

ORDINANCE NO. O-04-05

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF ARKADELPHIA, ARKANSAS ON THE QUESTIONS OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF REFINANCING AND FINANCING ALL OR A PORTION OF THE COST OF CAPITAL IMPROVEMENTS; LEVYING A THREE-FOURTHS OF ONE PERCENT (0.75%) SALES AND USE TAX FOR THE SOLE PURPOSE OF RETIRING SUCH BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City of Arkadelphia, Arkansas (the "City") has issued its Sales and Use Tax Bonds, Series 2000 (the "Series 2000 Bonds") for the purpose of financing the costs of acquiring, constructing, equipping and furnishing various park and recreational improvements; and

WHEREAS, the Series 2000 Bonds are secured by and payable from collections of a one percent (1%) City-wide sales and use tax levied pursuant to Ordinance No. O-00-06 of the City adopted June 1, 2000 (the "2000 Tax"); and

WHEREAS, the Board of Directors of the City has determined that it is essential that the Series 2000 Bonds be refunded in order to allow additional costs of acquiring, constructing, equipping and furnishing a new youth sports complex consisting primarily of ball fields and related facilities and any land acquisition, parking, landscaping, maintenance, furnishings, drainage, lighting, concession and utility improvements therefor (the "Park and Recreational Improvements"), to be financed without a tax increase; and

WHEREAS, the Board of Directors proposes to finance all or a portion of the costs of the refunding of the Series 2000 Bonds (the "Refunding") and additional costs of the Park and Recreational Improvements by the issuance of capital improvement bonds (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: \$3,500,000 in maximum principal amount for the Park and Recreational Improvements; and \$2,500,000 in maximum principal amount for the Refunding; and

WHEREAS, the City can pay the principal of and interest on the Bonds from the proceeds of a City-wide three-fourths of one

percent (0.75%) sales and use tax to be levied under the authority of the Authorizing Legislation that will replace the 2000 Tax; and

WHEREAS, the City may provide additional funds to pay or to further secure repayment of the Bonds if a new City-wide one-fourth of one percent (0.25%) sales and use tax levied by Ordinance No. O-04-03, adopted April 15, 2004, to (a) finance the operation and maintenance of park and recreational facilities and/or (b) pay and secure the repayment of capital improvement bonds approved by the voters and issued from time to time by the City to finance park and recreational improvements, is approved by the voters; and

WHEREAS, the purpose of this Ordinance is to submit to the electors of the City the questions of issuing the Bonds for the Park and Recreational Improvements and the Refunding under Amendment 62 and the Authorizing Legislation at a special election to be called for that purpose and to levy a sales and use tax at the rate of three-fourths of one percent (0.75%) 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, distributing, using 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.) (the "2004 Tax" or the "Sales and Use Tax");

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Arkadelphia, Arkansas:

Section 1. There be, and there is hereby called, a special election to be held on May 25, 2004, 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 additional costs of the Park and Recreational Improvements in the maximum principal amounts described above, to be payable from collections of the Sales and Use Tax remaining after the State of Arkansas deducts its administrative charges.

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; provided, however, that no Bonds will be issued unless the issuance of the Bonds for the Refunding is approved. The effective date of the 2004 Tax will be the day following the date the 2000 Tax

expires. The Sales and Use Tax shall be levied and collected on the gross receipts, gross proceeds or sales price for each single transaction in the maximum amount allowed from time to time by Arkansas law. "Single transaction" is defined according to the nature of the goods purchased as follows:

A. When two or more devices in which or by which any person or property is, or may be, transported or drawn, including but not limited to, on-road vehicles, whether required to be licensed or not, off-road vehicles, farm vehicles, airplanes, water vessels, motor vehicles, or non-motorized vehicles, and mobile homes, are sold to a person by a seller, each individual unit, whether part of a "fleet" sale or not, shall be treated as a single transaction for the purpose of the Sales and Use Tax.

B. The charges for utility services, which are subject to the Sales and Use Tax, and which are furnished on a continuous service basis, whether such services are paid daily, weekly, monthly or annually, shall be computed in daily increments, and each such daily charge increment shall be considered to be a single transaction for the purposes of the Sales and Use Tax.

C. For sales of building materials and supplies to contractors, builders or other persons, a single transaction, for the purposes of the Sales and Use Tax, shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales (or use) tax figure has been reported and remitted to the State of Arkansas.

D. When two or more items of major household appliances, commercial appliances, major equipment and machinery are sold, each individual unit shall be treated as a single transaction for the purposes of the Sales and Use Tax.

E. For groceries, drug items, dry goods and other tangible personal property and/or services not otherwise expressly covered in this Section, a single transaction shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales tax figure has been reported and remitted to the State of Arkansas.

Section 3. In the event the General Assembly shall define "single transaction," the General Assembly's definition shall replace the one in Section 2 hereof.

Section 4. The questions of issuing the Bonds shall be placed on the ballot for the election in substantially the following form:

If bonds for one or more purposes are approved and one of such purposes is the Refunding Bonds, there will be levied within the City a new 0.75% sales and use tax, the net collections of which remaining after the State of Arkansas deducts its administrative charges, shall 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 2000 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 not exceed 0.75% even if more than one purpose is approved. The 0.75% sales and use tax will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes. The bonds described below may be combined into a single issue or the bonds may be issued in series from time to time. No bonds will be issued for any purpose unless the Refunding Bonds are approved. In order to provide additional funds to pay or to further secure repayment of the bonds, the City may also pledge to the bonds the net collections of a City-wide 0.25% sales and use tax if such tax is separately approved by the voters.

PARK AND RECREATIONAL IMPROVEMENT BONDS AND 0.75% SALES AND USE TAX

Vote FOR or AGAINST an issue of bonds of the City of Arkadelphia in the maximum principal amount of \$3,500,000 for the purpose of financing a portion of the costs of park and recreational improvements consisting of a new youth sports complex consisting primarily of ball fields and related facilities and any necessary land acquisition, parking, landscaping, maintenance, furnishings, drainage, lighting, concession and utility improvements therefor, and, in order to pay the bonds, the levy and pledge of a 0.75% local sales and use tax within the City.

FOR the issuance of Park and Recreational Improvement Bonds and the levy of a 0.75% sales and use tax . . . . .

AGAINST the issuance of Park and Recreational Improvement Bonds and the levy of a 0.75% sales and use tax . . . .

REFUNDING BONDS AND 0.75% SALES AND USE TAX

Vote FOR or AGAINST an issue of bonds of the City of Arkadelphia in the maximum principal amount of \$2,500,000 for the purpose of refunding the City's outstanding Sales and Use Tax Bonds, Series 2000 and, in order to pay the bonds, the levy and pledge of a 0.75% local sales and use tax within the City.

FOR the issuance of Refunding Bonds and the levy of a 0.75% sales and use tax . . . . .

AGAINST the issuance of Refunding Bonds and the levy of a 0.75% sales and use tax . . . . .

Section 5. 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 city 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 6. 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 7. A copy of this Ordinance shall be given to the Clark County Board of Election Commissioners so that the necessary election officials and supplies may be 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 8. 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 to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance. Friday, Eldredge & Clark, LLP shall assist the City officials as Bond Counsel in calling and holding the special election.

Section 9. If the Bonds for the Refunding are approved by the voters and the Bonds are issued, the 2000 Tax shall be abolished at the proper time so that the 2000 Tax and the 2004 Tax are not in effect at the same time.

Section 10. If the Bonds are approved, the City intends to negotiate with Stephens Inc., which has assisted the City in preparation of the Bond size and repayment structure, for the sale of the Bonds.

Section 11. 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 12. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: April 15, 2004.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Arkadelphia, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. O-04-05, passed at a regular session of the Board of Directors of the City of Arkadelphia, Arkansas, held at the regular meeting place of the Board of Directors at 7:00 o'clock p.m., on the 15th day of April, 2004, and that the Ordinance is of record in Ordinance Record Book No. \_\_\_\_\_, Page \_\_\_\_\_, now in my possession.

GIVEN under my hand and seal this \_\_\_\_\_ day of April, 2004.

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City Clerk

(SEAL)