

ORDINANCE NO. 083-13

*Bill
Flegman*

AN ORDINANCE AUTHORIZING THE ISSUANCE OF ELECTRIC REVENUE REFUNDING BONDS UNDER ACT NO. 5 OF THE ACTS OF ARKANSAS OF 1979, AS AMENDED, FOR THE PURPOSE OF REFUNDING OUTSTANDING ELECTRIC REVENUE DEBT OF THE CITY; AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT PROVIDING FOR THE PAYMENT OF THE OUTSTANDING BONDS; PRESCRIBING MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas (the "City") presently owns an electric generation and distribution system (the "System") serving the residents of the City, which System is operated and maintained by the Conway Corporation, a non-profit corporation organized and existing under the laws of the State of Arkansas (the "Conway Corporation"), pursuant to a lease from the City and an exclusive franchise granted to the Conway Corporation by the City; and

WHEREAS, the City has outstanding an issue of Electric Revenue Bonds, 1979 Series A, dated August 1, 1979 (the "Prior Bonds"), issued under the provisions of Ordinance No. 0-79-26 of the City, adopted and approved on May 22, 1979, pursuant to the Constitution of the State of Arkansas and Arkansas Code Annotated Sections 14-202-101 to -123 (1987) (the "Act"); and

WHEREAS, the Prior Bonds were issued for the purpose of financing the costs of acquiring, constructing and equipping the City's, ownership interests in certain electric generating facilities located in Jefferson County, Arkansas near Redfield, Arkansas (known as the White Bluff Steam Electric Station) and in Independence County, Arkansas near Newark, Arkansas (known as the Independence Steam Electric Station), funding certain reserves, paying interest during construction, and paying costs associated with the issuance of the Prior Bonds; and

WHEREAS, the City is authorized under the Act to issue and sell its electric revenue bonds for the purpose of refunding the Prior Bonds; and

WHEREAS, to secure funds necessary to refund the Prior Bonds, to fund a debt service reserve, and to pay legal and other expenses incidental to the issuance of electric revenue bonds for such purposes, the City has determined to issue its Electric Revenue Refunding Bonds, Series 1993, in an aggregate principal amount not to exceed Thirty-Two Million Dollars (\$32,000,000) (the "Bonds"); and

and acknowledge an Escrow Deposit Agreement dated as of April 15, 1993 (the "Escrow Agreement"), by and among the City, the Conway Corporation, and The First National Bank of Chicago, Chicago, Illinois, as escrow trustee (the "Escrow Trustee"), and the City Clerk is hereby authorized and directed to execute and acknowledge the Escrow Agreement and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the Escrow Agreement to be accepted, executed and acknowledged by the Conway Corporation and the Trustee. The Escrow Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Conway Corporation, the Escrow Trustee and the Underwriter in order to complete the Escrow Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the Escrow Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Escrow Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 7. That the Mayor and City Clerk, for and on behalf of the City, be, and they are hereby, authorized and directed to do any and all things necessary to effect the execution and delivery of the Trust Indenture, the Escrow Agreement, the Bond Purchase Agreement and the Official Statement, and to perform all of the obligations of the City under and pursuant thereto. The Mayor and the City Clerk are further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 8. That Rose Law Firm, a Professional Association, of Little Rock, Arkansas, is hereby appointed to act as Bond Counsel on behalf of the City in connection with the issuance and sale of the Bonds.

Section 9. That 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 invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 10. That all ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

WHEREAS, an open public hearing on the question of the issuance of the Bonds was held before the City Council of the City on March 10, 1993, following publication of notice in *The Log Cabin Democrat* on February 22, 1993; and

WHEREAS, the City proposes to enter into a Bond Purchase Agreement with Stephens Inc., Little Rock, Arkansas (the "Underwriter"), providing for the sale of the Bonds;

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

Section 1. That the City hereby finds and declares that the refunding of the Prior Bonds, as provided for herein, is in the best interests of the City and of the customers of the System due to the reduction of the interest expense secured by the electric revenues of the System following such refunding.

Section 2. That the issuance of the Bonds is hereby authorized. The Bonds shall be issued in the original aggregate principal amount of not to exceed \$32,000,000, shall mature not later than August 1, 2009, and shall bear interest at the rates specified in the Bond Purchase Agreement (hereinafter defined). In no event shall the rate of interest borne by any Bond exceed 6.50% per annum. The Bonds shall be issued in the forms and denominations, shall be dated, shall be numbered, shall mature, shall be subject to redemption prior to maturity and may contain such other terms, covenants and conditions, all as set forth in the Trust Indenture (hereinafter defined) securing the Bonds.

Section 3. That to provide the terms and conditions upon which the Bonds are to be secured, executed, authenticated, issued, accepted and held, the Mayor is hereby authorized and directed to execute and acknowledge a Trust Indenture dated as of April 1, 1993 (the "Trust Indenture"), by and among the City, the Conway Corporation, and The First National Bank of Chicago, Chicago, Illinois, as trustee (the "Trustee"), and the City Clerk is hereby authorized and directed to execute and acknowledge the Trust Indenture and to affix the seal of the City thereto, and the Mayor and the City Clerk are hereby authorized and directed to cause the Trust Indenture to be accepted, executed and acknowledged by the Conway Corporation and the Trustee. The Trust Indenture is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Conway Corporation, the Trustee and the Underwriter in order to complete the Trust Indenture in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the Trust Indenture, their execution to constitute conclusive evidence of such approval.

(Advice is given that, pursuant to the Act, a copy of the Trust Indenture in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 4. That there be, and there is hereby, authorized and approved a Preliminary Official Statement, including the cover page and appendices attached thereto, of the City, relating to the Bonds. The Preliminary Official Statement is hereby "deemed final" within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934. The Preliminary Official Statement, as amended to conform to the terms of the Bond Purchase Agreement (as hereinafter defined), including Exhibit A thereto, and with such other changes and amendments as are mutually agreed to by the City, the Conway Corporation and the Underwriter, is herein referred to as the "Official Statement," and the Mayor is hereby authorized to execute the Official Statement for and on behalf of the City. The Official Statement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Conway Corporation, the Trustee and the Underwriter in order to complete the Official Statement in substantially the form submitted to this meeting with such changes as shall be approved by such persons, the Mayor's execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Preliminary Official Statement is on file with the City Clerk and is available for inspection by any interested person.)

Section 5. That in order to provide the terms and conditions upon which the Bonds are to be sold to the Underwriter, the Mayor is hereby authorized and directed to execute at the request of the Conway Corporation a Bond Purchase Agreement on behalf of the City, to be dated as of the date of its execution (the "Bond Purchase Agreement"), by and between the City and the Underwriter, and the Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Conway Corporation and the Underwriter in order to complete the Bond Purchase Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the Bond Purchase Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Bond Purchase Agreement in substantially the form authorized to be executed is on file with the City Clerk and is available for inspection by any interested person.)

Section 6. That in order to provide for the payment of the Prior Bonds, the Mayor is hereby authorized and directed to execute