

ORDINANCE NO. 2020-09

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF HEBER SPRINGS, ARKANSAS ON THE QUESTIONS OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF FINANCING AND REFINANCING THE COST OF CAPITAL IMPROVEMENTS; LEVYING A FIVE-EIGHTHS OF ONE PERCENT (0.625%) SALES AND USE TAX FOR THE PURPOSE OF RETIRING SUCH BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City Council of the City of Heber Springs, Arkansas (the "City") has determined that the City is greatly in need of the following capital improvements:

- (a) park and recreational facilities and improvements and any furnishings, equipment, utility adjustments and lighting, parking, landscaping, signage and drainage improvements related thereto (the "Park and Recreational Improvements");
- (b) drainage and flood control improvements and any equipment related thereto (the "Drainage Improvements");
- (c) renovations and improvements to the building located at 806 West Main Street that will be used as a municipal building containing city offices and a fire station and any furnishings, equipment, signage, parking and lighting improvements related thereto (the "Municipal Building Improvements");
- (d) improvements to existing streets and any sidewalks, lighting, utility adjustments and curb, gutter and drainage improvements related thereto and equipment for street purposes (the "Street Improvements");
- (e) equipment and apparatus for the fire department (the "Fire Department Improvements");
- (f) vehicles and equipment for the police department (the "Police Department Improvements");
- (g) streetscape improvements to the downtown area, including any street, curb, gutter and drainage improvements, lighting, utility adjustments, sidewalks, landscaping, traffic signals and related beautification improvements (the "Streetscape Improvements");
- (h) new, or improvements to existing, sidewalks and any utility adjustments and drainage improvements related thereto (the "Sidewalk Improvements"); and
- (i) renovations and improvements to the terminal building at the Municipal Airport and any furnishings and equipment related thereto (the "Airport Improvements"); and

WHEREAS, pursuant to a special election held March 14, 2006, the City issued its Sales and Use Tax Bonds, Series 2006 (the "2006 Bonds"); and

WHEREAS, the 2006 Bonds were refunded by the City's Sales and Use Tax Refunding Bonds, Series 2015A (the "2015A Bonds") and Series 2015B (the "2015B Bonds"); and

WHEREAS, the 2015B Bonds are no longer outstanding; and

WHEREAS, the 2015A Bonds are secured by and are payable from (a) collections of a 0.625% City-wide sales and use tax levied pursuant to Ordinance No. 2006-8 of the City adopted February 2, 2006 (the "2006 Tax") and (b) collections of a 0.375% City-wide sales and use tax levied pursuant to Ordinance No. 2006-6 of the City adopted February 2, 2006; and

WHEREAS, the City Council has determined that the Park and Recreational Improvements, the Drainage Improvements, the Municipal Building Improvements, the Street Improvements, the Fire Department Improvements, the Police Department Improvements, the Streetscape Improvements, the Sidewalk Improvements and the Airport Improvements (collectively, the "Capital Improvements") can be financed without a tax increase if the 2015A Bonds are refunded; and

WHEREAS, the City Council proposes to finance all or a portion of the costs of the refunding of the 2015A Bonds (the "Refunding") and the Capital Improvements by the issuance of capital improvement bonds (the "Bonds") under the authority of Amendment No. 62 to the Constitution of the State of Arkansas ("Amendment 62") and Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation"), allocated as follows:

- (a) \$4,265,000 in maximum principal amount for the Park and Recreational Improvements;
- (b) \$3,360,000 in maximum principal amount for the Drainage Improvements;
- (c) \$1,655,000 in maximum principal amount for the Municipal Building Improvements;
- (d) \$860,000 in maximum principal amount for the Street Improvements;
- (e) \$485,000 in maximum principal amount for the Fire Department Improvements;
- (f) \$435,000 in maximum principal amount for the Police Department Improvements;
- (g) \$375,000 in maximum principal amount for the Streetscape Improvements;



- (h) \$325,000 in maximum principal amount for the Sidewalk Improvements;
- (i) \$170,000 in maximum principal amount for the Airport Improvements; and
- (j) \$7,960,000 in maximum principal amount for the Refunding; and

WHEREAS, the City can pay the principal of and interest on the Bonds from the proceeds of a City-wide 0.625% sales and use tax to be levied under the authority of the Authorizing Legislation that will replace the 2006 Tax; and

WHEREAS, the purpose of this Ordinance is to submit to the electors of the City the questions of issuing the Bonds for the Capital Improvements and for the Refunding under Amendment 62 and the Authorizing Legislation at a special election to be called for that purpose and to replace the 2006 Tax with the levy of a sales and use tax at the rate of five-eighths of one percent (0.625%) on the receipts from the sales at retail within the City of all items which are subject to taxation under the Arkansas Gross Receipts Act of 1941, as amended (A.C.A. §§26-52-101, et seq.), and the receipts from storing, using, distributing or consuming within the City tangible personal property under the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §§26-53-101, et seq.) (collectively, the "2021 Tax" or the "Sales and Use Tax");

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

Section 1. There is hereby called a special election to be held on March 9, 2021, at which election there shall be submitted to the electors of the City the questions of issuing the Bonds under Amendment 62 and the Authorizing Legislation to pay all or a portion of the costs of accomplishing the Refunding and the Capital Improvements in the maximum principal amounts described above, to be payable from collections of the Sales and Use Tax remaining after deduction of the administrative charges of the State of Arkansas and required rebates.

Section 2. In order to provide for the payment of the principal of and interest on the Bonds and all obligations of the City in connection therewith, there is hereby levied the Sales and Use Tax to replace the 2006 Tax. The levy of the Sales and Use Tax shall not become effective until the special election called in Section 1 above has been held and the issuance of the Bonds for one or more of the purposes is approved by the voters; provided, however, that no Bonds will be issued unless the issuance of the Bonds for the Refunding is approved. The effective date of the 2021 Tax will be the day following the date the 2006 Tax expires. The Sales and Use Tax shall be levied and collected on the gross receipts, gross proceeds or sales price in the maximum amount allowed from time to time by Arkansas law, subject to rebates and limitations as from time to time required by Arkansas statutes for certain single transactions.

Section 3. The questions of issuing the Bonds shall be placed on the ballot for the election in substantially the following form:



If the bonds for one or more of the purposes are approved and one of such purposes is the Refunding Bonds, the existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds will be replaced by the levy of a 0.625% sales and use tax, the net collections of which remaining after deduction of the administrative charges of the State of Arkansas and required rebates, will be used solely to retire the bonds and obligations of the City with respect thereto. The effective date of the replacement tax will be the day following the date the existing tax expires. The rate of taxation will be 0.625% even if bonds for more than one purpose are approved. No bonds will be issued for any purpose unless the Refunding Bonds are also approved. The 0.625% sales and use tax will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes. The bonds described below that are approved may be combined into a single issue or may be issued in series from time to time.

#### REFUNDING BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$7,960,000 for the purpose of refunding the City's outstanding Sales and Use Tax Refunding Bonds, Series 2015A and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐

#### PARK AND RECREATIONAL IMPROVEMENT BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$4,265,000 for the purpose of financing all or a portion of the costs of park and recreational facilities and improvements and any furnishings, equipment, utility adjustments and lighting, parking, landscaping, signage and drainage improvements related thereto and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐

#### DRAINAGE IMPROVEMENT BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$3,360,000 for the purpose of financing all or a portion of the costs of drainage and flood control improvements and any equipment related thereto and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐

#### MUNICIPAL BUILDING IMPROVEMENT BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$1,655,000 for the purpose of financing all or a portion of the costs of renovations and improvements to the building located at 806 West Main Street that will be used as a municipal building containing city offices and a fire station and any furnishings, equipment, signage, parking and lighting improvements related thereto and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐

#### STREET IMPROVEMENT BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$860,000 for the purpose of financing all or a portion of the costs of improvements to existing streets and any sidewalks, lighting, utility adjustments and curb, gutter and drainage improvements related thereto and equipment for street purposes and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐

#### FIRE DEPARTMENT IMPROVEMENT BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$485,000 for the purpose of financing all or a portion of the costs of equipment and apparatus for the fire department and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐



### POLICE DEPARTMENT IMPROVEMENT BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$435,000 for the purpose of financing all or a portion of the costs of vehicles and equipment for the police department and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐

### STREETSCAPE IMPROVEMENT BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$375,000 for the purpose of financing all or a portion of the costs of streetscape improvements to the downtown area, including any street, curb, gutter and drainage improvements, lighting, utility adjustments, sidewalks, landscaping, traffic signals and related beautification improvements and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐

### SIDEWALK IMPROVEMENT BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$325,000 for the purpose of financing all or a portion of the costs of new, or improvements to existing, sidewalks and any utility adjustments and drainage improvements related thereto and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐

## AIRPORT IMPROVEMENT BONDS

Bonds of the City of Heber Springs in the maximum principal amount of \$170,000 for the purpose of financing all or a portion of the costs of renovations and improvements to the terminal building at the Municipal Airport and any furnishings and equipment related thereto and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the City, which will replace an existing 0.625% sales and use tax levied in 2006 for the sole purpose of retiring bonds.

FOR..... ☐

AGAINST ..... ☐

Section 4. The election shall be held and conducted and the vote canvassed and the results declared under the law and in the manner now provided for municipal elections unless otherwise provided in the Authorizing Legislation and only qualified voters of the City shall have the right to vote at the election.

Section 5. The results of the election shall be proclaimed by the Mayor, and his Proclamation shall be published one time in a newspaper having a general circulation in the City, which Proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty days after the date of publication.

Section 6. A copy of this Ordinance shall be (a) filed with the Cleburne County Clerk at least 60 days prior to the election date and (b) given to the Cleburne County Board of Election Commissioners so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance shall also be provided to the Commissioner of Revenues of the State of Arkansas as soon as practical.

Section 7. 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 call and hold the special election as herein provided and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

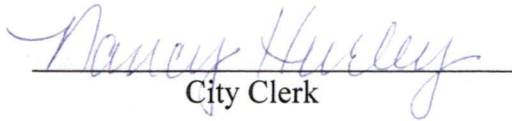
Section 8. When provision has been made for the retirement of the 2015A Bonds as a result of the issuance of the Bonds for the Refunding or otherwise, the 2006 Tax shall be abolished at the proper time so that the 2006 Tax and the 2021 Tax are not in effect at the same time. Collections of the 2006 Tax received after the date the Bonds are issued shall be used, if necessary or appropriate, to provide for the payment of the Bonds.

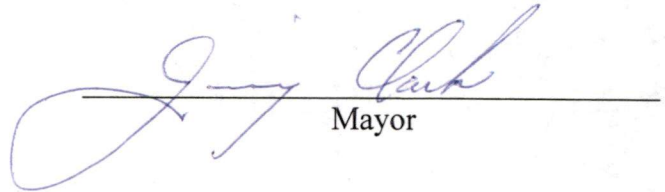
Section 9. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: December 17, 2020.

APPROVED:

ATTEST:

  
City Clerk

  
Mayor

(SEAL)

FILED

2020 DEC 18 PM 1:10

RACHELLE EVANS  
CLEBURNE COUNTY CLERK



## CERTIFICATE

The undersigned, City Clerk of Heber Springs, Arkansas hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2020-09, passed at a regular session of the City Council of Heber Springs, Arkansas, held at 6:00 o'clock p.m., on the 17th day of December, 2020, and that the Ordinance is of record in Ordinance Record Book No. \_\_\_\_\_, Page \_\_\_\_\_ now in my possession.

GIVEN under my hand and seal this 17th day of December, 2020.

Nancy Hurley  
City Clerk

(SEAL)

FILED

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RACHELLE EVANS  
CLEBURNE COUNTY CLERK