

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE, DELIVERY AND PAYMENT OF THE CITY'S \$9,800,000 PRINCIPAL AMOUNT GENERAL OBLIGATION WARRANT, SERIES 2019-B, TO BE DATED THE DATE OF DELIVERY, TO BANCORPSOUTH

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA AS FOLLOWS:

Section 1. Findings and Representations.

The City of Gulf Shores (the "City") by and through the City Council, its governing body, does hereby find and determine and represent and warrant as follows:

(a) The City has found and determined that it is in the best public and financial interest of the City to acquire a tax-exempt revolving line of credit, the proceeds of which will be used for capital public and municipal purposes within the City.

(b) The obligation will be evidenced by a General Obligation Warrant, Series 2019-B, to be dated the date of delivery (the "Warrant"), which will be executed and delivered to BancorpSouth (the "Bank") on or about January 31, 2019.

(c) The net assessed valuation of taxable property in the corporate limits of the City, as assessed for municipal taxation and on which taxes were due and payable on October 1, 2018, including motor vehicles, is not less than \$695,505,796, and the total indebtedness of the City following the issuance of the Warrant chargeable against the debt limitation for the City prescribed by the Constitution of Alabama of 1901, as amended, will not be more than twenty percent of said assessed valuation.

Section 2. Authorization and Description of Warrant; Payments of Warrant.

(a) The City shall borrow an aggregate amount not exceeding \$9,800,000 in such amounts and at such times as shall be necessary for the purposes set forth in Section 1 hereof, and the City shall issue the aforesaid Warrant therefor to the Bank, to evidence a revolving line of credit extended thereby to the City for such purposes.

(b) The Warrant shall (1) be dated the date of initial delivery and payment, (2) bear interest at the fixed per annum interest rate of 4.54%, (3) be payable in quarterly installments of interest only with the principal due at maturity on January 31, 2024, (4) be subject to redemption prior to maturity at any time, without premium or penalty, and (5) be registered and transferred, all as provided therefor in the form of the Warrant in Section 4 herein.

(c) The principal of and interest on the Warrant shall be payable in lawful money of the United States of America, at the designated office of the registered owner thereof at par and without discount, exchange or deduction or charge therefor.

Section 3. Authorization of Advances and Payments.

The Mayor and the Director of Finance and Administration are authorized and directed to request advances under the Warrant at such times and in such amounts as directed by the Council in order to carry out the purposes of this Ordinance.

Section 4. Form of Warrant.

The Warrant shall be in substantially the following form:

**UNITED STATES OF AMERICA
STATE OF ALABAMA
CITY OF GULF SHORES
GENERAL OBLIGATION WARRANT
SERIES 2019-B**

No. R-1

\$9,800,000

THE CITY OF GULF SHORES, a municipal corporation organized and existing under and by virtue of the laws of the State of Alabama (the "City"), for value received, hereby acknowledges itself indebted to and does hereby order and direct the Finance and Administration Director of the City to pay, solely out of the special warrant fund hereinafter described, to BancorpSouth (herein called the "Payee"), its successors and assigns, the principal sum of

**NINE MILLION EIGHT HUNDRED THOUSAND DOLLARS
(\$9,800,000)**

or so much thereof as may be advanced or paid and re-advanced hereunder, as hereinafter provided, and to pay solely from said warrant fund interest on the unpaid balance of said principal amount advanced and outstanding hereunder from time to time, from the date advanced until payment in full, at a fixed per annum rate of interest equal to 4.54% (computed on the basis of the actual number of days elapsed over a 360-day year), said principal and interest being payable as follows:

(a) On July 31, 2019 and on the last business day of each January, April, July, and October thereafter, through and including January 31, 2024, the interest accrued on the outstanding principal balance of this Warrant to each such date of payment; and

(b) On January 31, 2024, the entire outstanding principal balance of this Warrant plus all accrued interest thereon.

Payment of the principal hereof and interest hereon shall be made at the office of the Payee or at such other place as shall be designated to the City in writing by the Payee, provided the final payment of principal of and interest on this Warrant shall be made only upon presentation and surrender of this Warrant to the City for cancellation.

The City may, on any date, pay in advance the entire unpaid principal balance of this Warrant or any lesser portion or portions thereof by paying to the Payee the principal amount to be prepaid, plus interest accrued on such principal amount to the date of such prepayment, without premium or penalty.

This Warrant is a master Warrant under a revolving line of credit extended by the Payee to the City, and it is contemplated that the proceeds of the loan evidenced hereby will be advanced, or paid and re-advanced, by the Payee to the City in installments, as requested by the City (as to amount and date), and it is further contemplated that by reason of prepayments hereon there may be times when no indebtedness is owing hereunder; notwithstanding any such occurrence, this Warrant shall remain valid and shall be in full force and effect as to each principal advance made hereunder subsequent to each such occurrence. Each principal advance and each payment made on this Warrant shall be reflected by the notations made by the Payee on its internal records (which may be kept by computer or by other means determined by the Payee) and the Payee is hereby authorized so to record thereon all such principal advances and payments. The aggregate unpaid principal amount of this Warrant reflected on the internal records of the Payee (whether by computer or otherwise) shall be rebuttably presumptive evidence of the principal amount of this Warrant outstanding and unpaid. No failure of the Payee so to record any advance or payment shall limit or otherwise affect the obligation of the City hereunder with respect to any advance, and no payment of the principal by the City shall be affected by the failure of the Payee so to record the same.

Section 5. Execution of the Warrant.

The Warrant shall be manually executed in the name and on behalf of the City by the Mayor and shall be manually attested by the City Clerk/Treasurer of the City, and the official seal of the City shall be manually imprinted thereon. The Registration Certificate shall be executed by the Director of Finance and Administration. The Registration of Ownership of the Warrant shall be executed by the City Clerk/Treasurer of the City who shall make the endorsements provided at the time of any transfer. Said officers are hereby directed to so execute, attest and register the Warrant and to make the appropriate endorsements and notations, if any, thereon.

Section 6. General Obligation; Warrant Fund.

(a) The Warrant and the interest thereon shall constitute a general obligation debt of the City. The Warrant is an obligation of the City to which the general faith and credit of the City is pledged.

(b) To secure the payment of the principal of and interest on the Warrant and to secure for the benefit of the registered owner of the Warrant the faithful performance of all of the covenants and provisions contained herein, in the manner and to the extent so provided, the City (1) does hereby pledge unto the registered owner of the Warrant and its registered assigns the full faith and credit of the City, (2) does hereby create and establish a special fund designated the "Series 2019-B General Obligation Warrant Fund" (the "Warrant Fund"), which shall be held by the Bank, as custodian and paying agent of the Warrant and (3) does hereby covenant and agree to pay or cause to be paid into the Warrant Fund a sufficient amount of the revenues and taxes of the City.

(c) The City further covenants and agrees to collect or cause to be collected all taxes and revenues when due and to apply the same as provided in this Ordinance.

Section 7. Expenses of Collection; Interest After Maturity.

The City covenants and agrees that, if the principal of and interest on the Warrant are not paid promptly as such principal and interest matures and comes due, it will pay to the registered owner of the Warrant or its registered assignees all expenses incident to the collection of any unpaid portion thereof, including a reasonable attorney's fee. To the extent permitted by applicable law, the Warrant and the interest thereon shall bear interest at the rate of 4.54% per annum from and after the maturity or due dates thereof, if not then paid.

Section 8. Federal Tax Exemption; No Designation of Warrant Pursuant to Section 265 of the Code.

The City recognizes that the Series 2019-B Warrant is being sold on the basis that the interest payable on the Series 2019-B Warrant is excludable from gross income of the registered owners thereof for federal income taxation under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). The City hereby covenants and agrees with the registered owner from time to time of the Series 2019-B Warrant that:

(a) the proceeds of the Series 2019-B Warrant will be used solely for the governmental purposes for which the Series 2019-B Warrant is issued;

(b) none of the proceeds of the Series 2019-B Warrant will be applied for any "private business use" nor will any part of the proceeds of the Series 2019-B Warrant be used (directly or indirectly) to make or finance loans to persons other than a governmental unit;

(c) the payment of the principal of or interest on the Series 2019-B Warrant will not be (under the terms of the Series 2019-B Warrant or any underlying arrangements) directly or indirectly (i) secured in any way by any interest in property used or to be used for a "private business use" or by payments in respect of such property or (ii) derived from payments (whether or not to the City) in respect of property, or borrowed money, used or to be used for a "private business use;"

(d) the proceeds of the Series 2019-B Warrant shall not be used or applied by it, and the taxes or other revenues of the City shall not be accumulated in the Warrant Fund in such a manner, and no investment thereof shall be made, as to cause the Series 2019-B Warrant to be or become an "arbitrage bond," as that term is defined in Section 148 of the Code;

(e) the City will comply with the requirements of Section 148(f) of the Code with respect to any required rebate to the United States;

(f) the City will make no use of the proceeds of the Series 2019-B Warrant that would cause the Series 2019-B Warrant to be "federally guaranteed" under Section 149(b) of the Code and the payment of the principal of and interest on the Series 2019-B Warrant shall not be (directly or indirectly) "federally guaranteed" (in whole or in part) as described in said Section, except as otherwise permitted in said Section;

(g) to the extent permitted by law, the City will not take any action, or omit to take any action, with respect to the Series 2019-B Warrant that would cause the interest on the Series 2019-B Warrant not to be and remain excludable from gross income pursuant to the provisions of Section 103 of the Code; and

(h) the City has not designated the Series 2019-B Warrant as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. The Series 2019-B Warrant is not "bank qualified."

Section 9. Authorization of Issuance of Warrant.

(a) The Mayor and the City Clerk/Treasurer, or either of them, are hereby authorized and directed to effect delivery of the Warrant to the Bank and in connection therewith to deliver such closing papers containing such representations as are required to demonstrate the legality and validity of the Warrant and the absence of pending or threatened litigation with respect thereto.

(b) The City Clerk/Treasurer of the City shall give a receipt to the said purchaser for the purchase price paid, and such receipt shall be full acquittal to the said purchaser and the said purchaser shall not be required to see to or be responsible for the application of the proceeds of the Warrant. Nevertheless, the proceeds of the Warrant shall be applied solely to the purposes herein referenced.

Section 10. Severability.

The provisions of this Ordinance are severable. In the event that any one or more of such provisions or the provisions of the Warrant shall, for any reason, be held illegal or invalid, such illegality or invalidity shall not affect the other provisions of this Ordinance or of the Warrant, and this Ordinance and the Warrant shall be construed and enforced as if such illegal or invalid provision had not been contained herein or therein.

Section 11. Repeal of Conflicting Provisions.

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

Section 12. Provisions of Ordinance a Contract.

The terms, provisions and conditions set forth in this Ordinance constitute a contract between the City and the registered owner of the Warrant and shall remain in effect until the principal of and interest on the Warrant shall have been paid in full.

THIS WARRANT SHALL BE VALID AND ENFORCEABLE AS TO THE AGGREGATE PRINCIPAL AMOUNT ADVANCED AT ANY TIME HEREUNDER, WHETHER OR NOT THE FULL FACE AMOUNT HEREOF IS ADVANCED.

This Warrant is issued pursuant to the Constitution and laws of the State of Alabama, including the provisions of Section 11-47-2 et seq. of the CODE OF ALABAMA 1975, as amended, and an Ordinance and proceedings of the governing body of the City (the "Authorizing Proceedings") for the purposes described in the Authorizing Proceedings.

The principal of and interest on this Warrant is a general obligation of the City and the full faith and credit of the City are pledged to the payment of the principal of and interest on the Warrant.

The City has established in the Authorizing Proceedings a special fund designated "Series 2019-B General Obligation Warrant Fund" for the payment of the principal of and interest on the Warrant, and has obligated itself to pay or cause to be paid into said Fund from the taxes and revenues of the City sums sufficient to provide for the payment of the principal of and interest on this Warrant as the same matures and comes due.

This Warrant and the interest hereon constitutes a charge on the general credit of the City and an indebtedness of the City within the meaning of state constitutional provisions and or statutory limitations.

This Warrant is recorded and registered as to principal and interest in the name of the owner on the book of registration maintained for that purpose by the City. The person in whose name this Warrant is registered shall be deemed and regarded as the absolute owner hereof for all purposes and payment of the principal of and interest on this Warrant shall be made only to or upon the order of the registered owner hereof or its legal representative, and neither the City nor any agent of the City shall be affected by any notice to the contrary. Payment of principal of and interest on this Warrant shall be valid and effectual to satisfy and discharge the liability of the City upon this Warrant to the extent of the amounts so paid.

This Warrant may be transferred only upon written request of the registered owner or its legal representative addressed to the City, such transfer to be recorded on said book of registration and endorsed hereon by the City. Upon presentation to the City for transfer, this Warrant must be accompanied by a written instrument or instruments of transfer satisfactory to the City, duly executed by the registered owner or its attorney duly authorized in writing, and the City shall endorse on the schedule attached hereto for such purpose the principal amount of this Warrant unpaid and the interest accrued hereon to the date of transfer. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

It is hereby recited, certified and declared that the indebtedness evidenced and ordered paid by this Warrant is lawfully due without condition, abatement or offset of any description and 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 execution, registration and issuance of this Warrant and the adoption of the Authorizing Proceedings have happened, do exist and have been performed in time, form and manner as so required.

IN WITNESS WHEREOF, the City, acting by and through its governing body, has caused this Warrant to be executed in its name and on its behalf by its Mayor and its municipal seal to be hereunto affixed and attested by its City Clerk, and has caused this Warrant to be dated January 31, 2019.

CITY OF GULF SHORES

SEAL

By _____
Robert Craft, Mayor

Attest: _____
Wanda Parris, MMC
City Clerk

CERTIFICATE

I, Wanda Parris, MMC, City Clerk of the City of Gulf Shores, Alabama, do hereby certify that the foregoing is a true and correct copy of Ordinance No. (prepared by City Clerk), which Ordinance was duly and legally adopted at a regular meeting of the City Council on January 28, 2019, and the same was duly published as required by law in the City of Gulf Shores, Alabama.

City Clerk