

**ORDINANCE NO. 4-22**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF WATER AND SEWER REFUNDING REVENUE BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Camden, Arkansas (the "City") owns a water and sewer (combined) system, which system is operated as a single, integrated municipal undertaking (the "System") under the control of the Camden Water and Sewer Commission (the "Commission"); and

**WHEREAS**, the City has previously issued its Water and Sewer Refunding Revenue Bonds, Series 2016 (the "Bonds Refunded"); and

**WHEREAS**, the City Council has determined that the City can achieve debt service savings by refunding the Bonds Refunded (the "Refunding"); and

**WHEREAS**, the City can accomplish the Refunding by the issuance of its Water and Sewer Refunding Revenue Bonds, Series 2022 (the "bonds"); and

**WHEREAS**, the City has made arrangements for the sale of \$4,385,000 in aggregate principal amount of the bonds to Stephens Inc. (the "Purchaser"), at a price of \$4,341,484.35 (principal amount plus net original issue premium of \$4,719.35 less underwriter's discount of \$48,235) (the "Purchase Price") pursuant to a Bond Purchase Agreement between the City and the Purchaser (the "Purchase Agreement"), which has been presented to and is before this meeting; and

**WHEREAS**, the Preliminary Official Statement, dated February 16, 2022, offering the bonds for sale (the "Preliminary Official Statement"), has been presented to and is before this meeting; and

**WHEREAS**, the Continuing Disclosure Agreement between the City and Community First Trust Company, Hot Springs, Arkansas (the "Disclosure Agreement"), providing for the disclosure obligations of the City with respect to the bonds, has been presented to and is before this meeting; and

**WHEREAS**, the City has outstanding its Water and Sewer Revenue Bond, dated October 6, 2011 (the "2011 Bond"), Water and Sewer Refunding Revenue Bonds, Series 2020 (the "2020 Bonds") and Water and Sewer Refunding and Improvement Revenue Bonds, Series 2021 (the "2021 Bonds" and, together with the 2011 Bond and the 2020 Bonds, the "Parity Bonds"); and

**WHEREAS**, the coverage tests for securing the bonds with a lien on Revenues (as hereinafter defined) on a parity with the lien on Revenues in favor of the Parity Bonds have been or will be met;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAMDEN, ARKANSAS, THAT:**

**SECTION 1.** The Refunding shall be accomplished. The Mayor and City Clerk are hereby authorized to take, or cause to be taken, all action necessary to accomplish the Refunding and to execute all required documents. The Bonds Refunded shall be called for redemption on the date the bonds are issued at a price of par plus accrued interest.

**SECTION 2.** The City Council hereby finds and declares that the period of usefulness of the System will be more than 20 years, which is longer than the term of the bonds.

**SECTION 3.** The offer of the Purchaser for the purchase of the bonds from the City at the Purchase Price for bonds bearing interest at the rates per annum, maturing and otherwise subject to the terms and provisions hereafter in this Ordinance set forth in detail be, and is hereby accepted, and the Purchase Agreement, in substantially the form submitted to this meeting, is approved and the bonds are hereby sold to the Purchaser. The Mayor is hereby authorized and directed to execute and deliver the Purchase Agreement on behalf of the City and to take all action required on the part of the City to fulfill its obligations under the Purchase Agreement.

**SECTION 4.** The Preliminary Official Statement is hereby approved and the previous use of the Preliminary Official Statement by the Purchaser in connection with the sale of the bonds is hereby in all respects approved and confirmed, and the Mayor is hereby authorized and directed, for and on behalf of the City, to execute the Preliminary Official Statement and the final Official Statement in the name of the City for use in connection with the sale of the bonds as set forth in the Purchase Agreement.

**SECTION 5.** Under the authority of the Constitution and laws of the State of Arkansas (the "State"), including particularly Title 14, Chapter 234, Subchapter 2, Title 14, Chapter 235, Subchapter 2 and Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated, and applicable decisions of the Supreme Court of the State, including particularly City of Harrison v. Braswell, 209 Ark. 1094, 194 S.W.2d 12 (1946), City of Camden, Arkansas Water and Sewer Refunding Revenue Bonds, Series 2022 are hereby authorized and ordered issued in the principal amount of \$4,385,000 for the purpose of financing all or a portion of the costs of the Refunding and paying expenses incidental thereto and to the authorization and issuance of the bonds. The bonds shall mature on October 1 in the years and in the amounts and shall bear interest as follows:

<u>Year</u> <u>(October 1)</u>	<u>Amount</u>	<u>Interest Rate</u>
2022	\$160,000	2.000%
2023	345,000	2.000
2024	350,000	2.000
2025	360,000	2.000
2026	365,000	2.000
2027	375,000	2.000
2028	385,000	2.125
2029	390,000	2.250
2030	400,000	2.250
2031	410,000	2.250
2033	845,000	2.500

The bonds shall be dated as of the date of delivery to the Purchaser and shall be issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. Unless the City shall otherwise direct, the bonds shall be numbered from 1 upward in order of issuance. Each bond shall have a CUSIP number but the failure of a CUSIP number to appear on any bond shall not affect its validity.

The bonds shall be registered initially in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"), which shall be considered to be the registered owner of the bonds for all purposes under this Ordinance, including, without limitation, payment by the City of principal of, redemption price, premium, if any, and interest on the bonds, and receipt of notices and exercise of rights of registered owners. There shall be one certificated, typewritten bond for each stated maturity date which shall be immobilized in the custody of or on behalf of DTC with the beneficial owners having no right to receive the bonds in the form of physical securities or certificates. DTC and its participants shall be responsible for maintenance of records of the ownership of beneficial interests in the bonds by book-entry on the system maintained and operated by DTC and its participants, and transfers of ownership of beneficial interests shall be made only by DTC and its participants, by book-entry, the City having no responsibility therefor. DTC is expected to maintain records of the positions of participants in the bonds, and the participants and persons acting through participants are expected to maintain records of the purchasers of beneficial interests in the bonds. The bonds as such shall not be transferable or exchangeable, except for transfer to another securities depository or to another nominee of a securities depository, without further action by the City.

If any securities depository determines not to continue to act as a securities depository for the bonds for use in a book-entry system, the City may establish a securities depository/book-entry system relationship with another securities depository. If the City does not or is unable to do so, or upon request of the beneficial owners of all outstanding bonds, the City and the Trustee (hereinafter identified), after the Trustee has made provision for notification of the beneficial owners by the then securities depository, shall permit withdrawal of the bonds from the securities depository, and authenticate and deliver bond certificates in fully registered form (in denominations of \$5,000 or integral multiples thereof) to the assigns of the securities depository

or its nominee, all at the cost and expense (including costs of printing definitive bonds) of the City, if the City fails to maintain a securities depository/book-entry system, or of the beneficial owners, if they request termination of the system.

Prior to issuance of the bonds, the City shall have executed and delivered to DTC a written agreement (the "Representation Letter") setting forth (or incorporating therein by reference) certain undertakings and responsibilities of the City with respect to the bonds so long as the bonds or a portion thereof are registered in the name of Cede & Co. (or a substitute nominee) and held by DTC. Notwithstanding such execution and delivery of the Representation Letter, the terms thereof shall not in any way limit the provisions of this Section or in any other way impose upon the City any obligation whatsoever with respect to persons having interests in the bonds other than the registered owners, as shown on the registration books kept by the Trustee. The Trustee shall take all action necessary for all representations of the City in the Representation Letter with respect to the Trustee to at all times be complied with.

The authorized officers of the Trustee and the City shall do or perform such acts and execute all such certificates, documents and other instruments as they or any of them deem necessary or advisable to facilitate the efficient use of a securities depository for all or any portion of the bonds; provided that neither the Trustee nor the City may assume any obligations to such securities depository or beneficial owners of bonds that are inconsistent with their obligations to any registered owner under this Ordinance.

Interest on the bonds shall be payable on October 1, 2022 and semiannually thereafter on April 1 and October 1 of each year. Payment of each installment of interest shall be made to the person in whose name the bond is registered on the registration books of the City maintained by Community First Trust Company, Hot Springs, Arkansas, as Trustee and Paying Agent (the "Trustee"), at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the "Record Date"), irrespective of any transfer or exchange of any such bond subsequent to such Record Date and prior to such interest payment date.

Each bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated prior to the first interest payment date, in which event it shall bear interest from its dated date, or unless it is authenticated during the period from the Record Date to the next interest payment date, in which case it shall bear interest from such interest payment date, or unless at the time of authentication thereof interest is in default thereon, in which event it shall bear interest from the date to which interest has been paid.

Only such bonds as shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in Section 7 hereof (the "Certificate") duly executed by the Trustee shall be entitled to any right or benefit under this Ordinance. No bond shall be valid and obligatory for any purpose unless and until the Certificate shall have been duly executed by the Trustee, and the executed Certificate upon any such bond shall be conclusive evidence that such bond has been authenticated and delivered under this Ordinance. The Certificate on any bond shall be deemed to have been

executed if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate on all of the bonds.

In case any bond shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new bond of like date, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated bond, or in lieu of and in substitution for such bond destroyed or lost, upon the owner paying the reasonable expenses and charges of the City and the Trustee in connection therewith, and, in the case of a bond destroyed or lost, his filing with the Trustee evidence satisfactory to it that such bond was destroyed or lost, and of his ownership thereof, and furnishing the City and the Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new bond. In the event any such bond shall have matured, instead of issuing a new bond, the City may pay the same without the surrender thereof. Upon the issuance of a new bond under this Section, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

The City shall cause books for the registration and for the transfer of the bonds to be maintained as provided herein and in the bonds. The Trustee shall act as the bond registrar. Each bond is transferable by the registered owner thereof or by his attorney duly authorized in writing at the principal corporate office of the Trustee. Upon such transfer a new fully registered bond or bonds of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount will be issued to the transferee in exchange therefor.

No charge shall be made to any owner of any bond for the privilege of transfer or exchange, but any owner of any bond requesting any such transfer or exchange shall pay any tax or other governmental charge required to be paid with respect thereto. Except as otherwise provided in the immediately preceding sentence, the cost of preparing each new bond upon each exchange or transfer and any other expenses of the City or the Trustee incurred in connection therewith shall be paid by the City. Neither the City nor the Trustee shall be required to transfer or exchange any bonds selected for redemption in whole or in part.

The person in whose name any bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes (the "Owner"), and payment of or on account of the principal or premium, if any, or interest on any bond shall be made only to or upon the order of the Owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such bond to the extent of the sum or sums so paid.

In any case where the date of maturity of interest on or principal of the bonds or the date fixed for redemption of any bonds shall be a Saturday or Sunday or shall be in the State a legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal (and premium, if any) need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after the date of maturity or date fixed for redemption.

**SECTION 6.** The bonds shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk and shall have impressed or imprinted thereon the seal of the City. The bonds, together with interest thereon, are secured by and are payable solely from revenues derived from the System (the "Revenues") which are hereby irrevocably pledged and mortgaged for the equal and ratable payment of the bonds. The pledge of Revenues in favor of the bonds is on a parity with the pledge in favor of the Parity Bonds. The bonds and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation.

**SECTION 7.** The bonds and the Certificate shall be in substantially the following form and the Mayor and City Clerk are hereby expressly authorized and directed to make all recitals contained therein:

(Form of Bond)

REGISTERED  
No. \_\_\_\_\_

REGISTERED

UNITED STATES OF AMERICA  
STATE OF ARKANSAS  
COUNTY OF OUACHITA  
CITY OF CAMDEN  
WATER AND SEWER REFUNDING REVENUE BOND  
SERIES 2022

Interest Rate: \_\_\_\_\_%

Maturity Date: October 1, \_\_\_\_\_

Dated Date: April 5, 2022

Registered Owner: Cede & Co.

Principal Amount: \_\_\_\_\_ Dollars

CUSIP No.: \_\_\_\_\_

The City of Camden, County of Ouachita, State of Arkansas (the "City"), for value received, hereby promises to pay, but solely from the source as hereinafter provided and not otherwise, to the Registered Owner shown above, upon the presentation and surrender hereof at the principal corporate office of Community First Trust Company, Hot Springs, Arkansas, or its successor or successors, as Trustee and Paying Agent (the "Trustee"), on the Maturity Date shown above, the Principal Amount shown above, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and to pay by check or draft to the Registered Owner shown above interest thereon, but solely from the source as hereinafter provided and not otherwise, in like coin or currency from the interest commencement date specified below at the Interest Rate per annum shown above, payable October 1, 2022 and semiannually thereafter on the first days of April and October of each year, until payment of such Principal Amount or, if this bond or a portion hereof shall be duly called for redemption, until the date fixed for redemption, and to pay interest on overdue principal and interest (to the extent legally enforceable) at the rate borne by this bond. Payment of each installment of interest shall be made

to the person in whose name this bond is registered on the registration books of the City maintained by the Trustee at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the "Record Date"), irrespective of any transfer or exchange of this bond subsequent to such Record Date and prior to such interest payment date.

This bond shall bear interest from the payment date next preceding the date on which it is authenticated unless it is authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated prior to the first interest payment date, in which event it shall bear interest from the Dated Date shown above, or unless it is authenticated during the period from the Record Date to the next interest payment date, in which case it shall bear interest from such interest payment date, or unless at the time of authentication hereof interest is in default hereon, in which event it shall bear interest from the date to which interest has been paid.

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC") to the Trustee for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

This bond is one of an issue of City of Camden, Arkansas Water and Sewer Refunding Revenue Bonds, Series 2022, aggregating Four Million Three Hundred Eighty-Five Thousand Dollars (\$4,385,000) in principal amount (the "bonds"), and is issued for the purpose of financing all or a portion of the costs of refunding the City's Water and Sewer Refunding Revenue Bonds, Series 2016 and paying necessary expenses incidental thereto and to the authorization and issuance of the bonds.

The bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas (the "State"), including particularly Title 14, Chapter 234, Subchapter 2, Title 14, Chapter 235, Subchapter 2 and Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated and applicable decisions of the Supreme Court of the State, including particularly City of Harrison v. Braswell, 209 Ark. 1094, 194 S.W.2d 12 (1946), and pursuant to Ordinance No. \_\_\_\_\_, adopted February 23, 2022 (the "Authorizing Ordinance"), and do not constitute an indebtedness of the City within any constitutional or statutory limitation. The bonds are not general obligations of the City, but are special obligations payable solely from the revenues derived from the operation of the City's combined water and sewer system (the "System"). In this regard, the pledge of revenues of the System in favor of the bonds is on a parity with the pledge in favor of the Parity Bonds as described in the Authorizing Ordinance. An amount of System revenues sufficient to pay the principal of and interest on the bonds has been duly pledged and set aside into the 2022 Water and Sewer Revenue Bond Fund described in the Authorizing Ordinance. Reference is hereby made to the Authorizing Ordinance for a detailed statement of the terms and conditions upon which the bonds are issued, of the nature and extent of the security for the bonds and the rights and obligations of the City, the Trustee and the owners of the bonds. The City has fixed and has covenanted and agreed to maintain rates for the services of the System which shall

be sufficient at all times at least to provide for the reasonable expenses of operation and maintenance of the System and for the payment of the principal of and interest on all bonds to which System revenues are pledged, including Trustee's fees, if any, as the same become due and payable, to maintain required reserves and to make the required deposits for the depreciation of the System.

The bonds are subject to optional and mandatory sinking fund redemption prior to maturity as follows:

(1) The bonds may be redeemed at the option of the City from funds from any source, on and after October 1, 2027, in whole or in part at any time, at a redemption price equal to the principal amount being redeemed, plus accrued interest to the redemption date. If fewer than all of the bonds shall be called for redemption, the particular maturities to be redeemed shall be selected by the City in its discretion. If fewer than all of the bonds of any one maturity shall be called for redemption, the particular bonds or portion thereof to be redeemed from each maturity shall be selected by lot by the Trustee.

(2) To the extent not previously redeemed, the bonds maturing on October 1, 2033 are subject to mandatory sinking fund redemption by lot in such manner as the Trustee shall determine, on October 1 in the years and in the amounts set forth below, at a redemption price equal to the principal amount being redeemed plus accrued interest to the date of redemption:

BONDS MATURING OCTOBER 1, 2033

<u>Years</u> <u>(October 1)</u>	<u>Principal Amount</u>
2032	\$420,000
2033 (maturity)	425,000

In case any outstanding bond is in a denomination greater than \$5,000, each \$5,000 of face value of such bond shall be treated as a separate bond of the denomination of \$5,000.

Notice of redemption identifying the bonds or portions thereof (which shall be \$5,000 or a multiple thereof) to be redeemed and the date on which they shall be presented for payment shall be given by the Trustee, not less than 30 and not more than 60 days prior to the date fixed for redemption, by mailing a copy of the redemption notice by first class mail, postage prepaid, or by sending a copy of the redemption notice via other standard means, including electronic or facsimile communication, to all registered owners of bonds to be redeemed. Failure to mail or send an appropriate notice or any such notice to one or more registered owners of bonds to be redeemed shall not affect the validity of the proceedings for redemption of other bonds as to which notice of redemption is duly given in proper and timely fashion. All such bonds or portions thereof thus called for redemption and for the retirement of which funds are duly provided in accordance with the Authorizing Ordinance prior to the date fixed for redemption will cease to bear interest on such redemption date.



This bond is transferable by the registered owner hereof in person or by his attorney-in-fact duly authorized in writing at the principal corporate office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Authorizing Ordinance, and upon surrender and cancellation of this bond. Upon such transfer a new fully registered bond or bonds of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefor. This bond is issued with the intent that the laws of the State shall govern its construction.

The City and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due hereon and for all other purposes, and neither the City nor the Trustee shall be affected by any notice to the contrary.

The bonds are issuable only as fully registered bonds in the denomination of \$5,000 and any integral multiple thereof. Subject to the limitations and upon payment of the charges provided in the Authorizing Ordinance, fully registered bonds may be exchanged for a like aggregate principal amount of fully registered bonds of the same maturity of other authorized denominations.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the bonds do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by the bonds, together with all obligations of the City, does not exceed any constitutional or statutory limitation; and that the above referred to revenues pledged to the payment of the principal of and premium, if any, and interest on the bonds as the same become due and payable will be sufficient in amount for that purpose.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Authorizing Ordinance until the Certificate of Authentication hereon shall have been signed by the Trustee.

THE CITY HAS DESIGNATED THIS BOND AS A "QUALIFIED TAX-EXEMPT OBLIGATION" WITHIN THE MEANING OF SECTION 265(b) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

IN WITNESS WHEREOF, the City of Camden, Arkansas has caused this bond to be executed by its Mayor and City Clerk and its corporate seal to be impressed or imprinted on this bond, all as of the Dated Date shown above.

CITY OF CAMDEN, ARKANSAS

ATTEST:

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

(SEAL)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds designated Series 2022 in and issued under the provisions of the within mentioned Authorizing Ordinance.

Date of Authentication: \_\_\_\_\_, 2022.

COMMUNITY FIRST TRUST COMPANY  
Hot Springs, Arkansas  
TRUSTEE

By \_\_\_\_\_  
Authorized Signature

(A Form of Assignment shall be attached to the bonds.)

**SECTION 8.** (a) The rates charged for services of the System heretofore fixed by ordinances of the City and the conditions, rights and obligations pertaining thereto, as set out in those ordinances, are hereby ratified, confirmed and continued.

(b) The City covenants that the rates charged for services of the System shall never be reduced while any of the bonds are outstanding unless there is obtained from an independent certified public accountant ("Accountant") a certificate that the Net Revenues of the System ("Net Revenues" being defined as gross Revenues less the expenses of operation and maintenance of the System, including all expense items properly attributable to the operation and maintenance of the System under generally accepted accounting principles applicable to municipal water and sewer systems (excluding depreciation, interest and amortization expenses)), with the reduced rates, will always be at least 110% of the maximum annual principal and interest requirements on all outstanding bonds to which Revenues are pledged ("System Bonds"). The City further covenants and agrees that the rates shall, if and when necessary, from time to time, be increased in such manner as will produce Net Revenues at least equal to 110% of the maximum annual principal and interest requirements on all System Bonds.

**SECTION 9.** The City covenants that it will continuously operate the System as a revenue-producing undertaking and will not sell or lease the same, or any substantial portion thereof; provided, however, that nothing herein shall be construed to prohibit the City from making such dispositions of properties of the System and such replacements and substitutions for properties of the System as shall be necessary or incidental to the efficient operation of the System as a revenue-producing undertaking; provided that all revenues derived from such disposition shall be deposited into the Revenue Fund (hereinafter identified).

**SECTION 10.** All Revenues shall be used and applied only as provided herein. Except as hereinafter provided, all Revenues shall be deposited in such depository or depositories for the City as may be lawfully designated from time to time by the Commission; subject, however, to the giving of security as now or as hereafter may be required by law and provided that such depository or depositories shall hold membership in the Federal Deposit Insurance Corporation ("FDIC"). All deposits shall be in the name of the City and shall be so designated as to indicate the particular fund to which the Revenues belong. The Trustee shall be the depository of the Bond Fund created by Section 13.

**SECTION 11.** All Revenues shall be paid into a special fund heretofore created and designated "Waterworks and Sewer Revenue Fund" (the "Revenue Fund"). Moneys in the Revenue Fund are hereby pledged and shall be applied to the payment of the reasonable and necessary expenses of operation and maintenance of the System, to the payment of the principal of and interest on the bonds and other System Bonds, to the maintenance of any debt service reserves at the required levels, and to the providing of an adequate depreciation fund and otherwise as described herein in the order of priority hereinafter set forth.

**SECTION 12.** There shall be paid from the Revenue Fund into a fund heretofore created and designated "Waterworks and Sewer Operation and Maintenance Fund" (the "Operation and Maintenance Fund"), on the first business day of each month, an amount sufficient to pay the reasonable and necessary monthly expenses of operation, repair and maintenance of the System for such month and from which disbursements shall be made only for those purposes. Fixed annual charges such as insurance premiums and the cost of major repair and maintenance expenses may be computed and set up on an annual basis, and one-twelfth (1/12) of the amount thereof may be paid into the Operation and Maintenance Fund each month.

If in any month for any reason there shall be a failure to transfer and pay the required amount into the Operation and Maintenance Fund, the amount of any deficiency shall be added to the amount otherwise required to be transferred and paid therein during the next succeeding month. If in any fiscal year a surplus shall be accumulated in the Operation and Maintenance Fund over and above the amount which shall be necessary to meet the requirements thereof during the remainder of the then current fiscal year and the next ensuing fiscal year, such surplus may be transferred to the Revenue Fund.

**SECTION 13.** (a) There shall next be paid from the Revenue Fund into a special fund in the name of the City to be established with the Trustee that is hereby created and designated "2022 Water and Sewer Revenue Bond Fund" (the "Bond Fund") on the first business day of each month, until all outstanding bonds, with interest thereon, have been paid in full or provision made for such payment, a sum equal to 1/6 of the next installment of interest due on the bonds and 1/12 of the next installment of principal due on the bonds; provided, however, that payments from May 2022 through September 2022 shall be in an amount equal to 1/5 of the installment of principal and interest due on October 1, 2022.

The City shall also pay into the Bond Fund such additional sums as necessary to provide for the Trustee's fees and expenses. The City shall receive a credit against monthly deposits into the Bond Fund from interest earnings on moneys in the Bond Fund and for transfers therein directed by Section 34 hereof.

(b) If Revenues are insufficient to make the required payment by the first business day of the following month into the Bond Fund, the amount of any such deficiency in the payment made shall be added to the amount otherwise required to be paid into the Bond Fund by the first business day of the next month.

(c) If a surplus shall exist in the Bond Fund over and above the amount required for making all principal and interest payments during the next succeeding twelve month period, such surplus (1) may be applied to the payment of the principal of and interest on the bonds that may be called for redemption prior to maturity or (2) may be transferred to the Revenue Fund.

(d) When the moneys held in the Bond Fund shall be and remain sufficient to pay the principal of and interest on all of the bonds then outstanding plus Trustee's fees and expenses, the City shall not be obligated to make any further payments to the Trustee to be deposited into the Bond Fund.

(e) The Trustee shall withdraw from the Bond Fund on the due date of any principal and/or interest on any bond, at maturity or redemption prior to maturity, an amount equal to the amount of such bond and interest due thereon for the sole purpose of paying the same, together with the Trustee's fee and expenses. No withdrawal of funds from the Bond Fund shall be made for any other purpose except as otherwise authorized in this Ordinance.

(f) The bonds shall be specifically secured by a pledge of all Revenues required to be placed into the Bond Fund. This pledge in favor of the bonds is hereby irrevocably made according to the terms of this Ordinance, and the City and its officers and employees shall execute, perform and carry out the terms thereof in strict conformity with the provisions of this Ordinance.

**SECTION 14.** Simultaneously with making the deposit into the Bond Fund, there shall be transferred from the Revenue Fund into the special fund designated "2021 Water and Sewer Revenue Bond Fund" created to secure the 2021 Bonds, the special fund designated "2020 Water and Sewer Revenue Bond Fund" created to secure the 2020 Bonds and the special fund designated "2011 Water and Sewer Revenue Bond Fund" created to secure the 2011 Bond (collectively, the "Parity Bond Funds"), amounts equal to the required monthly deposit into each fund. The obligation to make the required monthly deposits into the Bond Fund and the Parity Bond Funds shall rank on a parity of security. If the City issues any additional parity bonds, the obligation to make payments into debt service and debt service reserve funds for those bonds shall rank on a parity of security with the obligation to make payments into the Bond Fund and the Parity Bond Funds. In the event the Revenues remaining after the required monthly deposit into the Operation and Maintenance Fund are insufficient to make the full monthly deposits into the Bond Fund, the Parity Bond Funds and the bond funds for the additional parity bonds, the amount deposited into each shall be reduced proportionately.

**SECTION 15.** After making the required deposits into the Operation and Maintenance Fund, the Bond Fund and the Parity Bond Funds, there shall next be paid from the Revenue Fund into a fund heretofore created and designated "Waterworks and Sewer System Depreciation Fund" (the "Depreciation Fund"), on the first business day of each month, an amount equal to (a) three percent (3%) of the Revenues for the preceding month or (b) such amount otherwise required by State law.

The moneys in the Depreciation Fund shall be used solely for the purpose of paying the costs of short-lived assets and replacements made necessary by the depreciation of the System and for the purpose of paying the costs of damage caused by unforeseen catastrophes.

If in any month for any reason there shall be a failure to transfer and pay the required amount into the Depreciation Fund, the amount of the deficiency shall be added to the amount otherwise required to be paid therein during the next succeeding month. If any surplus shall be accumulated in the Depreciation Fund over and above the amount necessary to defray the costs of the probable replacements during the then fiscal year and the next ensuing fiscal year, such surplus shall be transferred and paid into the Revenue Fund.

**SECTION 16.** Any surplus in the Revenue Fund after making all disbursements and providing for all funds described above may be used, at the option of the City, for any lawful municipal purpose.

**SECTION 17.** Except as otherwise provided herein, payments from the respective funds shall be made by check signed by the person or persons designated by the Commission and drawn on the depository with which the moneys in the fund shall have been deposited, and each such check shall briefly specify the purpose of the expenditure.

**SECTION 18.** So long as any of the bonds are outstanding, the City shall not issue or attempt to issue any bonds claimed to be entitled to a priority of lien on Revenues over the lien securing the bonds.

The City may issue additional bonds to finance or refinance the cost of any extensions, betterments or improvements to the System. However, the City may not authorize or issue any such additional bonds ranking on a parity of security with the bonds, unless and until there shall have been procured and filed with the Trustee a statement by an Accountant reciting, based upon necessary investigation, that (1) net revenues of the System for the fiscal year immediately preceding the fiscal year in which it is proposed to issue such additional bonds shall equal not less than 110% of the maximum annual principal and interest requirements on all the then outstanding System Bonds and the additional bonds then proposed to be issued or (2) net revenues of the System for the fiscal year next succeeding the fiscal year in which it is proposed to issue such additional bonds, including the net revenues to be derived from any extensions, betterments and improvements to be constructed out of the proceeds of the additional bonds then proposed to be issued, as reflected by a statement by an independent consulting engineer not in the regular employ of the City, and taking into account any rate increase adopted before the issuance of the additional bonds, will equal not less than 110% of the maximum annual principal and interest requirements on all the then outstanding System Bonds and the additional bonds then proposed to be issued. The term "net revenues" means gross Revenues less the expenses of operation and maintenance of the System under generally accepted accounting principles applicable to municipal water and sewer systems (excluding depreciation, interest and amortization expenses). In making the computation set forth in clause (1) above, the City, and the Accountant on behalf of the City, may treat any increase in rates for the System enacted subsequent to the first day of such preceding fiscal year as having been in effect throughout such fiscal year and may include in net revenues for such fiscal year the

amount that would have been received, based on such opinion or report, had the increase been in effect throughout such fiscal year.

The additional bonds, the issuance of which is restricted and conditioned by this Section, shall not be deemed to mean bonds the security and source of payment of which are subordinate and subject to the priority of the bonds and such additional bonds may be issued without complying with the terms and conditions of this Section.

**SECTION 19.** The bonds shall be subject to redemption prior to maturity in accordance with the terms set out in the bond form in Section 7 hereof. The City covenants and agrees to cause to be paid into the Bond Fund sufficient funds to redeem the bonds in the amounts and on the dates set forth in the bonds. Therefore, in calculating the monthly payments to be deposited into the Bond Fund, the term "next installment of principal" shall include the principal of the bonds maturing on the next principal payment date and the principal of the bonds which will be redeemed in accordance with the mandatory sinking fund redemption provisions of the bonds on the next interest payment date scheduled for such redemption.

**SECTION 20.** The City covenants that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State, including making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, segregating the Revenues and applying them to the respective funds herein created or identified.

**SECTION 21.** The City shall cause proper books of accounts and records to be kept (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the operation of the System and Revenues, and such books shall be available for inspection by the Owners of any of the bonds at reasonable times and under reasonable circumstances. The City agrees to have these records audited by an Accountant at least once each year, and a copy of the audit shall be delivered to the Trustee and made available to Owners of the bonds requesting the same in writing. In the event that the City fails or refuses to make the audit, the Trustee, or any Owner of the bonds, may have the audit made, and the cost thereof shall be charged against the Operation and Maintenance Fund.

**SECTION 22.** The City covenants and agrees that it will maintain the System in good condition and operate the same in an efficient manner and at reasonable cost. While any of the bonds are outstanding, the City agrees that to the extent comparable protection is not otherwise provided to the satisfaction of the Trustee, that it will insure and at all times keep insured, in the amount of the full insurable value thereof, in a responsible insurance company or companies authorized and qualified under the laws of the State to assume the risk thereof, properties of the System, to the extent that such properties would be covered by insurance by private companies engaged in similar types of businesses against loss or damage thereto from fire, lightning, tornados, winds, riot, strike, civil commotion, malicious damage, explosion, extended coverage and against any other loss or damage from any other causes customarily insured against by private companies engaged in similar types of business. The insurance policies are to carry a clause making them payable to the Trustee as its interest may appear, and satisfactory evidence of said insurance shall be filed with the Trustee. In the event of loss, the proceeds of such insurance shall be applied solely toward the

reconstruction, replacement or repair of the System, and in such event the City will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement and repair work. If such proceeds are more than sufficient for such purposes, the balance remaining shall be deposited to the credit of the Revenue Fund and if such proceeds shall be insufficient for such purposes the deficiency shall be supplied first from moneys in the Depreciation Fund and second from moneys in the Operation and Maintenance Fund and third from surplus moneys in the Revenue Fund. Nothing shall be construed as requiring the City to expend any moneys for operation and maintenance of the System or for premiums on its insurance which are derived from sources other than the operation of the System, but nothing shall be construed as preventing the City from doing so.

**SECTION 23.** Any bond shall be deemed to be paid within the meaning of this Ordinance when payment of the principal of and interest on such bond (whether at maturity or upon redemption as provided herein, or otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment (1) cash fully insured by the FDIC and/or fully collateralized with Investment Securities (as hereinafter defined) sufficient to make such payment and/or (2) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America ("Investment Securities") (provided that such deposit will not affect the tax exempt status of the interest on any of the bonds or cause any of the bonds to be classified as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code")), maturing as to principal and interest in such amounts and at such times as will provide sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Trustee pertaining to the bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee.

On the payment of any bonds within the meaning of this Ordinance, the Trustee shall hold in trust, for the benefit of the Owners of such bonds, all such moneys and/or Investment Securities.

When all the bonds shall have been paid within the meaning of this Ordinance and if the Trustee has been paid its fees and expenses, the Trustee shall take all appropriate action to cause (i) the pledge and lien of this Ordinance to be discharged and cancelled, and (ii) all moneys held by it pursuant to this Ordinance and which are not required for the payment of such bonds to be paid over or delivered to or at the direction of the City. In determining the sufficiency of the deposit of Investment Securities there shall be considered the principal amount of such Investment Securities and interest to be earned thereon until the maturity of such Investment Securities.

**SECTION 24.** (a) If there be any default in the payment of the principal of or interest on any of the bonds, or if the City defaults in any Bond Fund requirement or in the performance of any of the other covenants contained in this Ordinance, the Trustee may, and upon the written request of the Owners of not less than 10% in principal amount of the then outstanding bonds, shall, by proper suit, compel the performance of the duties of the officials of the City under the laws of the State. And in the case of a default in the payment of the principal of and interest on any of the bonds, the Trustee may and upon written request of the Owners of not less than 10% in principal amount of the then outstanding bonds, shall apply in a proper action to a court of competent jurisdiction for

the appointment of a receiver to administer the System on behalf of the City and the Owners of the bonds with power to charge and collect (or by mandatory injunction or otherwise to cause to be charged and collected) rates sufficient to provide for the payment of the expenses of operation, maintenance and repair and to pay any bonds and interest outstanding and to apply the Revenues in conformity with the laws of the State and with this Ordinance. When all defaults in principal and interest payments have been cured, the custody and operation of the System shall revert to the City.

(b) No Owner of any of the outstanding bonds shall have any right to institute any suit, action, mandamus or other proceeding in equity or at law for the protection or enforcement of any power or right unless such Owner previously shall have given to the Trustee written notice of the default on account of which such suit, action or proceeding is to be taken, and unless the Owners of not less than 10% in principal amount of the bonds then outstanding shall have made written request of the Trustee after the right to exercise such power or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted to the Trustee, or to institute such action, suit or proceeding in its name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are, at the option of the Trustee, conditions precedent to the execution of any remedy. No one or more Owners of the bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Ordinance, or to enforce any right thereunder except the manner herein described. All proceedings at law or in equity shall be instituted, had and maintained in the manner herein described and for the benefit of all Owners of the outstanding bonds.

(c) No remedy conferred upon or reserved to the Trustee or to the Owners of the bonds is intended to be exclusive of any other remedy or remedies, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or by law.

(d) The Trustee may, and upon the written request of the Owners of not less than a majority in principal amount of the bonds then outstanding shall, waive any default which shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted under the provisions of this Ordinance or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

(e) All rights of action under this Ordinance or under any of the bonds, enforceable by the Trustee, may be enforced by it without the possession of any of the bonds, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all the Owners of such bonds, subject to the provisions of this Ordinance.

(f) No delay or omission of the Trustee or of any Owners of the bonds to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given



by this Ordinance to the Trustee and to the Owners of the bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(g) In any proceeding to enforce the provisions of this Ordinance any plaintiff bondholder shall be entitled to recover from the City all costs of such proceeding, including reasonable attorneys' fees.

**SECTION 25.** (a) The terms of this Ordinance shall constitute a contract between the City and the Owners of the bonds and no variation or change in the undertaking herein set forth shall be made while any of these bonds are outstanding, except as hereinafter set forth in subsections (b) and (c).

(b) The Trustee may consent to any variation or change in this Ordinance to cure any ambiguity, defect or omission in this Ordinance or any amendment hereto or which, in the opinion of the Trustee, is not materially adverse to the interests of the Owners of the bonds, without the consent of the Owners of the outstanding bonds.

(c) The Owners of not less than 75% in aggregate principal amount of the bonds then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance supplemental hereto as shall be necessary or desirable for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Ordinance or in any supplemental ordinance; provided, however, that nothing contained in this Section shall permit or be construed as permitting (1) an extension of the maturity of the principal of or the interest on any bond issued hereunder, or (2) a reduction in the principal amount of any bond or the rate of interest thereon, or (3) the creation of a lien or pledge superior to the lien and pledge created by this Ordinance, or (4) a privilege or priority of any bond or bonds over any other bond or bonds, or (5) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

**SECTION 26.** (a) Moneys held for the credit of the Bond Fund shall be continuously invested and reinvested pursuant to the direction of the City, and in the Trustee's discretion in the absence of direction by the City, in Permitted Investments defined in (e) below, all of which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the payment date for interest or principal and interest.

(b) Moneys held for the credit of the Revenue Fund, the Operation and Maintenance Fund and the Depreciation Fund may be continuously invested and reinvested by the City in Permitted Investments or other investments permitted by law, which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the date or dates when the moneys held for the credit of the particular fund will be required for purposes intended.

(c) Obligations so purchased as an investment of moneys in any fund shall be deemed at all times to be a part of such fund and the interest accruing thereon and any profit realized from such investments shall be credited to such fund, and any loss resulting from such investment shall be charged to such fund.

(d) "Permitted Investments" are defined to mean (i) direct or fully guaranteed obligations of the United States of America ("Government Securities"), (ii) direct obligations of an agency, instrumentally or government-sponsored enterprise created by an act of the United States Congress and authorized to issue securities or evidences of indebtedness, regardless of whether the securities or evidences of indebtedness are guaranteed for repayment by the United States Government, (iii) certificates of deposit or demand deposits of banks, including the Trustee, which are insured by the FDIC, or, if in excess of insurance coverage, collateralized by Government Securities or other securities authorized by State law to secure public funds or (iv) money market funds, including funds managed by the Trustee, invested exclusively in Government Securities or investments described in (ii) above.

**SECTION 27.** When the bonds have been executed, they shall be authenticated by the Trustee and the Trustee shall deliver the bonds to or at the direction of the Purchaser upon payment of the Purchase Price. The amount necessary to pay the expenses of issuing the bonds as set forth in delivery instructions to the Trustee signed by the Mayor and City Clerk shall be paid from the Purchase Price. The amount necessary from the Purchase Price that is sufficient, along with other available moneys, to refund the Bonds Refunded shall be remitted to the trustee for the owners of the Bonds Refunded. The remainder of the Purchase Price, if any, shall be deposited into the Bond Fund.

**SECTION 28.** The Disclosure Agreement, in substantially the form submitted to this meeting, is approved, and the Mayor is hereby authorized and directed to execute and deliver the Disclosure Agreement on behalf of the City. The Mayor is authorized and directed to take all action required on the part of the City to fulfill the City's obligations under the Disclosure Agreement.

**SECTION 29.** (a) The City covenants that it shall not take any action or suffer or permit any action to be taken or conditions to exist which causes or may cause the interest payable on the bonds to be included in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the City covenants that the proceeds of the sale of the bonds and Revenues will not be used directly or indirectly in such manner as to cause the bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code.

(b) The City shall assure that (i) not in excess of 10% of the Net Proceeds of the bonds is used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the bonds during the term thereof is, under the terms of the bonds or any underlying arrangement, directly or indirectly secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the City, in respect of property or borrowed moneys used or to be used for a Private Business Use; and (ii) that, in the event that both (A) in excess of 5% of the Net Proceeds of the bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the bonds

during the term thereof is, under the terms of the bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the City, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System.

The City shall assure that not in excess of 5% of the Net Proceeds of the bonds are used, directly or indirectly, to make or finance a loan to persons other than state or local governmental units.

As used in this subsection, the following terms shall have the following meanings:

"Net Proceeds" means the face amount of the bonds, plus accrued interest, if any, and original issue premium and less original issue discount.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

The City covenants that it will not enter into any wholesale water contracts with non-governmental entities or modify existing wholesale water contracts with non-governmental entities if such contracts or modifications of existing contracts will cause a violation of this Section.

(c) The City covenants that it will take no action which would cause the bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(d) The City covenants that it will submit to the Secretary of the Treasury of the United States, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the bonds are issued, a statement required by Section 149(e) of the Code.

(e) The City covenants that it will not reimburse itself from proceeds of the bonds for costs paid prior to the date the bonds are issued except in compliance with United States Treasury Regulation § 1.150-2 (the "Regulation"). This Ordinance shall constitute an "official intent" for purposes of the Regulation.

(f) The bonds are hereby designated as "qualified tax-exempt obligations" within the meaning of the Code. The City represents that the aggregate principal amount of its qualified tax-exempt obligations (excluding "private activity bonds" within the meaning of Section 141 of the Code which are not "qualified 501(c)(3) bonds" within the meaning of Section 145 of the Code), including those of its subordinate entities, issued in calendar year 2022 are not reasonably anticipated to exceed \$10,000,000.

(g) The City reasonably expects to spend all proceeds of the bonds within six (6) months after the bonds are issued and the proceeds of the bonds are expected to qualify for the exception to arbitrage rebate set forth in Section 148(f)(4)(B) of the Code.

(h) The City covenants that all records pertaining to the bonds, the Bonds Refunded and the improvements refinanced by the Bonds Refunded will be retained for the life of the bonds plus an additional three (3) years.

**SECTION 30.** In the event the office of Mayor, City Clerk, Commission, or City Council shall be abolished, or any two or more of such offices shall be merged or consolidated, or in the event the duties of a particular office shall be transferred to another office or officer, or in the event of a vacancy in any such office by reason of death, resignation, removal from office or otherwise, or in the event any such officer shall become incapable of performing the duties of his office by reason of sickness, absence from the City or otherwise, all powers conferred and all obligations and duties imposed upon such office or officer shall be performed by the office or officer succeeding to the principal functions thereof, or by the office or officer upon whom such powers, obligations and duties shall be imposed by law.

**SECTION 31.** The Trustee shall only be responsible for the exercise of good faith and reasonable prudence in the execution of its trust. The recitals in this Ordinance and in the face of the bonds are the recitals of the City and not of the Trustee. The Trustee shall not be required to take any action as Trustee unless it shall have been requested to do so in writing by the Owners of not less than 10% in principal amount of the bonds then outstanding and shall have been offered reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby. The Trustee may resign at any time by 60 days' notice in writing to the City Clerk and to the Owners of the bonds, and the majority in value of the Owners of the outstanding bonds or the City, so long as it is not in default hereunder, at any time, with or without cause, may remove the Trustee. In the event of a vacancy in the office of Trustee, either by resignation or by removal, the City shall forthwith designate a new Trustee by a written instrument filed in the office of the City Clerk. Every successor trustee shall be a trust company or bank in good standing; duly authorized to exercise trust powers; and subject to examination by federal or state authority, having a reported capital and surplus of not less than \$5,000,000. The original Trustee and any successor Trustee shall file a written acceptance and agreement to execute the trust imposed upon it or them by this Ordinance, but only upon the terms and conditions set forth in this Ordinance and subject to the provisions of this Ordinance, to all of which the respective Owners of the bonds agree. Such written acceptance shall be filed with the City Clerk and a copy thereof shall be placed in the bond transcript. Any successor Trustee shall have all the powers herein granted to the original Trustee. Notwithstanding the above, neither the removal of the Trustee nor the resignation by the Trustee shall be effective until a successor Trustee shall have been appointed.

**SECTION 32.** There shall be a statutory mortgage lien upon the water facilities which are part of the System (including all extensions, improvements and betterments now or hereafter existing) which shall exist in favor of the owners of the bonds, and such water facilities shall remain subject to such statutory mortgage lien until payment in full of the interest and principal of the bonds, provided however, that such statutory mortgage lien shall be interpreted according to the decision of the Supreme Court of the State in City of Harrison v. Braswell, *supra*.

**SECTION 33.** It is understood and agreed that the Commission, acting for and on behalf of the City, has custody of and control over the System, operates, maintains and repairs the System and collects and handles Revenues. Therefore, it is understood and agreed that even though there are

some express references to the Commission, all references herein to the City shall, when appropriate in view of the authority and responsibility of the Commission, be construed to mean and include the Commission. So long as the Commission operates the System for the City, performance by the Commission of any right or obligation of the City hereunder shall be deemed performance by the City.

**SECTION 34.** All moneys in the 2016 Water and Sewer Revenue Bond Fund maintained in connection with the Bonds Refunded, are hereby appropriated and shall be used as necessary to refund the Bonds Refunded, with any balance to be transferred to the Bond Fund.

**SECTION 35.** The Mayor is hereby authorized and directed to work with Friday, Eldredge & Clark, LLP, as bond counsel, to review and revise, as needed, its written procedures to monitor compliance with federal tax requirements with respect to tax-exempt obligations of the City.

**SECTION 36.** The provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

**SECTION 37.** All ordinances and resolutions or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 38.** It is hereby ascertained and declared that the Refunding must be accomplished as soon as possible in order to lower the interest cost on System Bonds. The Refunding cannot be accomplished without the issuance of the bonds, which cannot be sold at the interest rates specified herein unless this Ordinance is immediately effective. Therefore, it is declared that an emergency exists and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in force and take effect immediately upon and after its passage.

**PASSED AND APPROVED THIS 23RD DAY OF FEBRUARY, 2022.**

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**MAYOR**

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**CITY CLERK**

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Camden, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. \_\_\_\_\_, adopted at a special session of the City Council of the City, held at 5:30 p.m., on the 23rd day of February, 2022, and that said Ordinance is of record in the Ordinance Record Book now in my possession.

GIVEN under my hand and seal this 23rd day of February, 2022.

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City Clerk

(SEAL)