

ORDINANCE NO. 2017-37

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF CENTERTON, ARKANSAS, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY THE QUESTIONS OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR REFUNDING AND FOR FINANCING VARIOUS CAPITAL IMPROVEMENTS; LEVYING A ONE PERCENT (1%) SALES AND USE TAX TO RETIRE THE BONDS; PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Centerton, Arkansas (the "City") has determined that the City is greatly in need of the following capital improvements of a public nature including new facilities and/or improvements to existing facilities: (a) city administrative facilities, including particularly, without limitation, a new city hall and improvements to existing administrative facilities, including related administrative offices, courts, equipment, furnishings, lighting, library, utility and parking improvements and any land acquisition for or within such facilities (the "City Administrative Facilities"); (b) streets, roads and bridges, including any curb, gutter and drainage improvements, equipment and land acquisition to accomplish such improvements, and street lighting, utility adjustments, sidewalks and traffic signals related thereto (the "Street Improvements") (c) public park and recreational facilities and improvements, including particularly, without limitation, land acquisition for future parks, renovations and improvements to existing parks, and ball fields and parking, furnishings, equipment, drainage, lighting and utility improvements therefor (the "Parks and Recreational Improvements"); (d) fire department facilities, equipment and apparatus (the "Fire Department Facilities"); and (e) facility improvements, vehicles and other rolling stock and related apparatus for the police department (the "Police Department Facilities") (the City Administrative Facilities, the Street Improvements the Parks and Recreational Improvements the Fire Department Facilities and the Police Department Facilities are further described in Section 3 of this Ordinance and collectively are referred to as the "Improvements"); and

WHEREAS, the City Council of the City has determined that the Improvements can be immediately financed without a tax increase if all of the City's outstanding Sales and Use Tax Refunding and Improvement Bonds, Series 2015 (the "2015 Bonds") are refunded (the "Refunding"); and

WHEREAS, the City Council of the City has determined that it would be in the best interests of the residents of the City to finance the amount necessary to fund the Improvements and the Refunding by the issuance of sales and use tax capital improvement and refunding bonds in the maximum principal amount of \$32,965,000 (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: \$6,000,000 in maximum principal amount for the Refunding, \$4,760,000 in maximum principal amount for the City Administrative Facilities, \$15,850,000 in maximum principal amount for the Street Improvements, \$4,230,000 in maximum principal amount for the Parks and Recreational

Improvements, \$1,060,000 in maximum principal amount for the Fire Department Facilities, and \$1,060,000 in maximum principal amount for the Police Department Facilities; and

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WHEREAS, such principal amounts include expenses of authorizing and issuing the capital improvement bonds and debt service reserve; and

WHEREAS, the City can pay the principal of and interest on the capital improvement bonds from the net collections of a one percent (1%) sales and use tax to be levied under the authority of the Authorizing Legislation that will replace the 1% City wide sales and use tax levied pursuant to Ordinance No. 05-85 of the City adopted October 11, 2005 (the "2005 Tax"); and

WHEREAS, 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 for the Refunding and the Improvements at a special election to be called for that purpose and to levy a replacement sales and use tax at the rate of one percent (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 "2017 Tax" or the "Sales and Use Tax");

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

Section 1. That there be, and there is hereby called, a special election to be held on September 12, 2017 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 Improvements in the maximum principal amounts described above, to be payable from the net collections of the Sales and Use Tax 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 is approved by the voters. The effective date of the Sales and Use Tax will be the day following the date the 2005 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:

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, there will be levied a replacement 1% sales and use tax within the City, 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 2005 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 be 1% even if bonds for more than one purpose are approved.

REFUNDING BONDS AND TAX

Vote FOR or AGAINST an issue of bonds of the City of Centerton in the maximum principal amount of \$6,000,000 for the purpose of refunding the City's Sales and Use Tax Refunding and Improvement Bonds, Series 2015, and, in order to pay the bonds, the levy and pledge of a new 1% local sales and use tax within the City.

FOR the issuance of Refunding Bonds and Tax

AGAINST

CITY ADMINISTRATIVE FACILITIES BONDS AND TAX

Vote FOR or AGAINST an issue of bonds of the City of Centerton in the maximum principal amount of \$4,760,000 for the purpose of financing all or a portion of the costs of extensions, betterments and improvements to the City's administrative facilities, including particularly, without limitation, a new city hall and improvements to existing administrative facilities, including related administrative offices, courts, equipment, furnishings, lighting, library, utility and parking improvements and any land acquisition for or within such facilities and, in order to pay the bonds, the levy and pledge of a new 1% local sales and use tax within the City.

FOR the issuance of City Administrative Facilities Improvement Bonds and Tax

AGAINST the issuance of City Administrative Facilities Improvement Bonds and Tax

STREET IMPROVEMENT BONDS AND TAX

Vote FOR or AGAINST an issue of bonds of the City of Centerton in the maximum principal amount of \$15,855,000 for the purpose of financing the costs of improvements to the City's streets, roads and bridges, including any curb, gutter and drainage improvements, equipment and land acquisition to accomplish such improvements, and street lighting, utility adjustments, sidewalks and traffic signals related thereto and, in order to pay the bonds, the levy and pledge

of a new 1% local sales and use tax within the City.

FOR the issuance of the Street Improvement Bonds and Tax

AGAINST the issuance of the Street Improvement Bonds and Tax

PARK AND RECREATIONAL IMPROVEMENT BONDS AND TAX

Vote FOR or AGAINST an issue of bonds of the City of Centerton in the maximum principal amount of \$4,230,000 for the purpose of financing all or a portion of the costs of extensions, betterments and improvements to the City's park and recreational facilities, including particularly, without limitation, land acquisition for future parks, renovations and improvements to existing parks, and ball fields and parking, furnishings, equipment, drainage, lighting and utility improvements therefor and, in order to pay the bonds, the levy and pledge of a new 1% local sales and use tax within the City.

FOR the issuance of Park and Recreational Improvement Bonds and Tax

AGAINST the issuance of Park and Recreational Improvement Bonds and Tax

FIRE DEPARTMENT FACILITIES BONDS AND TAX

Vote FOR or AGAINST an issue of bonds of the City of Centerton in the maximum principal amount of \$1,060,000 for the purpose of financing all or a portion of the costs of fire department facilities, equipment and apparatus and, in order to pay the bonds, the levy and pledge of a new 1% local sales and use tax within the City.

FOR the issuance of Fire Department Facilities Bonds and Tax

AGAINST the issuance of Fire Department Facilities Bonds and Tax

POLICE DEPARTMENT FACILITIES BONDS AND TAX

Vote FOR or AGAINST an issue of bonds of the City of Centerton in the maximum principal amount of \$1,060,000 for the purpose of financing all or a portion of the costs of facility improvements, vehicles and other rolling stock and related apparatus for the police department and, in order to pay the bonds, the levy and pledge of a new 1% local sales and use tax within the City.

FOR the issuance of Police Department Facilities Bonds and Tax

AGAINST the issuance of Police Department Facilities Bonds and Tax

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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 the 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 filed with the Benton County Clerk at least 60 days prior to the date of the special election. A copy of this Ordinance shall be given to the Benton County Board of Election Commissioners so that the necessary election officials and supplies maybe 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 are approved by the voters and if such Bonds are issued and provision has been made for the retirement of the 2015 Bonds, the 2005 Tax shall be abolished at the proper time so that the 2005 Tax and the Sales and Use Tax levied hereby are not in effect at the same time. Collections of the 2005 Tax received after the Bonds are issued shall be used, if necessary, to provide for the payment of the Bonds.

Section 9. 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 10. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 11. It is hereby ascertained and declared that the Refunding and the Improvements must be accomplished as soon as possible in order to achieve interest rate savings and to construct the Improvements adequate for the needs of the City and its inhabitants, without which the life, health, safety and welfare thereof are jeopardized, and that the issuance of the Bonds and the taking of the other action authorized by this ordinance is necessary for the accomplishment thereof. It is, therefore, declared that an emergency exists and this Ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage.

PASSED:

DATE: 7/11/2017

APPROVED:

/s/Bill Edwards
Mayor

ATTEST:

/s/Todd Wright
City Clerk