

ORDINANCE NO. **O-16-13**

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF GARLAND, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE CALLING A SPECIAL ELECTION IN GARLAND COUNTY, ARKANSAS ON THE QUESTION OF ISSUING CAPITAL IMPROVEMENTS BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS; LEVYING A NEW FIVE-EIGHTHS OF ONE PERCENT (0.625%) SALES AND USE TAX FOR THE PURPOSE OF RETIRING SUCH BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the Quorum Court of Garland County, Arkansas (the "County") has determined that the County is greatly in need of new, and improvements to existing, roads, streets, and related structures, including particularly, without limitation, overpasses, underpasses, bridges and sidewalks, and any necessary land, easements, rights of way and related intersection improvements, drainage and traffic control devises and improvements therefor (collectively, the "Improvements"); and

WHEREAS, the Improvements shall include particularly, without limitation, the project known as the Martin Luther King Bypass extension; and

WHEREAS, the County can finance all or a portion of the costs of the Improvements by the issuance of capital improvement bonds (the "Bonds") in the maximum aggregate principal amount of \$54,695,000 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"); and

WHEREAS, the Authorizing Legislation provides for the levy of one or more county-wide sales and use taxes at the rate of 0.125%, 0.25%, 0.5%, 0.75% or 1% or any combination thereof, but not to exceed 1% in the aggregate; and

WHEREAS, the County can pay the principal of and interest on the Bonds from the proceeds of a new county-wide 0.625% sales and use tax to be levied under the authority of the Authorizing Legislation for that purpose; and

WHEREAS, the <sup>County</sup>~~City~~ is levying a 0.625% sales and use tax in order to retire the County's Sales and Use Tax Bonds, Series 2011 (the "Series 2011 Bonds"); and

WHEREAS, the purpose of this Ordinance is to levy a sales and use tax at the rate of 0.625% on the receipts from the sales at retail within the County 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, using, distributing or consuming within the County tangible personal property under the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §§26-53-101, et seq.) (the "Sales and Use Tax") and to submit to the electors of the County the question of issuing the Bonds under Amendment 62 and the Authorizing Legislation at a special election to be called for that purpose; and

WHEREAS, the Series 2011 Bonds are expected to be paid in full and the existing 0.625% sales and use tax is expected to terminate, prior to June 30, 2017; and

WHEREAS, the effective date of the Sales and Use Tax will be delayed until July 1, 2017;

NOW, THEREFORE, BE IT ORDAINED by the Quorum Court of Garland County, Arkansas:

Article 1. Under the authority of the Authorizing Legislation, there is hereby levied the Sales and Use Tax. The Sales and Use Tax shall be levied, and the net collections received after the State of Arkansas deducts its administrative charges and required rebates shall be used for the purpose of retiring or paying obligations with respect to the Bonds. The Sales and Use Tax shall be levied and collected on the gross receipts, gross proceeds or sales price in the maximum amount allowed from time to time under Arkansas statutes, subject to rebates and limitations as required for certain single transactions as from time to time required by Arkansas statutes. The levy of the Sales and Use Tax shall take effect on July 1, 2017 so long as the issuance of the Bonds is approved by the voters.

Article 2. There is hereby called a special election to be held on June 28, 2016, at which election there shall be submitted to the electors of the County, the question of issuing the Bonds under Amendment 62 and the Authorizing Legislation in the aggregate principal amount of not to exceed \$54,695,000 to be payable from the net collections of the Sales and Use Tax.

Article 3. The question of issuing the Bonds shall be placed on the ballot for the election in substantially the following form:

**COUNTY BONDS AND COUNTY-WIDE 0.625% SALES AND USE TAX**

Vote FOR or AGAINST capital improvement bonds of Garland County, Arkansas (the "County") in the maximum aggregate principal amount of \$54,695,000 to finance all or a portion of the costs of new, and improvements to existing, roads, streets, and related structures, including particularly, without limitation, overpasses, underpasses, bridges and sidewalks, and any necessary land, easements, rights of way and related intersection improvements, drainage and traffic control devices and improvements therefor (collectively, the "Improvements"), and, in order to pay the bonds, the levy and pledge of a 0.625% local sales and use tax within the County. The Improvements shall include particularly, without limitation, the project known as the Martin Luther King Bypass extension.

If the bonds are approved, there will be levied within the County a new 0.625% sales and use tax, the net collections of which after the State of Arkansas deducts its administrative charges and required rebates will not be distributed to the municipalities in the County and will be used by the County to retire or pay obligations with respect to the bonds in accordance with Amendment No. 62 to the Arkansas Constitution. The levy and collection of the sales and use tax shall commence on July 1, 2017. The tax will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes. The bonds may be issued in series from time to time.

FOR.....

AGAINST.....

Article 4. 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 county elections unless otherwise provided in the Authorizing Legislation and only qualified voters of the County shall have the right to vote at the election.

Article 5. The results of the election shall be proclaimed by the County Judge, and the Proclamation shall be published one time in a newspaper published in the County and having a general circulation therein, 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.

Article 6. A copy of this Ordinance shall be filed with the Garland County Clerk at least 60 days prior to the date of the special election. A copy of this Ordinance shall be given to the Garland 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.

Article 7. The County Judge and County Clerk, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the issuance of the Bonds is approved by the electors, to cause the Sales and Use Tax to be collected in accordance with the Authorizing Legislation, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Article 8. If the Bonds are approved, the County intends to negotiate with Stephens Inc., which has assisted the County in preparation of the Bond size and repayment structure, for the sale of the Bonds.

Article 9. The provisions of this Ordinance are separable and if an article, phrase or provision shall be declared invalid, such declaration shall not affect the validity of the remainder of the Ordinance.

Article 10. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: 3/14, 2016.

ATTEST:

  
\_\_\_\_\_  
County Clerk

(SEAL)

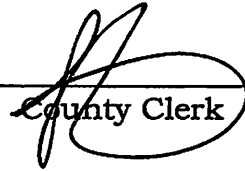
APPROVED:

  
\_\_\_\_\_  
County Judge

CERTIFICATE

The undersigned, County Clerk of Garland County, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 0-16-13, passed at a regular session of the Quorum Court, held at the regular meeting place of the Quorum Court at 6:00 o'clock p.m., on the 14<sup>th</sup> day of March, 2016, and that the Ordinance is of record in Ordinance Record Book No. \_\_\_\_\_, Page \_\_\_\_\_, now in my possession.

GIVEN under my hand and seal this 14<sup>th</sup> day of March, 2016.

  
\_\_\_\_\_  
County Clerk

(SEAL)