

ORDINANCE NO. 2022- 7

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$5,000,000 WATER AND SEWER REFUNDING AND CONSTRUCTION REVENUE BONDS, SERIES 2022 FOR THE PURPOSE THE REFUNDING OF THE CITY OF OZARK WATER AND SEWER CONSTRUCTION REVENUE BONDS, SERIES 2015, THE REFUNDING OF THE CITY OF OZARK WATER AND SEWER REVENUE REFUNDING BONDS, SERIES 2016, AND FINANCING ALL OR A PORTION OF THE COST OF CERTAIN SYSTEM IMPROVEMENTS; AUTHORIZING THE MARKETING AND THE PURCHASE AND SALE OF SUCH BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; AUTHORIZING A TRUST INDENTURE SECURING THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY

WHEREAS, the City of Ozark, Arkansas (the “City”) owns and operates a municipal waterworks and sewer facilities system as a single, integrated municipal undertaking (the “System”); and

WHEREAS, the City is a city of the first class organized under the laws of the State of Arkansas and is authorized and empowered under the laws of the State of Arkansas, including particularly Title 14, Chapter 234, subchapter 2, Title 14, Chapter 235, subchapter 2 and Title 14, Chapter 164, subchapter 4 of the Arkansas Code of 1987 Annotated (collectively, the “**Authorizing Legislation**”) to issue bonds and to expend the proceeds thereof for the intended purposes and is authorized by the Authorizing Legislation to issue its revenue refunding and improvement bonds; and

WHEREAS, the City has outstanding its Water and Sewer Construction Revenue Bonds, Series 2015 (the “**Series 2015 Bonds**”), which were issued pursuant to Ordinance No. 2015-7 (the “**2015 Ordinance**”), as adopted on July 13, 2015 to finance all or a portion of the cost of acquiring, constructing and equipping extensions, betterments and improvements to the System; and

WHEREAS, the City also has outstanding its Water and Sewer Revenue Refunding Bonds, Series 2016 (the “**Series 2016 Bonds**”), which were issued pursuant to Ordinance No. 2016-13 (the “**2016 Ordinance**”), as adopted on September 12, 2016 to refund the City’s Water and Sewer Refunding and Construction Revenue Bonds, Series 2011 authorized by Ordinance No. 2011-3, adopted April 27, 2011; and

WHEREAS, the City has determined that it is in the best interest of the City to refund both the Series 2015 Bonds and the Series 2016 Bonds (the “**Refunding**”); and

WHEREAS, the City has also determined that extensions, betterments and improvements to the System facilities, including, but not limited to engineering study to evaluate and create a master plan for the System's water facilities and also the acquisition and installation of a permanent sodium hypochlorite feed system, secondary containment for chemical tanks and pumps, facility lighting, and telemetry equipment (collectively, the "**Improvements**"), are necessary in order to make the services thereof adequate for the needs of the City; and

WHEREAS, in order to accomplish the Refunding and in order to finance the cost of the Improvements, the City proposes to issue not to exceed \$5,000,000 Water and Sewer Refunding and Construction Revenue Bonds, Series 2022 (the "**Bonds**") in accordance with the Authorizing Legislation; and

WHEREAS, the City has selected the firm of Crews & Associates, Inc. (the "**Underwriter/Placement Agent**"), to advise and assist the City to determine whether a public offering or a private placement of the Bonds is the best option for the City and to accommodate the public sale of the Bonds (a "**Public Sale**") or private sale and placement of the Bonds (a "**Private Placement**") and the law firm of Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C. to be bond counsel for the Bonds ("**Bond Counsel**"); and

WHEREAS, in the event the Mayor of the City, in consultation with the Underwriter/Placement Agent shall determine that a Public Sale of the Bonds should be completed, then in order for the Underwriter/Placement Agent to market the Bonds, it is necessary to prepare a preliminary official statement (the "**Preliminary Official Statement**") and bond purchase agreement (the "**Bond Purchase Agreement**") and to authorize the Mayor to execute and deliver the Bond Purchase Agreement; and

WHEREAS, in the event the Mayor of the City, in consultation with the Underwriter/Placement Agent shall determine that a Private Placement of the Bonds should be completed, then it is necessary to prepare and enter into a letter of offer and representations (the "**Letter of Offer**") providing for the purchase by a lender or purchaser of the Bonds and to authorize the Mayor to execute and deliver the Letter of Offer; and

WHEREAS, the Bonds will be issued pursuant to a Trust Indenture (the "**Trust Indenture**") between the City and a trustee to be selected (the "**Trustee**"), pursuant to which the Bonds shall be secured by a pledge of the net revenues of the City derived from the System (the "**Revenues**") together with a lien on and security interest in the System if a Public Sale is completed or if desired by the purchaser of the Bonds if a Private Placement is completed; and

WHEREAS, in connection with the sale of the Bonds it will be necessary for the City to enter into a Continuing Disclosure Agreement with the dissemination agent for the Bonds if a Public Sale is completed or a Bondholder Disclosure Agreement with the purchaser of the Bonds if a Private Placement is completed (in either case, the "**Disclosure Agreement**"); and

WHEREAS, if the City and the Underwriter/Placement Agent elect to pursue a Public Sale of the Bonds, then in order to market the Bonds and determine the total principal amount of the Bonds, the Underwriter/Placement Agent requires a Preliminary Official Statement in a form deemed final pursuant to Rule 15c2-12 of the Securities and Exchange Commission and a final

Official Statement (collectively, the “**Official Statement**”), as more particularly described in the Bond Purchase Agreement (defined below); and

WHEREAS, the City intends to issue the Bonds as expeditiously as possible, assuming that certain interest rate savings can be attained; and

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

Section 1. The Issuance of the Bonds. The issuance and sale of the Bonds in one or more series in the principal amount of not to exceed \$5,000,000 is hereby authorized in order to provide sufficient funds to accomplish the Refunding and to finance the costs of the Improvements, to establish such reserves as shall be necessary for the sale of the Bonds, and the to provide for the payment of expenses for the issuance of the Bonds, in all cases subject to the terms and conditions of the Trust Indenture, are hereby determined by the City Council to be necessary and desirable to accomplish the powers, purposes, and authority of the Authorizing Legislation and to be consistent in all respects with the Authorizing Legislation. The Mayor and City Clerk/Recorder are hereby authorized to take, or cause to be taken, all action necessary to accomplish the issuance of the Bonds pursuant to the provisions of the Authorizing Legislation and the Trust Indenture.

Section 2. Useful Life. The City Council hereby finds and declares that the period of usefulness of the Improvements will be more than 30 years, which is longer than the term of the Bonds.

Section 3. Parameters. The Bonds shall mature and bear interest in the amounts and on the dates set forth in the Bond Purchase Agreement or Letter of Offer, as applicable; provided however, that the Bonds shall bear interest with a true interest cost not to exceed three and one-quarter percent (3.25%), and the final maturity date for the Bonds shall not exceed December 31, 2042.

Section 4. Public Sale or Private Placement of the Bonds. The sale of the Bonds described above in **Section 1** hereof is hereby approved and authorized. The Mayor, in consultation with the Underwriter/Placement Agent, is authorized to elect to proceed with either a Public Sale of the Bonds or a Private Placement of the Bonds to a purchaser selected by the Mayor in consultation with the Underwriter/Placement Agent (the “**Lender**”), in each case subject to the parameters set forth in **Section 3** of this Ordinance.

Section 5. Professionals. The City Council of the City hereby designates the Underwriter/Placement as underwriter for the Bonds in the event a Public Sale of the Bonds is elected or as placement agent for the Bonds in the event a Private Placement of the Bonds is elected, and hereby designates Bond Counsel as bond counsel for the Bonds. The Mayor is hereby authorized to select a Trustee for the Bonds in consultation with the Underwriter/Placement Agent.

Section 6. Authority of Officers. The City Council of the City hereby authorizes and directs the Mayor of the City, and the City Clerk/Recorder of the City, where applicable, or

any one of them individually, to carry out or cause to be carried out all appropriate actions, to execute such other certificates or documents to evidence authority as authorized herein, and to take such other actions as they, in consultation with the Underwriter/Placement Agent and Bond Counsel, shall consider necessary or advisable in connection with this, in order to prepare for the issuance, sale, and delivery of the Bonds by the City, all as authorized by law and this Ordinance.

Section 7. Compliance with the Rule. In the event a Public Sale of the Bonds is elected, this Ordinance provides for compliance with Rule 15c2-12 under the Securities Exchange Act of 1934 (the “Rule”).

Section 8. Official Statement. In the event a Public Sale of the Bonds is elected, the form of Official Statement and the Appendices thereto are hereby authorized to be approved by the Mayor, and each of the Mayor and the City Clerk/Recorder is authorized, acting alone or together, to participate in the completion of the Official Statement and each is authorized, acting alone or together, to approve, execute and deliver the Official Statement on behalf of the City and to authorize the Underwriter/Placement Agent to use it in connection with the Public Sale of the Bonds, and each is authorized to execute and deliver to the Underwriter/Placement Agent of the Bonds, a certificate when requested by the Underwriter/Placement Agent of the Bonds, to the effect that the Official Statement is accurate and complete.

Section 9. Bond Purchase Agreement or Letter of Offer. The Mayor and the City Clerk/Recorder, where applicable, or any one of them acting individually, are, each authorized to execute on behalf of the City either the Bond Purchase Agreement if a Public Sale is elected or the Letter of Offer if a Private Placement is elected.

Section 10. Pledge of Revenues. The City hereby expressly pledges and appropriates all of the revenues derived from the System to the payment of the principal of and interest on the Bonds when due at maturity or at redemption prior to maturity, administrative costs, the fees and expenses of the Trustee and any required arbitrage rebate due to the United States. .

Section 11. Statutory Mortgage. If a Public Sale of the Bonds is elected, or if a Private Placement of the Bonds is elected and the Lender shall desire, then pursuant to the Trust Indenture and Ark. Code Ann. § 14-234-208 (1987), there shall be a statutory mortgage lien upon the portions of the System comprised of the water storage and distribution system, which shall exist in favor of the registered owners of the Bonds until payment in full of the interest on and principal of the Bonds.

Section 12. Approval of Trust Indenture. The form of Trust Indenture to secure the Bonds and the Exhibits thereto are hereby authorized to be approved by the Mayor, and each of the Mayor and the City Clerk/Recorder is authorized, acting alone or together, to participate in the completion of the Trust Indenture and each is further authorized, acting alone or together, to approve, execute and deliver the Trust Indenture on behalf of the City. The Mayor and the City Clerk/Recorder are each authorized and directed to take all action required on the part of the City to fulfill the City’s obligations under the Trust Indenture.

Section 13. Approval of Continuing Disclosure Agreement. The form of Disclosure Agreement is hereby authorized to be approved by the Mayor, and each of the Mayor and the City Clerk/Recorder is authorized, acting alone or together, to participate in the completion of the Disclosure Agreement and each is further authorized, acting alone or together, to approve, execute and deliver the Disclosure Agreement on behalf of the City. The Mayor and the City Clerk/Recorder are each authorized and directed to take all action required on the part of the City to fulfill the City's obligations under the Disclosure Agreement.

Section 14. Designation of Qualified Tax-Exempt Obligations. The Bonds are hereby designated as "qualified tax exempt obligations" within the meaning of the Internal Revenue Code of 1986, as amended. The City Council represents that the aggregate principal amount of qualified tax exempt obligations issued for the benefit of the City in calendar year 2022 is not reasonably expected to exceed \$10,000,000.

Section 15. Procedures for Compliance With Tax Requirements. The Mayor is hereby authorized and directed to work with Bond Counsel to review and revise, as needed, its written procedures to monitor compliance with federal tax requirements with respect to tax-exempt obligations of the City.

Section 16. Ratification of Prior Acts. All actions heretofore taken by the City, including by the Mayor, the City Clerk/Recorder, and the other officers and representatives, in connection with the offer and sale of the Bonds are hereby in all respects ratified and approved.

Section 17. Severability. That the provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

Section 18. Repeal if Conflict. That all parts of the Municipal Code, City ordinances, City resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 19. Publication. Following adoption, this Ordinance shall be published in a newspaper of general circulation in the City of Ozark, Arkansas, at least one time, pursuant to Title 14, Chapter 55, subchapter 2 of the Arkansas Code of 1987 Annotated.

Section 20. Emergency Clause. It is hereby ascertained and declared that the Refunding must be accomplished and the Improvements must be constructed or completed as soon as possible to accommodate the needs of the City, its inhabitants and persons residing in the area to be served thereby, without which the life, health, safety and welfare thereof are jeopardized, and that the issuance of the Bonds and the taking of the other action authorized by this Ordinance is necessary for the accomplishment thereof. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage. This Ordinance shall be effective from and after its date of adoption.

PASSED: March 14, 2022.

APPROVED:

By: Roxie Hall
Mayor

ATTEST:

By: Susan Stevens
City Clerk/Recorder

(SEAL)

CERTIFICATE

The undersigned, City Clerk/Recorder of the City of Ozark, Arkansas, hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. 2022- 7, adopted at a regular session of the City Council of the City of Ozark, Arkansas, held at the regular meeting place in the City at 6:00 p.m. on March 14, 2022, and that Ordinance No. 2022- 7, is of record in the official Ordinance/Resolution Book of the City, now in my possession.

GIVEN under my hand and seal on this 14th day of March, 2022.



City Clerk/Recorder

(SEAL)

Certificate to Bond Ordinance