

ORDINANCE NO. 2021-O-091

A ORDINANCE CALLING A BOND ELECTION TO BE HELD IN THE CITY OF ATHENS, TEXAS; MAKING PROVISION FOR THE CONDUCT OF AN ELECTION; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO SUCH ELECTION

* * * * *

WHEREAS, the City Council (the *Council*) of the CITY OF ATHENS, TEXAS (the *City*), located in Henderson County, Texas (the *County*), hereby finds and determines that an election should be held to determine whether the Council shall be authorized to issue general obligation bonds of the City in the amount and for the purposes hereinafter identified (the *Election*); and

WHEREAS, the City will enter into an election services contract with Henderson County, by and through its Elections Administrator (the *Administrator*) in accordance with the provisions of Subchapter D of Chapter 31, as amended, Texas Election Code, or other applicable law, pursuant to which the County will assist with certain aspects of the Election on the City’s behalf; and

WHEREAS, the Election may be held jointly with other political subdivisions (such other political subdivisions, collectively, the *Participants*), as provided pursuant to the provisions of an election services agreement and/or a joint election or similar agreement between or among (as applicable) the City and any Participants, entered into in accordance with the provisions of Section 271.002, as amended, Texas Election Code; and

WHEREAS, the Council hereby finds and determines that the necessity to construct various capital improvements within the City necessitates that it is in the public interest to call and hold the Election at the earliest possible date to authorize the issuance of general obligation bonds for the purposes hereinafter identified; and

WHEREAS, the Council hereby finds and determines that the actions hereinbefore described are in the best interests of the residents of the City; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, TEXAS THAT:

SECTION 1. The Election shall be held in the CITY OF ATHENS, TEXAS on the 2nd day of November, 2021 (*Election Day*), which is a uniform election date under the Texas Election Code, as amended, and is not less than 78 days nor more than 90 days from the date of the adoption of this ordinance (the *Ordinance*), for the purpose of submitting the following measure to the qualified voters of the City:

PROPOSITION A

“Shall the City Council of the City of Athens, Texas be authorized to issue and sell one or more series of general obligation bonds of the City in the aggregate principal amount of not more than \$5,500,000 for the purpose of constructing, improving and

equipping police facilities and the acquisition of any land and rights of way therefor, such bonds to mature serially or otherwise (not more than 30 years from their date) in accordance with law; and any issue or series of said bonds to bear interest at such rate or rates (fixed, floating, variable or otherwise) as may be determined within the discretion of the City Council, provided that such rate of interest shall not exceed the maximum rate per annum authorized by law at the time of the issuance of any issue or series of said bonds; and shall the City Council of the City be authorized to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes, within the limitations prescribed by law, on all taxable property in said City sufficient to pay the annual interest and provide a sinking fund to pay the bonds at maturity and the cost of any credit agreements executed in connection with the bonds?"

SECTION 2. The City Council authorizes the Mayor, the City Manager, the City Secretary, or their respective designees, to negotiate and enter into the election services contract (the "Contract") with the Administrator. The Mayor, or his designee, is hereby authorized to execute the Contract and any other necessary contract(s) and agreements, joint or otherwise, with the Administrator, or any other public entity. The contract documents and election services provided therein shall conform to Chapter 31, Subchapter D, of the Texas Election Code and all other applicable statutes and laws. One or more City election precincts are hereby established for the purpose of holding the Election, and one or more polling places are hereby designated for holding the Election in the City election precincts as identified in the Contracts (which are incorporated herein by reference for all purposes). The City, acting through the Mayor, the City Manager, or the designee thereof, in coordination with the Administrator, or the designee thereof, as necessary or desirable, will appoint the Presiding Judges, Alternate Presiding Judges, Election Clerks, and all other election officials for the Election, together with any other necessary changes to election practices and procedures and can correct, modify, or change the Exhibits to this Ordinance based upon the final locations and times agreed upon by the Administrator, the City, and the Participants to the extent permitted by applicable law and as may be set forth in the Contract.

A. The Presiding Judge shall appoint not less than two resident qualified voters of the County to act as clerks in order to properly conduct the Election. To the extent required by the Texas Election Code, as amended, or other applicable law, the appointment of these clerks must include a person fluent in the Spanish language to serve as a clerk to render oral aid in the Spanish language to any voter desiring such aid at the polls on Election Day. If the Presiding Judge appointed actually serves, the Alternate Presiding Judge shall serve as one of the clerks. In the absence of the Presiding Judge, the Alternate Presiding Judge shall perform the duties of the Presiding Judge of the election precinct.

B. On Election Day, the polls shall be open as designated on Exhibit A.

C. The main early voting location is designated in Exhibit B to this Ordinance (which is hereby incorporated herein by reference for all purposes). The individual named as the Early Voting Clerk as designated in Exhibit B is hereby appointed as the Early Voting Clerk to conduct such early voting in the Election. The Early Voting Clerk shall appoint the Deputy Early Voting Clerks. This main early voting location shall remain open to permit early voting on the days and at the times as stated in Exhibit B. Early voting shall commence as provided on Exhibit B and

continue through the date set forth on Exhibit B, all as provided by the provisions of the Texas Election Code, as amended.

Additionally, permanent and/or temporary branch offices for early voting by personal appearance may be established and maintained in accordance with the Texas Election Code. In the event such permanent and/or temporary branch locations are established, information regarding the locations, dates, and hours of operation for early voting at these offices shall be determined by the Administrator/Early Voting Clerk, as identified in Exhibit B hereto.

The Council authorizes the Administrator to establish an Early Voting Ballot Board for the purpose of processing early voting results. The individual designated in Exhibit B as the Presiding Judge of an Early Voting Ballot Board is hereby appointed the Presiding Judge of the indicated Early Voting Ballot Board. The Presiding Judge shall appoint not less than two resident qualified voters of the City to serve as members of each such Early Voting Ballot Board.

SECTION 3. Electronic voting machines may be used in holding and conducting the Election on Election Day; provided, however, in the event the use of such electronic voting machines is not practicable, the Election may be conducted on Election Day by the use of paper ballots (except as otherwise provided in this section). Electronic voting machines or paper ballots may be used for early voting by personal appearance (except as otherwise provided in this section). Pursuant to Section 61.012, as amended, Texas Election Code, the City shall provide at least one accessible voting system in each polling place used in the Election. Such voting system shall comply with State and federal laws establishing the requirement for voting systems that permit voters with physical disabilities to cast a secret ballot. Any legally permissible voting method may be used for early voting and Election Day voting by personal appearance. Certain early voting may be conducted by mail.

SECTION 4: The Council authorizes the Administrator to utilize a Central Counting Station (the *Stations*) as provided by Section 127.001, *et seq.*, as amended, Texas Election Code. The Administrator, or designees thereof, are hereby appointed as the Manager of their respective Stations who will establish a written plan for the orderly operation of the Stations in accordance with the provisions of the Texas Election Code. The Council authorizes the Administrator, or the designees thereof, to appoint the Presiding Judges, the Tabulation Supervisors, and the Programmers of their respective Stations and may appoint Station clerks as needed or desirable. The Administrator will publish (or cause to be published) notice and conduct testing on the automatic tabulation equipment relating to the Station and conduct instruction for the officials and clerks for their respective Stations in accordance with the provisions of the Texas Election Code.

SECTION 5. The official ballot shall be prepared in accordance with the Texas Election Code, as amended, so as to permit voters to vote “FOR” or “AGAINST” the aforesaid measure which shall appear on the ballot substantially as follows:

PROPOSITION A

“THE ISSUANCE OF NOT TO EXCEED \$5,500,000 OF CITY OF ATHENS, TEXAS GENERAL OBLIGATION BONDS FOR POLICE FACILITIES IMPROVEMENTS, AND THE IMPOSITION OF A TAX SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS”

SECTION 6. All resident qualified voters of the City shall be permitted to vote at the Election, and on Election Day, such voters shall vote at the designated polling places. The Election shall be held and conducted in accordance with the provisions of the Texas Election Code, as amended, Chapters 1251 and 1331, as amended, Texas Government Code, and as may be required by any other law. To the extent required by law, all materials and proceedings relating to the Election shall be printed in both English and Spanish.

SECTION 7. Notice of election, including a Spanish translation thereof, shall be published on the same day in each of two successive weeks in a newspaper of general circulation in the City, the first of these publications to appear in such newspaper not more than 30 days, and not less than 14 days, prior to Election Day. Moreover, a substantial copy of this Ordinance and the voter information attached as Exhibit C, including a Spanish translation thereof, shall be posted (i) at City Hall not less than 21 days prior to Election Day; (ii) at three additional public places within the City not less than 21 days prior to Election Day, (iii) in a prominent location at each polling place on Election Day and during early voting, and (iv) in a prominent location on the City's internet website not less than 21 days prior to Election Day. A sample ballot shall be posted on the City's internet website not less than 21 days prior to Election Day.

SECTION 8. As required by and in accordance with Section 3.009(b)(5) and (7) through (9) of the Texas Election Code, the City, as of the date of this Ordinance, had outstanding an aggregate principal amount of debt equal to \$7,395,000; the aggregate amount of the interest owed on such City debt obligations, through the respective maturity, totaled \$2,049,720; and the City levied an ad valorem debt service tax rate for its outstanding debt obligations of \$.1052 per \$100 of taxable assessed valuation. The bonds that are the subject of this Election shall mature serially or otherwise overall a specified number of years (not more than 30 years from their date), as prescribed by applicable Texas law. The foregoing estimated maximum net effective interest rate and amortization period are only estimates, provided for Texas statutory compliance; they do not serve as a cap on the per annum interest rate at which any series of bonds authorized at the Election may be sold, or the amortization period for bonds that are the subject of this Election.

The City estimates an ad valorem debt service tax rate of \$.1088 per \$100 of taxable assessed valuation if the bonds that are subject of the Election are approved and are issued (taking into account the outstanding City bonds and bonds that are the subject of this Election, but not future bond authorizations of the City).

Based on the bond market conditions on the date of the Council's adoption of this Ordinance, the maximum interest rate for any series of bonds authorized at the Election is 5.00% (expressed as a net effective interest rate applicable to any such series of bonds).

SECTION 9. The Council authorizes the Mayor, the City Manager, or their respective designee, to negotiate and enter into one or more joint election agreements and/or similar contracts or agreements with the County, acting by and through the Administrator, and any Participants if desired or required to comply with applicable law, as permitted and in accordance with the provisions of the Texas Election Code, as amended. In addition, the City authorizes the Mayor, the City Manager, or their respective designee of either of such parties to make such technical modifications to this Ordinance that are necessary for compliance with applicable Texas or federal law or to carry out the intent of the Council, as evidenced herein. To the extent that any duty or obligation of the City, in general, or any City official, in particular, is properly delegated to the County pursuant to a joint election agreement, then the County's carrying out those duties and

obligations on the City's behalf pursuant to the terms of such joint election agreement shall be binding upon the City and are hereby determined by the Council to be evidence of the City's compliance with the provisions of applicable Texas law concerning the Election relative to the same. By incorporating all essential terms necessary for a joint election agreement, this Ordinance is intended to satisfy Section 271.002(d) of the Texas Election Code, as amended, without further action of the City Council. To the extent needed or desirable, the Administrator is hereby appointed joint custodian of voted ballots for the purposes of Section 31.096, as amended, Texas Election Code.

SECTION 10. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

SECTION 11. All resolutions and ordinances or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

SECTION 12. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 13. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 14. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and this Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 15. This Ordinance shall be effective upon its adoption on the second reading.

* * * *

First reading on the 26th day of July, 2021.

PASSED, APPROVED AND EFFECTIVE on the second reading on the 9th day of August, 2021.

Toni Clay, Mayor	Aye
Aaron Smith, Councilmember	Aye
SyTanna Freeman, Councilmember	Aye
Robert Gross, Councilmember	Aye
Mark Carroll, Councilmember	Aye

Voted in favor of the motion	5
Voted against the motion	0
Motion carried	5-0

CITY OF ATHENS, TEXAS

Toni Clay, Mayor

ATTEST:

Bonnie Hambrick, City Secretary

(CITY SEAL)

[Signature Page to City of Athens, Texas Ordinance Calling a Bond Election]

Exhibit A

ELECTION DAY POLLING PLACE

Election Day: Tuesday, November 2, 2021

Election Day Polling Locations open from 7 a.m. to 7 p.m.

Presiding Judge(s) and Alternate(s): to be determined by the Administrator

VOTE CENTER LOCATIONS AND ADDRESS		
Lakeview Assembly of God Church 700 East Cedar Creek Parkway Seven Points, TX 75143	St. Peters Lutheran Church 101 Luther Lane Gun Barrel, TX 75156	Athens First Baptist Church (ROC) 105 S Carroll Athens, TX 75751
Cross Roads ISD Gym 14434 FM 59 Malakoff, TX 75148	Payne Springs Fire Station 12650 TX-198 Eustace, TX 75124	Coffee City Comm. Ctr. 7019 Pleasant Ridge Rd. Frankston, TX 75763
Malakoff City Hall 109 S. Melton Malakoff, TX 75148	Henderson Co. Elect. Ctr. 201 E. Larkin St. Athens, TX 75751	Moore Station Comm. Ctr. 4720 CR 4319 Larue, TX 75770
Caney City Fire Station 15241 Barron Drive Caney City, TX 75148	Faith Baptist Church 13567 TX-31 Brownsboro, TX 75756	Poynor Comm. Ctr. 12106 Lovers Lane Larue, TX 75770
Trinidad Community Center 111 E. Front Street Trinidad, TX 75163	Chandler Community Ctr. 811 Hwy 31 East Chandler, TX 75758	Berryville City Hall 23170 County Rd 4117 Frankston, TX 75763
Promenade Hall 1210 North Tool Drive Hwy 274 Tool, TX 75143	Murchison School 9661 E. Bankhead Street Murchison, TX 75778	New York Baptist Church 6106 County Road 4334 Larue, TX 75770
Eustace School 318 Hwy 316 South Eustace, TX 75124	Bethel Christian Church 10888 County Road 3817 Athens, TX 75751	Faith Fellowship Church 5330 Hwy 175 East Athens, TX 75752
Gun Barrel City Hall 1716 W. Main Gun Barrel, TX 75156	Westside Vol. Fire Dept. 2563 FM 315 South Chandler, TX 75758	Shady Oaks Baptist Church 9536 FM 59 Athens, TX 75751

Exhibit B

EARLY VOTING

Early voting begins Monday, October 18, 2021 and ends on Friday, October 29, 2021.

Applications for voting by mail should be received no later than the close of business (5:00 pm) on Friday, October 22, 2021. If an application for ballot by mail is faxed or emailed (or if a federal postcard application is faxed), the applicant must also mail the original application so that the early voting clerk receives the original no later than four days after receiving the emailed or faxed copy.

Voters entitled to vote an early ballot by personal appearance may do so at any Early Voting site in the County.

Early Voting Clerk: Paula Ludtke, Henderson County Election Administrator, 201 East Larkin Street, Athens, Texas 75751

Presiding Judge of the Early Voting Ballot Board: to be determined by Paula Ludtke
Henderson County Election Center, 201 East Larkin Street, Athens, Texas 75751

Early Voting Sites

Henderson County Election Center, 201 East Larkin Street, Athens, Texas 75751

Chandler Community Center, 811 Hwy 31 East, Chandler, TX 75758

Lakeview Assembly of God Church, 700 East Cedar Creek Parkway, Seven Points, TX 75143

Monday, October 18, 2021	7:00 am – 7:00 pm
Tuesday, October 19, 2021 through Friday, October 22, 2021	8:00 am – 5:00 pm
Saturday, October 23, 2021	8:00 am – 5:00 pm
Monday, October 25, 2021	7:00 am – 7:00 pm
Tuesday, October 26, 2021 through Friday, October 29, 2021	8:00 am – 5:00 pm

Exhibit C

VOTER INFORMATION DOCUMENT

City of Athens, Texas Proposition A:

<input type="checkbox"/> FOR	“THE ISSUANCE OF NOT TO EXCEED \$5,500,000 OF CITY OF ATHENS, TEXAS GENERAL OBLIGATION BONDS FOR POLICE FACILITIES, AND THE IMPOSITION OF A TAX SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS”
<input type="checkbox"/> AGAINST	

principal of debt obligations to be authorized	\$5,500,000
estimated interest for the debt obligations to be authorized presuming an interest rate of 3.00%	\$2,048,441
estimated combined principal and interest required to pay on time and in full the debt obligations to be authorized amortized over 20 years	\$7,693,441
as of the date the election was ordered, principal of all outstanding debt obligations	\$7,395,000
as of the date the election was ordered, the estimated interest on all outstanding debt obligations	\$2,049,720
as of the date the election was ordered, the estimated combined principal and interest required to pay on time and in full all outstanding debt obligations amortized over 15 years	\$9,444,720
estimated maximum annual increase in the amount of taxes on a residence homestead with an appraised value of \$100,000 to repay the debt obligations to be authorized, if approved	\$.0000

This figure assumes the amortization of the City’s debt obligations, including outstanding debt obligations and the proposed debt obligation; changes in estimated future appraised values within the City; changes in estimated future appraised values within the political subdivision; and the assumed interest rate on the proposed debt obligations.

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