

ORDINANCE NO. 2023-06

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$75,000,000 CITY OF SEARCY, ARKANSAS TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS (BRYCE COMPANY PROJECT), SERIES 2023 FOR THE PURPOSE OF PROVIDING FINANCING FOR INDUSTRIAL FACILITIES; AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF SEARCY, ARKANSAS, AS LESSOR, AND THE BRYCE COMPANY, LLC, AS LESSEE; AUTHORIZING A BOND PURCHASE AGREEMENT BETWEEN THE CITY OF SEARCY, ARKANSAS, AND THE BRYCE COMPANY, LLC, AS PURCHASER OF THE BONDS; AUTHORIZING A PAYMENT IN LIEU OF TAX AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING A HOME OFFICE PAYMENT AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING AND PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY;

WHEREAS, the City of Searcy, Arkansas (the “City”) is authorized and empowered under the provisions of Act No. 9 of the First Extraordinary Session of the Sixty-Second General Assembly of the State of Arkansas, approved January 21, 1960, as amended, Arkansas Code Annotated § § 14-164-201, *et seq.* (as may be amended from time to time, the “Act”), to issue revenue bonds and to expend the proceeds thereof to finance the acquisition, construction and equipment of lands, buildings or facilities which could be used in securing or developing industry; and

WHEREAS, it is proposed that the City provide financing, through the issuance of revenue bonds under the Act for the purpose of financing the construction and permanent cost of acquiring, constructing, and equipping lands, buildings, improvements, machinery, equipment and facilities constituting an industrial manufacturing facility (the “Project”), and that the City lease the Project to The Bryce Company, LLC (in such capacity, the “Company”) pursuant to the provisions of hereinafter described Lease Agreement, to be operated by the Company within the City; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the City is now prepared to proceed with financing the Project and to issue and sell \$75,000,000 in principal amount of its Taxable Industrial Development Revenue Bonds (Bryce Company Project) Series 2023 (the “Bonds”) to provide such financing; and

WHEREAS, copies of the hereinafter described Lease Agreement, Bond Purchase Agreement, Payment in Lieu of Taxes Agreement, and Home Office Payment Agreement have been presented to and are before this meeting; and

WHEREAS, the Bonds are to be sold and delivered in the principal amount of \$75,000,000, dated, bearing interest, maturing and subject to redemption as hereinafter set forth in the form of Bond Purchase Agreement authorized by this Ordinance.

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

Section 1. That the issuance of the Bonds is hereby authorized. The Bonds shall be issued in the forms and denominations, shall be dated, shall be numbered, shall mature, shall bear interest (at a rate or rates not to exceed the maximum lawful rate per annum on the date of issuance), and shall be subject to redemption prior to maturity, all upon the terms and conditions recommended by the Company and set forth in the Bond Purchase Agreement (hereinafter authorized) securing the Bonds.

Section 2. That there be and is hereby authorized the execution and delivery of a Lease Agreement by and between the City, as Lessor, and the Company, as Lessee (the "Lease Agreement"), and the Mayor and City Clerk-Treasurer are hereby, authorized to execute, acknowledge and deliver the Lease Agreement for and on behalf of the City. The Lease Agreement is hereby approved substantially in the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Company in order to complete the Lease Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 3. To prescribe the terms and conditions upon which the Bonds are to be executed, authenticated, issued, accepted, held and secured, the Mayor is hereby authorized and directed to execute and acknowledge a Bond Purchase Agreement (the "Bond Purchase Agreement") by and between the City and The Bryce Company, LLC (in such capacity, the "Purchaser"), and the City Clerk-Treasurer is hereby authorized and directed to execute and acknowledge the Bond Purchase Agreement and to affix the Seal of the City thereto, and the Mayor and City Clerk-Treasurer are hereby authorized and directed to cause the Bond Purchase Agreement to be executed and delivered to the Purchaser. The Bond Purchase Agreement is hereby

approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Purchaser and the Company 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 document, their execution to constitute conclusive evidence of such approval.

Section 4. That the execution, delivery and performance of an Agreement for Payment In Lieu of Taxes by and between the City and the Company (the “Payment In Lieu of Taxes Agreement”), and the Mayor and City Clerk-Treasurer are hereby, authorized to execute, acknowledge and deliver the Payment In Lieu of Taxes Agreement for and on behalf of the City. The Payment In Lieu of Taxes Agreement is hereby approved substantially in the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Company in order to complete the Payment In Lieu of Taxes Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 5. That there be and is hereby authorized the execution and delivery of a Home Office Payment Agreement by and the City, the Company, and the Purchaser (the “Home Office Payment Agreement”), and the Mayor and City Clerk-Treasurer are hereby, authorized to execute, acknowledge and deliver the Home Office Payment Agreement for and on behalf of the City. The Home Office Payment Agreement is hereby approved substantially in the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Company and the Purchaser in order to complete the Home Office Payment Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval.

Section 6. That the Mayor and the City Clerk-Treasurer, for and on behalf of the City, be, and they are hereby, authorized and directed to do any and all things necessary to affect (i) the execution and delivery of the Lease Agreement and the performance of all obligations of the City under the Lease Agreement, (ii) the execution and delivery of the Bond Purchase Agreement and the performance of all obligations of the City under and pursuant to the Bond Purchase Agreement, (iii) the execution and delivery of the Payment in Lieu of Taxes Agreement and the performance of all obligations of the City under the Payment In Lieu of Taxes

Agreement, (iv) the execution and delivery of the Lease Agreement and the performance of all obligations of the City under the Home Office Payment Agreement, and (v) the issuance, execution, sale and delivery of the Bonds and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. That the Mayor and the City Clerk-Treasurer be, and they are hereby, 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 7. That the City is hereby involved with the acquiring, constructing and equipping of industrial facilities, and pursuant to the applicable laws of the State of Arkansas, including particularly the Act, competitive bidding is waived.

Section 8. That the City Clerk-Treasurer is hereby authorized and directed to file in the office of the City Clerk-Treasurer, as a part of the minutes of the meeting in which this Ordinance is adopted, for inspection by any interested persons, a copy of the Lease Agreement, the Bond Purchase Agreement, the Payment in Lieu of Taxes Agreement, the Home Office Payment Agreement, and such documents shall be on file for inspection by any interested person.

Section 9. That the Mayor is hereby authorized to pay (if not otherwise paid), the necessary expenses incidental to the issuance of the Bonds including, but not limited to, fees of Bond Counsel and Issuer's Counsel, printing and publication costs, but solely from the proceeds of the Bonds available for payment of such costs of issuance.

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

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

Section 12. The time for taking any action pursuant to Amendment 7 to the Constitution of the State of Arkansas, or otherwise appealing this Ordinance, is hereby fixed as thirty (30) days following the date of publication of this Ordinance.

Section 13. It is hereby ascertained and declared that the planning, design, acquisition, and construction of the Project must be accomplished as soon as possible in order to provide economic development of the City and its inhabitants, without which the welfare thereof is 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.

ADOPTED as an Ordinance of the City Council of the City of Searcy, Arkansas, this 14th day of February, 2023.

APPROVED:

/s/ Mat Faulkner

Mayor of Searcy

ATTEST:

/s/ Jerry Morris

City Clerk

CERTIFICATE

I, Jerry Morris, City Clerk-Treasurer, within and for the City of Searcy, Arkansas do hereby certify that the foregoing is a true and correct copy of Ordinance No. ____ of the Ordinances of the City of Searcy, Arkansas entitled: **“AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$75,000,000 CITY OF SEARCY, ARKANSAS TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS (BRYCE COMPANY PROJECT), SERIES 2023 FOR THE PURPOSE OF PROVIDING FINANCING FOR INDUSTRIAL FACILITIES; AUTHORIZING A LEASE AGREEMENT BETWEEN THE CITY OF SEARCY, ARKANSAS, AS LESSOR, AND THE BRYCE COMPANY, LLC, AS LESSEE; AUTHORIZING A BOND PURCHASE AGREEMENT BETWEEN THE CITY OF SEARCY, ARKANSAS, AND THE BRYCE COMPANY, LLC, AS PURCHASER OF THE BONDS; AUTHORIZING A PAYMENT IN LIEU OF TAX AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING A HOME OFFICE PAYMENT AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING AND PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY;”** passed by the City Council of the City on February 14, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City this 14th day of February, 2023.

Jerry Morris, City Clerk-Treasurer

(SEAL)