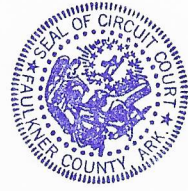


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CERTIFICATE OF RECORD  
FAULKNER CO, AR FEE \$50.00

I hereby certify that this instrument was  
Filed and Recorded in the Official Records

In Doc Num **L202125935** 8 Pages

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CRYSTAL TAYLOR  
FAULKNER COUNTY CIRCUIT CLERK

BY: DIANA VARNER, D.C.

**ORDINANCE**

**City of Conway, Arkansas**  
**Ordinance No. O-21-117**

AN ORDINANCE CALLING AND SETTING A DATE FOR A SPECIAL ELECTION ON THE QUESTIONS OF (1) THE ISSUANCE OF NOT TO EXCEED \$6,900,000 OF THE CITY'S RESTAURANT GROSS RECEIPTS TAX REFUNDING BONDS FOR THE PURPOSE OF REFUNDING THE CITY'S OUTSTANDING RESTAURANT GROSS RECEIPTS TAX REFUNDING BONDS, SERIES 2017, (2) THE ISSUANCE OF NOT TO EXCEED \$27,300,000 OF THE CITY'S RESTAURANT GROSS RECEIPTS TAX CAPITAL IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COSTS OF A COMMUNITY CENTER, AND (3) THE ISSUANCE OF NOT TO EXCEED \$5,500,000 OF THE CITY'S RESTAURANT GROSS RECEIPTS TAX CAPITAL IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COSTS OF SOCCER FIELDS; PLEDGING ALL OF THE PROCEEDS FROM THE ONE PERCENT (1.00%) TAX UPON GROSS RECEIPTS FROM THE SALE OF PREPARED FOOD AND BEVERAGES ORIGINALLY LEVIED BY ORDINANCE NO. O-05-98 AND PLEDGING SEVENTY-FIVE PERCENT (75%) OF THE PROCEEDS FROM THE ONE PERCENT (1.00%) TAX UPON GROSS RECEIPTS FROM THE SALE OF PREPARED FOOD AND BEVERAGES ORIGINALLY LEVIED BY ORDINANCE NO. O-05-97 TO THE PAYMENT OF THE BONDS; 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 critical need for a source of revenue to finance the acquisition, construction and equipping of a community center and additional soccer fields within the City; and

**WHEREAS**, Title 26, Chapter 75, Subchapter 6 of the Arkansas Code of 1987 Annotated (the "Advertising and Promotion Commission Act") authorizes the City to levy taxes upon the gross receipts from the sale of prepared food and beverages within the City; and

**WHEREAS**, pursuant to the provisions of Ordinance No. O-05-97 adopted on August 16, 2005, the City has previously levied a one percent (1.00%) tax ("A&P Tax No. 1") upon the gross receipts from the sale of prepared food and beverages within the City; and

**WHEREAS**, pursuant to the provisions of Ordinance No. O-05-97, 25% of the proceeds of A&P Tax No. 1 are to be utilized at the discretion of the City's Advertising and Promotion Commission (the "Commission") for any purpose authorized by the Advertising and Promotion Commission Act, and 75% of the proceeds of A&P Tax No. 1 are to be utilized by the Commission, at the direction of the Mayor and upon approval by the City Council, for the development, purchase and construction of parks and recreation facilities; and

**WHEREAS**, pursuant to the provisions of Ordinance No. O-05-98 adopted on August 16, 2005, the City has previously levied a second one percent (1.00%) tax ("A&P Tax No. 2") upon the gross receipts from the sale of prepared food and beverages within the City; and

**WHEREAS**, pursuant to the provisions of Ordinance No. O-05-98, the proceeds of A&P Tax No. 2 are to be utilized by the Commission, at the direction of the Mayor and upon approval by the City Council, for the development, purchase and construction of City parks; and

**WHEREAS**, the Advertising and Promotion Commission Act and Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Local Government Bond Act") authorize the issuance of capital improvement bonds by municipalities for the purpose of financing parks and recreation facilities, which bonds may be secured by the pledge of all or a portion of the receipts of taxes imposed under the Advertising and Promotion Commission Act, with the consent of the advertising and promotion commissions of such municipalities; and

**WHEREAS**, pursuant to Ordinance No. O-17-112 adopted on October 10, 2017, the City has previously issued its \$9,115,000 Restaurant Gross Receipts Tax Refunding Bonds, Series 2017 (the "Series 2017 Bonds"), of which \$7,615,000 in principal amount currently remains outstanding, for the purpose of refunding prior bonds originally issued to finance various park facilities and trail improvements within the City; and

**WHEREAS**, if approved by the electors of the City, the City has determined to issue (1) its refunding bonds in principal amount not to exceed \$6,900,000 (the "Refunding Bonds") for the purpose of redeeming the outstanding Series 2017 Bonds, (2) its capital improvement bonds in principal amount not to exceed \$27,300,000 (the "Community Center Bonds") for the purpose of financing the acquisition, construction and equipping of a community center within the City, including the acquisition of all or a portion of an existing building located on land owned by the City, the renovation, rehabilitation and equipping thereof, and the acquisition, construction and equipping of structures and related facilities adjacent thereto (the "Community Center Project"), and (3) its capital improvement bonds in principal amount not to exceed \$5,500,000 (the "Soccer Fields Bonds") for the purpose of financing the acquisition, construction and equipping of additional soccer fields and related structures and amenities on land leased by the City (the "Soccer Fields Project"), which Refunding Bonds, Community Center Bonds and Soccer Fields Bonds are to be equally and ratably secured by a pledge of and lien upon (i) 75% of the receipts of A&P Tax No. 1 and (ii) all of the receipts of A&P Tax No. 2, all as authorized by the Advertising and Promotion Commission Act and the Local Government Bond Act; and

**WHEREAS**, the purpose of this Ordinance is to call a special election on the issuance by the City of the Refunding Bonds, the Community Center Bonds and the Soccer Fields Bonds;

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

**Section 1.** That under the authority of the Advertising and Promotion Commission Act and the Local Government Bond Act, and subject to approval by the Commission and the electors of the City as provided in Section 2 below, there is hereby authorized (1) the issuance of the City's refunding bonds in the aggregate principal amount of not to exceed \$6,900,000 (the "Refunding Bonds") for the purpose of redeeming the City's outstanding Restaurant Gross Receipts Tax Refunding Bonds, Series 2017 (the "Series 2017 Bonds"), (2) the issuance of the City's capital improvement bonds in the aggregate principal amount of not to exceed \$27,300,000 (the "Community Center Bonds") for the purpose of financing the Community Center Project, and (3) the issuance of the City's capital improvement bonds in the aggregate principal amount of not to exceed \$5,500,000 (the "Soccer Fields Bonds") for the purpose of financing the Soccer Fields Project. Such bonds as are 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 respective principal amount(s) approved. Such bonds as are issued by the City shall be secured on a parity basis by a pledge of and a lien upon (i) 75% of the receipts of A&P Tax No. 1 and (ii) all of the receipts of A&P Tax No. 2. Notwithstanding the aforementioned pledge and lien, the receipts of A&P Tax No. 2 will be utilized first, to the extent needed, for the purpose of paying scheduled debt service on the Refunding Bonds, the Community Center Bonds and the Soccer Fields Bonds (collectively, the "Bonds"), and the pledged receipts of A&P Tax No. 1 will be utilized for the payment of scheduled debt service on the Bonds only after application of the pledged receipts of A&P Tax No. 2. The use of surplus collections of A&P Tax No. 1 and A&P Tax No. 2 will be controlled by the provisions of the Advertising and Promotion Commission Act, Ordinance No. O-05-97, Ordinance No. O-05-98 and the trust indenture governing the issuance of and security for the Bonds.

**Section 2.** That there be, and there is hereby called, a special election to be held on Tuesday, February 8, 2022, at which election there shall be submitted to the electors of the City the questions of the issuance of the Refunding Bonds, the Community Center Bonds and the Soccer Fields Bonds.

**Section 3.** That the questions shall be placed on the ballot for the special election in substantially the following forms:

**SPECIAL ELECTION ON  
BOND ISSUANCE**

*Unless Question One described below is approved, the Series 2017 Bonds described below will remain outstanding.*

Question One:

There is submitted to the qualified electors of the City of Conway, Arkansas, the question of the issuance of refunding bonds in principal

amount not to exceed \$6,900,000 (the "Refunding Bonds"), pursuant to Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Local Government Bond Act") and Title 26, Chapter 75, Subchapter 6 of the Arkansas Code of 1987 Annotated (the "Advertising and Promotion Commission Act"), for the purpose of refunding the City's outstanding Restaurant Gross Receipts Tax Refunding Bonds, Series 2017 (the "Series 2017 Bonds"). If the issuance of the Refunding Bonds is approved, the Refunding Bonds shall be secured by a pledge of and lien upon (i) 75% of the receipts of an existing one percent (1.00%) tax ("A&P Tax No. 1") levied pursuant to Ordinance No. O-05-97 upon the gross receipts from the sale of prepared food and beverages within the City and (ii) all of the receipts of an existing one percent (1.00%) tax ("A&P Tax No. 2") levied pursuant to Ordinance No. O-05-98 upon the gross receipts from the sale of prepared food and beverages within the City.

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

FOR the issuance of Refunding Bonds in principal amount not to exceed \$6,900,000  
.....

AGAINST the issuance of Refunding Bonds in principal amount not to exceed \$6,900,000  
.....

Question Two:

There is submitted to the qualified electors of the City of Conway, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$27,300,000 (the "Community Center Bonds"), pursuant to Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Local Government Bond Act") and Title 26, Chapter 75, Subchapter 6 of the Arkansas Code of 1987 Annotated (the "Advertising and Promotion Commission Act"), for the purpose of financing the acquisition of all or a portion of an existing building at 450 Corporate Drive within the City located on land owned by the City, the renovation, rehabilitation and equipping thereof, and the acquisition, construction and equipping of structures and related facilities adjacent thereto (the "Community Center Project"), which project may include aquatic features such as indoor and outdoor pools, lazy river, tot pool, zero-entry area, play features, vortex, climbing wall, bubble bench, waterslides, tanning edge and concession area, as well as volleyball and pickleball courts, an indoor track, party rooms, multi-purpose rooms and the City's Parks and Recreation offices, and any necessary utility, landscaping, road and parking improvements related thereto. If the issuance of the Community Center Bonds is approved, the Community Center Bonds shall be secured by a pledge of and lien upon (i) 75% of the receipts of an existing one percent (1.00%) tax ("A&P Tax No. 1") levied pursuant to Ordinance No. O-05-97 upon the gross receipts from the sale of prepared food and beverages within the City and (ii) all of the receipts

of an existing one percent (1.00%) tax (“A&P Tax No. 2”) levied pursuant to Ordinance No. O-05-98 upon the gross receipts from the sale of prepared food and beverages within the City.

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

FOR the issuance of Community Center Bonds in principal amount not to exceed \$27,300,000  
.....

AGAINST the issuance of Community Center Bonds in principal amount not to exceed \$27,300,000  
.....

Question Three:

There is submitted to the qualified electors of the City of Conway, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$5,500,000 (the “Soccer Fields Bonds”), pursuant to Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the “Local Government Bond Act”) and Title 26, Chapter 75, Subchapter 6 of the Arkansas Code of 1987 Annotated (the “Advertising and Promotion Commission Act”), for the purpose of financing the acquisition, construction and equipping of additional soccer fields on land leased by the City off Museum Road within the City (the “Soccer Fields Project”), which project may include related structures and amenities and any necessary utility, landscaping, road and parking improvements related thereto. If the issuance of the Soccer Fields Bonds is approved, the Soccer Fields Bonds shall be secured by a pledge of and lien upon (i) 75% of the receipts of an existing one percent (1.00%) tax (“A&P Tax No. 1”) levied pursuant to Ordinance No. O-05-97 upon the gross receipts from the sale of prepared food and beverages within the City and (ii) all of the receipts of an existing one percent (1.00%) tax (“A&P Tax No. 2”) levied pursuant to Ordinance No. O-05-98 upon the gross receipts from the sale of prepared food and beverages within the City.

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

FOR the issuance of Soccer Fields Bonds in principal amount not to exceed \$5,500,000  
.....

AGAINST the issuance of Soccer Fields Bonds in principal amount not to exceed \$5,500,000  
.....

**Section 4.** 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 Local Government Bond

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 5.** That a copy of this Ordinance shall be given to the Faulkner County Board of Election Commissioners not later than November 29, 2021, so that the necessary election officials and supplies may be provided.

**Section 6.** 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 Circuit Court of Faulkner County within thirty (30) days after the date of publication of the proclamation.

**Section 7.** 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 to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

**Section 8.** That the City considers this Ordinance to be its declaration of official intent to issue the Community Center Bonds and the Soccer Fields Bonds and to make reimbursement with a portion of the proceeds thereof for all original expenditures incurred in the acquisition, design, construction, equipping and furnishing of the Community Center Project and the Soccer Fields Project between the date that is sixty (60) days prior to the date of this Ordinance and the date a series of Bonds is issued for such purposes, 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.

**Section 9.** That Kutak Rock LLP is hereby engaged as Bond Counsel and Crews & Associates, Inc. and Stephens Inc. are hereby engaged as Underwriters with respect to the issuance of the Bonds. 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.

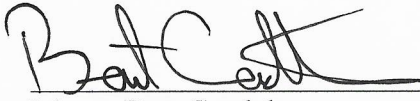
**Section 10.** That the provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

**Section 11.** That all ordinances and parts thereof in conflict herewith, including particularly, certain provisions of Ordinance No. O-05-97 and Ordinance No. O-05-98, are hereby repealed to the extent of such conflict.

**Section 12.** That it is hereby ascertained and declared that there is a critical need to obtain an additional source of revenue to finance the needed capital improvements constituting the Community Center Project and the Soccer Fields Project, in order to promote and protect the health, safety and welfare of the inhabitants of the City. 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 effect immediately from and after its passage.

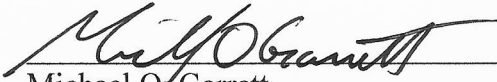
PASSED AND APPROVED this 23<sup>rd</sup> day of November, 2021.

APPROVED:

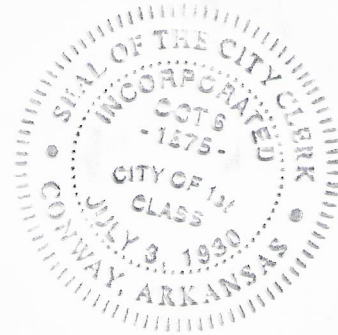


Mayor Bart Castleberry

ATTEST:




Michael O. Garrett  
City Clerk/Treasurer



**CERTIFICATE**

The undersigned, City Clerk of the City of Conway, Arkansas, hereby certifies that the foregoing is a true and perfect copy of an Ordinance adopted at a regular meeting of the City Council of the City of Conway, Arkansas, held at 6:30 p.m. on November 23, 2021.

DATED: November 23<sup>rd</sup>, 2021

  
\_\_\_\_\_  
Michael O. Garrett  
City Clerk/Treasurer

