

ORDINANCE NO. 2022 -24

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

WHEREAS, the City of Searcy, Arkansas (the "City") owns a water and sewer system (the "System"), which is operated by the Searcy Board of Public Utilities (the "Board"); and

WHEREAS, the City issued its Water and Sewer Revenue Bond, Series 2020 (the "2020 Bond"), pursuant to Ordinance No. 2020-27, adopted on August 11, 2020 (the "2020 Ordinance"), in the principal amount of \$4,000,000 to finance betterments and improvements to the sewer facilities of the System (the "Improvements"); and

WHEREAS, the costs of the Improvements have increased and the proceeds of the 2020 Bond are not sufficient to pay the entire costs of the Improvements; and

WHEREAS, in order to finance the remaining costs of the Improvements, including bond issuance costs, the City is making arrangements for the sale of a City of Searcy, Arkansas Water and Sewer Revenue Bond, Series 2022 (the "bond") in the principal amount of \$950,000 to the Arkansas Development Finance Authority, as purchaser (the "Bondholder"), at a price of par for a bond bearing interest at the rate of 0.75% per annum pursuant to a Bond Purchase Agreement (the "Agreement") among the City, the Bondholder and the Arkansas Natural Resources Commission (the "Commission"), which has been presented to and is before this meeting; and

WHEREAS, the City is authorized, under the provisions of Amendment No. 65 to the Arkansas Constitution, Title 14, Chapter 234, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Code"), Title 14, Chapter 164, Subchapter 4 of the Code and Title 14, Chapter 235, Subchapter 2 of the Code (collectively, the "Authorizing Legislation"), to issue and sell the bond; and

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

WHEREAS, the City is required to pay to the Arkansas Development Finance Authority, as servicer (the "Authority"), a servicing fee equal to 1% per annum of the outstanding principal amount of the bond (the "Servicing Fee"); and

WHEREAS, the City has outstanding, in addition to the 2020 Bond, its Water and Sewer Revenue Bond, Series 2010A (the "2010A Bond"), authorized by Ordinance No. 2010-25, adopted on October 12, 2010, as amended by Ordinance No. 2010-31, adopted on November 9, 2010 (collectively, the "2010A Ordinance");

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

Section 1. The Improvements shall be accomplished and shall be a part of the System. The Improvements shall be accomplished under the control and supervision of, and all details in connection therewith shall be handled by, the Board, and the Board shall make all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. The Board shall let all construction contracts pursuant to and in accordance with existing laws and shall require such performance bonds and insurance from the contractors as, in the judgment of the Board, will fully insure the completion of the Improvements in accordance with the plans and specifications therefor.

Section 2. The sale to the Bondholder of up to \$950,000 in principal amount of the bond, from the City at a price of par for a bond bearing interest at the rate of 0.75% per annum and otherwise subject to the terms and provisions hereafter in this Ordinance set forth in detail is hereby approved and the bond is hereby sold to the Bondholder. The Mayor is hereby authorized and directed to execute and deliver the Agreement on behalf of the City and to take all action required on the part of the City to fulfill its obligations under the Agreement. The Agreement is hereby approved in substantially the form submitted to this meeting with such changes as may be approved by the Mayor, his execution to constitute complete evidence of such approval.

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

Section 4. Under the authority of the Constitution and laws of the State of Arkansas (the "State"), including particularly the Authorizing Legislation and applicable decisions of the Supreme Court of the State, including particularly City of Harrison v. Braswell, 209 Ark. 1094, 194 S.W.2d 12 (1946), the bond, in the principal amount of \$950,000, is hereby authorized and ordered issued, the proceeds of the sale of which will be used to finance a portion of the costs of the Improvements, pay expenses incidental thereto and pay expenses of issuing the bond.

The bond shall bear interest at the rate of 0.75% per annum based upon a 360-day year of twelve consecutive 30-day months. The bond shall be dated the date of delivery to the Bondholder. Interest shall be payable on each April 15 and October 15 after the bond is issued. Principal shall be payable in installments on April 15, 2024 and each April 15 and October 15 thereafter until the unpaid principal is paid in full as follows:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
04/15/24	\$19,938	04/15/34	\$23,734
10/15/24	20,113	10/15/34	23,941
04/15/25	20,289	04/15/35	24,151
10/15/25	20,467	10/15/35	24,362
04/15/26	20,646	04/15/36	24,576
10/15/26	20,826	10/15/36	24,790
04/15/27	21,008	04/15/37	25,007
10/15/27	21,192	10/15/37	25,226
04/15/28	21,377	04/15/38	25,447
10/15/28	21,564	10/15/38	25,670
04/15/29	21,753	04/15/39	25,894
10/15/29	21,944	10/15/39	26,121
04/15/30	22,136	04/15/40	26,349
10/15/30	22,329	10/15/40	26,580
04/15/31	22,525	04/15/41	26,812
10/15/31	22,722	10/15/41	27,047
04/15/32	22,921	04/15/42	27,283
10/15/32	23,122	10/15/42	27,523
04/15/33	23,323	04/15/43	27,763
10/15/33	23,528	10/15/43	28,001

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

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

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

Section 5. The bond shall be executed on behalf of the City by the Mayor and City Clerk and shall have impressed thereon the seal of the City. The bond is not a general obligation of the City but is a special obligation, the principal of and interest on which, and Servicing Fee in connection therewith, are secured by a pledge of and are payable from revenues derived from the System ("Revenues"). The pledge of Revenues in favor of the bond is on a parity with the pledge in favor of the 2010A Bond and the 2020 Bond (collectively, the "Parity Bonds"). The bond and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation.

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

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

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF WHITE
CITY OF SEARCY
0.75% WATER AND SEWER REVENUE BOND, SERIES 2022

No. R -1

\$950,000

KNOW ALL MEN BY THESE PRESENTS:

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

NINE HUNDRED FIFTY THOUSAND DOLLARS
(or the total principal amount outstanding as reflected
by the Record of Payment of Advances attached hereto)

with interest on the unpaid balance of the total principal amount at the rate of 0.75% per annum from the date of each advance. The principal and interest shall be payable in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of debts due the United States of America.

Interest on the unpaid balance of the total principal amount shall be payable on _____ 15, 202__ and on each April 15 and October 15 thereafter. Principal shall be payable in installments on April 15, 2024 and on each April 15 and October 15 thereafter until the unpaid principal is paid as follows:

Date

Amount

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

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

This bond is issued for the purpose of financing a portion of the costs of constructing betterments and improvements to the sewer facilities of the water and sewer system of the City (the "System") and paying costs of authorizing and issuing this bond, and is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas (the "State"), including particularly Title 14, Chapter 234, Subchapter 2, Title 14, Chapter 164, Subchapter 4 and Title 14, Chapter 235, Subchapter 2 of the Arkansas Code of 1987 Annotated and applicable decisions of the Supreme Court of Arkansas, including particularly City of Harrison v. Braswell, 209 Ark. 1094, 194 S.W.2d 12 (1946), and pursuant to Ordinance No. 2022-24 of the City, duly adopted and approved on the 9th day of August, 2022 (the "Authorizing Ordinance"). Reference is hereby made to the Authorizing Ordinance for the details of the nature and extent of the security and of the rights and obligations of the City and the registered owner of this bond.

This bond may be assigned with the written approval of the Arkansas Natural Resources Commission (the "Commission"), and in order to effect such assignment the assignor shall promptly notify the City Clerk by registered mail, and the assignee shall surrender this bond along with a written approval of the Commission to the City Clerk for transfer on the registration records. Every assignee shall take this bond subject to all payments and prepayments of principal and interest (as reflected by the Payment Record maintained by the City Clerk), prior to such surrender for transfer.

This bond may be prepaid at the option of the City from funds from any source, in whole but not in part, at any time on and after October 15, 2032, at a prepayment price equal to the principal amount outstanding, plus accrued interest and servicing fees to the prepayment date. Notice shall be given of such prepayment to the owner of this bond or registered assigns at least 90 days prior to the prepayment date. Such notice shall be in writing mailed to the address of the owner of this bond or registered assigns at the address as reflected on the bond registration books of the City Clerk.

This bond does not constitute an indebtedness of the City within any constitutional or statutory limitation or provision. This bond is a special obligation payable solely from the revenues derived from the operation of the System. In this regard, the pledge of System revenues is on a parity with the pledge in favor of the City's Water and Sewer Revenue Bond, Series 2010A and the City's Water and Sewer Revenue Bond, Series 2020. A sufficient amount of System revenues to pay principal and interest has been duly set aside and pledged as a special fund for that purpose, identified as the "ADFA Bond Fund," in the Authorizing Ordinance. The City has fixed

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

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

IN WITNESS WHEREOF, the City of Searcy, Arkansas has caused this bond to be executed in its name by its Mayor and City Clerk, thereunto duly authorized, and its corporate seal to be affixed, all as of the 9th day of August, 2022.

CITY OF SEARCY, ARKANSAS

By /s/ Kyle Osborne
Mayor of Searcy

ATTEST:

/s/ Jerry Morris
City Clerk

(SEAL)

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

Section 7. The rates charged for services of the System heretofore fixed by ordinance of the City and the conditions, rights and obligations pertaining thereto, as set out in these ordinances or otherwise, are ratified, confirmed and continued.

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

will provide for the Required Payments. The rates currently in effect for sewer service shall not be reduced without the prior written consent of the Commission and the Bondholder.

Section 8. The person holding the highest managerial position of the System (the "Manager") shall be the custodian of Revenues and that person shall give bond or provide other security for the faithful discharge of his or her duties. All Revenues shall at all times be accounted for separately and distinctly from other moneys of the City. All Revenues shall be used and applied only as provided herein and shall be deposited in such depository or depositories for the City as may be lawfully designated from time to time by the Board; subject, however, to the giving of security as now or as hereafter may be required by law and provided that such depository or depositories shall hold membership in the Federal Deposit Insurance Corporation ("FDIC") or any successor entity. All deposits shall be in the name of the City and shall be so designated as to indicate the particular fund to which Revenues belong. Payments from the respective funds shall be made by check or voucher, signed by the Manager and one other person designated by the Board and drawn on the depository with which the moneys in the fund shall have been deposited, and each such check or voucher shall briefly specify the purpose of the expenditure.

Section 9. The City covenants that it will continuously operate the System as a revenue-producing undertaking and will not sell or lease the same, or any substantial portion thereof, without the prior written approval of the Bondholder and the Commission; provided, however, that nothing herein shall be construed to prohibit the City from making such dispositions of properties of the System and such replacements and substitutions for properties of the System as shall be necessary or incidental to the efficient operation of the System as a revenue-producing undertaking.

Section 10. All Revenues shall be deposited into a special fund heretofore created and designated "Utility System Revenue Fund" (the "Revenue Fund"). Moneys in the Revenue Fund shall be applied to the payment of the reasonable and necessary expenses of operation and maintenance of the System, to the payment of the principal of and interest on the bond, the Parity Bonds and other System Bonds, to the maintenance of any debt service reserve at the required level, and to the providing of the Depreciation Fund and otherwise as described herein.

Section 11. There shall be paid from the Revenue Fund into a special fund heretofore created and designated "Utility System Operation and Maintenance Fund" (the "Operation and Maintenance Fund"), on or before the first business day of each month, an amount sufficient to pay the reasonable and necessary monthly expenses of operation, repair and maintenance of the System for such month and from which disbursements shall be made only for those purposes. Fixed annual charges, such as insurance premiums and the cost of major repair and maintenance expenses may be computed and set up on an annual basis and 1/12 of the amount thereof may be paid into the Operation and Maintenance Fund each month.

If in any month for any reason there shall be a failure to transfer and pay the required amount into the Operation and Maintenance Fund, the amount of any deficiency shall be added to the amount otherwise required to be transferred and paid into the Operation and Maintenance Fund in the next succeeding month. If in any fiscal year a surplus shall be accumulated in the Operation and Maintenance Fund over and above the amount which shall be

necessary to defray the reasonable and necessary cost of operation, repair and maintenance of the System during the remainder of the then current fiscal year and the next ensuing fiscal year, such surplus may be transferred into the Revenue Fund.

Section 12. (a) After making the required deposit into the Operation and Maintenance Fund, there shall be paid from the Revenue Fund into an account of the City in a special fund to be created by the Bondholder and designated "Series 2022" (the "ADFA Bond Fund") for the purpose of paying the principal of and interest on the bond the amounts specified in (b) below.

Simultaneously with making the deposit into the ADFA Bond Fund, there shall be transferred from the Revenue Fund into the bond funds for the Parity Bonds (the "Parity Bond Funds"), an amount equal to the required monthly deposit into such funds. The obligation to make the required monthly deposits into the ADFA Bond Fund and the Parity Bond Funds shall rank on a parity of security. If the City issues any additional parity bonds, the obligation to make payments into debt service funds for those bonds shall rank on a parity of security with the obligation to make payments into the ADFA Bond Fund and the Parity Bond Funds. In the event the Revenues remaining after the required monthly deposit into the Operation and Maintenance Fund are insufficient to make the full monthly deposits into the ADFA Bond Fund, the Parity Bond Funds and the bond funds for the additional parity bonds, the amount deposited into each shall be reduced proportionately.

(b) In order to pay interest on the bond, there shall be deposited from moneys in the Revenue Fund into the ADFA Bond Fund on each April 15 and October 15 after the bond is issued and delivered until October 15, 2023, the interest due on the bond on such dates. Commencing on the first business day of each month thereafter, there shall be deposited from moneys in the Revenue Fund into the ADFA Bond Fund an amount equal to 1/6 of the amount of principal of and interest on the bond next due (or due in case of the months of April and October).

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

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

(e) All moneys in the ADFA Bond Fund representing City Funds shall be used solely for the purpose of paying the principal of and interest on the bond and the City shall automatically receive a credit for the amount of such City Funds on hand in the ADFA Bond Fund and available for the payment of any principal and interest currently due on an interest or principal payment date irrespective of whether the Bondholder has applied or caused to be applied such funds on that date for such purpose. The City shall receive a credit for all earnings and income

derived from the investment of City Funds each April 15 and October 15 and such earnings and income shall be credited against the next six monthly payments.

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

Section 13. After making the deposit into the Operation and Maintenance Fund and after making the payment into the Parity Bond Funds and the ADFA Bond Fund as set forth above, there shall be paid from the Revenue Fund the Servicing Fee to the Authority and any servicing fees in connection with other System Bonds. The Servicing Fee shall be payable on each date interest on the bond is due and shall be calculated on the same basis as interest on the bond. The payment of the Servicing Fee is expressly made subordinate to the payment of the principal of and interest on the bond.

Section 14. The City has heretofore created, and there is being maintained, a fund designated as the "Utility System Depreciation Fund" (the "Depreciation Fund"). After making the payments and deposits described in Sections 11, 12 and 13 hereof, there shall be deposited from the Revenue Fund into the Depreciation Fund on the first business day of each month a sum equal to 1/12 of the amount to cover estimated replacement costs made necessary by the depreciation of the System during the next succeeding 12 months. The moneys in the Depreciation Fund shall be used solely for the purpose of paying the costs made necessary by the depreciation of the System.

If in any fiscal year a surplus shall be accumulated in the Depreciation Fund over and above the amount which shall be necessary to defray the cost of the probable replacements during the current fiscal year and the next ensuing fiscal year, such surplus may be transferred to the Revenue Fund.

Section 15. The City shall assure that (i) not in excess of 10% of the proceeds of the bond is used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the bond during the term thereof is, under the terms of the bond or any underlying arrangement, directly or indirectly secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the City, in respect of property or borrowed moneys used or to be used for a Private Business Use; and (ii) that, in the event that both (A) in excess of 5% of the proceeds of the bond are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the bond during the term thereof is, under the terms of the bond or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the City, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of proceeds of the bond

used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Improvements.

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

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

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

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

The City may issue additional bonds on a parity with the lien on Revenues in favor of the bond to finance or pay the cost of constructing extensions, betterments and improvements to the System or to refund other outstanding System Bonds if there shall have been procured and filed with the City Clerk and the Bondholder a statement by a certified public accountant not in the regular employ of the City ("Accountant") reciting the opinion that (i) the Net Revenues (Net Revenues being gross Revenues less operation and maintenance expenses, but not including interest and depreciation) for the fiscal year preceding the year in which such additional bonds are to be issued were not less than 110% of the maximum annual debt service requirements (including principal, interest and servicing and administrative fees) on all outstanding System Bonds and the bonds then proposed to be issued or (ii) the Net Revenues for the fiscal year succeeding the year in which such additional bonds are to be issued are projected to be sufficient in amount, taking in consideration any enacted increase in Revenues, to be not less than 110% of the maximum annual debt service requirements (including principal, interest and servicing and administrative fees) on all outstanding System Bonds and the bonds then proposed to be issued.

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

Section 18. It is covenanted and agreed by the City with the Bondholder and the Commission that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State and by this Ordinance, including, without limitation, the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, segregating Revenues and applying them to the respective funds maintained pursuant to the 2010A Ordinance, the 2020 Ordinance and this Ordinance.

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

If there be any default in the payment of the principal of or interest on the bond, or if the City defaults in any ADFA Bond Fund requirement or in the performance of any of the other covenants contained in this Ordinance, the Bondholder may, by proper suit, compel the performance of the duties of the officials of the City under the laws of the State. In the case of a default in the payment of the principal of and interest on the bond, the Bondholder may apply in a proper action to a court of competent jurisdiction for the appointment of a receiver to administer the System on behalf of the City and the Bondholder with power to charge and collect (or by mandatory injunction or otherwise to cause to be charged and collected) rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and to pay the bond and interest outstanding and to apply Revenues in conformity with this Ordinance. When all defaults in principal and interest payments have been cured, the custody and operation of the System shall revert to the City. No remedy herein conferred upon or reserved to the Bondholder is intended to be exclusive of any other remedy or remedies herein provided or provided by law, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by law. No delay or omission of the Bondholder to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any default or an acquiescence therein; and every power and remedy given by this Ordinance to the Bondholder may be exercised from time to time and as often as may be deemed expedient.

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

Section 19. When the bond has been executed and sealed as herein provided, it shall be delivered to the Bondholder upon payment of all or a portion of the purchase price in accordance with the Agreement. The sale proceeds shall be deposited, as and when received, in a special account of the City hereby created in a bank selected by the Board that is a member of the FDIC and designated the "2022 Sewer Construction Fund" (the "Construction Fund"). The moneys in the Construction Fund shall be used for paying, or reimbursing the City for, the costs of accomplishing the Improvements, expenses incidental thereto and the expenses of issuing the bond approved in accordance with the Agreement. Payments from the Construction Fund shall be by check or voucher signed by the Manager and one other person designated by the Board and drawn on the depository. Each such check or voucher shall briefly specify the purpose of the expenditure.

When the Improvements have been completed and all required expenses paid and expenditures made from the Construction Fund for and in connection with the accomplishment of the Improvements and the financing thereof, this fact shall be evidenced by a certificate signed by

the Manager and by the consulting engineer, which certificate shall state, among other things, the date of the completion and that all obligations payable from the Construction Fund have been discharged. A copy of the certificate shall be filed with the depository bank, the Bondholder and the Commission.

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

Section 21. The Board shall keep proper records, books and accounts relating to the operation of the System, which shall be kept separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the operation of the System in accordance with generally accepted government accounting standards. Such books shall be available for inspection by the Bondholder and the Commission, or the agent or the representative of either, at reasonable times and under reasonable circumstances. The City agrees to have these records audited by an Accountant selected by the Board at least once each year and a copy of the audit report shall be furnished to the Commission and the Bondholder. In the event the City fails or refuses to furnish or cause such reports to be furnished, the Bondholder may have the reports made, and the cost thereof shall be charged against the Operation and Maintenance Fund.

Section 22. The City covenants and agrees that it will maintain the System in good condition and operate it in an efficient manner and at reasonable cost. The City agrees that, to the extent comparable protection is not otherwise provided to the satisfaction of the Bondholder and the Commission, it will insure, and at all times keep insured in a responsible insurance company or companies selected by the Board and authorized and qualified under the laws of the State to assume the risk thereof, properties of the System to the extent that such properties would be covered by insurance by private companies engaged in similar types of business against loss or damage thereto in amounts and against such risks as are customarily insured against in connection with similar facilities and undertakings as the System. In the event of loss, the proceeds of such insurance shall be applied solely toward the reconstruction, replacement or repair of the System, and in such event the City will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement and repair work.

Section 23. In the event the office of Mayor, City Clerk, City Council, Board or Manager shall be abolished, or any two or more of such offices shall be merged or consolidated, or in the event the duties of a particular office shall be transferred to another office or officer, or in the event of a vacancy in any such office by reason of death, resignation, removal from office or otherwise, or in the event any such officer shall become incapable of performing the duties of his office by reason of sickness, absence from the City or otherwise, all powers conferred and all obligations and duties imposed upon such office or officer shall be performed by the office or officer succeeding to the principal functions thereof, or by the office or officer upon whom such powers, obligations and duties shall be imposed by law.

Section 24. The City agrees that the Bondholder may pledge the bond as security for the ADFA Bonds, and the ADFA Trustee and/or the municipal bond insurer for the ADFA Bonds may exercise any rights and remedies available to the Bondholder under this Ordinance or the Agreement while the bond is pledged and/or the ADFA Bonds are insured. In addition, the City agrees that while the bond is pledged and/or the ADFA Bonds are insured, copies of all financial information shall be furnished to the ADFA Trustee and/or the municipal bond insurer.

Section 25. It is understood and agreed that the Board, acting for and on behalf of the City, has custody of and control over the System, operates, maintains and repairs the System and collects and handles Revenues. Therefore, it is understood and agreed that even though there are some express references to the Board, all references herein to the City shall, when appropriate in view of the authority and responsibility of the Board, be construed to mean and include the Board. So long as the Board operates the System for the City, performance by the Board of any right or obligation of the City hereunder shall be deemed performance by the City.

Section 26. The provisions of this Ordinance are hereby declared to be separable, and if any provision shall for any reason be held illegal or invalid, it shall not affect the validity of the remainder of this Ordinance.

Section 27. References in this Ordinance to "Bondholder" shall include the original Bondholder or any registered assign thereof.

Section 28. All ordinances and resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: August 9, 2022.

APPROVED:

/s/ Kyle Osborne

Mayor of Searcy

ATTEST:

/s/ Jerry Morris
City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Searcy, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2022-24, adopted at a regular session of the City Council of the City, held at the regular meeting place in the City at 6:00 o'clock p.m., on the 9th day of August, 2022, and that the Ordinance is of record in Ordinance Record Book No. _____, Page _____, now in my possession.

GIVEN under my hand and seal on this 9th day of August, 2022.

/s/ Jerry Morris
City Clerk

(SEAL)