

**City Council Agenda Items  
and  
Contracts, Leases or Agreements**

August 6, 1023

City Council Meeting Date  
Agenda Items Only

Paul A Becker

Submitted By

Finance and Internal Services

Division

Finance and Internal Services

Department

**Action Required:**

In May, 2013 the City Advertising and Promotion Commission by resolution requested the City call and set a date for a special election to consider the refinancing of outstanding HMR bonds and the authorization to issue new bonds to fund additional projects. Specifically these projects include a portion of the cost of an expansion of the Walton Arts Center and a portion of the costs of the Regional Park Project. This would extend the current debt service payments for 25 years without increasing taxes. This agenda item is to approve that request.

|                      |                           |                                 |
|----------------------|---------------------------|---------------------------------|
| N/A                  | \$ -                      |                                 |
| Cost of this request | Category / Project Budget | Program Category / Project Name |
|                      | \$ -                      |                                 |
| Account Number       | Funds Used to Date        | Program / Project Category Name |
|                      | \$ -                      |                                 |
| Project Number       | Remaining Balance         | Fund Name                       |

Budgeted Item

Budget Adjustment Attached

Paul a. Becker 7-24-2013  
Department Director Date

Previous Ordinance or Resolution # \_\_\_\_\_

[Signature]  
City Attorney Date

Original Contract Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Paul a. Becker 7-24-2013  
Finance and Internal Services Director Date

Received in City Clerk's Office 07-24-13 P02:03  
[Signature]

[Signature] 7-24-13  
Chief of Staff Date

Received in Mayor's Office

[Signature] 7/24/13  
Mayor Date

Comments:

## CITY COUNCIL AGENDA MEMO

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**To: Mayor Lioneld Jordan and City Council**

**Thru: Don Marr, Chief of Staff**

**From: Paul A Becker PAB**

**Date: July 30, 2013**

**Subject: Ordinance To Call a Special Election for HMR Bonds**

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**PROPOSAL:** In May, 2013 the Advertising and Promotion Commission passed a resolution requesting the City call a special election to consider an extension of the current HMR Bonds. The payment of bonds would be extended for 25 years at the same total principal and interest payment amount as currently made annually.

Therefore, the current amounts paid for debt service would remain the same.

To accomplish this, the voters would be asked to approve three questions on the ballot. Question one would request approximately \$1,500,000 in new bonds to refund the current outstanding bonds. Question two would request \$6,900,000 in new bonds to fund a portion of an expansion to the Walton Arts Center. The final request would be to approve \$3,500,000 of new bonds to fund certain improvements to the Regional Park. Specifically baseball/softball fields, soccer fields and related facilities at the Regional Park would be partially funded.

It is important to understand this is not a new tax. It would not cost the taxpayer any more money.

**RECOMMENDATION:** The administration recommends the approval of this ordinance to call for a special election on November 12, 2013 to decide the above questions.

**BUDGET IMPACT:** None

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE CALLING AND SETTING A DATE FOR A SPECIAL ELECTION ON THE QUESTIONS OF THE ISSUANCE BY THE CITY OF (1) NOT TO EXCEED \$1,500,000 OF HOTEL AND RESTAURANT GROSS RECEIPTS TAX REFUNDING BONDS FOR THE PURPOSE OF REFUNDING THE CITY'S OUTSTANDING HOTEL AND RESTAURANT GROSS RECEIPTS TAX REFUNDING BONDS, SERIES 2003, (2) NOT TO EXCEED \$6,900,000 OF HOTEL AND RESTAURANT GROSS RECEIPTS TAX AND TOURISM REVENUE CAPITAL IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING CERTAIN COSTS IN CONNECTION WITH THE RENOVATION AND EXPANSION OF WALTON ARTS CENTER, AND (3) NOT TO EXCEED \$3,500,000 OF HOTEL AND RESTAURANT GROSS RECEIPTS TAX AND TOURISM REVENUE CAPITAL IMPROVEMENT BONDS FOR THE PURPOSE OF FINANCING CERTAIN COSTS IN CONNECTION WITH A PROPOSED REGIONAL PARK; PLEDGING THE PROCEEDS FROM THE EXISTING ONE PERCENT (1.00%) HOTEL, MOTEL AND RESTAURANT GROSS RECEIPTS TAX ORIGINALLY LEVIED BY ORDINANCE NO. 2310 TO THE PAYMENT OF THE REFUNDING BONDS AND CAPITAL IMPROVEMENT BONDS; PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY

**WHEREAS**, under the authority of Title 26, Chapter 75, Subchapter 6 of the Arkansas Code of 1987 Annotated (the "Advertising and Promotion Commission Act") and pursuant to Ordinance No. 2310 adopted on March 1, 1977, and as subsequently amended (the "Levying Ordinance"), the City has previously levied a one percent (1.00%) tax (the "A&P Tax") upon the gross receipts or gross proceeds (i) derived from renting, leasing or otherwise furnishing hotel or motel accommodations for profit within the boundaries of the City and (ii) of restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses within the boundaries of the City engaged in the business of selling prepared food for on-premises or off-premises consumption; and

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**Ordinance No.**

**WHEREAS**, under the authority of the Advertising and Promotion Commission Act and pursuant to the provisions of Ordinance No. 4488 adopted on May 20, 2003, the City has previously issued and there are presently outstanding \$1,875,000 in aggregate principal amount of the City's Hotel and Restaurant Gross Receipts Tax Refunding Bonds, Series 2003 (the "Series 2003 Bonds"), which Series 2003 Bonds are secured by the pledge of and lien upon the City's receipts of the A&P Tax; and

**WHEREAS**, the City's Advertising and Promotion Commission (the "Commission") by resolution adopted on May 13, 2013, has recommended that the City assist in (i) the completion of the proposed Walton Arts Center expansion and renovation (the "Walton Arts Center Improvements") and (ii) the acquisition, construction and equipping of a regional park (the "Park Improvements") through the issuance of its capital improvement bonds; and

**WHEREAS**, the Commission has determined and the City Council concurs that the Walton Arts Center is a cultural arts and (2008 Repl.) §26-75-606 and a "tourism project" within the meaning of Arkansas Code Annotated (1998 Repl.) §14-170-205 which will secure and develop tourism and thereby stimulate and enhance the economic growth and well-being of the City and its people; and entertainment facility and its expansion and renovation will constitute a "tourism project" within the meaning of Arkansas Code Annotated (1998 Repl.) §14-170-205 which will secure and develop tourism and thereby stimulate and enhance the economic growth and well-being of the City and its people; and

**WHEREAS**, the Commission has further determined and the City Council concurs that the City's proposed regional park will constitute a "public recreation facility" and "city park" within the meaning of Arkansas Code Annotated

**WHEREAS**, the City Council has determined that there is a critical need for a source of revenue to finance the Walton Arts Center Improvements and the Park Improvements, and that the receipts of the A&P Tax could be so utilized, but only upon refunding or redemption of the Series 2003 Bonds; and

**WHEREAS**, if approved by the electors of the City, the City has determined to issue (1) its refunding bonds in principal amount not to exceed \$1,500,000 (the "Refunding Bonds") for the purpose of refunding the Series 2003 Bonds, (2) its capital improvement bonds in principal amount not to exceed \$6,900,000 (the "Walton Arts Center Bonds") for the purpose of financing a portion of the Walton Arts Center Improvements, and (3) its capital improvement revenue bonds in principal amount not to exceed \$3,500,000 (the "Park Bonds") for the purpose of financing a portion of the Park Improvements, which Refunding Bonds, Walton Arts Center

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**Ordinance No.**

Bonds and Park Bonds are to be equally and ratably secured by a pledge of and lien upon the receipts of the A&P Tax; and

**WHEREAS**, the purpose of this Ordinance is to call a special election on the issuance by the City of the Refunding Bonds, the Walton Arts Center Bonds and the Park Bonds;

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

Section 1: That under the authority of the Constitution and laws of the State of Arkansas, including particularly the Advertising and Promotion Commission Act and Title 14, Chapter 170, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Tourism Revenue Bond Act"), and subject to approval by the electors of the City as provided in Section 2 below, there is hereby authorized the issuance of (1) the City's Hotel and Restaurant Gross Receipts Tax Refunding Bonds in the aggregate principal amount of not to exceed \$1,500,000 (the "Refunding Bonds") for the purpose of refunding the Series 2003 Bonds, (2) the City's Hotel and Restaurant Gross Receipts Tax and Tourism Revenue Capital Improvement Bonds in the aggregate principal amount of not to exceed \$6,900,000 (the "Walton Arts Center Bonds") for the purpose of financing a portion of the Walton Arts Center Improvements, and (3) the City's Hotel and Restaurant Gross Receipts Tax and Tourism Revenue Capital Improvement Bonds in the aggregate principal amount of not to exceed \$3,500,000 (the "Park Bonds") for the purpose of financing a portion of the Park Improvements. Any bonds approved by the electors of the City may thereafter 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. Such bonds as are issued by the City will be secured on a parity basis by a pledge of and a lien upon the receipts of the A&P Tax.

Section 2: That there be, and there is hereby called, a special election to be held on Tuesday, November 12, 2013, at which election there shall be submitted to the electors of the City the questions of the issuance of the Refunding Bonds, the Walton Arts Center Bonds and the Park Bonds.

Section 3: That the questions shall be placed on the ballot for the special election in substantially the following forms:

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 \$1,500,000 (the "Refunding Bonds"), pursuant to Title 26, Chapter 75, Subchapter 6 of the Arkansas Code of 1987 Annotated (the "Advertising and Promotion Commission Act"), for the purpose of refunding the City's outstanding

**Ordinance No.**

Hotel and Restaurant Gross Receipts Tax Refunding Bonds, Series 2003 (the “Series 2003 Bonds”). If the issuance of the Refunding Bonds is approved, the Refunding Bonds shall be secured by a pledge of and lien upon the receipts of an existing one percent (1.00%) tax (the “A&P Tax”) levied pursuant to Ordinance No. 2310 upon the gross receipts or gross proceeds (i) derived from renting, leasing or otherwise furnishing hotel or motel accommodations for profit within the boundaries of the City and (ii) of restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses within the boundaries of the City engaged in the business of selling prepared food for on-premises or off-premises consumption.

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 \$1,500,000 .....

AGAINST the issuance of Refunding Bonds in principal amount not to exceed \$1,500,000 .....

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 \$6,900,000 (the “Walton Arts Center Bonds”), pursuant to Title 14, Chapter 170, Subchapter 2 of the Arkansas Code of 1987 Annotated (the “Tourism Revenue Bond Act”) and Title 26, Chapter 75, Subchapter 6 of the Arkansas Code of 1987 Annotated (the “Advertising and Promotion Commission Act”), for the purpose of financing a portion of the costs of the expansion and renovation of the Walton Arts Center located within Fayetteville, (the “Walton Arts Center Improvements”). If the issuance of the Walton Arts Center Bonds is approved, the Walton Arts Center Bonds shall be secured by a pledge of and lien upon the receipts of an existing one percent (1.00%) tax (the “A&P Tax”) levied pursuant to Ordinance No. 2310 upon the gross receipts or gross proceeds (i) derived from renting, leasing or otherwise furnishing hotel or motel accommodations for profit within the boundaries of the City and (ii) of restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses within the boundaries of the City engaged in the business of selling prepared food for on-premises or off-premises consumption.

Ordinance No.

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

FOR the issuance of Walton Arts Center Bonds in principal amount not to exceed \$6,900,000 for the purpose of financing a portion of the costs of the Walton Arts Center Improvements .....

AGAINST the issuance of Walton Arts Center Bonds in principal amount not to exceed \$6,900,000 for the purpose of financing a portion of the costs of the Walton Arts Center Improvements .....

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 \$3,500,000 (the "Park Bonds"), pursuant to Title 14, Chapter 170, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Tourism Revenue Bond Act") and Title 26, Chapter 75, Subchapter 6 of the Arkansas Code of 1987 Annotated (the "Advertising and Promotion Commission Act"), for the purpose of financing a portion of the costs of constructing and equipping a regional park owned by and located within the City of Fayetteville, which may include baseball fields, soccer fields and related facilities (the "Park Project"). If the issuance of the Park Bonds is approved, the Park Bonds shall be secured by a pledge of and lien upon the receipts of an existing one percent (1.00%) tax (the "A&P Tax") levied pursuant to Ordinance No. 2310 upon the gross receipts or gross proceeds (i) derived from renting, leasing or otherwise furnishing hotel or motel accommodations for profit within the boundaries of the City and (ii) of restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses within the boundaries of the City engaged in the business of selling prepared food for on-premises or off-premises consumption.

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 Bonds in principal amount not to exceed \$3,500,000 for the purpose of financing a portion of the costs of constructing and equipping the Park Improvements .....

AGAINST the issuance of Park Bonds in principal amount not to exceed \$3,500,000 for the purpose of financing a portion of the costs of constructing and equipping the Park Improvements .....

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**Ordinance No.**

Section 4: 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 Advertising and Promotion Commissions Act or the Tourism Revenue 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 5: 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 6: 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, the Walton Arts Center Bonds and/or the Park Bonds are approved by the electors, to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Section 7: That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 8: That it is hereby ascertained and declared that there is a critical need to obtain an additional source of revenue to finance needed capital improvements, including the Walton Arts Center Project and the Park Project, all in order to promote and protect the peace, health, safety 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 public peace, health and safety shall be in force and effect immediately from and after its passage.

PASSED AND APPROVED this 20th day of August, 2013.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**