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Shelby Cnty Judge of Probate, AL
01/06/2022 11:18:36 AM FILED/CERT

FIRST SUPPLEMENTAL LEASE AGREEMENT

Dated as of July 1, 2021

between


**CULTURAL FACILITIES COOPERATIVE
DISTRICT OF THE CITY OF COLUMBIANA**

and

CITY OF COLUMBIANA, ALABAMA

NOTICE TO JUDGE OF PROBATE: (1) THIS INSTRUMENT AMENDS THAT CERTAIN LEASE AGREEMENT DATED MAY 1, 2018 AND RECORDED AS INSTRUMENT NO. 20180808000284080 IN THE PROBATE RECORDS OF SHELBY COUNTY, ALABAMA; AND (2) PURSUANT TO SECTION 11-99B-14 OF THE CODE OF ALABAMA (1975), THIS INSTRUMENT IS ENTITLED TO BE FILED OF RECORD IN THE PROBATE RECORDS EXEMPT FROM THE PAYMENT OF ANY TAX OR FEE.

STATE OF ALABAMA
SHELBY COUNTY


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FIRST SUPPLEMENTAL LEASE AGREEMENT

This **FIRST SUPPLEMENTAL LEASE AGREEMENT** (the "First Supplemental Lease") is dated as of July 1, 2021 and is entered into by and between **CULTURAL FACILITIES COOPERATIVE DISTRICT OF THE CITY OF COLUMBIANA** (the "Issuer"), a public corporation organized under the laws of the State of Alabama, and the **CITY OF COLUMBIANA** (the "City"), a municipal corporation organized under the laws of the State of Alabama.

Recitals

This First Supplemental Lease supplements the Lease Agreement dated May 1, 2018 (the "Original Lease"), between the Issuer and the City, and recorded as Instrument No. 20180808000284080 in the Probate Records of Shelby County, Alabama. Pursuant to a Trust Indenture dated May 1, 2018 (the "Original Indenture") between the Issuer and Regions Bank, an Alabama banking corporation (the "Trustee"), the Issuer has heretofore issued its Revenue Bonds (City of Columbiana Old Mill Square Project), Series 2018-A (the "Series 2018-A Bonds"), which are outstanding in the aggregate principal amount of \$8,300,000.

Simultaneously with the execution and delivery of this First Supplemental Lease, the Issuer will issue its \$8,765,000 Taxable Revenue Bonds (City of Columbiana Old Mill Square Project), Series 2021 (the "Series 2021 Bonds") pursuant to a First Supplemental Indenture of even date herewith (the "First Supplemental Indenture") between the Issuer and the Trustee for the purposes of providing funds for the (1) advance refunding of all of the outstanding Series 2018-A Bonds, and (2) paying certain issuance expenses related to the issuance of the Series 2021 Bonds.

The Original Lease and this First Supplemental Lease are sometimes herein collectively referred to as the "Lease". The Original Indenture and First Supplemental Indenture are sometimes herein collectively referred to as the "Indenture".

Pursuant to the Indenture and the Lease, the Issuer has pledged the City's rental payments paid to the Issuer under the Lease to the payment of the principal of and interest on the Series 2021 Bonds.

Agreement

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

ARTICLE 1 DEFINITIONS, REPRESENTATIONS AND DEMISE CLAUSE

SECTION 1.1 Definitions and Rules of Construction

Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the Indenture or the Lease. This First Supplemental Lease shall have the same rules of construction as the Original Lease.



20220106000006930 3/9 \$47.00
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SECTION 1.2 Representations by the Issuer

The Issuer makes the following representations:

(a) The Issuer is duly incorporated under the provisions of the Enabling Law and has the power to enter into the transactions contemplated by this First Supplemental Lease and to carry out its obligations hereunder. The Issuer is not in default under the Original Lease or any of the provisions contained in the Issuer's certificate of incorporation, its by-laws, or in the laws of the State. By proper corporate action, the Issuer has duly authorized the execution and delivery of this First Supplemental Lease.

(b) The Series 2021 Bonds will be issued and delivered contemporaneously with the delivery of this First Supplemental Lease.

(c) All consents, approvals, authorizations and orders of governmental or regulatory authorities, if any, which are required for the execution and delivery of the Series 2021 Bonds, this First Supplemental Lease and the First Supplemental Indenture and for the consummation of the transactions contemplated by each of the aforesaid documents have been obtained by or on behalf of the Issuer and are in full force and effect.

(d) The Financing Documents to which it is a party constitute legal, valid and binding obligations and are enforceable against it in accordance with the terms of such instruments, except as enforcement thereof may be limited by (1) bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights and (2) general principles of equity, including the exercise of judicial discretion in appropriate cases.

SECTION 1.3 Representations by the City

The City makes the following representations:

(a) The City has power to enter into this First Supplemental Lease and by proper action of its governing body has duly authorized the execution and delivery of this First Supplemental Lease.

(b) Pursuant to Amendment No. 772 to the Constitution of Alabama of 1901, as amended, and Chapter 99B of Title 11 of the Code of Alabama 1975, it has the power and authority to consummate the transactions contemplated by the Financing Documents to which it is a party.

(c) The City has been furnished a copy of the First Supplemental Indenture and the City approves and consents to the provisions of said instrument.

(d) Neither the execution and delivery of this First Supplemental Lease, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions hereof, conflicts with, or results in a breach of, any law or constitutional provision applicable to the City or any terms, conditions or provisions of any lease agreement, instrument or governmental order to which the City is now subject or by which it is bound, or constitutes a default under any of the foregoing.

(e) The Financing Documents to which it is a party constitute legal, valid and binding obligations and are enforceable against it in accordance with the terms of such instruments, except as enforcement thereof may be limited by (1) bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights and (2) general principles of equity, including the exercise of judicial discretion in appropriate cases.



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ARTICLE 2 RENTALS

SECTION 2.1 Basic Lease Payments

Section 4.2 of the Original Lease is hereby amended and restated as follows:

“(a) The City shall make payments (“Basic Lease Payments”) to the Trustee for deposit in the Debt Service Fund, for the account of the Issuer, at times and in amounts as follows:

(1) on or before the 20th day of each month, beginning in the first full month following the date of delivery of the Series 2021 Bonds, 1/6 of the aggregate amount of interest on the Series 2021 Bonds becoming due and payable on the next Interest Payment Date; provided that from the date of delivery of the Series 2021 Bonds until the first Interest Payment Date, such deposits shall be sufficient on a monthly pro rata basis to pay the amount of interest becoming due and payable on such first Interest Payment Date (after crediting the amount of any accrued interest deposited in the Debt Service Fund pursuant to the Indenture);

(2) on or before the 20th day of each month, beginning in the first full month following the date of delivery of the Series 2021 Bonds, 1/12 of the aggregate amount of principal on the Series 2021 Bonds becoming due and payable on the next Bond Payment Date; provided that from the date of delivery of the Series 2021 Bonds until the first Bond Payment Date with respect to the Series 2021 Bonds, such deposits shall be sufficient on a monthly pro rata basis to pay the amount of principal becoming due and payable on such first Bond Payment Date; provided further that no payment under this subsection shall be required more than 13 months prior to a Bond Payment Date; and

(3) on or before the third (3rd) Business Day prior to each date fixed for the redemption of Series 2021 Bonds (other than a scheduled mandatory redemption date, for which Basic Lease Payments are required pursuant to paragraphs (1) and (2) above), an amount equal to the redemption price of Series 2021 Bonds to be redeemed on such date.

If, on any Bond Payment Date, the balance in the Debt Service Fund is insufficient to pay the Debt Service on the Series 2021 Bonds due and payable on such date, the City shall forthwith pay any such deficiency into the Debt Service Fund out of the City’s general revenues.

(b) The City shall receive a credit against the Basic Lease Payments as follows:

(1) The amount of accrued interest received from the sale of the Series 2021 Bonds to the original purchaser or purchasers thereof and deposited in the Debt Service Fund shall be deducted from the amount of interest due on the first Interest Payment Date for purposes of calculating the required Basic Lease Payments prior to such Interest Payment Date.

(2) Investment income and profits deposited or retained in the Debt Service Fund shall be credited against monthly Basic Lease Payments due after receipt of such income and profits as directed by the City.

(3) Any other money held by the Trustee and available, under the terms of the Indenture and this Lease Agreement, for the payment of Debt Service on the Series 2021 Bonds shall be credited against Basic Lease Payments as directed by the City. Such directions must be consistent with any mandatory provision of the Indenture and this Lease Agreement with respect to the required use of such money.

(c) All Basic Lease Payments shall be made in funds immediately available at the Office of the Trustee on the due date of such Payments.



20220106000006930 5/9 \$47.00
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(d) The City acknowledges that Basic Lease Payments required by this Section have been calculated to provide amounts which will be sufficient to pay Debt Service on the Series 2021 Bonds as the same matures and comes due. If on any Series 2021 Bond Payment Date the amount on deposit in the Debt Service Fund is not sufficient to pay Debt Service on the Series 2021 Bonds due and payable on such Date, the City shall immediately deposit the amount of such deficiency in the Debt Service Fund."

SECTION 2.2 Additional Lease Payments

Section 4.3 of the Original Lease is hereby amended and restated as follows:

"The City shall make additional payments ("Additional Lease Payments", and together with the Basic Lease Payments and all other payments by the City pursuant to this Lease Agreement, the "Lease Payments") as follows:

(a) Within 10 days after receipt by the City of an invoice therefor, the City shall pay to the Trustee (1) the acceptance fee of the Trustee, (2) the normal fees, charges and expenses of the Trustee, and (3) any amount to which the Trustee may be entitled under Section 12.7 of the Original Indenture or Section ____ of the First Supplemental Indenture.

(b) Within 10 days after receipt by the City of an invoice therefor, the City shall pay to Issuer the reasonable expenses of the Issuer incurred (1) at the request of the City, (2) in the performance of the Issuer's duties under any of the Bond Documents, (3) in connection with any litigation which may at any time be instituted involving the Bond-Financed Facilities or the Bond Documents, or (4) in the pursuit of any remedies under the Bond Documents.

(c) Within 10 days after receipt by the City of an invoice therefor, the City shall pay to the Issuer any amount for which the Issuer is required to pay or reimburse the Insurer under the Indenture as set forth in Section 16.10(a) and Section 16.10(b) of the Original Indenture and Section ____ of the First Supplemental Indenture".

SECTION 2.3 Redemption of Series 2021 Bonds

(a) The Issuer will cause the Trustee to redeem any or all of the Series 2021 Bonds in accordance with the mandatory redemption provisions of the Series 2021 Bonds without any direction from or consent by the City.

(b) If no Lease Default exists, (1) any right of optional redemption with respect to the Series 2021 Bonds may be exercised only upon the written direction of the City and (2) the City may, on behalf of the Issuer, direct the Trustee to effect an optional redemption of Series 2021 Bonds. The City shall deliver to the Issuer a copy of any such direction. The Issuer will cooperate with the City in good faith to effect any such optional redemption so directed.

SECTION 2.4 Effect of Full Payment of Indenture Indebtedness

(a) After the Indenture Indebtedness is Fully Paid, all references in the Lease to the Series 2021 Bonds, the Indenture and the Trustee shall be ineffective and neither the Trustee nor the Holders of the Series 2021 Bonds shall thereafter have any rights hereunder, except those rights that shall have theretofore vested.

(b) After all Indenture Indebtedness is Fully Paid, any money or investments remaining in the Indenture Funds shall be delivered to the City.

(c) If all Indenture Indebtedness is Fully Paid prior to the expiration of the term of the Lease, the City shall be entitled to the use and occupancy of the Bond-Financed Facilities until the expiration of the term of the Lease without the payment of any further Basic Lease Payments, but otherwise subject to all the terms and conditions hereof, except that the City shall no longer be required to perform and observe the agreements and



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covenants of this Lease Agreement that are for the sole benefit of the Trustee or the Holders of the Series 2021 Bonds.

ARTICLE 3 MISCELLANEOUS

SECTION 3.1 Confirmation of Original Lease and Prior Options

All the terms, covenants and conditions of the Original Lease, as supplemented by this First Supplemental Lease, are hereby in all things confirmed and they shall remain in full force and effect.

SECTION 3.2 Issuer's Liabilities Limited

(a) The covenants and agreements contained in this First Supplemental Lease and in any contract, purchase order or other agreement entered into pursuant to this First Supplemental Lease shall never constitute or give rise to a personal or pecuniary liability or charge against the general credit of the Issuer, and in the event of a breach of any such covenant or agreement, no personal or pecuniary liability or charge payable directly or indirectly from the general assets or revenues of the Issuer shall arise therefrom. Nothing contained in this Section, however, shall relieve the Issuer from the observance and performance of the covenants and agreements on its part contained herein.

(b) No recourse under or upon any covenant or agreement of this First Supplemental Lease or of any contract or other agreement entered into pursuant to this First Supplemental Lease shall be had against any past, present or future incorporator, officer or member of the governing body of the Issuer, or of any successor corporation, either directly or through the Issuer, 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 First Supplemental Lease is solely a corporate obligation, and that no personal liability whatever shall attach to, or is or shall be incurred by, any incorporator, officer or member of the governing body of the Issuer or any successor corporation, or any of them, under or by reason of the covenants or agreements contained in this First Supplemental Lease.

(c) The liability of the Issuer for the payment of any money due under any contract or purchase order entered into by it, or for any other costs incurred in connection with the acquisition, construction or improvement of, or other work on, the Bond-Financed Facilities shall be limited solely to (1) the available proceeds of the Issuer's revenue bonds, if and when issued for the Bond-Financed Facilities, (2) any money made available to the Issuer for such purpose by the City, and (3) any revenues or other receipts derived by the Issuer from the Bond-Financed Facilities, subject to prior encumbrances. The limited liability of the Issuer shall be plainly and conspicuously stated on each such contract or purchase order.

SECTION 3.3 Binding Effect

This First Supplemental Lease shall inure to the benefit of, and shall be binding upon, the Issuer, the City and their respective successors and assigns. To the extent provided herein and in the Indenture, the Trustee and the Holders of the Series 2021 Bonds and any other Bonds shall be deemed to be third party beneficiaries hereof, but nothing herein contained shall be deemed to create any right in, or to be for the benefit of, any other person who is not a party hereto.

SECTION 3.4 Severability

In the event any provision of this First Supplemental Lease 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 3.5 Article and Section Captions

The article and section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.



20220106000006930 7/9 \$47.00
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SECTION 3.6 Notice and Other Information to be given to BAM

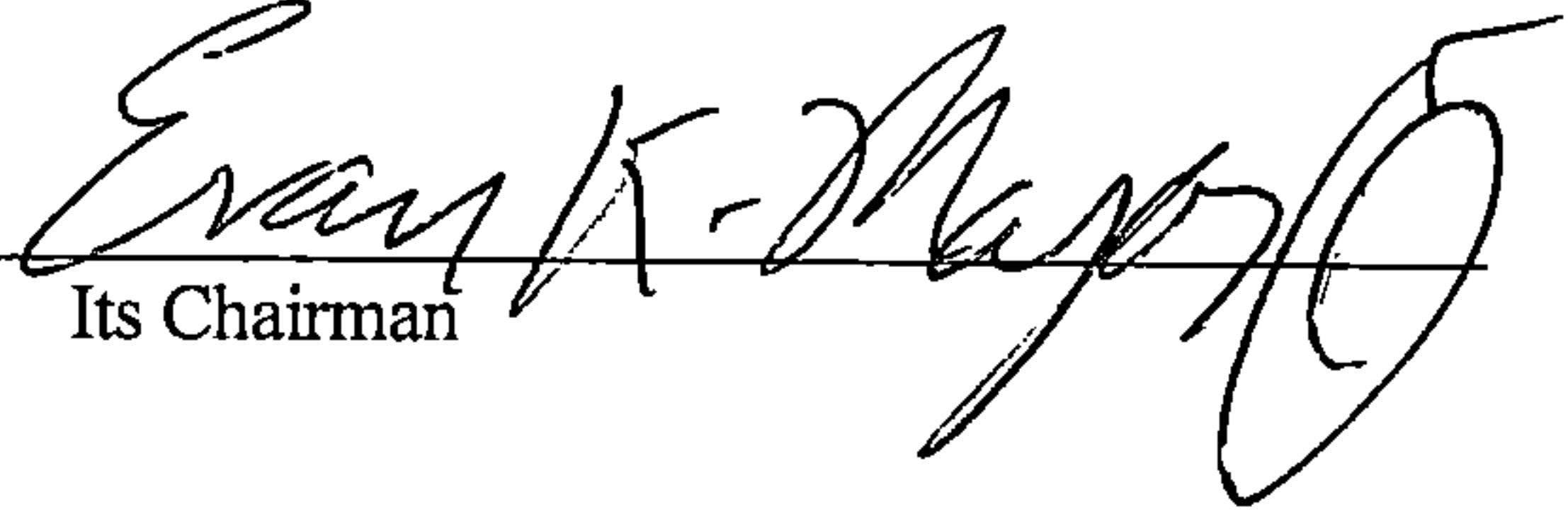
The City will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Agreement and (ii) to the holders of the Series 2021 Bonds or the Trustee.



20220106000006930 8/9 \$47.00
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IN WITNESS WHEREOF, the Issuer and the City have caused this First Supplemental Lease to be executed in their respective names, have caused their respective seals to be hereunder affixed, and have caused this First Supplemental Lease to be attested, all by their duly authorized officers, as of the date first set forth above.

**CULTURAL FACILITIES COOPERATIVE
DISTRICT OF THE CITY OF COLUMBIANA**

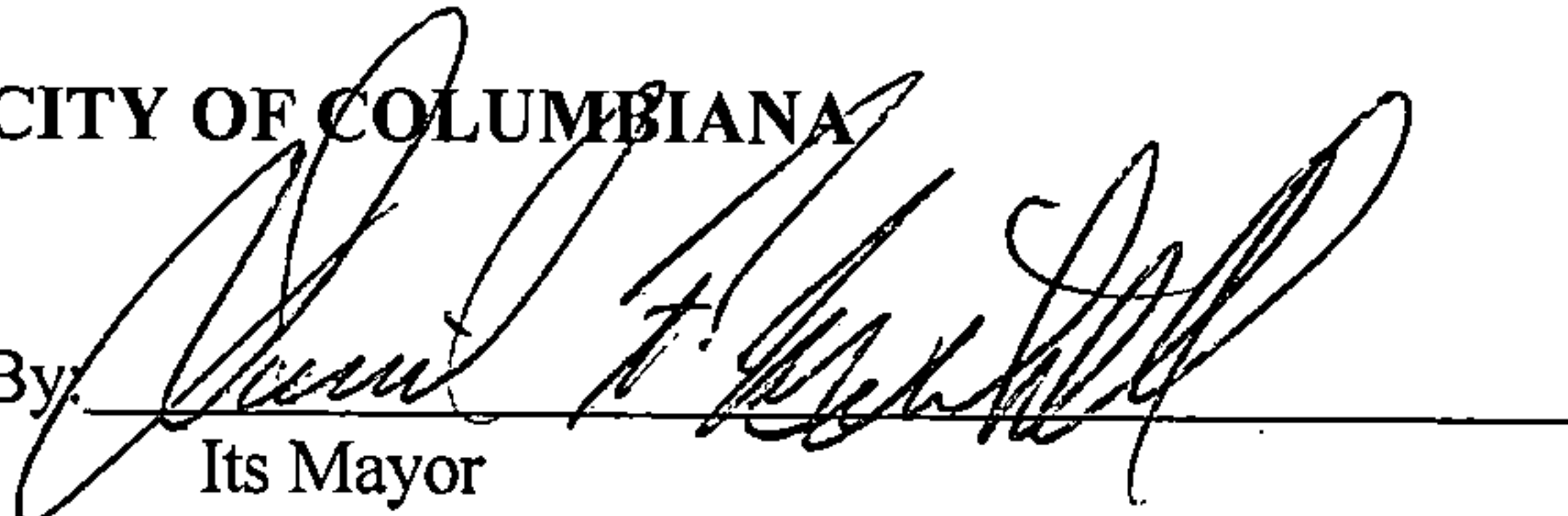
By: 
Its Chairman

ATTEST:


Its Secretary

[SEAL]

CITY OF COLUMBIANA

By: 
Its Mayor

ATTEST:


Its City Clerk

[SEAL]

This instrument was prepared by:
C. Bradley Cherry
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North
Suite 1700
Birmingham, Alabama 35203

STATE OF ALABAMA
SHELBY COUNTY

I, Brad Cherry, a Notary Public in and for said County in said State, do hereby certify that Evan Major, whose name as Chairman of **Cultural Facilities Cooperative District of the City of Columbiana**, a public corporation organized under the laws of the State of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

Given under my hand this the 10th day of July, 2021.


Notary Public

NOTARIAL SEAL

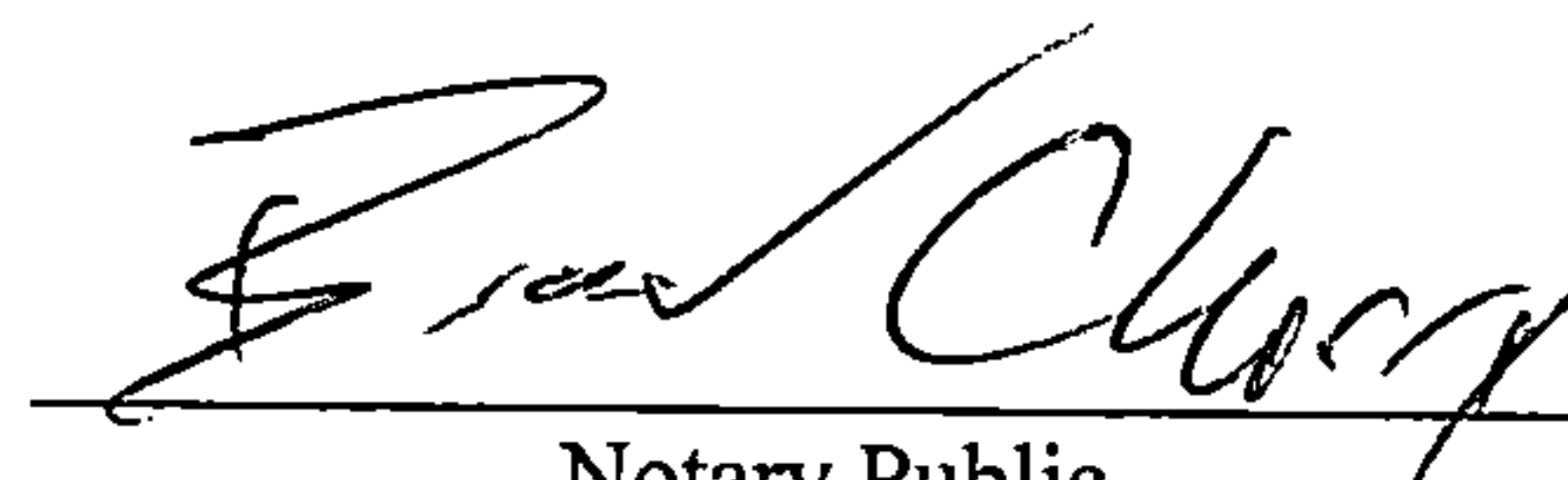
My commission expires: _____

My Commission Expires: 2/22/2022

STATE OF ALABAMA
SHELBY COUNTY

I, Brad Cherry, a Notary Public in and for said County in said State, do hereby certify that David Mitchell, whose name as Mayor of the **City of Columbiana**, a municipal corporation organized under the laws of the State of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said municipal corporation.

Given under my hand this the 10th day of July, 2021.


Notary Public

NOTARIAL SEAL

My commission expires: _____

My Commission Expires: 2/22/2022