

1 **ORDINANCE NO. 20,877**

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3 **AN ORDINANCE TO AUTHORIZE 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 AND TANGIBLE**  
7 **PERSONAL PROPERTY; TO DECLARE AN EMERGENCY; AND FOR**  
8 **OTHER PURPOSES.**  
9

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

16 **WHEREAS**, the City proposes to finance the acquisition, construction and equipping of the final phase  
17 of the 12<sup>th</sup> Street Station, the acquisition of fire vehicles and equipment and the acquisition and installation  
18 of information technology equipment and software (collectively, the “Property to be Financed”); and,

19 **WHEREAS**, it is proposed that the City issue its promissory note in the principal amount of Five  
20 Million, Nine Hundred Sixteen Thousand Dollars (\$5,916,000) (the “Note”) under Amendment No. 78 and  
21 the Act for the purpose of financing all or a portion of the costs of the Property to be Financed; and,

22 **WHEREAS**, the City intends to arrange for a loan (the “Loan”) from a banking institution (the  
23 “Lender”) and to issue the Note to the Lender in consideration for the Loan;

24 **NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY**  
25 **OF LITTLE ROCK, ARKANSAS:**

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

31 **Section 2:** Under the authority of the Constitution and laws of the State of Arkansas (the “State”),  
32 including particularly Amendment 78 and the Act, the Note is hereby authorized and ordered issued in the  
33 principal amount of Five Million, Nine Hundred Sixteen Thousand Dollars (\$5,916,000) for the purpose of

1 financing all or a portion of the costs of acquiring, constructing and installing the Property to be Financed  
2 and paying expenses of issuing the Note. The Note shall be dated the date of issuance and shall bear interest  
3 on the outstanding principal amount at a fixed rate not to exceed 5% per annum. The Note shall be repaid  
4 in five substantially equal annual amortized installments of principal and interest, commencing one (1)-  
5 year from the date of the Note and on the same day of each year thereafter, with the final installment due  
6 five (5) years from the date of the Note. The Note shall be issued in fully registered form. The Note shall  
7 be executed by the Mayor and the City Clerk and the seal of the City shall be affixed to the Note.

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

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

20 **Section 5:** The Board of Directors hereby finds that the Property to be Financed is a part of the property  
21 that the Board of Directors anticipated would be paid for with the proceeds of a 3/8-Cent Sales and  
22 Compensating Use Tax for capital projects approved by the voters at an election held on September 13,  
23 2011 (the "Tax Proceeds"). The Board of Directors further finds that the use of Tax Proceeds to reimburse  
24 the general fund for general revenues used to retire the principal installments of the Note is appropriate as  
25 an expenditure of the Tax Proceeds for capital improvements. This shall not be construed as a pledged of  
26 the Tax Proceeds to the payment of the Note. The Tax Proceeds are not pledged to the retirement of the  
27 Note.

28 **Section 6:** (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 amended  
34 (the "Code").

1 (b) The City covenants with the Owner that it will not use or permit the use of the Property  
2 to be Financed or the proceeds of the Note, in such manner as to cause the Note to be a “private activity  
3 bond” 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  
5 for any costs paid prior to the date the Note is issued except in compliance with United States Treasury  
6 Regulation No. 1.150-2. This ordinance shall constitute an “official intent” for purposes of the Regulation.

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

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

13 **Section 8:** The Mayor, City Manager, City Treasurer, City Attorney and City Clerk are hereby  
14 authorized and directed, for an on behalf of the City, to perform all acts of whatever nature necessary to  
15 effect and carry out the authority conferred by this ordinance and to execute all papers, documents,  
16 certificates and other instruments that may be required for the carrying out of such authority or to evidence  
17 the exercise thereof.

18 **Section 9: Severability.** In the event any title, section, paragraph, item, sentence, clause, phrase, or  
19 word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or  
20 adjudication shall not affect the remaining portions of the resolution which shall remain in full force and  
21 effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the  
22 ordinance.

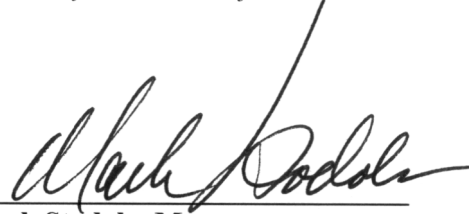
23 **Section 10: Repealer.** All laws, ordinances, resolutions, or parts of the same, which are inconsistent  
24 with the provisions of this resolution are hereby repealed to the extent of such inconsistency.

25 **Section 11: Emergency Clause.** *The Board of Directors hereby determines that the instigation and*  
26 *completion of the projects hereinabove set forth are essential to the public health, safety and welfare of the*  
27 *citizens of the City, and must be financed as quickly as possible; an emergency is, therefore, declared to*  
28 *exist and this ordinance shall be in full force and effect from and after the date of its execution.*

29 **PASSED: May 20, 2014**

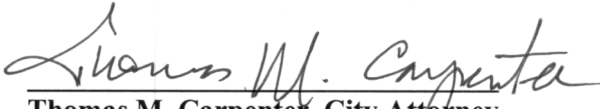
30 **ATTEST:**

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33 Toya Robinson, Assistant City Clerk

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Mark Stodola, Mayor

1 APPROVED AS TO LEGAL FORM:

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

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