

ORDINANCE NO. 2015-\_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF EXTENSIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER AND SEWER FACILITIES OF THE CITY OF OZARK, ARKANSAS; AUTHORIZING THE ISSUANCE AND SALE OF WATER AND SEWER CONSTRUCTION REVENUE BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.**

WHEREAS, the City 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 has determined that extensions, betterments and improvements to the water and sewer facilities of the System, including, but not limited to the construction of a new approximate 1.2 million gallon clearwell and chemical facilities (collectively, the “**Improvements**”) are necessary in order to make the services thereof adequate for the needs of the City; and

WHEREAS, the City desires that the costs of the Improvements be financed with water and sewer construction revenue bonds to be issued by the City in the maximum principal amount not to exceed \$1,855,000 (the “**Bonds**”); and

WHEREAS, the City has made arrangements for the sale of the Bonds to Crews & Associates, Inc. (the “**Purchaser**”) at a price of \$1,804,374.50 (principal amount less net original issue discount of \$13,525.50 less Underwriter’s discount of \$37,100.00) plus interest accrued thereon (the “**Purchase Price**”), pursuant to a Bond Purchase Agreement (the “**Purchase Agreement**”) which has been presented to and is before this meeting; and

WHEREAS, the Preliminary Official Statement, dated July 1, 2015, offering the Bonds for sale, (the “**Preliminary Official Statement**”), has been presented to and is before this meeting; and

WHEREAS, in order to comply with applicable securities laws, it is necessary that the City enter into a Continuing Disclosure Agreement (the “**Disclosure Agreement**”), with Bank of the Ozarks, Little Rock, Arkansas, as trustee for the holders of the Bonds (the “**Trustee**”), providing for continuing disclosure of relevant information concerning the Bonds, and a copy of the Disclosure Agreement has been presented to and is before this meeting; and

WHEREAS, in order to better assure timely compliance by the City of those rules and regulations pertaining to the issuance of tax-exempt obligations as required by the Internal Revenue Code of 1986, as amended, it is necessary that the City formalize its policies and procedures regarding continuing disclosure compliance pursuant to a Post-Issuance Compliance

Policy For Tax-Exempt Obligations (the “**Post-Issuance Policies**”), and a copy of the Post-Issuance Policies has been presented to and is before this meeting; and

WHEREAS, the City has outstanding its Water and Sewer Refunding and Construction Revenue Bonds, Series 2011 (the “**Series 2011 Bonds**”), which were issued pursuant to Ordinance No. 2011-3, as adopted on April 27, 2011, as supplemented by Ordinance No. 2011-4, as adopted on May 9, 2011 (together, the “**2011 Ordinance**”); and

WHEREAS, the coverage test for securing the Bonds with a lien on net revenues of the System on a parity with the lien on net System revenues in favor of the Series 2011 Bonds has been or will be met;

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

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

Section 2. The City Council hereby finds and declares that the period of usefulness of the System will be more than 25 years, which is longer than the term of the Bonds.

Section 3. Under the authority of the Constitution and laws of the State of Arkansas (the “**State**”), including particularly Title 14, Chapter 235, Subchapter 2 and Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated, the City of Ozark, Arkansas Water and Sewer Construction Revenue Bonds, Series 2015 are hereby authorized and ordered issued for the purpose of financing all or a portion of the costs of the Improvements, funding a debt service reserve, and paying certain expenses of issuing the Bonds, in accordance with the terms set forth below:

Section 4. The Bonds shall be issued and sold to the Underwriter only upon the following terms:

- (a) The Bonds shall not exceed \$1,855,000 in the aggregate principal amount;
- (b) The Bonds shall be dated August 25, 2015, with interest payable semiannually on April 1 and October 1 of each year, commencing April 1, 2016;
- (c) The Bonds shall mature on October 1 in each of the years, in amounts and bear interest as follows:

<u>Maturity</u>	<u>Principal</u>	<u>Bond Type</u>	<u>Coupon</u>	<u>Yield</u>
10/01/2017	\$145,000	Term Bond	1.000%	1.000%
10/01/2019	150,000	Term Bond	1.750%	1.750%
10/01/2021	160,000	Term Bond	2.250%	2.250%
10/01/2023	165,000	Term Bond	2.625%	2.625%
10/01/2025	175,000	Term Bond	3.000%	3.000%
10/01/2030	485,000	Term Bond	3.250%	3.350%

10/01/2033	330,000	Term Bond	3.500%	3.600%
10/01/2035	245,000	Term Bond	3.700%	3.800%

Section 5. The Bonds shall be issuable only as fully registered bonds without coupons in the denomination of \$5,00 or any integral multiple thereof. Unless the City shall otherwise direct, the Bonds shall be numbered consecutively 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 Owner of the Bonds for all purposes under this Ordinance, including, without limitation, payment by the City of principal of, redemption price, premium, if any, and interest on the Bonds, and receipt of notices and exercise of rights of Owners. There shall be one certificated, typewritten bond for each stated maturity date which shall be immobilized in the custody of DTC with the beneficial owners having no right to receive the Bonds in the form of physical securities or certificates. DTC and its participants shall be responsible for maintenance of records of the ownership of beneficial interests in the Bonds by book-entry on the system maintained and operated by DTC and its participants, and transfers of ownership of beneficial interests shall be made only by DTC and its participants, by book-entry, the City having no responsibility therefor. DTC is expected to maintain records of the positions of participants in the Bonds, and the participants and persons acting through participants are expected to maintain records of the purchasers of beneficial interests in the Bonds. The Bonds as such shall not be transferable or exchangeable, except for transfer to another securities depository or to another nominee of a securities depository, without further action by the City.

If any securities depository determines not to continue to act as a securities depository for the Bonds for use in a book-entry system, the City may establish a securities depository/ book-entry system relationship with another securities depository. If the City does not or is unable to do so, or upon request of the beneficial owners of all outstanding Bonds, the City and the Trustee, after the Trustee has made provision for notification of the beneficial owners by the then securities depository, shall permit withdrawal of the Bonds from the securities depository, and authenticate and deliver bond certificates in fully registered form (in denominations of \$5,000 or integral multiples thereof) to the assigns of the securities depository or its nominee, all at the cost and expense (including costs of printing definitive bonds) of the City, if the City fails to maintain a securities depository/book-entry system, or of the beneficial owners, if they request termination of the system.

Prior to issuance of the Bonds, the City shall have executed and delivered to DTC a written agreement (the “**Representation Letter**”) setting forth (or incorporating therein by reference) certain undertakings and responsibilities of the City with respect to the Bonds so long as the Bonds or a portion thereof are registered in the name of Cede & Co. (or a substitute nominee) and held by DTC. Notwithstanding such execution and delivery of the Representation Letter, the terms thereof shall not in any way limit the provisions of this Section or in any other way impose upon the City any obligation whatsoever with respect to persons having interests in the Bonds other than the Owners, as shown on the registration books kept by the Trustee. The

Trustee shall take all action necessary for all representations of the City in the Representation Letter with respect to the Trustee to at all times be complied with.

The authorized officers of the Trustee and the City shall do or perform such acts and execute all such certificates, documents and other instruments as they or any of them deem necessary or advisable to facilitate the efficient use of a securities depository for all or any portion of the Bonds; provided that neither the Trustee nor the City may assume any obligations to such securities depository or beneficial owners of the Bonds that are inconsistent with their obligations to any Owner under this Ordinance.

The Bonds shall be registered or in registerable form. Principal is payable at the principal office of the Trustee. Payment of interest shall be by check or draft mailed to the Owner at the address shown on the registration book of the City maintained by the Trustee. The Bonds shall bear interest from the dates and shall be subject to redemption prior to maturity as hereinafter set forth in the bond form.

The Bonds shall be dated the first day of the month in which such Bonds are issued and delivered to the Underwriter. Interest on the Bonds shall accrue and be payable as set forth in the form of bonds, hereinbelow. Interest on the Bonds shall be payable on April 1, 2016 and semiannual thereafter on October 1 and April 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, in its capacity as trustee and paying agent, at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the “**Record Date**”), irrespective of any transfer or exchange of any such Bond subsequent to such Record Date and prior to such interest payment date.

Each Bond shall bear interest from the interest 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 6 hereof (the “**Certificate**”) duly executed by the Trustee shall be entitled to any right or benefit under this Ordinance. No Bond shall be valid and obligatory for any purpose unless and until the Certificate shall have been duly executed by the Trustee and the Certificate upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Ordinance. The Certificate on any Bond shall be deemed to have been executed if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate on all of the Bonds.

In case any Bond shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new

Bond of like date, 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 the 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 the 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 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 Owner thereof or by his attorney duly authorized in writing at the principal corporate trust office of the Trustee. Upon such transfer, a new fully registered Bond or Bonds of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount will be issued to the transferee in exchange therefor.

No charge shall be made to any owner of any Bond for the privilege of transfer or exchange, but any owner of any Bond requesting any such transfer or exchange shall pay any tax or other governmental charge required to be paid with respect thereto. Except as otherwise provided in the immediately preceding sentence, the cost of preparing each new Bond upon each exchange or transfer and any other expenses of the City or the Trustee incurred in connection therewith shall be paid by the City. The City shall not be required to transfer or exchange any Bonds selected for redemption in whole or in part.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or premium, if any, or interest on any Bond shall be made only to or upon the order of the Owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds shall be a Saturday or Sunday or shall be in the State a legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal (and premium, if any) need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after the date of maturity or date fixed for redemption.

Section 5. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk and shall have impressed or imprinted thereon the seal of the City. The Bonds, together with interest thereon, are secured by and are payable solely from net revenues derived from the System (the “**System Revenues**” ) which are hereby pledged and mortgaged for the equal and ratable payment of the Bonds. The pledge of net System Revenues

in favor of the Bonds is on a parity with the pledge in favor of the Series 2011 Bonds. The Bonds and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation.

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

(Form of Bond)

REGISTERED

REGISTERED

No. \_\_\_\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF ARKANSAS  
COUNTY OF FRANKLIN  
CITY OF OZARK  
WATER AND SEWER CONSTRUCTION REVENUE BOND  
SERIES 2015

INTEREST RATE	MATURITY DATE	ISSUE DATE	CUSIP No.
_____ %	_____	_____ 1, 2015	_____

**REGISTERED OWNER:** CEDE & Co.

**PRINCIPAL AMOUNT:** \_\_\_\_\_ AND NO/100 DOLLARS

The City of Ozark, County of Franklin, State of Arkansas (the “City”), for value received, hereby promises to pay, but solely from the source as hereinafter provided and not otherwise, to the Registered Owner shown above, or registered assigns, upon the presentation and surrender hereof at the principal corporate office of Regions Bank, Little Rock, Arkansas, or its successor or successors, as Trustee (the “Trustee”), on the Maturity Date shown above, the Principal Amount shown above, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and to pay by check or draft interest thereon, but solely from the source as hereinafter provided and not otherwise; in like coin or currency from the interest commencement date specified below at the Interest Rate per annum shown above payable April 1, 2016 and semiannually thereafter on the first days of October and April of each year, 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.

This bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated prior to the first interest payment date, in which event it shall bear interest from the Dated Date shown above, or unless it is authenticated during the period from the Record Date to the next interest payment date, in which case it shall bear interest from such interest payment date, or unless at the time of authentication hereof interest is in default hereon, in which event it shall bear interest from the date to which interest has been paid.

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“**DTC**”) to the Trustee for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

This bond is one of an issue of City of Ozark, Arkansas Water and Sewer Construction Revenue Bonds, Series 2015, aggregating One Million Eight Hundred Fifty-Five Thousand Dollars (\$1,855,000), in principal amount (the “**Bonds**”), and is issued for the purpose of financing all or a portion of the costs of the acquisition, construction and equipping of extensions, betterments and improvements to the City’s water and sewer facilities, paying costs incidental thereto, paying expenses of issuing the Bonds, and funding a debt service reserve.

THE BONDS ARE ISSUED PURSUANT TO AND IN FULL COMPLIANCE WITH THE CONSTITUTION AND LAWS OF THE STATE OF ARKANSAS, INCLUDING PARTICULARLY TITLE 14, CHAPTER 235, SUBCHAPTER 2 AND TITLE 14, CHAPTER 164, SUBCHAPTER 4, OF THE ARKANSAS CODE OF 1987 ANNOTATED AND PURSUANT TO ORDINANCE NO. 2015-\_\_\_, DULY ADOPTED ON JULY 13, 2015 (THE “**AUTHORIZING ORDINANCE**”), AND DO NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN ANY CONSTITUTIONAL OR STATUTORY LIMITATION. The Bonds are not general obligations of the City, but are special obligations payable solely from the net revenues derived from the operation of the City’s municipal waterworks and sewer (combined) system (the “**System**”). In this regard, the pledge in favor of the Bonds is (a) on a parity with the pledge in favor of the City’s Water and Sewer Refunding and Construction Revenue Bonds, Series 2011 and the City’s Sewer Improvement Revenue Bonds, Series 2007 and (b) subordinate to the pledge in favor of the City’s Water and Sewer Revenue Bonds, Series 1994. An amount of System revenues sufficient to pay the principal of and interest on the Bonds has been duly pledged and set aside into the 2015 Water and Sewer Revenue Bond Fund created by the Authorizing Ordinance. Reference is hereby made to the Authorizing Ordinance for a detailed statement of the terms and conditions upon which the Bonds are issued, of the nature and extent of the security for the Bonds, and the rights and obligations of the City, the Trustee and the owners of the Bonds. The City has fixed and has covenanted and agreed to maintain rates for the services of the System which shall be sufficient at all times to provide for the proper and reasonable expenses of operation and maintenance of the System, for the payment of the principal of and interest on all Bonds payable from System revenues, with Trustee’s fees, as the same become due and payable, to establish and maintain debt service reserves and to make required deposits for the depreciation of the System.

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

- (1) The Bonds shall be redeemed from proceeds of the Bonds what are not needed for the purposes intended, in whole or in part, on any interest payment date, in such order of maturity as shall be directed by the City (and by lot within a maturity in such manner as the



Trustee shall determine), at a price equal to the principal amount being redeemed plus accrued interest to the redemption date.

(2) The Bonds may be redeemed at the option of the City from funds from any source, in whole at any time or in part on any interest payment date on and after October 1, 2020, 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 (and by lot within a maturity in such manner as the Trustee shall determine).

(3) To the extent not previously redeemed, the Bonds maturing on October 1 in the years 2017, 2019, 2021, 2023, 2025, 2030, 2033 and 2035 are subject to mandatory sinking fund redemption (selected by lot by the Trustee by any method utilized by the Trustee), at a price equal to the principal amount being redeemed plus accrued interest to the redemption date, on October 1 of each year as follows:

Bonds Maturing October 1, 2017

<u>Year</u>	<u>Principal Amounts</u>
2016	\$70,000.00
2017 (maturity)	75,000.00

Bonds Maturing October 1, 2019

<u>Year</u>	<u>Principal Amounts</u>
2018	\$75,000.00
2019 (maturity)	75,000.00

Bonds Maturing October 1, 2021

<u>Year</u>	<u>Principal Amounts</u>
2020	\$80,000.00
2021 (maturity)	80,000.00

Bonds Maturing October 1, 2023

<u>Year</u>	<u>Principal Amounts</u>
2022	\$80,000.00
2023 (maturity)	85,000.00

Bonds Maturing October 1, 2025

<u>Year</u>	<u>Principal Amounts</u>
2024	\$85,000.00
2025 (maturity)	90,000.00

Bonds Maturing October 1, 2030

<u>Year</u>	<u>Principal Amounts</u>
2026	\$90,000.00
2027	95,000.00
2028	95,000.00
2029	100,000.00
2030 (maturity)	105,000.00

Bonds Maturing October 1, 2033

<u>Year</u>	<u>Principal Amounts</u>
2031	\$105,000.00
2032	110,000.00
2033 (maturity)	115,000.00

Bonds Maturing October 1, 2035

<u>Year</u>	<u>Principal Amounts</u>
2034	\$120,000.00
2035 (maturity)	125,000.00

The provisions for mandatory sinking fund redemption of the Bonds are subject to the provisions of the Authorizing Ordinance that may permit the City to receive credit for Bonds previously redeemed or for Bonds acquired by the City and surrendered to the Trustee.

In case any outstanding Bond is in a denomination greater than \$5,000, each \$5,000 of face value of such Bond shall be treated as a separate Bond of the denomination of \$5,000.

Notice of redemption identifying the Bonds or portions thereof (which shall be \$5,000 or a multiple thereof) to be redeemed shall be given by the Trustee, not less than 30 nor more than 60 days prior to the date fixed for redemption, by mailing a copy of the redemption notice by first class mail, postage prepaid, or sending a copy of the redemption notice via other standard means, including electronic or facsimile communication, to all registered owners of Bonds to be redeemed. Failure to mail or send an appropriate notice or any such notice to one or more registered owners of Bonds to be redeemed shall not affect the validity of the proceedings for redemption of other Bonds as to which notice of redemption is duly given in proper and timely fashion. All such Bonds or portions thereof thus called for redemption and for the retirement of which funds are duly provided in accordance with the Authorizing Ordinance prior to the date

fixed for redemption will cease to bear interest on such redemption date. With respect to notice of redemption of the Bonds at the option of the City, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the trustee prior to the giving of such notice, such notice shall state that redemption shall be conditional upon the receipt of such moneys by the Trustee on or prior to the date fixed for such redemption. If such moneys shall not have been so received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Trustee shall give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

This Bond is exchangeable or transferable by the registered owner hereof in person or by his attorney-in-fact duly authorized in writing at the principal corporate trust office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Authorizing Ordinance, and upon surrender and cancellation of this Bond. Upon such transfer, a new fully registered Bond or Bonds of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefor. This Bond is issued with the intent that the laws of the State of Arkansas shall govern its construction.

The City and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due hereon and for all other purposes, and neither the City nor the Trustee shall be affected by any notice to the contrary.

The Bonds are issuable only as fully registered bonds in the denomination of \$5,000, and any integral multiple thereof. Subject to the limitations and upon payment of the charges provided in the Authorizing Ordinance, fully registered Bonds may be exchanged for a like aggregate principal amount of fully registered Bonds of the same maturity of other authorized denominations.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by the Bonds, together with all obligations of the City, does not exceed any constitutional or statutory limitation; and that the above referred to revenues pledged to the payment of the principal of and premium, if any, and interest on the Bonds as the same become due and payable will be sufficient in amount for that purpose.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Authorizing Ordinance until the Certificate of Authentication hereon shall have been signed by the Trustee.

THE CITY HAS DESIGNATED THIS BOND AS A "QUALIFIED TAX-EXEMPT OBLIGATION" WITHIN THE MEANING OF SECTION 265 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

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

**CITY OF OZARK, ARKANSAS**

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

( S E A L )

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds designated Water and Sewer Construction Revenue Bonds, Series 2015, in and issued under the provisions of the within mentioned Authorizing Ordinance.

Date of Authentication: \_\_\_\_\_

TRUSTEE:

**BANK OF THE OZARKS**  
Little Rock, Arkansas

By: \_\_\_\_\_  
Authorized Signature

*(A Form of Assignment shall be affixed to the bonds)*

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Section 7. The City covenants that it will continuously operate the System as a revenue-producing undertaking. The rates charged for services of the System heretofore fixed by ordinances of the City and the conditions, rights and obligations pertaining thereto, as set out in those ordinances, are hereby ratified, confirmed and continued.

The City covenants and agrees that the rates shall never be reduced while any of the Bonds or the Series 2011 Bonds are outstanding unless there is obtained from an independent certified public accountant (“**Accountant**”) a certificate that the Net Revenues of the System (“**Net Revenues**” being defined as gross Revenues less the expenses of operation and maintenance of the System, including all expense items properly attributable to the operation and maintenance of the System under generally accepted accounting principles applicable to municipal water and sewer facilities, other than depreciation, interest and amortization of deferred bond discount expenses), with the reduced rates, will always be equal to the amount required to be set aside for the Depreciation Fund (hereinafter identified), and leave a balance equal to at least 110% of the maximum annual principal and interest requirements on all outstanding bonds payable from Revenues (“**System Bonds**”). The City further covenants and agrees that the rates shall, if and when necessary, from time to time, be increased in such manner as will produce Net Revenues at least equal to 110% of the maximum annual principal and interest requirements on all System Bonds. The City also agrees that Net Revenues shall always be sufficient to make the required deposits into the Depreciation Fund and otherwise comply with the provisions of this Ordinance and all other ordinances authorizing System Bonds.

Section 8. All of the provisions of the City’s Ordinance No. 1992-19 adopted on September 8, 1992 and Ordinance No. 1994-30 adopted on November 30, 1994 (together, the “**1994 Ordinance**”) and the 2011 Ordinance (including those incorporated herein by reference), except those provisions clearly inconsistent herewith or inapplicable hereto, including, without limitation, the provisions pertaining to the collection, depositing, securing, investing, disbursing and handling of Revenues and Funds, vacancies in office and the operation, maintenance and care of the System, are hereby made applicable hereto and are incorporated herein by reference as though fully set forth at this point. The effect of the above covenant shall be to continue the applicable provisions in full force and effect until the Bonds are paid, or provision made therefor, even though the Water and Sewer Revenue Bonds, Series 1994 issued pursuant to the 1994 Ordinance (the “**Series 1994 Bonds**”) have been repaid in their entirety. In this regard, the following funds created by or incorporated into the 1994 Ordinance and the 2011 Ordinance are hereby confirmed and continued: Waterworks and Sewer System Revenue Fund (the “**Revenue Fund**”); Water and Sewer Operating and Maintenance Fund (the “**Operating and Maintenance Fund**”); 2011 Water and Sewer Revenue Bond Fund (the “**2011 Bond Fund**”); and Water and Sewer Depreciation Fund (the “**Depreciation Fund**”). The 1992 Water and Sewer Revenue Bond Fund referenced in the 1994 Ordinance and the 2011 Ordinance is no longer required, as the bonds applicable thereto have been paid in full.

So long as any of the Bonds are outstanding, the City will not attempt to issue any obligations secured by a lien or pledge superior to that securing the Bonds.

Section 9. (a) After making the required monthly deposits into the Operation and Maintenance Fund, there shall be transferred from the Revenue Fund into each of (1) the 2011 Bond Fund and (2) a special fund created in the trustee and designated the “2015 Water and

Sewer Revenue Bond Fund” (the “**2015 Bond Fund**” and together with the 2011 Bond Fund, the “**Bond Fund**”), as applicable, by the fifteenth day of each month commencing in the month after the Bonds are issued, until all outstanding Bonds, with interest thereon, have been paid in full or provisions made for such payment, a sum equal to 1/6 of the next installment of interest due on the Series 2011 Bonds and the Bonds (or an amount sufficient to provide for such interest installment by way of equal monthly payments) and a sum equal to 1/12 of the next installment of principal due on the Series 2011 Bonds and the Bonds (or an amount sufficient to provide for such principal installment by way of equal monthly payments).

The City shall also pay into the Bond Fund such additional sums as necessary to provide for the Trustee’s fees and expenses and any arbitrage rebate due the United States Treasury under Section 148(f) of the Internal Revenue Code of 1986, as amended (the “**Code**”). The City shall receive a credit against monthly deposits into the Bond Fund from (a) Bond proceeds deposited therein, (b) all interest earnings on moneys in the Bond Fund, (c) earnings on the Debt Service Reserve during the preceding month, and (d) transfers into the Bond Fund from funds held in connection with the Bonds Refunded.

(b) The obligation to make the required monthly deposits into the 2011 Bond Fund and the 2015 Bond Fund shall rank on a parity of security. If the City issues any additional parity bonds, the obligation to make payments into the bond funds for those bonds shall rank on a parity of security with the obligation to make payments into the 2011 Bond Fund and the 2015 Bond Fund. In the event the revenues of the System remaining after the required monthly deposit into the Operation and Maintenance Fund are insufficient to make the full monthly deposits into the two Bond Funds and the bond funds for the additional parity bonds, the amount deposited into each shall be reduced proportionately.

(c) There is hereby created, as part of the Bond Fund, a Debt Service Reserve, which the city agrees to continuously maintain in an amount equal to one-half of the maximum annual principal and interest requirements on all outstanding bonds (the “**Required Level**”). Should the Debt Service Reserve become impaired or be reduced below the Required Level, the deficiency shall be cured by making additional monthly payments equal to 1/12 of the deficiency until the impairment or reduction is corrected.

(d) If Revenues are insufficient to make the requirement payments by the fifteenth day of the following month into the Bond Fund, the amount of any such deficiency in the payment made shall be added to the amount otherwise required to be paid into the Bond Fund by the fifteenth day of the next month.

(e) If for any reason there shall be a deficiency in the payments made into the Bond Fund, any sums then held in the Debt Service Reserve Fund shall be used to the extent necessary for the payment of principal of or interest on the Bonds, but the Debt Service Reserve shall be reimbursed from the Revenue Fund before any moneys in the Revenue Fund shall be used for any other purpose other than the making of payments required to be made into the Operation and Maintenance Fund and the Bond Fund.

(f) If a surplus shall exist in the bond Fund over and above the amount required for making all principal and interest payments during the next succeeding twelve month period and

in excess of the Required Level of the the Debt Service Reserve, such surplus (1) may be applied to the payment of the principal of an interest on the Bonds that may be called for redemption prior to maturity, (2) may be transferred to the Revenue Fund, or (3) may be used to pay any arbitrage rebate due under Section 148(f) of the code with respect to the Bonds.

(g) The Trustee shall withdraw from the 2015 Bond Fund on the due date of any principal and/or interest on any Bond, at maturity or redemption prior to maturity, an amount equal to the amount of such Bond and interest due thereon for the sole purpose of paying the same, together with the Trustee's fees and expenses. There may also be withdrawn and paid to the United States Treasury any arbitrage rebate due at the times and in the amounts required by Section 148(f) of the Code with respect to the Bonds. No withdrawal of funds from the 2015 Bond Fund shall be made for any other purpose except as otherwise authorized in this Ordinance.

(h) The Bonds shall be specifically secured by a pledge of all Revenues required to be placed in the Bond Fund. This pledge 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 10. After making the monthly deposits into the Operation and Maintenance Fund and the Bond Fund, there shall be transferred from the Revenue Fund into the Depreciation Fund the amounts required pursuant to the 1994 Ordinance.

Section 13. So long as any Bonds are outstanding under the provisions of this Ordinance, the City shall not issue any bonds claimed to be entitled to a priority of lien on the net revenues of the Revenues over the lien securing the Bonds.

The City reserves the right to issue additional bonds to finance or refinance the cost of constructing any extensions, betterments or improvements to the System, but the City shall not authorize or issue any such additional bonds ranking on a parity with the outstanding Bonds unless and until there shall have been procured and filed with the Trustee a statement by an Accountant reciting the opinion, based upon necessary investigation, that either (1) Net Revenues for the fiscal year immediately preceding the fiscal year in which it is proposed to issue such additional bonds were equal to not less than 110% of the maximum annual principal and interest requirements on all then outstanding System Bonds and the bonds of the new issue, or (2) Net Revenues for the fiscal year next succeeding the fiscal year in which it is proposed to issue such additional bonds, as reflected by a statement by an independent consulting engineer not in the regular employ of the City ("**Engineer**"), and taking into account any rate increase then in effect, will equal not less than 110% of the maximum annual principal and interest requirements on the outstanding System Bonds and the additional bonds proposed to be issued. In making the computation set forth above, additional amounts may be added to the Net Revenues of the completed fiscal year immediately preceding the issuance of additional bonds, as follows: if, prior to the issuance of the additional bonds and subsequent to the first day of such preceding fiscal year, the City shall have increased its rates or charged imposed for services of the System, there may be added to Net Revenues of such fiscal year the additional Net Revenues that would have been received from the operation of the System during such fiscal year had such increased been in effect throughout such fiscal year, as reflected by a certificate of a duly qualified consulting engineer not in the regular employ of the City.



Nothing in this Section shall prohibit the city from issuing, at its option, additional bonds payable from Revenues subordinate to the lien securing the Bonds.

Section 12. The City shall cause proper books of accounts and records to be kept (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the operation of the System. Such books shall be available for inspection by the registered owner of any Bond (an “**Owner**”) at reasonable times and under reasonable circumstances. The City agrees to have these records audited by an Accountant at least once each year, and a copy of the audit shall be delivered to the Trustee and made available to the Owners requesting the same in writing. In the event that the City fails or refuses to make the audit, the Trustee or any Owner of a Bond may have the audit made, and the cost thereof shall be charged against the Operation and Maintenance Fund

Section 13. The insurance policies required by Section 12 of Ordinance No. 1992-19 are to carry a clause making them payable to the Trustee as its interest may appear, and satisfactory evidence of such insurance shall be filed with the Trustee.

Section 14. The Bonds shall be subject to redemption prior to maturity in accordance with the terms set out in the form of bond in Section 6 hereof. The city covenants and agrees to cause to be paid into the 2015 Bond Fund sufficient funds to redeem the Bonds in the amounts and on the dates set forth in the Bonds. Therefore, in calculating the monthly payments to be deposited into the Bond Fund, the term “next installment of principal” shall include the principal of the Bonds maturing on the next principal payment date and the principal of the Bonds that will be redeemed in accordance with the mandatory sinking fund redemption provisions of the Bonds on the next interest payment date scheduled for such redemption.

The City may acquire Bonds by purchase at a price not in excess of par plus accrued interest, inclusive of brokerage fees, and surrender to the Trustee any Bonds so acquired, in exchange for which the City shall receive a credit under this Ordinance in an amount equal to the principal amount of the bonds so acquired and surrendered, for and of the then next date for mandatory sinking fund redemption of Bonds of the same maturity.

Section 15. Any Bond shall be deemed to be paid within the meaning of this Ordinance when payment of the principal of and interest on such Bond (whether at maturity or upon redemption as provided herein, or otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment (1) cash sufficient to make such payment and/or (2) direct or fully guaranteed obligations of (including obligations issued or held in book entry form on the books of) the Treasury of the United States of America (“**Investment Securities**”) (provided that such deposit will not affect the tax-exempt status of the interest on any of the Bonds or cause any of the Bonds to be classified as “arbitrage bonds” within the meaning of Section 148 of the Code), maturing as to principal and interest in such amounts and at such times as will provide sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Trustee shall have been paid or the payment thereof provided for to the satisfaction of the Trustee.

On the payment of any such Bonds within the meaning of this Ordinance, the Trustee shall hold in trust, for the benefit of the owners of such Bonds, all such moneys and/or Investment Securities.

When all the Bonds shall have been paid within the meaning of this Ordinance, if any arbitrage rebate due the United States Treasury has been paid or provided for to the satisfaction of the Trustee and if the Trustee has been paid its fees and expenses, the Trustee shall take all appropriate action to cause (i) the pledge and lien of this Ordinance to be discharged and cancelled, and (ii) all moneys held by it pursuant to this Ordinance and that are not required for the payment of such Bonds to be paid over or delivered to or at the direction of the City. In determining the sufficiency of the deposit of Defeasance Securities there shall be considered the principal amount of such Investment Securities and interest to be earned thereon until the maturity of such Investment Securities.

Section 16. If there be any default in the payment of the principal of, premium, if any, or interest on any of the Bonds or if the City defaults in the performance of any of the other covenants contained in this Ordinance, the Trustee may, and upon the written request of the Owners of not less than 10% in principal amount of the then outstanding Bonds, shall, by proper suit compel, by mandamus or otherwise, the performance of the duties of the officials of the City under the laws of Arkansas. In the case of a default in the payment of the principal of, premium, if any, and interest on any of the Bonds, the Trustee may and upon written request of the Owners of not less than 10% in principal amount of the then outstanding Bonds, shall 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 Owners of the Bonds 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, maintenance and repair and to pay any Bonds and interest outstanding and to apply all Revenues in conformity with the laws of Arkansas and with this Ordinance. When defaults in such payments have been cured, the custody and operation of the System shall revert to the City.

No Owner of any of the outstanding Bonds shall have any right to institute any suit, action, mandamus or other proceeding in equity or at law for the protection or enforcement of any power or right unless such owner previously shall have given to the Trustee written notice of the default on account of which such suit, action or proceeding is to be taken, and unless the Owners of not less than 10% in principal amount of the Bonds then outstanding shall have made written request of the Trustee after the right to exercise such power or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers granted to the Trustee, or to institute such action, suit or proceeding in its name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are, at the option of the Trustee, conditions precedent to the execution of any remedy. No one or more Owners of the Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Ordinance, or to enforce any right thereunder except the manner herein described. All proceedings at law or in equity shall be instituted, had and maintained in the manner herein described and for the benefit of all Owners.

No remedy herein conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy or remedies, 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.

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 entry of final judgment or decree in any suit, action or proceeding instituted under the provisions of this Ordinance or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

All rights of action under this Ordinance or under any of the Bonds, enforceable by the Trustee, may be enforced by it without the possession of any of the Bonds, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name and for the benefit of all the Owners, subject to the provisions of this Ordinance.

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

In any proceeding to enforce the provisions of this Ordinance, the Trustee and any plaintiff bondholder shall be entitled to recover from the City all costs of such proceeding, including reasonable attorneys' fees.

Section 17. (a) The terms of this Ordinance shall constitute a contract between the City and the Owners. No variation or change in the undertaking herein set forth shall be made while any of the Bonds are outstanding, except as hereinafter set forth in subsections (b) and (c).

(b) The Trustee may consent to any variation or change in this Ordinance without the consent of the Owners (i) in order to cure any ambiguity or correct any defect herein as the City may deem necessary or desirable and not inconsistent herewith or (ii) in order to make any other variation or change that the Trustee determines shall not materially adversely affect the interests of the owners of the Bonds.

(c) The Owners of not less than 75% in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance supplemental hereto as shall be necessary or desirable for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Ordinance or in any supplemental ordinance; provided, however, that nothing contained in this Section shall permit or be construed as permitting (i) an extension of the maturity of the principal of or the interest on any Bond, or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or (iii) the creation of a lien or pledge superior to the lien and pledge created by this Ordinance, or (iv) a privilege or priority of any Bond or Bonds over any

other Bond or Bonds, or (v) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance.

Section 18. (a) Moneys held for the credit of the Bond Fund (excluding the Debt Service Reserve therein) shall be continuously invested and reinvested pursuant to the direction of the City (and in the Trustee's discretion in the absence of direction by the City) in Permitted Investments (as hereinafter defined in (h)) all of which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the payment date for interest or principal and interest.

(b) Moneys held for the credit of the Debt Service Reserve shall be invested and reinvested pursuant to the direction of the City (and in the Trustee's discretion in the absence of direction by the City) in Permitted Investments all of which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than ten (10) years after the date of investment.

(c) Moneys held for the credit of the Construction Fund shall be continuously invested and reinvested in Permitted Investments, or other investments as may, from time to time, be permitted by law, which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the date or dates when the moneys held for the credit of the Construction Fund will be required for purposes intended.

(d) Moneys held for the credit of any other fund shall be continuously invested and reinvested in Permitted Investments, or other investments as may, from time to time, be permitted by law, which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the date or dates when the moneys held for the credit of the particular fund will be required for the purposes intended.

(e) 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, except that interest earnings and profits on investments of moneys in the Debt Service Reserve which increase the amount thereof above the required level shall to the extent of any such excess be immediately transferred into the Bond Fund.

(f) Moneys so invested in certificates of deposit of banks to the extent insured by FDIC need not be secured by the depository bank or banks.

(g) Investments of moneys in all funds shall be valued in terms of current market value as of the last day of each year.

(h) "Permitted Investments" are defined to mean (i) direct obligations of the United States of America (including any such securities issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America ("Government Securities"), (ii) direct obligations of an agency, instrumentally or government-sponsored enterprise created by 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 State Government, (iii) in time deposits or certificates of deposit of banks, including the Trustee, which are insured by the FDIC, or, if in excess of insurance coverage, collateralized by Government Securities or other securities authorized by State law to secure public funds, or (iv) money market funds, including funds managed by the Trustee, invested exclusively in Government Securities.

(i) The City covenants that it will make all arbitrage rebate payments to the United States in accordance with Section 148 of the Code.

Section 19. When the Bonds have been executed, they shall be authenticated by the trustee and the Trustee shall deliver the bonds to the Purchaser upon payment of the purchase price. The accrued interest shall be deposited into the 2015 Bond Fund. The expenses of issuing the Bonds as set forth in the delivery instructions to the trustee signed by the Mayor (the “**Delivery Instructions**”) shall be paid from the purchase price. An amount equal to the Required Level, as set forth in the Delivery Instructions shall be deposited into the Debt Service Reserve. The remainder of the purchase price shall be remitted to the City for deposit into a special account in the name of the City designated “Water and Sewer Revenue Bond Construction Fund, Series 2015” (the “**2015 Construction Fund**”) in a depository or depositories designated by the City Council that are members of the FDIC. The moneys in the 2015 Construction Fund shall be disbursed solely in payment of the costs of accomplishing the Improvements, paying necessary expenses incidental thereto, and paying expenses of issuing the Bonds. Disbursements shall be on the basis of checks or requisitions that shall contain at least the following information: the person to whom payment is being made; the amount of the payment; and the purpose by general classification of the payment. Each check must be signed by at least two persons designated by the City Council.

When the Improvements have been completed and all required expenses paid and expenditures made from the 2015 Construction Fund for an in connection with the accomplishment of the Improvements and the financing thereof, this fact, if there are moneys in the 2015 Construction Fund, shall be evidenced by a certificate signed by the Mayor, which certificate shall state, among other things, the date of the completion and that all obligations payable from the 2015 Construction Fund have been discharged. A copy of the certificate shall be filed with the depository or depositories of the 2015 Construction Fund, and a copy with the Trustee, and upon receipt thereof, the depository of the 2015 Construction Fund shall transfer any remaining balance to the 2015 Bond Fund fro the purpose of redeeming the Bonds.

Section 20. The Bond Purchase Agreement, in substantially the form submitted this meeting, is approved, and the Mayor is hereby authorized and directed to execute an delivery the Bond Purchase Agreement on behalf of the City, subject to the terms and conditions of the issuance of the Bonds set forth in Section 4 of this Ordinance. 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 Bond Purchase Agreement.

Section 21. The Disclosure Agreement, in substantially the form submitted this meeting, is approved, and the Mayor is hereby authorized and directed to execute an delivery the Disclosure Agreement on behalf of the City. The Mayor is authorized and directed to take all

action required on the part of the City to fulfill the City's obligations under the Disclosure Agreement.

Section 22. The Preliminary Official Statement, in substantially the form submitted to this meeting, is approved, and the Mayor is hereby authorized and directed to execute and deliver the Preliminary Official Statement on behalf of the City. The use of the Preliminary Official Statement in the marketing of the Bonds is authorized, ratified and confirmed. The Mayor is authorized to "deem final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission, the Preliminary Official Statement with such revisions as may be approved by the Mayor. The City hereby further authorizes and approves the production of a final Official Statement and authorizes and directs the Mayor to execute and deliver the Official Statement, in such form as he deems acceptable, in connection with the issuance of the Bonds.

Section 23. The City Council of the City recognizes that certain revisions may be made to the Bond Purchase Agreement, the Preliminary Official Statement and the Disclosure Agreement prior to the issuance of the Bonds, and hereby authorizes the Mayor to approve and accept such revisions, the signature of the Mayor on each of the Bond Purchase Agreement, the Preliminary Official Statement and the Disclosure Agreement to constitute proof of acceptance of such revisions.

Section 24. (a) The City covenants that it shall not take any action or suffer or permit any action to be taken or condition to exist that causes the interest payable on the Bonds to be subject to federal income taxation. Without limiting the generality of the foregoing, the City represents and covenants that the proceeds of the sale of the Bonds and 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 shall assure that (i) not in excess of 10% of the Net Proceeds of the Bonds 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 Bonds during the term thereof is, under the terms of the Bonds 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 Net Proceeds of the Bonds 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 Bonds during the term thereof is, under the terms of the Bonds 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 Net Proceeds of the Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System.

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

As used in this subsection (b), the following terms shall have the following meanings:

“**Net Proceeds**” means the face amount of the Bonds, plus accrued interest and original issue premium and less original issue discount and less the deposit into the Debt Service Reserve from proceeds of the Bonds.

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

The City covenants that it will not enter into or modify existing wholesale water contracts or modifications in the future if such contracts would cause the Bonds to become “private activity bonds” within the meaning of Section 141 of the Code.

(c) The Bonds are hereby designated as “qualified tax-exempt obligations” within the meaning of the Code. The City represents that the aggregate principal amount of its qualified tax-exempt obligations (excluding “private activity bonds” within the meaning of Section 141 of the Code that are not “qualified 501(c)(3) bonds” within the meaning of Section 145 of the Code), including those of its subordinate entities, issued in calendar year 2015 are not anticipated to exceed \$10,000,000.

(d) The City covenants that it will take no action that would cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code. Nothing in this Section shall prohibit investments in bonds issued by the United States Treasury.

(d) The City covenants that it will not be reimbursed from proceeds of the Bonds for costs paid prior to the date the Bonds are issued except in compliance with United States Treasury Regulation No. 1.150-2 (the “**Regulation**”). This Ordinance shall constitute an “official intent” for purpose of the Regulation.

(e) The City covenants that it will submit to the Secretary of the Treasury of the United States, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, a statement required by Section 149(e) of the Code.

(f) The City covenants that it will, in compliance with the requirements of Section 148(f) of the Code, pay with moneys in the Bond Fund to the United States Government in accordance with the requirements of Section 148(f) of the Code, from time to time, an amount equal to the sum of (1) the excess of (A) the amount earned on all Non-purpose Investments (as therein defined) attributable to the Bonds, other than investments attributable to such excess over (B) the amount that would have been earned if such Non-purpose Investments attributable to the Bonds were invested at a rate equal to the Yield (as defined in the Code) on the Bonds, plus (2) any income attributable to the excess described in (1), subject to the exceptions set forth in Section 148 of the Code. The City further covenants that in order to assure compliance with its covenants herein, it will employ a qualified consultant to advise the City in making the determination required to comply with this subsection. Anything herein to the contrary notwithstanding, the City need not comply with this provision if in the opinion of Bond Counsel

filed with the Trustee, the failure to comply would not affect the tax-exempt status of interest on the Bonds for federal income tax purposes.

(g) The City covenants that it shall retain all records and documents pertaining to the Bonds and the Improvements for the life of the bonds plus an additional six years.

Section 25. The Trustee shall only be responsible for the exercise of good faith and reasonable prudence in the execution of its trust. The recitals in this Ordinance and in the face of the Bonds are the recitals of the City and not of the Trustee. The Trustee shall not be required to take any action as Trustee unless it shall have been requested to do so in writing by the owners of not less than 10% in principal amount of the Bonds then outstanding and shall have been offered reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby. The Trustee may resign at any time by 60 days' notice in writing to the City Clerk and to the Owners, and the City, so long as the City is not in default under this Ordinance or the majority in value of the Owners at any time, with or without cause, may remove the Trustee. In the event of a vacancy in the office of Trustee, either by resignation or by removal, the City shall appoint a new Trustee, such appointment to be evidenced by a written instrument or instruments filed with the City Clerk. Every successor Trustee appointed pursuant to this Section shall be a trust company or bank in good standing, duly authorized to exercise trust powers and subject to examination by federal or state authority, having a reported capitalized surplus of not less than \$10,000,000. The original Trustee and any successor Trustee shall file a written acceptance and agreement to execute the trust imposed upon it or them by this Ordinance, but only upon the terms and conditions set forth in this Ordinance and subject to the provisions of this Ordinance, to all of which the respective owners of the Bonds agree. Such written acceptance shall be filed with the City Clerk and a copy thereof shall be placed in the Bond transcript. Any successor Trustee shall have all the powers herein granted to the original Trustee. The Trustee's resignation shall become effective upon the acceptance of the trusts by the successor Trustee. Notwithstanding the above, neither the removal of the Trustee nor the resignation by the Trustee shall be effective until a successor Trustee shall have been appointed.

Section 26. There shall be a statutory mortgage lien upon the water facilities that are a part of the System (including all extensions, improvements and betterments now or hereafter existing), which shall exist in favor of the Owners, and each of them and such water facilities shall remain subject to such statutory mortgage lien until payment in full of the interest on and principal of the Bonds, provided, however that such statutory mortgage lien shall be interpreted according to the decision of the Supreme Court of the State in *City of Harrison v. Braswelli, supra*.

Section 27. The Post-Issuance Policies, in substantially the form submitted to this meeting, are approved, and the Mayor and City Clerk are hereby authorized and directed to execute and deliver the Post-Issuance Policies on behalf of the City, and the City hereby formalizes its policies and procedures regarding continuing disclosure compliance to the adoption of those policies and procedures set forth in the Post-Issuance Policies.

Section 28. The provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.



Section 29. All ordinances and resolutions or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 30. It is hereby ascertained and declared that Improvements must be accomplished as soon as possible in order to make the System adequate for the needs of the City and its inhabitants, 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.

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PASSED: July 13, 2015.

APPROVED:

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

( S E A L )

**CERTIFICATE**

The undersigned, City Clerk of the City of Ozark, Arkansas (the “City”), hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. 2015-\_\_\_\_, passed at a regular session of the City Council of the City, held at the regular meeting place of the Council, at 5:30 p.m. on the 13th day of July, 2015, and that the Ordinance is of record in Ordinance Record Book No. \_\_\_\_\_ at Page \_\_\_\_\_, now in my possession.

GIVEN under my hand and seal this 13th day of July, 2015.

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City Clerk

( S E A L )