ORDINANCE NO. 4-352

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SEWER REVENUE BONDS FOR THE PURPOSE OF IMPROVING AND ENLARGING THE MUNICIPALLY OWNED SEWER SYSTEM; SETTING UP CERTAIN FUNDS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas, owns its present sewer system, on which there is an indebtedness of $68,500 evidenced by Conway Sewer Revenue Bonds dated May 1, 1951, and maturing on November 1 of the years 1960 to 1971, inclusive; and

WHEREAS, the City needs to improve and enlarge the municipal sewer system in order to meet the expanding commercial, industrial and domestic needs and to protect the public health and general welfare of the inhabitants of the City, and for that purpose has had Marion L. Crist & Associates of Little Rock, Arkansas, Consulting Engineers, prepare plans, specifications, and estimates of cost of the improvements needed, which they have done and have filed their report with the City Clerk, showing an estimated cost of approximately $121,166, and these plans are on file in the office of the City Clerk subject to inspection by any and all persons interested; and

WHEREAS, the City does not have the money to make these improvements but it can secure a federal grant of $30,000, issue $90,000 in sewer revenue bonds, and advance the $1,166 out of general revenues, and after due notice the City has sold the proposed issue of $90,000 in sewer revenue bonds to Harrow Smith Company and Southern Securities Corporation, both of Little Rock, Arkansas, at a price of par plus accrued interest for bonds bearing interest at the rate of 4.41% per annum plus a premium of $13.00 which resulted in a net interest cost of 4.408%, with the further agreement that the buyers will pay the cost of printing the bonds, the trustee's fee, and the fee of the approving attorneys, but they
reserved the right to convert the bonds to bonds bearing a lower rate of interest, subject to the conditions set out in the notice of sale, and have presented a computation showing that the cost of maturing an issue of $90,000 in 4.41% bonds dated February 1, 1960, and maturing serially on February 1 of each year as follows:

- 2500 in 1964 and 1965
- 4000 in 1966, 1967 and 1968
- 4500 in 1969, 1970 and 1971
- 5000 in 1972 and 1973
- 5500 in 1974 and 1975
- 6000 in 1976 and 1977
- 6500 in 1978
- 7000 in 1979 and 1980

is $139,656.60, and have also presented a computation showing that the conversion of the issue to $93,000 in bonds dated February 1, 1960, and maturing serially and bearing interest as hereinafter set out, will cost a total of $139,204, so that by the conversion the City will receive the same money but will pay out $452.60 less than it would pay if the bonds were not converted, and therefore the conversion is within the terms of the agreement with the buyers and has been approved by the City's fiscal agents, and the buyers are now ready to accept delivery of the bonds as soon as the City can legally make delivery; now, therefore,

BE IT ORDAINED by the City Council of the City of Conway, Arkansas:

SECTION 1. That the City Council hereby finds there is a necessity for the improvement and enlargement of the municipal sanitary sewer system, and that the plans and specifications prepared by Marion L. Crist & Associates, Consulting Engineers, be and the same are hereby approved and adopted, and the council does hereby determine that it is to the best interests of the City to make the improvements set out in said plans.

SECTION 2. That the sale of the revenue bonds to Harrow Smith Company and Southern Securities Corporation of Little Rock, Arkansas,
is at a fair price and one that is allowed by law, and the conversion of said bonds from $90,000 in 4.41% bonds to $93,000 in bonds bearing interest as hereinafter set out will result in a saving to the City of $452.60, and the Council does therefore approve and confirm both the sale of the bonds and their conversion to lower interest rates.

SECTION 3. That the municipal sewer system is now operated by a Sewer Committee and that said Committee shall supervise the construction of the improvements and continue the operation of the system.

SECTION 4. That the Council does hereby declare that a brief description of the improvements and enlargements to be made is as follows: The improvement and enlargement of the existing sewage treatment facilities, including additional lands, oxidation ponds, and piping with appurtenant facilities and equipment; and that the life of the system is well beyond the term of the proposed bond issue.

(All of these improvements are hereinafter termed the "Works," and the collective sewer system, including the new improvements and enlargements to be constructed, is hereinafter termed the "System.")

SECTION 5. That under the authority of the general statutes of the State of Arkansas, and particularly Act No. 132 of the Acts of the General Assembly of the State of Arkansas for the year 1933, as amended (sometimes hereinafter termed "Act No. 132, as amended"), sewer revenue bonds of the City be issued in the total amount of $93,000, the proceeds of the sale of which shall be used to pay the cost of the Works, including engineering and legal fees and other necessary expenses; that the bonds be designated "City of Conway, Arkansas, 4% Sewer Revenue Bond of 1960," be dated as of February 1, 1960; be numbered from 1 to 97, both inclusive; be sometimes hereinafter referred to as "bonds"; be in the denomination of $1000 each except Nos. 3, 6, 32, 37, 42, 58, 64, and 83, which shall be in the
The bonds shall bear interest payable semi-annually on February 1 and August 1 of each year, beginning August 1, 1960, at the following rates per annum: Nos. 1 to 37, inclusive, at 3.80%; Nos. 38 to 70, inclusive, at 4%; and Nos. 71 to 97, inclusive, at 4.25%. The bonds shall be signed by the Mayor and City Clerk and sealed with the corporate seal of the City; the interest upon the bonds shall be evidenced by coupons thereto attached, the coupons to be signed by said Mayor by his facsimile signature and the Mayor shall by the execution of the bonds adopt as and for his own proper signature his facsimile signature appearing on said coupons. The bonds and coupons shall be payable in any coin or currency which on the date of payment is legal tender for payment of debts due the United States of America, at the office of The First National Bank in Little Rock, Arkansas.

The bonds, together with interest thereon, shall be payable solely out of the Sewer Revenue Bond Fund as hereinafter defined, on a parity with the City's issue of Sewer Revenue Bonds dated May 1
1951, a valid claim of the holder thereof only against such Fund, and the amount of the revenues pledged to said Fund, which amount of said revenues is hereby pledged and mortgaged for the equal and ratable payment of the bonds and of the outstanding balance of the City's May 1, 1951 Sewer Revenue bond issue, and shall be used for no other purpose than to pay the principal and interest of the bonds, except as hereinafter set out.

SECTION 6. Said bonds and coupons shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF FAULKNER
CITY OF CONWAY

Sewer Revenue Bond of 1960

NO. ___  $___

KNOW ALL MEN BY THESE PRESENTS:

That the City of Conway, in the County of Faulkner, State of Arkansas, for value received hereby promises to pay, solely from the special fund provided therefor as hereinafter set forth, to bearer, the sum of

__________________________, DOLLARS on the first day of February, 19__, with interest thereon at the rate of ___ per centum (___%) per annum from date until paid, payable semi-annually on the first day of February and August of each year, beginning August 1, 1960, upon presentation and surrender of the annexed coupons as they severally become due. Both principal and interest hereon shall be payable in any coin or currency which on the date of payment is legal tender for payment of debts due the United States of America, at the office of The First National Bank in Little Rock, Little Rock, Arkansas.

This bond is one of a series of bonds aggregating Ninety-three Thousand Dollars ($93,000), all of like tenor and effect except as
to number, denomination, interest rate, and maturity, numbered from 1 to 97, both inclusive, and issued for the purpose of improving and enlarging the municipal sanitary sewer system. (The improvements together with the existing system are hereinafter called the "System.")

This bond and the series of which it forms a part are issued pursuant to and in accordance with the provisions of the laws and Constitution of the State of Arkansas, and particularly Act No. 132 of the Acts of the General Assembly of the State of Arkansas for the year 1933, as amended, and do not constitute an indebtedness of the City of Conway within any constitutional or statutory limitation. Said bonds and the outstanding balance of the City's May 1, 1951 Sewer Revenue Bond issue are payable an a parity solely from a fixed amount of the gross revenues of the System, which amount shall be sufficient to pay the principal of and interest on the bonds of both issues as the same become due and payable. Said amount has been duly set aside and pledged as a special fund for that purpose and identified as the "Sewer Revenue Bond Fund," created by Ordinance No. A-265 of the City of Conway, adopted on the day of , 1951, and enlarged by the ordinance of the City of Conway under which this bond is authorized to be issued, and said City has fixed and has covenanted and agreed to maintain rates for sewer services which shall be sufficient at all times to provide for the payment of the reasonable expenses of Operation, repair and maintenance of said System and to provide for the payment of the principal of and interest on its bonds of both the May 1, 1951 issue and this issue as the same become due and payable.

This bond is expressly made negotiable by the statutes under which it is issued, and is issued with the intent that the laws of the State of Arkansas shall govern the construction thereof.

The bonds of this issue are callable for payment prior to maturity in inverse numerical order at par and accrued interest
as follows: If called for payment from surplus revenue derived from
the operation of the System or the proceeds of this bond issue not
used in construction, on any interest paying date; if called for pay-
ment from funds from any other source, on any interest paying date on
and after February 1, 1965. In the event a call is made, the City
shall publish notice of such call for redemption once a week for two
weeks in some newspaper of general circulation throughout the State
of Arkansas and published in the City of Little Rock, Arkansas, giving
the number and maturity of each bond being called, the first publica-
tion to be at least fifteen days prior to the date fixed for redemption,
and after the date fixed for redemption each bond so called will cease
to bear interest, provided funds for its payment are on deposit with
the paying agent at that time.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all conditions,
acts and things required to exist, to be performed, and to happen
precedent to and in the issuance of this bond do exist, have been
performed, and have happened in due time, form and manner as required
by law, and that sufficient of the income and revenue which is deemed
to be derived from the operation of said system has been pledged to
and will be set aside into said special fund for the payment of the
principal of and interest on the Sewer Revenue Bonds of May 1, 1951,
and this issue of Sewer Revenue Bonds of 1960.

This bond shall not be valid until it shall have been authentici-
cated by the certificate hereon, duly signed by the First National
Bank in Little Rock, Little Rock, Arkansas.

IN WITNESS WHEREOF, the City of Conway, Arkansas, by its City
Council, has caused this bond to be signed by the Mayor and City
Clerk thereof, and sealed with the corporate seal of said City,
and has caused the coupons hereto attached to be executed by the
facsimile signature of said Mayor, all as of the first day of February, 1960.

CITY OF CONWAY, ARKANSAS

(Seal)

By ____________________________ Mayor

Attest:

______________________________ City Clerk

(Form of Coupon)

No. ___ $___

On the first day of February, 19__, the city of Conway, Faulkner County, Arkansas, unless the bond to which this coupon is attached is sooner called for payment, promises to pay to bearer the sum of _______ DOLLARS in any coin or currency which on said date is legal tender for payment of debts due the United States of America, solely out of the fund specified in the bond to which this coupon appertains, at the office of The First National Bank in Little Rock, Little Rock, Arkansas, being interest then due on its Sewer Revenue Bond of 1960 dated February 1, 1960, and numbered ___.

CITY OF CONWAY, ARKANSAS

By ____________________________ Mayor

(All coupons shall be for six months' interest. The Mayor's signature on the coupons may be lithographed or engraved.)

On the back of the bonds is to appear the following:

CERTIFICATE

This is one of the 97 bonds aggregating $93,000 described within.

THE FIRST NATIONAL BANK IN LITTLE ROCK,
LITTLE ROCK, ARKANSAS, Trustee

By ____________________________ Authorized Officer

Little Rock, Arkansas
SECTION 7. (a) The City Council, after a hearing held upon the notice required by statute, fixed the rates to be charged for the services to be furnished by the System, in Ordinance No. A-350, passed and approved December 8, 1959.

(b) The Council hereby finds the rates so fixed to be reasonable and the necessary minimum rates to be charged, and that they will produce a total revenue sufficient to pay the costs of the operation, repair and maintenance of the System and provide for the payment of the principal and interest of the May 1, 1951 bonds and the bonds issued to finance the cost of the Works as the same become due and payable, and to create all funds herein provided. Except as herein authorized, the rates for the services rendered and to be rendered by the System, as set out in said Ordinance No. A-350, shall never be reduced until all of the bonds of this issue and all interest thereon have been paid in full, and shall when necessary be increased in an amount sufficient to provide for the maintenance of the funds hereinafter described.

(c) Whenever the outstanding balance of the bond issue authorized by this ordinance shall have been reduced to 50% of the original amount, exclusive of interest, and in the judgment of the Trustee the earnings of the System are sufficient to permit it, the Trustee may authorize a reduction in the rates; provided, no reduction in rates shall be made that will produce an estimated net revenue, after setting up necessary funds for operation, maintenance, and depreciation of the System, less than 150% of the average annual requirements for the payment of principal and interest of all revenue bonds then outstanding. Although a reduction in rates may be made, the rates shall be raised at any time later if the amount of net revenue for any year is less than 150% of such annual requirements. The decision of the Trustee, hereinafter named, as to the necessity for terminating any reduction in rates or increasing the rates at any time shall be final.

SECTION 9. To the requirements set out in Section 12 of said Ordinance No. A-265 shall be added the requirement that the monthly payments therein set forth shall be increased by one-fifth of each semi-annual payment of interest and one-tenth of each annual payment of principal until the reserve fund of $7900 has been increased to $14,000, and as long as the reserve is maintained at $14,000 the monthly payments into said Bond Fund shall be one-sixth of the next semi-annual interest payment and one-twelfth of the next annual payment of principal of both issues plus the paying charges. Except for this additional payment, the provisions of said Section 12 shall remain in full force and effect for the equal benefit of both bond issues.

SECTION 10. No additional sewer revenue bonds may be issued which would have a lien on the sewer revenue prior to the lien position of this issue and the Sewer Revenue Bonds dated May 1, 1951. Additional sewer revenue bonds on a parity with these bonds may be issued whenever the net revenues of the System for the two preceding calendar years, plus the anticipated net revenues of the improvements to be made, would equal 150% of the maximum amount that will become due in any calendar year for both principal and interest on all sewer revenue bonds then outstanding and the bonds then proposed to be issued. (“Net revenues” are defined as gross revenues less operating expenses, which shall include salaries, wages, cost of maintenance and operation, materials and supplies, pumping costs, costs of sewage disposal services, and insurance, as well as all other items that are normally regularly included under recognized accounting practices.)

In order to make extensions, improvements, or repairs to the System, the City may issue bonds secured by a second lien on the net
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System, and each depository shall be

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owed by the Sewer Committee, or by the escrow

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Sewer Revenue Bond Fund,
in the sum of $1000 or
pay the current interest

and November 1 of the next suc-

ceed the purchase of bonds hereby

ng manner; The City shall designate a date

nor more than twenty days
from the time said date is designated, at which time it will receive
sealed tenders of bonds and act upon such offers in open Council
session. Notice of the time and place of receiving such sealed
tenders shall be published at least once not less than ten days
before such date in a newspaper of general circulation published in
the City of Little Rock, Arkansas. Said notice shall also be given
in writing to the Trustee, not less than ten days before such date.
The entire surplus available for the retirement of bonds computed as
aforesaid shall be used to purchase bonds offered at the lowest
price; provided, however, that all tenders which are not for less
than par and accrued interest shall be rejected and the City shall
proceed to call bonds for redemption according to the provisions set
out in the face of the bonds. All bonds so purchased or redeemed
shall be canceled. The City will not be required or permitted to
call any bond for partial payment.

SECTION 13. The owner or owners of all improved property
lying within the area that is now served or will, after the construc-
tion of the Works, be served by the System, are hereby directed and
required to connect all toilet and waste water facilities of such
improved property with the System as soon as the service is available;
and the owners of property that is improved after the completion
of the Works and can be served by the System shall immediately con-
nect the toilet and waste water facilities of such property with the
system.

SECTION 14. If after investigation the Sewer Committee shall
determine that improved property that can be but is not connected
to the System constitutes a nuisance or a health hazard or both, it
shall send a written notice to the owner or owners of such improved
property to make such connection within thirty days from the date of
said notice, and any property owner failing or refusing to connect
his improved property after being notified to do so shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than two dollars and not exceeding ten dollars, and each day's failure or refusal after expiration of the time fixed in the notice to make the connection shall be a separate offense, provided, this shall not apply to property lying more than three hundred feet from a place where a connection can be made with the system.

SECTION 15. It is hereby declared that no provision of this ordinance is intended to or shall be construed to impair the obligation of the City's contract with the holders of the City's Sewer Revenue Bonds of May 1, 1951, and the City Council hereby finds that the revenues of the present system plus the anticipated revenues resulting from the Works fully meet the requirements of Section 19 of said Ordinance No. A-265 for the issuance of bonds on a parity with the City's Sewer Revenue Bonds dated May 1, 1951.
SECTION 10. The City and "Bond Fund" as used in this section shall mean, respectively, the Incorporated Town or the City issuing the Bonds and the Fund provided by this ordinance for the payment of the Bonds.

For and in consideration of the purchase and acceptance of the Bonds authorized by this ordinance and in addition to the following:

(a) None of the facilities or services afforded by the System shall be furnished without a reasonable charge being made therefor.

In the event that the City or any department, agency, or instrumentality thereof shall fail to observe or perform the duties, obligations, or agreements as therein provided, it shall be deemed a violation of the ordinances of the City issuing the Bonds and the Fund provided by this ordinance for the payment of the Bonds.

(b) The City will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost.

So long as any of the Bonds are outstanding, the State having the power to mortgage the System or any part thereof or any revenues therefrom, except as herein provided, and will not sell, lease, or otherwise dispose of any substantial portion of the System.

The obligations of the City set out in this ordinance, the pledge of the System or any revenues therefrom, except as herein provided, and with or without the consent of the holders thereof, shall continue in full force, and neither the original ordinances of the City nor any change thereof shall be held illegal or invalid, it shall not affect the validity of the provisions of this ordinance as to the City and the holders of the Bonds, or some of them, against loss or damage, nor shall the accrued interest be affected.

(c) The City Treasurer shall be the custodian of the revenues derived from the System and shall give bond as such custodian.

Such bond shall be in an amount not less than $10,000 and shall be approved by the Trustee.

(d) The System shall be operated upon a fiscal year basis, beginning July 1 of each year and ending and including the following June 30.

(e) So long as any of the Bonds are outstanding, the City will not mortgage, pledge, or otherwise encumber the System or any part thereof or any revenues therefrom, except as herein provided, and will not sell, lease, or otherwise dispose of any substantial portion of the System.

(f) The obligations of the City set out in this ordinance, the pledge of the System or any revenues therefrom, except as herein provided, and with or without the consent of the holders thereof, shall continue in full force, and neither the original ordinances of the City nor any change thereof shall be held illegal or invalid, it shall not affect the validity of the provisions of this ordinance as to the City and the holders of the Bonds, or some of them, against loss or damage, nor shall the accrued interest be affected.

(g) Wherever reference is made in this ordinance to a Trustee, it shall refer to the successor in office of the originally appointed Trustee.

(h) The provisions of this ordinance shall be held illegal or invalid, it shall not affect the validity of the provisions of this ordinance as to the City and the holders of the Bonds, or some of them, against loss or damage, nor shall the accrued interest be affected.

(i) The City Treasurer shall be responsible only for willful misconduct in the execution of the trust which has been committed to him or her.

(j) The provisions of this ordinance shall be held illegal or invalid, it shall not affect the validity of the provisions of this ordinance as to the City and the holders of the Bonds, or some of them, against loss or damage, nor shall the accrued interest be affected.

The City and City Treasurer are hereby declared to be the custodians of the revenues derived from the System and shall include all money received from the System, together with all unmortured portions thereof, to be held and accounted for in the manner hereinafter prescribed.

The City Treasurer shall be responsible only for willful misconduct in the execution of the trust which has been committed to him or her.

No withdrawal from the Bond Fund shall be made for any purpose other than the application of the money to the payment of the Bonds or coupons until so applied.

The City will keep proper books of records and accounts in which complete and correct entries shall be made of any transactions relating to the System. The City will agree with the holder or holders of the Bonds, or some of them, against loss or damage, nor shall the accrued interest be affected.

If the City fails to make the payment of the Bonds or coupons, the Trustee may enforce any mortgage lien granted by statute or the City's agreement not to mortgage, pledge, or otherwise encumber the System or any part thereof or any revenues therefrom, except as herein provided, and with or without the consent of the holders thereof, shall continue in full force, and neither the original ordinances of the City nor any change thereof shall be held illegal or invalid, it shall not affect the validity of the provisions of this ordinance as to the City and the holders of the Bonds, or some of them, against loss or damage, nor shall the accrued interest be affected.

In the event that the City fails to make the payment of the Bonds or coupons, the Trustee may enforce any mortgage lien granted by statute or the City's agreement not to mortgage, pledge, or otherwise encumber the System or any part thereof or any revenues therefrom, except as herein provided, and with or without the consent of the holders thereof, shall continue in full force, and neither the original ordinances of the City nor any change thereof shall be held illegal or invalid, it shall not affect the validity of the provisions of this ordinance as to the City and the holders of the Bonds, or some of them, against loss or damage, nor shall the accrued interest be affected.

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SECTION 17. It is hereby ascertained and declared that there is immediate need, in order to protect the health and property of the inhabitants of the City, for the improvement and enlargement of the sewer system serving the City of Conway, Arkansas; therefore, an emergency exists and this ordinance is necessary for the preservation.


APPROVED:

[Signature]
Mayor

(Seal)

Attest:

[Signature]
City Clerk

CERTIFICATE OF RECORD

I, the undersigned, City Clerk of the City of Conway, Arkansas, hereby certify the foregoing to be a true copy of an ordinance passed by the City Council at a duly called and constituted meeting at which more than two-thirds of the total number of members-elect of the Council were present and voted for said ordinance, which is now of record in Book 5, page 275-276 of the records of said City.

CERTIFIED under my hand and the seal of said City this day of [Redacted], 1960.

[Signature]
City Clerk

(seal)