

6



L202014275
CERTIFICATE OF RECORD
FAULKNER CO, AR FEE \$40.00
RECORDED: 08-18-2020 02:07:32 PM
CRYSTAL TAYLOR
CIRCUIT CLERK
BY: DIANA VARNER, D.C.
ORDINANCE
6 Pages

ORDINANCE NO. O-20-38

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF \$6,395,955.77 OF WASTEWATER REVENUE REFUNDING BONDS, SERIES 2020, BY THE CITY OF CONWAY, ARKANSAS; AUTHORIZING THE EXECUTION AND DELIVERY OF A SEVENTH SUPPLEMENTAL TRUST INDENTURE PURSUANT TO WHICH THE SERIES 2020 BONDS WILL BE ISSUED AND SECURED; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE SERIES 2020 BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas (the "City"), a city of the first class, presently owns a wastewater collection and treatment system (the "Wastewater System") serving the residents of the City, which Wastewater System is 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 Wastewater System granted to the Corporation by the City; and

WHEREAS, the City also presently owns an electric generation and distribution system (the "Electric System") serving the residents of the City, which Electric System is operated and maintained by the Corporation pursuant to a lease from the City and an exclusive franchise to operate the Electric System granted to the Corporation by the City; and

WHEREAS, the City is authorized and empowered under the provisions of the Constitution and laws of the State of Arkansas, including particularly Amendment 65 and Arkansas Code Annotated Sections 14-164-401 *et seq.* (Repl. 1998 & 2019 Supp.) (as from time to time amended, the "Act") to issue and sell its wastewater revenue bonds for the purpose of financing and refinancing the cost of improvements to the Wastewater System; and

WHEREAS, pursuant to the provisions of Ordinance No. O-14-61 of the City, adopted and approved on July 8, 2014, the City has previously issued its Wastewater Revenue Refunding Bonds, Series 2014 (the "Series 2014 Bonds"), in the original principal amount of \$9,980,000; and

WHEREAS, in order to secure funds necessary to refund the outstanding Series 2014 Bonds (and thereby achieve significant debt service savings) and to pay printing, legal, placement agent and other expenses incidental to the issuance of wastewater revenue bonds for such purposes, the City has also now determined to issue its Wastewater Revenue Refunding Bonds, Series 2020, in the aggregate principal amount of \$6,395,955.77 (the "Series 2020 Bonds"); and

WHEREAS, the City has determined to issue and secure the Series 2020 Bonds on a prior and senior basis to the security for (i) its outstanding Wastewater Revenue Improvement Bond, Series 2015B (the "Series 2015B Bond"), and (ii) its outstanding Wastewater Revenue Refunding Bond, Series 2017 (the "Series 2017 Bond"), and on a parity basis with the security for (iii) its outstanding Wastewater Revenue Refunding Bonds, Series 2016 (the "Series 2016 Bonds"), (iv) its outstanding Wastewater Revenue Improvement Bonds, Series 2019A (the "Series 2019A Bonds"), and (v) its outstanding Wastewater Revenue Refunding Bonds, Taxable Series 2019B

(the “Series 2019B Bonds”), pursuant to a Seventh Supplemental Trust Indenture (the “Seventh Supplemental Trust Indenture”) by and among the City, the Corporation and First Security Bank, as trustee (the “Trustee”), a form of which has been presented to and is before this meeting; and

WHEREAS, the City proposes to enter into a Placement Agent Agreement (the “Placement Agreement”) in substantially the form presented to and before this meeting, with Stephens Inc., Little Rock, Arkansas (the “Placement Agent”), providing for assistance in the placement and sale of the Series 2020 Bonds; and

WHEREAS, the City proposes to enter into a Bond Purchase Agreement (the “Bond Purchase Agreement”) in substantially the form presented to and before this meeting, with Regions Equipment Finance Corporation (the “Lender”), providing for the sale of the Series 2020 Bonds.

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

Section 1. The City Council hereby finds and declares that the refunding of the Series 2014 Bonds is in the best interest of the City and the customers of the Wastewater System. Accordingly, the refunding of the Series 2014 Bonds is hereby authorized.

Section 2. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 65 to the Constitution of Arkansas and the Act, there is hereby authorized the issuance of bonds of the City to be designated as “Wastewater Revenue Refunding Bonds, Series 2020” (the “Series 2020 Bonds”). The Series 2020 Bonds shall be issued in the original aggregate principal amount of Six Million Three Hundred Ninety-Five Thousand Nine Hundred Fifty-Five Dollars and Seventy-Seven Cents (\$6,395,955.77), shall mature on October 1, 2029, and shall bear interest at the rate of 1.69% per annum, except upon the occurrence of a Determination of Taxability (as defined in the Seventh Supplemental Trust Indenture) after which time the interest rate on the Series 2020 Bonds shall be increased to 2.27%. The Series 2020 Bonds shall be subject to mandatory sinking fund redemption as follows:

<u>Redemption Date</u>	<u>Principal Amount</u>
October 1, 2021	\$654,631.92
October 1, 2022	674,842.33
October 1, 2023	690,372.16
October 1, 2024	699,354.45
October 1, 2025	711,743.55
October 1, 2026	723,072.01
October 1, 2027	732,216.92
October 1, 2028	750,866.40
October 1, 2029 (maturity)	758,856.03

The proceeds of the Series 2020 Bonds will be utilized to refund the Series 2014 Bonds, and to pay printing, placement agent, legal and other expenses incidental to the issuance of the Series 2020 Bonds. The payment of the principal of and interest on the Series 2020 Bonds will be secured primarily by the net revenues of the Wastewater System and shall be secured on a secondary basis by surplus net revenues of the Electric System, all as provided in the Trust

Indenture dated as of April 1, 2004, as previously supplemented by a First Supplemental Trust Indenture dated as of October 1, 2009, by a Second Supplemental Trust Indenture dated as of November 1, 2010, by a Third Supplemental Trust Indenture dated as of May 1, 2012, by a Fourth Supplemental Trust Indenture dated as of August 1, 2014, by a Fifth Supplemental Trust Indenture dated as of January 1, 2016, by a Sixth Supplemental Trust Indenture dated as of October 1, 2019, and as further supplemented and amended by a Seventh Supplemental Trust Indenture to be dated as of the date of delivery of the Series 2020 Bonds (as supplemented and amended, the Indenture”), by and among the City, the Corporation and the Trustee. Such security shall be granted on a parity basis with the security for the Series 2016 Bonds, the Series 2019A Bonds and the Series 2019B Bonds and on a prior and senior basis to the security for the Series 2015B Bond and the Series 2017 Bond. The Series 2020 Bonds shall be issued as a single typewritten bond in the form, shall be dated, shall be numbered, shall be subject to redemption prior to maturity and may contain such other terms, covenants and conditions, all as set forth in the Indenture.

The Mayor is hereby authorized and directed to execute and deliver the Series 2020 Bonds in substantially the form thereof contained in the Seventh Supplemental Trust Indenture submitted to this meeting, and the City Clerk is hereby authorized and directed to execute and deliver the Series 2020 Bonds and to affix the seal of the City thereto, and the Mayor and City Clerk are hereby authorized and directed to cause the Series 2020 Bonds to be accepted and authenticated by the Trustee. The Mayor is hereby authorized to confer with the Trustee, the Placement Agent, and Kutak Rock LLP, Little Rock, Arkansas (“Bond Counsel”), in order to complete the Series 2020 Bonds in substantially the forms contained in the Seventh Supplemental Trust Indenture submitted to this meeting, with such changes as shall be approved by such persons executing the Series 2020 Bonds, their execution to constitute conclusive evidence of such approval.

Section 3. To prescribe the terms and conditions upon which the Series 2020 Bonds are to be executed, authenticated, issued, accepted, held and secured, the Mayor is hereby authorized and directed to execute and acknowledge the Seventh Supplemental Trust Indenture, by and among the City, the Corporation and the Trustee, and the City Clerk is hereby authorized and directed to execute and acknowledge the Seventh Supplemental 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 Seventh Supplemental Trust Indenture to be accepted, executed and acknowledged by the Corporation and the Trustee. The Seventh Supplemental Trust Indenture is hereby approved in substantially the form submitted to this meeting, including, without limitation, the provisions thereof pertaining to the pledge of Wastewater System net revenues and Electric System surplus net revenues to the Series 2020 Bonds and the terms of the Series 2020 Bonds. The Mayor is hereby authorized to confer with the Corporation, the Trustee, the Placement Agent and Bond Counsel in order to complete the Seventh Supplemental Trust Indenture in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the Seventh Supplemental Trust Indenture, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Seventh Supplemental 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. In order to prescribe the terms and conditions upon which the Series 2020 Bonds are to be sold to the Lender, the Mayor is hereby authorized and directed to execute, at the request of the 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 Lender, 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 Corporation, the Lender and Bond Counsel 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 5. In order to prescribe the terms and conditions upon assistance in structuring and selling the Series 2020 Bonds, the Mayor is hereby authorized and directed to execute, at the request of the Corporation, a Placement Agent Agreement on behalf of the City, to be dated as of the date of its execution (the “Placement Agreement”), by and between the City and the Placement Agent, and the Placement Agreement is hereby approved in substantially the form submitted to this meeting, and the Mayor is hereby authorized to confer with the Corporation, the Placement Agent and Bond Counsel in order to complete the Placement Agreement in substantially the form submitted to this meeting with such changes as shall be approved by such persons executing the Placement Agreement, their execution to constitute conclusive evidence of such approval.

(Advice is given that a copy of the Placement 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. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, sale, execution and delivery of the Series 2020 Bonds and to effect the execution and delivery of the Seventh Supplemental Trust Indenture, the Placement Agreement and a Tax Compliance Agreement relating to the tax exemption of interest on the Series 2020 Bonds, 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 7. Kutak Rock LLP, 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 Series 2020 Bonds.

Section 8. The rates for services of the Wastewater System previously enacted pursuant to Ordinance No. O-92-15, Ordinance No. O-03-88, Ordinance O-09-48, Ordinance No. O-12-14 and Ordinance No. O-19-104 are hereby ratified and confirmed. The rates for services of the Electric System previously enacted pursuant to Ordinance No. O-05-143 and Ordinance No. O-15-76 are hereby ratified and confirmed.

Section 9. 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 10. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 11. It is hereby found and determined that there is an urgent need to refinance certain outstanding indebtedness of the City secured by revenues of the Wastewater System, and in order to do so on the most favorable terms, it is necessary to enter into the Bond Purchase Agreement as soon as possible. Therefore, an emergency is hereby declared to exist and this Ordinance, being necessary for the immediate preservation of the public health, safety and welfare, shall be in force and take effect immediately upon and after its passage.

ADOPTED AND APPROVED THIS 28th DAY OF JULY, 2020.

APPROVED:

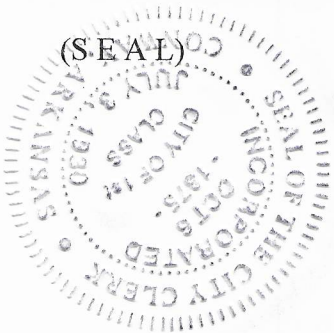
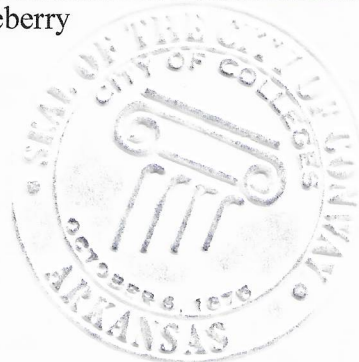


Mayor Bart Castleberry

ATTEST:



Michael O. Garrett
City Clerk/Treasurer



CERTIFICATE

**STATE OF ARKANSAS
COUNTY OF FAULKNER
CITY OF CONWAY**

I, Michael Garrett, the duly elected, qualified, and acting: Clerk-Treasurer of the City of Conway, Arkansas, do hereby certify that the attached and foregoing is a true and correct copy of an ordinance presented to the City Council of the City of Conway, Arkansas, at a meeting of that body held on the 28th day of July, 2020 same is duly recorded in the minutes of meeting of said Council.

Witness, my hand, and seal of the City of Conway, Arkansas this 10th day of August, 2020.



CITY CLERK-TREASURER

