

**ORDINANCE NO. 21-870**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$13,450,000 OF THE CITY'S SALES AND USE TAX CAPITAL IMPROVEMENT AND REFUNDING BONDS, SERIES 2021, FOR THE PURPOSE OF (1) FINANCING ALL OR A PORTION OF THE COSTS OF VARIOUS PARKS AND RECREATION FACILITIES AND IMPROVEMENTS WITHIN THE CITY AND (2) REFUNDING THE CITY'S OUTSTANDING SALES AND USE TAX CAPITAL IMPROVEMENT BONDS, SERIES 2011 AND SERIES 2012; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE PURSUANT TO WHICH THE SERIES 2021 BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT PURSUANT TO WHICH THE SERIES 2021 BONDS WILL BE OFFERED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE SERIES 2021 BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City Council of the City of Clarksville, Arkansas (the "City") has previously determined that there is a critical need for a source of revenue to finance various parks and recreation facilities and improvements (the "Project") within the City; and

**WHEREAS**, the City Council has further determined that revenues can be obtained to finance all or a portion of the costs of the Project by restructuring the City's existing indebtedness secured by sales and use tax receipts through the refunding of the Prior Bonds (defined below) and the rededication of said sales and use tax receipts to new bonded indebtedness; and

**WHEREAS**, the City is authorized and empowered under the provisions of the Constitution and laws of the State of Arkansas, including particularly Amendment 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 (as from time to time amended, the "Local Government Bond Act"), to issue and sell its capital improvement bonds to finance and refinance the costs of various capital improvements such as those comprising the Project, which capital improvement bonds may be secured by and payable from the receipts of the city-wide sales and use taxes authorized by the Local Government Bond Act and by Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (as from time to time amended, the "Municipal Sales and Use Tax Act"); and

**WHEREAS**, pursuant to such authority, the City has previously issued and there are presently outstanding (i) its Sales and Use Tax Capital Improvement Bonds, Series 2011, in the aggregate principal amount of \$2,530,000, and (ii) its Sales and Use Tax Capital Improvement

Bonds, Series 2012, in the aggregate principal amount of \$3,670,000 (collectively, the “Prior Bonds”); and

**WHEREAS**, pursuant to the provisions of Amendment 62 and the Local Government Bond Act and pursuant to Ordinance No. 21-866 of the City, adopted and approved on May 10, 2021 (the “Election Ordinance”), there was submitted to the qualified electors of the City the questions of (i) the issuance of not to exceed \$4,950,000 in principal amount of refunding bonds for the purpose of redeeming the Prior Bonds, and (ii) the issuance of not to exceed \$8,500,000 in principal amount of capital improvement bonds for the purpose of financing the Project, said bonds to be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of three-quarters of one percent (0.75%) levied by the Election Ordinance pursuant to the Local Government Bond Act (the “Special Sales and Use Tax”) and, to the extent needed to pay scheduled debt service on the bonds after application of the receipts of the Special Sales and Use Tax, a pledge of and lien upon all of the receipts of an existing general citywide sales and use tax at the rate of one-quarter of one percent (0.25%) previously levied under the provisions of the Municipal General Sales and Use Tax Act (the “General Sales and Use Tax”); and

**WHEREAS**, at a special election held August 10, 2021, a majority of the qualified electors of the City voting on the aforementioned questions approved the issuance of the refunding bonds and the capital improvement bonds (and the corresponding levy of the Special Sales and Use Tax and the pledge of the receipts of the General Sales and Use Tax and the Special Sales and Use Tax to the payment of the bonds); and

**WHEREAS**, as authorized under the provisions of Amendment 62 and the Local Government Bond Act, and as approved by the qualified electors of the City, the City has now determined to issue and sell its Sales and Use Tax Capital Improvement and Refunding Bonds, Series 2021 (the “Series 2021 Bonds”), in the aggregate principal amount of not to exceed \$13,450,000 in order to provide for the funding of all or a portion of the costs of the project and to provide for the redemption of the Prior Bonds; and

**WHEREAS**, as authorized by the provisions of the Election Ordinance, the City has previously made arrangements for the sale of the Series 2021 Bonds to Crews & Associates, Inc. (the “Underwriter”), pursuant to the terms of a Bond Purchase Agreement between the City and the Underwriter (the “Bond Purchase Agreement”) in substantially the form presented to and before this meeting;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Clarksville, Arkansas that:

**Section 1.** Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 62 to the Constitution of the State of Arkansas and the Local Government Bond Act:

(a) There is hereby authorized the issuance of bonds of the City to be designated as “Sales and Use Tax Capital Improvement and Refunding Bonds, Series 2021” (the “Series 2021 Bonds”). The Series 2021 Bonds shall be issued in the original aggregate principal amount of

not to exceed Thirteen Million Four Hundred Fifty Thousand Dollars (\$13,450,000) and shall mature not later than July 1, 2033, in the principal amounts and bearing interest at the rates to be specified in the Bond Purchase Agreement.

(b) The proceeds of the Series 2021 Bonds will be utilized to finance all or a portion of the costs of the Project, to redeem the Prior Bonds, to establish a debt service reserve or to purchase a surety bond for the purpose of satisfying all or a portion of the debt service reserve requirement, to pay a premium for bond insurance, if deemed economically beneficial, and to pay printing, underwriting, legal and other expenses incidental to the issuance of the Series 2021 Bonds.

(c) The true interest cost of the Series 2021 Bonds shall not exceed 2.25%. The Series 2021 Bonds shall be issued in the forms and denominations, shall be dated, shall be numbered, shall mature, shall be subject to redemption prior to maturity, and shall contain such other terms, covenants and conditions, all as set forth in the Trust Indenture submitted to this meeting.

(d) The Mayor is hereby authorized and directed to execute and deliver the Series 2021 Bonds in substantially the form thereof contained in the Trust Indenture submitted to this meeting, and the City Clerk is hereby authorized and directed to execute and deliver the Series 2021 Bonds and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Series 2021 Bonds to be accepted and authenticated by Simmons Bank, Pine Bluff, Arkansas, as trustee (the "Trustee"). The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Kutak Rock LLP, Little Rock, Arkansas ("Bond Counsel"), in order to complete the Series 2021 Bonds in substantially the form thereof contained in the Trust Indenture submitted to this meeting, with such changes as shall be approved by such persons executing the Series 2021 Bonds, their execution to constitute conclusive evidence of such approval.

**Section 2.** In order to pay the principal of and interest on the Series 2021 Bonds as they mature or are called for redemption prior to maturity, there is hereby pledged all receipts of the Special Sales and Use Tax and the General Sales and Use Tax. Receipts of the General Sales and Use Tax shall be utilized to pay scheduled debt service on the Series 2021 Bonds only to the extent needed after application of receipts of the Special Sales and Use Tax for such purpose. The levy and collection of the General Sales and Use Tax is ongoing. The levy and collection of the Special Sales and Use Tax replaces the levy and collection of a prior three-quarters of one percent (0.75%) sales and use shall tax and shall commence on the date provided in the Local Government Bond Act. The levy and collection of the Special Sales and Use Tax shall continue only until such time as the Series 2021 Bonds are no longer outstanding or sufficient funds are on deposit with the Trustee under the Trust Indenture to redeem the Series 2021 Bonds in full. The City covenants and agrees that all receipts from the Special Sales and Use Tax and the General Sales and Use Tax will be accounted for separately as special funds on the books of the City, and receipts of said Special Sales and Use Tax and General Sales and Use Tax will be deposited and will be used solely as provided in the Trust Indenture.

**Section 3.** To prescribe the terms and conditions upon which the Series 2021 Bonds are to be executed, authenticated, issued, accepted, held and secured, the Mayor is hereby

authorized and directed to execute and acknowledge a Trust Indenture (the "Trust Indenture") by and between the City and the Trustee, and the City Clerk is hereby authorized and directed to execute and acknowledge the Trust Indenture and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the Trust Indenture to be accepted, executed and acknowledged by the Trustee. The Trust Indenture is hereby approved in substantially the form submitted to this meeting, including, without limitation, the provisions thereof pertaining to the pledge of Special Sales and Use Tax receipts and General Sales and Use Tax receipts and the terms of the Series 2021 Bonds. The Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Trust Indenture in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Trust Indenture, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Trust Indenture in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

**Section 4.** There is hereby authorized and approved a Preliminary Official Statement of the City, including the cover page and appendices attached thereto, relating to the Series 2021 Bonds. The Preliminary Official Statement is hereby "deemed final" by the City within the meaning of U.S. Securities and Exchange Commission Rule 15c2-12. The distribution of the Preliminary Official Statement is hereby approved. The Preliminary Official Statement, as amended to conform to the terms of the Bond Purchase Agreement, including Exhibit A thereto, and with such other changes and amendments as are mutually agreed to by the City and the Underwriter, is herein referred to as the "Official Statement," and the Mayor is hereby authorized to execute the Official Statement for and on behalf of the City. The Official Statement is hereby approved in substantially the form of the Preliminary Official Statement submitted to this meeting, and the Mayor is hereby authorized to confer with the Trustee, the Underwriter and Bond Counsel in order to complete the Official Statement in substantially the form of the Preliminary Official Statement submitted to this meeting, with such changes as shall be approved by such persons, the Mayor's execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Preliminary Official Statement is on file with the City Clerk and is available for inspection by any interested person.)

**Section 5.** In order to prescribe the terms and conditions upon which the Series 2021 Bonds are to be sold to the Underwriter, the Mayor is hereby authorized and directed to execute a Bond Purchase Agreement on behalf of the City, to be dated as of the date of its execution (the "Bond Purchase Agreement"), and the Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting. The Mayor is hereby authorized to confer with the Underwriter and Bond Counsel in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Bond Purchase Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Bond Purchase Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

**Section 6.** In order to provide for continuing disclosure of certain financial and operating information with respect to the Special Sales and Use Tax, the General Sales and Use Tax and the City in compliance with the provisions of Rule 15c2-12 of the U. S. Securities and Exchange Commission, the Mayor is hereby authorized and directed to execute a Continuing Disclosure Agreement to be dated as of the date of its execution (the “Continuing Disclosure Agreement”), by and between the City and Simmons Bank, Pine Bluff, Arkansas, as dissemination agent (the “Dissemination Agent”), and the Mayor is hereby authorized and directed to cause the Continuing Disclosure Agreement to be executed by the Dissemination Agent. The Continuing Disclosure Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Dissemination Agent, the Underwriter and Bond Counsel in order to complete the Continuing Disclosure Agreement in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the Continuing Disclosure Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Continuing Disclosure Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

**Section 7.** (a) In order to secure lower interest rates on the Series 2021 Bonds, the Underwriter has proposed that the City consider the purchase of a policy of bond insurance with a portion of the proceeds of the Series 2021 Bonds, which policy would guarantee the payment of the principal of and interest on the Series 2021 Bonds when due. If deemed economically advantageous by the Mayor, the Mayor is hereby authorized to execute an insurance commitment and to do any and all things necessary to accomplish the delivery of a bond insurance policy with respect to the Series 2021 Bonds.

(b) In order to enhance the amount of proceeds of the Series 2021 Bonds be available to pay costs of the Project and to refund the Prior Bonds, the Underwriter has proposed that the City consider the purchase of a surety bond with a portion of the proceeds of the Series 2021 Bonds, which surety bond would satisfy all or a portion of the funding requirements of the debt service reserve. If deemed economically advantageous by the Mayor, the Mayor is hereby authorized to execute a commitment and to do any and all things necessary to accomplish the delivery of a surety bond with respect to the debt service reserve for the Series 2021 Bonds.

**Section 8.** 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 effect the issuance, sale, execution and delivery of the Series 2021 Bonds and to effect the execution and delivery of the Trust Indenture, the Bond Purchase Agreement, the Official Statement, the Continuing Disclosure Agreement and any agreement or certificate relating to the tax exemption of interest on the Series 2021 Bonds, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City,

to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

**Section 9.** As previously provided in the Election Ordinance, Kutak Rock LLP, Little Rock, Arkansas, is hereby confirmed as Bond Counsel on behalf of the City in connection with the issuance and sale of the Series 2021 Bonds.

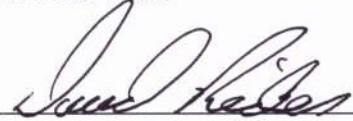
**Section 10.** The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

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

**Section 12.** The City Council hereby finds and determines that the City is in dire need of additional funds in order to acquire, construct and equip essential capital improvements, and that an appropriate way to provide such funds is by the issuance of bonds payable from sales and use tax revenues as authorized by Amendment 62, the Local Government Bond Act and the Municipal Sales and Use Tax Act; and that this ordinance should be given immediate effect so that such essential capital improvements may be accomplished as soon as possible. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the immediate preservation of the public health, safety and welfare shall be in full force and effect from and after its passage and approval.

ADOPTED AND APPROVED THIS 13th DAY OF SEPTEMBER, 2021.

APPROVED:



Mayor

ATTEST:



City Clerk

