

ORDINANCE NO. 2015-22

AN ORDINANCE AUTHORIZING BORROWING FUNDS TO DEFRAY THE COST OF CONSTRUCTION OF IMPROVEMENTS TO DOWNTOWN AREA OF THE CITY OF SEARCY BY ISSUANCE OF A PROMISSORY NOTE; PROVIDING FOR THE PAYMENT OF THE NOTE; DECLARING AN EMERGENCY; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City Council of the City of Searcy, Arkansas (the "City") has previously considered improvements to the downtown area of the City of Searcy and has or will retain professional services to design these improvements (the "Improvements"); and

WHEREAS, the City requires additional funds for the construction and installation of the Improvements; and

WHEREAS, the City can obtain the necessary funds for the construction and installation of the Improvements by issuing its Promissory Note in favor of GMM Investco, LLC ("Lender") in the principal amount of \$150,000.00 (the "Note").

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEARCY, ARKANSAS, TO-WIT:

Section 1. The City Council hereby finds that the Improvements to be constructed or installed will have a useful life of more than one (1) year and that the principal amount of the Note, plus all other obligations heretofore incurred by the City under Amendment No.78 to the Arkansas Constitution ("Amendment No. 78") does not exceed 5% of the assessed value of taxable property located within the City as determined by the last tax assessment.

Section 2. Under the authority of the Constitution and laws of the State of Arkansas (the "State"), including, Amendment No. 78, the Mayor and City Clerk are hereby authorized to execute and deliver, by and on behalf of the City, a Promissory Note in favor of Lender in the maximum principal amount of \$150,000.00 for the purpose of financing the cost of constructing and installation of the Improvements. The Note shall be dated within sixty (60) days of the date of enactment of this Ordinance. The Note shall not bear interest, and shall be paid in a single sum on or before December 31, 2016.

Section 3. The Note shall be in such form as shall be approved by the Lender and the Mayor and City Clerk.

Section 4. As provided in Amendment No. 78, the debt service payments on the Note in each fiscal year shall be charged against and paid first from the general revenues of the City for such fiscal year. For the purpose of making the 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.

Section 5. If there be any default in the payment of the principal of the Note, or in the performance of any of the other covenants contained in this Ordinance, Lender may, in addition to any other remedies available to Lender, by proper suit, compel the performance of the duties of the officials of the City under the laws of Arkansas. No remedy conferred upon or reserved to Lender is intended to be exclusive of any other remedy or remedies, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or by law. Lender may waive any default which shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted under the provisions of this Ordinance or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies of Lender with respect thereto. No delay or omission of Lender to exercise any right or power accrued upon any default shall impair any such right of power of shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Ordinance to Lender may be exercised from time to time and as often as may be deemed expedient. In any proceeding to enforce the provisions of this Ordinance Lender shall be entitled to recover from the City all costs of such proceeding, including reasonable attorney's fees.

Section 6. The terms of this Ordinance and the Note shall constitute a contract between the City and the Lender and no variation or change in the undertaking herein set forth shall be made while the Note is outstanding, except as may be agreed in writing as between the City and Lender.

Section 7. The provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

Section 8. All ordinances and resolutions or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Emergency Clause. The immediate need to secure funds to complete construction of the Improvements in order to continue to provide essential services to the citizens and residents of the City being necessary for the preservation of the public peace, health, safety and welfare, an emergency is hereby found to exist and this Ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED THIS 14th day of July, 2015.

CITY OF SEARCY, ARKANSAS

/s/ David Morris
Mayor

ATTEST:

/s/ Jerry Morris
City Clerk

