

# ORDINANCE 2015-6

## **AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF OZARK, ARKANSAS ON THE QUESTIONS OF ISSUING BONDS UNDER AMENDMENT NO. 62 TO THE CONSTITUTION OF THE STATE OF ARKANSAS FOR THE PURPOSE OF REFINANCING AND FINANCING THE COST OF CAPITAL IMPROVEMENTS; LEVYING A ONE PERCENT (1%) SALES AND USE TAX FOR THE PURPOSE OF RETIRING SUCH BONDS; DECLARING AN EMERGENCY; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.**

**WHEREAS**, the City Council of the City of Ozark, Arkansas (the “**City**”) has Determined that the City is greatly in need of the following capital improvements of a public Nature, including new facilities and/or improvements to existing facilities: (a) recreational Facilities and improvements, including particularly, without limitation, land acquisition, Construction of a multiple-use recreational facility and parking, which facility may include Indoor swimming, bathhouse, therapy pool, athletic courts, walking track and other amenities, Together with street, parking and drainage improvements therefor, extension of utilities, Sidewalks, bicycle paths and utility relocations to such facilities, together with parking, Furnishings, equipment, drainage, lighting, utility improvements and related traffic signals Therefor, and to provide for future renovations and improvements to such facilities (the “**Recreational Improvements**”); and (b) emergency protection facilities and improvements, Including particularly, without limitation, land acquisition, construction of an emergency Services building, related administrative offices and parking, together with utility relocations to Such facility, together with parking, furnishings, equipment, drainage, lighting, utility Improvements and related traffic signals therefor, and to provide for future renovations and Improvements to such facility, acquisition of emergency vehicles, apparatus and equipment (the “**Emergency Services Facilities**”); and

**WHEREAS**, the City Council proposes to finance all or a portion of the costs of the Recreational Improvements and Emergency Services Facilities (together, the “**Capital Improvements**”) by the issuance of the City’s capital improvement bonds (the “**Bonds**”) under The authority of Amendment No. 62 to the Constitution of the State of 2 Arkansas (“**Amendment 62**”) and each of Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated And Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (together, (the “**Authorizing Legislation**”), allocated as follows: \$7,000,000 in maximum principal amount for The Recreational Improvements; and \$3,000,000 in maximum principal amount for the Emergency Services Facilities; and

**WHEREAS**, in accordance with the Authorizing Legislation, the City Council has also Determined that there is a need for general operating funds, including but not limited to, funds for The operation and maintenance of the Capital Improvements and other City facilities; and

**WHEREAS**, the City can pay the principal of and interest on the Bonds and can fund the Operation and maintenance costs of the Capital Improvements and other City facilities from the

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Proceeds of a City-wide 1% sales and use tax to be levied under the authority of the Authorizing Legislation; and

**WHEREAS**, the purpose of this Ordinance is to submit to the electors of the City the Questions of (a) issuing the Bonds for the Capital Improvements under Amendment 62 and the Authorizing Legislation at a special election to be called for that purpose and (b) levying a sales And use tax at the rate of one percent (1%) 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 “Sales and Use Tax”).

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

**Section 1.** There be, and there is hereby called, a special election to be held within 120 Days of adoption of this Ordinance, at which election there shall be submitted to the electors of The City the questions of (a) issuing the Bonds under Amendment 62 and the Authorizing Legislation to pay all or a portion of the costs of accomplishing the Capital Improvements in the Maximum principal amounts described above, to be payable from collections of the Sales and Use Tax remaining after the State of Arkansas deducts its administrative charges and required Rebates and (b) levying the Sales and Use Tax to pay the principal of and interest on the Bonds And to fund the City’s general operations, including but not limited to, funds for the operation And maintenance of the Capital Improvements and other City facilities.

**Section 2.** In order to (a) provide for the payment of the principal of and interest on the Bonds and all obligations of the City in connection therewith and (b) fund the City’s general Operations, including but not limited to, funds for the operation and maintenance costs of the Capital Improvements and other City facilities, there is hereby levied the Sales and Use Tax. The Levy of the Sales and Use Tax shall not become effective until the special election called in Section 1 above has been held and the issuance of the Bonds for one or more of the purposes is Approved by the voters. The effective date of the 2015 Tax will be January 1, 2016. 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 by Arkansas law, subject to rebates and Limitations as from time to time required by Arkansas statutes for certain single transactions.

**Section 3.** The question of levying the Sales and Use Tax shall be placed on the ballot for The election in substantially the following form:

**LEVY OF SALES AND USE TAX**

The levy of a new 7/8% local sales and use tax within the City for the purpose of Funding capital improvements and principal and interest on bonds issued to Finance such improvements, which shall expire on the last day of the last month of The calendar quarter in which such bonds or any bonds issued in refunding thereof Shall have been retired, and the levy of a new 1/8% local sales and use tax within

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The City for the purpose of funding capital improvements, principal and interest On bonds issued to finance such improvements, and the operation and Maintenance of City facilities and related costs, including but not limited to, costs Of utilities, salaries, wages and maintenance costs.

FOR.....

AGAINST.....

**Section 4.** The question of issuing the Bonds shall be placed on the ballot for the election In substantially the following form:

The bonds described below that are approved may be combined into a single issue or may be Issued in series from time to time. If the bonds for one or more of the purposes are approved, There will be levied a new 1% sales and use tax, the net collections of which remaining after the State of Arkansas deducts its administrative charges and required rebates, will be used to retire The bonds and obligations of the City. The tax will be in addition to any other sales and use tax Levied by the City. The effective date of the new tax will be January 1, 2016. The rate of taxation Will be 1% even if bonds for more than one purpose are approved.

**RECREATIONAL IMPROVEMENTS BONDS**

An issue of bonds of the City of Ozark in the maximum principal amount of \$7,000,000 for the purpose of financing all or a portion of the costs of the City’s Recreational facilities and improvements, including particularly, without Limitation, land acquisition, construction of a multiple-use recreational facility and Parking, which facility may include indoor swimming, bathhouse, therapy pool?

Athletic courts, walking track and other amenities, together with street, parking  
And drainage improvements therefor extension of utilities, sidewalks, bicycle  
Paths and utility relocations to such facilities, together with parking, furnishings,  
Equipment, drainage, lighting and utility improvements therefor, and to provide  
For future renovations and improvements to such facilities, and, in order to secure  
The bonds, the pledge of all or a portion of a 1% local sales and use tax within the  
City.

FOR.....

AGAINST.....

**EMERGENCY SERVICES FACILITIES BONDS**

An issue of bonds of the City of Ozark in the maximum principal amount of  
\$3,000,000 for the purpose of financing all or a portion of the costs of the City's

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Emergency protection facilities and improvements, including particularly, without  
Limitation, land acquisition, construction of an emergency services building,  
Related administrative offices and parking, together with utility relocations to such  
Facility, together with parking, furnishings, equipment, drainage, lighting, utility  
Improvements and related traffic signals therefor, and to provide for future  
Renovations and improvements to such facility, acquisition of emergency vehicles,  
Apparatus and equipment, and, in order to secure the bonds, the pledge of all or a  
Portion of a 1% local sales and use tax within the City.

FOR.....

AGAINST.....

**Section 5.** 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 6.** The results of the election shall be proclaimed by the Mayor, and his  
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 7.** A copy of this Ordinance shall be filed with the Franklin County Clerk at least  
50 days prior to the date of the special election. A copy of this Ordinance shall be given to the  
Franklin 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 8.** The Mayor and City Clerk, 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 to perform all acts of whatever nature necessary to carry out the  
Authority conferred by this Ordinance.

**Section 9.** All ordinances and parts thereof in conflict herewith are hereby repealed to the  
Extent of such conflict.

**Section 10:** It is hereby ascertained and declared that the special election provided for  
In this Ordinance is necessary for the preservation of the public health, peace 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 the public peace, health and safety, shall take  
Effect and be in force from and after its passage and approval.

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PASSED: \_\_\_\_\_, 2015.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

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**CERTIFICATE**

The undersigned, City Clerk of the City of Ozark, Arkansas, hereby certifies that the  
Foregoing pages are a true and correct copy of **Resolution No.** \_\_\_\_\_, adopted at a regular  
Session of the City Council of the City of Ozark, Arkansas, held at the regular meeting place in  
The city at 5:30 p.m. on the \_\_\_\_ day of \_\_\_\_\_, 2015, and that **Resolution No.** \_\_\_\_\_, is  
Of record in Ordinance/Resolution Book No. \_\_\_\_\_, now in my possession.

GIVEN under my hand and seal on this \_\_\_\_ day of \_\_\_\_\_, 2015.

City Clerk

(SEAL)