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RHONDA WHARTON

FAULKNER COUNTY CIRCUIT CLERK

Fees \$25.00

by _____

407013

[Signature] D.C.



**City of Conway, Arkansas
Ordinance No. O-14-100**

AN ORDINANCE AMENDING ORDINANCE NO. O-86-11, AS PREVIOUSLY AMENDED; ESTABLISHING A FRANCHISE FEE AND EXTENDING THE EMPLOYMENT OF THE CONWAY CORPORATION, TO OPERATE THE WATER SYSTEM AND THE SANITARY SEWER SYSTEM OF THE CITY OF CONWAY, ARKANSAS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Conway, Arkansas (the 'City'), a city of the first class, presently owns a water storage, treatment and distribution system (the "Water System") and a sanitary sewer system (the "Sewer System") serving the residents of the City, which Water System and Sewer System are presently operated and maintained by the Conway Corporation, a nonprofit corporation organized and existing under the laws of the State of Arkansas (the "Corporation"), pursuant to an exclusive franchise to operate the Water System and the Sewer System granted to the Corporation by the City pursuant to Ordinance No. O-86-11 adopted on January 28, 1986, as previously amended by Ordinance No. O-01-112 adopted On November 27, 2001; and Ordinance No. O-12-25 adopted on March 27, 2012; and

WHEREAS, the City desires to extend the term of the franchise presently granted to the Corporation; and

WHEREAS, the City desires to impose a franchise fee on water and wastewater sales,

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

Section 1. The term of the franchise granted to the Corporation by Ordinance No. O-86-11, as amended, is hereby extended to December 31, 2045 and Section 4 of Ordinance No. O-86-11 is hereby deemed further amended to such effect.

Section 2. The extension of franchise granted by this Ordinance shall be accepted in writing by the Corporation within Forty Five (45) days from the date of adoption of this Ordinance, whereupon the franchise shall be deemed to be extended as provided in Section 1.

Section 3. Subsection 2(F.) of Ordinance O-86-11 is hereby repealed and replaced in its entirety with the following language:" The Corporation shall pay to the City a franchise fee equal to 4.25% of the gross retail water and wastewater sales to all customers, excluding the City and the Conway Corporation; provided however, that gross retail revenues shall not include net unrecovered bad debts. The City agrees that all amounts paid by the Corporation as a franchise fee may be added to the billing for water and wastewater services and collected from the Corporation's customers as an external cost. All amounts so billed by the Corporation may be

separately stated on the customers' bills. The amount required to be paid herein is the total franchise fee to be paid to the City by the Corporation for the rights granted in Section 3 of Ordinance O-86-11."

Section 4. A new Subsection (G.) is hereby added to Section 2 of Ordinance O-86-11 with the following language "The City shall consult with the Corporation in planning street improvements and consider the estimated cost, if any, of relocating water and/or wastewater mains and, whenever possible, design such improvements to minimize the costs for both the City and the Corporation."

Section 5. This ordinance shall be effective on January 1, 2015 and for all billings on or after that day.

Section 6. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared to be illegal or invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Ordinance.

Section 7. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

ADOPTED AND APPROVED THIS 11th DAY OF NOVEMBER, 2014.

Approved:



Mayor Tab Townsell

Attest:



Michael O. Garrett
City Clerk/Treasurer

