

draw thereunder, and the Note shall commence to bear interest as of such date as contemplated by Arkansas Code Annotated § 14-78-102(4). The Note shall be issued in fully registered form.

SECTION 3: To the extent permitted by U. S. Treasury Regulation 1.150-2 (the "Regulation") the City may reimburse its "Pay as You Go Funds," a portion of the specific costs incurred for infrastructure improvements associated with this Project from the proceeds of the Note.

SECTION 4: Arvest Bank has been selected by the Mayor, and approved by the City Council, based upon the commitment or proposal for the Loan that the Mayor has determined to have the lowest cost to the City after soliciting proposals or commitments for the Loan and receiving such proposals and commitments on February 16, 2016 from at least three financial institutions having offices in Faulkner County.

SECTION 5: It is expected that the first draw on the borrowings will occur on or about March 1, 2016 and the City will execute the Note immediately prior to such draw. Interest will begin to accrue on only the amount borrowed as of the date of each draw.

SECTION 6: As provided in Amendment No. 78, the debt service payments on the Note shall be charged against and paid from the general revenue of the City within five years, but not later than five (5) years from the date of the first draw on the Note when the obligation commences to bear interest, as contemplated by Arkansas Code Annotated § 14-78-102(4). For the purpose of making the annual debt service, there is hereby, and shall be, appropriated to pay the Note, an amount of general revenue of the City sufficient for such purposes. The City's Director of Finance is hereby authorized and directed to withdraw from the general revenues of the City the amounts at the times necessary to make the annual debt service payments on the Note. The source for such funds may be the pay as you go funding provided by the Quarter Cent Sales and Use Tax dedicated by action of the City Council to major street projects or any other source funded from general revenues of the City.

SECTION 7: The Mayor and City Clerk, for and on the behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance execution, and delivery of the Note, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. The Mayor and City Clerk are hereby further authorized and directed, for and on behalf of the City, and to execute all papers, documents, certificates, and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof. The City covenants that it shall not take any action or suffer or permit any action to be taken or conditions to exist which causes or may cause the interest payable on the Note 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 Note will not be used directly or indirectly in such manner as to cause the Note to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The City 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 Note is issued, a statement as required by Section 149(e) of the Code. 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 proceeds of the Note, in such manner as to cause the Note to be "private activity bonds" within the meaning of Section 141 of the Code. The City covenants that it will take no action which would cause the Note to be "federally guaranteed" within the meaning of Section 149(b) of the Code. Nothing in this Article shall prohibit investments in bonds issued by the United States Treasury.

SECTION 8: In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

SECTION 9: All ordinances or resolutions of the City in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 10: Funds provided through the issuance of the Note are hereby appropriated and budgetary authority is provided for the Project in an amount up to \$2,600,000.

SECTION 11: Funds provided shall be appropriated from the Pay As You Go Street S&U – Loan Proceeds account (613.201.4370) into the Pay As You Go Street S&U Fund CIP – Miscellaneous account (613.201.5990) as money borrowed and received for the Project in an amount of up to \$2,600,000.


SECTION 12: This ordinance is necessary for the protection of the public peace, health and safety and that in order to avoid project delays to this Project, it is essential to the ability of the City to efficiently conduct business and have the necessary funds to pay for this Project and therefore, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED on this 23rd day of February, 2016.

Attest:


Michael O. Garrett
City Clerk/Treasurer

Approved:


Mayor Tab Townsell