

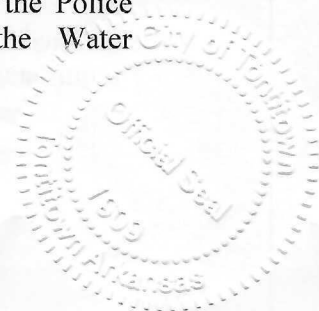
ORDINANCE NO. 04-1172

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SALES AND USE TAX REFUNDING AND IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING AND REFINANCING THE COST OF CAPITAL IMPROVEMENTS; PLEDGING A 0.75% SALES AND USE TAX TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, there was submitted to the qualified electors of the City of Tontitown, Arkansas (the "City") the questions of issuing, under Amendment No. 62 to the Constitution of the State of Arkansas (the "State") and under Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation"), (a) capital improvement bonds in the maximum aggregate principal amount of \$1,400,000 for the purpose of refunding the City's outstanding Sales and Use Tax Bonds, Series 2017 (the "Refunding"); (b) capital improvement bonds in the maximum aggregate principal amount of \$7,100,000 for the purpose of financing all or a portion of the costs of a new police station and any land acquisition, furnishings, equipment and parking, landscaping, signage, drainage, lighting, road and utility improvements related thereto (the "Police Improvements"); (c) capital improvement bonds in the maximum aggregate principal amount of \$7,100,000 for the purpose of financing all or a portion of the costs of new streets and any land acquisition, intersection, curb, gutter, drainage and utility improvements, sidewalks, trails, lighting and traffic control devices related thereto (the "Street Improvements"); (d) capital improvement bonds in the maximum aggregate principal amount of \$5,500,000 for the purpose of financing all or a portion of the costs of betterments and improvements to the City's water system, including particularly, without limitation, a new water storage tank (the "Water Improvements"); and (e) capital improvement bonds in the maximum aggregate principal amount of \$1,100,000 for the purpose of financing all or a portion of the costs of park and recreational facilities and improvements, including particularly, without limitation, a community center and improvements to Sbanotto Park and any furnishings, equipment and parking, landscaping, signage, drainage, lighting, road and utility improvements related thereto (the "Park and Recreational Improvements"); and

WHEREAS, at the special election held November 5, 2024, a majority of the electors voting on the questions approved the issuance of such bonds; and

WHEREAS, the City Council has determined to proceed with the Police Improvements, the Street Improvements, the Water Improvements and the Park and Recreational Improvements (collectively, the "Improvements") and the Refunding and to issue capital improvement bonds designated as the "City of Tontitown, Arkansas Sales and Use Tax Refunding and Improvement Bonds, Series 2025" (the "bonds") in the aggregate principal amount of \$_____ allocated as follows: \$_____ for the Refunding; \$_____ for the Police Improvements; \$_____ for the Street Improvements; \$_____ for the Water Improvements; and \$_____ for the Park and Recreational Improvements; and



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. 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 for and on behalf of the City. The Mayor is authorized and directed to take all action required on the part of the City to fulfill the City's obligations under the Disclosure Agreement. Any legal fees and other administrative expenses incurred by the City in connection with the Disclosure Agreement (except audit fees) shall be considered administrative expenses that may be paid from moneys in the Bond Fund (hereinafter identified).

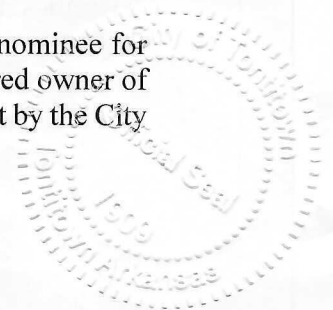
Section 5. Under the authority of the Constitution and laws of the State, including particularly Amendment No. 62 to the Constitution of the State and the Authorizing Legislation, the bonds are hereby authorized and ordered issued in the total principal amount of \$_____ for the purpose of financing all or a portion of the costs of accomplishing the Refunding and the Improvements, paying expenses incidental thereto, providing a debt service reserve and paying expenses of issuing and insuring the bonds.

The bonds shall bear interest at the rates and shall mature on June 1 in the amounts and in the years as follows:

<u>Year</u> <u>(June 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest Rate</u>
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The bonds shall be issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. Unless the City shall otherwise direct, the bonds shall be numbered from 1 upward in order of issuance. Each bond shall have a CUSIP number but the failure of a CUSIP number to appear on any bond shall not affect its validity.

The bonds shall be registered initially in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"), which shall be considered to be the registered owner of the bonds for all purposes under this Ordinance, including, without limitation, payment by the City



Each bond shall be dated as of its date of delivery to the Purchaser. Interest on the bonds shall be payable on December 1, 2025, and semiannually thereafter on June 1 and December 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 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, by check or draft to such owner at his address on such registration books. Principal of the bonds shall be payable at the corporate trust office of the Trustee.

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

Only such bonds as shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in Section 7 hereof (the "Certificate") duly executed by the Trustee shall be entitled to any right or benefit under this Ordinance. No bond shall be valid and obligatory for any purpose unless and until the Certificate shall have been duly executed by the Trustee, and the Certificate of the Trustee upon any such bond shall be conclusive evidence that such bond has been authenticated and delivered under this Ordinance. The Certificate on any bond shall be deemed to have been executed if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate on all of the bonds.

In case any bond shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new bond of like date, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated bond, or in lieu of and in substitution for such bond destroyed or lost, upon the owner paying the reasonable expenses and charges of the City and 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

(Form of bond)

REGISTERED

REGISTERED

No. _____

\$ _____

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF WASHINGTON
CITY OF TONTITOWN
SALES AND USE TAX REFUNDING AND IMPROVEMENT BOND
SERIES 2025

Interest Rate: _____ %

Maturity Date: June 1, _____

Dated Date: _____, 2025

Registered Owner: Cede & Co.

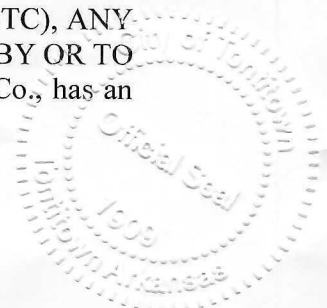
Principal Amount: _____ Dollars

CUSIP No.: _____

KNOW ALL MEN BY THESE PRESENTS:

That the City of Tontitown, County of Washington, State of Arkansas (the "City"), for value received, hereby promises to pay 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 to the Registered Owner shown above interest thereon, in like coin or currency from the interest commencement date described below at the Interest Rate per annum shown above, payable on December 1, 2025 and on each June 1 and December 1 thereafter, until payment of such Principal Amount or, if this bond or a portion hereof shall be duly called for redemption, until the date fixed for redemption, and to pay interest on overdue principal and interest (to the extent legally enforceable) at the rate borne by this bond. Payment of each installment of interest shall be made to the person in whose name this bond is registered on the registration books of the City maintained by the Trustee at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the "Record Date"), irrespective of any transfer or exchange of this bond subsequent to such Record Date and prior to such interest payment date.

Unless this bond 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 required 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.



reserve insurance policy in connection with the bonds, must be used from time to time on each interest payment date as and to the extent available to redeem outstanding bonds prior to maturity.

In the case of any defeasance of the bonds, redemption of defeased bonds shall be scheduled on the basis of mandatory redemption requirements and assuming annual collections of the Tax in an amount equal to receipts for the most recent twelve-month period.

(2) The bonds are subject to redemption at the option of the City, from funds from any source, on and after June 1, 2031, in whole or in part at any time, at a redemption price equal to the principal amount being redeemed plus accrued interest to the redemption date.

If fewer than all of the bonds shall be called for redemption, the particular maturities 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.

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

Year
(June 1)

Principal Amount

Bonds Maturing June 1, _____

Year
(June 1)

Principal Amount



The City and the Trustee may deem and treat the Registered Owner shown above as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof 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, under the Constitution and laws of the State, particularly Amendment No. 62 to the Constitution of the State and the Authorizing Legislation, precedent to and in the issuance of this bond have existed, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by this bond and the issue of which it forms a part does not exceed any constitutional or statutory limitation; and that a tax sufficient to pay the bonds and interest thereon has been duly levied in accordance with the Authorizing Legislation and made payable until all of the bonds and interest thereon have been fully paid and discharged.

This bond shall not be valid until it shall have been authenticated by the Certificate hereon duly signed by the Trustee.

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

CITY OF TONTITOWN, ARKANSAS

ATTEST:

By _____
Mayor

City Clerk-Treasurer

(SEAL)

[A Statement of Insurance provided by the
Insurer shall be placed on the bond]



bonds are outstanding. The City further covenants to use due diligence in collecting the Tax. Nothing herein shall prohibit the City from increasing the Tax from time to time, to the extent permitted by law, and no part of the revenues derived from any such increase shall become part of the revenues pledged hereunder.

Section 9. (a) The City hereby designates Regions Bank, Little Rock, Arkansas as the bank which shall receive collections of the Tax (the "Pledged Revenues") from the State Treasurer and the City covenants to file a written designation thereof with the State Treasurer prior to the issuance of the bonds. The Trustee shall deposit all collections of the Tax as and when received into a special fund of the City in the Trustee which is hereby created and designated "2025 Sales and Use Tax Bond Fund" (the "Bond Fund") for the purpose of providing funds for the payment of principal of and interest on the bonds as they become due at maturity or at redemption prior to maturity, the Trustee's and administrative fees and expenses, any amounts due the Insurer with respect to the Insurance Policy and the Reserve Policy and any arbitrage rebate due the United States Treasury under Section 148 of the Code. Moneys in the Bond Fund shall be used on each interest payment date in the following order of priority as and when necessary:

- (1) to pay the interest on the bonds then due; and
- (2) to pay the principal of the bonds then due at maturity or upon mandatory sinking fund redemption; and
- (3) to make provision in the Bond Fund for payment of one-half of the principal next due on the bonds at maturity or upon mandatory sinking fund redemption if principal is not due on such interest payment date; and
- (4) to pay the Insurer for draws under the Reserve Policy; and
- (5) to pay the Trustee's and Insurer's administrative fees and expenses then due; and
- (6) to make any arbitrage rebate under Section 148(f) of the Code; and
- (7) to redeem bonds prior to maturity.

Notwithstanding the above, any arbitrage rebate or amounts due the Insurer with respect to the Insurance Policy and the Reserve Policy shall be paid not later than the date due, whether or not such date is an interest payment date.

The Bond Fund (excluding those moneys in the Special Redemption Account (hereinafter identified)) shall, except as provided in this Section, be depleted once a year except for a carryover amount not to exceed the greater of (i) one year's earnings on the Bond Fund or (ii) 1/12 of the annual debt service on the bonds. Any moneys in the Bond Fund shall, except as provided in this Section, be spent for one of the above purposes within a thirteen-month period beginning on the date of deposit, and any amount received from investment of money held in the Bond Fund will be spent within a one-year period beginning on the date of receipt.

used to redeem bonds more often than annually (rather than on each interest payment date) if the Trustee reasonably determines that such amounts available for redemption may be needed to make scheduled debt service payments.

Section 10. 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 ("Defeasance Securities") sufficient to make such payment and/or (2) non-callable Defeasance Securities (provided that such deposit will not 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 with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee.

In case of any defeasance of the bonds, redemption of defeased bonds shall be scheduled on the basis of the mandatory redemption requirements and assuming annual collections of the Tax in an amount equal to receipts for the most recent twelve-month period.

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 Defeasance Securities.

When all the bonds shall have been paid within the meaning of this Ordinance, if the Trustee has been paid its fees and expenses, if there are no amounts due the Insurer with respect to the Insurance Policy and the Reserve Policy and if payment of any arbitrage rebate under Section 148(f) of the Code is made or provided for to the satisfaction of the Trustee, the Trustee shall take all appropriate action to cause (i) the pledge and lien of this Ordinance to be discharged and cancelled, and (ii) all moneys held by it pursuant to this Ordinance and which are not required for the payment of such bonds to be paid over or delivered to or at the direction of the City.

At least three business days prior to any defeasance with respect to the bonds, the City shall, unless waived by the Insurer, deliver to the Insurer draft copies of an escrow agreement, an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the bonds and a verification report (a "Verification Report") prepared by a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion shall be addressed to the Insurer and shall be in form and substance satisfactory to the Insurer. Such Verification Report shall be in the form and substance satisfactory to the Insurer and, unless waived by the Insurer, shall either be addressed to the Insurer or shall include a statement to the effect that such Verification Report may be relied upon by the Insurer. In addition, the escrow agreement shall provide that:



performance of the duties of the officials of the City under the Constitution and laws of the State and under this Ordinance, and to take any action or obtain any proper relief in law or equity available under the Constitution and laws of the State.

(b) No owner of any bond shall have any right to institute any suit, action, mandamus or other proceeding in equity or in law for the protection or enforcement of any right under this Ordinance or under the Constitution and laws of the State unless (1) such owner or the Trustee shall have given written notice of such default to the Insurer and (2) such owner previously shall have given to the Trustee written notice of the default on account of which such suit, action or proceeding is to be taken, and unless the owners of not less than 10% in principal amount of the bonds then outstanding shall have made written request of the Trustee after the right to exercise such powers 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 herein granted or granted by the Constitution and laws of the State, 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 cost, expense 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, and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trust of this Ordinance or to any other remedy hereunder. It is understood and intended that no one or more owners of the bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Ordinance, or to enforce any right hereunder except in the manner herein provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all owners of the outstanding bonds, and that any individual rights of action or other right given to one or more of such owners by law are restricted by this Ordinance to the rights and remedies herein provided.

(c) 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 and for the benefit of all the owners of the bonds, subject to the provisions of this Ordinance.

(d) No remedy herein conferred upon or reserved to the Trustee, to the Insurer or to the owners of the bonds is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by any law or by the Constitution of the State.

(e) No delay or omission of the Trustee, the Insurer or any owners of the bonds to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy given by this Ordinance to the Trustee, to the Insurer and to the owners of the bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(f) Subject to the provisions of subparagraph (g) below, the Trustee may, and upon the written request of the owners of not less than a majority of the owners in principal amount of the bonds then outstanding shall, waive any default which shall have been remedied before the

the option of such holder, not later than the date or dates when such money will be required for the purposes intended.

(b) Moneys held for the credit of the Bond Fund shall be invested and reinvested in Permitted Investments, 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 payment of the principal of and interest on the bonds when due.

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

(d) The Trustee shall invest and reinvest pursuant to the direction of the City and in the Trustee's discretion in the absence of any direct instructions from the City.

(e) "Permitted Investments" are defined to mean

(1) Direct or fully guaranteed obligations of (including obligations issued or held in book entry form on the books of) the United States of America ("Government Securities");

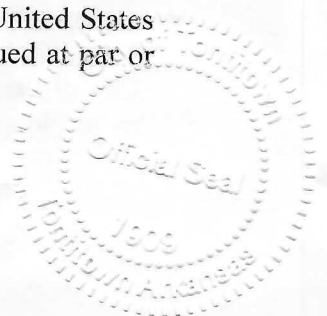
(2) Direct obligations of an agency, instrumentality or government-sponsored enterprise created by an act of the United States Congress and authorized to issue securities or evidences of indebtedness, regardless of whether the securities or evidences of indebtedness are guaranteed for repayment by the United States Government;

(3) Demand deposits or certificates of deposit of banks, including the Trustee, which are insured by the FDIC, or if in excess of insurance coverage, are collateralized by Government Securities or other securities authorized by State law to secure public deposits; and

(4) Money market funds invested exclusively in Government Securities and the obligations described in clause (2) above.

(f) All investments and deposits in the Bond Fund shall have a par value (or market value when less than par), exclusive of accrued interest at all times at least equal to the amount of money credited to such funds and shall be made in such a manner that the money required to be expended from any fund will be available at the proper time or times.

(g) Investments of moneys in all funds shall be valued in terms of current market value as of the last day of each year, except that direct obligations of the United States (State and Local Government Series) in book-entry form shall be continuously valued at par or face principal amount.



provisions contained in this Ordinance or in any supplemental ordinance; provided, however, that nothing contained in this Section shall permit or be construed as permitting (1) an extension of the maturity of the principal of or the interest on any bond, or (2) a reduction in the principal amount of any bond or the rate of interest thereon, or (3) the creation of a pledge of the Pledged Revenues superior to or on a parity with the pledge created by this Ordinance, or (4) a privilege or priority of any bond or bonds over any other bond or bonds, or (5) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

(d) The City shall send copies of any amendments or supplements to this Ordinance to the Insurer and any rating agency which has assigned a rating to the bonds. Any amendments or supplements to this Ordinance shall require the prior written consent of the Insurer with the exception of amendments or supplements: (i) to cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in this Ordinance or in any supplement hereto, or (ii) to grant or confer upon the holders of the bonds any additional rights, remedies, powers, authority or security that may lawfully be granted or conferred upon the holders of the bonds, or (iii) to add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of this Ordinance other conditions, limitations and restrictions hereafter to be observed, or (iv) to add to the covenants and agreements of the City in this Ordinance other covenants and agreements thereafter to be observed by the City or to surrender any right or power therein reserved to or conferred upon the City.

Section 20. (a) The City covenants that it shall not take any action or suffer or permit any action to be taken or condition 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, the improvements financed by the Bonds Refunded (the "Prior 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. In this regard, the City covenants that (i) it will not use (directly or indirectly) the proceeds of the bonds to make or finance loans to any person, and (ii) that while the bonds are outstanding the Improvements and the Prior Improvements will only be used by state or local governmental units or by persons on a basis as members of the general public.

(c) The City covenants that it will not reimburse itself from bond proceeds for any costs paid prior to the date the bonds are issued except in compliance with United States Treasury Regulation § 1.150-2 (the "Regulation"). Resolution No. 2025-02-1149R, adopted February 25, 2025, shall be considered an "official intent" for purposes of the Regulation.

(d) The City shall pay any arbitrage rebate due the United States Treasury under Section 148 of the Code from moneys in the Bond Fund. The costs of calculating the arbitrage rebate due and the arbitrage rebate amount shall be considered to be administrative costs payable from moneys in the Bond Fund.

Payment of Policy Costs and reimbursement of amounts with respect to other Alternative Credit Instruments shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Debt Service Reserve Account. For the avoidance of doubt, "available coverage" means the coverage then available for disbursement pursuant to the terms of the applicable Alternative Credit Instrument without regard to the legal or financial ability or willingness of the provider of such instrument to honor a claim or draw thereon or the failure of such provider to honor any such claim or draw.

(b) Draws on the Reserve Policy may only be used to make payments of principal and interest on the bonds (and for the avoidance of doubt, not any other obligations of the City).

(c) If the City shall fail to pay any Policy Costs in accordance with the requirements of paragraph (a) above, the Insurer shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under this Ordinance other than remedies which would adversely affect owners of the bonds.

(d) This Ordinance shall not be discharged until all Policy Costs owing to the Insurer shall have been paid in full. The City's obligation to pay such amounts shall expressly survive payment in full of the bonds.

(e) The Reserve Policy shall expire and terminate on the earlier of the date that the bonds are no longer outstanding and the final maturity date of the bonds.

(f) In order to secure the City's payment obligations with respect to Policy Costs, there is hereby granted and perfected in favor of the Insurer a security interest (subordinate only to that of the owners of the bonds) in the Pledged Revenues.

(g) The Trustee shall ascertain the necessity for a claim upon the Reserve Policy in accordance with the provisions of paragraph (a) above and shall provide notice to the Insurer in accordance with the terms of the Reserve Policy at least five business days prior to each date upon which interest or principal is due on the bonds.

The Trustee shall, within two business days of the date due, give notice to the Insurer of any failure by the City to make timely payment into the Bond Fund as set forth herein.

Section 23. All references in this Ordinance to the Insurer shall cease when the bonds have been paid in full or defeased as provided herein and there are no amounts due the Insurer in connection with the Insurance Policy or the Reserve Policy.

Section 24. (a) The City will provide the Insurer with all notices and other information it is obligated to provide under the Disclosure Agreement and to the holders of the bonds or the Trustee under this Ordinance.



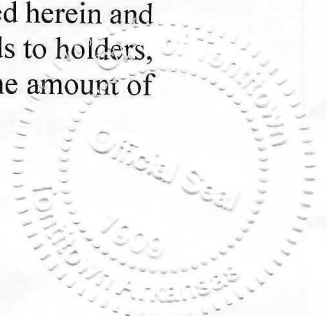
- (ii) If there is a deficiency in amounts required to pay principal of the bonds, the Trustee shall (1) execute and deliver to the Insurer, in form satisfactory to the Insurer, an instrument appointing the Insurer as agent and attorney-in-fact for such holder of the bonds in any legal proceeding related to the payment of such principal and an assignment to the Insurer of the bonds surrendered to the Insurer, (2) receive as designee of the respective holders (and not as paying agent) in accordance with the tenor of the Insurance Policy payment therefore from the Insurer, (3) segregate all such payments in the BAM Policy Payment Account to only be used to make scheduled payments of principal of and interest on the bonds and (4) disburse the same to such holders.

The Trustee shall designate any portion of payment of principal on bonds paid by the Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of bonds registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement bond to the Insurer, registered in the name directed by the Insurer, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Trustee's failure to so designate any payment or issue any replacement bond shall have no effect on the amount of principal or interest payable by the City on any bond or the subrogation or assignment rights of the Insurer.

Payments with respect to claims for interest on and principal of bonds disbursed by the Trustee from proceeds of the Insurance Policy shall not be considered to discharge the obligation of the City with respect to such bonds, and the Insurer shall become the owner of such unpaid bonds and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise. This Ordinance shall not be discharged or terminated unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.

Irrespective of whether any such assignment is executed and delivered, the City and the Trustee agree for the benefit of the Insurer that:

- (i) To the extent the Insurer makes payments directly or indirectly (e.g., by paying through the Trustee), on account of principal of or interest on the bonds, the Insurer will be subrogated to the rights of such holders to receive the amount of such principal and interest from the City with interest on bond principal (but not bond interest), as provided and solely from the sources stated in this Ordinance and the bonds; and
- (ii) The Insurer will be paid the amount of such principal and interest, with interest on bond principal (but not bond interest), as provided herein and in the bonds, but only from the sources and in the manner provided herein and therein for the payment of principal of and interest on the bonds to holders, and the Insurer will be treated as the owner of such rights to the amount of such principal and interest.



the Trustee and each owner of the bonds delegate and assign to the Insurer, to the fullest extent permitted by law, the rights of the Trustee and each owner of the bonds with respect to the bonds in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any Insolvency Proceeding.

(h) Anything in this Ordinance to the contrary notwithstanding, upon the occurrence and continuance of a default, the Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the bonds or the Trustee for the benefit of the holders of the bonds under this Ordinance. No default may be waived without the Insurer's written consent.

(i) If an Insurer Default (as defined below) shall occur and be continuing, then, notwithstanding anything herein to the contrary, (1) if at any time prior to or following an Insurer Default, the Insurer has made payment under the Insurance Policy, to the extent of such payment the Insurer shall be treated like any other holder of the bonds for all purposes, including giving of consents, and (2) if the Insurer has not made any payment under the Insurance Policy, the Insurer shall have no further consent rights until the particular Insurer Default is no longer continuing or the Insurer makes a payment under the Insurance Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph, "Insurer Default" means: (A) the Insurer has failed to make any payment under the Insurance Policy when due and owing in accordance with its terms; or (B) the Insurer shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Insurance Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of the Insurer (including without limitation under the New York Insurance Law).

(j) The Insurer is recognized as and shall be deemed to be a third party beneficiary of this Ordinance and may enforce the provisions of this Ordinance.

(k) No grace period shall be permitted for payment defaults on the bonds. No grace period for a covenant default shall exceed 30 days without the prior written consent of the Insurer.

Section 25. The Reserve Agreement, in substantially the form submitted to this meeting is hereby approved, and the Mayor and the City Clerk are hereby authorized and directed to execute and deliver the Reserve Agreement on behalf of the City, and the Mayor and other officers of the City are authorized to execute and deliver such undertakings as may be appropriate to the securing of the Reserve Policy.



PASSED: April 15, 2025.

APPROVED:

ATTEST:

Rhonda Aude
City Clerk-Treasurer

Angela Russell
Mayor

(SEAL)

