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ORDINANCE NO. 148

MARY L. SUNDAR

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF BETHEL HEIGHTS, 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 COST OF CAPITAL IMPROVEMENTS; LEVYING A NEW ONE-HALF OF ONE PERCENT (0.5%) SALES & USE TAX FOR THE PURPOSE OF RETIRING SUCH BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City Council of the City of Bethel Heights, Arkansas (the "City") has determined that the City is in need of sanitary sewer facilities to serve the City (including related facilities and improvements) (the "Capital Improvements"); and

WHEREAS, the City Council has determined that it would be in the best interest of the City to issue capital improvement bonds 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") in the maximum principal amount of \$1,273,400 to finance all or a portion of the costs of the Capital Improvements; and

WHEREAS, such principal amount includes expenses of authorizing and issuing the capital improvement bonds and any necessary reserves, and

WHEREAS, the City can pay the principal of and interest on the capital improvement bonds from the proceeds of a new 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

WHEREAS, the purpose of this Ordinance is to submit to the electors of the City the question of issuing the capital improvement bonds for the Capital Improvements under Amendment 62 and the Authorizing Legislation (the "Bonds") at a special election to be called for that purpose and 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 "Sales and Use Tax");

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

Section 1. There be, and there is hereby called, a special election to be held on July 1st, 2003, 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 to finance all or a portion of costs of the Capital Improvements in the maximum principal amount of \$1,273,400, to be payable from collections of the Sales and Use Tax remaining after the State of Arkansas deducts its administrative charges.

Section 2. In order to provide for the payment of the principal of and interest on the Bonds and all obligations of the City in connection therewith, there is hereby levied the Sales and Use Tax under the authority of the Authorizing Legislation. 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 is approved by the voters. The Sales and Use Tax shall be levied and collected on the gross receipts, gross proceeds or sales price from a

single transaction in the maximum amount allowed from time to time by Arkansas law. "Single transaction" is defined according to the nature of the goods purchased as follows:

- A. When two or more devices in which or by which any person or property is, or may be, transported or drawn, including but not limited to, on-road vehicles, whether required to be licensed or not, off-road vehicles, farm vehicles, airplanes, water vessels, motor vehicles, or non-motorized vehicles, and mobile homes, are sold to a person by a seller, each individual unit, whether part of a "fleet" sale or not, shall be treated as a single transaction for the purpose of the Sales and Use Tax.
- B. The charges for utility services, which are subject to the Sales and Use Tax, and which are subject to the Sales and Use Tax, and which are furnished on a continuous service basis, whether such services are paid daily, weekly, monthly, or annually, shall be computed in monthly increments, and each such monthly charge increment shall be considered to be a single transaction for the purpose of the Sales and Use Tax.
- C. For sales of building materials and supplies to contractors, builders or other persons, a single transaction, for the purposes of the sales and Use Tax, shall be deemed to be any single sale, which is reflected on a single invoice, receipt or statement, on which an aggregate sales (or use) tax figure has been reported and remitted to the State of Arkansas.
- D. When two or more items of major household appliances, commercial appliances, major equipment and machinery are sold, each individual unit shall be treated as a single transaction for the purposes of the Sales & Use Tax.
- E. For groceries, drug items, dry goods and other tangible personal property and / or services not otherwise expressly covered in this section, a single transaction shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales tax figure has been reported and remitted to the State of Arkansas.

In the event the Arkansas Legislature shall define "single transaction," the Legislature's definition shall replace the one in this Ordinance.

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

CITY OF BETHEL HEIGHTS, ARKANSAS
CAPITAL IMPROVEMENT (SEWER) BONDS AND
0.5 % SALES AND USE TAX

If the bonds are approved, there will be levied within the City a new 0.5% sales and use tax, the net collections on which remaining after the State of Arkansas deducts its administrative charges shall be used solely to retire the bonds and obligations with respect thereto. The bonds may be issued in series from time to time. The purpose of the bonds is to finance all or a portion of the costs of sanitary sewer facilities described below.

The sales and use tax will terminate following payment or discharge of the bonds in accordance with the Arkansas statutes pursuant to which the tax is levied.

FOR an issue of bonds of the City of Bethel Heights in the maximum principal amount of \$1,273,400 to finance the cost of sanitary sewer facilities to serve the City (including related facilities and improvements), and, in order to pay the bonds, the levy and pledge of a new 0.5% local sales and use tax within the City

AGAINST an issue of bonds of the City of Bethel Heights in the maximum principal amount of \$1,273,400 to finance the cost of sanitary sewer facilities to serve the City (including related facilities and improvements), and, in order to pay the bonds, the levy and pledge of a new 0.5% local sales and use tax within the City

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.

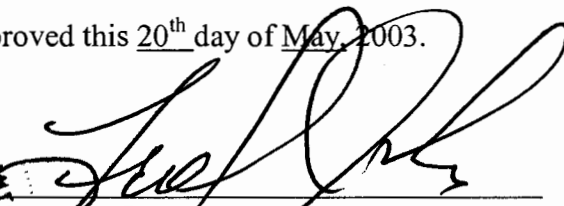
Section 6. A copy of this ordinance shall be given to the Benton County Board of Election Commissioners so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance shall also be provided to the Commission of Revenues of the State of Arkansas as soon as practical.

Section 7. The Mayor and City Recorder, 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 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. Friday, Eldredge, & Clark, LLP shall assist the City officials as Bond Council to the City in calling and holding the special election.

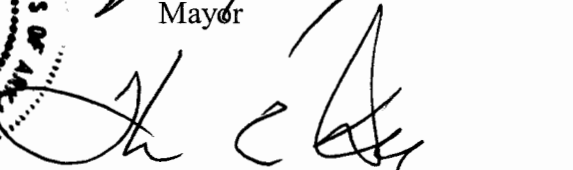
Section 8. The provisions of this Ordinance are hereby declared to be separable and if any provisions shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

Section 9. All Ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Passed and Approved this 20th day of May, 2003.




Mayor



Clerk/Recorder/Treasurer

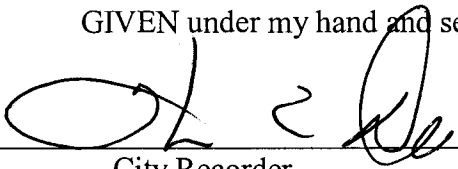
ATTEST:



CERTIFICATE

The undersigned, City Recorder of the City of Bethel Heights, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 148 passed at a regular session of the City Council of Bethel Heights, Arkansas, held at the regular meeting place of the City Council, on the 20th day of May, 2003, and that the Ordinance is of record in Ordinance Record Book No. 100 and up, now in my possession.

GIVEN under my hand and seal this 20th day of May, 2003.



City Recorder

