

ORDINANCE NO. 2021-06

AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF A NEW SEWER SYSTEM FOR THE TOWN OF PLEASANT PLAINS, ARKANSAS; AUTHORIZING THE ISSUANCE OF A SEWER REVENUE BOND FOR THE PURPOSE OF FINANCING A PORTION OF THE COST OF THE CONSTRUCTION; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE BOND; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the Town of Pleasant Plains, Arkansas (the "Town") does not currently own and operate a sewer system; and

WHEREAS, the Town Council and has determined that construction of a new sewer system (the "System") will allow the Town and its inhabitants to have adequate and proper sewer facilities; and

WHEREAS, the Town Council has had prepared by a duly qualified consulting engineer a preliminary report and estimates of costs of the proposed construction of the System (the "construction"), which have been examined and approved by the Town Council and a copy filed in the office of the Town Recorder where they may be inspected by any interested person; and

WHEREAS, the total estimated cost of the construction, authorizing and issuing a bond and paying interest during construction (the "Estimated Cost") is \$4,620,000; and

WHEREAS, the Town does not have available funds to undertake the construction but can obtain the necessary funds for paying the Estimated Cost by the issuance of a Sewer Revenue Bond in the maximum principal amount of \$1,203,000 (the "bond") and from a grant from an agency of the United States of America; and

WHEREAS, the Town has entered into a Loan Agreement with the United States Department of Agriculture (the "Government"), whereby the Government has committed to purchase the bond; and

WHEREAS, the Loan Agreement provides that the bond will bear interest at the lower of the prevailing Rural Development ("RD") interest rate at the time of loan approval (2.375%) or the prevailing RD interest rate at the time the bond is issued; and

WHEREAS, the Town is authorized, under the provisions of Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation"), to accept the offer of the Government;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Pleasant Plains, Arkansas:

Section 1. The construction shall be accomplished. The Mayor and Town Recorder are hereby authorized to take, or cause to be taken, all action necessary to accomplish the construction and to execute all required contracts and documents.

Section 2. The offer of the Government of par for the bond is hereby accepted, and the bond is hereby sold to the Government. The purchase price shall be paid in multiple advances as funds are needed for the construction, to pay bond issuance expenses and to pay interest during construction.

Section 3. The Town Council hereby finds and declares that the period of usefulness of the System after completion of the construction will be more than 40 years.

Section 4. Under the authority of the Constitution and laws of the State of Arkansas (the "State"), including particularly the Authorizing Legislation, a Town of Pleasant Plains, Arkansas Sewer Revenue Bond is hereby authorized and ordered issued in the maximum principal amount of \$1,203,000. The bond shall be dated as of the date of its delivery and shall bear interest at the lower of the prevailing RD interest rate at the time of loan approval (2.375% per annum) or the prevailing RD interest rate at the time the bond is issued. Interest only shall be paid on the first anniversary from the date of the bond. Thereafter, principal of and interest on the bond shall be payable in monthly amortized installments commencing thirteen (13) months from the date of the bond and continuing monthly thereafter on the same day (provided, however, that if the bond is dated on the 29th, 30th or 31st day of any month, the monthly payments shall be made on the 28th day of each month). If the interest rate is 2.375% and if the bond is issued in the principal amount of \$1,203,000, the amortized monthly payments shall be in the amount of \$3,946 each. If the interest rate is lower or if the bond is issued in a principal amount less than \$1,203,000 the monthly payments shall be in the amount necessary to amortize the bond in 468 equal monthly installments. The amount of each monthly payment shall be applied first to payment of interest then due and the balance shall be applied to a reduction of principal. The amortized installments of principal and interest shall continue until the principal of the bond, with interest, is fully paid, except that final payment of the bond shall be due and payable not later than forty (40) years from the date of the bond, subject to prepayment prior to maturity as provided in the face of the bond.

The bond will be issued in typewritten form, registered as to both principal and interest, payable to the registered owner, or registered assigns, and shall be numbered R-1.

Payment of principal and interest shall be either (a) by check or draft mailed to the registered owner thereof at its address shown on the bond registration books of the Town which shall be maintained by the Town Recorder as Bond Registrar or (b) by electronic debit, without presentation or surrender of the bond (except upon final payment) and such payments shall discharge the obligation of the Town to the extent thereof. The Town Recorder 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 Town Recorder.

Section 5. The bond shall be executed on behalf of the Town by the Mayor and Town Recorder and shall have impressed thereon the seal of the Town. The bond is not a general obligation of the Town but is a special obligation, the principal of and interest on which are secured by a pledge of and are payable from the net revenues derived from the operation of the System. The pledge of net revenues of the System in favor of the bond is a first and prior pledge. The bond and interest thereon shall not constitute an indebtedness of the Town within any constitutional or statutory limitation.

Section 6. (a) The bond shall be in substantially the following form and the Mayor and Town Recorder are hereby authorized and directed to make all the recitals contained therein:

(form of single registered bond)

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF INDEPENDENCE
TOWN OF PLEASANT PLAINS
_____ % SEWER REVENUE BOND

No. R-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS:

That the Town of Pleasant Plains, Independence County, Arkansas (the "Town"), for value received, hereby acknowledges itself to owe and promises to pay to the registered owner, or assigns, solely from the special fund provided as hereinafter set forth, the principal sum of

(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 _____% 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 and shall be payable as follows: interest only shall be payable on the first anniversary from the date of this bond; commencing thirteen (13) months from the date of this bond and monthly thereafter on the same day (except that if this bond is dated the 29th, 30th or 31st day of any month, each monthly payment shall be due on the 28th day of the month) amortized monthly installments of principal and interest in the amount of \$ _____

each shall be payable until the principal and interest are fully paid, except that final payment of the entire indebtedness, if not sooner paid, shall be due and payable 40 years from the date of this bond.

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 Town maintained by the Town Recorder as Bond Registrar, and such payments shall fully discharge the obligation of the Town to the extent of the payments so made.

This bond is issued for the purpose of financing a portion of the cost to the Town of acquiring, constructing and equipping a new sewer system (the "System"), costs of authorizing and issuing this bond and paying interest during construction, 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 164, Subchapter 4 of the Arkansas Code of 1987 Annotated, and pursuant to Ordinance No. _____ of the Town, duly adopted and approved on the 11th day of February, 2021 (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 Town and the registered owner of this bond.

Prepayments of principal installments, or any portion thereof, may be made from funds from any source at any time at the option of the Town in inverse chronological order of maturity at a price of the principal amount thereof plus accrued interest. Such prepayments shall not affect the obligation of the Town to pay the remaining installments as scheduled herein.

This bond does not constitute an indebtedness of the Town within any constitutional or statutory limitation or provision, and the taxing power of the Town is not pledged to the payment of the principal of or interest on this bond. This bond is a special obligation payable solely from the net revenues derived from the operation of the System ("Revenues"). A sufficient amount of Revenues to pay principal and interest has been duly set aside and pledged as a special fund for that purpose, identified as the "2021 Sewer Revenue Bond Fund," created by the Authorizing Ordinance. The pledge of Revenues in favor of this bond is a first and prior pledge. The Town 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, provide for the payment of the principal of and interest on all the outstanding bonds to which 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.

This bond may be assigned, and in order to effect such assignment the assignor shall promptly notify the Town Recorder by registered mail, and the assignee shall surrender this bond to the Town Recorder 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 Town Recorder), prior to such surrender for transfer.

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

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 Town of Pleasant Plains, Arkansas has caused this bond to be executed in its name by its Mayor and Town Recorder, thereunto duly authorized, and its corporate seal to be affixed, all as of the _____ day of _____, _____

TOWN OF PLEASANT PLAINS, ARKANSAS

ATTEST:

By _____
Mayor

Town Recorder

(SEAL)

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

(b) Pending the preparation and delivery of the permanent and definitive bond hereinabove authorized, temporary bonds in the aggregate principal amount of not to exceed \$1,203,000 may be issued for the purpose of providing construction funds immediately and in anticipation of the issuance of such permanent bond. The temporary bonds shall be in such denominations as the Mayor shall determine, be numbered from 1 upwards, be sold at a price of par, be dated the day of delivery, bear interest at the rate of not to exceed 5.00% per annum and mature not later than two (2) years from their date. Interest on the temporary bonds shall mature not less often than annually and at maturity. In connection with the issuance of temporary bonds, the Mayor and Town Recorder are hereby authorized to execute a letter of offer and representation with the purchaser or purchasers thereof and to take all other actions whatsoever and execute and deliver such documents, instruments, contracts and writings necessary to cause the temporary bonds to be issued. Upon delivery of the permanent bond, the temporary bonds to the extent then outstanding, with accrued interest, shall be exchanged for, or paid from the proceeds of, the permanent bond, and shall be canceled. The temporary bonds shall be in substantially the form of the permanent bond.

Section 7. The Town has heretofore fixed sewer rates by ordinance. Reference is hereby made to the ordinances fixing sewer rates for the details thereof and other provisions pertaining thereto, which sewer rates are hereby confirmed and continued.

The Town covenants and agrees that the sewer rates heretofore established by the Town will produce gross revenues at least sufficient to pay operation and maintenance expenses of the System, pay the principal of and interest on all outstanding bonds to which the net revenues of the System are pledged ("System Bonds"), as the same become due, to create and maintain debt service reserves and to make required deposits for depreciation. The Town covenants always to maintain rates (including increases as necessary) which will provide for the maintenance of the funds hereinafter described. The rates shall never be reduced while the bond is outstanding unless there is obtained from a certified public accountant not in the regular employ of the Town ("Accountant") a certificate reciting the opinion that the proposed new rates will produce sufficient net revenues (net revenues being gross revenues to be derived from the operation of the System during the next 12 months less the reasonably anticipated cost of operation and maintenance for the next 12 months and less any required deposits for depreciation of the System for the next 12 months) equal to not less than 120% of the maximum amount that will become due in any year thereafter for principal, interest and trustee's and paying agent's fees on all System Bonds then outstanding.

Section 8. If any sewer charge is not paid within the time allowed by applicable ordinances, the Town shall take appropriate action to collect the delinquent account.

Section 9. The Treasurer of the Town shall be custodian of the revenues of the System and shall give bond for the faithful discharge of his or her duties as such custodian. The amount of the bond shall at all times be at least equal to the total funds in his or her custody at any one time. All moneys received by the Treasurer shall be deposited by him or her in such depository or depositories for the Town as may be lawfully designated from time to time by the Town Council; subject, however, to the giving of security as now or hereafter may be required by law, and provided that each depository must hold membership in the Federal Deposit Insurance Corporation ("FDIC"). All deposits shall be in the name of the Town and shall be so designated as to indicate the particular fund to which the revenues of the System belong. Any deposit in excess of the amount insured by the FDIC shall be secured by Government Obligations (as defined in Section 20 hereof) or other securities authorized by State law to secure public deposits.

Section 10. The Town covenants that it will continuously operate the System as a revenue-producing undertaking and will not sell, lease, mortgage, pledge or otherwise encumber the same, or any substantial portion thereof, without the prior written approval of the Government, so long as the Government is the owner of the bond, or any other bondholder; provided, however, that nothing herein shall be construed to prohibit the Town 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 11. All revenues of the System shall be paid as and when received into a fund which is hereby created and designated "Sewer Revenue Fund" (the "Revenue Fund"). All moneys at any time 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 System Bonds, to the maintenance of any required debt service reserves and depreciation reserves at the required levels and otherwise as described herein.

Section 12. There shall first be paid from the Revenue Fund into a fund which is hereby created and designated "Sewer Operation and Maintenance Fund" (the "Operation and Maintenance Fund"), on or before the first business day of each month, such sums as are estimated to be required to pay the reasonable and necessary expenses of operation, repair, maintenance and the insuring 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 one-twelfth (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 estimated to be necessary to defray the reasonable and necessary cost of operation, repair, maintenance and insuring of the System during the remainder of the then current fiscal year and the next ensuing fiscal year, such surplus shall be transferred and deposited in the Revenue Fund.

Section 13. (a) After making the required payment into the Operation and Maintenance Fund, there shall be paid by the Town Treasurer from the Revenue Fund into a special fund in the name of the Town which is hereby created and designated "2021 Sewer Revenue Bond Fund" (the "Bond Fund"), the sums in the amounts and at the times hereinafter stated in subsection (b) for the purpose of providing funds for the payment of the principal of and interest on the bond when due, and to establish a debt service reserve.

(b) There shall be accumulated in the Bond Fund prior to the maturity of the temporary bonds an amount equal to the interest on the temporary bonds due on such date. There shall also be accumulated in the Bond Fund prior to the first anniversary of the date of the permanent bond an amount equal to the interest on the bond due on such date. All or a portion of that interest will be financed from capitalized interest derived from bond proceeds.

Commencing on the first business day of the thirteenth month after delivery of the permanent bond and continuing on the first business day of each month thereafter until the bond with interest thereon has been paid in full or provision made for such payment, there shall be deposited into the Bond Fund a sum equal to the installment of principal and interest due on the next monthly installment payment date, for the bond, plus an additional sum equal to the lesser of (i) \$395 (if the interest rate is 2.375% and the bond is issued in the principal amount of \$1,203,000) or (ii) 10% of the monthly payment on the bond (if the interest rate is lower or the principal amount of the bond is less than \$1,203,000, or both). When a debt service reserve shall have been

accumulated, and so long as it shall remain, in the amount equal to the lesser of (i) \$47,352 (if the interest rate of the bond is 2.375% and the bond is issued in the principal amount of \$1,203,000) or (ii) the maximum annual debt service requirement on the bond (the "required level"), the additional payment need not be made.

(c) If revenues of the System are insufficient to make the required payment on or before the first business day of the following month into the 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 Bond Fund on the first business day of the next month.

(d) If, for any reason, the Town shall fail at any time to make any of the required payments into the Bond Fund, or if for any reason the Bond Fund shall be insufficient at any time to make the required payments for principal and interest, as due, any sums then held in the debt service reserve shall be used to the extent necessary in the payment of the principal of and interest on the bond, but such reserve shall be reimbursed from the first available moneys in the Revenue Fund by the increased monthly payments specified in (b) above. The debt service reserve shall be used solely as herein provided.

(e) When the moneys held in the Bond Fund, including the debt service reserve, shall be and remain sufficient to pay the outstanding principal of and interest on the bond, the Town shall not be obligated to make any further payments into the Bond Fund.

(f) All moneys in the Bond Fund shall be used solely for the purpose of paying the principal of and interest on the bond, except as herein specifically provided. If a surplus shall exist in the Bond Fund over and above the amount necessary to insure the payment, when due, of principal and interest and over and above the debt service reserve's required level, such surplus shall be transferred to the Revenue Fund.

(g) It shall be the duty of the Town Treasurer to withdraw from the Bond Fund and to pay to the owner, on or before the date on which each installment hereunder is due, an amount equal to the amount of such installment. No withdrawal of funds from the Bond Fund shall be made for any other purpose except as otherwise authorized in this Ordinance.

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

(i) Provision has been made for the payment of the principal of and accrued interest on the temporary bonds from the proceeds of the permanent bond and the Town shall not be required to make any payments into the Bond Fund until delivery of the permanent bond unless necessary to prevent a default on the temporary bonds but the Town covenants to make payments into the Bond Fund at the times and in the amounts, if any, necessary to prevent a default in payment of principal of or interest on the temporary bonds.

Section 14. After making the payments set forth above, there shall be paid from the Revenue Fund into a fund hereby created and designated "Short Lived Asset Reserve Fund" (the "Depreciation Fund") on the first business day of each month while the bond is outstanding, the sum of \$298. Once the total sum of \$43,500 has been accumulated in the Depreciation Fund, no further deposits into the Depreciation Fund will be required. Moneys in the Depreciation Fund shall be used to pay for repairs and replacements of major System assets identified by the Town's consulting engineer report that was developed for the construction.

Section 15. Any surplus in the Revenue Fund, after making the required deposits in the other funds as set forth herein may be used for purposes related to the System, including particularly, without limitation, the redemption of System Bonds, the construction of extensions, betterments and improvements to the System or any other lawful municipal purpose.

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 Town shall not issue or attempt to issue any bonds having or claimed to be entitled to a priority of lien on revenues of the System over the lien securing the bond.

Nothing herein shall be construed in any manner to prevent the issuance by the Town of additional revenue bonds to finance or pay the cost of constructing extensions, betterments and improvements to the System or to refund outstanding System Bonds; however, any such additional bonds shall not be issued on a parity with the bond unless and until (a) there shall have been procured and filed in the office of the Town Recorder a statement by an Accountant reciting the opinion that the net revenues of the System (net revenues being gross revenues of the System less operation and maintenance expenses) for the fiscal year preceding the year in which such parity bonds are to be issued were not less than 120% of the average annual debt service requirements on all outstanding System Bonds and the bonds then proposed to be issued and (b) so long as the Government is the owner of the bond, consent is obtained from the owner of the bond.

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.

Section 18. It is covenanted and agreed by the Town with the owner of the bond 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 of the System and applying them to the Bond Fund and the respective funds created by this Ordinance.

The Town covenants and agrees that the owner of the bond shall have the protection of all the provisions of the Authorizing Legislation, and that the Town will diligently proceed to enforce those provisions to the end of the bondholder realizing fully upon its security. And, if the

Town shall fail to proceed within 30 days after written request shall have been filed by the owner of the bond, the owner 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 Town defaults in any Bond Fund requirement or in the performance of any of the other covenants contained herein, the owner of the bond may, by proper suit, compel the performance of the duties of the officials of the Town 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 owner of the bond 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 Town and the owner of the bond 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 any System Bonds and interest outstanding and to apply revenues of the System 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 Town. No remedy herein conferred upon or reserved to the owner of the bond 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 owner of the bond 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 owner of the bond may be exercised from time to time and as often as may be deemed expedient.

The owner of the bond may 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.

Any costs of enforcement of the bond or of any provision of this Ordinance, including reasonable attorney's fees, shall be paid by the Town.

Section 19. (a) The Town covenants that it shall not take any action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest payable on the permanent or temporary bonds to be subject to federal income taxation. Without limiting the generality of the foregoing, the Town covenants that the proceeds of such bonds and moneys that are deposited in the funds identified herein will not be used directly or indirectly in such manner as to cause such bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). If the temporary bonds are issued, the Town agrees to make any required rebate to the United States Treasury in accordance with Section 148 of the Code with respect to the permanent bond.

(b) The Town represents that it has not used or permitted the use of, and covenants that it will not use or permit the use of, the improvements financed by the permanent and temporary bonds or the proceeds thereof, in such manner as to cause such bonds to be "private activity bonds" within the meaning of Section 141 of the Code. In this regard, the Town covenants

that (i) it will not use (directly or indirectly) the proceeds of such bonds to make or finance loans to any person, and (ii) that while such bonds are outstanding the System and the improvements financed by such bonds will only be used by persons on a basis as members of the general public or by state or local governmental units.

(c) The permanent and temporary bonds are hereby designated as "qualified tax-exempt obligations" within the meaning of the Code. The Town represents and covenants that the aggregate principal amount of its tax-exempt obligations (excluding private activity bonds within the meaning of Section 141 of the Code, except qualified 501(c)(3) bonds within the meaning of Section 145 of the Code), including those of its subordinate entities, issued in the calendar year in which the permanent or temporary bonds are issued are not reasonably anticipated to exceed \$10,000,000. The Town further covenants and represents that (i) the aggregate principal amount of its tax-exempt obligations (not including "private activity bonds" within the meaning of Section 141 of the Code, including those of its subordinate entities, issued in the calendar year in which the permanent or temporary bonds are issued are not reasonably expected to exceed \$5,000,000, and (ii) at least 95% of the proceeds of the temporary and permanent bonds will be expended for local governmental activities of the Town.

(d) The Town covenants that it will take no action that would cause the permanent or temporary 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.

(e) The Town 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 any bonds (temporary or permanent) are issued, a statement concerning such bonds which contains the information required by Section 149(e) of the Code.

(f) The Town covenants that it will not reimburse itself from proceeds of the permanent or temporary bonds for costs paid by the Town prior to the first date any of such bonds are issued except in compliance with U.S. Treasury Regulation § 1.150-2 as now or hereafter amended (the "Regulation"). This Ordinance shall constitute an "official intent" for the purpose of the Regulation.

(g) The Town covenants that it will retain documents and records pertaining to the temporary and permanent bonds and the construction for the life of the permanent bond plus an additional three (3) years.

Section 20. When the bonds (temporary bonds and permanent bond) have been executed by the Mayor and Town Recorder and the seal of the Town impressed, they shall be delivered to the purchaser upon payment of the purchase price. The proceeds from the sale of the bonds shall be disbursed as follows:

(a) In the case of the temporary bonds, the proceeds shall be deposited as and when received in a special account of the Town designated "2020 Sewer Construction Fund" (the "Construction Fund") in a bank that is a member of the FDIC.

(b) In the case of the permanent bond the amount necessary, if any, to pay in full the outstanding principal of and interest on any temporary bonds or to pay capitalized interest on the permanent bond shall be used for that purpose, and the balance shall be deposited, as and when received, into the Construction Fund. Moneys in the Construction Fund in excess of the amount insured by FDIC shall be continuously secured by bonds or other direct or fully guaranteed obligations of the United States of America ("Government Obligations"), or other securities authorized by State law to secure public deposits.

The moneys in the Construction Fund shall be disbursed solely in payment of the cost of the construction, paying necessary expenses incidental thereto and paying expenses of issuing the bonds. Disbursements shall be on the basis of checks which must be signed by the individual occupying the managing office of the System (the "Manager"), and in the case of all items of expense over which the consulting engineers (the "Engineers") shall exercise supervision (which shall include all expenses except engineering fees, legal fees and expenses pertaining to the issuance of the bonds) each check shall be accompanied by a certificate signed by the Engineers (or by a representative thereof designated by the Engineers), certifying approval thereof. The Town shall keep records of all payments made from the Construction Fund.

When the construction shall have been completed, this fact shall be evidenced by the filing with the depository in which the Construction Fund is deposited of a certificate signed by the Manager and the Engineers, which certificate shall state the date of such completion and shall state that all obligations which are payable from the Construction Fund have been discharged. Upon receipt of the above certificate the depository with which the Construction Fund is deposited shall pay or transfer any remaining balance into the Bond Fund, where it shall be applied immediately to the prepayment of the bond, in multiples of \$1,000 in principal amount. Any remaining balance of less than \$1,000 shall be deposited in the debt service reserve in the Bond Fund. The Town shall require the depository to execute an appropriate Deposit Agreement embodying the substance of the provisions of this Section.

Section 21. (a) Moneys held for the credit of the Construction Fund shall, as nearly as may be practicable, be continuously invested and reinvested in Government Obligations or other investments permitted by State law, which mature or which shall be subject to redemption by the holder, at the option of such holder, not later than the date or dates when the moneys will be needed for proper disbursements.

(b) Moneys held for the credit of the debt service reserve in the Bond Fund shall be continuously invested and reinvested in Government Obligations or other investments permitted by State law, which shall mature, or which shall be subject to redemption by the holder thereof, not later than 10 years after the date of investment.

(c) Moneys held for the credit of any other fund may, at the option of the Town, be invested and reinvested by the Town in Government Obligations or other investments permitted by State 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 purpose intended.

(d) Obligations so purchased as an investment of moneys in any such 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 investment shall be credited to such fund, and any loss resulting from such investment shall be charged to such fund. Earnings on moneys in the debt service reserve which causes the required level to be exceeded shall be transferred to the Bond Fund.

(e) Moneys so invested in Government Obligations need not be secured by the depository bank.

Section 22. The Town will 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 Town, 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 owner of the bond, or the agent or the representative of the owner of the bond, at reasonable times and under reasonable circumstances.

The Town shall submit an annual report at the end of each fiscal year. The annual report will be certified by the Mayor and will consist of financial information and a rate schedule. Financial statements must be prepared on the accrual basis of accounting in accordance with generally accepted accounting principles and must include, at a minimum, a balance sheet and income and expense statement. The annual report will itemize cash accounts by type (debt service, short-lived assets, etc.). The Town shall retain all records, books and supporting material for three years after the issuance of the annual report.

If the Town expends \$750,000 or more in federal financial assistance per fiscal year, an annual audit under the federal Single Audit Act is required. The total federal funds expended from all sources shall be used to determine federal financial assistance expended. Expenditures of interim financing are considered federal expenditures.

If an audit is required, the Town must enter into a written agreement with the auditor and submit a copy to the Government prior to advertisement of bids. The audit agreement may include terms and conditions that the Town and auditor deem appropriate; however, the agreement should include the type of audit or financial statements to be completed, the time frame in which the audit or financial statements will be completed, what types of reports will be generated from the services provided and how irregularities will be reported.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by the Government through 2 CFR Part 400. It is not intended that audits be separate and apart from audits performed in accordance with State and local laws. To the extent feasible, the audit work should be done in conjunction with those audits. The audit must be prepared by an Accountant, or a State or federal auditor if allowed by State law, and must be submitted within nine (9) months after the end of the fiscal year.

If the Town expends less than \$750,000 in federal financial assistance per fiscal year, the Town may submit financial statements in lieu of an audit which include at a minimum a balance sheet and an income and expense statement. The Town may use Form RD 442-2,

"Statement of Budget, Income and Equity," and Form RD 442-3, "Balance Sheet," or similar format to provide the financial information. The financial statements must be signed by the Mayor and submitted within 60 days after the end of the fiscal year.

Thirty days prior to the beginning of each fiscal year, the Town shall submit an annual budget and projected cash flow to the owner of the bond. With the submission of the annual budget, the Town must provide a current rate schedule, a current listing of the members of the Town Council and their terms. The budget must be signed by the Mayor. Form RD 442-2 or similar format may be used.

Section 23. The Town covenants and agrees that it will maintain the System in good condition and operate it in an efficient manner and at reasonable cost. While the bond is outstanding, the Town agrees that it will insure, and at all times keep insured, in the amount of the actual value thereof, in a responsible insurance company or companies authorized and qualified under the laws of the State to assume the risk thereof, all above-ground structures of the System (except reservoirs, standpipes and elevated tanks) against loss or damage thereto from fire, lightning, tornado, winds, riot, strike, civil commotion, malicious damage, explosion, and against loss or damage from any other causes customarily insured against by private companies engaged in a similar type of business. 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 Town will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement and repair work. If such proceeds are more than sufficient for such purposes, the balance remaining shall be deposited to the credit of the Revenue Fund, and if such proceeds shall be insufficient for such purposes, the deficiency shall be supplied, first, from moneys in the Depreciation Fund, second, from moneys in the Operation and Maintenance Fund, and third, from available moneys in the Revenue Fund. Nothing herein shall be construed as requiring the Town to expend any funds for reconstruction, replacement or repair of the System or for operation and maintenance of the System or for premiums on its insurance which are derived from sources other than insurance proceeds or revenues of the System, but nothing herein shall be construed as preventing the Town from doing so.

Section 24. The provisions of this Ordinance shall constitute a binding contract between the Town and the owner of the bond, and the Town will at all times strictly adhere to the terms and provisions hereof and fully discharge all of its obligations hereunder. However, the owner of the bond may, from time to time, approve the adoption of supplemental ordinances for the purpose of amending or rescinding any of the terms or provisions contained in this Ordinance or in any supplemental ordinance.

Section 25. In the event the office of Mayor, Town Recorder, Treasurer or Town Council 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 Town 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. In this regard, if the Town should ever fail to maintain the office of Treasurer, the duties of the Treasurer hereunder shall be performed by the Town Recorder.

Section 26. The owner or owners of the temporary bonds shall have all rights of the owner of the bond hereunder while the temporary bonds are outstanding.

Section 27. This Ordinance shall not create any right of any kind, and no right of any kind shall arise hereunder pursuant to it, until the bonds authorized by this Ordinance shall be issued and delivered.

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, it shall not affect the validity of the remainder of this Ordinance.

Section 29. Any references in this Ordinance to "holder," "owner" or "bondholder" shall, when appropriate, be deemed to include the registered owner of the bond.

Section 30. All ordinances and resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: February 11, 2021.

APPROVED:

ATTEST:


Town Recorder


Mayor

(SEAL)

CERTIFICATE

The undersigned, Town Recorder of the Town of Pleasant Plains, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. ____, adopted at a regular session of the Town Council of the Town of Pleasant Plains, Arkansas, held at the regular meeting place in said Town at 6:30 p.m., on the 11th day of February, 2021, and that the Ordinance is of record in the Ordinance Record Book now in my possession.

GIVEN under my hand and seal on this 11th day of February, 2021.


Town Recorder

(SEAL)