

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, Two Hundred Fifty Thousand Dollars (\$5,250,000.00) for the purpose
4 of financing all or a portion of the costs of acquiring and installing the Property to be Financed and paying
5 expenses of issuing the Note. The Note shall be dated the date of issuance and shall bear interest on the
6 outstanding principal amount at a fixed rate not to exceed 5% per annum. The Note shall be repaid in five
7 (5) substantially equal annual amortized installments of principal and interest, commencing one (1)-year
8 from the date of the Note and on the same day of each year thereafter, with the final installment due five
9 (5) years from the date of the Note. The Note shall be issued in fully registered form. The Note shall be
10 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 City Manager based upon the commitment or proposal for the Loan that the City Manager
13 determines to have the lowest cost to the City and the best terms. The City Treasurer is hereby authorized
14 and directed to solicit proposals or commitments for the Loan from at least three (3) banking institutions
15 having offices in the City, in such manner as shall be approved by the City Manager. The City Manager
16 shall have the right to reject any and all proposals and commitments.

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

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

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

33 (c) The City covenants with the Owner that it will not reimburse itself from Note
34 proceeds for any costs paid prior to the date the Note is issued except in compliance with United States

1 Treasury Regulation § 1.150-2 (the "Regulation"). This ordinance shall constitute an "official intent" for
2 purposes of the Regulation.

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

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

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

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

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

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

25 **PASSED: June 20, 2017**

26 **ATTEST:**

APPROVED:

27
28 _____
29 **Susan Langley, City Clerk**

Mark Stodola, Mayor

30 **APPROVED AS TO LEGAL FORM:**

31
32 _____
33 **Thomas M. Carpenter, City Attorney**

34 //

35 //