

ORDINANCE NO. 2023-008



AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF BETTERMENTS AND IMPROVEMENTS TO THE WATER AND SEWER FACILITIES OF THE CITY OF SHANNON HILLS, ARKANSAS; AUTHORIZING THE ISSUANCE OF A WATER AND SEWER REVENUE BOND FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COSTS OF THE BETTERMENTS AND IMPROVEMENTS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND; AND PRESCRIBING OTHER MATTERS RELATING THERETO;

WHEREAS, the City of Shannon Hills, Arkansas (the “City”) owns and operates water and sewer facilities, which water and sewer facilities are operated as one interrelated municipal undertaking (the “System”);

WHEREAS, the City Council of the City (the “City Council”) has determined that betterments and improvements to the System, including, but not limited to, construction of a pump station, force main, and gravity line improvements (the “Improvements”) are necessary in order to make the services of the System available to more of its citizens and adequate for the needs of its users;

WHEREAS, a preliminary report, general plans and estimates of cost for the Improvements have been examined and approved by the City Council and a copy of such general plans are on file at the offices of the City;

WHEREAS, the City does not have available funds to pay the estimated costs of the Improvements, but can obtain a portion of the necessary funds by the issuance of a water and sewer revenue bond in the aggregate principal amount of \$823,500;

WHEREAS, the City is making arrangements for the sale of a \$823,500 principal amount water and sewer revenue bond (the “Bond”) to the Arkansas Development Finance Authority, as purchaser (the “Bondholder”), at a price of par for a bond bearing interest at 0.75% and a servicing fee of 1.00% for an aggregate lending rate of 1.75% per annum, as described herein, pursuant to a Bond Purchase Agreement (the “Agreement”) among the City, the Bondholder and the Arkansas Natural Resources Commission (the “Commission”), the form of which has been presented to and is before this meeting;

WHEREAS, the City has outstanding the following obligations (hereinafter, collectively, the “Prior Obligations”):

- \$4,955,000 City of Shannon Hills, Arkansas Water and Sewer Refunding and Improvement Bonds, Series 2015.

WHEREAS, the City is authorized, under the provisions of Arkansas Code Annotated §§14-234-201 *et seq.*, as amended, and Arkansas Code Annotated §§14-235-201 *et seq.*, as amended, (collectively, the “**Authorizing Legislation**”) to issue and sell the Bond;

WHEREAS, the Bondholder intends to pledge the Bond as collateral for the payment of its revolving loan fund bonds (the “**ADFA Bonds**”), which may be issued from time to time, to the bank or trust company to be named as trustee for the ADFA Bonds (the “**ADFA Trustee**”);

WHEREAS, the City is required to pay to the Arkansas Development Finance Authority, as servicer (“**ADFA**”), a servicing fee equal to 1.00% per annum of the outstanding principal amount of the Bond (the “**Servicing Fee**”); and

WHEREAS, the City held a public hearing with respect to the issuance of the Bond on October 17, 2023;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Shannon Hills, Arkansas:

Section 1. The Improvements shall be accomplished and shall be a part of the System. The Mayor and the Clerk/Recorder are hereby authorized to take, or cause to be taken, all action necessary to accomplish the Improvements and to execute all required contracts.

Section 2. The sale to the Bondholder of up to \$823,500 in principal amount of a bond from the City at a price of par for a bond bearing interest at the rate of 0.75% per annum and subject to the Servicing Fee at a rate of 1.00% per annum, for an aggregate lending rate of 1.75% per annum and otherwise subject to the terms and provisions hereafter in this Authorizing Ordinance set forth in detail is hereby approved and the Bond is hereby sold to the Bondholder. The Mayor is hereby authorized and directed to execute and deliver the Agreement on behalf of the City and to take all action required on the part of the City to fulfill its obligations under the Agreement. The Agreement is hereby approved in substantially the form submitted to this meeting with such changes as may be approved by the Mayor, his execution to constitute complete evidence of such approval.

Section 3. The City hereby finds and declares that the period of usefulness of the System after completion of the Improvements will be more than 25 years, which is longer than the term of the Bond.

Section 4. Under the authority of the Constitution and laws of the State of Arkansas (the “**State**”), including particularly the Authorizing Legislation and applicable decisions of the Supreme Court of the State, a City of Shannon Hills, Arkansas Water and Sewer Revenue Bond, Series 2024 (the “**Bond**”) is hereby authorized and ordered issued in the principal amount of \$823,500 the proceeds of the sale of which will be used to finance all or a portion of the costs of the Improvements, pay expenses incidental thereto and pay expenses of issuing the Bond. Notwithstanding anything herein to the contrary, in the event the Bond is issued prior to January 1, 2024, the series designation of the Bond shall be “Series 2023.”

The Bond shall bear interest at the rate of 0.75% per annum based upon a 360-day year of twelve consecutive 30-day months, and the Servicing Fee shall be charged on the outstanding balance of the Bond at the rate of 1.00% per annum based upon a 360-day year of twelve consecutive 30-day months. The Bond shall be dated the date of delivery to the Bondholder. Interest shall be payable on each April 15 and October after the Bond is issued. Principal shall be payable in installments beginning on April 15, 2026 and continuing on each April 15 and October 15 thereafter until the unpaid principal is paid in full as follows:

<u>Date</u>	<u>Principal Amount (\$)</u>	<u>Date</u>	<u>Principal Amount (\$)</u>
Apr. 15, 2026	17,283.00	Apr. 15, 2036	20,573.00
Oct. 15, 2026	17,435.00	Oct. 15, 2036	20,753.00
Apr. 15, 2027	17,587.00	Apr. 15, 2037	20,935.00
Oct. 15, 2027	17,741.00	Oct. 15, 2037	21,118.00
Apr. 15, 2028	17,897.00	Apr. 15, 2038	21,302.00
Oct. 15, 2028	18,053.00	Oct. 15, 2038	21,489.00
Apr. 15, 2029	18,210.00	Apr. 15, 2039	21,677.00
Oct. 15, 2029	18,371.00	Oct. 15, 2039	21,867.00
Apr. 15, 2030	18,531.00	Apr. 15, 2040	22,058.00
Oct. 15, 2030	18,693.00	Oct. 15, 2040	22,251.00
Apr. 15, 2031	18,857.00	Apr. 15, 2041	22,445.00
Oct. 15, 2031	19,022.00	Oct. 15, 2041	22,643.00
Apr. 15, 2032	19,188.00	Apr. 15, 2042	22,840.00
Oct. 15, 2032	19,356.00	Oct. 15, 2042	23,040.00
Apr. 15, 2033	19,526.00	Apr. 15, 2043	23,241.00
Oct. 15, 2033	19,696.00	Oct. 15, 2043	23,445.00
Apr. 15, 2034	19,869.00	Apr. 15, 2044	23,651.00
Oct. 15, 2034	20,042.00	Oct. 15, 2044	23,857.00
Apr. 15, 2035	20,217.00	Apr. 15, 2045	24,066.00
Oct. 15, 2035	20,394.00	Oct. 15, 2045	24,281.00

The bond will be registered as to both principal and interest, payable to the Bondholder, or registered assigns, as set forth hereinafter in the bond form, and shall be numbered R-1.

Payment of principal and interest shall be by check or draft mailed to the Bondholder at its address shown on the bond registration books of the City which shall be maintained by the Clerk/Recorder as Bond Registrar, without presentation or surrender of the Bond (except upon final payment) and such payments shall discharge the obligation of the City to the extent thereof. The Clerk/Recorder shall keep a payment record and make proper notations thereon of all payments of principal and interest.

Payment of principal and interest shall be in any coin or currency of the United States of America which, as at the time of payment, shall be legal tender for the payment of debts due the United States of America. When the principal of and interest on the Bond have been fully paid, it shall be canceled and delivered to the Clerk/Recorder.

Section 5. The Bond shall be executed on behalf of the City by the Mayor and Clerk/Recorder and shall have impressed thereon the seal of the City. The Bond is not a general obligation of the City but is a special obligation, the principal of and interest on which, and Servicing Fee in connection therewith, are secured by a pledge of and are payable from revenues derived from the System (“Revenues”). The pledge of Revenues in favor of the Bond is on parity with the pledge of Revenues in favor of the Prior Obligations. The Bond and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation.

Section 6. The Bond shall be in substantially the following form and the Mayor and Clerk/Recorder are hereby authorized and directed to make all the recitals contained therein:

(form of single registered bond)
(To be typewritten)

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF SALINE
CITY OF SHANNON HILLS, ARKANSAS
0.75% WATER AND SEWER BOND, SERIES 2024

No. R-1

\$823,500.00

KNOW ALL MEN BY THESE PRESENTS:

That the City of Shannon Hills, Arkansas (the “City”), for value received, hereby acknowledges itself to owe and promises to pay to the Arkansas Development Finance Authority, or registered assigns, solely from the special fund provided as hereinafter set forth, the principal sum of

EIGHT HUNDRED TWENTY-THREE THOUSAND FIVE HUNDRED
AND No/100 DOLLARS

(or the total principal amount outstanding as reflected
by the Record of Payment of Advances attached hereto)

with interest on the unpaid balance of the total principal amount at the rate of 0.75% per annum from the date of each advance. The principal and interest shall be payable 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 debts due the United States of America.

Interest on the unpaid balance of the total principal amount shall be payable on April 15, 2024, and on each April 15 and October 15 thereafter. Principal shall be payable in installments beginning on April 15, 2026 and continuing on each April 15 and October 15 thereafter until the unpaid principal is paid as follows:

Date

Amount

(There will be inserted the schedule set forth in Section 4 of this Authorizing Ordinance.)

Payments of the principal and interest installments due hereon shall be made, except for final payment, without presentation and surrender of this Bond, directly to the registered owner at its address shown on the bond registration book of the Authority maintained by the Clerk/Recorder, as Bond Registrar, and such payments shall fully discharge the obligation of the City to the extent of the payments so made.

This Bond is issued for the purpose of providing financing of all or a portion of the costs of constructing betterments and improvements to the facilities of the water and sewer system of the City (the “**System**”) and costs of authorizing and issuing this Bond, and is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas (the “**State**”), including particularly Arkansas Code Annotated §§14-234-201 *et seq.*, as amended, and Arkansas Code Annotated §§14-235-201 *et seq.*, as amended, (collectively, the “**Authorizing Legislation**”) and pursuant to Ordinance No. 2023-__ of the City, duly adopted and approved on the 17th day of October, 2023 (the “**Authorizing Ordinance**”). Reference is hereby made to the Authorizing Ordinance for the details of the nature and extent of the security and of the rights and obligations of the City and the registered owner of this Bond.

This Bond may be assigned to the Arkansas Natural Resources Commission (the “**Commission**”), and in order to effect such assignment the assignor shall promptly notify the Clerk/Recorder by registered mail, and the Commission shall surrender this Bond to the Clerk/Recorder for transfer on the registration records. The Commission shall take this Bond subject to all payments and prepayments of principal and interest (as reflected by the Payment Record) maintained by the Clerk/Recorder), prior to such surrender for transfer.

This bond may be prepaid at the option of the City from funds from any source, in whole but not in part, at any time on or after April 15, 2034, at a prepayment price equal to the principal amount outstanding, plus accrued interest and accrued Servicing Fee to the prepayment date. Notice shall be given of such prepayment to the owner of this bond or registered assigns at least 90 days prior to the prepayment date. Such notice shall be in writing mailed to the address of the owner of this bond or registered assigns at the address as reflected on the bond registration books of the Clerk/Recorder.

This bond does not constitute an indebtedness of Saline County, Arkansas, or the State within any constitutional or statutory limitation or provision. This bond is an obligation only of the City and in no event shall this Bond be payable from any funds or property other than those of the City. In this regard, the pledge of System revenues is on parity with the pledge of System revenues in favor of the Prior Obligations (as defined in the Authorizing Ordinance), so long as any of such obligations are outstanding. A sufficient amount of System revenues to pay principal and interest has been duly set aside and pledged as a special fund for that purpose, identified as the “ADFA Bond Fund,” in the Authorizing Ordinance. The City has fixed and has covenanted and agreed to maintain rates for use of the System which shall be sufficient at all

times to at least provide for the payment of the reasonable expenses of operation and maintenance of the System, to provide for the payment of the principal of and interest on all the outstanding obligations to which System revenues are pledged as the same become due, to establish and maintain debt service reserves and to provide a depreciation fund, all as set forth in the Authorizing Ordinance.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by the Constitution and statutes of the State to exist, happen and be performed precedent to and in the issuance of this bond do exist, have happened and have been performed in regular and due time, form and manner as required by law; that this bond does not exceed any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this bond, as provided in the Authorizing Ordinance.

IN WITNESS WHEREOF, the City of Shannon Hills, Arkansas has caused this bond to be executed in its name by its Mayor and Clerk/Recorder, thereunto duly authorized, and its corporate seal to be affixed, all as of the _____ day of _____, 20__.

CITY OF SHANNON HILLS, ARKANSAS

By _____
Mayor

ATTEST:

Clerk/Recorder

(SEAL)

[A Registration Certificate and Record of Payment
of Advances shall be attached to the Bond.]

[End of Bond Form]

Section 7. The City has heretofore fixed water rates by ordinances duly adopted. Reference is hereby made to the ordinances fixing the rates for the details thereof and other provisions pertaining thereto, which water rates are hereby confirmed and continued.

The City covenants and agrees that the rates established will produce gross Revenues at least sufficient to pay monthly operation, maintenance and funded depreciation expenses of the System, pay the principal of and interest on all outstanding obligations to which Revenues are pledged (“**System Bonds**”), as the same become due, pay the Servicing Fee as the same become due, and create and maintain any required debt service reserves (“**Required Payments**”). The

City covenants always to maintain rates (including increases as necessary) which will provide for the Required Payments. The rates currently in effect for water service shall not be reduced without the prior written consent of the Commission and the Bondholder.

Section 8. 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, without the prior written approval of the Bondholder and the Commission; 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.

Section 9. The Treasurer of the City (the “**Treasurer**”) shall be the custodian of the Revenues and that officer shall give bond for the faithful discharge of his or her duties. Such bonds shall be approved by the City Council. All Revenues shall at all times be accounted for separately and distinctly from other moneys of the City. All Revenues shall be held in trust for the owners of the Bond and 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 City; 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.

Section 10. All Revenues shall be paid as and when received into the fund which was heretofore created and designated “Revenue Fund” (the “**Revenue Fund**”). All moneys at any time in the Revenue Fund 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 System Bonds, to the maintenance of any required debt service reserves and depreciation reserves at the required levels, and otherwise as described herein.

Section 11. There shall first be paid from the Revenue Fund into a fund, which was heretofore created and designated “Operation and Maintenance Fund” (the “**Operation and Maintenance Fund**”), on or before the first business day of each month, such sums as are estimated to be required to pay the reasonable and necessary expenses of operation, repair, maintenance and the insuring of the System for such month (excluding depreciation and debt service payments) 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.

Section 12. (a) After making the required payments into the Operation and Maintenance Fund, there shall be paid, contemporaneously with any required payments into the bond fund or funds for the Prior Obligations, by the City Treasurer from the Revenue Fund into a special fund in the name of the City which is hereby created and designated “Series 2024” (the

“**ADFA Bond Fund**”) for the purpose of paying the principal of and interest on the Bond in the amounts specified in (b) below.

(b) In order to pay interest on the Bond, there shall be deposited from moneys in the Revenue Fund into the ADFA Bond Fund on each April 15 and October 15 after the Bond is issued and delivered until October 15, 2025, the interest due on the Bond on such dates. Commencing on the first business day of each month thereafter, there shall be deposited from moneys in the Revenue Fund into the ADFA Bond Fund an amount equal to 1/6 of the principal, interest, and Servicing Fee on the Bond next due (or due in case of the months of April and October).

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

(d) When the moneys held in the ADFA Bond Fund which represent payments by the City and interest earnings thereon or proceeds of investments therefrom (collectively, “**City Funds**”) shall be and remain sufficient to pay in full the principal of and interest on the Bond, the City shall not be obligated to make any further payments into the ADFA Bond Fund.

(e) All moneys in the ADFA Bond Fund representing City Funds shall be used solely for the purpose of paying the principal of and interest on the Bond, and the City shall automatically receive a credit for the amount of such City Funds on hand in the ADFA Bond Fund and available for the payment of any principal and interest currently due on an interest or principal payment date irrespective of whether the Bondholder has applied or caused to be applied such funds on that date for such purpose. The City shall receive a credit for all earnings and income derived from the investment of City Funds each May 1 and November 1 and such earnings and income shall be credited against the next six monthly payments.

(f) The bond shall be specifically secured by a pledge of all Revenues required to be placed into the ADFA Bond Fund. This pledge in favor of the Bond is hereby irrevocably made according to the terms of this Authorizing 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 Authorizing Ordinance.

Section 13. After making the payments into the ADFA Bond Fund required by Section 12 hereof, there shall be paid from the Revenue Fund the Servicing Fee to ADFA. The Servicing Fee shall be payable on each date interest on the Bond is due and shall be calculated on the same basis as interest on the Bond. The payment of the Servicing Fee is expressly made subordinate to the payment of the principal of and interest on the Bond.

Section 14. After making the payments and deposits described in Sections 12 and 13 hereof, there shall be paid from the Revenue Fund into a fund which was heretofore created and designated the “Depreciation Fund” (the “**Depreciation Fund**”) 5% of the gross Revenues for the preceding month. When the balance in the Depreciation Fund equals 10% of the original

principal amount of the Bond (\$82,350.00), the City may suspend making monthly payments to the Depreciation Fund. Moneys held in the Depreciation Fund may be used only for the replacement or repair of the System, and may not be used for any other purposes without the prior written consent of the Commission. When funds are withdrawn from the Depreciation Fund, monthly deposits will resume until the balance on deposit is \$82,350.00.

Section 15. The City shall assure that (i) not in excess of 10% of the proceeds of the Bond 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 Bond during the term thereof is, under the terms of the Bond 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 proceeds of the Bond 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 Bond during the term thereof is, under the terms of the Bond 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 proceeds of the Bond used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Improvements.

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

As used in this Section, "**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 for the sale of water by the City if such contracts will cause a violation of this Section.

Section 16. The principal and interest installments shall be prepayable prior to maturity as provided in the Bond form in Section 6 hereof.

Section 17. As long as the Bond is outstanding, the City shall not issue or attempt to issue any bonds having or claimed to be entitled to a priority of lien on Revenues over the lien securing the Bond, including any and all future extensions, betterments or improvements to the System except as provided in this Section.

The City may issue additional bonds on a parity with the lien on Revenues in favor of the Bond to finance or pay the cost of constructing extensions, betterments and improvements to the

System or to refund other outstanding System Bonds if there shall have been procured and filed with the Clerk/Recorder and the Bondholder a statement by a certified public accountant not in the regular employ of the City (“**Accountant**”) reciting the opinion that (i) Available Revenues for the fiscal year preceding the year in which such additional bonds are to be issued were not less than 110% of the Total Annual Debt Service requirements, or (ii) Available Revenues for the fiscal year succeeding the year in which such additional bonds are to be issued are projected to be sufficient in amount, taking in consideration any enacted increase in Revenues, to be not less than 110% of the Total Annual Debt Service requirements.

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 Bond, and such additional subordinate bonds may be issued without complying with the terms and conditions of this Section.

The provisions of this Section 17 may be waived by the holders of 75% in principal amount of the Bond at any time outstanding.

For purposes of this Section 17, “**Available Revenues**” means gross revenues of the water and sewer system, less operation and maintenance expenses (excluding interest and depreciation expenses), and “**Total Annual Debt Service**” means the maximum annual principal, interest and Servicing Fee on all outstanding bonds or other financial obligations to which the Revenues are pledged, including the Bond.

Section 18. It is covenanted and agreed by the City with the Bondholder and the Commission that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State and by this Authorizing Ordinance, including, without limitation, the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, segregating Revenues and applying them to the respective funds maintained pursuant to the ordinances, resolutions and agreements of the City relating to the Prior Obligations and this Authorizing Ordinance.

The City covenants and agrees that the Bondholder shall have the protection of all the provisions of the Authorizing Legislation, and that ADFA will diligently proceed to enforce those provisions to the end of the Bondholder realizing fully upon its security. And, if ADFA shall fail to proceed within 30 days after written request shall have been filed by the Bondholder, the Bondholder may proceed to enforce all such provisions.

If there be any default in the payment of the principal of or interest on the Bond, or if the City defaults in any ADFA Bond Fund requirement or in the performance of any of the other covenants contained in this Authorizing Ordinance, the Bondholder may, by proper suit, compel the performance of the duties of the officials of the City under the laws of the State. In the case of a default in the payment of the principal of and interest on the Bond, the Bondholder may 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 Bondholder 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, repair and maintenance and to pay the

Bond and interest outstanding and to apply Revenues in conformity with this Authorizing Ordinance. When all defaults in principal and interest payments have been cured, the custody and operation of the System shall revert to the City. No remedy herein conferred upon or reserved to the Bondholder is intended to be exclusive of any other remedy or remedies herein provided or provided by law, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by law. No delay or omission of the Bondholder 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 default or an acquiescence therein; and every power and remedy given by this Authorizing Ordinance to the Bondholder may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon. Any costs of enforcement of the Bond or of any provision of this Authorizing Ordinance, including reasonable attorney's fees, shall be paid by the City. ADFA may enforce all rights and exercise all remedies available to the Bondholder in the event the Servicing Fee is not paid when due.

Section 19. When the Bond has been executed and sealed as herein provided, it shall be delivered to the Bondholder upon payment of all or a portion of the purchase price in accordance with the Agreement. The sale proceeds shall be deposited, as and when received, in a special account of the City hereby created in a bank selected by the City that is a member of the Federal Deposit Insurance Corporation and designated the "2024 Water and Sewer Construction Fund" (the "**Construction Fund**"). The moneys in the Construction Fund shall be used for reimbursing the City for the costs paid in accomplishing the Improvements, expenses incidental thereto and the expenses of issuing the Bond approved in accordance with the Agreement. Payments from the Construction Fund shall be by check or voucher signed by two persons designated by the City Council and drawn on the depository. Each such check or voucher shall briefly specify the purpose of the expenditure.

When the Improvements have been completed and all required expenses paid and expenditures made from the Construction Fund for and in connection with the accomplishment of the Improvements and the financing thereof, this fact shall be evidenced by a certificate signed by the Mayor and by the consulting engineer, which certificate shall state, among other things, the date of the completion and that all obligations payable from the Construction Fund have been discharged. A copy of the certificate shall be filed with the depository bank, the Bondholder and the Commission.

Section 20. The terms of this Authorizing Ordinance shall constitute a contract among the City, the Bondholder and the Commission and no variation or change in the undertaking herein set forth shall be made while the Bond is outstanding unless consented to in writing by the Bondholder and the Commission.

Section 21. The City agrees that it will keep proper records, books and accounts relating to the operation of the System, which shall be kept separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the operation of the System in accordance with generally accepted government

accounting standards. Such books shall be available for inspection by the Bondholder and the Commission, or the agent or the representative of either, 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 report shall be furnished to the Commission and the Bondholder on or before 120 days after the close of each fiscal year. In the event the City fails or refuses to furnish or cause such reports to be furnished, the Bondholder may have the reports 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 it in an efficient manner and at reasonable cost. The City agrees that, to the extent comparable protection is not otherwise provided to the satisfaction of the Bondholder and the Commission, it will insure, and at all times keep insured in a responsible insurance company or companies selected by the City and authorized and qualified under the laws of the State to assume the risk thereof, all above-ground structures of the System against loss or damage thereto in amounts and against such risks as are customarily insured against in connection with similar facilities and undertakings as the System. 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.

Section 23. (a) 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 owner of the Bond, and such water facilities shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest on the Bond, 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.

(b) The City covenants that so long as the Bond is outstanding, that it will not mortgage, pledge or otherwise encumber the System, or any part thereof or any Revenues, except to secure the Prior Obligations or as herein specifically provided, and will not sell, lease or otherwise dispose of any substantial portion of the same. Nothing herein shall be construed to prohibit the City from disposing of worn out or obsolete System properties or from disposing of properties not being used or useful in the operation of the System; provided that, all receipts derived from the disposition of such properties shall be deposited in the Revenue Fund.

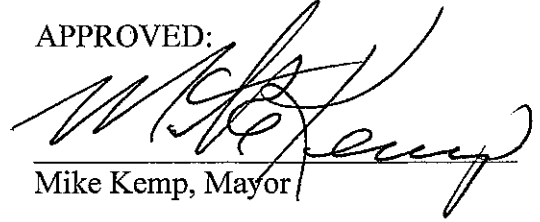
Section 24. The provisions of this Authorizing Ordinance are hereby declared to be separable, and if any provision shall for any reason be held illegal or invalid, it shall not affect the validity of the remainder of this Authorizing Ordinance.

Section 25. References in this Authorizing Ordinance to "Bondholder" shall include the original Bondholder or any registered assign thereof.

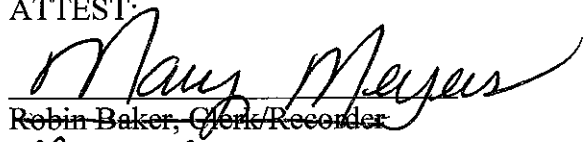
Section 26. All ordinance and resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: October 17, 2023.

APPROVED:


Mike Kemp, Mayor

ATTEST:


~~Robin Baker, Clerk/Recorder~~

Mary Meyers, Treasurer

(SEAL)

Rebecca Horne

