

For the City Clerk

Entered in Minutes of March 5
meeting - Book 5 - Page 2-14

ORDINANCE NO. A-301

AN ORDINANCE PROVIDING FOR THE IMPROVEMENT AND MAINTENANCE OF THE MUNICIPALITY OWNED WATERWORKS NOW SERVING THE CITY OF CONWAY, ARKANSAS, THE ISSUANCE OF WATER REVENUE BONDS, AND THE SETTING UP OF CERTAIN FUNDS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas, a city of the first class, owns and operates its municipal waterworks on which there is an indebtedness of \$177,000 represented by a balance of \$21,000 non-callable $4\frac{1}{2}\%$ water revenue bonds maturing at the rate of \$7000 per year on December 1 of the years 1955, 1956 and 1957, and \$156,000 of $2\frac{1}{2}\%$ and $2\frac{3}{4}\%$ water revenue bonds dated September 1, 1948, and due serially on June 1 of the years 1955 to 1969, both inclusive, and callable for payment prior to maturity with funds from any source at par and accrued interest on any interest paying date on and after December 1, 1957; and the City needs to improve its present waterworks in order to give more adequate service to the population; and

WHEREAS, the City has had Marion L. Crist and Associates, Consulting Engineers, Little Rock, Arkansas, prepare plans, specifications, and estimates of cost for the improvements contemplated, which ~~was~~^{WLF BE} filed with the City Clerk on or about APRIL 1, 1955, 1954, and have been and are now open to the examination of any person who is interested, and show an estimated cost of the proposed improvements to the waterworks system of \$568,000, including engineering and attorney fees and the cost of the bond issue; and

WHEREAS, at a public sale after due advertisement, W.H. Satterfield & Company and Walter R. Bass Company, of Little Rock, Arkansas, investment bankers, bid par and accrued interest plus a premium of \$15,000 for a series of \$568,000 of water revenue bonds to be dated March 1, 1955, bearing interest payable semi-annually, to mature serially on June 1 of each year as follows:

- \$ 5,000 in 1956
- 6,000 in 1957
- 12,000 in 1958
- 8,000 in 1959 to 1962, inclusive
- 9,000 in 1963 to 1966, inclusive
- 10,000 in 1967 and 1968
- 15,000 in 1969
- 26,000 in 1970 and 1971
- 27,000 in 1972
- 28,000 in 1973

\$29,000 in 1974
 30,000 in 1975
 31,000 in 1976
 32,000 in 1977
 33,000 in 1978
 34,000 in 1979
 35,000 in 1980
 36,000 in 1981
 37,000 in 1982
 38,000 in 1983

and bearing interest at the following rates per annum: the \$178,000 in bonds maturing in the years 1956 to 1971, both inclusive, at 2.75%, and the \$390,000 in bonds maturing in the years 1972 to 1983, both inclusive, at 3%, and the offer is made upon the condition that the purchasers shall have the right to convert the bonds to bonds bearing lower rates of interest, subject to the conditions set out in the sale notice; and

WHEREAS, the buyers have elected to convert the bonds to a series of \$599,000 in bonds dated March 1, 1955, maturing and bearing interest as hereinafter set out, and they have submitted computations showing that the cost of maturing the bonds after conversion is \$44.38 less than the cost of maturing the bonds according to the original schedule, and that therefore the City will receive the same amount that it would receive before conversion and will not pay as much as it would pay if the bonds were not converted, and that the conversion complies with the sale notice; and

WHEREAS, the City Council by Ordinance No. A-295, adopted August 18, 1954, provided for an increase in the rates for water, to become effective with the bills rendered for the first month after the execution and delivery of the proposed water revenue bond issue, and on the basis of the present normal water consumption these rates will produce a net annual operating revenue available for the payment of bonds equivalent to over one and one-half times the requirements of the two issues now outstanding and the proposed bond issue; and

WHEREAS, Section 12 of Ordinance No. A-240, passed September 20, 1948, provides that any surplus of the water revenues remaining after making full provision for the various funds created by Ordinance No. A-174, passed January 10, 1939, and the Bond Fund and other funds created by Ordinance No. A-240, may be used by the City for municipal purpose; and

WHEREAS, Section 19-4208, Ark. Stats. 1947, provides that any excess revenue over the amount required for maintenance, operation and bond payments may be used for the payment of bonds that may later be issued for additional betterments and improvements; now, therefore,

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

SECTION 1. The Council hereby finds and declares that there is immediate need for the improvement of the municipal waterworks system now serving the inhabitants of the City. A brief description of the proposed improvements is as follows: To secure a new and enlarged source of supply for the waterworks system, at a total estimated cost of \$568,000. The proposed improvements to the waterworks system are hereinafter termed the "Works," and the present waterworks system and the proposed improvements are hereinafter collectively termed the "System."

SECTION 2. The Council hereby finds and declares that the period of usefulness of the existing waterworks system now serving the City of Conway is more than forty years, which is longer than the term of the proposed revenue bonds.

SECTION 3. The Council hereby further finds and declares that the offer of W. H. Satterfield & Company and Walter R. Bass Company for the purchase of the revenue bonds is at a fair price and one that is allowed by law, and that the conversion of the bonds to bonds bearing lower interest rates, as hereinafter set out, is within the terms of the proposal submitted for the purchase of said bonds, and therefore the conversion is approved and the bonds are hereby sold to said buyers. The Council finds that the revenues derived from the increased rates fixed by Ordinance No. A-295 and the increased supply of water available through the construction of the proposed improvements will produce a net revenue that will afford not less than one and one-half times the average annual requirements of the bond issues of December 1, 1938, and September 1, 1948, and this issue.

SECTION 4. That under the authority of the general statutes of the State of Arkansas, and particularly Act No. 131 of the General Assembly of the State of Arkansas for the year 1933, as amended

(sometimes hereinafter termed "Act No. 131, as amended"), water revenue bonds be issued in the total amount of \$599,000, 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 said bonds be designated "City of Conway, Arkansas, _____ \$ Water Revenue Bond," to be dated as of March 1, 1955, numbered from 1 to 599, both inclusive, to be sometimes hereinafter referred to as "bonds," to be in the denomination of \$1000 each, to be callable as hereinafter set forth, and to mature in numerical order on June 1 of each year as follows:

YEAR	BOND NOS. (both inclusive)	AMOUNT
1956	1 to 8	\$ 8,000
1957	9 to 16	8,000
1958	17 to 28	12,000
1959	29 to 37	9,000
1960	38 to 46	9,000
1961	47 to 56	10,000
1962	57 to 66	10,000
1963	67 to 76	10,000
1964	77 to 87	11,000
1965	88 to 98	11,000
1966	99 to 110	12,000
1967	111 to 122	12,000
1968	123 to 134	12,000
1969	135 to 151	17,000
1970	152 to 178	27,000
1971	179 to 205	27,000
1972	206 to 233	28,000
1973	234 to 262	29,000
1974	263 to 292	30,000
1975	293 to 323	31,000
1976	324 to 355	32,000
1977	356 to 388	33,000
1978	389 to 422	34,000
1979	423 to 456	34,000
1980	457 to 491	35,000
1981	492 to 526	35,000
1982	527 to 562	36,000
1983	563 to 599	37,000

The bonds bear interest payable semi-annually on June 1 and December 1 of each year at the following rates per annum: Nos. 1 to 110, inclusive, at 2.25%; Nos. 111 to 205, inclusive, and Nos. 457 to 599, inclusive, at 2.50%; and Nos. 206 to 456, inclusive, at 2.75%. 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 attached thereto, 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 shall be payable in lawful money of the United States of America at the office of the Union National Bank of Little Rock, Arkansas.

The bonds, with interest thereon, shall be payable solely out of the surplus net revenue derived from the operation of the System as hereinafter defined and termed "1955 Water Revenue Bond Fund," and shall be a valid claim of the holders thereof only against such fund, and the amount of the revenues pledged to said fund, which amount of said revenues, subject to the prior lien of the bond issues of December 1, 1938, and September 1, 1948, is hereby pledged and mortgaged for the equal and ratable payment of the bonds to be issued under date of March 1, 1955, and shall be used for no other purpose than to pay the principal and interest of said March 1, 1955 issue, except as hereinafter set out.

SECTION 5. Said bonds and coupons shall be in substantially the following form:

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

_____ \$ Water Revenue Bond

No. _____

\$1000

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

ONE THOUSAND DOLLARS

on the first day of June, 19____, with interest thereon at the rate of _____ per centum (5) per annum from date until paid, payable on December 1, 1955, and semi-annually thereafter upon presentation and surrender of the annexed coupons as they severally become due. Both principal hereof and interest hereon shall be payable in lawful money of the United States of America, at the office of the Union National Bank of Little Rock, Arkansas.

This bond is one of a series of bonds aggregating Five Hundred Ninety-nine Thousand Dollars (\$599,000), all of like tenor and effect except as to number, interest rate, and maturity, numbered from 1 to 599, both inclusive, and issued for the purpose of improvement the existing municipal waterworks system (hereinafter called the "System") by providing an additional source of supply.

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. 131 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 are payable solely from a fixed amount of the revenues from the System, which amount shall be sufficient to pay the principal of and interest on the bonds 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 "1955 Water Revenue Bond Fund," created by Ordinance No. A-301 of the City of Conway, passed March 15th, 1955, and the said City of Conway has fixed and has covenanted and agreed to maintain rates for water 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 the bonds of this issue and of the outstanding water revenue bond issues of December 1, 1938, and September 1, 1948, as the same become due and payable, and the bonds of this issue of March 1, 1955 are subject to the prior lien of said outstanding bonds on all of the revenues of the System.

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 at par and accrued interest in inverse numerical order, as follows: From surplus revenues derived from the operation of the System or from proceeds of the bond sale remaining after completion of

the work for which the bonds are issued, on any interest paying date; from funds from any source, on any interest paying date on and after December 1, 1957. 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 publication 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 said bonds.

This bond shall not be valid until it shall have been authenticated by the certificate hereon, duly signed by the Union National Bank of 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 March, 1955.

CITY OF CONWAY, ARKANSAS

By _____
Mayor

(Seal)

Attest:

City Clerk

(Form of Coupon)

No. _____

\$ _____

On the first day of ^{June} December, 19____, unless the bond to which this coupon is attached is sooner called for payment, the City of Conway, Faulkner County, Arkansas, promises to pay to bearer the sum of _____ DOLLARS in lawful money of the United States of America, solely out of the fund specified in the bond to which this coupon appertains, at the office of the Union National Bank of Little Rock, Arkansas, being interest then due on its Water Revenue Bond dated March 1, 1935, and numbered _____.

CITY OF CONWAY, ARKANSAS

By _____

Mayor

(The first coupon is for nine months' interest. The Mayor's signature on the coupons may be lithographed or engraved.)

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

CERTIFICATE

This is one of the 599 bonds aggregating \$599,000 described within.

UNION NATIONAL BANK
OF LITTLE ROCK, ARKANSAS, Trustee

By _____

Authorized Signature

Little Rock, Arkansas

SECTION 6. By Ordinance No. A-295, passed and approved August 18, 1954, the City Council fixed the rates to be charged for the services to be furnished by the waterworks, and the Council hereby finds the rates so fixed to be reasonable and the necessary minimum rates to be charged, and said rates are hereby approved and confirmed. The Council further finds and declares that the rates fixed by said ordinance will produce a total revenue sufficient to pay the costs of the operation, repair, and maintenance of the system and to provide an annual net revenue, as defined in Section 12A of this ordinance,

equivalent to 150% of the average annual principal and interest maturities of the bonds issued by the City under dates of December 1, 1938, and September 1, 1948, and of the bonds to be issued by authority of this ordinance. The rates so fixed shall never be reduced to produce revenue less than sufficient for all of said purposes 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. The decision of the Trustee at any time that it is necessary to increase the rates shall be final. Whenever the independent certified public accountant required to be employed by the City shall determine that the net revenues of the System during the preceding twelve months have been substantially in excess of 150% of the maximum annual principal and interest requirements on the then outstanding water revenue bonds, the City Council may make a reduction in the rates for water service, but such reduction shall not cause the future estimated net revenues of the System to be less than 150% of the maximum annual principal and interest requirements on the then outstanding water revenue bonds. Should a reduction in rates be granted and such reduced rates do not produce net revenues equivalent to 150% of the maximum annual principal and interest requirements said rates shall be immediately restored upon the demand of the Trustee or any bona fide holder of a bond of this March 1, 1955 issue. Net revenues shall be determined as defined in Section 12A of this ordinance.

SECTION 7. From the first revenues derived from the operation of the System, the City shall set up for the operation, maintenance, and depreciation of the System, and for the payment of its outstanding water revenue bonds dated December 1, 1938, all the funds created by its Ordinance No. A-174, passed January 10, 1939, and the "Water Revenue Bond Fund" created by Section 11 of the City's Ordinance No. A-240, passed September 20, 1948, for the payment of its outstanding water revenue bonds dated September 1, 1948. These two bond issues shall have the first and prior lien on the revenues of the System.

SECTION 8. The revenues derived from the operation of the System remaining after making full provision for and maintaining the

Funds provided for operation, maintenance, and depreciation of the System and for the City's bond issues of December 1, 1938, and September 1, 1948, are hereby declared to be the surplus net revenues of the System and shall be used as follows:

(a) There is hereby created, and so long as any of the bonds hereby authorized are outstanding there shall be maintained, a special fund to be known as the "1955 Water Revenue Bond Fund" (sometimes hereinafter referred to as the "sinking fund"), into which there shall be set aside from said surplus net revenues such portion thereof as will be sufficient to pay the principal and interest as the same become due and to pay the necessary fiscal agency charges of the bonds dated March 1, 1955, and to create a margin of safety. It is hereby determined and agreed that the minimum amounts to be so set aside and paid into the sinking fund each month for account of the 1955 bond issue shall be, in addition to the paying agent's fees, not less than $\frac{1}{6}$ of the amount of interest becoming due on the next succeeding interest payment date plus $\frac{1}{12}$ of the amount of principal becoming due on the next succeeding principal payment date plus the sum of \$320, until a reserve of \$38,400 has been accumulated.

Provided, however, that no further payments need be made into said sinking fund after and so long as such amount of the bonds shall have been retired that the amount then held in such sinking fund, including the reserve, is equal to the entire amount of the interest and principal that will have accrued and become due at the time of the retirement or maturity of all the bonds of both bond issues then remaining outstanding.

The undertaking to transfer and pay the prescribed amounts from the surplus net revenues into said sinking fund shall be cumulative so that in the event the surplus net revenues during any month are inadequate to make the required transfer and payment, or if for any other reason there be a failure to make such transfer and payment, the amount of the deficiency shall be made up from the first available surplus net revenues thereafter received, and the same shall be in addition to the amounts otherwise required to be transferred and paid into said sinking fund.

(b) said sinking fund created by this ordinance shall be used solely and only and is hereby pledged for the purpose of paying the interest on and accomplishing the retirement of the bonds of this issue. Withdrawals and remittances to the place of payment of the principal and interest shall be made in ample time to meet the semi-annual payments of such principal and interest, as follows:

YEAR	PRINCIPAL June 1 of each year	INTEREST		TOTAL
		June 1 of each year	December 1	
1955	\$	\$	\$11,495.62	\$11,495.62
1956	8,000.00	7,663.75	7,573.75	23,237.50
1957	8,000.00	7,573.75	7,483.75	23,057.50
1958	12,000.00	7,483.75	7,343.75	26,832.50
1959	9,000.00	7,343.75	7,247.50	23,596.25
1960	9,000.00	7,247.50	7,146.25	23,393.75
1961	10,000.00	7,146.25	7,031.75	24,180.00
1962	10,000.00	7,031.75	6,921.25	23,955.00
1963	10,000.00	6,921.25	6,808.75	23,730.00
1964	11,000.00	6,808.75	6,695.00	24,493.75
1965	11,000.00	6,695.00	6,561.25	24,246.25
1966	12,000.00	6,561.25	6,426.25	24,987.50
1967	12,000.00	6,426.25	6,276.25	24,702.50
1968	12,000.00	6,276.25	6,126.25	24,402.50
1969	17,000.00	6,126.25	5,913.75	29,040.00
1970	27,000.00	5,913.75	5,576.25	38,490.00
1971	27,000.00	5,576.25	5,238.75	37,815.00
1972	28,000.00	5,238.75	4,853.75	38,092.50
1973	29,000.00	4,853.75	4,455.00	38,308.75
1974	30,000.00	4,455.00	4,042.50	38,497.50
1975	31,000.00	4,042.50	3,616.25	38,658.75
1976	32,000.00	3,616.25	3,176.25	38,792.50
1977	33,000.00	3,176.25	2,722.50	38,898.75
1978	34,000.00	2,722.50	2,255.00	38,977.50
1979	34,000.00	2,255.00	1,787.50	38,042.50
1980	35,000.00	1,787.50	1,350.00	38,137.50
1981	35,000.00	1,350.00	912.50	37,262.50
1982	35,000.00	912.50	462.50	37,375.00
1983	37,000.00	462.50		37,462.50

It shall be the duty of the City Treasurer to deliver to the Trustee, not less than five days before the due date of any semi-annual payment of interest or annual payment of principal, a check or voucher drawn on said sinking fund, to be used to meet the payment then due, together with the paying charges hereinafter set out.

(c) The reserve of \$38,400 to be accumulated in the sinking fund as hereinabove provided shall be designated "1955 Bond and Interest Reserve Fund" (sometimes hereinafter termed "Reserve Fund"), and whenever withdrawals are made from said Reserve Fund so as to reduce the balance therein to less than \$38,400, the extra payments of \$320 per month above described shall be resumed and shall be continued as long

as may be necessary to restore the amount in said Reserve Fund to \$38,400. The funds in said Reserve Fund shall be held by the City as a trust account, or, at the option of the City, they may be invested in bonds or other direct or fully guaranteed obligations of

pal to whatever extent funds in the sinking fund are insufficient for that purpose or for meeting special and unforeseen emergencies or repair or replacement work which could not have been anticipated or which is essential for the continued operation of the System and for the payment of which there are no other funds available.

SECTION 9. The revenues from the System which remain after making full provision for the funds hereinabove established are hereby declared to be surplus revenues and must be used by the City to call outstanding water revenue bonds of the City for payment prior to maturity or to make improvements or extensions to the System.

SECTION 10. There shall be a statutory mortgage lien upon the improvements to the waterworks constructed from the proceeds of this bond issue, which shall exist in favor of the holder of the bonds and each of them and to and in favor of the holders of the coupons attached to said bonds, and such improvements shall remain subject to such statutory mortgage lien until payment (in full of the interest on) and principal of the bonds; provided, however, that such statutory mortgage lien shall be interpreted according to the decision of the Supreme Court of Arkansas cited as City of Harrison v. Braswell, 209 Ark. 1094, 194 SW(2d) 12, and that said statutory lien shall not be asserted or enforced so as to result in a foreclosure or sale of any of the properties constituting the municipal waterworks, but said statutory mortgage lien shall be recognized and enforced only for the purpose of preventing the sale, attempted mortgage, lease, or disposal in any other manner of an integral part of said System.