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FAULKNER COUNTY CIRCUIT CLERK

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by

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D. C.



**City of Conway, Arkansas
Ordinance No. O-13-58**

AN ORDINANCE PURSUANT TO ARKANSAS CODE ANNOTATED § 14-42-107(b)(1) PRESCRIBING THE EXTENT OF THE AUTHORITY FOR CITY OFFICIALS AND CITY EMPLOYEES TO BE EMPLOYED BY OR OTHERWISE SERVE IN A DUAL CAPACITY WITH THE FAULKNER COUNTY SOLID WASTE MANAGEMENT DISTRICT; REPEALING ANY ORDINANCES IN CONFLICT; DECLARING AN EMERGENCY; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

Whereas, the City of Conway, Arkansas (the "City") from time to time enters into contracts and agreements with the Faulkner County Solid Waste Management District (the "District") for solid waste services, including but not limited to "roll off" services for county cleanups whereby the District contracts with the Sanitation Department for a container to be placed at the cleanup and pays the Sanitation Department for that service; and

Whereas, from time to time, City officials and City employees serve in a dual capacity and are employed by the District and some may receive salaried compensation from the District; and

Whereas, pursuant to Arkansas Code Annotated § 14-42-107(b)(1), no municipal official or municipal employee shall be interested, directly or indirectly, in the profits of any contract for furnishing supplies, equipment, or services to the municipality unless the governing body of the city has enacted an ordinance specifically permitting officials or municipal employees to conduct business with the city and prescribing the extent of this authority; and

Whereas, the Attorney General has suggested in Opinion No. 2011-166, that such circumstances of dual capacity employment with compensation may require an ordinance be enacted pursuant to Arkansas Code Annotated § 14-42-107(b)(1) prescribing the extent of the authority for City officials and employees to serve in such dual capacities; and

Whereas, the City desires to pass an ordinance authorized by Arkansas Code Annotated § 14-42-107(b)(1) prescribing the extent of the authority for City officials and employees to

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS THAT:

Section 1: That pursuant to the authority of Arkansas Code Annotated § 14-42-107, City officials and City employees are permitted to serve in a dual capacity and be employed by the District, including the receipt of salaried compensation from the District, as long as such official or employee is not interested, directly or indirectly, in the profits of any specific contract for furnishing supplies, equipment, or services to the City. For purposes of this ordinance, receiving regular compensation from the District or the City as an employee shall not be considered an "interest" in such contract.

Section 2: That in the event any title, section, paragraph, item, sentence, clause, phrase, or word 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 so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

Section 3: That all ordinances or resolutions of the City in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: That it is in the interest of the City that any dual capacity employment with officials or employees with the District be immediately clarified pursuant to applicable state law and that this ordinance is necessary for the protection of the public peace, health and safety. Therefore, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

Passed on this 28th day of May, 2013.

Approved:



Mayor Tab Townsell

Attest:



Michael O. Garrett
City Clerk/Treasurer

