

ORDINANCE NO. 98-18

AN ORDINANCE PROVIDING FOR THE LEVY OF A ONE PERCENT (1%) SALES AND USE TAX WITHIN THE CITY OF FORT SMITH, ARKANSAS FOR A PERIOD OF NINE (9) MONTHS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City has the authority under A.C.A. §§14-170-201 et seq. (the "Tourism Act") to acquire, lease, contract concerning or otherwise deal in lands, buildings, improvements and facilities of any and every nature for the purpose of securing and developing recreation, entertainment, cultural development and other tourism activities of every nature; and

WHEREAS, the U.S. Marshals Museum, Inc., an Arkansas non-profit corporation (the "Nonprofit Corporation") is undertaking the acquisition, construction and equipping of a facility in the City of Fort Smith, Arkansas (the "City") that will be known as the United States Marshals Museum (the "Marshals Museum"); and

WHEREAS, public facilities boards may be formed by cities under the authority of the Public Facilities Boards Act (codified at A.C.A. §§14-137-101 et seq.) (the "Public Facilities Boards Act") for the purpose of acquiring, leasing, contracting concerning and otherwise dealing in recreational and tourist facilities; and

WHEREAS, it is proposed that the City form a public facilities board (the "Public Facilities Board") under the authority of the Public Facilities Boards Act for the purpose of acquiring the Marshals Museum from the Nonprofit Corporation; and

WHEREAS, it is further proposed that the Public Facilities Board will in turn enter into a long-term lease with the Nonprofit Corporation for a nominal rental, pursuant to which the Nonprofit Corporation will lease and operate the Marshals Museum free and clear of any further expense to the City or the Public Facilities Board (the "Lease"); and

WHEREAS, the Marshals Museum will be operated as a recreational and tourist facility; and

WHEREAS, pursuant to the Lease, the Nonprofit Corporation would agree to operate the Marshals Museum for recreational and tourist purposes and will further agree as follows:

(a) the Nonprofit Corporation will engage in activities at the Marshals Museum that benefit the public including, but not limited to, educational programming for school-aged children and adults;

(b) the Nonprofit Corporation will partner with other educational institutions locally and nationally to promote its educational programming at the Marshals Museum;

(c) the Nonprofit Corporation will market the educational, cultural, historical, and law enforcement attributes of the Marshals Museum nationally for the purpose of attracting local, national, and international visitors to the City and surrounding areas;

(d) the Nonprofit Corporation will collaborate with local and regional partners to develop and promote tourism in the region;

(e) the Nonprofit Corporation will collaborate with local and regional partners to engage in activities that will promote the development of the Arkansas River riverfront and the revitalization of historic downtown Fort Smith;

(f) the Nonprofit Corporation will engage in activities that will promote economic development and job creation in the City's hospitality and tourism industry;

(g) the Nonprofit Corporation will work with the Arkansas Department of Parks and Tourism in promoting the Marshals Museum and other historic and cultural institutions in the region;

(h) the Nonprofit Corporation will report to the Public Facilities Board no less often than annually on its activities that benefit the public; and

(i) the Nonprofit Corporation will pay all costs of operating the Marshals Museum with the City and the Public Facilities Board having no liability for such costs; and

WHEREAS, Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") provides for the levy of a city-wide sales and use tax or taxes at the rate of 0.125%, 0.25%, 0.5%, 0.75% or 1%, or any combination thereof; and

WHEREAS, the City is proposing to levy a sales and use tax at the rate of one percent (1%) under the Authorizing Legislation in order to provide funds for the Public Facilities Board to acquire and lease the Marshals Museum as described above; and

WHEREAS, the Board of Directors of the City hereby finds and determines that the Marshals Museum will be a recreational and tourist facility within the meaning of the Tourism Act and will serve the public purpose of securing and developing tourism in the City;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Fort Smith, Arkansas:

Section 1. Under the authority of the Authorizing Legislation, there is hereby levied a one percent (1%) tax on the gross receipts from the sale at retail within the City of all items which are subject to the Arkansas Gross Receipts Act of 1941, as amended (A.C.A. 26-52-101, et. seq.), and the imposition of an excise (or use) tax on the storage, use, distribution or other consumption within the City of tangible personable property subject to the Arkansas Compensating Tax Act of 1949, as amended (A.C.A. 26-53-101, et. seq.), at a rate of one percent (1%) of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use Tax will be levied and collected on the gross receipts, gross proceeds or sales price for each single transaction in the maximum amount allowed from time to time by Arkansas law, subject to rebates and limitations as required for certain single transactions as from time to time required by Arkansas statutes.

Section 2. The Sales and Use Tax shall be levied for a period of nine (9) months.

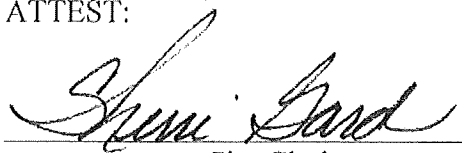
Section 3. The Sales and Use Tax shall be levied, and the net collections received after deduction of the administrative charges of the State of Arkansas and required rebates ("Net Collections"), shall be used to provide funds for the Public Facilities Board to acquire and lease the Marshals Museum as described above.

Section 4. All ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

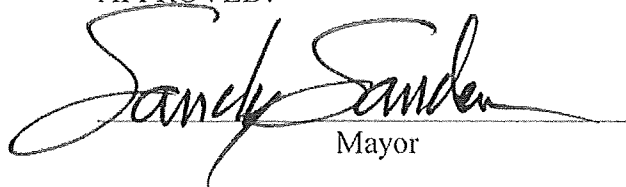
Section 5. This Ordinance shall not take effect until an election is held on the question of levying the Sales and Use Tax, at which election a majority of the electors voting on the question shall have approved the levy of the Sales and Use Tax.

PASSED: December 18, 2018.

ATTEST:

  
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City Clerk

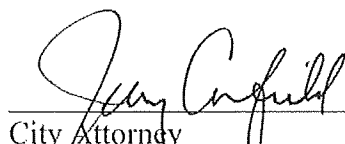
APPROVED:

  
\_\_\_\_\_  
Mayor

(SEAL)



Approved as to form:

  
\_\_\_\_\_  
City Attorney  
Publish 1 time

ORDINANCE NO. 99-18

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF FORT SMITH, ARKANSAS ON THE QUESTION OF LEVYING A ONE PERCENT (1%) SALES AND USE TAX WITHIN THE CITY OF FORT SMITH, ARKANSAS FOR A PERIOD OF NINE (9) MONTHS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the Board of Directors of the City of Fort Smith, Arkansas (the "City") has passed on December 18, 2018, Ordinance No. 98-18 providing for the levy of a one percent (1%) sales and use tax within the City (the "Sales and Use Tax") for a period of nine (9) months; and

WHEREAS, the purpose of this Ordinance is to call a special election on the question of the levy of the Sales and Use Tax;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Fort Smith, Arkansas:

Section 1. There is hereby called a special election, to be held on March 12, 2019, at which election there shall be submitted to the electors of the City the question of the levy of the Sales and Use Tax.

Section 2. The question of levying the Sales and Use Tax shall be placed on the ballot for the election in substantially the following form:

**1% SALES AND USE TAX**

Adoption of a one percent (1%) local sales and use tax within the City of Fort Smith, Arkansas (the "City") for a period of nine (9) months with the tax ending on the last day of the nine (9) month period. The net collections of the tax after deduction of the administrative charges of the State of Arkansas and required rebates will be used to acquire a facility to be known as the United States Marshals Museum (the "Marshals Museum"). The City will form an independent public facilities board which will purchase the Marshals Museum and lease it back to the U. S. Marshals Museum, Inc., an Arkansas nonprofit corporation, under a long-term lease with a nominal rental, free and clear of any further expense to the City or the public facilities board.

FOR

AGAINST

Section 3. 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 and only qualified voters of the City shall have the right to vote at the election.

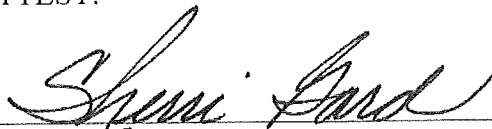
Section 4. The results of the election shall be proclaimed by the Mayor, and his Proclamation shall be published one time in a newspaper published in the City and having a general circulation therein, which Proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty days after the date of publication.

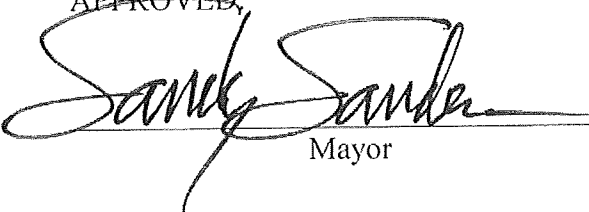
Section 5. A copy of this Ordinance shall be filed with the Sebastian County Clerk at least 60 days prior to the election date. A copy of this Ordinance shall also be given to the Sebastian County Board of Election Commissioners so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance shall also be provided to the Commissioner of Revenues of the State of Arkansas as soon as practical.

Section 6. 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, if the levy of the Sales and Use Tax 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.

PASSED: December 18, 2018.

ATTEST:

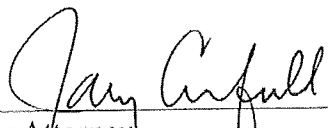
  
\_\_\_\_\_  
City Clerk

APPROVED:  
  
\_\_\_\_\_  
Mayor

(SEAL)



Approved as to form:

  
\_\_\_\_\_  
City Attorney  
*Publisk (unclear)*