

## **NOTICE OF PUBLIC MEETING**

Pursuant to Amendment No. 750 of the Recompiled Alabama Constitution of 1901, as amended, the City of Orange Beach, Alabama (the “City”) gives notice that its City Council, as the governing body of the City, will consider at its regularly scheduled meeting to be held on May 16, 2023 at 5:00 p.m. in the City Council chambers located at Orange Beach City Hall, 4099 Orange Beach Blvd., Orange Beach, Alabama 36561, (i) the adoption of a Supplement and First Amendment to Third Amended and Restated Development Agreement (the “Supplement and Amendment”) by and among the City, Wharf Retail Properties, LLC, a Louisiana limited liability company (“Wharf Retail”), Wharf Entertainment Properties, LLC, a Louisiana limited liability company (“Wharf Entertainment”), and Wharf Landing, LLC, a Louisiana limited liability company (“Wharf Landing”, and together with Wharf Retail and Wharf Entertainment, collectively, the “Wharf Parties”), and (ii) the issuance to Wharf Retail of the City’s Second Amended and Restated Limited Obligation Warrant Series 2010A (the “Second Amended and Restated Warrant”).

### **BACKGROUND**

WHEREAS, the City, Wharf Retail and Wharf Entertainment are parties to that certain Third Amended and Restated Development Agreement dated December 13, 2019 (the “Development Agreement”), with respect to The Wharf, a mixed-use commercial development within the municipal city limits of Orange Beach, Baldwin County, Alabama (the “Wharf Development”), which sits on approximately 221.6 acres of land located south of the Intracoastal Waterway and north of State Route 180, in Baldwin County, Alabama; and

WHEREAS, pursuant to the Development Agreement, and to evidence the limited obligation of the City to pay certain tax revenues to Wharf Retail generated from the Wharf Development, the City issued to Wharf Retail an Amended and Restated Limited Obligation Warrant Series 2010A in the face amount of \$21,072,954, dated December 13, 2019 (the “Warrant”); and

WHEREAS, the Wharf Parties are all wholly-owned by Arthur Emmette Favre, III; and

WHEREAS, Wharf Landing has acquired certain real property situated on the north side of the Intracoastal Waterway across from the Wharf Development (the “Northside Property”); and

WHEREAS, a part of the Northside Property was the site of the former Bama Bayou development, originally planned as a mixed-use development, which development was partially constructed, but never fully completed or opened to the public, and which has remained in a state of abandonment and disrepair for years; and

WHEREAS, the blighted structures on the Northside Property have become an eyesore, erode surrounding property values, pose safety hazards, and impede accretion in sales, use, lodging and property tax revenues to the City; and

WHEREAS, the City is desirous of having the blighted structures on the Northside Property demolished and removed therefrom, so that such Northside Property can be put in a state where it can be re-purposed and re-developed; and

WHEREAS, the City is desirous of acquiring from Wharf Landing a certain parcel within the Northside Property located in the northwest area thereof, consisting of approximately 24.7 acres (the “Proposed City Parcel”); and

WHEREAS, subject to terms and conditions contained in the Supplement and Amendment and the Second Amended and Restated Warrant, the City desires to lend its credit and/or grant public funds and things of value in aid of the Wharf Parties for the purposes set forth below.

### **SUMMARY OF TRANSACTIONS**

In connection with the foregoing matters, the City proposes the following actions:

1. Conveyance of Proposed City Parcel. Wharf Landing would convey to the City the Proposed City Parcel.
2. Demolition. Wharf Landing would demolish and remove certain of the blighted structures on the Northside Property.
3. Tree Buffer. In the event that the City constructs a roadway and parking lot on the Proposed City Parcel, the City would plant and maintain a tree buffer around the new proposed roadway and parking lot on the Proposed City Parcel.
4. Restructuring of Warrant. The principal amount of the Warrant would be increased by \$6,000,000 (such that the new principal amount would be equal to the amount of the outstanding balance thereof as of the date of re-issuance plus \$6,000,000), and the percentage of sharing of sales and lodging tax revenues generated from the Wharf Development under the Warrant would be increased from 50% to 75% commencing effective January 1, 2023, until such time as an additional \$24,000,000 of gross sales and lodging tax revenues are generated at the Wharf Development beginning as of January 1, 2023.
5. Amendments to Agreements. The City and the Wharf Parties would enter into the Supplement and Amendment setting forth the terms and conditions of the transactions described above, which would supplement and amend the Development Agreement. Wharf Retail would return the Warrant to the City and the City would issue the Second Amended and Restated Warrant to Wharf Retail, which would amend, restate and replace in its entirety the Warrant. The parties would additionally enter into certain ancillary agreements relating to the transactions described herein.

### **CONCLUSION**

The City Council expects to determine at its public meeting that the lending of credit and/or granting of public funds and things of value to the Wharf Parties in connection with the

foregoing transactions will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to the Wharf Parties or any other private entity or entities.

The public benefits sought to be achieved by the actions described above are: (i) the City's acquisition of the Proposed City Parcel, (ii) the demolition and removal of blighted structures on the Northside Property, which would put it in a state where it can be re-purposed and re-developed, (iii) further incentivizing development within the Wharf Development, (iv) promoting local economic development and stimulating the local economy, (v) increasing employment opportunities in the City, (v) increasing the City's tax base, which will result in additional tax revenues for the City, and (vi) promoting the expansion and retention of business enterprise in the City.