

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$14,000,000 IN CAPITAL IMPROVEMENT BONDS UNDER AMENDMENT NO. 62 TO THE ARKANSAS CONSTITUTION FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND/OR EQUIPPING STREET IMPROVEMENTS, SOLID WASTE COLLECTION, DISPOSAL, COMPACTING AND RECYCLING FACILITIES AND EQUIPMENT, PUBLIC PARK FACILITIES, FIRE FIGHTING FACILITIES AND EQUIPMENT AND POLICE STATION FACILITIES AND EQUIPMENT; LEVYING A .5% LOCAL SALES AND USE TAX TO RETIRE SAID BONDS; AUTHORIZING THE PLEDGE OF ALL OR A SPECIFIED PORTION OF THE CITY'S PROCEEDS FROM AN EXISTING 1% LOCAL SALES AND USE TAX LEVIED BY THE CITY TO RETIRE SAID BONDS; CALLING **AND** SETTING A DATE FOR A SPECIAL ELECTION TO REFER TO A VOTE OF THE PEOPLE THE QUESTION OF ISSUING SAID BONDS TO BE REPAYED FROM THE PROCEEDS OF SAID TAXES; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

**WHEREAS**, the City of Conway, Arkansas (the "City") has outstanding an issue of Sales and Use Tax Capital Improvement Bonds dated August 1, 1987 (the "1987 Bonds"), issued under Amendment No. 62 to the Constitution of the State of Arkansas, as implemented by Act 871 of 1985, as amended (the "Act"); and

**WHEREAS**, the 1987 Bonds are secured by the pledge of an existing 1% sales and use tax levied by the City pursuant to Ordinance No. 081-42 adopted by the City on September 24, 1981 (the "1% Sales and Use Tax");

**WHEREAS**, the City Council of the City has determined that certain capital improvements are needed and that the funds therefor can best be obtained by the issuance of capital improvement bonds pursuant to the Act; and

**WHEREAS**, the estimated cost to the City of these capital improvements will be approximately \$14,000,000; and

**WHEREAS**, the City can issue Sales and Use Tax Capital Improvement Bonds, Series 1993A in principal amount not to exceed \$14,000,000 to finance the capital improvements and pay costs of issuance;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:**

Section 1. (a) The City Council hereby authorizes the issuance of capital improvement bonds under the Act, in a principal amount not to exceed \$14,000,000 for the purpose of acquiring, constructing and/or equipping street improvements, solid waste collection, disposal, compacting and recycling facilities and equipment, public park facilities, fire fighting facilities and equipment and police station facilities and equipment; provided, however, that each purpose for which the bonds are to be issued shall be submitted as a separate question at the election

hereinafter provided for and that the total amount of bonds to be issued shall not exceed the principal amount, in the aggregate, approved by the voters.

(b) The Mayor and City Clerk are hereby authorized to execute a trust indenture which defines the terms and provisions of the bonds, the rights of the owners of the bonds, provides for the security for the bonds, and provides for the appointment of a trustee for the bonds.

Section 2. (a) To retire the aforesaid bonds, but subject to the limitation prescribed by paragraph (b) of this section, there is hereby levied a local sales (gross receipts) tax at the rate of one-half percent (.5%) on the receipts of the sale at retail within the City of all items which are subject to taxation under the Arkansas Gross Receipts Tax Act of 1941, Act 386 of the 1941 Acts of Arkansas, as said Act 386 has been heretofore or may be hereinafter amended; and that there is hereby imposed an excise tax on the storage, use, or other consumption within the City of tangible personal property purchased, leased, or rented from any retailer from outside the state for storage, use, or other consumption in the City at a rate of one-half percent (.5%) of the sale price of the property or, in the case of leases or rentals, of said lease or rental price, which tax shall be collected according to the terms, procedures, and regulations of the Arkansas Compensating Tax Act of 1949, Act 487 of the 1949 Acts of Arkansas, as said Act 487 has been heretofore or may hereinafter be amended. The aforesaid bonds shall also be secured from a pledge of and lien upon the existing 1% Sales and Use Tax.

(b) The aforesaid sales and use taxes shall be levied and collected only on the first two thousand five hundred dollars (\$2,500) of gross receipts, gross proceeds or sales price from a single transaction. Vendors collecting, reporting, and remitting said taxes shall show said taxes as a separate entry on the tax report form filed with the Commissioner of Revenues.

(c) The term "single transaction" is defined in Ordinance No. 0-87-17 of the City.

Section 3. At the annual school election to be held in the usual polling places in the City on September 21, 1993, there shall be submitted to the electors of the City the question of issuing the aforesaid bonds to be secured as described in Section 2(a) above.

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

There is submitted to the qualified electors of the City of Conway, Arkansas, the issuance of capital improvement bonds (the "Bonds"), under Amendment No. 62 to the Arkansas Constitution, as implemented by Act 871 of 1985, as amended, for the purpose of acquiring,

constructing and/or equipping (i) street improvements in an amount not to exceed \$8,000,000, (ii) solid waste collection, disposal, compacting and recycling facilities and equipment in an amount not to exceed \$2,500,000, (iii) public park facilities in an amount not to exceed \$2,350,000, (iv) fire fighting facilities and equipment in an amount not to exceed \$575,000 and (v) police station facilities and equipment in an amount not to exceed \$575,000. The City has levied a .5% sales and use tax within the City to be levied and collected on the first \$2,500 of gross receipts, gross proceeds or sales price on each single transaction, the proceeds of which shall be pledged to pay the principal of, interest on, and fees and expenses in connection with said Bonds, if approved. ~~The .5% sales and use tax previously levied by Ordinance No. 0-93-22 adopted by the City on June 25, 1993 has been repealed.~~ In addition, the Bonds, if approved, will be secured by a pledge of and lien upon all or a portion of the City's proceeds of an existing one percent (1%) local sales and use tax levied by the City pursuant to Ordinance No. 081-42 adopted by the City on September 24, 1981 (the "1% Sales and Use Tax"). The extent and nature of the pledge and lien of the existing 1% Sales and Use Tax on the Bonds shall be determined by subsequent ordinance of the City. In the event that the voters shall approve only a portion of the Bonds proposed to be issued, there shall only be issued Bonds for the purpose(s) approved by the voters. Any Bonds that are approved may be combined into a single issue of Bonds, which may be issued at one time or in series from time to time.

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Vote on each question by placing an "X" in one of the following squares, either for or against:

Question One:

Bond issue in principal amount not to exceed \$8,000,000 for the purpose of acquiring, constructing, reconstructing, repairing, straightening and widening of streets in the City, which may include related sidewalk, traffic signal, curbing, guttering and drainage improvements.

FOR: \_\_\_\_\_ or AGAINST: \_\_\_\_\_

Question Two:

Bond issue in principal amount not to exceed \$2,500,000 for the purpose of acquiring, constructing and equipping of various solid waste collection, disposal, compacting and recycling facilities and equipment in the City, which

may include the acquiring of land and the construction and equipping of a recycling facility for use by the City, the acquisition of new sanitation trucks and the acquisition of other recycling equipment.

FOR: \_\_\_\_\_ or AGAINST: \_\_\_\_\_

Question Three:

Bond issue in principal amount not to exceed \$2,350,000 for the purpose of acquiring, constructing and equipping public park facilities in the City, which may include the acquiring, constructing and equipping of a multi-purpose community center/gymnasium, softball fields and other related recreational facilities, equipment and apparatus.

FOR: \_\_\_\_\_ or AGAINST: \_\_\_\_\_

Question Four:

Bond issue in principal amount not to exceed \$575,000 for the purpose of acquiring, constructing and equipping fire fighting facilities and equipment in the City, which may include the acquiring, constructing and equipping of a fire station and related fire fighting equipment and other public safety equipment.

FOR: \_\_\_\_\_ or AGAINST: \_\_\_\_\_

Question Five:

Bond issue in principal amount not to exceed \$575,000 for the purpose of acquiring and equipping police station facilities and equipment in the City, which may include the acquiring and equipping of police substation communication facilities and equipment and other public safety equipment.

FOR: \_\_\_\_\_ or AGAINST: \_\_\_\_\_

Section 5. The election shall be held and conducted and the vote cast and the results declared in the manner provided for municipal elections under the election laws of the State as then in effect. Only qualified voters of the City shall have the right to vote at the election. The City Clerk is hereby authorized and directed to give notice of the election by one advertisement in a newspaper having a general circulation within the City, the publication to be not less than ten (10) days prior to the date of the election.

Section 6. A certified copy of this Ordinance shall be furnished to the Faulkner County Board of Election Commissioners, so that it may place the question on the ballot for the election, provide the necessary election officials and supplies, and canvass

the vote on the question. A certified copy of the Ordinance shall also be provided to the Director of the Department of Finance and Administration of the State of Arkansas and to the Treasurer of the State of Arkansas.

Section 7. The results of the election, shall be proclaimed by the Mayor. The Mayor's proclamation shall be published one (1) time in a newspaper having general circulation in the City. The results as proclaimed shall be conclusive unless attacked in the Circuit Court of Faulkner County within thirty (30) days after the date of publication of the proclamation.

Section 8. The aforesaid .5% sales and use tax shall be levied and collected until all bonds authorized in this ordinance and approved by the voters shall have been retired in full.

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Delete  
etc

Section 9. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict, ~~including but not limited to Ordinance No. 0-93-32, Ordinance No. 0-93-33 and Ordinance No. 0-93-34, all adopted by the City Council on June 25, 1993.~~

Section 10. The City Council hereby determines that the City of Conway is in dire need of accomplishing and providing essential capital improvements; that an appropriate way to provide such capital improvements is by the levying of a .5% sales and use tax on the gross receipts from business within the City and by the issuance of bonds payable from such tax revenues and also by a pledge of and lien upon all or a specified portion of the City's proceeds of the City's existing 1% Sales and Use Tax levied pursuant to Ordinance No. 081-42 of the City; and, that this ordinance shall be given immediate effect so that the essential capital improvements may be acquired, constructed and/or equipped as soon as possible. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the immediate preservation of the public health, safety, and welfare shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 20th day of August, 1993.

APPROVED:

By: David A. Finley  
Mayor

ATTEST:

By: Martha Hartman  
City Clerk