

**ORDINANCE NO. \_\_\_\_\_**

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**AN ORDINANCE TO AUTHORIZE THE ISSUANCE OF AN INDUSTRIAL DEVELOPMENT REVENUE BOND UNDER THE AUTHORITY OF ACT NO. 9 OF 1960, AS AMENDED, FOR THE PURPOSE OF SECURING AND DEVELOPING INDUSTRY NEAR THE CITY; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT BETWEEN THE CITY, AS LESSOR, AND CZ MFG, INC., AS LESSEE; AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT FOR PAYMENTS IN LIEU OF TAXES; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS RELATING TO THE ISSUANCE OF THE BOND; AND PRESCRIBING OTHER MATTERS RELATING THERETO; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.**

**WHEREAS,** the City of Little Rock, Arkansas (the ‘‘City’’) is authorized under the provisions of the Municipalities and Counties Industrial Development Revenue Bond Law, Arkansas Code Annotated (1998 Repl. & 2017 Supp.) Sections 14-164-201 *et seq.* (the ‘‘Act’’), to own, acquire, construct, reconstruct, improve, equip and lease facilities within or near the City to secure and develop industry and to assist in the financing thereof by the issuance of bonds payable from the revenues derived from such facilities; and,

**WHEREAS,** the City is further authorized by Amendment 65 to the Constitution of the State of Arkansas (‘‘Amendment 65’’) and the Act to issue its Revenue Bonds payable from revenues derived from the industrial facilities so acquired, constructed and equipped; and,

**WHEREAS,** the necessary arrangements have been made with the CZ MFG, Inc., an Arkansas corporation (the ‘‘Company’’), for the financing of the acquisition, construction and equipping of a substantial industrial project, such project to consist of (i) land acquisition, (ii) the construction of an industrial building or buildings of approximately 264,000 in aggregate square-footage, (iii) the acquisition and installation of various items of production and packaging machinery and equipment (and maintenance

1 and repair parts related thereto), and furniture and furnishings, and (iv) the construction of infrastructure,  
2 parking and other related improvements (collectively, the “Project”), to be located at the southeast  
3 quadrant of the intersection of Zueber Road and Fletcher Road near the corporate boundaries of the City;  
4 and,

5 **WHEREAS**, permanent financing of a portion of the Project costs, necessary costs and expenditures  
6 incidental thereto and the cost of the issuance of bonds is being furnished by the City pursuant to  
7 Amendment 65 and the Act through the issuance of its Federally Taxable Industrial Development  
8 Revenue Bond (CZ MFG, Inc., Project), Series 2019, in the aggregate principal amount of not to exceed  
9 One Hundred Twenty Million Dollars (\$120,000,000) (the “Bond”); and,

10 **WHEREAS**, an open public hearing on the question of the issuance of the Bond and the financing of  
11 the Project was held before the Mayor and City Board of Directors on May 7, 2019, following publication  
12 of notice thereof in the *Arkansas Democrat-Gazette* on April 27, 2019; and,

13 **WHEREAS**, the Bond will be issued and secured pursuant to the terms and provisions of a Trust  
14 Indenture (the “Indenture”), by and between the City and Simmons Bank, as trustee (the “Trustee”); and,

15 **WHEREAS**, the necessary arrangements have been made by the City to lease the Project to the  
16 Company pursuant to the terms of a Lease Agreement (the “Lease Agreement”); and,

17 **WHEREAS**, the Company requests that the City enter into a Bond Purchase Agreement (the “Bond  
18 Purchase Agreement”) with CZ-US Holdings, Inc., a Kansas corporation, or another affiliate of the  
19 Company (the “Purchaser”), providing for the sale of the Bond.

20 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY**  
21 **OF LITTLE ROCK, ARKANSAS, THAT:**

22 **Section 1.** The City Board of Directors makes the following findings and determinations:

23 (a) Based on preliminary information compiled and released by the U.S. Bureau of Labor  
24 Statistics, unemployment in the Little Rock-North Little Rock-Conway Metropolitan Statistical Area  
25 (MSA) during February 2019 averaged 3.9%. Completion of the Project is expected to ensure  
26 additional employment and other benefits to residents of the City.

27 (b) The Company’s presence near the City is expected to be an important factor in the economic  
28 well being and employment base for the City and its inhabitants.

29 (c) The Bond shall not constitute a general obligation of the City within the meaning of any  
30 constitutional or statutory limitation, but shall be a special limited obligation of the City as provided  
31 in the Act, the principal and interest on which shall be payable solely from the revenues or other  
32 receipts, funds, monies and property realized pursuant to the Lease Agreement and pledged therefor  
33 under the Indenture.

34 **Section 2.** There is hereby authorized and directed the issuance from time to time of the Bond and the  
35 sale thereof to the Purchaser pursuant to the terms and provisions of a Bond Purchase Agreement to be dated

1 as of the date of the initial delivery of the Bond (the “Bond Purchase Agreement”), which Bond Purchase  
2 Agreement is specifically approved in Section 3 hereof. The Bond shall be sold at the purchase price of par  
3 plus accrued interest, if any, and shall be issued and delivered according to the terms and provisions of the  
4 Bond Purchase Agreement. The Bond shall be issued in the original aggregate principal amount of not to  
5 exceed One Hundred Twenty Million Dollars (\$120,000,000), shall be dated as of the date of its delivery,  
6 shall have a final maturity of December 1, 2040, shall bear interest at the rate of 5.00% per annum, shall be in  
7 the form, and shall be issued upon the terms and conditions recommended by the Company, all as more  
8 particularly set forth in the Trust Indenture approved in Section 4 hereof. The Mayor is hereby authorized  
9 and directed to execute and deliver the Bond as requested by the Company, and the City Clerk is hereby  
10 authorized and directed to execute and deliver the Bond and to affix the seal of the City thereto, and the  
11 Mayor and City Clerk are hereby authorized and directed to cause the Bond to be authenticated by the  
12 Trustee.

13 **Section 3.** To prescribe the terms and conditions upon which the Bond is to be sold to the Purchaser,  
14 the Mayor is hereby authorized and directed to execute at the request of the Company the Bond Purchase  
15 Agreement on behalf of the City, by and between the City and the Purchaser, and approved by the  
16 Company. The Bond Purchase Agreement is hereby approved in substantially the form submitted to this  
17 meeting, and the Mayor, with the counsel of the City Attorney, is hereby authorized to confer with the  
18 Purchaser, the Company and Kutak Rock LLP, Little Rock, Arkansas (“Bond Counsel”), in order to  
19 complete the Bond Purchase Agreement in substantially the form submitted to this meeting, with such  
20 changes as shall be approved by such persons executing the document, their execution to constitute  
21 conclusive evidence of such approval.

22 (Advice is given that a copy of the Bond Purchase Agreement in substantially the form authorized to  
23 be executed is on file with the City Clerk and is available for inspection by any interested person.)

24 **Section 4.** To prescribe the terms and conditions upon which the Bond is to be secured, executed,  
25 authenticated, issued, accepted and held, the Mayor and the City Clerk are hereby authorized and directed  
26 to execute, acknowledge and deliver the Trust Indenture, by and between the City and the Trustee, and the  
27 Mayor and City Clerk are hereby authorized and directed to cause the Trust Indenture to be accepted,  
28 executed and acknowledged by the Trustee. The Trust Indenture is hereby approved in substantially the  
29 form submitted to this meeting, and the Mayor, with the counsel of the City Attorney, is hereby  
30 authorized to confer with the Trustee, the Company, the Purchaser and Bond Counsel in order to complete  
31 the Trust Indenture in substantially the form submitted to this meeting, with such changes as shall be  
32 approved by such persons executing the document, their execution to constitute conclusive evidence of  
33 such approval.

34 (Advice is given that a copy of the Trust Indenture in substantially the form authorized to be executed  
35 is on file with the City Clerk and is available for inspection by any interested person.)

1       **Section 5.** There is hereby authorized and directed acceptance of the conveyance by the Company to  
2 the City of the real and personal property comprising the Project and the lease of such property to the  
3 Company. The Mayor and the City Clerk are hereby authorized to execute, acknowledge and deliver the  
4 Lease Agreement, by and between the City, as lessor, and the Company, as lessee. The Lease Agreement  
5 is hereby approved in substantially the form submitted to this meeting, and the Mayor, with the counsel of  
6 the City Attorney, is hereby authorized to confer with the Company, the Trustee, the Purchaser and Bond  
7 Counsel in order to complete the Lease Agreement in substantially the form submitted to this meeting,  
8 with such changes as shall be approved by such persons executing the document, their execution to  
9 constitute conclusive evidence of such approval.

10       (Advice is given that a copy of the Lease Agreement in substantially the form authorized to be  
11 executed is on file with the City Clerk and is available for inspection by any interested person.)

12       **Section 6.** The City and the Company recognize that under Article 16, Section 5, of the Constitution  
13 of the State of Arkansas, as interpreted under past decisions of the Supreme Court of the State of  
14 Arkansas applicable to facilities financed pursuant to the Act, including particularly the case of Wayland  
15 v. Snapp, 232 Ark. 57, 334 S.W.2d 663 (1960), the Project will be exempt from *Ad Valorem* taxation.  
16 Although the City makes no representation as to the continued precedential value of such past decisions,  
17 the Company has agreed to enter into an Agreement for Payments in Lieu of Taxes to be dated as of the  
18 date of its execution (the “PILOT Agreement”) requiring the Company to make certain payments in lieu  
19 of all *Ad Valorem* Taxes which would otherwise be levied on the Project real and personal property by  
20 local public bodies with taxing power. In order to provide for such payments, there is hereby authorized  
21 and directed the execution and delivery of the PILOT Agreement, and the Mayor is hereby authorized to  
22 execute and deliver the PILOT Agreement for and on behalf of the City. The PILOT Agreement is  
23 hereby approved in substantially the form submitted to this meeting, and the Mayor, with the counsel of  
24 the City Attorney, is hereby authorized to confer with the Company and Bond Counsel in order to  
25 complete the PILOT Agreement in substantially the form submitted to this meeting, with such changes as  
26 shall be approved by such persons executing the document, their execution to constitute conclusive  
27 evidence of such approval.

28       (Advice is given that a copy of the PILOT Agreement in substantially the form authorized to be  
29 executed is on file with the City Clerk and is available for inspection by any interested person.)

30       **Section 7.** The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and  
31 directed to do any and all things necessary to effect the execution and delivery of the Bond, the Bond  
32 Purchase Agreement, the Indenture, the Lease Agreement and the PILOT Agreement, and to perform all  
33 of the City’s obligations under and pursuant thereto. The Mayor and the City Clerk are hereby further  
34 authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and

1 other instruments that may be required for the carrying out of such authority or to evidence the exercise  
2 thereof.

3 **Section 8.** Because the City is here involved with the acquisition, construction and equipping of a  
4 complex industrial project requiring highly specialized work and specialized types of machinery and  
5 equipment, it has been and is hereby determined by the City Board of Directors that competitive bidding  
6 be, and the same is hereby, waived as to this particular industrial project. This action is taken by the City  
7 pursuant to applicable laws of the State of Arkansas, including particularly the Act.

8 **Section 9.** Kutak Rock, LLP, Little Rock, Arkansas, is hereby appointed as Bond Counsel with  
9 respect to the issuance of the Bond, the fees and expenses of which firm shall be costs of the Project and  
10 paid from the proceeds of the Bond or by the Company.

11 **Section 10. Severability.** In the event any title, section, paragraph, item, sentence, clause, phrase, or  
12 word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or  
13 adjudication shall not affect the remaining portions of the ordinance which shall remain in full force and  
14 effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of the  
15 ordinance.

16 **Section 11. Repealer.** All laws, ordinances, resolutions, or parts of the same that are inconsistent  
17 with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

18 **Section 12. Emergency Clause.** *The ability to bring a major international manufacturer to the City  
19 in conjunction with the efforts of the Arkansas Economic Development Commission, and the Little Rock  
20 Regional Chamber of Commerce, which will provide numerous high paying jobs is essential to the public  
21 health, safety and welfare, and the need to close any transactions on times frames that involved such  
22 diverse parties is also essential; an emergency is, therefore, declared to exist and this ordinance shall be  
23 in full force and effect from and after the date of its passage.*

24 **PASSED: May 7, 2019**

25 **ATTEST:**

**APPROVED:**

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28 **Susan Langley, City Clerk**

\_\_\_\_\_ **Frank Scott, Jr., Mayor**

29 **APPROVED AS TO LEGAL FORM:**

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32 **Thomas M. Carpenter, City Attorney**

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