

**AN ORDINANCE
AUTHORIZING THE ISSUANCE OF ONE
LIMITED OBLIGATION SALES TAX AND TRANSPORTATION FEE WARRANT
SERIES 2024
DATED ITS DATE OF ISSUANCE
AND APPROVING A
SECOND AMENDMENT TO PROJECT DEVELOPMENT AGREEMENT

ORDINANCE 997-2024**

BE IT ORDAINED by the Mayor and City Council (herein together called the "Council") of the **CITY OF HELENA, ALABAMA** (herein called the "City") as follows:

Section 1. Findings. The Council has found and ascertained and does hereby declare as follows:

(a) since 2007, the City has been working with United States Steel Corporation (herein called the "Company") on a large scale development to contain, among other things, various retail and other commercial facilities (herein called the "Project"), all to be located on various parcels of land aggregating approximately 2,000 acres located near and/or adjacent to Shelby County Highways 52, 91 and 17 within the City and more particularly set forth on Exhibit A hereto (herein called the "Project Site"); and

(b) pursuant to the terms of a Grant Agreement heretofore entered between the City and the Company, the City agreed to provide certain financial incentives and to take certain other actions to encourage the Company to participate in the development of the Project by providing funding in the form of a grant to enable the Company to construct an approximately 2.5 mile roadway (herein called "Hillsboro Parkway") to connect Shelby County Highways 52, 91, and 17 and thereby promote and facilitate the development of the Project in the City;

(c) pursuant to Ordinance No. 718-07, adopted at a May 28, 2007 public meeting of the Council (herein called the "2007 Ordinance"), the Council determined that it was in the best interests of the City and its inhabitants for the City to agree to remit and pay the Company the sum of \$9,900,000 to finance the costs of the construction of Hillsboro Parkway and for other related purposes;

(d) as evidence of the obligation of the City to remit and pay the said \$9,900,000 to the Company, the City issued and delivered, to the Company, pursuant to the 2007 Ordinance a Limited Obligation Sales Tax and Transportation Fee Warrant, in the principal amount of \$9,900,000 (herein called the "2007 Warrant");

(e) the 2007 Warrant was issued as a limited obligation of the City, bearing interest at a per annum rate of six percent, secured by and payable solely from (1) a portion of the revenues received by the City from the existing

transportation fee on housing to be developed on the Project Site (once those fees are no longer necessary for planning, constructing, or securing funding for the Alabama State Route 261 Bypass) and a portion of the revenues received by the City from an additional transportation fee to be implemented in the amount of \$1,000 per unit (single family) and \$200 per unit (multifamily) on housing to be developed on the Project Site (herein called "Transportation Fees"), and (2) a portion of the sales and use tax revenues received by the City from or as a result of business conducted or located on the Project Site for a period of twenty-five (25) years from the date of issuance of the 2007 Warrant; and

(f) the City and the Company subsequently determined, among other things, for the Company to transfer and sell certain real property to the City, and to undertake various other actions and agreements, and in connection therewith the City issued and delivered to the Company, pursuant to the authority under Ordinance No. 809-11, adopted at a September 20, 2011 public meeting of the Council, a Limited Obligation Sales Tax and Transportation Fee Warrant, Series 2012 (herein called the "2012 Warrant"), in the principal amount of \$13,000,000, bearing interest at a per annum rate of 5.75%, and payable from and secured solely by a pledge of a portion of the Transportation Fees and a portion of the sales and use tax revenues (excluding any revenues collected from the one percent sales tax levied by the City for public school purposes) received by the City from or as a result of business conducted or located on the Project Site; the parties having calculated the initial principal amount of the 2012 Warrant to equal the principal amount of the 2007 Warrant plus the sum of all interest that accrued but had not been paid thereunder (the City having paid no principal or interest under the 2007 Warrant); and

(g) the City and the Company have entered that certain Project Development Agreement dated July 20, 2022 (herein called the "2022 Development Agreement"), as amended by a First Amendment to Project Development Agreement dated December 1, 2023, and as further amended by the Second Amendment to Project Development Agreement herein authorized (collectively herein called the ("Development Agreement")), under and pursuant to which the Company has agreed to convey various parcels of real property to the City for the development of a new city hall and for development of a major public park facility in exchange for, among other things, the issuance by the City of a Limited Obligation Sales Tax and Transportation Fee Warrant, Series 2024, in the approximate principal amount of \$25,672,014.32, bearing interest at a per annum rate of 5.75%, and payable from and secured solely by a pledge of (1) 60% of the Transportation Fees revenues, and (2) 60% of the sales and use tax revenues resulting from the levy by the City of its three percent (3.0%) sales and use tax (herein called the "Non-Educational Sales and Use Tax") received by the City from or as a result of business conducted or located on the Project Site, and having a term of thirty (30) years from its date of issuance, all as more particularly described and set forth herein (herein called the "2024 Warrant"); the parties having calculated the initial principal amount of the 2024 Warrant to equal the principal amount of the 2012 Warrant, (1) plus the sum of

all interest that accrued but had not been paid under the 2012 Warrant (the City having paid no principal or interest under the 2012 Warrant), (2) plus the sum of \$480,000, representing the purchase price for additional land to be conveyed by the Company to the City as described in the Second Amendment to Project Development Agreement), (3) less the sum of \$1,250,000;

(h) the City has determined to authorize the issuance of the 2024 Warrant and the execution and delivery of the Second Amendment to Project Development Agreement, all as more particularly described and set forth herein;

(i) the City hereby declares its official intent to reimburse prior expenditures relating to the above-referenced purposes with proceeds from the issuance of the 2024 Warrant pursuant to Treasury Regulation Section 1.150-2 as available; and

(j) the agreement of the City to issue and deliver the 2024 Warrant and execute and deliver the Second Amendment to Development Agreement is hereby determined by the City to be in the public interest and, further, is being made under and in furtherance of any power and authority authorized by Amendment 772 to the Constitution of Alabama of 1901, as amended (recodified as Section 94.01 of the Constitution of Alabama 2022) (herein called "Amendment 772"), and the City has determined that the expenditure of public funds under and pursuant to the 2024 Warrant will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

Section 2. Authorization of the 2024 Warrant. Pursuant to the provisions of the constitution and laws of the State of Alabama, including particularly Section 11-47-2 of Code of Alabama 1975, as amended, and Amendment 772, and in order to refund and retire the 2012 Warrant (including all accrued but unpaid interest thereon to the date of the issuance and delivery of the 2024 Warrant), and to pay other costs as required under the Development Agreement, there is hereby authorized to be issued, on or after September 1, 2024, by the City its Limited Obligation Sales Tax and Transportation Fee Warrant, Series 2024 (herein called the "2024 Warrant"), in the approximate principal amount of \$25,672,014.32. The 2024 Warrant shall be dated the date of its issuance, shall be issued in fully registered form, and shall mature and be payable thirty (30) years after the date of its issuance (herein called the "Maturity Date"). The 2024 Warrant shall bear interest from its date of issuance until maturity unless sooner paid at the rate of five and 75/100 percent (5.75%) per annum. Such accrued interest shall be compounded quarterly and payable on each January 1, April 1, July 1, and October 1. All unpaid principal shall become due on the Maturity Date, but principal shall be prepaid as herein provided.

Section 3. Source of Payment of 2024 Warrant. The indebtedness evidenced and ordered paid by the 2024 Warrant is and shall be a limited obligation of the City payable solely from (1) 60% of the collections by the City of Transportation Fees revenues, and (2) 60% of the collections by the City of the Non-Educational Sales and Use Tax revenues received by the City from or as a result of business conducted or located on the Project Site (collectively

herein called the "Pledged Revenues"), all during the period beginning on the date of the issuance of the 2024 Warrant and ending thirty (30) years thereafter (or such earlier date when the principal of and the interest on 2024 Warrant shall be fully paid). Pledged Revenues received by the City shall be deposited into the Warrant Fund described in Section 5 hereof, in order to provide for payment of the principal of and interest on the 2024 Warrant when due.

Section 4. General Faith and Credit Not Pledged for 2024 Warrant. The general faith and credit of the City are not pledged for payment of the 2024 Warrant. The 2024 Warrant shall not be a general obligation of the City but shall be payable solely out of Pledged Revenues on deposit in the Warrant Fund. Neither this ordinance nor the 2024 Warrant issued hereunder shall be deemed to impose upon the City any obligation to pay the principal of or interest on the 2024 Warrant, except with the moneys herein directed to be paid into the Warrant Fund. The 2024 Warrant and any payments required by this ordinance shall never constitute an indebtedness of the City within the meaning of any constitutional provision or statutory limitation whatsoever, except, as may be provided in Amendment 772. None of the agreements, representations, or warranties made or implied in this ordinance with respect to the 2024 Warrant, or in the issuance of the 2024 Warrant, shall ever impose any pecuniary liability upon the City, except with respect to the moneys herein directed to be paid into the Warrant Fund. Nothing herein contained, however, shall be construed to relieve the City from the performance of any of its agreements herein contained or to relieve any of the officials of the City of any of their official cities.

Section 5. Warrant Fund for 2024 Warrant. Pursuant to the 2007 Ordinance, there was created a special fund designated the "City of Helena Project Sales Tax and Transportation Fee Warrant Fund" (herein called the "Warrant Fund"), which shall be held by the City and maintained until the principal of and interest on the 2024 Warrant shall have been paid in full or until, the Maturity Date, whichever is the first to occur. The City will deposit or cause to be deposited into the Warrant Fund the Pledged Revenues (i.e., 60% of the collections by the City of Transportation Fees revenues, and (2) 60% of the collections by the City of the Non-Educational Sales and Use Tax revenues received by the City from or as a result of business conducted or located on the Project Site) when and as received by the City. The City shall withdraw funds from the Warrant Fund to pay the principal of and interest on the 2024 Warrant as the same shall become due and payable.

Section 6. Mandatory Redemption and Prepayment of the 2024 Warrant. The 2024 Warrant will be subject to mandatory redemption and prepayment on each January 1, April 1, July 1, and October 1, to the extent of any moneys accumulated (after providing for payment of accrued interest on the 2024 Warrant) as of the last business day prior to each such January 1, April 1, July 1, and October 1 in the Warrant Fund, at a redemption price equal to the principal amount of the 2024 Warrant (plus accrued but unpaid interest) called for redemption and prepayment. On the last business day of each March, June, September, and December until the principal of and interest on the 2024 Warrant shall have been paid in full or until the Maturity Date; whichever is the first to occur, the Treasurer of the City will determine the amount in the Warrant Fund, and if such amount is sufficient to effect the redemption of at least \$1.00 in principal amount of the 2024 Warrant, the Treasurer of the City will so notify the Company, whereupon the Treasurer of the City will take such action as may be necessary under the

provisions hereof to exhaust, as nearly, as may be practicable, the moneys held in the Warrant Fund to redeem principal amounts. The Treasurer of the City shall call for redemption an amount of principal under the 2024 Warrant, equal to the amount available in the Warrant Fund for redemption on the next succeeding January 1, April 1, July 1, or October 1. The moneys in the Warrant Fund shall be used solely for payment of the principal of and interest on the 2024 Warrant, and when the 2024 Warrant has been retired and no principal shall be outstanding with respect thereto, any moneys then remaining on deposit in the Warrant Fund shall be returned to the City. Any moneys remaining in the Warrant Fund on the Maturity Date shall be applied to retire any outstanding principal. After such application of all funds in the Warrant Fund on the Maturity Date, the 2024 Warrant shall be deemed paid, and the City's indebtedness to the Company (and to, any assignee of the Company) evidenced by 2024 Warrant will be released and extinguished.

Section 7. Prepayment Privilege. The City reserves and shall have the privilege of prepaying all or any part of the principal of the 2024 Warrant at any time and from time to time; without penalty or premium and without any prior notice.

Section 8. Payment of the 2024 Warrant. Interest on the 2024 Warrant shall be paid by check or draft mailed or otherwise delivered by the City to the Company or its assigns. Such payments 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) upon which such interest shall be due and payable. The principal of the 2024 Warrant shall be payable at the office of the Treasurer of the City, City Hall, Helena, Alabama, upon presentation and surrender of the 2024 Warrant as the same becomes due. In case the 2024 Warrant is called for partial redemption, the redemption price of the principal thereof so called for redemption shall be payable at the office of the Treasurer of the City (a) upon presentation and surrender of the 2024 Warrant, in exchange for another 2024 Warrant of the same series and tenor and having an aggregate principal amount equal to the unredeemed portion of the principal of the 2024 Warrant so surrendered, or (b) upon presentation of the 2024 Warrant for an appropriate endorsement by the Treasurer of the City of such partial redemption on the 2024 Warrant or on any record of partial redemptions appertaining thereto, and constituting a part thereof. The preceding two sentences of this paragraph notwithstanding, the redemption price of any partial redemption of the principal of the 2024 Warrant may be paid to the person, corporation,, limited liability company, partnership, trust, or other legal entity in whose name the 2024 Warrant is registered on the registry books of the Treasurer of the City pertaining to, the 2024 Warrant (herein called the "Holder") pursuant to a Home Office Payment Agreement. Any provision hereof to the contrary notwithstanding, the Treasurer of the City will, at the request of the Holder of the 2024 Warrant, enter into a Home Office Payment Agreement with, such Holder, providing for the payment of the redemption price of any partial redemption of the principal of the 2024 Warrant at a place and in a manner other than as otherwise provided in this section or in the 2024 Warrant, but any such agreement shall be subject to the following conditions:

- (a) The terms and conditions of such agreement shall be satisfactory to the Treasurer of the City and the Holder of the 2024 Warrant;

(b) The final payment of the principal of the 2024 Warrant shall be made only upon the surrender thereof to the Treasurer of the City;

(c) If such agreement provides for the partial redemption of the principal of the 2024 Warrant without the surrender thereof in exchange for another 2024 Warrant in a principal amount equal to the unredeemed portion of the 2024 Warrant, then such agreement

(i) shall provide that the Holder of the 2024 Warrant will not sell, pledge, transfer, or otherwise dispose of the same unless prior to the delivery thereof it shall surrender the same to the Treasurer of the City in exchange for another 2024 Warrant in a principal amount equal to the unpaid principal of the 2024 Warrant, and

(ii) shall provide (A) that, to the extent of the payment to the Holder of the 2024 Warrant of the redemption price of any portion thereof called for redemption, the City shall be released from liability with respect to the 2024 Warrant, and (B) that such Holder will indemnify and hold harmless the City against any, liability arising from the failure of such Holder to surrender the 2024 Warrant, to the Treasurer of the City as required by the preceding clause (i).

Section 9. Form of 2024 Warrant. The 2024 Warrant shall be in substantially the following form, with appropriate insertions, omissions and other changes to comply with the provisions hereof and to reflect the appropriate date and principal amount:

UNITED STATES OF AMERICA

STATE OF ALABAMA

CITY OF HELENA, ALABAMA

LIMITED OBLIGATION SALES TAX AND
TRANSPORTATION FEE WARRANT
SERIES 2024

The CITY OF HELENA, a municipal corporation in the State of Alabama (herein called the "City"), for value received, hereby acknowledges itself indebted to and orders and directs the City Treasurer of the City to pay to UNITED STATES STEEL CORPORATION, or registered assigns, upon presentation and surrender hereof, the principal sum of

_____ DOLLARS [not to exceed \$_____]

(or such lesser, portion thereof then unpaid) on the ____ day of _____, 20____ [date thirty years after date of issuance of warrant] (unless the principal of this warrant shall have been duly called for previous redemption and payment duly provided for). The principal of and interest on this warrant shall be payable in lawful money of the United States of America. This warrant shall bear interest from its date of issuance until maturity unless sooner paid at the rate of five and 75/100 percent (5.75%) per annum. Such accrued interest shall be compounded quarterly and payable on each January 1, April 1, July 1, and October 1.

This warrant is authorized to be issued pursuant to the applicable provisions of the constitution and laws of the State of Alabama, including particularly Amendment No. 772 to the Constitution of Alabama of 1901, recodified as Section 94.01 of the Constitution of Alabama 2022 (herein called "Amendment 772"), and Section 11-47-2 of the Code of Alabama 1975, as amended, as well as an ordinance duly adopted by the governing body of the City, on August 12, 2024 (herein called the "Ordinance"), for purposes for which the City is authorized by law to borrow money and to issue warrants. It is herein recited that this warrant is issued pursuant to Amendment 772, and that it is being issued to provide funds to be used in furtherance of the powers authorized under Amendment 772.

All capitalized terms not otherwise defined herein shall have the meaning assigned to such terms in the Ordinance.

The indebtedness evidenced and ordered paid by this warrant is a limited obligation of the City payable, solely from the Pledged Revenues, as such term is defined in the Ordinance, during the period beginning on the date of the issuance of this warrant and ending thirty years thereafter (or such earlier date when the principal of and the interest on this warrant shall, be fully paid).

The City created a special fund (herein called the "Warrant Fund"), into which, the City will deposit Pledged Revenues when and as received by the City. The City shall withdraw funds from the Warrant Fund to pay the principal of and interest on this warrant as the same shall become due and payable.

The City reserves the privilege of prepaying all or any part of the principal of this warrant at any time and from time to time, without premium or penalty, and without notice.

This warrant is subject to mandatory redemption and repayment on each January 1, April 1, July 1, and October 1, to the extent of any moneys accumulated in the Warrant Fund (after providing for payment of accrued interest on this warrant) as of the last business day prior to each such January 1, April 1, July 1, and October 1 in the Warrant Fund, at a redemption price equal to the principal amount of this warrant (plus accrued but unpaid interest) called for redemption and prepayment.

The principal of and interest on this warrant will be paid only to the named payee hereof or its registered assigns at the address of the said payee as shown on the books of the City maintained for that purpose by its undersigned registrar.

It is hereby certified that all conditions, actions and things required by. the constitution and laws of Alabama to exist, be performed or happen precedent to or in the issuance of this warrant do exist, have been performed and have happened in due and legal form.

IN WITNESS WHEREOF, the City has caused this warrant to be executed in its name and behalf by its Mayor, who has caused its official seal to be .hereunto affixed, has, caused this warrant to be attested by its City Clerk, both of said officers being hereunto duly authorized, and has caused this warrant to be dated_____, 20__.

CITY OF HELENA, ALABAMA

Mayor

[SEAL]

City Clerk

Certificate of Registration

This warrant was registered in the name of the above-registered owner this ____ day of _____, 20__.

City Treasurer

Form of Assignment

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

Dated this _____ day of _____, _____.

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

Section 10 Execution of the 2024 Warrant. The 2024 Warrant shall be executed on behalf of the City by its Mayor, who shall affix the official seal of the City to the 2024 Warrant, and the 2024 Warrant shall be attested by the City Clerk of the City. Said officers are hereby authorized and directed so to execute, seal and attest the 2024 Warrant.

Section 11. Registration of 2024 Warrant. A registration certificate, in substantially the form hereinabove recited, duly executed by the manual signature of the City Clerk as registrar, shall be endorsed on the 2024 Warrant and shall be essential to its validity. The 2024 Warrant shall be registered as to principal, and shall be transferable only on the revisory books of the City. The City Clerk shall be the registrar and transfer agent of the City and shall keep at the City's office proper registry and transfer books in which it will note the registration and transfer of the 2024 Warrant as it is presented for such purpose.

Section 12. Authorization of Second Amendment to Project Development Agreement. The Council does hereby authorize and approved, and does hereby direct the Mayor to sign and deliver, by and on behalf of the City, a Second Amendment to Project Development Agreement between the City and the Company, the form of which is attached as Exhibit B hereto and is incorporated herein by reference, with such changes thereto as shall be approved by the Mayor, acting by and on behalf of the City, and the Company (herein called the "Second Amendment to Project Development Agreement").

Section 13. General Authorization. The Mayor of the City, the City Clerk, the City Treasurer, and all other officers of the City and of the Council are hereby authorized and directed to execute, deliver, seal and attest such other agreements, undertakings, documents, and certificates, including specifically, a Tax Certificate and Agreement if necessary, and to take such other actions on behalf of the City as may be necessary to consummate the issuance and sale of the 2024 Warrant and to carry out fully the transactions contemplated by this ordinance.

Section 14. Provisions Constitute Contract. The provisions of this ordinance shall constitute a contract between the City and the holder of the 2024 Warrant.

Section 15. Provisions of Ordinance Severable. The various provisions of this ordinance are hereby declared to be severable. In the event any provision hereof shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or enforceability of any other portion of this ordinance.

FIRST READING by the City Council of the City of Helena, Alabama, on the 12th day of August 2024. **ADOPTED AND APPROVED** by the City Council of the City of Helena, Alabama, this 26th day of August, 2024.

City Council President

ATTEST:

City Clerk

Approved:

Mayor

DRAFT

Exhibit A
Project Site Description

Exhibit B
Form of Second Amendment
to Project Development Agreement