

AN ORDINANCE AUTHORIZING THE CITY OF VAN BUREN, MISSOURI, TO ENTER INTO A LEASE PURCHASE TRANSACTION, THE PROCEEDS OF WHICH WILL BE USED TO ACQUIRE CERTAIN REAL PROPERTY AND MAKE CERTAIN IMPROVEMENTS THEREON AND PREPAY THE OUTSTANDING MUNICIPAL LEASE AGREEMENT DATED MAY 8, 2022; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Van Buren, Missouri (the "City"), authorized the execution of \$138,900 original principal amount of Municipal Lease Agreement dated as of May 8, 2020 (the "2020 Lease"), with First Midwest Bank of the Ozarks, the proceeds of which were used to pay the costs of acquiring new fire trucks; and

WHEREAS, the City desires to finance the acquisition of certain real estate and make certain improvements thereon (the "Project") and prepay the outstanding balance of the 2020 Lease; and

WHEREAS, the City finds and determines that it is advantageous and in the best interests of the City to enter into a lease purchase transaction in an amount not to exceed \$610,000 with First Midwest Bank of the Ozarks (the "Lender"), the proceeds of which will provide funds, together with other funds of the City, to (1) currently refund all of the outstanding 2020 Lease, (2) pay the costs of the Project and (3) pay certain costs in connection with the lease purchase transaction; and

WHEREAS, to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the City to take the following actions:

1. enter into a Base Lease (the "Base Lease") with the City, as lessor, and the Lender, as lessee, pursuant to which the City will lease the property described therein (together with all buildings and structures thereon, the "Leased Property") to the Lender on the terms and conditions set forth therein, the form of which is attached hereto as **Exhibit A**;

2. enter into an annually-renewable Lease Purchase Agreement (the "Lease") with the Lender, pursuant to which the City, as lessee, will lease the Leased Property back from the Lender, as lessor, on a year-to-year basis with an option to purchase the Lender's interest in the Leased Property, the form of which is attached hereto as **Exhibit B**;

3. enter into an Account Control Agreement (the "Account Control Agreement") among the District, the Lessor, and First Midwest Bank of the Ozarks, as deposit bank, the form of which is attached hereto as **Exhibit C**;

4. enter into a Tax Compliance Certificate (the "Tax Compliance Certificate"), pursuant to which the City will make certain representations and covenants related to the exclusion of the Interest Portion of the Rental Payments (as such terms are defined in the Lease) under the Lease from gross income for purposes of federal income taxation, the form of which is attached hereto as **Exhibit D**; and

The Base Lease, the Lease, the Account Control Agreement and the Tax Compliance Certificate are referred to together herein as the "City Documents."

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF VAN BUREN, MISSOURI, AS FOLLOWS:

Section 1. Authorization and Approval of the City Documents. The City Documents are hereby approved in substantially the forms submitted to and reviewed by the Board of Aldermen on the date hereof, with such changes therein as are approved by the Mayor. The Mayor's execution of the City Documents will be conclusive evidence of such approval.

The obligation of the City to pay Rental Payments under the Lease is subject to annual appropriation and will constitute a current expense of the City and will not in any way be construed to be an indebtedness or liability of the City in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness or liability by the City, nor will anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of the Lease will be construed so as to give effect to such intent.

The Mayor is hereby authorized and directed to execute and deliver the City Documents on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to affix the City's seal to the City Documents and attest said seal.

Section 2. Prepayment of the 2020 Lease. The 2020 Lease is hereby called for prepayment prior to maturity on or before November 1, 2022, or such other date as may be agreeable to the City and the Lender. The 2020 Lease shall be prepaid by the payment on the prepayment date of the principal thereof, together with prepayment premium, if any, and accrued interest thereon to the prepayment date. The officers of the City are hereby authorized and directed to take such other action as may be necessary in order to effect the prepayment of the 2020 Lease.

Section 3. Professional Services. The City hereby ratifies and confirms the engagement of Gilmore & Bell, P.C., as special tax counsel.

Section 4. Further Authority. The City will, and the officials and agents of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the City Documents and the other documents authorized or approved hereby.

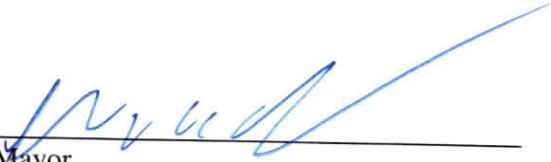
Section 5. Severability. The sections of this Ordinance shall be severable. If any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections shall remain valid, unless the court finds that: (1) the valid sections are so essential to and inseparably connected and dependent upon the void section that it cannot be presumed that the Board of Aldermen has or would have enacted the valid sections without the void ones, and (2) the valid sections, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent. The invalid provision shall be omitted and this Ordinance shall be amended to the extent possible to conform to the original intent of the City.

Section 6. Governing Law. This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 7. Effective Date. This Ordinance shall take effect and be in full force immediately after its passage by the Board of Aldermen and approval by the Mayor.

PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF VAN BUREN, MISSOURI,
THIS 12TH DAY OF SEPTEMBER, 2022.





Mayor



City Clerk