



113 West Mountain Street  
Fayetteville, AR 72701  
(479) 575-8323

**Ordinance: 6126**

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**File Number: 2018-0651**

**SALES AND USE TAX SPECIAL ELECTION:**

AN ORDINANCE CALLING AND SETTING A DATE FOR A SPECIAL ELECTION ON THE QUESTIONS OF THE ISSUANCE BY THE CITY OF SALES AND USE TAX REFUNDING BONDS AND SALES AND USE TAX CAPITAL IMPROVEMENT BONDS FOR VARIOUS PURPOSES; LEVYING A REPLACEMENT SPECIAL LOCAL SALES AND USE TAX AT THE RATE OF ONE PERCENT (1.00%) FOR THE PURPOSE OF RETIRING SUCH BONDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO

**WHEREAS**, Amendment 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 “Local Government Bond Act”) authorize the issuance of capital improvement bonds by municipalities, which bonds may be secured by the pledge of all of the receipts of the special citywide sales and use tax prescribed by the Local Government Bond Act; and

**WHEREAS**, pursuant to Amendment 62 and the Local Government Bond Act, the City of Fayetteville, Arkansas (the “City”) has previously issued and there are presently outstanding (i) its Sales and Use Tax Capital Improvement Bonds, Series 2006A, in the aggregate principal amount of \$625,000 (the “Series 2006A Bonds”), (ii) its Sales and Use Tax Capital Improvement Bonds, Series 2007, in the aggregate principal amount of \$3,645,000 (the “Series 2007 Bonds”), (iii) its Sales and Use Tax Capital Improvement Bonds, Series 2009, in the aggregate principal amount of \$985,000 (the “Series 2009 Bonds”), (iv) its Sales and Use Tax Capital Improvement Bonds, Series 2013, in the aggregate principal amount of \$11,695,000 (the “Series 2013 Bonds”), and (v) its Sales and Use Tax Capital Improvement Bonds, Series 2015, in the aggregate principal amount of \$3,480,000 (the “Series 2015 Bonds”) (collectively, the “Prior Bonds”); and

**WHEREAS**, the Prior Bonds are secured by and payable from the receipts of a combined one percent (1.00%) special citywide sales and use tax previously levied under the authority of the Local Government Bond Act (the “Prior Tax”); and

**WHEREAS**, the City Council has determined that additional revenues can be obtained to finance critical capital improvement needs by restructuring the City's existing indebtedness secured by sales and use tax receipts through the refunding of the Prior Bonds; and

**WHEREAS**, if approved by the electors of the City, the City has determined to issue (i) its refunding bonds in principal amount not to exceed \$12,200,000 for the purpose of refunding the Prior Bonds, (ii) its capital improvement bonds in principal amount not to exceed \$73,925,000 for the purpose of financing certain street improvements, (iii) its capital improvement bonds in principal amount not to exceed \$6,865,000 for the purpose of financing certain trail system improvements, (iv) its capital improvement bonds in principal amount not to exceed \$15,840,000 for the purpose of financing certain drainage projects, (v) its capital improvement bonds in principal amount not to exceed \$26,405,000 for the purpose of financing certain regional park and other parks system improvements, (vi) its capital improvement bonds in principal amount not to exceed \$3,170,000 for the purpose of financing certain economic development projects, (vii) its capital improvement bonds in principal amount not to exceed \$3,170,000 for the purpose of financing certain City building and grounds renovations and energy efficiency projects, (viii) its capital improvement bonds in principal amount not to exceed \$31,685,000 for the purpose of financing certain cultural arts corridor improvements, (ix) its capital improvement bonds in principal amount not to exceed \$36,965,000 for the purpose of financing certain police station construction and improvement and the acquisition of police equipment, and (x) its capital improvement bonds in principal amount not to exceed \$15,840,000 for the purpose of financing certain fire station construction and the acquisition of firefighting vehicles and equipment (collectively, the "Bonds"), which Bonds are to be secured by a pledge of and lien upon all of the receipts of a one percent (1.00%) special citywide sales and use tax (the "Sales and Use Tax"), which Sales and Use Tax shall replace the existing combined one percent (1.00%) special citywide sales and use tax (the "Prior Tax") securing the Prior Bonds, all as authorized by Amendment 62 and the Local Government Bond Act; and

**WHEREAS**, the purpose of this Ordinance is to call a special election on the issuance of the Bonds by the City and for related purposes;

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

**Section 1.** That under the authority of Amendment 62 and the Local Government Bond Act and subject to approval by the electors of the City of Question One and at least one of the other questions set forth in Section 4 below, there are hereby levied (i) a sales tax at the rate of one percent (1.00%) on the gross receipts from the sale at retail within the City of all items and services which are subject to taxation under the Arkansas Gross Receipts Act of 1941, as amended (Arkansas Code of 1987 Annotated §26-52-101 *et seq.*), and (ii) an excise (or use) tax at the rate of one percent (1.00%) on the storage, use, distribution or other consumption within the City of tangible personal property or taxable services subject to taxation under the Arkansas Compensating Tax Act of 1949, as amended (Arkansas Code of 1987 Annotated §26-53-101 *et seq.*), on the sale price of the property or, in the case of leases or rentals, on the lease or rental price (collectively, the "Sales and Use Tax"). The 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 utilized only for the payment of debt service on those Bonds approved by the voters. The Sales and Use Tax shall be levied and collected only on the gross receipts, gross proceeds or sales price in the maximum amount allowed from time to time under Arkansas law, subject to rebates and limitation as required for certain "single transactions" as from time to time required under Arkansas law. The levy and collection of the Sales and Use Tax shall commence on and as of such date as provided in the Local Government Bond Act, and shall cease upon retirement in full of those Bonds approved by the voters. Any collections of the Prior Tax received after the issuance of the refunding bonds described in Question One (or any other excess collections of the Prior Tax) shall be used to provide for the payment of debt service on those Bonds approved by the voters.

**Section 2.** That under the authority of Amendment 62 and the Local Government Bond Act and subject to approval by the electors of the City of both Question One and at least one of the other questions set forth in Section 4 below, there is hereby authorized (1) the issuance of the City's refunding bonds in the aggregate principal amount of not to exceed \$12,200,000 for the purpose of redeeming the outstanding Prior Bonds, (2) the issuance of the City's capital improvement bonds in aggregate principal amount not to exceed \$73,925,000 for the purpose of financing all or a portion of the costs of certain street improvements described in Question Two under Section 4 below, (3) the issuance of the City's capital improvement bonds in aggregate principal amount not to exceed \$6,865,000 for the purpose of financing all or a portion of the costs of certain trail improvements described in Question Three under Section 4 below, (4) the issuance of the City's capital improvement bonds in aggregate principal amount not to exceed \$15,840,000 for the purpose of financing all or a portion of the costs of certain drainage improvements described in in Question Four under Section 4 below, (5) the issuance of the City's capital improvement bonds in aggregate principal amount not to exceed \$26,405,000 for the purpose of financing all or a portion of the costs of certain regional park and other parks system improvements described in Question Five under Section 4 below, (6) the issuance of the City's capital improvement bonds in aggregate principal amount not to exceed \$3,170,000 for the purpose of financing all or a portion of the costs of certain economic development projects described in Question Six under Section 4 below, (7) the issuance of the City's capital improvement bonds in aggregate principal amount not to exceed \$3,170,000 for the purpose of financing all or a portion of the costs of certain City building and grounds renovations and refurbishment described in Question Seven under Section 4 below, (8) the issuance of the City's capital improvement bonds in aggregate principal amount not to exceed \$31,685,000 for the purpose of financing all or a portion of the costs of certain cultural arts corridor improvements described in Question Eight under Section 4 below, (9) the issuance of the City's capital improvement bonds in aggregate principal amount not to exceed \$36,965,000 for the purpose of financing all or a portion of the costs of certain police station improvements and equipment described in Question Nine under Section 4 below, and (10) the issuance of the City's capital improvement bonds in aggregate principal amount not to exceed \$15,840,000 for the purpose of financing all or a portion of the costs of certain fire station improvements and equipment described in Question Ten under Section 4 below. If approved by the electors of the City, the aforementioned refunding bonds and capital improvement

bonds (collectively, the "Bonds") may be issued in one or more series from time to time in an aggregate principal amount not to exceed the respective principal amount(s) approved by the City's electors. Any Bonds so issued shall be secured by a pledge of and a lien upon all of the receipts of the Sales and Use Tax, as authorized by the Local Government Bond Act.

**Section 3.** That there be, and there is hereby called, a special election to be held on Tuesday, April 9, 2019, at which election there shall be submitted to the electors of the City the questions of the issuance of the Bonds.

**Section 4.** That the questions shall be placed on the ballot for the special election in substantially the following forms:

**SPECIAL ELECTION ON CITY SALES AND USE TAX LEVY AND BOND ISSUANCE**

Upon approval of Question One at least one of the other Questions set forth below, and upon the issuance of the Refunding Bonds (defined in Question One), the City's existing levy of a combined one percent (1.00%) sales and use tax (the "Prior Tax") securing the Prior Bonds (defined in Question One) shall cease and such tax will be replaced by the one percent (1.00%) Sales and Use Tax (defined in Question One). Such Sales and Use Tax shall commence on and as of such date as provided in Arkansas law and shall cease upon retirement of all of the approved bonds. *Unless Question One and at least one of the other Questions set forth below are approved, none of the bonds described below will be issued, the Sales and Use Tax will not be levied, and the Prior Tax will remain in place until payment in full of the Prior Bonds.*

The bonds described below that are approved may be combined into a single issue or may be issued in series from time to time and may be issued on a tax-exempt or taxable basis. The net collections of the Sales and Use Tax remaining after the State of Arkansas deducts its administrative charges will be used solely to retire those bonds described below which are approved by the voters and obligations of the City with respect thereto.

Question One:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas, the question of the issuance of refunding bonds in principal amount not to exceed \$12,200,000 (the "Refunding Bonds") pursuant to Title 14, Chapter 164, Subchapter 3 of the Arkansas Code of 1987 Annotated (the "Local Government Bond Act") for the purpose of refunding the City's outstanding (i) Sales and Use Tax Capital Improvement Bonds, Series 2006A, (ii) Sales and Use Tax Capital Improvement Bonds, Series 2007, (iii) Sales and Use Tax Capital Improvement Bonds, Series 2009, (iv) Sales and Use Tax Capital Improvement Bonds, Series 2013, and (v) Sales and Use Tax Capital Improvement Bonds, Series 2015 (collectively, the "Prior Bonds"). If the issuance of the Refunding Bonds is approved, the Refunding Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of Refunding Bonds in principal amount not to exceed \$12,200,000  
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AGAINST the issuance of Refunding Bonds in principal amount not to exceed \$12,200,000  
.....

Question Two:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$73,925,000 (the "Street Improvement Bonds") pursuant to the Local Government Bond Act (as defined in Question One) for the purpose of financing all or a portion of the costs of right-of-way acquisition, design, construction, reconstruction, repair, resurfacing, straightening and width modification of certain City streets, which may include related sidewalk, traffic signal and control, lighting, curbing, guttering, bicycle lane, landscaping, drainage and safety improvements and related curbside pedestrian facilities such as bus pickup structures and concrete waiting pads. If the issuance of the Street Improvement Bonds is approved, the Street Improvement Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of Street Improvement Bonds in principal amount not to exceed \$73,925,000  
.....

AGAINST the issuance of Street Improvement Bonds in principal amount not to exceed \$73,925,000.....

Question Three:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$6,865,000 (the "Trail Improvement Bonds") pursuant to the Local Government Bond Act (as defined in Question One) for the purpose of financing all or a portion of the costs of design, construction, reconstruction, extension and equipping of certain City trail system improvements, which may include related pedestrian signal, lighting, landscaping, drainage and safety improvements and right-of-way acquisition. If the issuance of the Trail Improvement Bonds is approved, the Trail Improvement Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of Trail Improvement Bonds in principal amount not to exceed \$6,865,000  
.....

AGAINST the issuance of Trail Improvement Bonds in principal amount not to exceed \$6,865,000  
.....

Question Four:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$15,840,000 (the "Drainage Improvement Bonds") pursuant to the Local Government Bond Act (as defined in Question One) for

the purpose of financing all or a portion of the costs of the design, construction, reconstruction, repair, retrofit, extension, enlargement and equipping of certain drainage facilities, which may include land and easement acquisition and water quality features such as detention and retention basins and stream restoration. If the issuance of the Drainage Improvement Bonds is approved, the Drainage Improvement Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of Drainage Improvement Bonds in principal amount not to exceed \$15,840,000.....

AGAINST the issuance of Drainage Improvement Bonds in principal amount not to exceed \$15,840,000.....

Question Five:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$26,405,000 (the "Park Improvement Bonds") pursuant to the Local Government Bond Act (as defined in Question One) for the purpose of financing all or a portion of the costs of acquisition, design, construction and equipping of certain regional park and other parks system improvements, which may include athletic fields and facilities, playgrounds, pools and splash pads, trails, campgrounds, picnic areas and pavilions, land acquisition, open space preservation and other recreational facilities and support facilities, such as restrooms and parking. If the issuance of the Park Improvement Bonds is approved, the Park Improvement Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of Park Improvement Bonds in principal amount not to exceed \$26,405,000.....

AGAINST the issuance of Park Improvement Bonds in principal amount not to exceed \$26,405,000.....

Question Six:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$3,170,000 (the "Economic Development Project Bonds") pursuant to the Local Government Bond Act (as defined in Question One) for the purpose of financing all or a portion of the costs of acquisition, design, construction and equipping of certain economic development projects, which may include land acquisition, site development and infrastructure useful in the development, retention or expansion of manufacturing, production and industrial facilities, research, technology and development facilities, distribution centers, call centers, warehouse facilities, job training facilities or regional or national corporate headquarters

facilities. If the issuance of the Economic Development Project Bonds is approved, the Economic Development Project Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of Economic Development Project Bonds in principal amount not to exceed \$3,170,000.....

AGAINST the issuance of Economic Development Project Bonds in principal amount not to exceed \$3,170,000.....

Question Seven:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$3,170,000 (the "City Facilities Improvement Bonds") pursuant to the Local Government Bond Act (as defined in Question One) for the purpose of financing all or a portion of the costs of renovating and refurbishing certain City buildings and grounds, which may include building envelope and roof improvements, window replacement, insulation, lighting and HVAC system upgrades and certain renewable energy and energy efficiency projects. If the issuance of the City Facilities Improvement Bonds is approved, the City Facilities Improvement Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of City Facilities Improvement Bonds in principal amount not to exceed \$3,170,000.....

AGAINST the issuance of City Facilities Improvement Bonds in principal amount not to exceed \$3,170,000.....

Question Eight:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas (the "City"), the question of the issuance of capital improvement bonds in principal amount not to exceed \$31,685,000 (the "Arts Corridor Improvement Bonds") pursuant to the Local Government Bond Act (as defined in Question One) for the purpose of financing all or a portion of the costs of acquisition, design, construction and equipping of certain Cultural Arts Corridor improvements, within or near an area bordered by Dickson Street on the north, School Avenue on the east, Prairie Street on the south, and Gregg Avenue on the west, and which may include street, sidewalk, boardwalk, trail, pedestrian signal and control, bicycle facilities, curbing, guttering, drainage, lighting and landscaping improvements, plaza, civic and performance space, art installations, overlooks, stream restoration, pavilions, structure and other buildings, new and/or replacement parking facilities, and land and easement acquisition. Prior to the removal or loss of twenty-five (25) or more public parking spaces from the Walton Arts Center Parking Lot, a/k/a West Avenue Parking Lot, due to any development of or construction on such lot

related to the Cultural Arts Corridor, the City must ensure the availability of sufficient net new public parking spaces to fully replace all public parking spaces removed, lost or likely to be removed or lost within the near future from the Walton Arts Center Parking Lot and not planned to be promptly replaced below, upon or above the current parking area. These replacement public parking spaces must be within reasonable proximity to the Walton Arts Center which would include any public parking deck spaces at the City's School Avenue Parking Lot or on the currently privately owned land north of Dickson Street, west of West Avenue, east of the railroad tracks and south of Lafayette or on any other parking lot or facility in which all replacement parking spaces are within one thousand (1,000) feet of the Walton Arts Center's west public entrance. If the issuance of the Arts Corridor Improvement Bonds is approved, the Arts Corridor Improvement Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of Arts Corridor Improvement Bonds in principal amount not to exceed \$31,685,000 .....

AGAINST the issuance of Arts Corridor Improvement Bonds in principal amount not to exceed \$31,685,000 .....

Question Nine:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$36,965,000 (the "Police Facilities Improvement Bonds") pursuant to the Local Government Bond Act (as defined in Question One) for the purpose of financing all or a portion of the costs of certain police station design, construction and improvements, which may include land acquisition, and the acquisition of police equipment. If the issuance of the Police Facilities Improvement Bonds is approved, the Police Facilities Improvement Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of Police Facilities Improvement Bonds in principal amount not to exceed \$36,965,000.....

AGAINST the issuance of Police Facilities Improvement Bonds in principal amount not to exceed \$36,965,000.....

Question Ten:

There is submitted to the qualified electors of the City of Fayetteville, Arkansas, the question of the issuance of capital improvement bonds in principal amount not to exceed \$15,840,000 (the "Firefighting Facilities Improvement Bonds") pursuant to the Local Government Bond Act (as defined in Question One) for the purpose of financing all or a portion of the costs of certain fire station design



and construction, which may include land acquisition, and the acquisition of firefighting vehicles and equipment. If the issuance of the Firefighting Facilities Improvement Bonds is approved, the Firefighting Facilities Improvement Bonds shall be secured by a pledge of and lien upon all of the receipts of a special citywide sales and use tax at the rate of one percent (1.00%) levied pursuant to the Local Government Bond Act (the "Sales and Use Tax").

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR the issuance of Firefighting Facilities Improvement Bonds in principal amount not to exceed \$15,840,000.....

AGAINST the issuance of Firefighting Facilities Improvement Bonds in principal amount not to exceed \$15,840,000.....

**Section 5.** That 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 Arkansas municipal elections unless otherwise provided in the Local Government Bond Act, and only qualified voters of the City shall have the right to vote at the election. The City Clerk is hereby directed to give notice of the special election by one advertisement in a newspaper of general circulation within the City, the publication to be not less than ten (10) days prior to the date of the election.

**Section 6.** That a copy of this Ordinance shall be given to the Washington County Board of Election Commissioners at least sixty (60) days prior to the date of the special election so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance shall also be provided to the Director of the Department of Finance and Administration and to the Treasurer of the State of Arkansas as soon as practical.

**Section 7.** That the results of the special election shall be proclaimed by the Mayor, and his proclamation shall be published one time in a newspaper of general circulation within the City. The proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the Circuit Court of Washington County within thirty (30) days after the date of publication of the proclamation.

**Section 8.** That the Mayor and the City Clerk, for and on behalf of the City, be, and they hereby are 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 Refunding Bonds and any of the other capital improvement bonds described herein are approved by the electors, to cause the Sales and Use Tax to be collected in accordance with the Local Government Bond Act, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

**Section 9.** That the City considers this Ordinance to be its declaration of official intent to issue the Bonds and to make reimbursement to the City with a portion of the proceeds thereof for all original expenditures incurred by the City in acquiring, constructing or equipping any of the projects described herein between the date that is sixty (60) days prior to the date of this Ordinance and the date a series of Bonds is issued, plus a *de minimis* amount and preliminary expenditures, as such terms are defined in Section 1.150-2(f) of the Federal Income Tax Regulations.

**Section 10.** That Kutak Rock LLP is hereby engaged as Bond Counsel and Stephens Inc. is

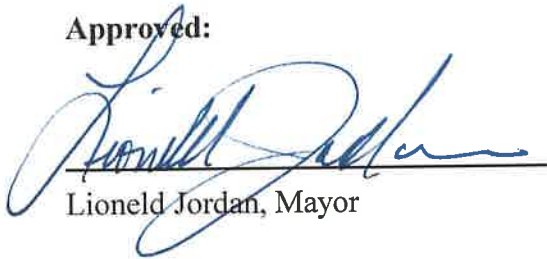
hereby engaged as Underwriter with respect to the issuance of the Bonds. The fees and expenses of Bond Counsel and the Underwriter shall be a cost of issuance of the Bonds to be paid with Bond proceeds.

**Section 11.** That the provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Ordinance.

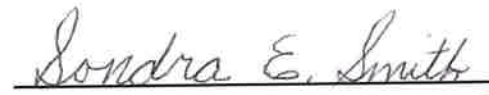
**Section 12.** That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED and APPROVED on 12/18/2018

**Approved:**

  
Lioneld Jordan, Mayor

**Attest:**

  
Sondra E. Smith, City Clerk  
Treasurer

