

**ORDINANCE NO. 465 OF  
THE CITY OF BUCKHANNON**

**AN ORDINANCE AUTHORIZING AND APPROVING THE TEMPORARY FINANCING OF THE COSTS OF THE DESIGN, ACQUISITION, CONSTRUCTION, AND EQUIPPING OF IMPROVEMENTS AND ADDITIONS TO THE CITY OF BUCKHANNON'S STOCKERT YOUTH AND COMMUNITY CENTER; AUTHORIZING THE CONVEYANCE OF REAL PROPERTY, FIXTURES AND PERSONAL PROPERTY AND APPURTENANCES TO THE CITY OF BUCKHANNON BUILDING COMMISSION, FOR THE PURPOSE OF FACILITATING THE DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS AND ADDITIONS TO THE CITY OF BUCKHANNON'S STOCKERT YOUTH AND COMMUNITY CENTER; THE LEASING OF SUCH PROPERTY AND ALL PROJECT IMPROVEMENTS AND APPURTENANCES THERETO BY THE CITY OF BUCKHANNON FROM THE CITY OF BUCKHANNON BUILDING COMMISSION; THE SALE AND ISSUANCE BY THE CITY OF BUCKHANNON BUILDING COMMISSION OF ITS BOND ANTICIPATION NOTES, SERIES 2024 IN AN AMOUNT NOT TO EXCEED \$5,000,000 PRINCIAL AMOUNT, ISSUED IN ONE OR MORE SERIES TO PROVIDE TEMPORARY FINANCING FOR THE IMPROVEMENTS TO STOCKERT YOUTH AND COMMUNITY CENTER; AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT AND LEASE AND OTHER INSTRUMENTS AND AUTHORIZING AND APPROVING OTHER DOCUMENTS AND MATTERS RELATING TO THE TERMS AND SECURITY OF SUCH SERIES 2024 NOTES; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.**

**WHEREAS**, The City of Buckhannon (the "City") has, pursuant to an ordinance enacted August 2, 1984, created and established the City of Buckhannon Building Commission (the "Issuer"), a public corporation and municipal building commission of the State of West Virginia, pursuant to the authority granted to it in Chapter 8, Article 33, of the West Virginia Code of 1931, as amended (the "Act");

**WHEREAS**, the Issuer, under the Act, has plenary power and authority to contract and be contracted with, acquire, purchase, own and hold any property, real or personal, and acquire, construct, equip, maintain and operate public buildings, structures, projects and appurtenant facilities of any type or types for which the City is permitted by law to expend public funds, sell, encumber or dispose of any property, real or personal, and lease its property or any part thereof, for public purposes to such persons and upon such terms as the Issuer deems proper;

**WHEREAS**, the City is empowered and authorized by Chapter 8, Article 16, of the West Virginia Code of 1931, as amended, to construct, reconstruct, establish, acquire, improve, renovate, extend, enlarge, increase, own, equip, repair, maintain and operate any municipal public works (including public recreation centers), together with all appurtenances necessary, appropriate, useful, convenient or incidental for or to the maintenance and operation of such works;

**WHEREAS**, the City desires to convey unto the Issuer pursuant to such deed or deeds, bills of sale or other instruments of transfer as may be necessary and appropriate under the circumstances (collectively, the "Conveyance Documents"), the real property located in the vicinity of 79 East Main Street, Buckhannon, Upshur County, West Virginia, together with all improvements and appurtenances thereto which constitutes the current site of the Stockert Youth and Community Center and surrounds, which real property shall be more particularly described in **EXHIBIT A – REAL ESTATE DESCRIPTION**, attached to the hereinafter described Lease and made a part hereof (the "Property");

**WHEREAS**, the City desires to design, acquire, construct and equip improvements and additions to the City's Stockert Youth and Community Center, including, repairs, renovations or improvements to the existing Community Center, together with all appurtenant facilities (the "Facilities") in connection therewith (the "Project");

**WHEREAS**, the Issuer, under the Act, has plenary power and authority to issue negotiable bonds, notes, debentures or other evidences of indebtedness and provide for the rights of the holders thereof, incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with exercising powers as provided in the Act;

**WHEREAS**, the Issuer desires, pursuant to its Ordinance enacted in connection therewith (the "Issuer Ordinance") to issue its Bond Anticipation Notes, Series 2024, in one or more series, in an aggregate principal amount not to exceed \$5,000,000 (the "Series 2024 Notes") to (i) temporarily finance the costs of the Project, (ii) pay any costs necessary to acquire the Property or any other property rights necessary in connection with the Project; (iii) pay costs of issuance of the Series 2024 Notes and related costs, (iv) fund a reserve account, if any, for the Series 2024 Notes, and (v) pay capitalized interest, if any, on the Series 2024 Notes;

**WHEREAS**, the purchaser of the Series 2024 Notes (the "Purchaser"), the terms, conditions and provisions of the Series 2024 Notes and the forms of certain documents to be executed and delivered in connection with the issuance and sale of the Series 2024 Notes shall be approved by the Issuer pursuant to a resolution of the Issuer which is supplemental to the Issuer Resolution (the "Issuer Supplemental Resolution");

**WHEREAS**, the City desires to lease the Facilities from the Issuer pursuant to an Agreement and Lease (the "Lease") to be dated on or prior to the Closing Date (as hereinafter defined), by and between the Issuer, as lessor, and the City, as lessee;

**WHEREAS**, the Issuer, pursuant to the Issuer Ordinance, has appointed the City to undertake the design, acquisition, construction and equipping of the Project and for the purpose of requisitioning and applying the proceeds of the Series 2024 Notes to the payment of the costs of the Project and the costs of issuance of such Series 2024 Notes and related costs, for and on behalf of the Issuer as herein described, and the City desires to authorize such actions on its part pursuant to this Ordinance; and

**WHEREAS**, the City desires to take all steps necessary to authorize the conveyance of the Property, its undertaking of the design, acquisition, construction and equipping of the Project for and on behalf of the Issuer, its requisitioning of the Series 2024 Note proceeds and application thereof to the payment of the costs of the Project, its leasing of the Facilities from the Issuer pursuant to the terms of the Lease and to permit the Issuer to promptly proceed with the issuance of the Series 2024 Notes;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BUCKHANNON, AS FOLLOWS:**

**Section 1.** Pursuant to the Act, this Ordinance is adopted and enacted and it is hereby found and determined that, to accomplish the purposes of the Act and the findings set forth in the preambles hereof, the following is hereby authorized and approved: (i) the conveyance of the Property by the City to the Issuer pursuant to the Conveyance Documents, if applicable; (ii) the design, acquisition, construction and equipping of the Project by the City for and on behalf of the Issuer including but not limited to engaging such architects and other professionals, undertaking such public bidding processes, providing notice of award and notice to proceed to such construction contractors, entering into such construction contracts, purchase agreements and other documents as may be necessary in connection with same and performing under such agreements and requisitioning the proceeds of the Series 2024 Notes for the purpose of paying costs of the Project and the costs of issuance of the Series 2024 Notes, (iii) the leasing of the Facilities by the City from the Issuer pursuant to the terms of the Lease and the payment of such lease rentals and other payments by the City which are provided for pursuant to the Lease, and (iv) the issuance and delivery of the Series 2024 Notes by the Issuer in the aggregate principal amount of not to exceed \$5,000,000 for the purpose of temporarily financing costs of the design, acquisition, construction and equipping, including repair, renovation or improvement to the Project including the acquisition of any property necessary for the construction of the Project, the payment of costs of issuance of

the Series 2024 Notes and related costs, the funding of a reserve account, if any, for the Series 2024 Notes and the payment of capitalized interest, if any, on the Series 2024 Notes, are hereby authorized, approved, ratified and confirmed. The Series 2024 Notes shall be issued in accordance with, and shall have the terms provided in, the Issuer Ordinance authorizing the issuance of the Series 2024 Notes, which Issuer Ordinance is hereby approved.

**Section 2.** The City hereby agrees to undertake all actions necessary for the design, acquisition, construction and equipping of the Project and to requisition and apply the proceeds of the Series 2024 Notes to the payment of the costs of the Project, the costs of issuance of the Series 2024 Notes and related costs, and to execute all construction contracts, requisitions, certificates or other documents necessary in connection therewith, and to give any and all authorizations as may be necessitated thereby. The City hereby authorizes and approves the payment of costs of the Project which may be incurred prior to the issuance of the Series 2024 Notes from its General Fund and the reimbursement of such fund from the proceeds of the Series 2024 Notes following their execution and delivery.

**Section 3.** The Lease, by and between the Issuer, as lessor, and the City, as lessee, pursuant to which the City will lease the Facilities from the Issuer and will agree to pay as Lease Rentals (but only from the sources set forth therein), amounts sufficient to pay the principal of and interest on the Series 2024 Notes and any other amounts payable thereunder, shall be substantially in the form as shall be approved pursuant to a resolution of the City which is supplemental to this Ordinance (the “City Supplemental Resolution”), with such changes, variations, insertions and omissions as may be approved by the City. The Mayor of the City is hereby authorized to execute, acknowledge, as necessary, and deliver the Lease and the Recorder is hereby authorized and directed to affix the seal of the City thereto and to attest the seal. The execution of the Lease by the Mayor shall be conclusive evidence of any approval required by this Section.

**Section 4.** The Lease Assignment (the “Assignment”), by the Issuer to the Purchaser, pursuant to which the Issuer shall assign certain of its rights under the Lease and rentals thereunder, to be dated or effective as of the Closing Date, shall be substantially in the form as shall be approved pursuant to the City Supplemental Resolution, with such changes, variations, insertions and omissions as may be approved by the Issuer and the City. The execution of the Assignment by the Chairman of the Issuer shall be conclusive evidence of any such approval.

**Section 5.** The Credit Line Deed of Trust, Fixture Filing and Security Agreement (the “Deed of Trust”) by the Issuer to the trustees named therein, pursuant to which the Issuer shall convey the Facilities to the trustees named therein, in trust, for the benefit and security of the Purchaser in the repayment of the Series 2023 Notes, shall be substantially in the form as shall be approved pursuant to the City Supplemental Resolution, with such changes, variations, insertions and omissions as may be approved by the Issuer and the City. The execution of the Deed of Trust by the Chairman of the Issuer shall be conclusive evidence of any such approval.

**Section 6.** The Series 2023 Notes substantially in the form approved pursuant to the Issuer Ordinance, shall be and the same are hereby approved in all respects, with such changes, variations, insertions and omissions as may be approved by the City and the Issuer. Such approval shall constitute the approval of the issuance of the Series 2024 Notes by an “applicable elected official” to the extent such approval may be required by any State or federal law. The execution of the Series 2024 Notes by the Chairman of the Issuer shall be conclusive evidence of any such approval.

**Section 7.** The City hereby approves the sale of the Series 2024 Notes to the Purchaser which shall be designated by the Issuer Supplemental Resolution. The price of the Series 2024 Notes shall be 100% of par value, there being no interest accrued thereon. The Series 2024 Notes shall be dated the date of delivery thereof (the “Closing Date”).

**Section 8.** All covenants, stipulations, obligations and agreements of the City contained herein and contained in the Lease and all other instruments and documents relating thereto shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the City to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the City and its successors from time to time and upon any board or body to which any powers or duties, affecting such covenants, stipulations, obligations and agreements, shall be transferred by or in accordance with law. Except as otherwise provided herein, all rights, powers and privileges conferred and duties and liabilities imposed upon

the City or the officials thereof by the provisions hereof and by the Lease and all other instruments and documents relating thereto shall be exercised or performed by the City or by such officers, board or body as may be required or permitted by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the Lease and all other instruments and documents relating thereto shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the City in his or her individual capacity and neither the City nor any officer or employee thereof shall be liable personally on the Lease or the Series 2024 Notes or be subject to any personal liability or accountability by reason of the issuance thereof.

**Section 9.** The City hereby ratifies all actions necessary to authorize and approve the design, acquisition, construction and equipping of the Project by the City.

**Section 10.** The firm of Steptoe & Johnson PLLC, Bridgeport, West Virginia, is hereby designated as bond counsel in connection with the issuance of the Series 2024 Notes and the Mayor is hereby authorized to execute and deliver such engagement letters as may be necessary to retain such firm for these services.

**Section 11.** The execution, delivery and due performance of the Lease are hereby in all respects approved, authorized, ratified and confirmed, including, without limitation, all acts heretofore taken in connection with the design, acquisition, construction and equipping of the Project; the issuance of the Series 2024 Notes and the leasing of the Facilities, and it is hereby ordered that the Mayor, the Recorder, the council members and other employees and officers of the City execute and deliver such other documents, certificates, agreements and instruments and take such other action as may be required or desirable to carry out the purposes of this Ordinance, the Series 2024 Notes and the aforesaid documents, certificates, agreements and instruments.

**Section 12.** All ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.


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**Section 13.** This Ordinance shall take effect immediately following the public hearing hereon and enactment on third and final reading.

First Reading: November 2, 2023


Second Reading and:  
Enactment following Public  
Hearing December 7, 2023

THE CITY OF BUCKHANNON

By:   
Its Mayor

CERTIFICATION

The undersigned, being the duly qualified, elected and acting Recorder of the City of Buckhannon do hereby certify that the foregoing Ordinance was duly adopted and enacted by the council of The City of Buckhannon at regular meetings duly held, pursuant to proper notice thereof, on November 2, 2023 and December 7, 2023, quorums being present and acting throughout, and which Ordinance has not been repealed, rescinded, modified, amended or revoked and is a true, correct and complete copy thereof as witness my hand and the seal of The City of Buckhannon this 12/7, 2023.

By:   
Recorder