



Office of the City Clerk-Treasurer
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www.rogersar.gov

TO: MAYOR
CITY COUNCIL
DEPARTMENT HEADS
PRESS

FROM: PEGGY DAVID, CITY CLERK-TREASURER

DATE: October 18, 2018

The following committee meetings will be held on **Tuesday, October 23, 2018** prior to the City Council Meeting:

6:00 p.m. – PUBLIC WORKS COMMITTEE: (Wright, Kendall and Townzen) **Committee Room #1**

- (a) Monthly report from RWU

6:15 p.m. - FINANCE COMMITTEE: (Reithemeyer, Wolf, and Kendall) **Committee Room #2**

- To Discuss:
- (a) An Ordinance Authorizing the Issuance of Sales and Use Tax Bonds for the Purpose of Financing and Refinancing the Cost of Capital Improvements; Pledging a 1% Sales and Use Tax to Pay the Principal and Interest on the Bonds; Prescribing Other Matters Relating Thereto
 - (b) A Resolution Amending the 2018 Budget to Recognize an Insurance Reimbursement in the Amount of \$3,200 into Acct. #100-01-49195; Appropriating \$3,200 from Acct. #100-01-49195 into Acct. #100-68-70205



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ROGERS CITY COUNCIL

AGENDA

OCTOBER 23, 2018

6:30 P.M.

PUBLIC FORUM:

INVOCATION & PLEDGE OF ALLEGIANCE:

ROLL CALL:

ACTION ON MINUTES: October 9, 2018

REPORTS OF BOARDS AND STANDING COMMITTEES:

- 1. ORD. Re: Authorizing the Issuance of Sales and Use Tax Bonds for the Purpose of Financing and Refinancing the Cost of Capital Improvements; Pledging a 1% Sales and Use Tax to Pay the Principal and Interest on the Bonds; Prescribing Other Matters Relating Thereto - Finance Committee
- 2. RES. Re: Amending the 2018 Budget to Recognize an Insurance Reimbursement in the Amount of \$3,200 into Acct. #100-01-49195; Appropriating \$3,200 from Acct. #100-01-49195 into Acct. #100-68-70205 - Finance Committee

OLD BUSINESS:

NEW BUSINESS:

- 1. ORD. Re: Rezone from C-2 to U-ENT, 16.94 Acres North of Pauline Whitaker and West of I-49 (HG Land Holdings, LLC & PH Land Lease II, LLC) - Bill Watkins

ROGERS CITY COUNCIL AGENDA

OCTOBER 23, 2018

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2. ORD. Re: Rezone from C-2 to U-ENT, 10.96 Acres North of JB Hunt Drive and West of I-49; Parking Area North of Pauline Whitaker Blvd. and West of I-49 (PH Land Lease I, LLC) - Bill Watkins
3. ORD. Re: Rezone from C-2 to U-COR, 5100 W. JB Hunt Drive (Pinnacle Corner, LLC) - Bill Watkins
4. ORD. Re: Rezone from A-1 to RSF, 4.86 Acres on S. Mt. Hebron Road and South of W. Garrett Road (Lucas Ingui) - Frieda Bell
5. ORD. Re; Rezone from a Mix of R-SF and R-DP to RMF-8A, 1.81 Acres on N. Valley West Drive, N. of Walnut Street (Matthew 6.25 LLC) - Daniel Ellis

APPOINTMENTS:

ANNOUNCEMENTS:

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SALES AND USE TAX BONDS FOR THE PURPOSE OF FINANCING AND REFINANCING THE COST OF CAPITAL IMPROVEMENTS; PLEDGING A 1% SALES AND USE TAX TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, there was submitted to the qualified electors of the City of Rogers, Arkansas (the "City") the questions of issuing, under Amendment No. 62 to the Constitution of the State of Arkansas (the "State") and under Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation"), capital improvement bonds in the maximum aggregate principal amount of \$59,500,000 for the purpose of refunding the City's outstanding Sales and Use Tax Refunding and Improvement Bonds, Series 2011 and the City's outstanding Sales and Use Tax Bonds, Series 2015 (collectively, the "Bonds Refunded"); capital improvement bonds in the maximum aggregate principal amount of \$178,000,000 for the purpose of financing all or a portion of the costs of streets, roads, trails and bridges, including any curb, gutter, drainage, flood control and other related improvements, equipment and land acquisition to accomplish such improvements, and street lighting, utility adjustments, sidewalks and traffic signals related thereto (the "Street Improvements"); capital improvement bonds in the maximum principal aggregate amount \$41,000,000 for the purpose of financing all or a portion of the costs of new, and improvements to existing, park and recreational facilities and any necessary land acquisition and parking, furnishings, equipment, drainage, flood control, lighting, road, trail, and utility improvements therefor and maintenance facilities therefor that may be relocated outside of a park (the "Park and Recreational Improvements"); capital improvement bonds in the maximum aggregate principal amount \$9,500,000 for the purpose of financing all or a portion of the costs of fire department facilities, radio communications and other equipment and apparatus, including particularly, without limitation, a new fire station, and any necessary land acquisition and parking, furnishings, drainage, flood control, lighting, road, and utility improvements therefor (the "Fire Improvements"); and capital improvement bonds in the maximum aggregate principal amount of \$11,500,000 for the purpose of financing all or a portion of the costs of new, and improvements to existing, police department facilities, including particularly, without limitation, radio communications and other equipment and apparatus, and police station and communications improvements and any necessary land acquisition and parking, furnishings, drainage, flood control, lighting, road, and utility improvements therefor (the "Police Improvements"); and

WHEREAS, at the special election held August 14, 2018, a majority of the electors voting on the questions approved the issuance of such bonds; and

WHEREAS, the City Council is prepared to issue capital improvement bonds designated as “City of Rogers, Arkansas Sales and Use Tax Bonds, Refunding Taxable Series 2018A” (the “Series 2018A Bonds”) in the aggregate principal amount of \$_____ for the purpose of refunding the Bonds Refunded (the “Refunding”) and accomplishing a portion of the Street Improvements (the “2018A Improvements”); and

WHEREAS, the City Council is prepared to issue capital improvement bonds designated as “City of Rogers, Arkansas Sales and Use Tax Bonds, Improvement Series 2018B” (the “Series 2018B Bonds”) in the aggregate principal amount of \$_____ for the purpose of accomplishing the Fire Improvements, the Police Improvements, a portion of the Street Improvements and a portion of the Park and Recreational Improvements (collectively, the “2018B Improvements”); and

WHEREAS, the City has made arrangements for the sale of (a) the Series 2018A Bonds to Stephens Inc. and Crews & Associates, Inc. (collectively, the “Purchaser”), at a price of \$_____ (principal amount less underwriters' discount of \$_____) (the “2018A Purchase Price”) and (b) the Series 2018B Bonds to the Purchaser, at a price of \$_____ (principal amount plus net original issue premium of \$_____ and less \$_____ of underwriters' discount) (the “2018B Purchase Price”), pursuant to a Bond Purchase Agreement between the Purchaser and the City (the “Purchase Agreement”), which has been presented to and is before this meeting; and

WHEREAS, the Preliminary Official Statement, dated October 15, 2018, offering the Series 2018A Bonds and the Series 2018B Bonds (collectively, the “2018 Bonds”) for sale (the “Preliminary Official Statement”), has been presented to and is before this meeting; and

WHEREAS, the Continuing Disclosure Agreement between the City and Simmons Bank, Pine Bluff, Arkansas (the “Disclosure Agreement”), providing for the disclosure obligations of the City with respect to the 2018 Bonds, has been presented to and is before this meeting; and

WHEREAS, the principal amount of the 2018 Bonds plus any net original issue premium received from the sale of the 2018 Bonds are allocated among the purposes as set forth in Section 25 hereof and the maximum principal amount of capital improvements bonds approved at the August 14, 2018 special election for the Street Improvements and the Park and Recreational Improvements that are not being issued are hereinafter referred to as “Additional Parity Bonds;” and

WHEREAS, the 2018 Bonds and the Additional Parity Bonds are hereinafter collectively referred to as the “bonds;”

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

Section 1. The offer of the Purchaser for the purchase of (a) the Series 2018A Bonds from the City at the 2018A Purchase Price and (b) the Series 2018B Bonds from the City at the 2018B Purchase Price, subject to the terms and provisions hereafter in this Ordinance set forth in detail is hereby accepted and the Purchase Agreement, in substantially the form submitted to this meeting, is approved and the 2018 Bonds are hereby sold to the Purchaser. The Mayor is hereby authorized and directed to execute and deliver the Purchase Agreement on behalf of the City and to take all action required on the part of the City to fulfill its obligations under the Purchase Agreement.

Section 2. The Preliminary Official Statement is hereby approved and the previous use of the Preliminary Official Statement by the Purchaser in connection with the sale of the 2018 Bonds is hereby in all respects approved and confirmed, and the Mayor is hereby authorized and directed, for and on behalf of the City, to execute the Preliminary Official Statement and the final Official Statement in the name of the City for use in connection with the sale of the 2018 Bonds as set forth in the Purchase Agreement.

Section 3. Under the authority of the Constitution and laws of the State, including particularly Amendment No. 62 to the Constitution of the State and the Authorizing Legislation, (a) the Series 2018A Bonds are hereby authorized and ordered issued in the total principal amount of \$_____ for the purpose of accomplishing the Refunding and the 2018A Improvements, paying expenses of issuing the Series 2018A Bonds and funding a portion of a debt service reserve and (b) the Series 2018B Bonds are hereby authorized and ordered issued in the total principal amount of \$_____ for the purpose of financing all or a portion of costs of accomplishing the 2018B Improvements and expenses incidental thereto, paying expenses of issuing the Series 2018B Bonds and funding a portion of a debt service reserve.

The 2018 Bonds shall bear interest at the rates and shall mature on November 1 in the amounts and in the years as follows:

SERIES 2018A BONDS

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>	<u>Interest</u> <u>Rate</u>
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SERIES 2018B BONDS

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>	<u>Interest</u> <u>Rate</u>
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The 2018 Bonds shall be issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. Unless the City shall otherwise direct, the 2018 Bonds of each series shall be numbered from 1 upward in order of issuance. Each 2018 Bond shall have a CUSIP number but the failure of a CUSIP number to appear on any 2018 Bond shall not affect its validity.

The 2018 Bonds shall be registered initially in the name of Cede & Co., as nominee for the Depository Trust Company (“DTC”), which shall be considered to be the registered owner of the 2018 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 2018 Bonds, and receipt of notices and exercise of rights of registered owners. There shall be one certificated, typewritten 2018 Bond for each stated maturity date of each series which shall be immobilized in the custody of or on behalf of DTC with the beneficial owners having no right to receive the 2018 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 2018 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 2018 Bonds, and the participants and persons acting through participants are expected to maintain records of the purchasers of beneficial interests in the 2018 Bonds. The 2018 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 2018 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 2018 Bonds, the City and the Trustee (hereinafter identified), after the Trustee has made provision for notification of the beneficial owners by the then securities depository, shall permit withdrawal of the 2018 Bonds from the securities depository, and authenticate and deliver 2018 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 2018 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 2018 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 2018 Bonds so long as the 2018 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 2018 Bonds other than the registered 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 2018 Bonds; provided that neither the Trustee nor the City may assume any obligations to such securities depository or beneficial owners of 2018 Bonds that are inconsistent with their obligations to any registered owner under this Ordinance.

Each 2018 Bond shall be dated as of its date of delivery to the Purchaser. Interest on the 2018 Bonds shall be payable on May 1, 2019, and semiannually thereafter on May 1 and November 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 Simmons Bank, Pine Bluff, Arkansas, as Trustee and Paying Agent (the "Trustee"), at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the "Record Date"), irrespective of any transfer or exchange of any such 2018 Bond subsequent to such Record Date and prior to such interest payment date, by check or draft mailed by the Trustee to such owner at his address on such registration books. Principal of the 2018 Bonds shall be payable at the corporate trust office of the Trustee.

Each 2018 Bond shall bear interest from the payment date next preceding the date on which it is authenticated unless it is authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated prior to the first interest payment date, in which event it shall bear interest from its dated date, or unless it is authenticated during the period from the Record Date to the next interest payment date, in which case it shall bear interest from such interest payment date, or unless at the time of authentication thereof interest is in default thereon, in which event it shall bear interest from the date to which interest has been paid.

Only such 2018 Bonds as shall have endorsed thereon a Certificate of Authentication substantially in the forms set forth in Section 5 hereof (the "Certificate") duly executed by the Trustee shall be entitled to any right or benefit under this Ordinance. No 2018 Bond shall be valid and obligatory for any purpose unless and until the Certificate shall have been duly executed by the Trustee, and the Certificate of the Trustee upon any such 2018 Bond shall be conclusive evidence that such 2018 Bond has been authenticated and delivered under this Ordinance. The Certificate on any 2018 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 2018 Bonds.

In case any bond shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new bond of like date, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated bond, or in lieu of and in substitution for such bond destroyed or lost, upon the owner paying the reasonable expenses and charges of the City and Trustee in connection therewith, and, in the case of a bond destroyed or lost, his filing with the Trustee evidence satisfactory to it that such bond was destroyed or lost, and of his ownership thereof, and furnishing the City and Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new bond. In the event any such bond shall have matured, instead of issuing a new bond, the City may pay the same without the surrender thereof. Upon the issuance of a new bond under this Section, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

The City shall cause books to be maintained for the registration and for the transfer of the bonds as provided herein and in the bonds. The Trustee shall act as the bond registrar. Each bond is transferable by the registered owner thereof or by his attorney duly authorized in writing at the principal office of the Trustee. Upon such transfer a new fully registered bond or bonds of the same maturity and series, of authorized denomination or denominations, for the same aggregate principal amount will be issued to the transferee in exchange therefor.

Bonds may be exchanged at the principal corporate trust office of the Trustee for an equal aggregate principal amount of bonds of any other authorized denomination or denominations. The City shall execute and the Trustee shall authenticate and deliver bonds which the registered owner making the exchange is entitled to receive.

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. Neither the Trustee nor the City shall 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 registered 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 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 4. 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.

Section 5. The 2018 Bonds and the Certificate shall be in substantially the following forms and the Mayor and City Clerk are hereby expressly authorized and directed to make all recitals contained therein:

(Form of Series 2018A Bond)

REGISTERED

REGISTERED

No. _____

\$ _____

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF BENTON
CITY OF ROGERS
SALES AND USE TAX BOND
REFUNDING TAXABLE SERIES 2018A

Interest Rate: _____%

Maturity Date: November 1, _____

Dated Date: _____, 2018

Registered Owner: Cede & Co.

Principal Amount: _____ Dollars

CUSIP No.: _____

KNOW ALL MEN BY THESE PRESENTS:

That the City of Rogers, County of Benton, State of Arkansas (the "City"), for value received, hereby promises to pay to the Registered Owner shown above upon the presentation and surrender hereof at the principal corporate trust office of Simmons Bank, Pine Bluff, Arkansas, or its successor or successors, as Trustee and Paying Agent (the "Trustee"), on the Maturity Date shown above, the Principal Amount shown above, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and to pay by check or draft to the Registered Owner shown above interest thereon, in like coin or currency from the interest commencement date described below at the Interest Rate per annum shown above, payable on May 1, 2019 and on each May 1 and November 1 thereafter, until payment of such Principal Amount or, if this bond or a portion hereof shall be duly called for redemption, until the date fixed for redemption, and to pay interest on overdue principal and interest (to the extent legally enforceable) at the rate borne by this bond. Payment of each installment of interest shall be made to the person in whose name this bond is registered on the registration books of the City maintained by the Trustee at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the "Record Date"), irrespective of any transfer or exchange of this bond subsequent to such Record Date and prior to such interest payment date.

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

This bond shall bear interest from the payment date next preceding the date on which it is authenticated unless it is authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated 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 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 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.

This bond is one of an issue of City of Rogers, Arkansas Sales and Use Tax Bonds, Refunding Taxable Series 2018A, aggregating _____ Million _____ Hundred _____ Thousand Dollars (\$_____) in aggregate principal amount (the "Series 2018A Bonds"), and is issued for the purpose of refunding the City's outstanding Sales and Use Tax Refunding and Improvement Bonds, Series 2011 and Sales and Use Tax Bonds, Series 2015, financing a portion of the costs of street improvements, paying expenses related thereto and of authorizing and issuing the Series 2018A Bonds, and funding a portion of a debt service reserve. The City is also issuing its Sales and Use Tax Bonds, Improvement Series 2018B (the "Series 2018B

Bonds”) and the Series 2018A Bonds and the Series 2018B Bonds (collectively, the “bonds”) are equally and ratably secured.

The bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas (the “State”), particularly Amendment No. 62 to the Constitution of the State and Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the “Authorizing Legislation”), and pursuant to Ordinance No. _____ of the City duly adopted on _____, 2018 (the “Authorizing Ordinance”), and an election duly held at which the majority of the legal voters of the City voting on the questions approved the issuance of the bonds. Reference is hereby made to the Authorizing Ordinance for the details of the nature and extent of the security and of the rights and obligations of the City, the Trustee and the registered owners of the bonds. The bonds are special obligations of the City, payable from the proceeds derived by the City from a 1% sales and use tax (the “Tax”) levied by the City under the Authorizing Legislation and Ordinance No. 18-26 of the City duly adopted on May 22, 2018, and the City hereby pledges its collections of the Tax for the payment of this bond. The City has reserved the right in the Authorizing Ordinance to issue additional bonds under the Authorizing Ordinance on a parity of security with the bonds (the “Additional Parity Bonds”).

The Series 2018A Bonds are not subject to optional redemption. The Series 2018A Bonds shall be redeemed by the City from proceeds of the Series 2018A Bonds not needed for the purposes intended and Surplus Tax Receipts (defined below), in whole at any time or in part on any interest payment date, at a redemption price equal to the principal amount being redeemed plus accrued interest to the redemption date, in inverse order of maturity (and by lot within a maturity in such manner as the Trustee shall determine).

The City has covenanted in the Authorizing Ordinance that Surplus Tax Receipts, being collections from the Tax in excess of the amount necessary to (1) insure the prompt payment of the principal of, interest on and Trustee’s fees and expenses and administrative charges in connection with the bonds and the Additional Parity Bonds as the same become due, (2) maintain the debt service reserve in the required amount, and (3) pay any arbitrage rebate due under Section 148(f) of the Internal Revenue Code of 1986, as amended, must be used from time to time, at least annually, as and to the extent available to redeem outstanding bonds and Additional Parity Bonds prior to maturity in the order of priority set forth below.

While the 2018B Bonds are outstanding, the City shall apply 100% of the Surplus Tax Receipts to the redemption of the 2018B Bonds. Thereafter, Surplus Tax Receipts shall be applied to the redemption of the Additional Parity Bonds. If there are no Additional Parity Bonds outstanding, Surplus Tax Receipts shall be applied to the redemption of the 2018A Bonds. In the event of a redemption from Surplus Tax Receipts, the bonds of a particular series shall be redeemed in inverse order of maturity and by lot within a maturity in such manner as the Trustee shall determine.

In the case of any defeasance of the Series 2018A Bonds, redemption of defeased Series 2018A Bonds shall be scheduled on the basis of the mandatory redemption requirements set forth above and assuming collections of the Tax in an amount equal to receipts for the most recent twelve-month period.

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 and the date they shall be presented for payment shall be given by the Trustee, not less than 30 nor more than 60 days prior to the date fixed for redemption, by sending a copy of the redemption notice by first class mail, postage prepaid, or other acceptable standard means of delivery, including facsimile or electronic communication, to all registered owners of bonds to be redeemed. Failure to 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.

This bond is transferable by the Registered Owner shown above 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 and series, 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 shall govern its construction.

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

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

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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed, under the Constitution and laws of the State, particularly Amendment No. 62 to the Constitution of the State and the Authorizing Legislation, precedent to and in the issuance of this bond have existed, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by this bond and the issue of which it forms a part does not exceed any constitutional or statutory limitation; and that a tax sufficient to pay the bonds and interest thereon has been duly levied in accordance with the Authorizing Legislation and made payable until all of the bonds and interest thereon have been fully paid and discharged.

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

ATTEST:

CITY OF ROGERS, ARKANSAS

City Clerk

Mayor

(SEAL)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the Series 2018A Bonds issued under the provisions of the within mentioned Authorizing Ordinance.

Date of Authentication: _____.

SIMMONS BANK
Pine Bluff, Arkansas
TRUSTEE

By _____
Authorized Signature

(A form of assignment shall be attached to each Series 2018A Bond.)

(Form of Series 2018B Bond)

REGISTERED

REGISTERED

No. _____

\$ _____

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF BENTON
CITY OF ROGERS
SALES AND USE TAX BOND
IMPROVEMENT SERIES 2018B

Interest Rate: _____%

Maturity Date: November 1, _____

Dated Date: _____, 2018

Registered Owner: Cede & Co.

Principal Amount: _____ Dollars

CUSIP No.: _____

KNOW ALL MEN BY THESE PRESENTS:

That the City of Rogers, County of Benton, State of Arkansas (the "City"), for value received, hereby promises to pay to the Registered Owner shown above upon the presentation and surrender hereof at the principal corporate trust office of Simmons Bank, Pine Bluff, Arkansas, or its successor or successors, as Trustee and Paying Agent (the "Trustee"), on the Maturity Date shown above, the Principal Amount shown above, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and to pay by check or draft to the Registered Owner shown above interest thereon, in like coin or currency from the interest commencement date described below at the Interest Rate per annum shown above, payable on May 1, 2019 and on each May 1 and November 1 thereafter, until payment of such Principal Amount or, if this bond or a portion hereof shall be duly called for redemption, until the date fixed for redemption, and to pay interest on overdue principal and interest (to the extent legally enforceable) at the rate borne by this bond. Payment of each installment of interest shall be made to the person in whose name this bond is registered on the registration books of the City maintained by the Trustee at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the "Record Date"), irrespective of any transfer or exchange of this bond subsequent to such Record Date and prior to such interest payment date.

Unless this bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Trustee for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is required by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR

TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

This bond shall bear interest from the payment date next preceding the date on which it is authenticated unless it is authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated 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 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 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.

This bond is one of an issue of City of Rogers, Arkansas Sales and Use Tax Bonds, Improvement Series 2018B, aggregating _____ Million _____ Hundred _____ Thousand Dollars (\$_____) in aggregate principal amount (the "Series 2018B Bonds"), and is issued for the purpose of financing all or a portion of the costs of street improvements, park and recreational improvements, fire improvements and police improvements; paying expenses related thereto and of authorizing and issuing the Series 2018B Bonds; and funding a portion of a debt service reserve. The City is also issuing its Sales and Use Tax Bonds, Refunding Taxable Series 2018A (the "Series 2018A Bonds") and the Series 2018A Bonds and the Series 2018B Bonds (collectively, the "bonds") are equally and ratably secured.

The bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas (the "State"), particularly Amendment No. 62 to the Constitution of the State and Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation"), and pursuant to Ordinance No. _____ of the City duly adopted on _____, 2018 (the "Authorizing Ordinance"), and an election duly held at which the majority of the legal voters of the City voting on the questions approved the issuance of the bonds. Reference is hereby made to the Authorizing Ordinance for the details of the nature and extent of the security and of the rights and obligations of the City, the Trustee and the registered owners of the bonds. The bonds are special obligations of the City, payable from the proceeds derived by the City from a 1% sales and use tax (the "Tax") levied by the City under the Authorizing Legislation and Ordinance No. 18-26 of the City duly adopted on May 22, 2018, and the City hereby pledges its collections of the Tax for the payment of this bond. The City has reserved the right in the Authorizing Ordinance to issue additional bonds under the Authorizing Ordinance on a parity of security with the bonds (the "Additional Parity Bonds").

The Series 2018B Bonds are subject to extraordinary, optional and mandatory sinking fund redemption prior to maturity as follows:

(1) The Series 2018B Bonds shall be redeemed by the City from proceeds of the Series 2018B Bonds not needed for the purposes intended and Surplus Tax Receipts (defined below), in whole at any time or in part on any interest payment date, at a redemption price equal to the principal amount being redeemed plus accrued interest to the redemption date, in inverse order of maturity (and by lot within a maturity in such manner as the Trustee shall determine).

The City has covenanted in the Authorizing Ordinance that Surplus Tax Receipts, being collections from the Tax in excess of the amount necessary to (1) insure the prompt payment of the principal of, interest on and Trustee's fees and expenses and administrative charges in connection with the bonds and the Additional Parity Bonds as the same become due, (2) maintain the debt service reserve in the required amount, and (3) pay any arbitrage rebate due under Section 148(f) of the Internal Revenue Code of 1986, as amended, must be used from time to time, at least annually, as and to the extent available to redeem outstanding bonds prior to maturity in the order of priority set forth below.

While the 2018B Bonds are outstanding, the City shall apply 100% of the Surplus Tax Receipts to the redemption of the 2018B Bonds. Thereafter, Surplus Tax Receipts shall be applied to the redemption of the Additional Parity Bonds. If there are no Additional Parity Bonds outstanding, Surplus Tax Receipts shall be applied to the redemption of the 2018A Bonds. In the event of a redemption from Surplus Tax Receipts, the bonds of a particular series shall be redeemed in inverse order of maturity and by lot within a maturity in such manner as the Trustee shall determine.

In the case of any defeasance of the Series 2018B Bonds, redemption of defeased Series 2018B Bonds shall be scheduled on the basis of the mandatory redemption requirements set forth above and assuming collections of the Tax in an amount equal to receipts for the most recent twelve-month period.

(2) The Series 2018B Bonds are subject to redemption at the option of the City from funds from any source, on and after _____, 1 20__, in whole or in part at any time, at a redemption price equal to the principal amount being redeemed, plus accrued interest to the redemption date.

If fewer than all of the Series 2018B Bonds shall be called for redemption, the particular maturities of the Series 2018B Bonds to be redeemed shall be selected by the City in its discretion. If fewer than all of the Series 2018B Bonds of any one maturity shall be called for redemption, the particular Series 2018B Bonds or portion thereof to be redeemed from such maturity shall be selected by lot by the Trustee.

(3) To the extent not previously redeemed, the Series 2018B Bonds maturing on November 1 in the years 20__ and 20__ are subject to mandatory sinking fund redemption by lot in such manner as the Trustee shall determine, on November 1 in the years and in the amounts set forth below, at a redemption price equal to the principal amount being redeemed plus accrued interest to the date of redemption:

Series 2018B Bonds Maturing November 1, 20__

Year	Principal Amount
<u>(November 1)</u>	<u>Principal Amount</u>

Series 2018B Bonds Maturing November 1, 20__

Year	Principal Amount
<u>(November 1)</u>	<u>Principal Amount</u>

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 and the date they shall be presented for payment shall be given by the Trustee, not less than 30 nor more than 60 days prior to the date fixed for redemption, by sending a copy of the redemption notice by first class mail, postage prepaid, or other acceptable standard means of delivery, including facsimile or electronic communication, to all registered owners of bonds to be redeemed. Failure to 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.

This bond is transferable by the Registered Owner shown above 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 and series, 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 shall govern its construction.

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

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

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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed, under the Constitution and laws of the State, particularly Amendment No. 62 to the Constitution of the State and the Authorizing Legislation, precedent to and in the issuance of this bond have existed, have happened and have been

performed in due time, form and manner as required by law; that the indebtedness represented by this bond and the issue of which it forms a part does not exceed any constitutional or statutory limitation; and that a tax sufficient to pay the bonds and interest thereon has been duly levied in accordance with the Authorizing Legislation and made payable until all of the bonds and interest thereon have been fully paid and discharged.

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

ATTEST:

CITY OF ROGERS, ARKANSAS

City Clerk

Mayor

(SEAL)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the Series 2018B Bonds issued under the provisions of the within mentioned Authorizing Ordinance.

Date of Authentication: _____.

SIMMONS BANK
Pine Bluff, Arkansas
TRUSTEE

By _____
Authorized Signature

(A form of assignment shall be attached to each Series 2018B Bond.)

Section 6. The City hereby expressly pledges and appropriates all of the revenues derived by the City from the City's 1% sales and use tax levied by Ordinance No. 18-26 adopted May 22, 2018 (the "Tax"), to the payment of the principal of and interest on the bonds when due at maturity or at redemption prior to maturity and to the payment of the Trustee's fees and expenses and other administrative charges and any arbitrage rebate due under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The City covenants that the Tax shall never be repealed or reduced while any of the bonds are outstanding. The City further covenants to use due diligence in collecting the Tax. Nothing herein shall prohibit the City from increasing

the Tax from time to time, to the extent permitted by law, and no part of the revenues derived from any such increase shall become part of the revenues pledged hereunder.

Section 7. (a) The City hereby designates Simmons Bank, Pine Bluff, Arkansas as the bank which shall receive collections of the Tax (the “Pledged Revenues”) from the State Treasurer and the City covenants to file a written designation thereof with the State Treasurer prior to the issuance of the bonds. The Trustee shall deposit all collections of the Tax as and when received into a special fund of the City in the Trustee which is hereby created and designated “Sales and Use Tax Bond Fund” (the “Bond Fund”), for the purpose of providing funds for paying principal of and interest on the bonds as they become due at maturity or at redemption prior to maturity and paying the Trustee’s fees and expenses and other administrative charges, any arbitrage rebate due to the United States. Moneys in the Bond Fund shall be used on each interest payment date in the following order of priority as and when necessary:

- (1) to pay the interest on the bonds then due; and
- (2) to pay the principal of the bonds then due at maturity or upon mandatory sinking fund redemption; and
- (3) to make provision in the Bond Fund for payment of one-half of the principal next due at maturity or upon mandatory sinking fund redemption on the bonds if principal is not due on such interest payment date; and
- (4) to pay into the Debt Service Reserve Account (hereinafter identified) any moneys necessary to increase the Debt Service Reserve Account to the required level; and
- (5) to pay the Trustee’s fees and expenses and other administrative charges then due; and
- (6) to make any arbitrage rebate payment due under Section 148(f) of the Code; and
- (7) to redeem bonds prior to maturity.

Notwithstanding the above, (i) any arbitrage rebate shall be paid not later than the date due, and (ii) a bond redemption payment may occur on any authorized redemption date as set forth in the bonds, in each case whether or not such date is an interest payment date.

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

(b) There shall be established and maintained in the Bond Fund a Debt Service Reserve Account in an amount equal to one-half of the maximum annual principal and interest requirements on the bonds (the "required level"). The City shall fund the Debt Service Reserve Account from time to time as bonds are issued. Moneys in the Debt Service Reserve Account shall be used to make the payments described in clauses (1) and (2) of subsection (a) above if moneys in the Bond Fund are not otherwise sufficient for that purpose. Moneys in the Debt Service Reserve Account over and above the required level shall be immediately transferred from the Debt Service Reserve Account into the Special Redemption Account in the Bond Fund. Moneys in the Debt Service Reserve Account shall be used to make the final payment of principal and interest on the bonds.

(c) There shall be established and maintained in the Bond Fund a Special Redemption Account into which shall be deposited all funds in the Bond Fund available for the redemption of the bonds arising from Surplus Tax Receipts and any transfers made pursuant to Section 14 of this Ordinance. Moneys in the Special Redemption Account shall be used on the next available date for the purpose of redeeming bonds in accordance with clause (7) of subsection (a) of this Section 7 and with Section 10 of this Ordinance.

(d) When the moneys in the Bond Fund, including the Debt Service Reserve Account and the Special Redemption Account, shall be and remain sufficient to pay (1) the principal of all the bonds then outstanding, (2) interest on the bonds until the next interest payment date, (3) the Trustee's fees and expenses and other administrative charges, and (4) all arbitrage rebate payments due the United States under Section 148(f) of the Code, there shall be no obligation to make any further payments into the Bond Fund and any Pledged Revenues remaining in the Bond Fund after the principal of, premium, if any and interest on the bonds have been paid may be used by the City for any lawful purpose.

(e) The Trustee is authorized and directed to withdraw moneys from the Bond Fund from time to time as necessary for paying principal of and interest on the bonds when due at maturity or at redemption prior to maturity and for making other Bond Fund expenditures authorized hereby.

(f) The bonds shall be specifically secured by a pledge of the Pledged Revenues, which pledge in favor of the bonds is hereby irrevocably made according to the terms of this Ordinance, and the City, and the officers and employees of the City, shall execute, perform and carry out the terms thereof in strict conformity with the provisions of this Ordinance.

(g) Anything herein to the contrary notwithstanding, moneys in the Special Redemption Account and interest earnings thereon (1) shall be used from time to time to make up shortfalls in the Bond Fund, rather than redeeming bonds prior to maturity, and (2) shall not be used to redeem bonds more often than annually (rather than on each interest payment date) if the Trustee reasonably determines that such amounts available for redemption may be needed to make scheduled debt service payments.

Section 8. 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 hereof, 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) Government Securities as defined in Section 15 hereof that are direct obligations of the United States of America (provided that such deposit will not cause any of the Series 2018B Bonds or any Additional Parity Bonds to be classified as “arbitrage bonds” within the meaning of the Code), maturing as to principal and interest in such amounts and at such times as will provide sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Trustee with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee.

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

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

When all the bonds shall have been paid within the meaning of this Ordinance, if the Trustee has been paid its fees and expenses, and if all arbitrage rebate due the United States under Section 148(f) of the Code has been paid or provided for to the satisfaction of the Trustee, the Trustee shall take all appropriate action to cause (i) the pledge and lien of this Ordinance to be discharged and cancelled, and (ii) all moneys held by it pursuant to this Ordinance and which are not required for the payment of such bonds to be paid over or delivered to or at the direction of the City.

Section 9. The City covenants that it will not issue any bonds, except the 2018 Bonds and one or more series of the Additional Parity Bonds, or incur any additional obligations secured by a lien on or pledge of the Pledged Revenues. The Additional Parity Bonds may be issued so long as the City has received collections from a City-wide 1% sales and use tax for the 12 month period ending on the last day of the month preceding the date that the Additional Parity Bonds are authorized by the City Council of the City to be issued, in an amount equal to or in

excess of 125% of the maximum annual debt service for the 2018 Bonds, any outstanding Additional Parity Bonds and the Additional Parity Bonds proposed to be issued. Notwithstanding the above, nothing herein shall be construed to prohibit the City from refunding any bonds and pledging the Pledged Revenues to the refunding bonds on a parity with the non-refunded bonds and such refunding bonds shall be a part of the Additional Parity Bonds hereunder.

Section 10. The 2018 Bonds shall be callable for payment prior to maturity in accordance with the terms set out in the 2018 Bond forms set forth in Section 5 of this Ordinance (the "Bond Forms"). The City hereby covenants to use Series 2018A Bond proceeds not necessary for the purposes intended to redeem Series 2018A Bonds on the first available interest payment date. The City hereby covenants to use Series 2018B Bond proceeds not necessary for the purposes intended to redeem Series 2018B Bonds on the first available interest payment date. The City further covenants to use Surplus Tax Receipts (as defined in the Bond Forms) to redeem bonds prior to maturity on the first available interest payment date in accordance with clause (7) of Section 7(a) of this Ordinance and as set forth in the Bond Forms.

Section 11. It is hereby covenanted and agreed by the City with the owners of the bonds that the City will faithfully and punctually perform all duties with reference to the Tax and the bonds required by the Constitution and laws of the State and by this Ordinance, including the collection of the Tax, as herein specified and covenanted and the applying of the Pledged Revenues as herein provided.

Section 12. The Trustee will keep or cause to be kept proper books of accounts and records in which complete and correct entries shall be made of all transactions relating to the Pledged Revenues and such books shall be available for inspection by the City, the Purchaser and the owner of any of the bonds at reasonable times and under reasonable circumstances. The Trustee shall furnish a report to the City on a monthly basis of all receipts and disbursements of the Pledged Revenues received by the Trustee, which monthly report shall commence one month following the first month in which the Pledged Revenues are received by the Trustee.

Section 13. (a) If there be any default in the payment of the principal of and interest on any of the bonds, or if the City defaults in the performance of any covenant contained in this Ordinance, the Trustee may, and shall, upon the written request of the owners of not less than 25% in principal amount of the bonds then outstanding, by proper suit compel the performance of the duties of the officials of the City under the Constitution and laws of the State and under this Ordinance, and to take any action or obtain any proper relief in law or equity available under the Constitution and laws of the State.

(b) No owner of any bond shall have any right to institute any suit, action, mandamus or other proceeding in equity or in law for the protection or enforcement of any right under this Ordinance or under the Constitution and laws of the State unless 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 25% in principal amount of the bonds then outstanding shall have made written request of the Trustee after the right to exercise such powers

or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers herein granted or granted by the Constitution and laws of the State, or to institute such action, suit or proceeding in its name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the cost, expense and liabilities to be incurred therein or thereby and the Trustee shall have refused or neglected to comply with such request within a reasonable time, and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trust of this Ordinance or to any other remedy hereunder. It is understood and intended that no one or more owners of the bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Ordinance, or to enforce any right hereunder except in the manner herein provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all owners of the outstanding bonds, and that any individual rights of action or other right given to one or more of such owners by law are restricted by this Ordinance to the rights and remedies herein provided.

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

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

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

(f) 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.

Section 14. (a) When the Series 2018A Bonds have been executed and sealed as herein provided, they shall be delivered to the Trustee, which shall authenticate them and deliver them to or at the direction of the Purchaser upon payment of the 2018A Purchase Price. The amount from the 2018A Purchase Price necessary to fund the portion of the Debt Service Reserve Account allocable to the 2018A Bonds, as set forth in the delivery instructions to the Trustee signed by the Mayor and City Clerk (the "Delivery Instructions"), shall be deposited into the Debt Service Reserve Account. An amount of the 2018A Purchase Price that is sufficient, along with other available moneys, to accomplish the Refunding shall be deposited into an escrow deposit fund or funds established with the trustee for the Bonds Refunded (collectively, the "Escrow Fund"). The amount of the Series 2018A Bonds allocated to the Street Improvements shall be deposited into the Street Construction Fund established below. The remainder of the 2018A Purchase Price shall be deposited into a special account of the City created with the Trustee and designated "Cost of Issuance Fund, Series 2018A" (the "2018A Cost of Issuance Fund").

The moneys in the 2018A Cost of Issuance Fund shall be disbursed solely in payment of the costs of accomplishing the Refunding and the 2018A Improvements, paying necessary expenses incidental thereto, and paying expenses of issuing the Series 2018A Bonds. Disbursements shall be based on the Delivery Instructions or on requisitions which 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 requisition must be signed by the Mayor or his designee. The Trustee shall be required to keep accurate records as to all payments made on the basis of requisitions. Any moneys remaining in the 2018A Cost of Issuance Fund on February 1, 2019 shall be transferred into the Special Redemption Account in the Bond Fund and used to redeem to Series 2018A Bonds.

(b) When the Series 2018B Bonds have been executed and sealed as herein provided, they shall be delivered to the Trustee, which shall authenticate them and deliver them to or at the direction of the Purchaser upon payment of the 2018B Purchase Price. The amount from the 2018A Purchase Price necessary to fund the portion of the Debt Service Reserve Account allocable to the 2018B Bonds, as set forth in the Delivery Instructions, shall be deposited into the Debt Service Reserve Account. The expenses of issuing the Series 2018B Bonds as set forth in the Delivery Instructions shall be deposited into a special account of the City created with the Trustee and designated "Cost of Issuance Fund, Series 2018B" ("2018B Cost of Issuance Fund" and together with the 2018A Cost of Issuance Fund, the "Cost of Issuance Funds").

The moneys in the 2018B Cost of Issuance Fund shall be disbursed solely in payment of the costs of accomplishing the 2018B Improvements, paying necessary expenses incidental thereto, and paying expenses of issuing the Series 2018B Bonds. Disbursements shall be based on the Delivery Instructions or on requisitions which 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 requisition must be signed by the Mayor or his designee. The Trustee shall be required to keep accurate records as to all payments made on the basis of requisitions. Any moneys remaining in the 2018B Cost of Issuance Fund on February 1, 2019 shall be transferred into the various 2018 Construction Funds hereinafter

identified in proportion to the principal amount of Series 2018B Bonds allocated to each purpose.

The balance of the 2018B Purchase Price shall be deposited in four special funds of the City in a bank or trust company selected by the City hereby created and designated "Street Construction Fund," "Park and Recreational Construction Fund," "Fire Construction Fund" and "Police Construction Fund" (each a "2018 Construction Fund" and collectively, the "2018 Construction Funds"). The proceeds of the Series 2018B Bonds to be deposited into the 2018 Construction Funds shall be allocated among the 2018B Improvements in proportion to the principal amount of Series 2018B Bonds allocated for each purpose. The moneys in each 2018 Construction Fund shall be used for accomplishing the 2018 Improvements for which the fund was created, paying expenses incidental thereto and paying the expenses of issuing the Series 2018B Bonds. Issuance costs and other expenses not specific to one purpose shall be joint obligations to be paid from each 2018 Construction Fund in proportion to the initial moneys credited thereto. Disbursements shall be made from the each 2018 Construction Fund on the basis of checks or requisitions which shall specify: the name of the person, firm or corporation to whom payment is to be made; the amount of the payment; the purpose of the payment; the account from which the payment is to be made; and that the payment is a proper charge on the respective 2018 Construction Fund. Each requisition must be signed by the Mayor or his designee. The depository bank shall issue its check to the person, firm or corporation designated in the requisition. The depository bank shall keep records as to all payments made from each 2018 Construction Fund based upon requisitions.

When the 2018 Improvements of a particular type (e.g., Fire Improvements) have been completed and all required expenses have been paid and expenditures made from the 2018 Construction Fund established to accomplish such 2018 Improvements and the financing thereof, this fact shall, if moneys remain in such 2018 Construction Fund, 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 such 2018 Construction Fund have been discharged. A copy of the certificate shall be filed with the depository or depositories of the 2018 Construction Funds, and a copy with the Trustee, and upon receipt thereof the depository or depositories of the 2018 Construction Funds shall transfer any remaining balance to the Trustee for deposit into the Special Redemption Account in the Bond Fund. Proceeds of the Series 2018B Bonds not needed for the purposes intended shall only be used to redeem Series 2018B Bonds.

Section 15. (a) Moneys held for the credit of the 2018 Construction Funds and the Cost of Issuance Funds may be invested and reinvested in Permitted Investments or other investments permitted by Arkansas 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 such money will be required for the purposes intended.

(b) Moneys held for the credit of the Debt Service Reserve Account shall be invested and reinvested in Permitted Investments, which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the earlier of (i) the final maturity date of the bonds that are outstanding on the date of the investment or (ii) five (5) years.

(c) Moneys held for the credit of the Bond Fund (other than the Debt Service Reserve Account) shall be invested and reinvested in Permitted Investments, which will mature, or which will be subject to redemption by the holder thereof at the option of the holder, not later than the date or dates on which the money shall be required for the payment of the principal of and interest on the bonds when due.

(d) Obligations purchased as an investment of any fund or account shall be deemed at all times a part of such fund. Any profit or loss realized on investments of moneys in any fund shall be charged to said fund.

(e) The Trustee shall so invest and reinvest funds held by it pursuant to the direction of the City and in the Trustee's discretion in the absence of any direct instructions from the City.

(f) Interest and profits realized from the investment of moneys in any account in the Bond Fund shall be credited to such fund or account. Interest earnings and profits realized from the investment of moneys in any 2018 Construction Fund account shall be credited to a separate account in the 2018 Construction Fund hereby created and designated "General Account." Moneys credited to the General Account shall be expended for either Street Improvements, Park and Recreational Improvements, Fire Improvements or Police Improvements, at such times and in such amounts as hereafter designated by the City Council. The City Council will not be obligated to expend General Account moneys proportionately.

(g) "Permitted Investments" are defined as (i) direct or fully guaranteed obligations of the United States of America ("Government Securities"), (ii) direct obligations of an agency, instrumentality or government-sponsored enterprise created by an act of the United States Congress and authorized to issue securities or evidences of indebtedness, regardless of whether the securities or evidences of indebtedness are guaranteed for repayment by the United States Government, (iii) certificates of deposit or demand deposits of banks, including the Trustee, which are insured by Federal Deposit Insurance Corporation or, if in excess of insurance coverage, collateralized by Government Securities or other securities authorized by Arkansas law to secure public funds or (iv) money market funds invested exclusively in Government Securities and the obligations described in (ii) above.

Section 16. Simmons Bank is hereby appointed to act as Trustee and Paying Agent pursuant to this Ordinance. The Trustee shall be responsible for the exercise of good faith and reasonable prudence in the execution of its trusts. The recitals in this Ordinance and in 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 25% in principal amount of 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 by giving 60 days' notice in writing to the City Clerk and the owners of the bonds. The majority in principal amount of the owners of the outstanding bonds or the City, so long as it is not in default under this Ordinance, at any time, with or without cause, may remove the Trustee at any time. In the event of a vacancy in the office of Trustee, the City shall forthwith designate a new Trustee by a written instrument filed with the City Clerk. The new Trustee shall be a bank or a trust company duly authorized to exercise trust powers and subject to examination by federal or state authority, having a reported capital and surplus of not less than \$50,000,000. The preceding criteria may be met by a parent corporation if the parent corporation has guaranteed the obligations of the successor trustee. The Trustee and any successor Trustee shall file a written acceptance and agreement to execute the trusts imposed upon it 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. Notwithstanding the above, no removal, resignation or termination shall take effect upon the acceptance of the trusts by the successor Trustee.

Section 17. (a) The terms of this Ordinance shall constitute a contract between the City and the owners of the bonds and 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 that the Trustee determines is not to the material prejudice of the owners of the bonds or in order to cure any ambiguity, formal defect or omission in this Ordinance or any amendment hereto or in connection with the issuance of the Additional Parity Bonds, without the consent 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 (1) an extension of the maturity of the principal of or the interest on any bond, or (2) a reduction in the principal amount of any bond or the rate of interest thereon, or (3) the creation of a pledge of the Pledged Revenues superior to or on a parity with the pledge created by this Ordinance, or (4) a privilege or priority of any bond or bonds over any other bond or bonds, or (5) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

Section 18. (a) The City covenants that it shall not take any action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest payable on the Series 2018B Bonds to be included in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the City covenants that the proceeds of the sale of the Series 2018B Bonds and the Pledged Revenues will not be used directly or indirectly in such manner as to cause the Series 2018B Bonds to be treated as “arbitrage bonds” within the meaning of Section 148 of the Code.

(b) The City represents that it has not used or permitted the use of, and covenants that it will not use or permit the use of the 2018 Improvements or the proceeds of the Series 2018B Bonds, in such manner as to cause the Series 2018B Bonds to be “private activity bonds” within the meaning of Section 141 of the Code. In this regard, the City covenants that (i) it will not use (directly or indirectly) the proceeds of the Series 2018B Bonds to make or finance loans to any person, and (ii) that while the bonds are outstanding the 2018 Improvements will only be used by state or local governmental entities or persons on a basis as members of the general public.

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

(d) The City covenants that it will not reimburse itself from proceeds of the Series 2018B Bonds for any costs paid prior to the date the Series 2018B Bonds are issued except in compliance with United States Treasury Regulation § 1.150-2 (the "Regulation"). This Ordinance shall be considered an "official intent" for purposes of the Regulation.

(e) The City will retain all documents and records pertaining to the Series 2018B Bonds and the 2018 Improvements for the life of the Series 2018B Bonds plus an additional three years.

Section 19. The City covenants that it will take no action which would cause the Series 2018B Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code. The City further 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 Series 2018B Bonds are issued, a statement concerning the Series 2018B Bonds which contains the information required by Section 149(e) of the Code.

Section 20. The Disclosure Agreement, in substantially the form submitted to this meeting, is approved, and the Mayor is hereby authorized and directed to execute and deliver the Disclosure Agreement for and on behalf of the City. The Mayor is authorized and directed to take all action required on the part of the City to fulfill the City's obligations under the Disclosure Agreement. Any legal fees and other administrative costs incurred by the City in connection with making the annual report pursuant to the Disclosure Agreement (except audit fees) shall be considered administrative charges that may be payable from moneys in the Bond Fund.

Section 21. Except as provided in Section 22 hereof, all collections of the 1% sales and use tax levied by the City pursuant to Ordinance No. 11-65 of the City, adopted July 12, 2011, that are received after the 2018 Bonds are issued and that are not necessary to pay the principal of, interest on, Trustee's fees and arbitrage rebate in connection with the Bonds Refunded shall be deposited into the Bond Fund as and when received and are hereby appropriated and shall become Pledged Revenues hereunder and be used for the purposes for which other moneys in the Bond Fund may be expended.

Section 22. All moneys in the 2011 Sales and Use Tax Bond Fund established by Ordinance No. 11-105, adopted October 25, 2011 are hereby appropriated and shall either (a) be deposited into the Escrow Fund and used to accomplish the refunding of the Bonds Refunded, (b) be used to pay any arbitrage rebate and expenses related thereto with respect to the Bonds Refunded, or (c) be deposited into the Bond Fund and become a part of the Pledged Revenues hereunder, all in accordance with the Delivery Instructions.

Section 23. The refunding of the Bonds Refunded shall be accomplished and the Mayor and City Clerk are hereby authorized and directed to execute and deliver all necessary contracts and documents, including escrow deposit agreement or agreements between the City and the trustee for the Bonds Refunded. The Bonds Refunded shall be redeemed from time to time on the earliest available date or dates.

Section 24. The Mayor, and other officers of the City in accordance with their offices, are authorized to execute such writings and take such action as may be appropriate to cause the 2018 Bonds to be issued.

Section 25. (a) The principal amount of the Series 2018A Bonds will be allocated on the date the 2018 Bonds are issued following a determination of the amount of funds to be deposited into the Escrow Fund in accordance with Sections 14 and 22 hereof. The allocation shall be evidenced by a certificate signed by the Mayor and City Clerk and a copy of the Certificate shall be placed in the 2018 Bond transcript. The final allocation shall be based upon these initial allocations of principal amounts: (a) \$_____ for Street Improvements; and (b)

\$_____ for the Refunding. The initial allocations have been determined based upon \$_____ being available from funds on hand for the Refunding. An increase in such amount shall cause a lower allocation of the principal amount for the Refunding and a greater allocation of the principal amount for Street Improvements. A decrease in such amount shall cause a higher allocation of the principal amount for the Refunding and a lower allocation of the principal amount for Street Improvements.

(b) The principal amount of the Series 2018B Bonds plus any net original issue premium will be allocated as follows: (a) \$_____ for the Street Improvements; (b) \$_____ for the Park and Recreation Improvements; (c) \$_____ for the Fire Improvements; and (d) \$_____ for the Police Improvements.

Section 26. Notice of the adoption of this Ordinance shall be posted at Rogers Public Library, Rogers City Hall, Rogers Activity Center, Rogers Adult Wellness Center and Rogers Police Department, being five of the most public places in the City.

Section 27. The provisions of this Ordinance are separable and in the event that any section or part hereof shall be held to be invalid, such invalidity shall not affect the remainder of this Ordinance.

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

Section 29. It is hereby ascertained and declared that the 2018B Improvements are immediately needed for the preservation of the public peace, health and safety and to remove existing hazards thereto. The 2018B Improvements cannot be accomplished without the issuance of the 2018 Bonds, which cannot be sold at the interest rates specified herein unless this Ordinance is immediately effective. Therefore, it is declared that an emergency exists and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in force and take effect immediately upon and after its passage.

PASSED: _____, 2018.

APPROVED:

ATTEST:

City Clerk

Mayor

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Rogers, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. _____, passed at a _____ session of the City Council of the City, held at the regular meeting place of the City Council at _____ p.m. on the _____ day of _____, 2018, 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 _____ day of _____, 2018.

City Clerk

(SEAL)

RESOLUTION NO. R-18-_____

A RESOLUTION AMENDING THE 2018 BUDGET TO RECOGNIZE AN INSURANCE REIMBURSEMENT IN THE AMOUNT OF THREE THOUSAND TWO HUNDRED DOLLARS (\$3,200.00) INTO ACCOUNT # 100-01-49195, AND APPROPRIATING THE SUM OF THREE THOUSAND TWO HUNDRED DOLLARS (\$3,200.00) FROM INSURANCE REIMBURSEMENT ACCOUNT #100-01-49195 TO SMALL TOOLS AND EQUIPMENT ACCOUNT # 100-68-70205; AND FOR OTHER PURPOSES.

WHEREAS, The Rogers Recycling Center has received an insurance settlement for a stolen trailer and desires to replace the lost trailer with said settlement monies.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:

Section 1: That the 2018 budget is amended and the sum of three thousand two hundred dollars (\$3,200.00) is hereby received into Insurance Reimbursement Account # 100-01-49195 from an insurance settlement.

Section 2: That the 2018 budget is amended and the sum of three thousand two hundred dollars (\$3,200.00) is hereby appropriated from Insurance Reimbursement Account # 100-0-01-49195 into Small Tools and Equipment Account #100-68-70205.

Section 3: Severability Provision - In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Resolution shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Resolution as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Resolution shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 4: Repeal of Conflicting Resolutions - All resolutions of the City Council, or parts of resolutions of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

RESOLVED this _____ day of _____, 2018.

APPROVED:

C. GREG HINES, Mayor

Attest:

PEGGY DAVID, City Clerk

Requested by: Jerrold Haley, Rogers Recycling Center

Prepared by: Bonnie Bridges, Staff Attorney

ORDINANCE NO. _____
CITY OF ROGERS, ARKANSAS

AN ORDINANCE AMENDING ROGERS CODE SECTION 14-675 BY RE-ZONING
CERTAIN LANDS FROM C-2, TO U-ENT PROVIDING FOR
THE EMERGENCY CLAUSE AND FOR OTHER PURPOSES

WHEREAS, pursuant to the provisions of Rogers Code Section Rogers Code Section 14-725, et seq, and upon the consideration of the report and recommendations of the Planning Commission of the City of Rogers, Benton County, Arkansas, the City Council has found that certain lands hereinafter described are better suited for U-ENT zoning.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:

SECTION 1: That Rogers Code Section 14-675 should be and the same hereby is amended as hereinafter provided.

SECTION 2: That the land hereinafter described should be and the same is hereby zoned as U-ENT, and that said lands being in Benton County, Arkansas, are described as:

PROPERTY DESCRIPTION:

LOT 1 OF THE FINAL PLAT OF PINNACLE HEIGHTS SUBDIVISION, AS PER PLAT BOOK 2012 AT PAGE 514 IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF BENTON COUNTY, ARKANSAS.

LOT 9A3 OF THE LOT SPLIT OF LOT 9A OF PINNACLE HEIGHTS SUBDIVISION, AS PER PLAT BOOK 2017 AT PAGE 497 IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF BENTON COUNTY, ARKANSAS.

LAYMAN'S DESCRIPTION: North of Pauline Whitaker Blvd., and West of I-49

SECTION 3: **Zoning.** That the above described lands are better suited for U-ENT than C-2 zoning and same should be and are hereby zoned U-ENT

SECTION 4: **Emergency clause.** That because the City is herein zoning property which is subject to a present use and said use should be brought into conformity with the zoning laws of the City of Rogers, Arkansas, an emergency is declared to exist and in order to protect the public peace, health, safety and welfare, this ordinance shall be in full force and effect from the date of its passage and approval.

SECTION 5: **Severability Provision.** In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged

invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

SECTION 6: Repeal of Conflicting Ordinances and Resolutions. All ordinances, resolutions or orders of the City Council, or parts of ordinances, resolutions or orders of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

PASSED THIS _____ DAY OF _____, 2018.

ROGERS, ARKANSAS

APPROVED:

ATTEST:

PEGGY DAVID, CLERK

C. GREG HINES, MAYOR

ORDINANCE NO. _____
CITY OF ROGERS, ARKANSAS

AN ORDINANCE AMENDING ROGERS CODE SECTION 14-675 BY RE-ZONING
CERTAIN LANDS FROM C-2, TO U-ENT PROVIDING FOR
THE EMERGENCY CLAUSE AND FOR OTHER PURPOSES

WHEREAS, pursuant to the provisions of Rogers Code Section Rogers Code Section 14-725, et seq, and upon the consideration of the report and recommendations of the Planning Commission of the City of Rogers, Benton County, Arkansas, the City Council has found that certain lands hereinafter described are better suited for U-ENT zoning.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:

SECTION 1: That Rogers Code Section 14-675 should be and the same hereby is amended as hereinafter provided.

SECTION 2: That the land hereinafter described should be and the same is hereby zoned as U-ENT, and that said lands being in Benton County, Arkansas, are described as:

PROPERTY DESCRIPTION:

LOT 6A OF PINNACLE HEIGHTS LOTS 5A & 6A LOT LINE ADJUSTMENT
SETBACK & EASEMENT VACATION, AS PER PLAT RECORD 2013-564 IN THE
OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF BENTON
COUNTY, ARKANSAS.

And

LOT 9B OF THE LOT SPLIT PLAT OF LOT 9 OF PINNACLE HEIGHTS
SUBDIVISION, AS PER PLAT RECORD 2016-53 IN THE OFFICE OF THE
CIRCUIT CLERK AND EX-OFFICIO RECORDER OF BENTON COUNTY,
ARKANSAS.

And

LOT 5A OF PINNACLE HEIGHTS LOTS 5A & 6A LOT LINE ADJUSTMENT
SETBACK & EASEMENT VACATION, AS PER PLAT RECORD 2013-564 IN THE
OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF BENTON
COUNTY, ARKANSAS.

LAYMAN'S DESCRIPTION: North of JB Hunt Drive and West of I-49; Parking area North of Pauline Whitaker Blvd. and West of I-49.

SECTION 3: **Zoning.** That the above described lands are better suited for U-ENT than C-2 zoning and same should be and are hereby zoned U-ENT

SECTION 4: **Emergency clause.** That because the City is herein zoning property which is subject to a present use and said use should be brought into conformity with the zoning laws of the City

of Rogers, Arkansas, an emergency is declared to exist and in order to protect the public peace, health, safety and welfare, this ordinance shall be in full force and effect from the date of its passage and approval.

SECTION 5: Severability Provision. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

SECTION 6: Repeal of Conflicting Ordinances and Resolutions. All ordinances, resolutions or orders of the City Council, or parts of ordinances, resolutions or orders of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

PASSED THIS _____ DAY OF _____, 2018.

ROGERS, ARKANSAS

APPROVED:

ATTEST:

PEGGY DAVID, CLERK

C. GREG HINES, MAYOR

ORDINANCE NO. _____
CITY OF ROGERS, ARKANSAS

AN ORDINANCE AMENDING ROGERS CODE SECTION 14-675 BY RE-ZONING
CERTAIN LANDS FROM C-2, TO U-COR PROVIDING FOR
THE EMERGENCY CLAUSE AND FOR OTHER PURPOSES

WHEREAS, pursuant to the provisions of Rogers Code Section Rogers Code Section 14-725, et seq, and upon the consideration of the report and recommendations of the Planning Commission of the City of Rogers, Benton County, Arkansas, the City Council has found that certain lands hereinafter described are better suited for U-COR zoning.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:

SECTION 1: That Rogers Code Section 14-675 should be and the same hereby is amended as hereinafter provided.

SECTION 2: That the land hereinafter described should be and the same is hereby zoned as U-COR, and that said lands being in Benton County, Arkansas, are described as:

PROPERTY DESCRIPTION:

PART OF LOT 3D AND PART LOT 3E OF THE TRACT SPLIT PLAT OF LOT 3 PINNACLE HEIGHTS, FILED IN PLAT BOOK 2014, PAGE 50 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 3D OF SAID TRACT SPLIT PLAT OF LOT 3 PINNACLE HEIGHTS, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY OF J.B. HUNT DRIVE AS SHOWN IN PLAT BOOK 2012 AT PAGE 514;

THENCE ALONG SAID RIGHT-OF-WAY S86°50'02"E 139.85 FEET;

THENCE LEAVING SAID RIGHT-OF-WAY S03°09'58"W 586.00 FEET;

THENCE N86°50'02"W 470.19 FEET TO THE EAST RIGHT-OF-WAY OF PINNACLE HILLS PARKWAY;

THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING THREE COURSES:

THENCE 534.35 FEET ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 460.00 FEET AND A LONG CHORD OF N30°11'14"W 504.81 FEET;

THENCE N03°05'29"E 153.59 FEET;

THENCE N49°17'20"E 15.50 FEET TO THE SOUTH RIGHT-OF-WAY OF J.B. HUNT DRIVE AS SHOWN IN PLAT BOOK 2012 AT PAGE 514;

THENCE ALONG SAID RIGHT-OF-WAY S86°50'02"E 596.91 FEET TO THE POINT OF BEGINNING, CONTAINING 9.31 ACRES, MORE OR LESS AND SUBJECT TO EASEMENTS AS SHOWN ON FINAL PLAT OF PINNACLE HEIGHTS AND ANY EASEMENTS OF RECORD OR FACT.

LAYMAN'S DESCRIPTION: North of JB Hunt Drive and West of I-49

SECTION 3: **Zoning.** That the above described lands are better suited for U-COR than C-2 zoning and same should be and are hereby zoned U-COR

SECTION 4: Emergency clause. That because the City is herein zoning property which is subject to a present use and said use should be brought into conformity with the zoning laws of the City of Rogers, Arkansas, an emergency is declared to exist and in order to protect the public peace, health, safety and welfare, this ordinance shall be in full force and effect from the date of its passage and approval.

SECTION 5: Severability Provision. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

SECTION 6: Repeal of Conflicting Ordinances and Resolutions. All ordinances, resolutions or orders of the City Council, or parts of ordinances, resolutions or orders of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

PASSED THIS _____ DAY OF _____, 2018.

ROGERS, ARKANSAS

APPROVED:

ATTEST:

PEGGY DAVID, CLERK

C. GREG HINES, MAYOR

ORDINANCE NO. _____
CITY OF ROGERS, ARKANSAS

AN ORDINANCE AMENDING ROGERS CODE SECTION 14-675 BY RE-ZONING
CERTAIN LANDS FROM A-1 TO R-SF, PROVIDING FOR
THE EMERGENCY CLAUSE AND FOR OTHER PURPOSES

WHEREAS, pursuant to the provisions of Rogers Code Section Rogers Code Section 14-725, et seq, and upon the consideration of the report and recommendations of the Planning Commission of the City of Rogers, Benton County, Arkansas, the City Council has found that certain lands hereinafter described are better suited for R-SF than A-1 zoning.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:

SECTION 1: That Section 14-675 of the code of Ordinances, City of Rogers, should be and the same hereby is amended as hereinafter provided.

SECTION 2: That the land hereinafter described should be and the same is hereby zoned as R-SF and that said lands being in Benton County, Arkansas, are described as:

Property to be zoned R-SF:

Part of the SE 1/4 of the SE 1/4 of Section 32, Township 19 North, Range 30 West, Benton County, Arkansas, being more particularly described as follows: Beginning at the SE Corner of said Section 32; thence along the South line of said Section 32, N87°24'36"W a distance of 1277.75 feet to a set 1/2" rebar capped PS 1703; thence leaving said South line N02°38'53"E a distance of 247.88 feet to a set 1/2" rebar capped PS 1703; said point being the Point of Beginning; thence continuing N02°38'53"E a distance of 395.76 feet to a set 1/2" rebar capped PS 1703; thence S87°54'42"E a distance of 594.54 feet to a set 1/2" rebar capped PS 1703; thence S04°19'00"W a distance of 266.0 feet to a set 1/2" rebar capped PS 1703; thence N87°05'14"W a distance of 187.14 feet to a set 1/2" rebar capped PS 1703; thence S04°02'34"W a distance of 129.24 feet to a set 1/2" rebar capped PS 1703; thence N87°05'14"W a distance of 396.52 feet to the Point of Beginning. According to Tract Split survey by Morrison Shipley Engineers-Surveyors dated November 14, 2014 at Project No. WAP-18,

LAYMAN'S DESCRIPTION: 4.86 Acres located at 6327 S Mt Hebron, Rogers AR

SECTION 3: That it is necessary to bring proposed uses of the property into conformance with the Rogers City Zoning Ordinances and because of such an emergency is declared to exist and in order to protect the public peace, health, safety and welfare, this ordinance shall be in full force and effect from the date of its passage and approval.

SECTION 4: **Severability Provision-** In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

SECTION 5: **Repeal of Conflicting Ordinances and Resolutions-** All ordinances, resolutions or orders of the City Council, or parts of ordinances, resolutions or orders of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

PASSED THIS _____ DAY OF _____, 2018.

ROGERS, ARKANSAS

APPROVED:

ATTEST:

PEGGY DAVID, CLERK

C. GREG HINES, MAYOR

ORDINANCE NO. _____

AN ORDINANCE AMENDING ROGERS CODE SECTION 14-675 BY REZONING CERTAIN REAL ESTATE IN THE CITY OF ROGERS, ARKANSAS, FROM RSF & RDP TO RMF-8A PROPERTIES AND PROVIDING FOR THE EMERGENCY CLAUSE AND FOR OTHER PURPOSES

WHEREAS, pursuant to the provisions of Rogers Code Section 14-725, et seq., and upon the consideration of the request and recommendations of the Planning Commission of the City of Rogers, Benton County, Arkansas on October 16, 2018, the City Council has found that certain lands hereinafter described are better suited for RMF-8A than RSF & RDP zoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF ROGERS, ARKANSAS:

Section 1: That Section 14-675 of the Code of Ordinances, City of Rogers, should be and the same hereby is amended as hereinafter provided.

Section 2: That the land hereinafter described should be and the same is hereby zoned RMF-8A and that said lands being in Benton County, Arkansas, are described as:

LOT 6 AND LOT 7 OF VALLEY WEST SUBDIVISION, AS PER PLAT RECORD BOOK G AT PAGE 186 AND TRACT A1, AS PER PLAT RECORD BOOK 2004 AT PAGE 1418, BEING PART OF THE SW 1/4 OF THE NE 1/4 AND PART OF THE SE 1/4 OF THE NW 1/4 OF SECTION 10, TOWNSHIP 19 NORTH, RANGE 30 WEST, BENTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT A1; THENCE ALONG THE NORTH LINE THEREOF S87°10'20"E 128.66 FEET TO THE NORTHEAST CORNER OF SAID TRACT A1; THENCE ALONG THE SOUTHEASTERLY LINE THEREOF S15°44'11"W 614.44 FEET TO THE SOUTHEAST CORNER OF SAID TRACT A1; THENCE ALONG THE SOUTH LINE THEREOF N87°15'43"W 321.74 FEET TO THE SOUTHWEST CORNER OF LOT 6 OF SAID VALLEY WEST SUBDIVISION; THENCE ALONG THE WEST LINE OF LOT 6 AND LOT 7 OF SAID VALLEY WEST SUBDIVISION N02°44'17"E 239.90 FEET TO THE NORTHWEST CORNER OF SAID LOT 7; THENCE ALONG THE NORTH LINE THEREOF S87°15'43"E 150.00 FEET TO THE WESTERLY LINE OF SAID TRACT A1; THENCE ALONG SAID WESTERLY LINE S86°52'34"E 181.55 FEET; THENCE ALONG SAID WESTERLY LINE N02°41'44"E 360.22 FEET TO THE POINT OF BEGINNING, CONTAINING 2.64 ACRES, MORE OR LESS AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.

LAYMAN'S DESCRIPTION: N. Valley West Drive

Section 3: That it is necessary to begin the project immediately and to bring proposed uses of the property into conformance with the Rogers City Zoning Ordinances and because of such an emergency is declared to exist and in order to protect the public peace, health, safety and welfare, this Ordinance shall be in full force and effect from the date of its passage and approval.

Section 4: Severability Provision- In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 5: Repeal of Conflicting Ordinances and Resolutions- All ordinances, resolutions or orders of the City Council, or parts of ordinances, resolutions or orders of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND APPROVED this ___ day of _____, 20_____.

APPROVED:

MAYOR

ATTEST:

CITY CLERK