

## **BOND RESOLUTION**

**A RESOLUTION OF THE FAYETTE COUNTY DEVELOPMENT AUTHORITY AUTHORIZING, *INTER ALIA*, THE ISSUANCE OF THE FAYETTE COUNTY DEVELOPMENT AUTHORITY TAXABLE REVENUE BONDS (HOSHIZAKI AMERICA, INC. PROJECT), SERIES 2024, IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$46,500,000.**

**Adopted July 25, 2024**

- Exhibit A - Indenture of Trust
- Exhibit B - Lease Agreement
- Exhibit C - Bond Purchase Agreement
- Exhibit D - Deed to Secure Debt, Assignment of Rents and Leases and Security Agreement
- Exhibit E - Guaranty Agreement
- Exhibit F - Memorandum of Understanding
- Exhibit G - Home Office Payment Agreement

## **BOND RESOLUTION**

**WHEREAS**, the Fayette County Development Authority, a development authority and public body corporate and politic (the “**Issuer**”) created and existing pursuant to the provisions of the Development Authorities Law of the State of Georgia (O.C.G.A. § 36-62-1, *et seq.*), as heretofore and hereafter amended (the “**Act**”), to develop and promote trade, commerce, industry and employment opportunities in Fayette County, Georgia (the “**County**”); and

**WHEREAS**, the Act provides that the Issuer is created to develop and promote trade, commerce, industry and employment opportunities for the public good and the general welfare within the County and is authorized by the Act to issue its revenue bonds to acquire land and acquire, construct and install buildings and related personal property, which revenue bonds are required to be validated pursuant to the provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60, *et seq.*); and

**WHEREAS**, the Act further authorizes and empowers the Issuer: (i) to lease any such projects; (ii) to pledge, mortgage, convey, assign, hypothecate or otherwise encumber such projects and the revenues therefrom as security for the Issuer’s revenue bonds; and (iii) to do any and all acts and things necessary or convenient to accomplish the purpose and powers of the Issuer; and

**WHEREAS**, Hoshizaki America, Inc., a Georgia corporation (the “**Company**”), has previously acquired, constructed and installed a capital project in the County consisting of certain land, improvements, fixtures and equipment which is currently being used as a manufacturing facility for the Company (the “**Existing Facilities**”); and

**WHEREAS**, the Company desires to acquire, construct and install an expansion to the Existing Facilities and to acquire certain additional equipment and fixtures located thereat (collectively, the “**2024 Project**” and, together with the Existing Facilities, the “**Projects**”); and

**WHEREAS**, the Company has estimated that the acquisition, construction and installation of the 2024 Project will begin in 2024 and will be completed by December 31, 2025 and may require expenditures currently expected to cost approximately \$30,000,000; and

**WHEREAS**, the most feasible method of financing the acquisition of the Existing Facilities and the acquisition, construction and installation of the 2024 Project is by the issuance of the Fayette County Development Authority Taxable Revenue Bonds (Hoshizaki America, Inc. Project), Series 2024, in the aggregate principal amount of not to exceed \$46,500,000 (the “**Series 2024 Bonds**”); and

**WHEREAS**, the Existing Facilities and the 2024 Project shall be leased by the Issuer to the Company for use as part of its manufacturing facility and an economic development project under O.C.G.A. § 36-62-2(6)(N), pursuant to the terms of a Lease Agreement (the “**Lease**”) between the Issuer and the Company; and

**WHEREAS**, the Series 2024 Bonds are to be issued under the terms of an Indenture of Trust (the “**Indenture**”), to be entered into by and between the Issuer and Synovus Bank, a Georgia

state banking corporation authorized to accept and execute trusts of the character set out in the Indenture, as trustee (the “**Trustee**”); and

**WHEREAS**, the Series 2024 Bonds are to be secured by a Deed to Secure Debt, Assignment of Rents and Leases and Security Agreement (the “**Security Document**”), from the Issuer in favor of the Trustee; and

**WHEREAS**, the Series 2024 Bonds are to be secured by a Guaranty Agreement (the “**Guaranty Agreement**”), from the Company in favor of the Trustee; and

**WHEREAS**, pursuant to the public purposes for which it has been created, and in consideration of certain commitments made by the Company with respect to job creation and capital investment, the Issuer and the Company entered into that certain Memorandum of Understanding (the “**Memorandum of Understanding**”), pursuant to which the Issuer agreed to the provision to the Company of certain assistance as described therein in consideration of the Company’s agreement to locate the 2024 Project within the borders of the County, with attendant job creation and investment on the part of the Company, all of which constitutes valuable consideration to the Issuer, the County, and their citizens; and

**WHEREAS**, under the terms of the Lease, the Issuer will receive specified rents and other payments from the Company, which shall be assigned and pledged by the Indenture and the Security Document, together with the Lease itself, all rental payments and other payments to be received pursuant to the Lease, and all amounts on deposit from time to time in the “**Bond Fund**” and the “**Project Fund**” (as such terms are defined in the Indenture) as security for the payment of the principal of, and the redemption premium (if any) and the interest on, the Series 2024 Bonds; and

**WHEREAS**, the 2024 Project is expected to create jobs in the County; and

**WHEREAS**, after careful study and investigation of the nature of the Projects, the Issuer hereby determines that the Projects may be acquired, constructed and installed as a “project” as defined in O.C.G.A. § 36-62-2(6)(N) (and not a “project” described in any other provision of the Act defining the term “project” or authorizing “projects”); the Projects will develop and promote trade, commerce, industry and employment opportunities for the public good and the general welfare within the County and will promote the general welfare of the State; that the Projects and the issuance of the Issuer’s revenue bonds to acquire, construct and install the Projects will be in the public interest of the inhabitants of the County and of the State and will be in furtherance of the public purposes for which the Issuer was created and is existing, as provided in the Act, and that the Projects and the Series 2024 Bonds will be sound, feasible and reasonable; and

**WHEREAS**, the Issuer desires to elect to waive the requirements of O.C.G.A. § 36-82-100, requiring a performance audit or performance review to be conducted with respect to the Series 2024 Bonds, and in connection therewith, to include language, in bold face type, in the Notice to the Public regarding the validation hearing for the Series 2024 Bonds stating that no performance audit or review will be conducted; and

**WHEREAS**, the Issuer further finds that (i) the adoption of the Bond Resolution and the subsequent issuance of the Series 2024 Bonds to acquire the Existing Facilities and acquire, construct and install the 2024 Project do not constitute a “business loan” or confer any other “public benefit” within the meaning of O.C.G.A. § 50-36-1 and (ii) neither the Company nor any other participant in the transaction involving the Series 2024 Bonds or the Projects and their respective counsel constitute an “applicant for public benefits” within the meaning of O.C.G.A. § 50-36-1 in connection with the issuance of the Series 2024 Bonds; therefore, such persons are not subject to Systematic Alien Verification of Entitlement pursuant to such code section in connection with the issuance of the Series 2024 Bonds; and

**WHEREAS**, the Issuer further finds that the 2024 Project is not public project and is therefore not subject to the Georgia Local Government Public Works Construction Law (O.C.G.A. § 36-91-1 *et seq.*); and

**WHEREAS**, the Issuer further finds that the economic benefits that will inure to the County and their residents from the Projects and the operation thereof and the payments to be made under the Lease thereof and the related purchase option in the Lease will be equal to or greater in value than the benefits to be derived by the Company that is the lessee thereof under the Lease and, therefore, the issuance of the Series 2024 Bonds to acquire the Existing Facilities and acquire, construct and install the 2024 Project, and the leasing of the Projects to the lessee Company and the related purchase option and the execution and delivery of the Security Document involves no gratuity to the Company that is prohibited by the Constitution of the State of Georgia of 1983; and

**WHEREAS**, the proposed form of the following documents related to the Series 2024 Bonds are attached hereto as Exhibits:

- Exhibit A - the Indenture;
- Exhibit B - the Lease;
- Exhibit C - the Bond Purchase Agreement;
- Exhibit D - the Security Document;
- Exhibit E - the Guaranty Agreement;
- Exhibit F - the Memorandum of Understanding;
- Exhibit G - the Home Office Payment Agreement; and

Exhibits A through G of this Bond Resolution and any documents attached as exhibits or schedules to such Exhibits are collectively called the “**Bond Documents**”; this Bond Resolution, the Bond Documents, the security pledged by the Indenture and Security Document to the Series 2024 Bonds and any amounts payable under the Guaranty Agreement are collectively called the “**Bond Security**.” The above-referenced Bond Documents, including any exhibits thereto, are incorporated herein and made a part hereof by this reference. Those of the Bond Documents to which the Issuer is to be a party signatory are herein called the “**Issuer Documents**,” and those of

the Bond Documents to which the Company is to be a party signatory are called the “**Company Documents**”; and

**WHEREAS**, this Bond Resolution has been duly adopted and all things necessary to make the Series 2024 Bonds, when validated, issued and delivered as provided in this Bond Resolution, the legal, valid, binding, and enforceable limited obligations of the Issuer according to the import thereof, and to create a valid pledge of the Trust Estate (as defined in the Indenture) for such Bonds, have been done and performed, and the execution and delivery of the Issuer Documents and the execution, issuance, and delivery of the Series 2024 Bonds, subject to the terms hereof, have in all respects been authorized.

**NOW, THEREFORE, BE IT RESOLVED** by the FAYETTE COUNTY DEVELOPMENT AUTHORITY, as follows:

**Section 1. Authority for Bond Resolution.** This Bond Resolution is adopted pursuant to the provisions of the Act.

**Section 2. Findings.** It is hereby ascertained, determined and declared that:

(a) the recitals preceding Section 1 (the “**Recitals**”) are part of this Bond Resolution and constitute findings on the part of the Issuer;

(b) the acquisition of the Existing Facilities and the acquisition, construction and installation of the 2024 Project are lawful and valid public purposes in that they will further the public purposes intended to be served by the Act;

(c) the specified rents and other payments to be received by the Issuer under the Lease will be fully sufficient to pay the principal of, and the redemption premium (if any) and the interest on, the Series 2024 Bonds as the same become due and to pay certain administrative expenses in connection with the Series 2024 Bonds;

(d) the Company is required to maintain the Projects and to carry all proper insurance with respect thereto at the expense of the Company and also to pay the Trustee’s annual fee for serving as Trustee and paying agent for the Series 2024 Bonds;

(e) the Series 2024 Bonds will constitute only limited obligations of the Issuer and will be payable solely from the revenues to be assigned and pledged to the payment thereof and will not constitute a debt or a general obligation or a pledge of the faith and credit of the State or the County and will not directly, indirectly, or contingently obligate the State, the Issuer or the County to levy or to pledge any form of taxation whatsoever for the payment thereof; and

(f) the Projects will be self-liquidating and the Issuer shall not operate the Projects as a business other than as a lessor.

**Section 3. Authorization of Acquisition of the Existing Facilities and Acquisition, Construction and Installation of the 2024 Project.** The acquisition of the Existing Facilities and

the acquisition, construction and installation of the 2024 Project as contemplated in the Lease are hereby authorized.

**Section 4. Authorization of Bonds.** For the purpose of paying the costs, in whole or in part, of acquiring the Existing Facilities and acquiring, constructing and installing the 2024 Project, the issuance of up to \$46,500,000 in aggregate principal amount of revenue bonds of the Issuer, known as “Fayette County Development Authority Taxable Revenue Bonds (Hoshizaki America, Inc. Project), Series 2024,” is hereby authorized (the bond caption may be updated to reflect the year of issuance and/or year of purchase by the Company). The Series 2024 Bonds shall have a final maturity on December 1, 2035 and may be made subject to scheduled amortization payments all as may be agreed to by the Company and the official of the Issuer who executes the Series 2024 Bonds, such agreement to be evidenced by the Series 2024 Bonds when executed. The Series 2024 Bonds shall be issued as registered Bonds without coupons in various denominations, with such rights of exchangeability and transfer of registration, and shall be in the form and executed and authenticated in the manner provided in the Indenture. The term “Bonds” as used herein shall be deemed to mean and include the Series 2024 Bonds as initially issued and delivered and Bonds issued in exchange therefore or in exchange for Bonds previously issued.

Any Bonds hereafter issued in exchange for the Series 2024 Bonds initially issued and delivered pursuant to the Indenture shall be executed in accordance with the provisions of the Indenture, and such execution by the Chairman or Vice Chairman and attestation by the Secretary or Assistant Secretary of the Issuer, whether present or future, is hereby authorized. A certificate of validation shall be endorsed upon the Series 2024 Bonds hereafter issued, and the Clerk of the Superior Court of Fayette County, Georgia, is instructed to execute such certificate of validation upon the written request of the Trustee or the Issuer, specifying that such Bond is being issued in exchange or for transfer of registration for one of the Series 2024 Bonds issued and delivered to the initial purchaser thereof or one of the Series 2024 Bonds previously issued in exchange therefor. The Series 2024 Bonds shall bear interest at the rate of six percent (6%) per annum (computed on the basis of a 365/366-day year), as provided in the Indenture. The aggregate principal and interest payable on the Series 2024 Bonds of all Series in any year shall not exceed \$49,290,000.

**Section 5. Authorization of Indenture and Designation of Trustee Thereunder.** The Series 2024 Bonds shall be issued under the Indenture, which shall be substantially in the form attached hereto as Exhibit A, subject to such changes, insertions or omissions as may be approved by the Chairman or Vice Chairman of the Issuer; the execution of the Indenture by the Chairman or Vice Chairman and attestation by the Secretary or Assistant Secretary of the Issuer (said execution and attestation being hereby authorized) shall be conclusive evidence of any such approval. Synovus Bank, a Georgia state banking corporation, which is authorized to accept and execute trusts of the character set out in the Indenture, is hereby designated to serve as Trustee under the Indenture, and as Paying Agent and Bond Registrar for the Series 2024 Bonds.

**Section 6. Authorization of Lease.** The Projects shall be leased under the Lease by the Issuer to the Company. The Lease shall be in substantially the form of the Lease attached hereto as Exhibit B, subject to such changes, insertions or omissions as may be approved by the Chairman or Vice Chairman of the Issuer; the execution of the Lease by the Chairman or Vice Chairman and

attestation by the Secretary or Assistant Secretary of the Issuer (said execution and attestation being hereby authorized) shall be conclusive evidence of any such approval.

**Section 7. Authorization of Bond Purchase Agreement.** In connection with the decision by the Company to purchase the Series 2024 Bonds rather than seek to sell the Series 2024 Bonds to an underwriter or another third party, the Series 2024 Bonds shall be sold to the Company pursuant to the Bond Purchase Agreement, which shall be in substantially the form attached hereto as Exhibit C, subject to such changes, insertions or omissions as may be approved by the Chairman or Vice Chairman of the Issuer; the execution of the Bond Purchase Agreement by the Chairman or Vice Chairman of the Issuer (said execution and attestation being hereby authorized) shall be conclusive evidence of any such approval.

**Section 8. Authorization of Security Document.** The Series 2024 Bonds shall be secured by the Security Document encumbering, among other things, the Projects, rents from the Projects and amounts held by the Trustee for the Series 2024 Bonds under the Indenture. The execution, delivery and performance of the Security Document are hereby authorized. The Security Document shall be in substantially the form attached hereto as Exhibit D, subject to such changes, insertions or omissions as may be desirable and as, after review by the Issuer's counsel, are approved by the Chairman or Vice Chairman of the Issuer; the execution of the Security Document by the Chairman or Vice Chairman and attestation by the Secretary or Assistant Secretary of the Issuer (said execution and attestation being hereby authorized) shall be conclusive evidence of any such approval.

**Section 9. Acknowledgment of Guaranty Agreement.** There is to be a Guaranty Agreement for the Series 2024 Bonds to be executed by the Company. The Guaranty Agreement shall be in substantially the form attached hereto as Exhibit E, subject to such changes, insertions or omissions as may be approved by the Company and by the purchaser of the Series 2024 Bonds.

**Section 10. Authorization of Memorandum of Understanding.** The Memorandum of Understanding will be entered into between and among the Issuer and the Company. The Memorandum of Understanding shall be in substantially the form of the Memorandum of Understanding attached hereto as Exhibit F, subject to such changes, insertions or omissions as may be approved by the Chairman or Vice Chairman of the Issuer; the execution of the Memorandum of Understanding by the Chairman or Vice Chairman and attestation by the Secretary or Assistant Secretary of the Issuer (said execution and attestation being hereby authorized) shall be conclusive evidence of any such approval.

**Section 11. Authorization of Home Office Payment Agreement.** The Home Office Payment Agreement will be entered into between and among the Trustee, the Issuer and the Company, providing for payment of moneys sufficient to provide for debt service on the Series 2024 Bonds directly to the Company, as purchaser of the Series 2024 Bonds. The Home Office Payment Agreement shall be in substantially the form of the Home Office Payment Agreement attached hereto as Exhibit G, subject to such changes, insertions or omissions as may be approved by the Chairman or Vice Chairman of the Issuer; the execution of the Home Office Payment Agreement by the Chairman or Vice Chairman and attestation by the Secretary or Assistant Secretary of the Issuer (said execution and attestation being hereby authorized) shall be conclusive evidence of any such approval.

**Section 12. Validation of Bonds.** The Chairman or, in his absence or incapacity, the Vice Chairman, of the Issuer is hereby authorized and directed to immediately notify the District Attorney of the Griffin Judicial Circuit of the action taken by the Issuer, to request such District Attorney to institute a proceeding to confirm and validate the Series 2024 Bonds and to pass upon the security therefor, and said Chairman or Vice Chairman and Secretary or Assistant Secretary of the Issuer are further authorized to acknowledge service and make answer in such proceeding.

**Section 13. No Personal Liability.** No stipulation, obligation or agreement contained herein, in any Bond or in the Issuer Documents relating to any series of Bonds shall be deemed to be a stipulation, obligation or agreement of any officer, member, director, agent or employee of the Issuer in his individual capacity, and no such officer, member, director, agent or employee shall be personally liable on any of the Series 2024 Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

**Section 14. General Authority.** From and after the execution and delivery of the documents hereinabove authorized, the proper officers, members, directors, agents and employees of the Issuer are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the intent of this Bond Resolution and the provisions of said documents as executed, and are further authorized to take any and all further actions and execute and deliver any and all other documents (including, but not limited to, the Memorandum of Understanding) and certificates as may be necessary or desirable in connection with the issuance of the Series 2024 Bonds and the execution and delivery of Issuer Documents. From and after the date of adoption of this Bond Resolution, the proper officers, members, directors, agents and employees of the Issuer are hereby authorized to execute an intercreditor agreement or non-disturbance, subordination and attornment agreement with any Lender (as defined in the Indenture) that is providing funding for the Projects, including any Superior Security Document (as defined in the Indenture), and documents necessary or convenient to the permanent financing to be provided by any Lender.

**Section 15. Transcript of Proceedings.** The Chairman or Vice Chairman and Secretary or Assistant Secretary of the Issuer are hereby authorized and directed to prepare and furnish to the purchaser or purchasers, when the Series 2024 Bonds are issued, certified copies of all the proceedings and records of the Issuer relating to the Series 2024 Bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Series 2024 Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the Issuer as to the truth of all statements contained therein.

**Section 16. Actions Approved and Confirmed.** All acts and doings of the officers of the Issuer which are in conformity with the purposes and intents of this Bond Resolution and in the furtherance of the issuance of the Series 2024 Bonds and the execution, delivery and performance of the Issuer Documents shall be, and the same hereby are, in all respects approved and confirmed.

**Section 17. Severability of Invalid Provisions.** If any one or more of the agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for



any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof or of the Series 2024 Bonds authorized hereunder.

**Section 18. Repealing Clause.** All resolutions or parts thereof of the Issuer in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**Section 19. Effective Date.** This Bond Resolution shall take effect immediately upon its adoption.

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**ADOPTED** this 25<sup>th</sup> day of July, 2024.

**FAYETTE COUNTY DEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

[SEAL]

**EXHIBIT A**

**FORM OF INDENTURE OF TRUST**

(ATTACHED)

**EXHIBIT B**  
**FORM OF LEASE AGREEMENT**

(ATTACHED)

**EXHIBIT C**  
**FORM OF BOND PURCHASE AGREEMENT**

(ATTACHED)

**EXHIBIT D**

**FORM OF DEED TO SECURE DEBT,  
ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT**

(ATTACHED)

**EXHIBIT E**  
**FORM OF GUARANTY AGREEMENT**

(ATTACHED)

**EXHIBIT F**

**MEMORANDUM OF UNDERSTANDING**

(ATTACHED)



**EXHIBIT G**

**FORM OF HOME OFFICE PAYMENT AGREEMENT**

(ATTACHED)

**SECRETARY’S CERTIFICATE**

The undersigned Secretary of the Fayette County Development Authority (the “**Issuer**”), **DOES HEREBY CERTIFY** that the foregoing pages pertaining to the issuance of the Fayette County Development Authority Taxable Revenue Bonds (Hoshizaki America, Inc. Project), Series 2024, to be issued in a maximum aggregate principal amount of \$46,500,000, constitute a true and correct copy of the Bond Resolution adopted by the Issuer at an open public meeting at which a quorum was present, duly called and lawfully assembled on the 25<sup>th</sup> day of July, 2024, the original of such Bond Resolution being duly recorded in the Minute Book of the Issuer, which Minute Book is in my custody and control.

**WITNESS** my hand and the official seal of the Fayette County Development Authority, this 25<sup>th</sup> day of July, 2024.

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Secretary

(SEAL)