

ORDINANCE NO. 2023-53

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF SEARCY, ARKANSAS ON THE QUESTION OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COSTS OF CAPITAL IMPROVEMENTS; LEVYING A NEW ONE-HALF OF ONE PERCENT (0.5%) SALES AND USE TAX FOR THE PURPOSE OF RETIRING SUCH BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City Council of the City of Searcy, Arkansas (the "City") has determined that the City is in need of park and recreational facilities and improvements, including particularly, without limitation, a community center, improvements to soccer, baseball and softball fields, improvements to parks and improvements to trails and any necessary land acquisition, furnishings, equipment and parking, lighting, landscaping, street, drainage and utility improvements related thereto (the "Park and Recreational Improvements"); and

WHEREAS, the City Council proposes to finance all or a portion of the costs of the Park and Recreational Improvements by the issuance of capital improvement bonds (the "Bonds") in one or more series in the maximum aggregate principal amount of \$93,800,000 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 city-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 City does not currently levy a sales and use tax under the authority of the Authorizing Legislation; and

WHEREAS, the City can pay the principal of and interest on the Bonds from (a) the proceeds of a new city-wide one-half of one percent (0.5%) sales and use tax to be levied under the authority of the Authorizing Legislation solely for that purpose and (b) the proceeds of an existing city-wide one percent (1%) sales and use tax levied by Ordinance No. 2021-24, adopted on August 10, 2021 and approved at the special election held on November 9, 2021; and

WHEREAS, the purpose of this Ordinance is to levy a sales and use tax at the rate of one-half of one percent (0.5%) on the receipts from the sales at retail within the City 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 City tangible personal property under the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. §§26-53-101, et seq.) (collectively, the "2023 Sales and Use Tax") and to submit to the

electors of the City the question of issuing the Bonds under Amendment 62 and the Authorizing Legislation at a special election to be called for that purpose;

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

Section 1. Under the authority of the Authorizing Legislation, there is hereby levied the 2023 Sales and Use Tax. The 2023 Sales and Use Tax shall be levied, and the net collections received after deduction of the administrative charges of the State of Arkansas and required rebates shall be used solely for the purpose of retiring or paying obligations with respect to the Bonds. The 2023 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 by Arkansas law, subject to rebates and limitations as from time to time required by Arkansas statutes for certain single transactions. The levy of the 2023 Sales and Use Tax shall not take effect until the issuance of the Bonds is approved by the voters as provided herein.

Section 2. There is hereby called a special election to be held on March 5, 2024, at which election there shall be submitted to the electors of the City, the question of issuing the Bonds under Amendment 62 and the Authorizing Legislation in one or more series in the maximum aggregate principal amount of \$93,800,000.

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

#### PARK AND RECREATIONAL IMPROVEMENT BONDS

Bonds of the City of Searcy in one or more series in the maximum aggregate principal amount of \$93,800,000 to finance all or a portion of the costs of park and recreational facilities and improvements, including particularly, without limitation, a community center, improvements to soccer, baseball and softball fields, improvements to parks and improvements to trails and any necessary land acquisition, furnishings, equipment and parking, lighting, landscaping, street, drainage and utility improvements related thereto and, in order to pay the bonds, (a) the levy and pledge of a new 0.5% local sales and use tax within the City and (b) the pledge of an existing 1% local sales and use tax levied within the City by Ordinance No. 2021-24, adopted on August 10, 2021.

If the bonds are approved, there will be levied within the City a new 0.5% local sales and use tax (the "Bond Tax"), the net collections of which remaining after deduction of the administrative charges of the State of Arkansas and required rebates will be used solely to retire or pay obligations with respect to the bonds in accordance with Amendment No. 62 to the Arkansas Constitution. The Bond Tax will expire after the bonds have been paid or provision is made therefor in accordance with Arkansas statutes. In order to provide additional funds to pay or to further secure repayment of the bonds, the City will also pledge to the bonds the net collections of an existing 1% local sales and use tax levied by Ordinance No.

2021-24, adopted on August 10, 2021 (the "2021 Tax"). Any collections of the 2021 Tax not used for the payment of the bonds will be used by the City for other lawful purposes.

FOR.....

AGAINST.....

Section 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 municipal elections unless otherwise provided in the Authorizing Legislation and only qualified voters of the City shall have the right to vote at the election.

Section 5. The results of the election shall be proclaimed by the Mayor, and the Proclamation shall be published one time in a newspaper having a general circulation in the City, 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.

Section 6. A copy of this Ordinance shall be (a) filed with the White County Clerk at least 70 days prior to the election date and (b) given to the White 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.

Section 7. The Mayor and City Clerk, for and on behalf of the City, 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 2023 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. If the Bonds are approved and issued, the City intends to negotiate with Crews & Associates, Inc., which has assisted the City in preparation of the Bond size and repayment structure, for the sale of the Bonds.

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

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

PASSED: December 12, 2023.

ATTEST:

/s/ Jerry Morris  
City Clerk

(SEAL)

APPROVED:

/s/ Mat Faulkner  
Mayor of Searcy

CERTIFICATE

The undersigned, City Clerk of Searcy, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2023-53, passed at a regular session of the City Council of Searcy, Arkansas, held at the regular meeting place of the City Council at 5:00 o'clock p.m., on the 12th day of December, 2023.

GIVEN under my hand and seal this 12<sup>th</sup> day of December, 2023.

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City Clerk

(SEAL)