
REFUNDING TRUST AGREEMENT

Dated February __, 2020

By and Between

BALDWIN COUNTY

And

REGIONS BANK

**This Instrument Prepared By James Birchall, Esq. of Bradley Arant Boult Cummings LLP, 1819
Fifth Avenue North, Birmingham, Alabama 35203**

REFUNDING TRUST AGREEMENT

This **REFUNDING TRUST AGREEMENT** (the "Agreement") is made and entered into by and between **BALDWIN COUNTY**, an Alabama political subdivision (the "County") and **REGIONS BANK**, an Alabama banking corporation (the "Escrow Agent"), as of this the ____ day of February, 2020.

Recitals

The County issued its General Obligation Warrants, Series 2012, dated September 1, 2012 (the "Warrants") pursuant to a resolution and order of the Commission adopted on September 18, 2012 for the purposes of advance refunding and redeeming the County's then-outstanding General Obligation Warrants, Series 2004-B, dated June 1, 2004.

The Warrants are presently outstanding in the principal amount of \$5,880,000 and are due, with respect to interest, on June 1 and December 1, and with respect to principal, on June 1, with a final maturity on June 1, 2026. The Warrants are callable at the option of the County on or after June 1, 2022 at a redemption price equal to the principal amount thereof to be redeemed plus accrued interest thereon to the date fixed for redemption, without premium or penalty.

The Commission has determined that it is in the best public and financial interest of the County to defease the Warrants by purchasing State and Local Government Series (SLGS) securities in the amount of \$_____ and retaining the sum of \$_____ as an initial cash deposit, as set forth in the Verification Report prepared for the County by Jackson Thornton & Co., P.C., and depositing said securities and funds in an escrow fund to be held by Regions Bank pursuant to a Refunding Trust Agreement.

Agreement

NOW, THEREFORE, in consideration of the foregoing recitals and other good valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS AND USE OF PHRASES

"Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter," and other equivalent words refer to this Agreement as an entirety and not solely to the particular portion in which any word is used. The definitions set forth in Section 1.1 hereof include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural.

ARTICLE II

REPRESENTATIONS AND COVENANTS BY THE COUNTY

SECTION 2.1 Representations by the County.

The County makes the following representations as the basis for the undertakings on its part herein contained:

(a) The County has heretofore issued the Warrants which are now outstanding in the aggregate principal amount of \$5,880,000.

(b) The Warrants have stated maturities on June 1, and interest is payable semi-annually on June 1 and December 1 in each year.

(c) All principal and interest that has matured or come due with respect to the Warrants has been and shall continue to be paid in full.

(d) The County is not now and has never been in default under the resolution authorizing the Warrants, and no such default is imminent.

(e) The money in the Escrow Fund will be sufficient (i) to pay in full the interest payments on the Warrants due on June 1, 2020, December 1, 2020, June 1, 2021, December 1, 2021, and June 1, 2022, (2) to pay the principal on the Warrants due on June 1, 2020, June 1, 2021, and June 1, 2022 and to (3) redeem the outstanding Warrants on June 1, 2022.

(f) The County has the power to enter into this Agreement pursuant to the provisions of the laws of the State of Alabama. The execution and delivery of this Agreement on the part of the County have been duly authorized by all necessary action.

SECTION 2.2 Representations by the Escrow Agent.

The Escrow Agent, as the basis for the undertakings on its part herein contained, represents that it has the power to enter into this Agreement and has been duly authorized to do so by all necessary corporate action. The Escrow Agent is familiar with the terms and conditions of the resolution authorizing the Warrants.

SECTION 2.3 Covenant of County in Case of Deficiency in Escrow Fund.

The County covenants and agrees that if at any time the moneys or investments on deposit in the Escrow Fund are insufficient to pay the principal of and interest on the Warrants, the County shall forthwith deposit into the Escrow Fund the amount of any such deficiency.

ARTICLE III

CREATION OF ESCROW FUND AND APPLICATION OF MONEY ON DEPOSIT THEREIN

SECTION 3.1 Escrow Fund.

(a) There is hereby created an irrevocable trust fund called the "Escrow Fund" which shall be held by the Escrow Agent until all payments required by Sections 3.2 hereof have been made.

(b) \$_____ shall be deposited in the Escrow Fund and applied to the purchase of State and Local Government Series (SLGS) securities in the amount of \$_____ and retaining the sum of \$_____ as an initial cash deposit, as set forth in the Verification Report attached hereto

SECTION 3.2 Application of Escrow Fund.

The Escrow Agent is hereby directed, and by its execution and delivery of this Agreement does hereby agree, to apply such money in the Escrow Fund, (i) to pay in full the interest payments on the Warrants due on June 1, 2020, December 1, 2020, June 1, 2021, December 1, 2021, and June 1, 2022, (2) to pay the principal on the Warrants due on June 1, 2020, June 1, 2021, and June 1, 2022 and to (3) redeem the outstanding Warrants on June 1, 2022.

SECTION 3.3 Investment of Escrow Fund.

(a) The proceeds of the Escrow Fund will be invested by the Escrow Agent at the written direction of the County in such investments that are permitted of the proceeds of the Warrants as set forth in the resolution authorizing the Warrants or such other investments as directed by the County in writing to the Escrow Agent.

(b) The yield on the Escrow Fund may not exceed the yield on the Warrants.

(c) The Escrow Agent will transfer the investment earnings from the Escrow Fund to the County on a periodic or such other basis as agreed upon by the Escrow Agent and the County.

SECTION 3.4 Advance Refunding and Redemption of Refunded Series 2013 Warrants.

(a) The Warrants shall be redeemed in full by the County on June 1, 2022 (the “Redemption Date”) at a redemption price for each Warrant equal to the principal amount thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, without premium or penalty.

(b) The County does hereby call the Warrants for redemption on the Redemption Date and such warrants will become due and payable on said date at a redemption price equal to the principal amount thereof to be redeemed, plus accrued interest thereon until the date fixed for redemption, without premium or penalty. All interest on the Warrants so called for redemption will cease to accrue on the Redemption Date.

(c) The County is not in default under the resolution and order pursuant to which the Warrants were issued and no such default is imminent.

(d) The Warrants were issued for the purpose described hereinabove.

(e) The County does hereby confer upon Regions Bank, the custodian escrow agent for the Warrants, irrevocable power to give, for and in the name of the County, notice of redemption of Warrants in substantially the following form:

NOTICE OF REDEMPTION

NOTICE IS HEREBY GIVEN that the General Obligation Warrants, Series 2012, dated September 1, 2012, of Baldwin County, Alabama, numbered ____ through ____, inclusive, have been called for redemption on June 1, 2022 and will become due and payable on such date at a redemption price equal to the principal amount thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, without premium or penalty. All such warrants should be surrendered at the designated office of Regions Bank in Birmingham, Alabama, and no such warrants will be paid until so surrendered. All interest on such warrants so called for redemption will cease to accrue on June 1, 2022 whether or not the

warrants are presented for payment.

BALDWIN COUNTY, ALABAMA

By REGIONS BANK

Its duly authorized agent

(f) The County hereby agrees it will not alter, amend, repeal or revoke this resolution calling the Warrants for redemption as provided herein except for manifest error and this resolution shall constitute an irrevocable trust agreement with Regions Bank for the retirement of the Warrants.

ARTICLE IV

CONCERNING THE ESCROW AGENT

SECTION 4.1 Fees and Expenses of Escrow Agent.

The Escrow Agent shall look solely to the County for the payment of its fees, compensation and expenses as such custodian, registrar and depository. Such fees, expenses, charges and disbursements shall in no event be payable from or constitute a lien or charge upon the Escrow Fund or any part thereof.

SECTION 4.2 Acceptance of Trusts.

The Escrow Agent accepts the trusts hereby created and agrees to perform the duties herein required of it, subject, however, to the following conditions:

(a) It is expressly understood and agreed that the Escrow Agent's duties and obligations in connection with this Agreement are confined to those expressly defined herein and no additional covenants or obligations shall be read into this Agreement against the Escrow Agent.

(b) It shall not be liable hereunder except for its noncompliance with the provisions hereof, its willful misconduct or its gross negligence, or the breach of any warranty or the untruthfulness of any acknowledgment or representation made herein by it, and, in particular and without limiting the generality of the foregoing, it shall not be liable for any losses resulting from any investment of moneys, or the conversion into cash of any investment, forming a part of the Escrow Fund if it shall have made such investment or conversion in accordance with the provisions hereof. Notwithstanding any provision herein to the contrary, in no event shall the Escrow Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

(c) It 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 written advice of counsel, provided that its action or inaction is not contrary to any express provision hereof.

(d) It need not recognize an owner of any of the Warrants as such without the satisfactory establishment of his or her title thereto.

(e) It may conclusively rely upon and shall not be answerable for any action taken in good faith on any notice, request, consent, certificate or other paper or document which it believes to be genuine and signed

or acknowledged by the proper party.

(f) It shall be entitled to compensation for its ordinary services hereunder and shall be entitled to reasonable extra compensation for unusual or extraordinary services or expenses incurred by it to the extent permitted by law.

(g) It may be the owner of the Warrants as if not Escrow Agent hereunder.

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

(i) All moneys received by the Escrow Agent to be held by it hereunder shall be held as trust funds until disbursed in the manner herein provided therefor. The Escrow Agent shall not be liable to pay or allow interest thereon or otherwise to invest any such moneys except as specifically required herein.

(j) It shall, upon reasonable written request, advise the County and the owners of the Refunded Series 2013 Warrants of the amounts at the time contained in the Escrow Fund and in what such amounts are invested.

(k) It shall have the right to act through agents and attorneys.

(l) It has no obligation to use or risk its own funds.

(m) The Escrow Agent shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Escrow Agent shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

SECTION 4.3 Resignation and Removal of Escrow Agent; Appointment of Successor.

The Escrow Agent, whether the original or a successor, may resign by giving written notice of its intention so to do to the County. In the event of the resignation of the Escrow Agent, or in the event said Escrow Agent shall fail or refuse, or become unable to perform its duties as Escrow Agent hereunder, the County hereby obligates itself to appoint as successor a bank in the State of Alabama which shall be a member of the Federal Deposit Insurance Corporation, qualified to serve as a depository in the State of Alabama, and having a paid in capital, surplus and undivided profits of not less than \$50,000,000. If no successor Escrow Agent shall have been so appointed and accepted appointment within sixty (60) days of the resignation of the Escrow Agent in the manner herein provided, the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor Escrow Agent until a successor shall have been appointed as above provided. All provisions of this Agreement applicable to the Escrow Agent shall apply to any successor so appointed.

SECTION 4.4 Merger of Escrow Agent.

Any corporation or association into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a

whole or substantially as a whole, or any corporation or association resulting from such conversion, sale, merger, consolidation or transfer to which it is a party shall be and become, ipso facto, successor Escrow Agent hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

ARTICLE V

MISCELLANEOUS

SECTION 5.1 Third Party Beneficiaries.

The owners of the Warrants shall be third party beneficiaries of this Agreement. The owners of the Warrants shall be entitled to enforce the provisions of this Agreement.

SECTION 5.2 Use of Surplus Moneys.

The Escrow Agent shall pay and transfer directly to the County all sums remaining after the full payment and redemption of the Warrants.

SECTION 5.3 Benefit and Binding Effect of This Agreement.

This Agreement shall inure to the benefit of, and shall be binding upon, the County and the Escrow Agent and their respective successors and assigns. The covenants and agreements herein contained are for the sole and exclusive benefit of the parties hereto and their respective successors and assigns.

SECTION 5.4 Severability.

In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 5.5 Governing Law.

The terms of this Agreement shall be governed by the laws of the State of Alabama, without regard to conflict of law principles.

IN WITNESS WHEREOF, the County and the Escrow Agent have caused this Agreement to be executed in their respective names, have caused their respective seals to be hereunto affixed, and have caused this Agreement to be attested, all by their duly authorized officers, all as of the day and year first hereinabove written.

BALDWIN COUNTY

By _____
Chairman

COUNTY SEAL

Attest: _____
County Administrator

REGIONS BANK

BANK SEAL

By _____
Its duly authorized representative

Attest: _____
Its duly authorized representative

EXHIBIT A

VERIFICATION REPORT