

TITLE 3

FISCAL AFFAIRS

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- 3.08 Sales and Use Taxes
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CHAPTER 3.04

PURCHASES

Sections:

- 3.04.01 Twenty Thousand Dollars (\$20,000.00) or under
- 3.04.02 Over Twenty Thousand Dollars (\$20,000.00)
- 3.04.03 Approval of payments
- 3.04.04 Sale or exchange of supplies, materials or equipment valued at less than Five Thousand Dollars (\$5,000.00)
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3.04.01 Twenty Thousand Dollars (\$20,000.00) or under The Mayor or his duly authorized representative, shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials and other things requisite for public purposes for the city of Heber Springs and to make all necessary contracts for work or labor to be done or material or other necessary things to be finished for the benefit of the city, or in carrying out any work or undertaking of a public nature therein. Provided, however, all expenditures exceeding the sum of Ten Thousand Dollars (\$10,000.00) for any single item or project shall have the prior approval of the City Council. Specifically exempted from this limitation of the Mayor's spending authority are the following items, the payment of which shall be provided for in the calendar year budget of the city: payroll and payroll taxes, all insurance benefit items for city employees, all insurance premiums, workers compensation premiums, all utilities, waste disposal, and capital expenditures purchased through participation in the state contract procedures in which bids have previously been taken by the state. (Ord. No. 2006-33, Sec. 1.)

3.04.02 Over Twenty Thousand Dollars (\$20,000.00). Where the amount of expenditure for any purpose or contract exceeds the sum of Twenty Thousand Dollars (\$20,000.00), the Mayor or his duly authorized representative shall invite competitive bidding thereon by legal advertisement in any local newspaper. Bids received pursuant to the advertisement shall be opened and read on the date set for receiving the bids in the presence of the Mayor or his duly authorized representative. The Mayor or his duly authorized representative shall have exclusive power to award the bid to the lowest responsible bidder, but may reject any and all bids received. The City Council, by ordinance, may waive the requirement of competitive bidding in exceptional situations where this procedure is deemed not feasible or practical. (Ord. No. 06-33, Sec. 2.)

3.04.03 Approval of payments. The Mayor or his duly authorized representative may approve for payment out of any funds previously appropriated for that purpose or disapprove any bills, debts or liabilities asserted as claims against the city when funds on hand are adequate to pay such bills, debts or liabilities. That the payment or disapproval of any bills, debts or liabilities not covered by a previous appropriation shall require confirmation of the governing body. (Ord. No. 398, Sec. 3)

3.04.04 Sale or exchange of supplies, materials or equipment valued at less than Five Thousand Dollars. That the Mayor or his duly authorized representative may sell or exchange any municipal supplies, materials or equipment without competitive bidding if such supplies, materials or equipment have a value of less than Five Thousand Dollars (\$5,000.00). That no supplies, materials or equipment shall be sold without receiving competitive bids therefore if the value thereof exceeds the sum of Five Thousand Dollars (\$5,000.00); provided, however, if the Mayor shall certify in writing to the governing body that, in his opinion, the fair market value of such item or lot (to be disposed of in one (1) unit) is less than Five Thousand Dollars (\$5,000.00), the same may be sold by the Mayor without competitive bidding. (Ord. No. 398, Sec. 4)

3.04.05 Conduct of business with officials. The Mayor and City Councilmen may conduct business with the city as authorized by Act 485 of 1981, under the following conditions:

- A. The purchases under Five Thousand Dollars (\$5,000.00) in value and comparable merchandise or equipment at comparable prices is not otherwise available within the city.
- B. Cost of the services under Five Thousand Dollars (\$5,000.00) in value and comparable services or comparable values are not otherwise available within the city.. (Ord. No. 485, Sec. 1)

3.04.06 Purchases over \$5,000.00. On all purchases of supplies, equipment or services of more than Five Thousand Dollars (\$5,000.00), advertisement for bids must be taken unless the City Council shall by ordinance waive competitive bidding in exceptional situations where such procedure is deemed not feasible or practical. (Ord. No. 485, Sec. 2)

3.04.07 Electronic Fund Purchases

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- A. The Mayor or City Treasurer of the City of Heber Springs is hereby authorized and empowered to establish and use an electronic fund payment system from the City of Heber Springs bank accounts for direct payment of employee payroll and other City accounts payable. The City Treasurer shall be responsible for the keeping of finance records as required by Arkansas Code Section 14-59-105 and other applicable procedures.
- B. The accounts approved for electronic payment are Suddenlink, AT & T, Entergy, First Electric, Constellation, CenterPoint, American Fidelity, Blue Cross Blue Shield, State and Federal Agencies, Arkansas Municipal League, First Security credit card, and a Wal-Mart credit card. (Ord. No. 2018-05, Secs. 1-2.)

3.04.08 Waive Bidding

That it is neither feasible nor practical for the City to adhere to the requirements of closed competitive bidding to accomplish the immediate repair of the shade fabric at the municipal ball fields. (Ord. No. 2018-02, Sec. 2)

That, pursuant to Arkansas Code Annotated 14-58-303(b)(2)(B), the requirements of Arkansas Code Annotated Section 14-58-303(b)(2)(A)(i) are hereby waived. (Ord. No. 2018-02, Sec. 3)

That the Mayor or his agent is authorized to accept the estimate attached hereto and contract with Wayne Davis OBA DAVIS PLAYGROUNDS to promptly perform the necessary replacement and repairs to the shade fabric at the municipal ball fields for an amount not to exceed \$29,000. (Ord. No. 2018-02, Sec. 4)

CHAPTER 3.08

SALES AND USE TAXES

Sections:

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| 3.08.01 | One percent (1%) tax |
| 3.08.02 | Single transaction defined |
| 3.08.03 | Repeal of conflicting ordinances |
| 3.08.04 | Tax not effective until approved by voters |

3.08.01 One percent (1%) tax Under the authority of the Authorizing Legislation, there is hereby levied a one percent (1%) tax on the gross receipts from the sale at retail within the city of all items which are subject to the Arkansas Gross Receipts Tax Act of 1941, as amended (A.C.A. 26-52-101, et seq.), and the imposition of an excise (or use) tax on the storage, use or other consumption within the city of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. 26-53-101, et seq.), at a rate of one percent (1%) of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use Tax shall be levied and collected only to a maximum tax of Twenty-Five Dollars (\$25.00) for each single transaction. (Ord. No. 92-13, Sec. 1)

3.08.02 Single transaction defined The term "single transaction" shall be defined according to the nature of the goods purchased, as follows:

- A. When two (2) or more devices in which, upon which, or by which any person or property is, or may be, transported or drawn, including but not limited to on-road vehicles, whether required to be licensed or not, off-road vehicles, farm vehicles, airplanes, water vessels, motor vehicles, or non-motorized vehicles, and mobile homes, are sold to a person by a seller, each individual unit, whether part of a "fleet" sale or not, shall be treated as a single transaction for the purpose of the Sales and Use Tax.
- B. The charges for utility services, which are subject to the city-wide gross receipts tax, and which are furnished on a continuous service basis, whether such services are paid daily, weekly, monthly or annually, for the purpose of the Sales and Use Tax, shall be computed in daily increments, and each such daily charge increment shall be considered to be a single transaction for purposes of this chapter.
- C. For sales of building materials and supplies to contractors, builders or other persons, a single transaction for the purposes of the Sales and Use Tax, shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate gross receipts tax figure has been reported and remitted to the State.

- D. When two (2) or more items of major household appliances, commercial appliances, major equipment and machinery are sold, each individual unit shall be treated as a single transaction for the purpose of the Sales and Use Tax.
- E. For groceries, drug items, dry goods and other tangible personal property and/or services not otherwise expressly covered in this chapter, a single transaction shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate gross receipts tax figure has been reported and remitted to the State. (Ord. No. 92-13, Sec. 2)

3.08.03 Reveal of conflicting ordinances All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict. (Ord. No. 92-13, Sec. 3)

3.08.04 Tax not effective until approved by voters That this chapter shall not take effect until an election is held on the question of levying the Sales and Use Tax at which a majority of the electors voting on the question shall have approved the levy of the Sales and Use Tax. (Ord. No. 92-13, Sec. 4)

CHAPTER 3.12

HOTEL/MOTEL TAX

Sections:

- 3.12.01 Two percent (2%) tax levied
- 3.12.02 Tax collected in same manner as tax levied by Arkansas Gross Receipts Act
- 3.12.03 Uses for taxes collected

3.12.01 Two percent (2%) tax levied A tax of two percent (2%) is hereby levied on the gross receipts or gross proceeds received from the renting, leasing or otherwise furnishing of hotel, motel or short-term condominium rental Accommodations for sleeping, meeting or party room facilities for profit in the city of Heber Springs, Arkansas, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more. (Ord. No. 93-7, Sec. 1)

3.12.02 Tax collected in same manner as tax levied by Arkansas Gross Receipts Act

- A. The two percent (2%) tax described in this chapter hereof shall be paid by the persons, firms and corporations liable therefore and shall be collected by the City of Heber Springs (hereinafter the "City"), or by a designated agent of the City in the same manner and at the same time as the tax levied by the Arkansas Gross Receipts Act, A.C.A. 26-52-101, et. seq. (Ord. No. 93-8, Sec. 2)

- B. The person paying the tax shall pay and report said tax on forms provided by the City and as directed by the City. The rules, regulations, form of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act shall, so far as is practicable, be applicable with respect to the enforcement and collection of the tax described herein. However, the administration and enforcement and all actions shall be by, and in the name of, the City through the proper City officials or agents. (Ord. No. 93-8, Sec. 2)
- C. The tax levied by this chapter shall be collected from the purchaser or user of the accommodation or by the person selling or furnishing such accommodation. Such person shall pay to the City by the twentieth (20th) day of each month all collections of the tax for the preceding month, accompanied by reports on forms to be prescribed by the City. (Ord. No. 93-8, Sec. 2)

3.12.03 Uses for taxes collected

- A. All local taxes collected pursuant to this chapter shall be used for those purposes as authorized by Arkansas Code Annotated Sections 26-75-601 through 26-75-613 as amended.
- B. Provided further, however, that all local taxes levied as authorized in this chapter shall not be used for:
 - 1. General capital improvements within the City;
 - 2. The costs associated with the general operation of the City;
 - 3. General subsidy of any civic group or Chamber of Commerce, provided however, that the Commission may contract with such groups to provide actual services to the Commission that are connected with tourism events.
- C. The authorization and limitations contained in this chapter shall be reasonably construed so as to provide funds for promoting and encouraging tourism, while not authorizing such special revenue to be utilized for the expenditures that are normally paid for by the general revenues of the City. (Ord. No. 93-7, Sec. 4)

CHAPTER 3.16

CLAIMS FOR REFUNDS OF OVERPAYMENTS

Sections:

- 3.16.01 Applicable to city tax
- 3.16.02 Filing of claim
- 3.16.03 Time period
- 3.16.04 Written determination

3.16.01 Applicable to city tax This ordinance shall be known as the Heber Springs Claims for Refunds of Overpayments Ordinance, and shall apply to any city tax payable to the city of Heber Springs when such payments have been made in excess of the taxes lawfully due, subject to the requirements of this ordinance. (Ord. No. 04-12, Sec. 1.)

3.16.02 Filing of claim Any taxpayer who has paid any tax to the city, in excess of the taxes lawfully due, shall be refunded the overpayment of the tax determined by the Mayor to be erroneously paid upon the filing of a verified claim for refund.

The claim shall specify:

- A. Name of the taxpayer;
 - B. Time when and the period for which the tax was paid;
 - C. Nature and kind of tax paid;
 - D. Amount of the tax which the taxpayer claimed was erroneously paid;
 - E. Grounds upon which a refund is claimed; and
 - F. Any other information relative to the payment.
- (Ord. No. 04-12, Sec. 2.)

3.16.03 Time period The Mayor shall determine what amount of refund, if any is due as soon as practicable after a claim has been filed, but in no event shall a taxpayer be entitled to file a suit for refund until at least six (6) months have elapsed from the date of the filing of the claim for refund, or the Mayor has issued a notice of denial of a claim for refund. (Ord. No. 04-12, Sec. 3.)

3.16.04 Written determination The Mayor shall make a written determination and give notice to the taxpayer concerning whether or not a refund is due. If a refund is due, the Mayor shall certify to the Clerk/Treasurer and the City Council that the claim is to be paid. (Ord. No. 04-12, Sec. 4.)

CHAPTER 3.20

REVENUE BONDS

Sections:

- 3.20.01 Industrial Development Revenue Bond
- 3.20.02 Capital Improvement Revenue Bonds
- 3.20.03 Water and Sewer Refunding Revenue Bonds
- 3.20.04 Sales and Use Tax Refunding Bonds

3.20.01 Industrial Development Revenue Bond The issuance of the Bond in the principal amount of \$1,755,000 is hereby authorized. The Bond shall be designated "City of Heber Springs, Arkansas Industrial Development Revenue Bond (TIGG Corporation Project), Series 2009." The Bond shall bear interest at the rate of 4 $\frac{3}{4}$ % per annum and shall mature over a period of fifteen (15) years as recommended by the Company and set forth in the Bond Purchase Agreement. The Bond shall be issued in the form, shall be dated, and shall be subject to redemption prior to maturity all upon the terms and conditions recommended by the Company and set forth in the Bond Purchase Agreement. (Ord. No. 2009-8, Sec. 2.)

3.20.02 Capital Improvement Revenue Bonds Under the authority of the Constitution and laws of the state of Arkansas including particularly Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated, city of Heber Springs, Arkansas Capital Improvement Revenue Bonds, Series 2010 are hereby authorized and ordered issued in the principal amount of \$825,000 for the purpose of financing a portion of the costs of accomplishing the improvements and paying necessary expenses incidental thereto and to the authorization and issuance of the bonds. The bonds shall mature on June 1 in the years and in the amounts and shall bear interest. The bonds shall be dated the date of delivery and shall be issuable only as fully registered bonds without coupons. (Ord. No. 2010-7, Sec. 2.)

- **Ord. No. 2020-09** Calling a special election in the City of Heber Springs, Arkansas on the question 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-eighth of one percent (0.625%) sales and use tax for the purpose of retiring such bonds; and prescribing other matters pertaining thereto.

3.20.03 Water and Sewer Refunding Revenue Bonds Under the authority of the Constitution and laws of the state of Arkansas including particularly Title 14, Chapter 234, Subchapter 2, Title 14, Chapter 235, subchapter 2, and Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated and applicable decisions of the Supreme Court of the State, including particularly City of Harrison v. Braswell, 209 Ark. 1094, 194 S.W. 2d 12 (1946), city of Heber Springs, Arkansas Water and Sewer Refunding Revenue Bonds, Series 2010 are hereby

authorized and ordered issued in the principal amount of \$5,135,000 for the purpose of financing all or a portion of the costs of the Refunding, funding a debt service reserve and paying expenses of issuing the bonds. The bonds shall mature on May 1 in the years and in the amounts and shall bear interest. The bonds shall be dated September 1, 2010 and shall be issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. (Ord. No. 2010-19, Sec. 6.)

- **Ord. No. 2019-07**-The City Council of the City of Heber Springs, Arkansas (the "City") has authorized the issuance of the City's Water and Sewer Revenue Bonds, Series 2019 (the "Bonds") in the maximum aggregate principal amount of \$16,750,000 for the purpose of financing all or a portion of the costs of betterments and improvements to the City's water and sewer system (the "Improvements"); and the City has made arrangements for the sale of \$15,495,000 in aggregate principal amount of the Bonds to Crews & Associates, Inc. (the "Purchaser"), pursuant to a Bond Purchase Agreement between the Purchaser and the City (the "Purchase Agreement"), the form of which has been approved by Ordinance No. 2019-07; and the Bonds have been offered and sold within the parameters and conditions set by Ordinance No. 2019-07;

The sale of \$15,495,000 in principal amount of the Bonds to the Purchaser at a price of \$15,556,429 (principal amount less \$154,950 of Underwriter's discount plus \$216,379 of net original issue premium) pursuant to the Purchase Agreement is hereby ratified and confirmed. (Ord. No. 2019-09, Sec. 1)

3.20.04 Sales and Use Tax Refunding Bonds Under the authority of the Constitution and laws of the State, including particularly Amendment No. 62 to the Constitution of the State and the Authorizing Legislation, (a) the Series 2015A Bonds are hereby authorized and ordered issued in the total principal amount of \$9,290,000, the proceeds of the sale of which are necessary to provide funds for advance refunding a portion of the Bonds Refunded, paying a portion of the premium for the Insurance Policy, paying a portion of the premium for the Reserve Policy and paying expenses of issuing the Series 2015A Bonds and (b) the Series 2015B Bonds are hereby authorized and ordered issued in the total principal amount of \$1,650,000, the proceeds of the sale of which are necessary to provide funds for advance refunding a portion of the Bonds Refunded, paying a portion of the premium for the Insurance Policy, paying a portion of the premium for the Reserve Policy and paying expenses of issuing the Series 2015B Bonds.

• **Ord. No. 2019-07**-The City Council of the City of Heber Springs, Arkansas (the "City") has authorized the issuance of the City's Water and Sewer Revenue Bonds, Series 2019 (the "Bonds") in the maximum aggregate principal amount of \$16,750,000 for the purpose of financing all or a portion of the costs of betterments and improvements to the City's water and sewer system (the "Improvements"); and the City has made arrangements for the sale of \$15,495,000 in aggregate principal amount of the Bonds to Crews & Associates, Inc. (the "Purchaser"), pursuant to a Bond Purchase Agreement between the Purchaser and the City (the "Purchase Agreement"), the form of which has been approved by Ordinance No. 2019-07; and the Bonds have been offered and sold within the parameters and conditions set by Ordinance No. 2019-07;

The sale of \$15,495,000 in principal amount of the Bonds to the Purchaser at a price of \$15,556,429 (principal amount less \$154,950 of Underwriter's discount plus \$216,379 of net original issue premium) pursuant to the Purchase Agreement is hereby ratified and confirmed. (Ord. No. 2019-09, Sec. 1)

3.20.04 Sales and Use Tax Refunding Bonds Under the authority of the Constitution and laws of the State, including particularly Amendment No. 62 to the Constitution of the State and the Authorizing Legislation, (a) the Series 2015A Bonds are hereby authorized and ordered issued in the total principal amount of \$9,290,000, the proceeds of the sale of which are necessary to provide funds for advance refunding a portion of the Bonds Refunded, paying a portion of the premium for the Insurance Policy, paying a portion of the premium for the Reserve Policy and paying expenses of issuing the Series 2015A Bonds and (b) the Series 2015B Bonds are hereby authorized and ordered issued in the total principal amount of \$1,650,000, the proceeds of the sale of which are necessary to provide funds for advance refunding a portion of the Bonds Refunded, paying a portion of the premium for the Insurance Policy, paying a portion of the premium for the Reserve Policy and paying expenses of issuing the Series 2015B Bonds.

CHAPTER 3.24COUNCILMEMBERS DOING BUSINESS WITH CITYSections:

- 3.24.01 Business with the city
- 3.24.02 Bids
- 3.24.03 Hurley Lawn Service

3.24.01 Business with the city The Mayor, Aldermen and those city employees designated as a Department Head for the city of Heber Springs may conduct business with the city, pursuant to this ordinance and in accordance with A.C.A. 14-42-107(b)(1), under the following conditions:

- A. The purchase is for supplies, equipment, or merchandise that is less than Seven Thousand Five Hundred Dollars (\$7,500.00) in value and comparable supplies, equipment, or merchandise is not otherwise available within the city at comparable prices.
- B. The cost of the service is less than Seven Thousand Five Hundred Dollars (\$7,500.00) in value and a comparable service is not otherwise available within the city at comparable prices. (Ord. No. 2010-1, Sec. 1.)

3.24.02 Bids On all purchases of supplies, equipment, merchandise, or services of Seven Thousand Five Hundred Dollars (\$7,500.00) or more, advertisement for bids must be taken unless the City Council shall be ordinance waive competitive bidding in exceptional situations where such procedure is deemed not feasible or practical. (Ord. No. 2010-1, Sec. 2.)

3.24.03 Hurley Lawn Service

- A. Hurley Lawn Service, through a sealed bid process submitted the lowest bid to provide lawn services to the city of Heber Springs Municipal Airport.
- B. Craig Hurley, owner and operator of Hurley Lawn Service, is married to City Treasurer, Nancy Hurley.
- C. To comply with A.C.A. 14-42-107, the City Council hereby authorizes the city to contract with Hurley Lawn Service despite any indirect benefit City Treasurer, Nancy Hurley, may derive from said contract.

- D. With this authorization, the city may conduct business with Hurley Lawn Service, pursuant to this ordinance and in accordance with A.C.A. 14-42-107(b)(1) under the following conditions: The contract is limited to that which was contemplated by the sealed bid offer and acceptance process submitted and approved related to the service of lawn care for the Heber Springs Municipal Airport for the one (1) year period. (Ord. No. 2010-21, Secs. 1-4.)
- E. The authority granted herein to the Mayor to conduct business with Craig Hurley shall be limited in scope and time to yard and lawn care services for municipal properties from and after September, 2011. (Ord. No. 2012-9, Sec. 3.)