

ORDINANCE NO. 04-2012

**AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF AUSTIN, ARKANSAS ON THE QUESTION OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF FINANCING THE COST OF CONSTRUCTING BETTERMENTS AND IMPROVEMENTS TO THE CITY OF AUSTIN'S STREETS; LEVYING A NEW ONE PERCENT (1%) SALES AND USE TAX FOR THE PURPOSE OF RETIRING SUCH BONDS; CONTINUING THE TAX AFTER THE BONDS ARE RETIRED; PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Austin, Arkansas (the "City") has an immediate need to provide funds to construct betterments and improvements to its street system; and

WHEREAS, the Austin City Council has determined that it would be in the best interests of the residents of the City to levy a sales and use tax and utilize the proceeds of the tax to construct improvements to the street system of the City and for the retirement of debt issued to construct betterments and improvements to the street system of the City;

WHEREAS, the Austin City Council has determined that after the bonds are retired, the sales and use tax should continue to be collected and deposited into the general fund of the City;

WHEREAS, it appears the best method for financing the construction of street system improvements is by the use of a one percent (1.0%) sales and use tax and the issuance of bonds (the "Bonds") issued by the City, pursuant to and payable from taxes levied pursuant to Amendment No. 62 to the Arkansas Constitution ("Amendment 62") and Arkansas Code Annotated §§26-75-301, *et seq.* (the "Authorizing Legislation"); and

WHEREAS, the purpose of this Ordinance is to submit to the electors of the City the question of approving the levy of a one percent (1%) Sales and Use Tax (hereinafter defined) the proceeds of which will be used to pay debt service on construction Bonds issued under Amendment 62 for the purpose of constructing betterments and improvements to the street system of the City, and for paying all fees and expenses in connection therewith, and after the Bonds are retired, to continue to collect the one percent (1.0%) sales and use tax and deposit it into the general fund of the City.

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

Section 1. That there be, and there is hereby called, an election to be held on May 8, 2012, at which election there shall be submitted to the electors of the City the question of approving the levy of a one percent (1%) tax on the receipts from the sales at retail within the City of all items, which are subject to taxation under Arkansas Gross Receipts Tax Act of 1941, as amended, and the receipts from storing, using or consuming within the City tangible personal property under the Arkansas Compensating Tax Act of 1949, as amended (the "Sales and Use Tax"), the proceeds of which tax will be used to retire bonds payable pursuant to Amendment 62 to the Arkansas Constitution and Arkansas Code Annotated §§26-75-301 *et seq.*, and issued to finance the construction of betterments and improvements to the street system of the City, and after the bonds are retired, to be deposited into the general fund of the City.

Section 2. In order to provide debt service on Bonds issued under Amendment 62 for the purpose of constructing betterments and improvements to the street system of the City, there is hereby levied the Sales and Use Tax at a rate of one percent (1%). The levy of the Sales and Use Tax shall not be effective until after the special election called in Section 1 above has been held and the continuation of the levy of the Sales and Use Tax has been approved by the voters.

Section 3. That the question of the levy of the Sales and Use Tax and the issuance of the Bonds shall be placed on the ballot for the election in substantially the following form:

The questions presented are (1) the levy of a sales and use tax, to be collected within the City at the rate of one percent (1%), and (2) the pledge and use of the net collections of the sales and use tax to the security and payment of Bonds to be issued for the purpose of financing the Project, described below, and to continue the tax after the Bonds are retired, which tax will be deposited into the City's general fund.

If Bonds are issued, the Bonds will be issued in the principal amount of not to exceed \$1,250,000 for the purpose of financing betterments and improvements to the street system of the City (the "Project").

The Bonds, if issued, will be secured by a pledge of and payable from the net collections of the one cent sales and use tax (after deduction for the administrative costs of the State of Arkansas).

The term "Bonds" as used herein, the Bonds may be in the form of any financial instruments given to evidence the loan or loans from financial institutions, investment banks, or State and federal agencies.

Section 7. The Mayor and Recorder and Treasurer, 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, if the Sales and Use Tax 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.

Section 8. That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. It is hereby ascertained and declared that the street system improvements must be accomplished as soon as possible, without which the life, health, safety and welfare of the City and its inhabitants are jeopardized, and that the issuance of the Bonds and the taking of the other action authorized by this Ordinance is necessary for the accomplishment thereof. It is, therefore, declared that an emergency exists and this Ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage.

PASSED: Feb. 27, 2012.

APPROVED:

Bernie Chamberlain  
Mayor

ATTEST:

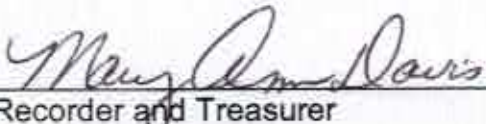
Mary Ann Davis  
Recorder and Treasurer

(SEAL)

CERTIFICATE

The undersigned, Recorder and Treasurer of Austin, Arkansas, hereby certifies that the foregoing pages, numbered 1 to 4, inclusive are a true and perfect copy of Ordinance No. 04, passed at a Regular session of the City Council of Austin, Arkansas, held at the regular meeting place of the City Council at 7 o'clock p.m., on the 27 day of February, 2012, and that the Ordinance is of record in Ordinance Record Book No. \_\_\_\_, Page \_\_\_\_, now in my possession.

GIVEN under my hand and seal this 27 day of February, 2012.

  
\_\_\_\_\_  
Recorder and Treasurer

(SEAL)

I, MARY ANN DAVIS Recorder for the City of Austin, Arkansas HEREBY CERTIFY that the attached Ordinance No. 04 was duly adopted by the City Council of Austin, Arkansas on Feb. 27, 2012, and became effective as of said date, and that said Ordinance has been compared by me with the original thereof recorded in the minute book of the City of Austin, and that is is a correct transcript of the whole thereof, and that said Ordinance has not been altered, amended or repealed but is in full force and effect.

  
Recorder

(SEAL)