1	RESOLUTION NO
2	
3	A RESOLUTION TO AUTHORIZE ENTRY INTO A CONTRACTUAL
4	AGREEMENT WITH THE ARKANSAS STATE FAIR ASSOCIATION
5	FOR THE USE AND EXPENDITURE OF CAPITAL IMPROVEMENT
6	SALES AND COMPENSATING USE TAX PROCEEDS; AND FOR OTHER
7	PURPOSES.
8	
9	WHEREAS, the City levied a 3/8-Cent Sales and Compensating Use Tax for capital improvements or
10	a public nature in Little Rock, Ark., Ordinance No. 20,449 (July 7, 2011), and noted its intention in Little
11	Rock, Ark., Resolution No. 13,343 § 8(c) (July 7,2011), to provide up to Three Million Dollars
12	(\$3,000,000.00) to the Arkansas State Fair Association (ASFA) for improvements to the grounds and, in
13	part, to encourage ASFA to maintain the Arkansas State Fair within the corporate limits of the City of Little
14	Rock, Arkansas; and,
15	WHEREAS, there have been some previous appropriations to ASFA for issues; however, the City has
16	not come to agreement of terms for a formal contractual relationship;
17	NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY
18	OF LITTLE ROCK, ARKANSAS:
19	Section 1. The City Manager and any other necessary City employees or officials are authorized to
20	execute an agreement between the City and ASFA as set forth in Exhibit A to this resolution.
21	Section 2. It is understood that any term of this agreement which may be found contrary to Arkansas
22	State Law is to be severed and the rest of the agreement, if possible, shall stand alone as the terms mutually
23	accepted by both parties.
24	Section 3. Severability. In the event any title, section, paragraph, item, sentence, clause, phrase, or
25	word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or
26	adjudication shall not affect the remaining portions of the resolution which shall remain in full force and
27	effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the
28	resolution.
29	Section 4. Repealer. All laws, ordinances, resolutions, or parts of the same, that are inconsistent with
30	the provisions of this resolution, are hereby repealed to the extent of such inconsistency.
31	ADOPTED: April 17, 2018
32	ATTEST: APPROVED:
33	
34 35	Allison Segars, Deputy City Clerk Mark Stodola, Mayor

## 1 APPROVED AS TO LEGAL FORM: 2 3 4 **Thomas M. Carpenter, City Attorney** 5 // 6 // 7 // 8 // 9 // 10 // // 11 12 // 13 // // 14 15 // 16 // 17 // 18 // 19 // 20 // 21 // 22 // 23 // 24 // // 25 26 // 27 // 28 // 29 // 30 // 31 // 32 // 33 // 34 // 35 // 36 //

1	EXHIBIT A
2	
3	AGREEMENT
4	This Agreement is entered into this day of April, 2018, between the City of Little Rock, Arkansas,
5	("the City") and the Arkansas Livestock Show Association ("the Association").
6	RECITALS
7	In 2011, the City levied a 3/8% Capital Sales Sax ("the Tax") to be dedicated to capital improvements
8	of a public nature in Little Rock, Ark., Ordinance No. 20,449 (July 11, 2011); the City adopted a resolution
9	which specifically outlined the capital projects that would be funded with this capital sales tax money in
10	Little Rock, Ark., Resolution No. 13,343 (July 11, 2011). Pursuant to an election held on September 13,
11	2011, the City electors approved the implementation of this Capital Improvement Sales Tax; at the time the
12	voters considered whether to approve such a levy, the Association was in the process of considering alter-
13	native sites for the location of the Arkansas State Fairgrounds which hosts several events of substantial
14	value to the City because of the thousands of people who visit during the time of the Arkansas State Fair,
15	and other tourist events and gatherings; the City and the Association entered into discussions on mutual
16	ways to maintain the Fairgrounds in the City for an extended period of time; To this end, the City set aside
17	the estimated sum of Three Million Dollars (\$3,000,000.00) from the proceeds of the Tax for the expansion
18	and improvement of facilities to enhance the fairgrounds in Section 8 (c) of Little Rock, Ark., Resolution
19	No. 13,343 (July 11, 2011); Further, at the time this Agreement is formally executed, the City and the
20	Association have already engaged in certain improvement efforts, and these efforts are hereby ratified by
21	the parties as a part of this Agreement;
22	THEREFORE, IN CONSIDERATION OF THE TERMS AND SPECIFICATIONS SET
23	FORTH BELOW, THE CITY AND THE ASSOCIATION ENTER INTO THIS AGREEMENT AS
24	FOLLOWS:
25	Section 1. Ratification of Actions. All prior agreements and payments that have been made as a result
26	of the agreement of the Association to maintain the Arkansas State Fairgrounds in the corporate limits of
27	the City, and of the City to pay for improvements or expansion of facilities at the fairgrounds, are hereby
28	ratified and included as if a part of this Agreement.
29	Section 2. Term of Agreement. This Agreement shall be in full force and effect from and after the date
30	of its execution until, and including, December 31, 2032, a term of twenty (20) years duration since the
31	implementation of the Tax, and which includes the Arkansas State Fair for the calendar year 2032.
32	Section 3. Use of Tax proceeds. Pursuant to the authority provided in Little Rock, Ark., Resolution
33	No. 13,343 §8 (c) (July 11, 2011), the City, during the term of this Agreement, shall make available to the
34	Association Tax revenues of not more than Three Million Dollars (\$3,000,000.00) to be used for expansion

and improvement of facilities that can enhance the Arkansas State Fairgrounds, provided that these funds

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- will be used for projects that qualify as a capital use of funds, as defined by General Accepted Accounting
- 2 Principles (GAAP), since the levy of the Tax was limited to the use of such proceeds for capital
- 3 improvements of a public nature; notwithstanding any other definition approved in Arkansas State Law,
- 4 the parties agree that the term "capital improvements of a public nature," can include the purchase of
- 5 additional property by the Association for use in the presentation of the events at the Arkansas State
- 6 Fairgrounds.
- 7 Section 4. Distribution of Tax proceeds from the City to the Association. Before any distribution of
- 8 Tax proceeds by the City to the Association occurs, the Association shall provide the City a detailed
- 9 statement of the specific capital improvements of a public nature that will be funded with the proceeds, the
- 10 expected cost associated with such improvements, and a reasonable time frame in which the funds shall
- 11 be expended by the Association.
- Section 5. Comprehensive Plan for the Fair. Within a reasonable period of time after the execution of
- 13 this Agreement, not to exceed one (1) calendar year, the Association shall provide to the City a
- comprehensive plan for the expansion and improvement of the facilities to enhance the fairgrounds and, to
- 15 the extent possible, the manner in which City Tax proceeds may be utilized to help fulfill this
- 16 comprehensive plan. It is understood by the parties that a comprehensive plan is subject to review,
- modification, and change, and no such action shall be deemed a violation of this Agreement.

## Section 6. Distribution of Tax proceeds.

- 19 (a) It is understood by the parties that the Three Million Dollars (\$3,000,000.00) in Tax proceeds
- contemplated to be provided to the Association by the City is an estimate based upon projections
- as to the collection of proceeds pursuant to the Tax. If for any reason outside the control of the City
- the total anticipated proceeds from the Tax are not met, then the City may, after consultation with
- 23 the Association, proportionately reduce the obligation for total proceeds to be provided pursuant to
- this Agreement.

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- 25 (b) It is understood by the parties that the collection of the Tax proceeds occurs on a monthly basis
- as Tax proceeds are sent to the City by the Arkansas Department of Finance & Administration, and
- 27 that in the use of the Tax proceeds, and other revenues available to the City for an annual budget,
- 28 the City is required to: (i) follow state law, state regulations, and local ordinance requirements, as
- 29 to the receipt, collection and expenditure of such funds; (ii) must not engage in deficit spending, or
- 30 other practices prohibited by federal, state, or local law; and, (iii) must allocate Tax proceeds for
- 31 the various purposes the City has identified.
- 32 (c) Nothing in this Agreement is to be considered by the City or the Association to mean that the
- 33 City will guarantee, or simply provide, a certain amount of Tax proceeds to the Association in any
- calendar year, nor shall it be considered to mean that the City is limited in the total amount of Tax
- proceeds it can provide to the Association in any calendar year.

Section 7. Disagreement on the use of Tax proceeds. The parties recognize that provisions of the Arkansas Constitution, and Arkansas law, mandate the use of the Tax proceeds for capital improvements of a public nature. Therefore, the parties agree that if there is any question by either party that a certain request qualifies as such an expenditure, the City will not be required to make the payment until the parties have met in person to discuss the concerns. If agreement cannot be reached as to the property use of the funds, the City is not required to make such a payment, and substituted use for capital improvements shall be submitted. The parties further agree that capital improvements of a public nature does not apply to normal annual maintenance, normal wear and tear, utility usage costs, salaries, and other such items that are not capital in nature.

## Section 8. Default.

- (a) If the City provides Tax proceeds to the Association for capital improvements of a public nature, and the Association fails to use the proceeds for such a purpose, then the City may terminate its obligation to provide any remaining Tax proceeds for the balance of the term of this Agreement. Further, if the Arkansas State Fairgrounds are moved prior to 2027, then the Association shall repay
- to the City any part, including all if appropriate, of the Three Million Dollars (\$3,000,000.00) the
- 16 City has provided pursuant to this Agreement.
  - (b) If any court of competent jurisdiction determines that this Agreement is contrary to the provisions of law and cannot be enforced, then the parties shall terminate the Agreement, provided that any outstanding obligations on the date of such declaration which do qualify as a proper expenditure of Tax proceeds shall be made unless otherwise estopped by the court.
    - (c) The City and the Association agree that bankruptcy of either entity is a condition of default, and this Agreement is not an instrument that can be listed as an ongoing asset, or ongoing liability, of any party.
    - **Section 9.** *Nondiscrimination.* The parties agree that in the fulfillment of this Agreement neither party shall discriminate against any person in violation of any federal, state, or local law or regulation including but not limited to, Little Rock, Ark., Ordinance No. 21,031 (April 21, 2015) which prohibits discrimination on the basis of race, color, creed, religion, sex, national origin, disability, marital status, sexual orientation, gender identity, or genetic information.
    - **Section 10.** Access to Legal Counsel. Both parties agree that prior to execution of this Agreement the respective counsel have had access to legal counsel of their choice and, therefore, no party shall be given any deference or advantage in terms of the interpretation of the terms of this Agreement based upon which legal counsel drafted the terms of the Agreement.
    - **Section 11.** *Multiple Copies.* This Agreement may be executed in multiple copies, any of which shall be deemed an authenticated copy of the Agreement for purposes of introduction into evidence in any legal proceeding.

1	Section 12. Amendment. The parties agree that the terms of this Agreement shall not be amended
2	except in writing signed by the authorized representatives of the relevant party.
3	Section 13. Severability. In the event any title, subtitle, section, subsection, subdivision, paragraph
4	subparagraph, item, sentence, clause, phrase, or work of this Agreement is declared or adjudged to be in
5	valid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of the
6	Agreement which shall remain in full force and effect as if the portion so declared or adjudged invalid
7	unconstitutional was not originally a part of this Agreement.
8	WHEREUPON, the City and the Association have affixed their hands and seals this day of
9	, 2017.
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11	//
12	//
13	ARKANSAS STATE LIVESTOCK SHOW
14	ASSOCIATION
15	
16	By:
17 18	Title
19	Date:City of Little Rock, Arkansas
20 21	City of Little Rock, Arkansas
22	By:
21 22 23 24 25	Title
25	Date:
26	//
27	//
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