



## Legislation Text

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**File #:** ORD-16:009, **Version:** 1

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AN ORDINANCE AUTHORIZING THE ISSUANCE OF A GENERAL REVENUE PROMISSORY NOTE (MIRACLE LEAGUE PARK PROJECT REFUNDING), SERIES 2016; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTE; DECLARING AN EMERGENCY; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Jonesboro, Arkansas (the "City") is authorized and empowered under the provisions of Amendment 78 to the Arkansas Constitution and the provisions of Arkansas Code Annotated Section 14-78-1001 et seq (the "Act") to issue notes and expend the proceeds thereof for purpose of acquiring, constructing, installing and renting real property; and

WHEREAS, the City is indebted to Bancorp South on a Note dated August 28, 2014 in the original principal amount of \$500,000 issued pursuant to the Act (the "Bancorp South Note") the proceeds of which were utilized to make certain improvements to Miracle League Park in the City (the "Miracle League Park Project").

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

Section 1. The City Council hereby confirms that the Miracle League Park Project involved the acquisition of and construction of improvements to real property which will have a useful life of more than one (1) year and that the aggregate principal amount of the Note and the outstanding principal amount of all other obligations heretofore incurred by the City under Amendment No.78 did not exceed 5% of the assessed value of taxable property located within the City as determined by the last tax assessment at the time of the issuance of the Bancorp South Note.

WHEREAS, the City proposes to refund and satisfy in full the Bancorp South Note (the "Miracle League Park Project Refunding" by issuing its promissory note pursuant to Amendment 78 and the Act, including specifically, ACA §14-78-104, in the principal amount not to exceed Four Hundred Thousand and No/100ths Dollars (\$400,000.00) in favor of First Security Bank, an Arkansas banking corporation ("Lender"); and

WHEREAS, the City proposes to secure the loan by pledging a Certificate of Deposit account in the amount of \$400,000.00 to be issued by the Lender.

Section 2. Under the authority of Amendment 78 and the Act, the City of Jonesboro General Revenue Promissory Note (Miracle League Park Project Refunding), Series 2016 (the "Note") is hereby authorized and ordered issued in the principal amount of \$400,000.00 for the purpose of refunding and satisfying in full the Bancorp South Note. The Note shall bear interest at an interest rate not to exceed 1.55%, and shall mature on that date which is one (1) year from the date of the Note (the "Maturity Date"). Interest on the Note shall be paid on the Maturity Date. The principal of the Note shall be paid in a single sum on the Maturity Date. The Note may be prepaid at any time prior to maturity. The Note shall be dated as of the date of its execution and shall be issuable only as a fully registered Note without coupons. Section 2. Under the authority of Amendment 78 and the Act, the City of Jonesboro General Revenue Promissory Note (Miracle League Park Project Refunding), Series 2016 (the "Note") is hereby authorized and ordered issued in the principal amount of \$400,000.00 for the purpose of refunding and satisfying in full the Bancorp South Note. The Note shall bear

interest at an interest rate not to exceed 1.55%, and shall mature on that date which is one (1) year from the date of the Note (the "Maturity Date"). Interest on the Note shall be paid on the Maturity Date. The principal of the Note shall be paid in a single sum on the Maturity Date. The Note may be prepaid at any time prior to maturity. The Note shall be dated as of the date of its execution and shall be issuable only as a fully registered Note without coupons. The Note shall be secured by a pledge and security agreement granting unto Lender a first priority lien on and security interest in a one year term Certificate of Deposit in the amount of \$400,000.00 at an interest rate of 0.55% to be established by the City with Lender (the "Security Agreement").

Section 3. The Note and Security Agreement shall be executed on behalf of the City by the Mayor and City Clerk and shall have impressed or imprinted thereon the seal of the City.

Section 4. As provided in Amendment No. 78, the debt service payments on the Note in each fiscal year shall be charged against and paid from the general revenues of the City for such fiscal year. For the purpose of making the debt service payments, there is hereby, and shall be appropriated to pay the Note, an amount of general revenues of the City sufficient for such purposes.

Section 5. The City covenants with the Lender, and any subsequent owner of the Note as follows:

5.1. The City will not take any action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest payable on the Note to be included in gross income for federal income tax purposes.

5.2. The proceeds of the Note will not be used, directly or indirectly, in such a manner as to cause the Note to be treated as an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

5.3. The City will not use or permit the use of the Project or the proceeds of the Note in a manner as to cause the Note to be a "private activity bond" within the meaning of Section 141 of the Code.

5.4. The City will not reimburse itself from the proceeds of the Note for any costs paid prior to the date of the Note except in compliance with United States Treasury Regulation Sec. 1.150-2. This Ordinance shall constitute an "official intent" for purposes of such Regulation.

5.5. The City will submit to the United States Secretary of Treasury not later than the fifteenth day of the second calendar month after the close of the calendar quarter in which the Note is issued a statement concerning the Note as required by Section 149(e) of the Code.

Section 6. The City shall provide a copy of its annual budget and such other such financial information to the Lender as the Lender may reasonably request.

Section 7. If there be any default in the payment of the principal of or interest on the Note, or in the performance of any of the other covenants contained in this Ordinance, Lender may, in addition to any other remedies available to Lender, by proper suit, compel the performance of the duties of the officials of the City under the laws of Arkansas. No remedy conferred upon or reserved to Lender is intended to be exclusive of any other remedy or remedies, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or by law. Lender may waive any default which shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted under the provisions of this Ordinance or the Note, or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies of Lender with respect thereto. No delay or omission of Lender to exercise any right or power accrued upon any default shall impair any such right of power or shall be construed to be a waiver of any such default

or an acquiescence therein; and every power and remedy given by this Ordinance to Lender may be exercised from time to time and as often as may be deemed expedient. In any proceeding to enforce the provisions of this Ordinance or the Note, Lender shall be entitled to recover from the City all costs of such proceeding, including reasonable attorney's fees.

Section 8. The terms of this Ordinance shall constitute a contract between the City and the Lender and no variation or change in the undertaking herein set forth shall be made while the Note is outstanding, except as may be agreed in writing as between the City and Lender.

Section 9. The Mayor and City Clerk are hereby authorized and directed, for and on behalf of the City, to perform all acts of whatever nature or kind necessary to effect and carry out the authority granted by this Ordinance and to execute and deliver all documents, certificates and other instruments that may be required therefor.

Section 10. In the event that any provision of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Ordinance which shall remain in full force and effect as if the portion declared invalid were not originally a part of this Ordinance.

Section 11. All laws, ordinances, resolutions or parts thereof which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of the inconsistency.

Emergency Clause. The need to refund the Bancorp South Note to reduce the interest cost to the City being necessary for the preservation of the public peace, health, safety and welfare, an emergency is hereby found to exist and this Ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED this 2nd day of February, 2016.