

ORDINANCE NO. 16

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE TO PROVIDE FINANCING OF A PORTION OF THE COSTS OF ACQUIRING REAL PROPERTY AND CONSTRUCTING A STORAGE BUILDING FOR PUBLIC SAFETY EQUIPMENT; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City of Bryant, Arkansas (the "City") is authorized and empowered under the provisions of Amendment No. 78 to the Arkansas Constitution ("Amendment No. 78") and Title 14, Chapter 78 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") to issue notes and to expend the proceeds thereof to finance all or a portion of the cost of acquiring and constructing real property or tangible personal property having an expected useful life of more than one (1) year; and

WHEREAS, the City proposes to acquire approximately 14 acres of land (the "Land") at a price of \$399,900 as follows: \$139,900 in cash and the remaining balance of \$260,000 by the transfer of the following four properties owned by the City: (a) 4317 Stillman Loop, (b) 502 Lora Drive, (c) 102 NE 2nd Street and (d) 702 SW 2nd Street; and

WHEREAS, the City is also proposing to construct a storage building for public safety equipment (the "Public Safety Improvements"); and

WHEREAS, it is proposed that the City issue its promissory note in the principal amount of \$181,500 (the "Note") under Amendment No. 78 and the Authorizing Legislation for the purpose of financing a portion of the costs of acquiring the Land and constructing the Public Safety Improvements and paying expenses in connection therewith and in connection with the issuance of the Note; and

WHEREAS, the City has made arrangements with Bank of the Ozarks (the "Purchaser") to purchase the Note;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bryant, Arkansas:

Section 1. The City Council hereby finds that the Land and the Public Safety Improvements will have a useful life of more than one (1) year and that the aggregate principal amount of the Note and any other outstanding indebtedness of the City issued pursuant to Amendment No. 78 and the Authorizing Legislation does not exceed five percent (5%) of the assessed value of taxable property located within the City as determined by the last tax assessment.

Section 2. The issuance of the Note is hereby authorized under Amendment No. 78 and the Authorizing Legislation in order to finance a portion of the costs of acquiring the Land and constructing the Public Safety Improvements and paying expenses in connection therewith and in connection with the issuance of the Note. The Note shall be dated the date of issuance (the "Closing Date") and shall bear interest at the rate of 3.28% per annum. The Note shall be repaid in five annual amortized installments of principal and interest, commencing one year from the Closing Date and on the same day of each year thereafter, with the final installment due five years from the Closing Date.

Section 3. The Note shall be subject to prepayment in whole at any time or in part on any interest payment date. The Note shall be subject to mandatory prepayment in whole at any time or in part on any interest payment date in a principal amount equal to the proceeds received by the City from the sale, transfer or other disposition of all or any portion of the Land.

Section 4. The Note shall be sold to the Purchaser for the purchase price of 100% of par.

Section 5. As provided in Amendment No. 78, the monthly debt service payments on the Note in each fiscal year shall be charged against and paid from the general revenues of the City for such fiscal year. For the purpose of making the monthly debt service payments there is hereby, and shall be, appropriated to pay the Note, an amount of general revenues of the City sufficient for such purposes. The Financial Director is hereby authorized and directed to withdraw general revenues in the amounts and at the times necessary to make the monthly debt service payments on the Note.

Section 6. (a) The City covenants with the Purchaser that it shall not take any action or suffer or permit any action to be taken or condition 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 with the Purchaser that the proceeds of the sale of the Note will not be used directly or indirectly in such manner as to cause the Note to be treated as an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

(b) The City covenants with the Purchaser that it will not use or permit the use of the Land, the Public Safety Improvements or the proceeds of the Note in such manner as to cause the Note to be a "private activity bond" within the meaning of Section 141 of the Code. In this regard, the City covenants with the Purchaser (i) that it will not use (directly or indirectly) the proceeds of the Note to make or finance loans to any person, and (ii) that while the Note is outstanding the Land and the Public Safety Improvements will only be used by state and local governmental entities and by other persons on a basis as members of the general public.

(c) The Note is hereby designated as a "qualified tax-exempt obligation" within the meaning of the Code. The City represents to the Purchaser that the aggregate principal amount of its qualified tax-exempt obligations (excluding "private activity bonds" within the meaning of Section 141 of the Code which are not "qualified 501(c)(3) bonds" within

the meaning of Section 145 of the Code), including those of its subordinate entities, issued in calendar year 2011 is not expected to exceed \$10,000,000.

(d) The City expects to spend all proceeds of the Note within six months of the Closing Date to acquire the Land and construct the Public Safety Improvements.

(e) The City covenants with the Purchaser that it will not reimburse itself from Note proceeds for any costs paid prior to the date the Note is issued except in compliance with United States Treasury Regulation No. 1.150-2 (the "Regulation"). This Ordinance is an "official intent" within the meaning of the Regulation.

(f) The City covenants with the Purchaser 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 concerning the Note which contains the information required by Section 149(e) of the Code.

Section 7. The City covenants with the Purchaser that it will provide the Purchaser with the following information while the Note is outstanding:

(a) not later than 90 days after the end of each fiscal year, financial statements of the City for such fiscal year; and

(b) not later than December 31 of each year, a budget for the next fiscal year.

Section 8. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, execution, sale 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, to execute all papers, documents, agreements, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 9. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

Section 10. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: August 25, 2011.

ATTEST:

Heather D. Kizer
City Clerk

APPROVED:

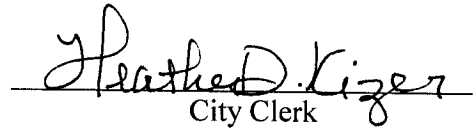
Julie E. Gable
Mayor

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Bryant, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 16, adopted at a regular session of the City Council at 7:00 p.m., on the 25th day of August, 2011, and that the Ordinance is of record in Ordinance Record Book No. , at Page , now in my possession.

GIVEN under my hand and seal on this 25 day of August, 2011.


City Clerk

(SEAL)