

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL IMPROVEMENT REVENUE BONDS, SERIES 2023 FOR THE PURPOSE OF FINANCING STREET IMPROVEMENTS; 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 Council of the City of Bryant, Arkansas (the "City") has determined that the City is in need of street improvements, including particularly, without limitation, the construction of an extension to Bryant Parkway (the "Improvements"); and

WHEREAS, the City can finance a portion of the costs of the Improvements by the issuance of Capital Improvement Revenue Bonds, Series 2023 in the aggregate principal amount of \$ _____ (the "bonds"); and

WHEREAS, the City has made arrangements for the sale of the bonds to Stephens Inc. (the "Purchaser") at a price of \$ _____ (principal amount ____ \$ _____ of net original issue _____ and less \$ _____ of underwriter's discount) (the "Purchase Price") pursuant to a Bond Purchase Agreement (the "Purchase Agreement") which has been presented to and is before this meeting; and

WHEREAS, the Preliminary Official Statement, dated April 17, 2023, 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 Regions Bank, Little Rock, Arkansas (the "Disclosure Agreement"), providing for the ongoing 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 Capital Improvement Refunding and Construction Revenue Bonds, Series 2016 (the "Parity Bonds"), authorized by Ordinance No. 2016-2, adopted on February 23, 2016 (the "Parity Ordinance"); and

WHEREAS, the parity provisions of the Parity Ordinance have been or will be met so that the bonds can be issued on a parity of security with the Parity Bonds;

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

Section 1. The Improvements shall be accomplished. The Mayor and City Clerk 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 offer of the Purchaser for the purchase of the bonds from the City at the Purchase Price 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 3. 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 4. Under the authority of the Constitution and laws of the State of Arkansas (the "State"), including particularly Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated, City of Bryant, Arkansas Capital Improvement Revenue Bonds, Series 2023 are hereby authorized and ordered issued in the aggregate principal amount of \$_____ for the purpose of financing a portion of the costs of accomplishing the Improvements, funding a debt service reserve and paying necessary expenses of issuing the bonds. The bonds shall mature on February 1 in the years and in the amounts and shall bear interest as follows:

<u>Year</u> <u>(February 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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The bonds shall be dated as of their date of delivery 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.

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 defined), 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 February 1, 2024, and semiannually thereafter on February 1 and August 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 Regions Bank, Little Rock, 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 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 date of delivery, 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 6 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 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, number, 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 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 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 to be maintained for the registration and for the transfer of the bonds 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 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. The City shall not 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, and payment of or on account of the principal or premium, if any, or interest of any bond shall be made only to or upon the order of the registered 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 5. 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 solely by the Pledged Revenues. The Pledged Revenues are hereby pledged and mortgaged for the equal and ratable payment of the bonds on a parity with the pledge in favor of the Parity Bonds. 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.

The "Pledged Revenues" are a special revenue source and are defined to mean all revenues received by the City from the franchise fees charged to public utilities. The Pledged Revenues shall not be deemed to be general revenues of the City and shall be deposited into a special fund hereinafter created. The bonds and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation. The bonds shall never give rise to a charge against the City's general credit or taxing power and no funds derived from the City's taxes are pledged to pay the bonds. Nothing herein shall require the City to pay the

principal of and interest on the bonds from sources other than the Pledged Revenues, but nothing herein shall prohibit the City from doing so.

Section 6. The bonds 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

REGISTERED

No. R- _____

\$ _____

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF SALINE
CITY OF BRYANT
CAPITAL IMPROVEMENT REVENUE BOND
SERIES 2023

Interest Rate: _____%

Maturity Date: February 1, _____

Dated Date: May 31, 2023

Registered Owner: Cede & Co.

Principal Amount: _____ Dollars

CUSIP No.: _____

KNOW ALL MEN BY THESE PRESENTS:

That the City of Bryant, County of Saline, 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 trust office of Regions Bank, Little Rock, 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 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 February 1, 2024 and semiannually thereafter on the first days of February and August of each year, until payment of such principal sum 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 Bryant, Arkansas Capital Improvement Revenue Bonds, Series 2023, aggregating _____ Million _____ Hundred _____ Thousand Dollars (\$_____) in principal amount (the "bonds"), and is issued for the purpose of financing a portion of the costs of street improvements, funding a debt service reserve and paying necessary expenses of issuing 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 164, Subchapter 4 of the Arkansas Code of 1987 Annotated, and pursuant to Ordinance No. _____ of the City, duly adopted on April 25, 2023 (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 secured solely by a pledge of revenues received by the City that are derived from the payment of franchise fees by public utilities (the "Pledged Revenues"). The Pledged Revenues shall be deemed to be a special source for the payment of the bonds. The bonds shall never give rise to a charge against the City's general credit or taxing power and no funds derived from the City's taxes are pledged to pay the bonds. An amount of Pledged Revenues sufficient to pay the principal of and interest on the bonds has been duly pledged and set aside into the 2023 Capital Improvement Revenue Bond Fund identified in the Authorizing Ordinance. The pledge of Pledged Revenues in favor of the bonds is on a parity with the pledge in favor of the City's Capital Improvement Refunding and Construction Revenue Bonds, Series 2016. 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 registered owners of the bonds. Nothing herein or in the Authorizing Ordinance shall require the City to pay the principal of and interest on this bond except from the Pledged Revenues, but nothing herein or in the Authorizing Ordinance shall prevent the City from doing so.

The bonds shall be subject to optional, extraordinary and mandatory sinking fund redemption as follows:

1. The bonds are subject to redemption at the option of the City, from funds from any source, in whole or in part at any time on and after August 1, 2028, 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 of the bonds 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 such maturity shall be selected by lot by the Trustee.

2. The bonds shall be redeemed from proceeds of the bonds which are not needed for the purposes intended, in whole or in part, on any interest payment date, in inverse order of maturity (and by lot within a maturity in such manner as the Trustee shall determine), at a price equal to the principal amount being redeemed plus accrued interest to the redemption date.

3. To the extent not previously redeemed, the bonds maturing on February 1 in the years _____ are subject to mandatory sinking fund redemption by lot in such manner as the Trustee shall determine, on February 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 February 1, _____

Year <u>(February 1)</u>	Principal <u>Amount</u>
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Bonds Maturing February 1, _____

Year <u>(February 1)</u>	Principal <u>Amount</u>
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Bonds Maturing February 1, ____

<u>Year</u> <u>(February 1)</u>	<u>Principal</u> <u>Amount</u>
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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 shall be given by the Trustee, not less than 30 nor 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 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 trust 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.

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

CITY OF BRYANT, ARKANSAS

ATTEST

By _____
Mayor

City Clerk

(SEAL)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds issued under the provisions of the within mentioned Authorizing Ordinance.

Date of Authentication: _____

REGIONS BANK
Little Rock, Arkansas
Trustee

By _____
Authorized Signature

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, _____ ("Transferor"), hereby sells, assigns and transfers unto _____, the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ as attorney to transfer the within bond on the books kept for registration thereof with full power of substitution in the premises.

DATE: _____

Transferor

GUARANTEED BY:

NOTICE: Signature(s) must be guaranteed by a member of or participant in the Securities Transfer Agents Medallion Program (STAMP), or in another signature guaranty program recognized by the Trustee.

Section 7. (a) The City agrees to continuously charge franchise fees to all public utilities occupying the streets, highways, rights-of-way and other public places while the bonds are outstanding.

(b) The franchise fees currently charged to public utilities are hereby ratified, confirmed and continued and such fees shall never be reduced while the bonds are outstanding unless the City receives an opinion of a certified public accountant not in the regular employ of the City ("Accountant") to the effect that Pledged Revenues for the preceding fiscal year, assuming such reduction had been in effect for the entire year, would have equaled not less than 125% of the maximum annual debt service on all obligations of the City to which Pledged Revenues are pledged.

(c) The franchise fees currently collected from the public utilities are sufficient to pay the principal of and interest on the bonds when due and the City agrees that the percentage rate of each franchise fee currently collected by the City from public utilities will not be increased solely for the purpose of providing funds to pay the principal of and interest on the bonds when due.

Section 8. The City Treasurer shall be the custodian of all Pledged Revenues. All Pledged Revenues shall at all times be accounted for separately and distinctly from other moneys of the City and shall be used and applied only as provided herein. Upon receipt by the City, the Pledged Revenues shall not be deposited into the General Fund but shall be deposited into a special fund of the City heretofore created by the Parity Ordinance and designated as the "Franchise Fee Fund" (the "Franchise Fee Fund").

Section 9. There shall be transferred from the Franchise Fee Fund into a special fund hereby created with the Trustee and designated "2023 Capital Improvement Revenue Bond Fund" (the "Bond Fund"), the sums in the amounts and at the times described below for the purpose of providing funds for the payment of the principal of and interest on the bonds, with Trustee's fees and expenses.

There shall be paid into the Bond Fund, on or before the last business day of each month, commencing in August 2023, a sum equal to one-sixth (1/6) of the next installment of interest plus one-twelfth (1/12) of the next installment of principal on all outstanding bonds due at maturity or upon mandatory sinking fund redemption; provided, however, payments into the Bond Fund through January 2024 shall only be in an amount equal to 1/6 of the installment of interest due on February 1, 2024. The City shall also pay into the Bond Fund such additional sums as necessary to provide for the Trustee's fees and expenses and any arbitrage rebate due to be paid to the United States Treasury under Section 148(f) of the Internal Revenue Code of 1986, as amended (the "Code").

There is created, as a part of the Bond Fund, a Debt Service Reserve which shall be maintained in an amount equal to one-half of the maximum annual principal and interest requirements on the bonds (based on a bond year ending February 1) (the "required level"). There shall be deposited into the Debt Service Reserve from the proceeds of the bonds, a sum sufficient for such purpose. Should the Debt Service Reserve become impaired or be reduced below the required level, the City shall make additional monthly payments from the Franchise Fee Fund until the impairment or reduction is corrected over a twelve month period. All earnings in the Debt Service Reserve that increase the amount thereof above the required level shall be transferred to the debt service portion of the Bond Fund.

The City shall realize a credit against monthly deposits into the Bond Fund to the extent of interest earnings on moneys in the Bond Fund and Debt Service Reserve transfers.

If for any reason there shall be a deficiency in the payments made into the Bond Fund so that there are unavailable sufficient moneys therein to pay the principal of and interest on the bonds as the same become due, any sums then held in the Debt Service Reserve shall be used to the extent necessary to pay such principal and interest. The Debt Service Reserve shall be used solely as herein described, but the moneys therein may be invested as hereinafter set forth.

If Pledged Revenues are insufficient to make the required payment by the last business day of the 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 last business day of the next month.

When the moneys held in the Bond Fund shall be and remain sufficient to pay the principal of and interest on the bonds then outstanding, there shall be no further obligation to make further payments into the Bond Fund. All moneys in the Bond Fund shall be used solely for the purpose of paying the principal of and interest on the bonds, Trustee's fees and arbitrage rebate, except as hereinafter set forth.

The Trustee is authorized and directed to withdraw moneys from the Bond Fund from time to time as necessary for paying principal of and interest on the bonds when due at maturity or at redemption prior to maturity and for making other authorized Bond Fund expenditures.

Section 10. Simultaneously with making the deposit into the Bond Fund, there shall be transferred from the Franchise Fee Fund into the bond funds for the Parity Bonds and any additional parity bonds (collectively, the "Parity Bond Funds"), the amounts required to be deposited monthly into such funds. The obligation to make the required monthly deposits into the Bond Fund and the Parity Bond Funds shall rank on a parity of security. In the event the Pledged Revenues are insufficient to make the full monthly deposits into the Bond Fund and the Parity Bond Funds, the amount deposited into each shall be reduced proportionately.

Section 11. Any surplus in the Franchise Fee Fund, after making the monthly deposit into the Bond Fund and the Parity Bond Fund, may be withdrawn from the Franchise Fee Fund and used, at the option of the City, for other lawful municipal purposes; provided, however, that if the City receives Pledged Revenues only on a quarterly or annual basis, there shall always remain in the Franchise Fee Fund an amount sufficient to make the required payments into the Bond Fund until the next Pledged Revenues are to be received.

Section 12. So long as any of the bonds are outstanding, the City shall not issue or attempt to issue any bonds or obligations claimed to be entitled to a priority of lien on the Pledged Revenues over the lien securing the bonds. The City reserves the right to issue additional bonds to finance or pay the cost of constructing any additional capital improvements or to refund bonds issued for such purpose, but the City shall not authorize or issue any such additional bonds ranking on a parity with the outstanding bonds unless and until there have been procured and filed with the City Clerk and the Trustee a statement by an Accountant reciting the opinion, based upon necessary investigation, that the Pledged Revenues for the fiscal year immediately preceding the fiscal year in which it is proposed to issue such additional bonds were equal to not less than 130% of the maximum annual principal and interest requirements on all the then outstanding obligations secured by Pledged Revenues and the additional bonds then proposed to be issued. In making the computation, the Accountant may treat any increase in franchise fees enacted subsequent to the first day of such preceding year as having been in effect throughout that year and may include in Pledged Revenues for such year the amount that would have been received had the increase been in effect throughout such year.

The additional bonds, the issuance of which is restricted and conditioned by this Section, shall be understood to mean bonds secured by Pledged Revenues ranking on a parity of security with the bonds and not bonds secured by Pledged Revenues subordinate in security to the bonds and such bonds may be issued without complying with the terms and conditions hereof.

Section 13. The bonds shall be subject to redemption prior to maturity in accordance with the terms set out in the bond form in Section 6 herein. The City covenants and agrees to cause to be paid into the Bond Fund sufficient funds to redeem bonds subject to mandatory sinking fund redemption 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 14. 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 Pledged Revenues, and such books shall be available for inspection by the Trustee and/or any Bondholder at reasonable times and under reasonable circumstances. The City agrees to have its financial statements audited by the Joint Legislative Auditing Committee, Division of Legislative Audit of the State of Arkansas, or, at the option of the City, an Accountant, and a copy of the audit shall be delivered to the Trustee and any Bondholder requesting the same in writing within 45 days after it is received by the City.

Section 15. 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 Federal Deposit Insurance Corporation ("FDIC") and/or fully collateralized with direct obligations of the United States of America ("Investment Securities") sufficient to make such payment and/or (2) 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 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, if any arbitrage rebate due the United States Treasury under Section 148(f) of the Code has been paid or provided for to the satisfaction of the Trustee 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 canceled, 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 16. 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 registered 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.

No registered 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 registered 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 registered 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 in 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 registered owners of the outstanding bonds.

No remedy conferred upon or reserved to the Trustee or to the registered 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.

The Trustee may, and upon the written request of the registered owners of not less than 50% 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.

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 registered owners of such bonds, subject to the provisions of this Ordinance.

No delay or omission of the Trustee or of any registered 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 registered owners of the bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

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 17. (a) The terms of this Ordinance shall constitute a contract between the City and the registered 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 that the Trustee determines is not to the material prejudice of the owners of the bonds or to cure any ambiguity, defect or omission in this Ordinance or any amendment hereto 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 (a) an extension of the maturity of the principal of or the interest on any bond, or (b) a reduction in the principal amount of any bond or the rate of interest thereon, or (c) the creation of a lien or pledge superior to the lien and pledge created by this Ordinance, or (d) a privilege or priority of any bond or bonds over any other bond or bonds, or (e) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

Section 18. 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 shall be paid. The amount from the Purchase Price necessary to establish the Debt Service Reserve at the required level shall be deposited therein. The remainder of the Purchase Price shall be deposited into a special account in the name of the City established with the Trustee and designated "2023 Improvement Fund" (the "Improvement Fund"). The moneys in the Improvement Fund shall be disbursed solely in payment of the costs of accomplishing the Improvements, paying necessary expenses incidental thereto and paying expenses of issuing the bonds. Disbursements shall be on the basis of requisitions which shall contain at least the following information: the person to whom payment is being made; the amount of the payment; and the purpose by general classification of the payment. Each requisition must be signed by the Mayor and the Finance Director. The Trustee shall keep accurate records of all payments made on the basis of requisitions.

When the Improvements have been completed and all required expenses paid and expenditures made from the Improvement Fund for and in connection with the accomplishment of the Improvements and the financing thereof, this fact shall, if moneys remain in the Improvement Fund, be evidenced by a certificate signed by the Mayor, which certificate shall state, among other things, the date of the completion and that all obligations payable from the Improvement Fund

have been discharged. A copy of the certificate shall be filed with the Trustee, and upon receipt thereof the Trustee shall transfer any remaining balance to the Bond Fund for the purpose of redeeming the bonds.

Section 19. (a) Moneys held for the credit of the Bond Fund shall be continuously invested and reinvested by the Trustee, at the direction of the City or in the discretion of the Trustee in the absence of such direction, in Permitted Investments (as hereinafter defined), all of which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, (i) not later than (A) ten years after the date of investment or (B) the final maturity date of the bonds, whichever is earlier, in the case of moneys in the Debt Service Reserve and (ii) not later than the payment date for interest or principal and interest in the case of other Bond Fund moneys.

(b) Moneys held for the credit of the Franchise Fee Fund may be continuously invested and reinvested in Permitted Investments or other investments as may, from time to time, be 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 will be required for the purposes intended.

(c) Moneys held for the credit of the Improvement Fund shall be continuously invested and reinvested by the Trustee, at the direction of the City or in the discretion of the Trustee in the absence of such direction, in Permitted Investments or other investments as may, from time to time, be 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 will be required for the purposes intended.

(d) 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.

(e) "Permitted Investments" are defined as (i) direct or fully guaranteed obligations of the United States of America ("Government Securities"), (ii) direct obligations of an agency, instrumentality 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 invested exclusively in Government Securities and the obligations described in (ii) above.

Section 20. (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 the

Pledged 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 represents that it has not used or permitted the use of, and covenants that it will not use or permit the use of the Improvements or the proceeds of the bonds in such manner as to cause the bonds to be "private activity bonds" within the meaning of Section 141 of the Code.

(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. Nothing in this Section shall prohibit investments in bonds issued by the United States Treasury.

(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 the purpose of the Regulation.

(f) The City covenants that all documents and records related to the bonds and the Improvements will be retained for the life of the bonds plus an additional three (3) years.

(g) The City covenants that it will, in compliance with the requirements of Section 148(f) of the Code, pay to the United States Government in accordance with the requirements of Section 148(f) of the Code, from time to time, an amount equal to the sum of (1) the excess of (A) the amount earned on all Non-purpose Investments (as therein defined) attributable to the bonds, other than investments attributable to such excess over (B) the amount which would have been earned if such Non-purpose Investments attributable to the bonds were invested at a rate equal to the Yield (as defined in the Code) on the bonds, plus (2) any income attributable to the excess described in (1), subject to the exceptions set forth in Section 148 of the Code. The City further covenants that in order to assure compliance with its covenants herein, it will employ a qualified consultant to advise the City in making the determination required to comply with this subsection.

Section 21. (a) 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 registered 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 giving 60 days' notice in writing to the City Clerk and to the registered owners of the bonds. The majority in value of the registered 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. 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 registered 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.

(b) Every successor Trustee appointed pursuant to this Section 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 \$10,000,000.

(c) Any resignation by the Trustee shall not be effective until the appointment of a successor Trustee under this Section.

Section 22. 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 its obligations under the Disclosure Agreement.

Section 23. The Mayor is hereby authorized and directed to work with Friday, Eldredge & Clark, LLP, as bond counsel, to review and revise, as needed, the City's written procedures to monitor compliance with federal tax requirements with respect to tax-exempt obligations of the City.

Section 24. Notwithstanding any provision of any ordinance of the City authorizing a franchise fee that is part of the Pledged Revenues, the franchise fees are deemed to be "fees" and not "taxes."

Section 25. 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 26. All ordinances and resolutions or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 27. It is hereby ascertained and declared that the Improvements are immediately needed for the preservation of the public peace, health and safety and to remove existing hazards thereto. The Improvements cannot be accomplished without the issuance of the bonds, which cannot be sold 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: April 25, 2023.

APPROVED:

ATTEST:

City Clerk

Mayor

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Bryant, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. _____, adopted at a regular session of the City Council of the City, held at the regular meeting place of the City Council at 6:30 p.m., on the 25th day of April, 2023, and that said Ordinance is of record in Ordinance Record Book No. _____ of the City, now in my possession.

GIVEN under my hand and seal this 25th day of April, 2023.

City Clerk

(SEAL)