

ORDINANCE NO. 0-00-92

City of Conway R19145
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AN ORDINANCE PROVIDING FOR THE LEVY OF A LOCAL SALES AND USE TAX AT THE RATE OF ONE PERCENT (1%) WITHIN THE CITY OF CONWAY, ARKANSAS; DETERMINING THE NECESSITY OF THE ISSUANCE OF NOT TO EXCEED \$7,345,000 OF CAPITAL IMPROVEMENT BONDS BY THE CITY FOR THE PURPOSE OF FINANCING CITY PARK IMPROVEMENTS; DETERMINING THE NECESSITY OF THE ISSUANCE OF NOT TO EXCEED \$3,000,000 OF CAPITAL IMPROVEMENT BONDS BY THE CITY FOR THE PURPOSE OF FINANCING CITY STREET IMPROVEMENTS; CALLING A SPECIAL ELECTION ON THE QUESTION OF THE LEVY OF THE TAX AND THE ISSUANCE OF THE BONDS; DEFINING THE **TERM** "SINGLE TRANSACTION;" PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Conway, Arkansas (the "City") has determined that there is a great need for a source of revenue to finance improved municipal services and additional capital improvements within the City; and

WHEREAS, Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Act") authorizes the levy of citywide sales and use taxes; and

WHEREAS, said citywide sales and use taxes are to be levied and collected only on the first \$2,500 of each single transaction; and

WHEREAS, the Act further authorizes the issuance of bonds by cities for the purpose of financing certain capital improvements of a public nature, which bonds are to be secured by the pledge of all or a portion of the receipts of the citywide sales and use taxes prescribed by the Act; and

WHEREAS, the purpose of this Ordinance is to call a special election on the levy by the City of a one percent (1%) sales and use tax and the issuance by the City of its capital improvement bonds, and to define the term "single transaction";

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

Section 1. That under the authority of the Act and subject to approval by the electors of the City as provided in Section 3 below, there is hereby levied a sales and use tax at the rate of one percent (1%) on the gross receipts from the sale at retail within the City of all items which are subject to the Arkansas Gross Receipts Act of 1941, as amended (Arkansas Code of 1987 Annotated §26-52-101 et seq.), and an excise (or use) tax on the storage, ~~use~~, distribution or other consumption within the City of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (Arkansas Code of 1987 Annotated §26-53-101 et seq.), at a rate of one percent (1%) of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use

Tax shall be levied and collected only on the first \$2,500 of each "single transaction" (as defined in Section 9 hereof). The levy and collection of the Sales and Use Tax shall commence on and as of such date as provided in the Act and shall cease on and as of December 31, 2010.

Section 2. That under the authority of the Act and subject to the approval by the electors of the City as provided in Section 3 below, there is hereby authorized the issuance of the City's capital improvement bonds (i) in the aggregate principal amount of not to exceed \$7,345,000 for the purpose of acquiring, constructing and equipping City park improvements and (ii) in the aggregate principal amount of not to exceed \$3,000,000 for the purpose of acquiring, constructing and equipping City street improvements (collectively, the "Bonds"); provided, however, that each purpose for which the Bonds are to be issued shall be submitted as a separate question to the electors of the City at the special election described below and any Bonds approved by the electors of the City may thereafter be issued in one or more series from time to time in an aggregate principal amount not to exceed the principal amount(s) approved by the City's electors. If approved by the electors of the City and issued, the aforesaid Bonds shall be secured by a pledge of and a lien upon the revenues of the Sales and Use Tax to the extent necessary to pay the scheduled debt service on the Bonds.

Section 3. That there be, and there is hereby called, a special election to be held on Tuesday, August 29, 2000, at which election there shall be submitted to the electors of the City the question of the levy of the Sales and Use Tax and the questions of the issuance of the Bonds.

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

There is submitted to the qualified electors of the City of Conway, Arkansas, the question of the levy of a citywide sales and use tax at the rate of one percent (1%) (the "Sales and Use Tax") pursuant to Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Act"). If approved, the levy and collection of the Sales and Use Tax shall commence on and as of such date as provided in the Act and shall cease on and as of December 31, 2010.

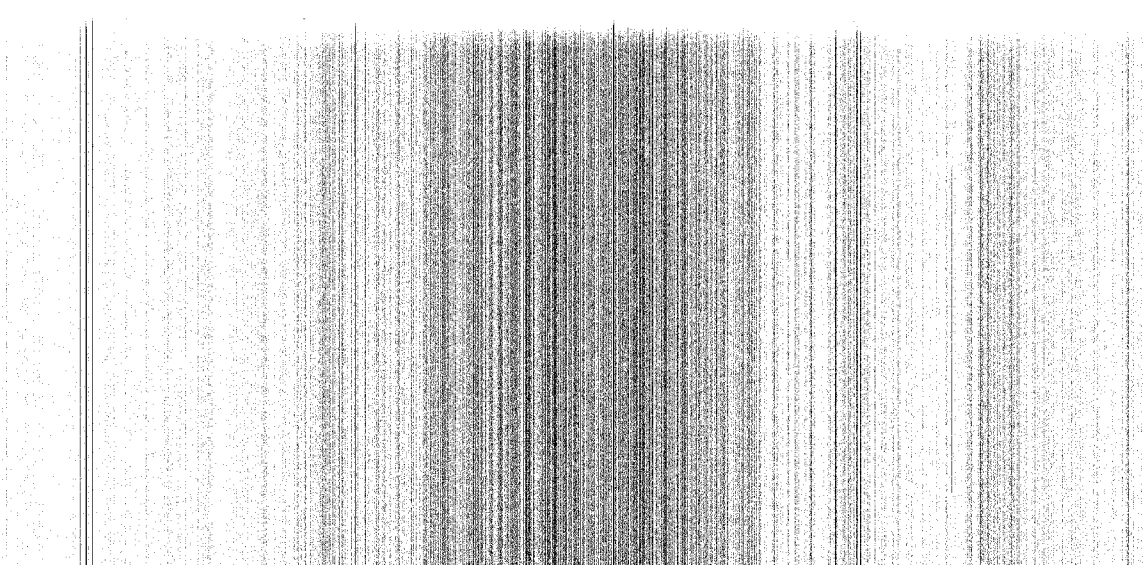
Vote on the question by placing an "X" in one of the squares following the question, either for or against:

Question One:

FOR adoption of a one percent (1%) local sales and use tax within the City of Conway, Arkansas.....

AGAINST adoption of a one percent (1%) local sales and use tax within the City of Conway, Arkansas.....

There is also submitted to the qualified electors of the City of Conway, Arkansas, the questions of the issuance of capital improvement bonds pursuant to the Act for the purposes of financing the acquisition and construction of (i) public park lands,



facilities and equipment in an amount not to exceed \$7,345,000, and (ii) street improvements in an amount not to exceed \$3,000,000 (collectively, the "Bonds"). If approved, the proceeds of the Sales and Use Tax (defined above) will be pledged to the extent necessary to pay scheduled debt service on the Bonds. If the Sales and Use Tax is not approved, the Bonds will not be issued. In the event that the voters approve only a portion of the Bonds proposed to be issued, there shall only be issued Bonds for the purpose approved by the voters. Any Bonds that are approved may be combined into a single issue of Bonds, which may be issued in one or more series from time to time.

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

Question Two:

FOR the issuance of Bonds in principal amount not to exceed \$7,345,000 for the purpose of acquiring, constructing and equipping public park lands, facilities and equipment within the City of Conway, Arkansas, which may include the acquisition of undeveloped land for the future development of City parks and the development of such lands, including road improvements, water extensions, parking lots, concession stands, soccer and other playing fields and other park improvements

AGAINST the issuance of Bonds in principal amount not to exceed \$7,345,000 for the purpose of acquiring, constructing and equipping public park lands, facilities and equipment within the City of Conway, Arkansas, which may include the acquisition of undeveloped land for the future development of City parks and the development of such lands, including road improvements, water extensions, parking lots, concession stands, soccer and other playing fields and other park improvements.....

Question Three:

FOR the issuance of Bonds in principal amount not to exceed \$3,000,000 for the purpose of acquiring, constructing, reconstructing, repairing, straightening and widening City streets, which may include related sidewalk, traffic signal, curbing, guttering and drainage improvements.....

AGAINST the issuance of Bonds in principal amount not to exceed \$3,000,000 for the purpose of acquiring, constructing, reconstructing, repairing, straightening and widening City streets, which may include related sidewalk, traffic signal, curbing, guttering and drainage improvements.....

Section 5. That 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 Arkansas municipal elections unless otherwise provided in the Act, and only qualified voters of the City shall have the right to

vote at the election. The City Clerk is hereby directed to give notice of the special election by one advertisement in *The Log Cabin Democrat*, the publication to be not less than ten (10) days prior to the date of the election.

Section 6. That a copy of this Ordinance shall be given to the Faulkner 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 Director of the Department of Finance and Administration of the State of Arkansas as soon as practical.

Section 7. That the results of the special election shall be proclaimed by the Mayor, and his proclamation shall be published one time in *The Log Cabin Democrat*. The proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the Chancery Court of Faulkner County within thirty (30) days after the date of publication of the proclamation.

Section 8. That the Mayor and the City Clerk, for and on behalf of the City, be, and they hereby are authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the levy of the Sales and Use Tax is approved by the electors, to cause the Sales and Use Tax to be collected in accordance with the Act, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Section 9. That, for purposes of the Sales and Use Tax, the term "single transaction" is defined according to the nature of the goods purchased as follows:

A. When two or more devices in which, upon which or by which any person or property is, or may be, transported or drawn, including, but not limited to, on-road vehicles, off-road vehicles or farm vehicles, whether required to be licensed or not, airplanes, water vessels, motor vehicles, 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 purposes of the Sales and Use Tax;

B. 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 for 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, major equipment or machinery are sold, each individual unit shall be treated as a single transaction for the purposes of the Sales and Use Tax; and

E. For groceries, drug items, dry goods and other tangible personal property and/or services not expressly covered in this Section 9, 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 tax figure has been reported and remitted to the State of Arkansas.

Section 10. That the City considers this Ordinance to be its declaration of official intent to issue bonds and to make reimbursement to the City with a portion of the proceeds of such bonds for all original expenditures incurred by the City in acquiring, constructing or equipping those projects approved by the voters between the date that is sixty (60) days prior to the date of this Ordinance and the date the bonds are issued, plus a *de minimis* amount and preliminary expenditures, as such terms are defined in Section 1.150-2(f) of the Federal Income Tax Regulations, for all purposes of Section 1.150-2 of the Federal Income Tax Regulations.

Section 11. That Kutak Rock LLP is hereby engaged as Bond Counsel with respect to the issuance of the Bonds. Stephens Inc. and Crews & Associates, Inc. are hereby engaged as underwriters with respect to the issuance of the Bonds, with Stephens Inc. to be designated as managing underwriter. The fees and expenses of Bond Counsel and the underwriters shall be a cost of issuance of the Bonds to be paid with Bond proceeds.

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

Section 13. That it is hereby ascertained and declared that there is a great need to establish a stable source of revenue to finance improved municipal services and additional capital improvements within the City in order to promote and protect the health, safety and welfare of the City and its inhabitants. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of public peace, health and safety shall be in force and take effect immediately from and after its passage.

PASSED AND APPROVED this 11 day of July, 2000.

APPROVED:

By: *Pat Linnell*
Mayor

ATTEST:

By: *Michael O. Garrett*
City Clerk

(S E A L)