

*Special Copy for City*

ORDINANCE NO. 0-82-26

AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF CERTAIN EXTENSIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER SYSTEM OF THE CITY OF CONWAY, ARKANSAS; AUTHORIZING THE ISSUANCE OF WATER IMPROVEMENT REVENUE BONDS FOR THE PURPOSE OF FINANCING THE COST TO THE CITY OF THE CONSTRUCTION; PROVIDING FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the Water System (the "System") presently serving the City of Conway, Arkansas (the "City"), is inadequate for the immediate needs of the inhabitants of the City; and

WHEREAS, the City Council has determined that the existing System should be improved and that certain extensions, betterments and improvements thereto should be constructed; and

WHEREAS, the City Council has had prepared by a duly qualified consulting engineer a preliminary report and estimates of cost of the needed extensions, betterments and improvements (the "improvements"); and

WHEREAS, the plans and estimates have been examined and approved by the City Council and a copy thereof is on file in the office of the City Clerk where it may be inspected by any interested person; and

WHEREAS, the City does not have available sufficient funds with which to construct the improvements, but can obtain the same by the issuance of Water Improvement Revenue Bonds in the aggregate sum of Two Hundred Thirty Thousand Dollars (\$230,000), which, together with funds to be obtained from an agency or agencies of the Government of the United States of America and of the State of Arkansas in the approximate sum of \$934,200, will be sufficient to finance the cost of the improvements, including all costs necessary and incidental thereto and to the issuance of the bonds; and

WHEREAS, the City has outstanding issues of Water Revenue Bonds dated January 1, 1962 (the "1962 Bonds"), April 1, 1966 (the "1966 Bonds") and Water Improvement Revenue Bonds, dated November 1, 1977 (the "1977 Bonds") to the payment of which the revenues of the System are pledged; and

WHEREAS, the City has, by Ordinance No. 0-76-21, adopted August 10, 1976 ("Ordinance No. 0-76-21"), employed the

Conway Corporation, an Arkansas corporation (the "Corporation"), to operate the System;

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

Section 1. That the improvements be constructed.

Section 2. That the offer of First State Bank & Trust Co., Conway, Arkansas (the "Purchaser"), of par for \$230,000 principal amount of bonds bearing interest at the rate of 8-3/4%, 9% and 9-1/4% per annum be, and the same hereby is, accepted and the bonds be, and they hereby are, sold to the Purchaser for that price.

Section 3. That the City Council hereby finds and declares that the period of usefulness of the System after the completion of the improvements will be more than 40 years, which is longer than the term of the proposed Revenue Bonds.

Section 4. That under the authority of the Constitution and laws of the State of Arkansas, including particularly Act No. 131 of the Acts of Arkansas of 1933, as amended, City of Conway, Arkansas Water Improvement Revenue Bonds (the "1982 Bonds" or "Bonds"), are hereby authorized and ordered issued in the principal amount of Two Hundred Thirty Thousand Dollars (\$230,000), the proceeds of which are necessary to provide sufficient funds to pay the cost to the City of constructing the improvements, including other necessary expenses incidental thereto and to the issuance of the Bonds. The Bonds shall be dated November 1, 1982 and interest shall be payable semiannually on May 1 and November 1 of each year, commencing May 1, 1983. The Bonds shall bear interest and shall mature on November 1, in each of the years 1983 to 1993, inclusive, as follows (but shall be subject to redemption or prepayment prior to maturity as set forth in the face of the Bonds):

<u>YEAR</u>	<u>AMOUNT</u>	<u>INTEREST RATE</u>
1983	\$ 5,000	8-3/4%
1984	5,000	8-3/4%
1985	5,000	8-3/4%
1986	5,000	8-3/4%
1987	5,000	9%
1988	5,000	9%
1989	5,000	9%
1990	5,000	9%
1991	30,000	9-1/4%
1992	100,000	9-1/4%
1993	60,000	9-1/4%

The Bonds shall be negotiable coupon bonds payable to bearer but subject to registration as to principal or as to principal and interest. Principal and interest are payable at the principal office of First State Bank & Trust Co., Conway, Arkansas (the "Trustee" and "Paying Agent"). Payment of interest when registered as to interest may be by check or draft mailed to the registered owner at the address shown on the registration book of the City maintained by the Trustee. The Bonds shall be subject to redemption prior to maturity as hereinafter set forth.

Section 5. The Bonds shall be executed on behalf of the City by the Mayor and shall have impressed thereon the seal of the City. The Bonds may be signed by the facsimile signature of the Mayor but must be signed by the manual signature of the City Clerk. The interest coupons attached to the Bonds may be signed by the facsimile signature of the Mayor with the facsimile signature of the Mayor to have the same force and effect as if personally signed by him.

The Bonds are not general obligations of the City but are special obligations, the principal of and interest on which are secured by a pledge of and are payable from revenues derived from operation of the System. The pledge of revenues in favor of these Bonds shall be subordinate to the pledge of revenues in favor of the 1962 Bonds, the 1966 Bonds and the 1977 Bonds. The Bonds and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation.

Section 6. The Bonds shall be in substantially the following form, and the Mayor and City Clerk are hereby authorized and directed to make all the recitals contained therein:

UNITED STATES OF AMERICA  
STATE OF ARKANSAS  
COUNTY OF FAULKNER  
CITY OF CONWAY  
WATER IMPROVEMENT REVENUE BOND

No. \_\_\_\_\_

\$5,000

KNOW ALL MEN BY THESE PRESENTS:

That the City of Conway, Faulkner County, Arkansas (the "City"), acknowledges itself to owe and for value received, hereby promises to pay to bearer, or if this Bond be registered, to the registered owner hereof, solely from the special fund provided as hereafter set forth, the principal sum of

FIVE THOUSAND DOLLARS

in lawful money of the United States of America on November 1, 19\_\_, and to pay solely from that special fund interest thereon at the rate of \_\_\_\_\_ percent (\_\_\_\_%) per annum, from date until paid. Interest is payable May 1, 1983, and semiannually thereafter on each November 1 and May 1. Principal and interest are payable at the principal office of First State Bank & Trust Co., Conway, Arkansas (the "Trustee" and "Paying Agent"), except that payment of interest, when registered as to interest, may be by check or draft mailed to the registered owner at his address reflected on the registration book of the City maintained by the Trustee as Bond Registrar.

This Bond is one of an issue of City of Conway, Arkansas Water Improvement Revenue Bonds, aggregating Two Hundred Thirty Thousand Dollars (\$230,000) in principal amount, dated November 1, 1982 (the "Bonds"), numbered from 1 to 46, inclusive, all of like tenor and effect, except as to number, maturity, interest rate and right of prior redemption, and issued for the purpose of financing a portion of the cost of constructing extensions, betterments and improvements (the "Improvements") to the Water System of the City (the "System"), and paying necessary expenses incidental thereto and to the issuance of the Bonds.

The Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Act No. 131 of the Acts of Arkansas of 1933, as amended, and pursuant to an Ordinance of the City Council duly adopted and approved, and do not constitute an indebtedness of the City within any constitutional or statutory limitation. The Bonds are not general obligations of the City, but are special obligations payable solely from the revenues derived from the operation of the System. In this regard, the pledge of System

revenues is subordinate to the pledge of System revenues to Water Revenue Bonds, dated January 1, 1962, April 1, 1966 and Water Improvement Revenue Bonds, dated November 1, 1977. An amount of System revenues sufficient to pay the principal of, interest on and Trustee's and Paying Agent's fees concerning the Bonds has been duly pledged and set aside into the 1982 Water Revenue Bond Fund created by Ordinance No. \_\_\_\_\_, adopted \_\_\_\_\_, 1982 (the "Authorizing Ordinance"), under which the Bonds are authorized to be issued. Reference is hereby made to the Authorizing Ordinance for a detailed statement of the terms and conditions upon which the Bonds are issued, of the nature and extent of the security for the Bonds, and the rights and obligations of the City, the Trustee and the Bondholders. The City has fixed and has covenanted and agreed to maintain rates for the services of the System which shall be sufficient at all times to provide for the payment of the principal of and interest on all the outstanding bonds to which System revenues are pledged, including Trustee's and Paying Agent's fees, as the same become due and payable, to maintain the required debt service reserves, to make the required deposit for the depreciation of the System and to provide for the proper and reasonable expenses of operation and maintenance of the System.

This Bond may be registered as to principal or as to principal and interest and may be discharged from such registration in the manner, with the effect and subject to the terms and conditions endorsed hereon. Subject to the provisions for registration endorsed hereon, nothing contained in this Bond or in the Authorizing Ordinance shall affect or impair the negotiability of this Bond, and this Bond shall be deemed a negotiable instrument under the laws of the State of Arkansas and is issued with the intent that the laws of the State of Arkansas will govern its construction.

The Bonds shall be subject to redemption prior to maturity, at the option of the City, in whole or in part, with there to be no partial redemption of any Bond, in inverse numerical order at a price of the principal amount of the Bonds being redeemed, plus accrued interest to date of redemption as follows: (1) from surplus System revenues or from proceeds of the Bonds in excess of the amount needed to accomplish the purpose for which the Bonds were issued, on any interest payment date; and (2) from funds from any source, on any interest payment date on and after November 1, 1987. Notice of the call for redemption shall be published one time in a newspaper of general circulation throughout the State of Arkansas published in the City of Little Rock, Arkansas, giving the number and maturity of each Bond being called, with the publication to be at least fifteen (15) days prior to the redemption date, and after the date fixed for redemption each Bond so called shall cease to bear interest,

provided funds for its payment are on deposit with the Paying Agent at that time. In addition, notice shall be given by certified or registered mail to the registered owner of each Bond registered as to principal or as to principal and interest at the address of such owner reflected on the Bond Registration Book of the Bond Registrar and if all outstanding Bonds shall be registered as to principal and interest then notice by certified or registered mail to the registered owners thereof as aforesaid shall be sufficient, and it shall not be necessary to publish notice of the call.

This Bond shall not be valid until it shall have been authenticated by the certificate hereon duly signed by the Trustee.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner, as required by law; that the indebtedness represented by this Bond and the issue of which it forms a part does not exceed any constitutional or statutory limitation; and that sufficient revenues derived from the operation of the System have been pledged to and will be set aside in the special fund for the payment of the principal of and interest on this Bond.

IN WITNESS WHEREOF, the City of Conway, Arkansas, by its City Council, has caused this Bond to be signed by the facsimile signature of the Mayor and the manual signature of the City Clerk, and sealed with the corporate seal of the City and has caused the coupons attached hereto to be executed by the facsimile signature of the Mayor, all as of November 1, 1982.

CITY OF CONWAY, ARKANSAS

ATTEST:

By (facsimile signature)  
Mayor

\_\_\_\_\_  
City Clerk

(SEAL)

(Form of Coupon)

No. \_\_\_\_\_

\$ \_\_\_\_\_

On the first day of (May) (November), 19\_\_\_\_, the City of Conway, Faulkner County, Arkansas, unless the Bond to which this coupon is attached, is paid prior thereto, hereby promises to pay to bearer, solely out of the fund specified in the Bond to which this coupon is attached

in lawful money of the United States of America at the principal office of First State Bank & Trust Co., Conway, Arkansas, being six (6) months interest then due on its Water Improvement Revenue Bond, dated November 1, 1982, and numbered \_\_\_\_\_.

CITY OF CONWAY, ARKANSAS

By \_\_\_\_\_  
(facsimile signature)  
Mayor

On each Bond shall appear the following:

CERTIFICATE

This is to certify that this is one of the City of Conway, Arkansas Water Improvement Revenue Bonds, dated November 1, 1982, mentioned and described within.

FIRST STATE BANK &  
TRUST CO.  
Conway, Arkansas

By \_\_\_\_\_  
Authorized Signature

## PROVISIONS FOR REGISTRATION AND RECONVERSION

This Bond may be registered as to principal alone on books of the City, kept by the Trustee as Bond Registrar, upon presentation hereof to the Bond Registrar, which shall make mention of such registration in the registration blank below, and this Bond may thereafter be transferred only upon an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, such transfer to be made on such books and endorsed hereon by the Bond Registrar. Such transfer may be to bearer, and thereafter transferability by delivery shall be restored, but this Bond shall again be subject to successive registrations and transfers as before. The principal of this Bond, if registered, unless registered to bearer, shall be payable only to or upon the order of the registered owner or his legal representative. Interest accruing on this Bond will be paid only on presentation and surrender of the attached interest coupon as they respectively become due, and notwithstanding the registration of this Bond as to principal, the appurtenant interest coupons shall remain payable to bearer and shall continue to be transferable by delivery; provided, that if upon registration of this Bond, or at any time thereafter while this Bond is registered in the name of the owner, the unmatured coupons attached evidencing interest to be thereafter paid hereon shall be surrendered to said Bond Registrar, a statement to that effect will be endorsed hereon by the Bond Registrar and thereafter interest evidenced by such surrendered coupons may be paid by check or draft of the Bond Registrar at the times provided herein to the registered owner of this Bond by mail to the address shown on the registration books. This Bond when so converted into a bond registered as to both principal and interest may be reconverted into a coupon bond at the written request of the registered owner and upon presentation at the office of said Bond Registrar. Upon such reconversion the coupons representing the interest to become due thereafter to the date of maturity will again be attached to this Bond and a statement will be endorsed hereon by the Bond Registrar in the registration blank below whether it is then registered as to principal or payable to bearer.

Date of Registration	Name of Registered Owner	Manner of Registration	Signature of Bond Registrar
:	:	:	:
:	:	:	:
:	:	:	:
:	:	:	:
:	:	:	:
:	:	:	:
:	:	:	:
:	:	:	:
:	:	:	:

Section 7. The City covenants and agrees with the holders of the Bonds that the rates to be charged for water to be furnished and services to be rendered by the System, as established by ordinances of the City, duly adopted and approved, will always produce annual net revenues of the System equal to not less than 130% of the average annual principal and interest requirements of all Bonds payable from System revenues. "Net revenues" are defined as gross revenues less operating expenses, as determined under generally accepted accounting principles applicable to municipal utility systems.

Section 8. None of the facilities or services afforded by the System shall be furnished without a charge being made therefor. In the event that the City or any department, agency or instrumentality thereof shall avail itself of the facilities and services afforded by the System, the reasonable value of the services or facilities so afforded shall be charged against the City or such department, agency or instrumentality and shall be paid for as the charges therefor accrue. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be used and accounted for in the same manner as any other revenue derived from the operation of the System; provided, however, that nothing herein shall be construed as requiring the City or any department, agency or instrumentality thereof to avail itself of the facilities or services afforded by the System.

Section 9. The Treasurer of the City shall be custodian of the gross revenues derived from the operation of the System, subject to the provisions of Ordinance No. 0-76-21 providing for the collection and disbursement of System revenues by the Corporation. From and after the delivery of any Bonds issued under the provisions of this Ordinance, the System shall be continuously operated as a revenue producing undertaking. All moneys received from the operation of the System shall be deposited and invested as provided in Ordinance No. 0-76-21.

Section 10. Waterworks Revenue Fund. All revenues derived from the operation of the System shall be paid into a special fund, designated "Waterworks Revenue Fund," heretofore created by Ordinance No. A-174, adopted January 10, 1939, which Fund is hereby confirmed and continued. Revenues in the Waterworks Revenue Fund are hereby pledged and shall be applied to the payment of the principal of and interest on all outstanding bonds (with Trustee's and Paying Agent's fees, if any) to which System revenues are pledged, to the establishment and maintenance of debt service reserves, to the providing of a depreciation fund and to payment of the expenses of operation and maintenance of the System, all in the manner hereinafter set forth in this Ordinance and the Ordinances authorizing the 1962 Bonds, the 1966 Bonds and the 1977 Bonds.

Section 11. On the first business day of each month there shall be transferred from the Waterworks Revenue Fund to the respective Bond Funds maintained in connection with the 1962 Bonds, the 1966 Bonds and the 1977 Bonds the amounts necessary to pay maturing principal and interest on the outstanding 1962 Bonds, 1966 Bonds and 1977 Bonds, and to establish and maintain debt service reserves, as provided for and in full compliance with all applicable provisions of the Ordinances authorizing the 1962 Bonds, the 1966 Bonds and the 1977 Bonds. When all outstanding 1962 Bonds, 1966 Bonds and 1977 Bonds have been paid, principal and interest, or provision made for their payment, then the transfers directed by this Section shall cease.

Nothing herein shall be construed to in any manner impair the security of the 1962 Bonds, the 1966 Bonds or the 1977 Bonds, or the priority of the pledge of revenues in favor of those bonds, but it is covenanted that when all of the 1962 Bonds, 1966 Bonds and 1977 Bonds are paid (or the required provision made therefor), that the Bonds of this issue will become first lien bonds in the sense that the pledge of revenues derived from the operation of the System in favor of these Bonds will become a first and prior pledge on the revenues. Furthermore, it is expressly covenanted and agreed that the City will not issue or attempt to issue bonds ranking, or claimed to rank, on a parity of security with the 1962 Bonds, the 1966 Bonds or the 1977 Bonds.

Section 12. 1982 Water Revenue Bond Fund. (a) After making the required payments as provided in Section 11 above, there shall be paid into a special fund in the name of the City which is hereby created and designated "1982 Water Revenue Bond Fund" (the "Bond Fund"), the sums in the amounts and at the times herein stated in subsection (b) for the purpose of providing funds for the payment of the principal of, interest and Trustee's and Paying Agent's fees on the Bonds as they mature, according to the following schedule:

<u>Year</u>	<u>Principal</u>	<u>Bond Nos.</u>	<u>Interest</u>		<u>Total</u>
			<u>May 1</u>	<u>November 1</u>	
1983	\$ 5,000	1	\$10,562.50	\$10,562.50	\$ 26,125.00
1984	5,000	2	10,343.75	10,343.75	25,687.50
1985	5,000	3	10,125.00	10,125.00	25,250.00
1986	5,000	4	9,906.25	9,906.25	24,812.50
1987	5,000	5	9,687.50	9,687.50	24,375.00
1988	5,000	6	9,462.50	9,462.50	23,925.00
1989	5,000	7	9,237.50	9,237.50	23,475.00
1990	5,000	8	9,012.50	9,012.50	23,025.00
1991	30,000	9-14	8,787.50	8,787.50	47,575.00
1992	100,000	15-34	7,400.00	7,400.00	114,800.00
1993	60,000	35-46	2,775.00	2,775.00	65,550.00

(b) There shall be paid into the Bond Fund on the first business day of the month immediately following the month in which Bonds are delivered and on the first day of each month thereafter until all outstanding Bonds with interest thereon have been paid in full or provision made for such payment, a sum equal to one-sixth (1/6) of the next installment of interest, plus one-twelfth (1/12) of the next installment of principal on the Bonds (plus any additional amount that may be necessary at the time of the delivery of the Bonds to fully provide for the first interest payment on the Bonds, if any additional amount be required) and an amount sufficient to provide for the Trustee's and Paying Agent's fees. Additional amounts of System revenues may be deposited into the Bond Fund each month and used for the purpose of redeeming the Bonds if the City so elects but it shall not be mandatory that any additional amounts be so deposited into the Bond Fund.

(c) If the revenues of the System are insufficient to make the required payment on or before the first business day of the following month into the Bond Fund, then the amount of any such deficiency in the payment made shall be added to the amount otherwise required to be paid into the Bond Fund on the first business day of the next month.

(d) When the moneys held in the Bond Fund shall be and remain sufficient to pay the principal of, interest on and Trustee's and Paying Agent's fees on all of the Bonds then outstanding, the City Treasurer shall not be obligated to make any further payments into the Bond Fund.

(e) All moneys in the Bond Fund shall be used solely for the purpose of paying the principal of, interest on and Trustee's and Paying Agent's fees on the Bonds, except as herein specifically provided. If a surplus shall exist in the Bond Fund over and above the amount necessary to insure the payment, when due, of principal of, interest on and Trustee's and Paying Agent's

fees, such surplus shall, at the option of the City, either (1) be used for the prepayment or redemption of Bonds prior to maturity, or (2) be used for the construction of improvements and extensions to the System.

(f) It shall be the duty of the Corporation to withdraw from the Bond Fund on or before the due date of any installment hereunder and to pay to the Paying Agent an amount equal to the amount of such installment plus the Paying Agent's fees for such installment, and no withdrawal of funds from the Bond Fund shall be made for any other purpose except as otherwise authorized in this Ordinance. Deposits in the Bond Fund shall be at the sole risk of the City and shall not operate as a payment of the Bonds or interest until so applied.

(g) The Bonds of this issue shall be specifically secured by a pledge of all the revenues required to be placed into the Bond Fund. This pledge in favor of the Bonds is hereby irrevocably made according to the terms of this Ordinance, and the City and its officers and employees shall execute, perform and carry out the terms thereof in strict conformity with the provisions of this Ordinance.

Section 13. Water Depreciation Fund. The Depreciation Fund created by Ordinance No. A-174, adopted January 10, 1939 is hereby confirmed and continued.

Section 14. Water Operation and Maintenance Fund. After making the required payments provided for in Sections 11, 12 and 13, there shall be paid from the Waterworks Revenue Fund into a fund designated "Operation and Maintenance Fund," on the first business day of each month while any of the Bonds are outstanding, an amount sufficient to pay the reasonable and necessary expenses of operation, repair, maintenance and the insuring of the System for such month and from which disbursements shall be made only for those purposes. Fixed annual charges such as insurance premiums and the cost of major repair and maintenance expenses may be computed and set up on an annual basis and one-twelfth (1/12) of the amount thereof may be paid into the Operation and Maintenance Fund each month. The Operation and Maintenance Fund was created by Ordinance No. A-174, adopted January 10, 1939, and is hereby confirmed and continued.

Section 15. All Bond Funds created and being maintained in connection with the 1962 Bonds, the 1966 Bonds and the 1977 Bonds shall, upon retirement of all Bonds of the issue for which created, be abolished and all moneys on deposit in any such fund shall be transferred and deposited in the Waterworks Revenue Fund.

Section 16. Any surplus in the Waterworks Revenue Fund after making full provision for the other funds herein provided may be used, at the option of the City, exercisable as directed by the Corporation so long as the Corporation operates the System pursuant to the provisions of Ordinance No. 0-76-21, for calling Bonds for payment prior to maturity in accordance with the provisions set out in the bond form in Section 6 of this Ordinance, or for constructing extensions, betterments and improvements to the System.

Section 17. Payments from the respective funds shall be made by check or voucher signed by the designated officials of the City, which shall be officers of the Corporation so long as the Corporation operates the System, and drawn on the depository with which the moneys in said funds shall have been deposited, and each such check or voucher shall briefly specify the purpose of the expenditure.

Section 18. The City hereby agrees that all payments on the Bonds and interest shall be made only as provided in this Ordinance. All Bonds paid or purchased either at or before maturity shall be canceled when such payment or purchase is made and held by the Treasurer and shall not be re-issued. All unpaid interest payments maturing on or prior to the date of such payment or purchase shall continue to be payable to the respective bearers thereof.

Section 19. The Bonds shall be callable for payment prior to maturity in accordance with the terms set out in the bond form.

Section 20. As long as any of the Bonds authorized hereby are outstanding, the City shall not issue or attempt to issue any bonds claimed to be entitled to a priority of lien on the revenues of the System over the lien securing the Bonds of this issue, including the herein authorized and any and all future extensions, betterments and improvements.

Nothing herein shall be construed in any manner to prevent the issuance by the City of additional revenue bonds to finance or pay the cost of constructing extensions, betterments and improvements to the System; however, any such additional bonds shall not be issued on a parity with the outstanding Bonds of this issue unless and until there shall have been procured and filed in the office of the City Clerk a statement by a certified public accountant not in the regular employ of the City reciting the opinion that the net revenues (net revenues being gross revenues of the System less operation and maintenance expenses) of the System for the fiscal year preceding the year in which such parity bonds are to be issued were not less than 130% of the average

annual debt service requirements (principal, interest and Trustee's and Paying Agent's fees) on all outstanding Bonds to which the revenues of the System are pledged and the bonds then proposed to be issued.

Section 21. It is covenanted and agreed by the City with the holders and registered owners of the Bonds (sometimes collectively referred to as "holder" or "holders"), or any of them, that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Arkansas, including making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, segregating the revenues of the System and applying them to the respective funds herein created.

Section 22. The City will keep, or will cause the Corporation to keep, proper books of accounts and records (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the operation of the System, and such books shall be available for inspection by the holder of any of the Bonds at reasonable times and under reasonable circumstances. The City agrees to have these records audited by an independent Certified Public Accountant at least once each year. Copies of the audit shall be delivered to any bondholder who shall request the same not later than ninety (90) days after the close of each fiscal year. In the event the City fails or refuses to make the audit, any holder of the Bonds may have the audit made, and the cost thereof shall be charged against the Operation and Maintenance Fund.

Section 23. The City covenants and agrees that it will maintain the System in good condition and operate the same in an efficient manner and at reasonable cost. While any Bonds are outstanding, the City agrees that it will insure and at all times keep insured, in the amount of the actual value thereof, in a responsible insurance company or companies authorized and qualified under the laws of the State of Arkansas to assume the risk thereof, all properties of the System against loss or damage thereto from fire, lightning, tornado, winds, riot, strike, civil commotion, malicious damage, explosion and against loss or damage from any other causes customarily insured against by private companies engaged in a similar type of business. In the event of loss, the proceeds of such insurance shall be applied solely toward the reconstruction, replacement or repair of the System, and in such event the City will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement and repair work. If such proceeds are more than sufficient for such purposes, the balance remaining shall be deposited to the credit of the Waterworks Revenue Fund, and if such proceeds shall be insufficient for such purposes, the deficiency shall be supplied,

first, from moneys in the Depreciation Fund, and, second, from moneys in the Operation and Maintenance Fund, and third, from available moneys in the Waterworks Revenue Fund. Nothing herein shall be construed as requiring the City to expend any funds for operation and maintenance of the System or for premiums on its insurance which are derived from sources other than the operation of the System, but nothing herein shall be construed as preventing the City from doing so.

Section 24. So long as any of the Bonds are outstanding, the City covenants and agrees that it will not mortgage, pledge or otherwise encumber the System or any part thereof, including any and all betterments and improvements thereto or any revenues therefrom, except as herein provided, and will not sell, lease or otherwise dispose of any substantial portion of the same. To the end that a record of the pledge of the revenues and of the agreement not to mortgage the System may be preserved, the City Clerk is hereby authorized and directed to file with the Circuit Clerk of Faulkner County, Arkansas, a copy of this Ordinance duly certified, with instructions that the same be recorded in the office of the Circuit Clerk as in the case of deeds and mortgages.

Section 25. The City covenants that it will not take any action, or permit any action to be taken, which would cause the interest on the Bonds to be subject to federal income taxation. Without limiting the generality of the foregoing the City covenants that the proceeds of the Bonds will not be used in such manner as to cause the Bonds to be "arbitrage bonds" within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended.

Section 26. When the Bonds have been executed and the seal of the City impressed or imprinted as herein provided, they shall be delivered to the Trustee and the Trustee shall authenticate them and deliver them to the Purchaser upon payment in cash of the purchase price, plus accrued interest from date of the Bonds to the date of delivery ("total sale proceeds"). The total sale proceeds shall be applied as follows:

(1) An amount equal to the accrued interest shall be deposited in the Bond Fund.

(2) The balance of the total sale proceeds shall be deposited in a special account of the City designated "1982 Water Construction Fund" ("Construction Fund") in a depository designated by the City that is a member of the Federal Deposit Insurance Corporation. The moneys in the Construction Fund shall be disbursed solely in payment of the costs of accomplishing the improvements, paying necessary expenses incidental thereto and

paying expenses of issuing the Bonds not paid by the Purchaser. Disbursements shall be on the basis of checks or requisitions which shall contain at least the following information: the person to whom payment is being made; the amount of the payment; and the purpose by general classification of the payment. Each check or requisition must be signed by any two persons designated by the Corporation, and in the case of all items of expense over which the consulting engineer shall exercise supervision (which shall include all expenses except engineering fees, legal fees and expenses pertaining to the issuance of the Bonds) each check or requisition shall be accompanied by a certificate signed by the consulting engineer certifying his approval thereof. In the case of requisitions, the depository shall issue its check upon the Construction Fund payable to the person, firm or corporation designated in the requisition. The depository of the Construction Fund shall be required to keep accurate records as to all payments made on the basis of requisitions, and the Corporation shall be required to keep accurate records of all payments made on the basis of checks.

When the improvements have been completed and all required expenses paid and expenditures made from the Construction Fund for and in connection with the accomplishment of the improvements and the financing thereof, this fact shall be evidenced by a certificate signed by the person occupying the top managerial position of the System and by the consulting engineer, which certificate shall state, among other things, the date of the completion and that all obligations payable from the Construction Fund have been discharged. A copy of the certificate shall be filed with the depository of the Construction Fund, and a copy with the Trustee, and upon receipt thereof the depository of the Construction Fund shall transfer any remaining balance to the Bond Fund.

Section 27. Moneys held for the credit for the Bond Fund or the Construction Fund may, at the direction of the City, or at the direction of the Corporation so long as the Corporation is operating the System pursuant to the provisions of Ordinance No. O-76-21, be invested and reinvested in either bonds or other direct or fully guaranteed obligations of the United States of America or in certificates of deposit of banks that are members of the Federal Deposit Insurance Corporation, which certificates are fully insured by the Federal Deposit Insurance Corporation.

Investments of Bond Fund moneys and Construction Fund moneys shall mature or be subject to redemption by the holder thereof, at the option of the holder, not later than the date or dates when the invested moneys will be required for the purposes intended.

All such investments shall be deemed at all times to be a part of the fund from which the investment was made and the interest accruing thereon and any profit realized from such investment shall be credited to such fund and any loss resulting from such investment shall be charged to such fund.

Section 28. The holders of the Bonds shall be entitled to the benefit of all covenants and provisions contained in the ordinances authorizing the 1962 Bonds, the 1966 Bonds and the 1977 Bonds for the benefit of the holders of the 1962 Bonds, the 1966 Bonds and the 1977 Bonds, and all such provisions shall inure to the benefit of the holders of these Bonds. In this regard, nothing herein shall be construed to in any manner impair the security of the 1962 Bonds, the 1966 Bonds or the 1977 Bonds, or the priority of the pledge on revenues in favor of those bonds, but it is covenanted that when the 1962 Bonds, 1966 Bonds and the 1977 Bonds are paid (or the required provision made therefor), that the Bonds of this issue will become first lien Bonds in the sense that the pledge of revenues derived from the operation of the System in favor of these Bonds will become a first and prior pledge on the revenues.

Section 29. The Mayor is hereby directed to publish for one insertion in a newspaper of general circulation in the City, this Ordinance, to which shall be attached a Notice signed by him in substantially the following form:

NOTICE

Notice is hereby given that the City Council of the City of Conway, Arkansas, has adopted the ordinance hereinafter set out; that the City contemplates the issuance of the Water Improvement Revenue Bonds described in the Ordinance; that any person interested may appear before the Council on the \_\_\_\_\_ day of \_\_\_\_\_, 1982, at \_\_\_\_\_ o'clock \_\_.m., at the usual meeting place of the Council held in Conway, Arkansas, and present protests. At such hearing all objections and suggestions will be heard, and the Council will take such action as is deemed proper in the premises.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1982.

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Mayor

Section 30. The provisions of this Ordinance shall constitute a binding contract between the City and the holders of the Bonds hereunder, and the City will at all times strictly adhere to the terms and provisions hereof and fully discharge all of its obligations hereunder. Subject to the terms and provisions contained in this Section and not otherwise, the holders of not less than seventy-five percent (75%) in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance supplemental hereto as shall be necessary or desirable for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Ordinance or in any supplemental ordinance; provided, however, that nothing contained herein shall permit or be construed as permitting (a) an extension of the maturity of the principal of or interest on any Bond issued hereunder, or (b) a reduction in the principal amount of any Bond or the rate of interest thereon, or (c) the creation of a lien upon or pledge of revenues other than as expressly authorized by the appropriate provisions of this Ordinance as now adopted, or (d) the creation of a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance.

Section 31. This Ordinance shall not create any right of any kind, and no right of any kind shall arise hereunder pursuant to it, until the Bonds authorized by this Ordinance shall be issued and delivered.

Section 32. The provisions of this Ordinance are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of the Ordinance.

Section 33. All ordinances and resolutions or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.

Section 34. It is hereby ascertained and declared that the Water System serving the City is inadequate for the needs of the City and the inhabitants thereof, thus endangering the life, health and safety of the inhabitants and their property, and that the improvements required to alleviate said hazards can be obtained only by the issuance of the Bonds authorized hereby. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage.

PASSED: November 23, 1982.

ATTEST:

*John D. ...*  
City Clerk

APPROVED:

*Bill Wright*  
Mayor

(SEAL)

