

1 **ORDINANCE NO.** _____

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

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

17 **WHEREAS**, the City proposes to finance all or a portion of the costs of (a) park and recreational
18 improvements, including particularly without limitation, the construction of basketball courts, a parking lot
19 and related improvements at Kanis Park, the acquisition, construction and installation of a new playground
20 at MacArthur Park, and the acquisition, construction and installation of new walkways, lighting and related
21 improvements on or near the Crescent Lawn at MacArthur Park; (b) street improvements, including
22 particularly, without limitation, the reconstruction of Interstate Park Drive; (c) the acquisition of a Fire
23 Truck for the Little Rock Fire Department; (d) the acquisition of mobile radios for the Little Rock Police
24 Department and the Little Rock Fire Department; and (e) the acquisition of real property for the future
25 expansion of the West Central Community Center (collectively, the "Property to be Financed"); and,

26 **WHEREAS**, it is proposed that the City issue its Promissory Note in the principal amount of Five
27 Million, Nine Hundred Twenty-Five Thousand Dollars (\$5,925,000.00) (the "Note") under Amendment
28 No. 78 and the Act for the purpose of financing all or a portion of the costs of the Property to be Financed;
29 and,

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

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

34 **Section 1.** The Board of Directors hereby finds that the Property to be Financed is real property and
35 tangible personal property and will have a useful life of more than one (1)-year. The Board of Directors

1 further finds that the aggregate principal amount of the Note and the City's outstanding indebtedness issued
2 or incurred under Amendment No. 78, does not exceed 5% of the assessed value of taxable property located
3 within the City as determined by the last tax assessment.

4 **Section 2.** Under the authority of the Constitution and laws of the State of Arkansas (the "State"),
5 including particularly Amendment No. 78 and the Act, the Note is hereby authorized and ordered issued in
6 the principal amount of Five Million, Nine Hundred Twenty-Five Thousand Dollars (\$5,925,000.00) for
7 the purpose of financing all or a portion of the costs of acquiring, constructing and installing the Property
8 to be Financed and paying expenses of issuing the Note. The Note shall be dated the date of issuance and
9 shall bear interest on the outstanding principal amount at a fixed rate not to exceed 5% per annum. The
10 Note shall be repaid in five (5) substantially equal annual amortized installments of principal and interest,
11 commencing one (1)-year from the date of the Note and on the same day of each year thereafter, with the
12 final installment due five (5) years from the date of the Note. The Note shall be issued in fully registered
13 form. The Note shall be executed by the Mayor and the City Clerk and the seal of the City shall be affixed
14 to the Note.

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

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

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

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

4 (c) The City covenants with the Owner that it will not reimburse itself from Note proceeds for any
5 costs paid prior to the date the Note is issued except in compliance with United States Treasury Regulation
6 § 1.150-2 (the "Regulation"). This ordinance shall constitute an "official intent" for purposes of the
7 Regulation.

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

12 **Section 6.** The City shall provide such financial information to the Lender as the Lender may
13 reasonably request.

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

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

24 **Section 9. Repealer.** All laws, ordinances, resolutions, or parts of the same which are inconsistent
25 with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

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

30 **PASSED: July 6, 2021**

31 **ATTEST:**

APPROVED:

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34 **Susan Langley, City Clerk**

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34 **Frank Scott, Jr., Mayor**

1 **APPROVED AS TO LEGAL FORM:**

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

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