

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE TO PROVIDE SHORT-TERM FINANCING UNDER AMENDMENT NO. 78 TO THE ARKANSAS CONSTITUTION FOR THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY; PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Little Rock, Arkansas (the "City") is authorized and empowered under the provisions of Amendment No. 78 to the Arkansas Constitution ("Amendment No. 78") and Act No. 1808 of 2001 (codified as Title 14, Chapter 78 of the Arkansas Code of 1987 Annotated) (the "Act"), to issue notes and to expend the proceeds thereof to finance all or a portion of the cost of acquiring, constructing and installing real property or tangible personal property having an expected useful life of more than one (1) year; and,

WHEREAS, the City proposes to finance all or a portion of the costs of (i) the acquisition and installation of the second phase of a new Computer-Aided Dispatch System for quicker emergency response time for Fire and Police, (ii) the acquisition, construction and installation of improvements to Fire Station Number 12 and (iii) the acquisition of equipment for Fire and Police (collectively, the "Property to be Financed"); and,

WHEREAS, it is proposed that the City issue its promissory note in the principal amount of Five Million, Six Hundred Fifty Thousand Dollars (\$5,650,000.00) (the "Note") under Amendment No. 78 and the Act for the purpose of financing all or a portion of the costs of the Property to be Financed; and,

WHEREAS, the City intends to arrange for a loan (the "Loan") from a banking institution (the "Lender") and to issue the Note to the Lender in consideration for the Loan.

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

Section 1: The Board of Directors hereby finds that the Property to be Financed is real property and tangible personal property and will have a useful life of more than one (1)-year. The Board of Directors further finds that the aggregate principal amount of the Note and the City's outstanding indebtedness issued or incurred under Amendment No. 78, does not exceed 5% of the assessed value of taxable property located within the City as determined by the last tax assessment.

1 **Section 2:** Under the authority of the Constitution and laws of the State of Arkansas (the "State"),
2 including particularly Amendment No. 78 and the Act, the Note is hereby authorized and ordered issued in
3 the principal amount of Five Million, Six Hundred Fifty Thousand Dollars (\$5,650,000.00) for the purpose
4 of financing all or a portion of the costs of acquiring, constructing and installing the Property to be Financed
5 and paying expenses of issuing the Note. The Note shall be dated the date of issuance and shall bear interest
6 on the outstanding principal amount at a fixed rate not to exceed 5% per annum. The Note shall be repaid
7 in five (5) substantially equal annual amortized installments of principal and interest, commencing one (1)-
8 year from the date of the Note and on the same day of each year thereafter, with the final installment due
9 five (5) years from the date of the Note. The Note shall be issued in fully registered form. The Note shall
10 be executed by the Mayor and the City Clerk and the Seal of the City shall be affixed to the Note.

11 **Section 3:** The Note shall be issued to the Lender in consideration for the Loan. The Lender shall be
12 selected by the Mayor or the City Manager based upon the commitment or proposal for the Loan that the
13 Mayor or the City Manager determines to have the lowest cost to the City and the best terms. The City
14 Treasurer is hereby authorized and directed to solicit proposals or commitments for the Loan from at least
15 three (3) banking institutions having offices in the City, in such manner as shall be approved by the Mayor
16 or the City Manager. The Mayor and the City Manager shall have the right to reject any and all proposals
17 and commitments.

18 **Section 4:** As provided in Amendment No. 78, the Annual Debt Service Payments on the Note in each
19 fiscal year shall be charged against and paid from the general revenues of the City for such fiscal year. For
20 the purpose of making the Annual Debt Service Payments, there is hereby, and shall be, appropriated to
21 pay the Note, an amount of general revenues of the City sufficient for such purposes. The City Treasurer
22 is hereby authorized and directed to withdraw from the General Fund of the City the amounts and at the
23 times necessary to make the annual debt service payments on the Note.

24 **Section 5:** (a) The City covenants with the owner of the Note (the "Owner") from time to time that it
25 shall not take any action or suffer or permit any action to be taken or condition to exist which causes or
26 may cause the interest payable on the Note to be included in gross income for federal income tax purposes.
27 Without limiting the generality of the foregoing, the City covenants with the Owner that the proceeds of
28 the sale of the Note will not be used directly or indirectly in such manner as to cause the Note to be treated
29 as an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended
30 (the "Code").

31 (b) The City covenants with the Owner that it will not use or permit the use of the Property to be
32 Financed or the proceeds of the Note, in such manner as to cause the Note to be a "private activity bond"
33 within the meaning of Section 141 of the Code.

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1 (c) The City covenants with the Owner that it will not reimburse itself from Note proceeds for any
2 costs paid prior to the date the Note is issued except in compliance with United States Treasury Regulation
3 § 1.150-2 (the "Regulation"). This ordinance shall constitute an "official intent" for purposes of the
4 Regulation.

5 (d) The City covenants with the Owner that it will submit to the Secretary of the Treasury of the United
6 States, not later than the 15th day of the second calendar month after the close of the calendar quarter in
7 which the Note is issued, a statement concerning the Note which contains the information required by
8 Section 149(e) of the Code.

9 **Section 6:** The City shall provide such financial information to the Lender as the Lender may
10 reasonably request.

11 **Section 7:** The Mayor, City Manager, City Treasurer, City Attorney and City Clerk are hereby
12 authorized and directed, for and on behalf of the City, to perform all acts of whatever nature necessary to
13 effect and carry out the authority conferred by this ordinance and to execute all papers, documents,
14 certificates and other instruments that may be required for the carrying out of such authority or to evidence
15 the exercise thereof.

16 **Section 8: *Severability.*** In the event any title, section, paragraph, item, sentence, clause, phrase, or
17 word of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or
18 adjudication shall not affect the remaining portions of this ordinance which shall remain in full force and
19 effect as if the portion so declared or adjudged invalid or unconstitutional were not originally part of this
20 ordinance.

21 **Section 9: *Repealer.*** All laws, ordinances, resolutions, or parts of the same which are inconsistent
22 with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

23 **Section 10: *Emergency Clause.*** The Board of Directors hereby determines that the instigation and
24 completion of the Property to be Financed is essential to the public health, safety and welfare of the citizens
25 of the City and must be financed as quickly as possible; an emergency is, therefore, declared to exist and
26 this ordinance shall be in full force and effect from and after the date of its execution.

27 **PASSED: May 21, 2019**

28 **ATTEST:**

APPROVED:

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31 _____
Susan Langley, City Clerk

_____ **Frank Scott, Jr., Mayor**

32 **APPROVED AS TO LEGAL FORM:**

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