

ORDINANCE NO. 2022-08-999

AN ORDINANCE AUTHORIZING THE EXECUTION OF A GOVERNMENT OBLIGATION CONTRACT WITH FIRST CAPITAL EQUIPMENT LEASING CORPORATION; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City of Tontitown, 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 enter into a short-term financing agreement for the purpose of acquiring tangible personal property having an expected useful life of more than one (1) year; and

WHEREAS, the City proposes to acquire police vehicles (the "Vehicles"); and

WHEREAS, it is proposed that the City enter into a Government Obligation Contract with First Capital Equipment Leasing Corporation (the "Obligee") under Amendment No. 78 and the Authorizing Legislation (the "Contract") for the purpose of financing the acquisition of the Vehicles;

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

Section 1. The City Council hereby finds that the Vehicles will have a useful life of more than one (1) year and that the aggregate principal amount of the Contract and any other obligations incurred under Amendment No. 78 and the Authorizing Legislation does not exceed five (5%) of the assessed value of taxable property located within the City as determined by the last tax assessment.

Section 2. The Contract is hereby authorized and shall be in substantially the form submitted to this meeting with such changes as shall be approved by the Mayor, her execution to constitute conclusive evidence of such approval. The Contract shall be in the principal amount of \$360,000 and interest shall accrue at the rate of 4.4% per annum. Four annual payments of principal and interest shall be paid by the City to the Obligee, or its assignee, in the approximate amount of \$100,112.43, as set forth in the Contract.

Section 3. As provided in Amendment No. 78, the principal and interest payments in each fiscal year (the "Payments") shall be charged against and paid from the general revenues of the City for such fiscal year. For the purpose of making the Payments, there is hereby appropriated to pay the Contract, an amount of general revenues of the City sufficient for such purposes. The City Clerk-Treasurer is hereby authorized and directed to withdraw from general revenues of the City the amounts and at the times necessary to make the Payments in accordance with the Contract.



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Washington County, AR
Kyle Sylvester Circuit Clerk

File **2022-00032888**

Section 4. (a) The City covenants 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 paid under the Contract 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 Contract will not be used directly or indirectly in such manner as to cause the Contract 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 represents that it will not use or permit the use of the Vehicles or the proceeds of the Contract in such manner as to cause the Contract to be a "private activity bond" within the meaning of Section 141 of the Code. In this regard, the City covenants that (i) it will not use (directly or indirectly) the proceeds of the Contract to make or finance loans to any person, and (ii) that while the Contract is outstanding the Vehicles 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 Contract will not be designated as a "qualified tax-exempt obligation" (bank qualified) within the meaning of the Code.

(d) 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 City receives funding under the Contract (the "Closing"), a statement concerning the Contract which contains the information required by Section 149(e) of the Code.

(e) The City covenants that it will not reimburse itself from proceeds of the Contract for any costs paid prior to the Closing except in compliance with United States Treasury Regulation §1.150-2 (the "Regulation"). This Ordinance shall constitute an "official intent" for purposes of the Regulation.

(f) The City expects to spend the proceeds of the Contract as follows: (a) at least 15% of the proceeds within six (6) months after the Closing, (b) at least 60% of the proceeds within one year after the Closing and (c) 100% of the proceeds within eighteen (18) months after the Closing.

Section 5. The Mayor, for and on behalf of the City, is hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Contract and the performance of all obligations of the City thereunder, 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-Treasurer are hereby further authorized and directed, for and on behalf of the City, 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.

Section 6. The City Clerk-Treasurer is hereby authorized and directed to file in the office of the City Clerk-Treasurer, as a part of the minutes of the meeting at which this Ordinance is adopted, for inspection by any interested person, a copy of the Contract and such document shall be on file for inspection by any interested person.

Section 7. The provisions of this Ordinance are hereby declared to be separable, and if any article, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the articles, phrases and provisions.

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

PASSED: Aug 16, 2022

APPROVED:

ATTEST:

Angela Russell
Angela Russell, Mayor

Rhonda Ardemagni
Rhonda Ardemagni, City Clerk-Treasurer


(SEAL)



CERTIFICATE

The undersigned, City Clerk-Treasurer of the City of Tontitown, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2022-08-999 adopted at a Special session of the City Council at 10 p.m., on the 10 day of Aug, 2022, and that the Ordinance is of record in Ordinance Record Book No. , Page , now in my possession.

GIVEN under my hand and seal on this 10 day of August, 2022.


Rhonda Ardemagni, City Clerk-Treasurer

(SEAL)

Washington County, AR
I certify this instrument was filed on
10/06/2022 11:30:49 AM
and recorded in Real Estate
File Number 2022-00032888
Kyle Sylvester - Circuit Clerk

by 

