

ORDINANCE NO. 1448

AN ORDINANCE AMENDING ORDINANCE NO. 1422 BY AMENDING CERTAIN TERMS OF AND THE SECURITY FOR CITY OF EUREKA SPRINGS, ARKANSAS SALES AND USE TAX BOND, SERIES 1990; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Eureka Springs, Arkansas (the "City") has outstanding its Sales and Use Tax Bond, Series 1990 (the "1990 Bond") authorized by Ordinance No. 1422 of the City, adopted on November 13, 1990 ("Ordinance No. 1422"); and

WHEREAS, the 1990 Bond is secured by collections of the City's 1% sales and use tax levied by Ordinance No. 1386 of the City, adopted on March 20, 1990 (the "1990 Tax"); and

WHEREAS, the 1990 Bond is subject to redemption at par at any time at the option of the City; and

WHEREAS, the 1990 Bond is owned by the Bank of Eureka Springs (the "Bank"); and

WHEREAS, the City proposes to issue its Sales and Use Tax Bonds, Series 1991 (the "1991 Bonds") to finance improvements to the City's water and sewer system and recycling center (the "Improvements"); and

WHEREAS, in order to market the 1991 Bonds at favorable interest rates, the City must pledge its collections from the City's 1% sales and use tax levied by Ordinance No. 1120 of the City, adopted on May 12, 1981 (the "1981 Tax"), and its collections of the 1990 Tax; and

WHEREAS, the City will receive a more favorable interest rate on the 1991 Bonds if the pledge of a majority of 1990 Tax collections is not subordinate to the 1990 Bond; and

WHEREAS, the Bank is willing to release a portion of its pledge of 1990 Tax collections toward the payment of the 1990 Bond in exchange for the City waiving its right of optional redemption of the 1990 Bond; and

WHEREAS, 1/3 of monthly 1990 Tax collections or \$9,100 per month, whichever is lesser, should provide sufficient funds for the payment of the 1990 Bond; and

WHEREAS, the City is willing to waive such redemption right in order for the 1991 Bonds to be marketed and issued;

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

Section 1. Section 6 of Ordinance No. 1422 is hereby amended to read as follows:

"Section 6. That the City hereby expressly pledges and appropriates the first \$9,100 of monthly collections derived by the City from its 1% sales and use tax levied by Ordinance No. 1386 adopted on March 20, 1990 and approved by the voters at the special election held May 1, 1990 (the "Tax") or 1/3 of the monthly collections of the Tax, whichever is lesser (the "Pledged Revenues") to the payment of the principal of and interest on the bond when due. In order to provide for the first payment of principal and interest on the bond, the City hereby pledges its first three monthly Tax collections to such payment and such collections shall also be a part of the Pledged Revenues. The City covenants that the Tax shall never be repealed or reduced while the bond is outstanding. The City further covenants to use due diligence in collecting the Tax."

Section 2. The City hereby waives its right to optional redemption pursuant to the terms of the 1990 Bond as set forth in Section 5 of Ordinance No. 1422.

Section 3. Upon presentation of the 1990 Bond to the City Clerk by the Bank, a new 1990 Bond shall be substituted for the existing 1990 Bond, which substitute 1990 Bond shall contain the revised terms authorized by this Ordinance and the reduction in security for the 1990 Bond.

Section 4. That Ordinance No. 1422, as amended hereby, shall remain in full force and effect.

Section 5. That it is hereby ascertained and declared that the Improvements are immediately needed for the preservation of the public peace, health and safety and to remove existing hazards thereto. The Improvements cannot be accomplished without the amendments to Ordinance No. 1422 authorized hereby and the issuance of the 1991 Bonds, and therefore, it is declared that an emergency exists and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in force and take effect immediately upon and after its passage.

PASSED: August 1, 1991.

ATTEST:

Juanita S. Barner
City Clerk

APPROVED:

Randy H. Hollinger
Mayor

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Eureka Springs, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. 1448, passed at a special session of the City Council of the City, held at the regular meeting place of the Council at 10:00 o'clock a.m on the 1st day of August, 1991, and that the Ordinance is of record in Ordinance Record Book No. 5 at Page 151, now in my possession.

GIVEN under my hand and seal this 1st day of August, 1991.

Joanita S. Barner
City Clerk

(SEAL)