordinance which permits the purchase of Series 2013 Warrants in lieu of redemption shall require the prior written approval of the Insurer if any Series 2013 Warrant so purchased is not cancelled upon purchase.

(d) Any amendment, supplement, modification to, or waiver of, this ordinance or any other transaction document, including any underlying security agreement (each a "Related Document"), that requires the consent of Holders or adversely affects the rights and interests of the Insurer shall be subject to the prior written consent of the Insurer.

(e) The rights granted to the Insurer under this ordinance or any other Related Document to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the Holders and such action does not evidence any position of the Insurer, affirmative or negative, as to whether the consent of the Holders or any other person is required in addition to the consent of the Insurer.

#### **SECTION 9.5 Defeasance**

(a) Only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) subject to the prior written consent of the Insurer, pre-refunded municipal obligations rated "AAA" and "Aaa" by Standard & Poor's ("S&P") and Moody's Investors Service ("Moody's"), respectively, or (5) subject to the prior written consent of the Insurer, securities eligible for "AAA" defeasance under then existing criteria of S&P or any combination thereof, shall be used to effect defeasance of the Series 2013 Warrants unless the Insurer otherwise approves.

(b) To accomplish defeasance, the City shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Insurer ("Accountant") verifying the sufficiency of the escrow established to pay the Series 2013 Warrants in full on the maturity or redemption date ("Verification"), (ii) an Escrow Deposit Agreement (which shall be acceptable in form and substance to the Insurer), (iii) an opinion of nationally recognized bond counsel to the effect that the Series 2013 Warrants are no longer "Outstanding" under this ordinance, and (iv) a certificate of discharge of the Paying Agent with respect to the Series 2013 Warrants; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to the City, Paying Agent and Insurer. The Insurer shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow. Series 2013 Warrants shall be deemed "Outstanding" under this ordinance unless and until they are in fact paid and retired or the above criteria are met.

#### **SECTION 9.6 Protective Action**

Each of the City and Paying Agent covenant and agree to take such action under applicable law, if any, as is necessary from time to time to preserve the pledge of the full faith and credit of the City to the payment of debt service on the Series 2013 Warrants.

#### **SECTION 9.7 Claims Upon the Policy and Payments by and to the Insurer**

(a) If, on the third Business Day prior to the related scheduled interest payment date or principal payment date ("Payment Date") there is not on deposit with the Paying Agent, after making all transfers and deposits required under this ordinance, moneys sufficient to pay the principal of and interest on the Series 2013 Warrants due on such Payment Date, the Paying Agent shall give notice to the Insurer and to its designated agent (if any) (the "Insurer's Fiscal Agent") by telephone or telecopy of the amount

of such deficiency by 12:00 noon, New York City time, on such Business Day. If, on the second Business Day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Series 2013 Warrants due on such Payment Date, the Paying Agent shall make a claim under the Policy and give notice to the Insurer and the Insurer's Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Series 2013 Warrants and the amount required to pay principal of the Series 2013 Warrants, confirmed in writing to the Insurer and the Insurer's Fiscal Agent by 12:00 noon, New York City time, on such second Business Day by filling in the form of Notice of Claim and Certificate delivered with the Insurance Policy.

(b) The Paying Agent shall designate any portion of payment of principal on Series 2013 Warrants paid by the Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Series 2013 Warrants registered to the then current Holder, whether DTC or its nominee or otherwise, and shall issue a replacement Series 2013 Warrant to the Insurer, registered in the name of Assured Guaranty Municipal Corp., in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent's failure to so designate any payment or issue any replacement Series 2013 Warrant shall have no effect on the amount of principal or interest payable by the City on any Series 2013 Warrant or the subrogation rights of the Insurer.

(c) The Paying Agent shall keep a complete and accurate record of all funds deposited by the Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of interest on and principal of any Series 2013 Warrant. The Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Paying Agent.

(d) Upon payment of a claim under the Policy, the Paying Agent shall establish a separate special purpose trust account for the benefit of Holders referred to herein as the "Policy Payments Account" and over which the Paying Agent shall have exclusive control and sole right of withdrawal. The Paying Agent shall receive any amount paid under the Policy in trust on behalf of Holders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Paying Agent to Holders in the same manner as principal and interest payments are to be made with respect to the Series 2013 Warrants under the sections of this ordinance regarding payment of Series 2013 Warrants. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments.

(e) Notwithstanding anything herein to the contrary, the City agrees to pay to the Insurer (i) a sum equal to the total of all amounts paid by the Insurer under the Policy (the "Insurer Advances"); and (ii) interest on such Insurer Advances from the date paid by the Insurer until payment thereof in full, payable to the Insurer at the Late Payment Rate (defined below) per annum (collectively, the "Insurer Reimbursement Amounts"). "Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in The City of New York, as its prime or base lending rate (any change in such rate of interest be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Series 2013 Warrants and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. The City hereby covenants and agrees that the Insurer Reimbursement Amounts are secured by the full faith and credit of the City on a parity with debt service due on the Series 2013 Warrants.

(f) Funds held in the Policy Payments Account shall not be invested by the Paying Agent and may not be applied to satisfy any costs, expenses or liabilities of the Paying Agent. Any funds remaining in the Policy Payments Account following a Series 2013 Warrant payment date shall promptly be remitted to the Insurer.

(g) The Insurer shall, to the extent it makes any payment of principal of or interest on the Series 2013 Warrants, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Policy. Each obligation of the City to the Insurer under the Related Documents shall survive discharge or termination of such Related Documents.

(h) Amounts paid by the Insurer under the Policy shall not be deemed paid for purposes of this ordinance and the Series 2013 Warrants relating to such payments shall remain Outstanding and continue to be due and owing until paid by the City in accordance with this ordinance. This ordinance shall not be discharged unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.

(i) The City shall pay or reimburse the Insurer any and all charges, fees, costs and expenses that the Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in any Related Document, (ii) the pursuit of any remedies under this ordinance or any other Related Document or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, this ordinance or any other Related Document whether or not executed or completed, or (iv) any litigation or other dispute in connection with this ordinance or any other Related Document or the transactions contemplated thereby, other than costs resulting from the failure of the Insurer to honor its obligations under the Policy. The Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of this ordinance or any other Related Document.

(j) After payment of reasonable expenses of the Paying Agent, the application of funds realized upon default shall be applied to the payment of expenses of the City or rebate only after the payment of past due and current debt service on the Series 2013 Warrants.

(k) The Insurer shall be entitled to pay principal or interest on the Series 2013 Warrants that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the City (as such terms are defined in the Policy) and any amounts due on the Series 2013 Warrants as a result of acceleration of the maturity thereof in accordance with this ordinance, whether or not the Insurer has received a Notice of Nonpayment (as such term is defined in the Policy), or a claim upon the Policy.

#### **SECTION 9.8 Notices and Other Information**

(a) The notice address of the Insurer is:

Assured Guaranty Municipal Corp.  
31 West 52nd Street, New York, New York 10019  
Attention: Managing Director – Surveillance  
RE: Policy No. 215588-N  
Telephone: (212) 826-0100  
Telecopier: (212) 339-3556.

In each case in which notice or other communication refers to an event of default, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

(b) The Insurer shall be provided with the following information by the City or Paying Agent, as the case may be:

(i) Annual audited financial statements within 180 days after the end of the City's fiscal year (together with a certification of the City that it is not aware of any default or event of default under this ordinance), and the City's annual budget within 30 days after the approval thereof together with such other information, data or reports as the Insurer shall reasonably request from time to time;

(ii) Notice of any default known to the Paying Agent or City within five Business Days after knowledge thereof;

(iii) Prior notice of the advance refunding or redemption of any of the Series 2013 Warrants, including the principal amount, maturities and CUSIP numbers thereof;

(iv) Notice of the resignation or removal of the Paying Agent and warrant registrar and the appointment of, and acceptance of duties by, any successor thereto;

(v) Notice of the commencement of any proceeding by or against the City commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding");

(vi) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Series 2013 Warrants;

(vii) A full original transcript of all proceedings relating to the execution of any amendment, supplement, or waiver to the Related Documents; and

(viii) All reports, notices and correspondence to be delivered to Holders under the terms of the Related Documents.

In addition, to the extent that the City has entered into a continuing disclosure agreement, covenant or undertaking with respect to the Series 2013 Warrants, all information furnished pursuant to such agreements shall also be provided to the Insurer, simultaneously with the furnishing of such information.

(c) The Insurer shall have the right to receive such additional information as it may reasonably request.

(d) The City will permit the Insurer to discuss the affairs, finances and accounts of the City or any information the Insurer may reasonably request regarding the security for the Series 2013 Warrants with appropriate officers of the City and will use commercially reasonable efforts to enable the Insurer to have access to the facilities, books and records of the City on any business day upon reasonable prior notice.

(e) The City shall notify the Insurer of any failure of the City to provide notices, certificates and other information under the transaction documents.

### **SECTION 9.9     Paying Agent**

In determining whether any amendment, consent, waiver or other action to be taken, or any failure to take action, under this ordinance would adversely affect the security for the Series 2013 Warrants or the rights of the Holders, the Paying Agent shall consider the effect of any such amendment, consent, waiver, action or inaction as if there were no Policy.

### **SECTION 9.10   Contracts and Swap Agreements**

(a)     No contract shall be entered into or any action taken by which the rights of the Insurer or security for or sources of payment of the Series 2013 Warrants may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Insurer.

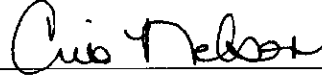
(b)     So long as any Series 2013 Warrants remain outstanding or any amounts are owed to AGM by the City, the City shall not enter into any interest rate exchange agreement, cap, collar, floor, ceiling or other agreement or instrument involving reciprocal payment obligations between the City and a counterparty based on interest rates applied to the notional amount of principal, without the prior written consent of AGM.

### **SECTION 9.11   Benefits of Ordinance for Insurer**

This ordinance shall also be for the benefit and security of the Insurer, and the Insurer shall have legal or equitable rights, remedies and claims to the extent provided herein.

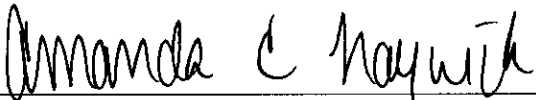
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**ADOPTED AND APPROVED** this the 6<sup>th</sup> day of May, 2013.



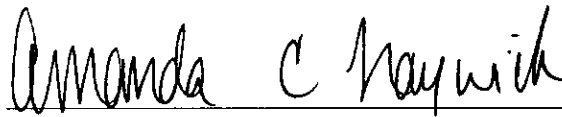
Cris Nelson  
President - City Council of the City of Helena

**ATTEST:**



Amanda C. Traywick  
City Clerk

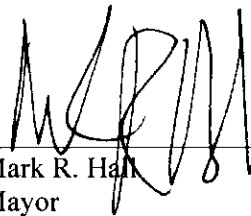
**TRANSMITTED TO MAYOR** this the 6<sup>th</sup> day of May, 2013.



Amanda C. Traywick  
City Clerk

**ACTION BY MAYOR**

**APPROVED** this the 6<sup>th</sup> day of May, 2013.



Mark R. Hall  
Mayor

**ATTEST:**



Amanda C. Traywick  
City Clerk

**EXHIBIT A**

**BLANKET LETTER OF REPRESENTATIONS**

The Blanket Letter of Representations is on file with The Depository Trust Company.

**EXHIBIT B**  
**WARRANT PURCHASE AGREEMENT**



**JOE JOLLY & CO., INC. MUNICIPAL SECURITIES**  
P.O. BOX 8 ♦ BIRMINGHAM, ALABAMA 35201-0008  
(205) 252-2105 ♦ (800) 826-1378 ♦ Fax: (205) 251-3446

Mayor and City Council  
City of Helena  
Helena, Alabama

Ladies and Gentlemen:

You have advised us that you wish to advance refund \$2,745,000 General Obligation Warrants, Series 2005. Therefore, so that the needed funds will be available, we do hereby agree to purchase from you and you agree to sell to us \$3,115,000 General Obligation Warrants, Series 2013, to be dated May 1, 2013. Our purchase of the Warrants is subject to the following terms and conditions:

1. The Warrants shall be book entry securities in the denomination of \$5,000 with interest payable semiannually each December 1 and June 1 with the first interest due December 1, 2013.
2. The Warrants shall mature on December 1 in principal amount and bear interest as follows:

| <b>Maturity</b> | <b>Principal</b> | <b>Interest</b> | <b>Maturity</b> | <b>Principal</b> | <b>Interest</b> |
|-----------------|------------------|-----------------|-----------------|------------------|-----------------|
| 2013            | \$ 30,000        | 2.00%           | 2025            | \$135,000        | 2.60%           |
| 2014            | 110,000          | 2.00%           | 2026            | 140,000          | 2.70%           |
| 2015            | 110,000          | 2.00%           | 2027            | 145,000          | 2.85%           |
| 2016            | 115,000          | 2.00%           | 2028            | 150,000          | 2.95%           |
| 2017            | 115,000          | 2.00%           | 2039            | 155,000          | 3.00%           |
| 2018            | 120,000          | 2.00%           | 2030            | 160,000          | 3.05%           |
| 2019            | 120,000          | 2.00%           | 2031            | 165,000          | 3.10%           |
| 2020            | 125,000          | 2.00%           | 2032            | 170,000          | 3.20%           |
| 2021            | 125,000          | 1.75%           | 2033            | 170,000          | 3.25%           |
| 2022            | 130,000          | 2.00%           | 2034            | 180,000          | 3.30%           |
| 2023            | 130,000          | 2.25%           | 2035            | 180,000          | 3.35%           |
| 2024            | 135,000          | 2.40%           |                 |                  |                 |

3. The Warrants shall be callable, at your option, on December 1, 2020 or any day thereafter, at par value plus accrued interest.

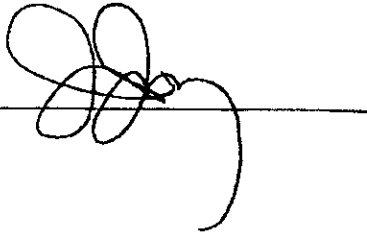
4. The Warrants shall be general obligations of the City for the payment of which the full faith, credit and taxing powers of the City are irrevocably pledged.
5. The purchase price of the Warrants shall be \$3,057,607.10 which includes net original issue discount of \$10,667.90 and underwriting discount of \$46,725.00; accrued interest on the Warrants from May 1, 2013 to date of closing shall also be paid to you.
6. The paying agent for the Warrants shall be Regions Bank, Birmingham, AL.
7. The commitment of Assured Guaranty to issue a municipal bond insurance policy relating to the Warrants shall be effective as of the date of issuance of the Warrants.
8. Our obligation to take up and pay for the Warrants shall be subject to our receipt at closing of the unqualified opinion of Spain & Gillon, LLC, Bond Attorneys, that the Warrants are exempt from Federal and State of Alabama income taxes and are legal and binding obligations of the City. The Warrants shall be qualified tax-exempt obligations for purposes of paragraph (3) of subsection (b) of Section 265 of the Internal Revenue Code of 1986.
9. The confirmation of an investment rating of AA-/A- by Standard and Poor's shall be effective as of the date of issuance of the Warrants.
10. The City agrees to pay the expenses of obtaining issuance of the Warrants including the legal opinion of said bond attorneys, printing of the Official Statements, bank acceptance fee, insurance premium, rating fee, Cusip, DTC, MSRB fees, and other miscellaneous expenses, if any. Monies are funded in the warrant issue to pay these costs.
11. The Warrants shall be delivered to us within thirty (30) days from this date and, if not delivered to us at that time, we shall have the option of purchase of the Warrants for an additional thirty (30) days thereafter.
12. The City has previously provided us with a copy of its Preliminary Official Statement. As of its date, the Preliminary Official Statement was "deemed final" by the City for purposes of SEC Rule 15c-2-12(b)(1). The City agrees to furnish to us copies of a Final Official Statement not later than seven (7) business days after the date hereof. The City, also, agrees to provide sufficient quantities of the Final Official Statement to us so that we can comply with applicable MSRB Rules and to meet potential customers' requests for copies of the Final Official Statement.
13. We shall have the right to cancel our obligation to purchase the Warrants hereunder by notifying you in writing or by telegram of our election to do so between the date

hereof and the date of closing if on or after the date hereof and prior to the closing: a.) trading shall be suspended, or new or additional trading or loan restrictions shall be imposed by the New York Stock Exchange or other national securities exchange or governmental authority with respect to obligations of the general character of the Warrants or a general banking moratorium shall be declared by either Federal, Alabama or New York authorities, or there shall have occurred any outbreak of hostilities or other national or international calamity or crisis or a financial crisis, the effect of such outbreak, calamity or crisis on the financial markets of the United States being such as, in our opinion, would affect materially and adversely our ability to market the Warrants or to enforce contracts for the sale of the Warrants. b.) there shall have occurred any material adverse change in the affairs of the City or any event shall have occurred or shall exist which, in our opinion, either (i) makes untrue or incorrect in any material respect any statement or information contained in the Official Statement, or (ii) is not reflected in the Official Statement and should be reflected therein in order to make the statements and information contained therein not misleading in any material respect.

Your approval and acceptance of this offer, as evidenced by your execution below, shall cause this to constitute a contract for the sale by you and the purchase by us of the herein described Warrants, subject to and in accordance with the terms and conditions herein outlined and established.

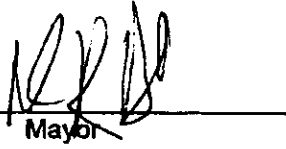
Respectfully submitted,

JOE JOLLY & CO., INC.

BY: 

Accepted this the 16<sup>th</sup> day of April, 2013.

CITY OF HELENA

BY:   
Mayor