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ORDINANCE NO. 5807

2023 FEB 21 PM 2:06

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF SPRINGDALE, ARKANSAS ON THE QUESTIONS OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF REFINANCING AND FINANCING THE COST OF CAPITAL IMPROVEMENTS; LEVYING A ONE PERCENT (1%) SALES AND USE TAX FOR THE PURPOSE OF RETIRING SUCH BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

BELL  
CLERK  
TY. AP

WHEREAS, the City Council of the City of Springdale, Arkansas (the "City") has determined that the City is greatly in need of the following capital improvements of a public nature:

(a) new, and improvements to existing, streets, roads, trails, bridges and sidewalks including particularly, without limitation, any curb, gutter, drainage, flood control and other related improvements, equipment and land acquisition to accomplish such improvements, and street lighting, utility adjustments and traffic signals related thereto (the "Street Improvements");

(b) park and recreational facilities and improvements including particularly, without limitation, upgrades to existing parks and a new recreation center, and any necessary land acquisition, equipment and parking, drainage, flood control, lighting, street and utility improvements therefor (the "Park and Recreational Improvements");

(c) facilities, equipment and apparatus for the City's fire department, including particularly, without limitation, a new fire station and training facilities, and any necessary land acquisition and parking, drainage, flood control, street, lighting and utility improvements therefor (the "Fire Department Improvements"); and

(d) a new senior center including necessary equipment, furniture, fixtures, land acquisition, drainage, flood control, street, utility and parking improvements therefor (the "Senior Center Improvements"); and

WHEREAS, the City has outstanding \$145,790,000 in principal amount of its Sales and Use Tax Refunding and Improvement Bonds, Series 2018 (the "Series 2018 Bonds") and \$43,685,000 in outstanding principal amount of its Sales and Use Tax Refunding Bonds, Taxable Series 2020 (the "Series 2020 Bonds"); and

WHEREAS, the Series 2018 Bonds, which financed and refinanced various capital improvements, are secured by and payable from collections of a 1% City-wide sales and

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use tax levied pursuant to Ordinance No. 5223 of the City adopted November 28, 2017 (the "2018 Tax"); and

WHEREAS, the 2018 Tax is levied and collected for the sole purpose of paying the Series 2018 Bonds; and

WHEREAS, the Series 2020 Bonds, which refinanced various capital improvements, are secured by and payable from the collections of a 1% City-wide sales and use tax levied pursuant to Ordinance No. 2082 of the City adopted March 13, 1992 (the "1992 Tax"); and

WHEREAS, the indebtedness represented by the Series 2020 Bonds can be paid and secured with collections of the 2023 Tax identified below; and

WHEREAS, the 1992 Tax was levied for general municipal purposes and will continue to be levied for general municipal purposes after the Series 2020 Bonds are retired; and

WHEREAS, the City Council has determined that it is essential that the Series 2018 Bonds be refunded to allow the Street Improvements, the Park and Recreational Improvements, the Fire Department Improvements and the Senior Center Improvements to be financed without a tax increase; and

WHEREAS, the City Council has further determined that the Series 2020 Bonds should be refunded in order that collections of the 1992 Tax be released from the pledge in favor of the Series 2020 Bonds and used entirely for general municipal purposes; and

WHEREAS, the City Council proposes to finance all or a portion of the costs of refunding the Series 2018 Bonds and the Series 2020 Bonds and accomplishing the Street Improvements, the Park and Recreational Improvements, the Fire Department Improvements and the Senior Center 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: \$135,000,000 in maximum principal amount for the Street Improvements; \$16,250,000 in maximum principal amount for the Park and Recreational Improvements; \$7,750,000 in maximum principal amount for Fire Department Improvements; \$16,250,000 in maximum principal amount for Senior Center Improvements; \$140,000,000 in maximum principal amount for the refunding of the Series 2018 Bonds; and \$45,000,000 in maximum principal amount for the refunding of the Series 2020 Bonds; and

WHEREAS, the City can pay the principal of and interest on the Bonds from the proceeds of a 1% sales and use tax to be levied under the authority of the Authorizing Legislation that will replace the 2018 Tax; and

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WHEREAS, the purpose of this Ordinance is to submit to the electors of the City the questions of issuing the Bonds under Amendment 62 and the Authorizing Legislation at a special election to be called for that purpose and to levy a replacement sales and use tax at the rate of 1% 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 "2023 Tax" or the "Sales and Use Tax");

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

Section 1. There be, and there is hereby called, a special election to be held on May 9, 2023, 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 refunding the Series 2018 Bonds and the Series 2020 Bonds and accomplishing the Street Improvements, the Park and Recreational Improvements, the Fire Department Improvements and the Senior Center Improvements in the maximum principal amounts described above, to be payable from collections of the Sales and Use Tax remaining after the State of Arkansas deducts its administrative charges 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. 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 of the Series 2018 Bonds is approved. The effective date of the 2023 Tax will be the day following the date the 2018 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 under Arkansas law, subject to rebates and limitations as required for certain single transactions as from time to time required by Arkansas statutes.

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

The bonds described below that are approved may be combined into a single issue or may be issued in series from time to time. If the bonds for one or more of the purposes are approved and one of such purposes is the Series 2018 Refunding Bonds, the City may cause to be levied a replacement 1% sales and use tax, the net collections of which remaining after the State of Arkansas deducts its administrative charges and required rebates, will be used solely to retire the bonds and obligations of the City with respect thereto. The tax will replace the City's existing 1% sales and use tax levied in 2018 for the sole purpose of retiring bonds. The effective date of the new tax will be the day following the date the existing tax expires. The rate of taxation will

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be 1% even if bonds for more than one purpose are approved. No bonds will be issued for any purpose unless the Series 2018 Refunding Bonds are also approved.

2018 FEB 21 PM 2:06  
BEISSY NASHALL  
COUNTY CLERK  
SPRINGDALE, AR

SERIES 2018 REFUNDING BONDS

An issue of bonds of the City of Springdale in the maximum aggregate principal amount of \$140,000,000 for the purpose of financing all or a portion of the costs of refunding the City's outstanding Sales and Use Tax Refunding and Improvement Bonds, Series 2018, professional fees related to the foregoing, the establishment of reserves, and bond issuance and any credit enhancement costs, and, in order to pay the bonds, the levy and pledge of a 1% local sales and use tax within the City that will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes.

FOR.....  
AGAINST.....

SERIES 2020 REFUNDING BONDS

An issue of bonds of the City of Springdale in the maximum aggregate principal amount of \$45,000,000 for the purpose of financing all or a portion of the costs of refunding the City's outstanding Sales and Use Tax Refunding Bonds, Taxable Series 2020, professional fees related to the foregoing, the establishment of reserves, and bond issuance and any credit enhancement costs, and, in order to pay the bonds, the levy and pledge of a 1% local sales and use tax within the City that will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes.

FOR.....  
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DEBY H. PHELPS  
GOVERNMENT CLERK  
CITY OF ARKANSAS

STREET IMPROVEMENT BONDS

An issue of bonds of the City of Springdale in the maximum aggregate principal amount of \$135,000,000 for the purpose of financing all or a portion of the costs of new, and improvements to existing, streets, roads, trails, bridges and sidewalks including particularly, without limitation, any curb, gutter, drainage, flood control and other related improvements, equipment and land acquisition to accomplish such improvements, and street lighting, utility adjustments and traffic signals related thereto, professional fees related to any of the foregoing, the establishment of reserves, and bond issuance and any credit enhancement costs, and, in order to pay the bonds, the levy and pledge of a new 1% local sales and use tax within the City that will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes.

FOR.....  
AGAINST.....

PARK AND RECREATIONAL IMPROVEMENT BONDS

An issue of bonds of the City of Springdale in the maximum aggregate principal amount of \$16,250,000 for the purpose of financing all or a portion of the costs of park and recreational facilities and improvements including particularly, without limitation, upgrades to existing parks and a new recreation center, and any necessary land acquisition, equipment and parking, drainage, flood control, lighting, street and utility improvements therefor, professional fees related to any of the foregoing, the establishment of reserves, and bond issuance and any credit enhancement costs, and, in order to pay the bonds, the levy and pledge of a new 1% local sales and use tax within the City that will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes.

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FIRE DEPARTMENT IMPROVEMENT BONDS

An issue of bonds of the City of Springdale in the maximum aggregate principal amount of \$7,750,000 for the purpose of financing all or a portion of the costs of facilities, equipment and apparatus for the City's fire department, including particularly, without limitation, a new fire station and training facilities, and any necessary land acquisition and parking, drainage, flood control, street, lighting and utility improvements therefor, professional fees related to any of the foregoing, the establishment of reserves, and bond issuance and any credit enhancement costs, and, in order to pay the bonds, the levy and pledge of a new 1% local sales and use tax within the City that will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes.

HARNELL  
CLERK  
CITY OF AR

FOR.....  
AGAINST.....

SENIOR CENTER IMPROVEMENT BONDS

An issue of bonds of the City of Springdale in the maximum aggregate principal amount of \$16,250,000 for the purpose of financing all or a portion of the costs of a new senior center including necessary equipment, furniture, fixtures, land acquisition, drainage, flood control, street, utility and parking improvements therefor, professional fees related to any of the foregoing, the establishment of reserves, and bond issuance and any credit enhancement costs, and, in order to pay the bonds, the levy and pledge of a new 1% local sales and use tax within the City that will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes.

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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.

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Y. AR

Section 6. A copy of this Ordinance shall be (a) filed with the Benton and Washington County Clerks at least 70 days prior to the election date and (b) given to the Benton and Washington County Boards 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, be and they are hereby authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the issuance of the Bonds is approved by the electors, to cause the Sales and Use Tax to be collected in accordance with the Authorizing Legislation, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Section 8. If the Bonds for the refunding of the Series 2018 Bonds are approved by the voters and if such Bonds are issued, the 2018 Tax shall be abolished at the proper time so that the 2023 Tax and the 2018 Tax are not in effect at the same time. Collections of the 2018 Tax received after the Bonds are issued shall be used, if necessary or appropriate, to provide for the payment of the Bonds.

Section 9. If any Bonds are approved and issued, the City intends to negotiate with Crews & Associates, Inc. and Stephens Inc., which have assisted the City in preparation of the Bond size and repayment structure, for the sale of the Bonds that may be issued from time to time.

Section 10. The provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

Section 11. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: February 14, 2023.

ATTEST:

Denise Pearce  
City Clerk

APPROVED:

Doug Swans  
Mayor

(SEAL)

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CERTIFICATE

The undersigned, City Clerk of Springdale, Arkansas hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 5807, passed at a regular session of the City Council of Springdale, Arkansas, held at the regular meeting place of the City Council at 6:00 o'clock p.m., on the 14th day of February, 2023, and that the Ordinance is of record in Ordinance Record Book No. 22, now in my possession.

GIVEN under my hand and seal this 14th day of February, 2023.



Denise Pearce  
City Clerk