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Doc#2012- 8077

Date 05/15/2012

12:31:41 PM

Filed & Recorded in

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City of Conway, Arkansas
Ordinance No. O-12-37

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$70,000,000 OF A WASTEWATER REVENUE IMPROVEMENT BOND, SUBORDINATE SERIES 2012B, BY THE CITY OF CONWAY, ARKANSAS FOR THE PURPOSE OF FINANCING COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING A WASTEWATER TREATMENT FACILITY; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE SERIES 2012B BOND; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF THE SERIES 2012B BOND; 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 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 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 & 2011 Supp.) (as from time to time amended, the "Act") to issue and sell its wastewater revenue bonds for the purpose of financing the cost of improvements to the Wastewater System; and

WHEREAS, pursuant to the provisions of Ordinance No. O-92-20 of the City, adopted and approved on April 28, 1992, the City has previously issued its Sewer Revenue Bond, Series 1992 (the "Series 1992 Bond"), in the original principal amount of not to exceed \$13,700,000; and

WHEREAS, pursuant to the provisions of Ordinance No. O-04-19 of the City, adopted and approved on March 16, 2004, the City has previously issued its Wastewater Revenue Improvement Bonds, Series 2004 (the "Series 2004 Bonds"), in the original principal amount of \$8,300,000; and

WHEREAS, pursuant to the provisions of Ordinance No. O-09-76 of the City, adopted and approved on July 14, 2009, the City has previously issued its Wastewater Revenue Improvement Bonds, Series 2009 (the "Series 2009 Bonds"), in the original principal amount of \$12,000,000; and

WHEREAS, pursuant to the provisions of Ordinance No. O-10-109 of the City, adopted and approved on October 12, 2010, the City has previously issued its Wastewater Revenue Improvement Bonds, Series 2010 (the "Series 2010 Bonds"), in the original principal amount of \$14,955,000; and

WHEREAS, in order to secure funds necessary to finance the acquisition, construction and equipping of additional betterments and improvements to the Wastewater System, including primarily the acquisition, construction and equipping of a portion of the costs relating to the conveyance system and lift stations required in connection with the proposed Tupelo Bayou wastewater treatment plant, and engineering and other expenses in connection therewith, the City has determined to issue its Wastewater Revenue Improvement Bonds, Series 2012A, in an aggregate principal amount of \$25,000,000 (the "Series 2012A Bonds"); and

WHEREAS, in order to secure additional funds necessary to finance the remaining costs of acquisition, construction and equipping of the proposed Tupelo Bayou wastewater treatment plant project (the "Project") and legal costs incident to the issuance of a bond for such purpose, the City has made arrangements for the issuance and sale of its Wastewater Revenue Improvement Bond, Subordinate Series 2012B, in aggregate principal amount not to exceed \$70,000,000 (the "Series 2012B Bond"), to the Arkansas Development Finance Authority, as purchaser (the "Bondholder"), at a price of par, which Series 2012B Bond shall bear interest at the rate of two and one quarter percent (2.25%) per annum, pursuant to a Bond Purchase Agreement (the "Bond Purchase Agreement") among the City, the Bondholder and the Arkansas Natural Resources Commission (the "Commission"); and

WHEREAS, the City will also be required to pay to the Arkansas Development Finance Authority, as servicer with respect to the Series 2012B Bond (the "Authority"), a semiannual servicing fee equal to one percent (1.00%) per annum of the outstanding principal amount of the Series 2012B Bond (the "Servicing Fee"); and

WHEREAS, the City has determined to issue and secure the Series 2012B Bond on a parity basis with its outstanding Series 1992 Bond and on a junior and subordinate basis to its outstanding Series 2004 Bonds, Series 2009 Bonds and Series 2010 Bonds and its proposed Series 2012A Bonds; and

WHEREAS, an open public hearing on the question of the issuance of the Series 2012A Bonds and the Series 2012B Bond was held before the City Council and Mayor of the City on March 27, 2012, following publication of notice of such public hearing in the *Log Cabin Democrat* on March 16, 2012;

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

Section 1. The Project shall be accomplished and shall be a part of the Wastewater System. The accomplishment of the Project shall be under the control and supervision of, and all details in connection therewith shall be handled by, the City, and the City shall make all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. The City shall let all contracts pursuant to and in accordance with existing laws and shall require such performance bonds and insurance from the contractors as will fully insure completion of the Project in accordance with the engineering report prepared with respect to the Project by Garver, LLC, Little Rock, Arkansas (the "Engineering Report") so as to fully promote and protect the best interests of the City and the Bondholder.

Section 2. The sale to the Bondholder of the City's Series 2012B Bond in the maximum principal amount of \$70,000,000 at a price of par, such Series 2012B Bond to bear interest at the rate of 2.25% per annum and to be subject to a Servicing Fee of 1.00% per annum and otherwise to be subject to the terms and provisions hereafter in this Ordinance set forth in detail be, and is hereby approved. The Mayor is hereby authorized and directed to execute and deliver the Bond Purchase Agreement on behalf of the City and to take all action required on the part of the City to fulfill its obligations under the Bond Purchase Agreement. The Bond Purchase Agreement is hereby approved in substantially the form submitted to this meeting with such changes as may be approved by the Mayor, his execution to constitute complete evidence of such approval.

Section 3. The City Council hereby finds and declares that the period of usefulness of the Wastewater System after completion of the Project will be more than twenty-five (25) years, which is longer than the term of the Series 2012B Bond.

Section 4. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment 65 to the Constitution of the State of Arkansas and the Act, the City of Conway, Arkansas Wastewater Revenue Improvement Bond, Subordinate Series 2012B (the "Series 2012B Bond"), is hereby authorized to be issued in the total principal amount of not to exceed Seventy Million Dollars (\$70,000,000), the proceeds of the sale of which are necessary to provide sufficient funds to pay or reimburse costs of accomplishing the Project, including, without limitation, legal fees and other necessary expenses incidental to accomplishment of the Project and to the issuance of the Series 2012B Bond.

The Series 2012B Bond shall bear interest at the rate of two and one quarter percent (2.25%) per annum and shall be subject to a Servicing Fee of one percent (1.00%) per annum based upon a 360-day year of twelve consecutive 30-day months compounded semiannually. The Series 2012B Bond shall be dated the date of its delivery to the Bondholder. Accrued interest and the Servicing Fee only shall be payable on each April 15 and October 15, commencing October 15, 2012, to and including April 15, 2015. Principal, interest and the Servicing Fee shall be payable on October 15, 2015, and on each April 15 and October 15 thereafter until the unpaid principal is paid in full as follows:

Date	Payment Amount	Interest	Servicing Fee	Principal
October 15, 2015	\$2,393,631.00	\$787,500.00	\$350,000.00	\$1,256,131.00
April 15, 2016	2,393,631.00	773,369.00	343,719.00	1,276,543.00
October 15, 2016	2,393,631.00	759,007.00	337,337.00	1,297,287.00
April 15, 2017	2,393,631.00	744,413.00	330,850.00	1,318,368.00
October 15, 2017	2,393,631.00	729,581.00	324,258.00	1,339,792.00
April 15, 2018	2,393,631.00	714,509.00	317,559.00	1,361,563.00
October 15, 2018	2,393,631.00	699,191.00	310,752.00	1,383,688.00

Date	Payment Amount	Interest	Servicing Fee	Principal
April 15, 2019	2,393,631.00	683,625.00	303,833.00	1,406,173.00
October 15, 2019	2,393,631.00	667,805.00	296,802.00	1,429,024.00
April 15, 2020	2,393,631.00	651,729.00	289,657.00	1,452,245.00
October 15, 2020	2,393,631.00	635,391.00	282,396.00	1,475,844.00
April 15, 2021	2,393,631.00	618,788.00	275,017.00	1,499,826.00
October 15, 2021	2,393,631.00	601,915.00	267,518.00	1,524,198.00
April 15, 2022	2,393,631.00	584,767.00	259,897.00	1,548,967.00
October 15, 2022	2,393,631.00	567,341.00	252,152.00	1,574,138.00
April 15, 2023	2,393,631.00	549,632.00	244,281.00	1,599,718.00
October 15, 2023	2,393,631.00	531,636.00	236,282.00	1,625,713.00
April 15, 2024	2,393,631.00	513,346.00	228,154.00	1,652,131.00
October 15, 2024	2,393,631.00	494,760.00	219,893.00	1,678,978.00
April 15, 2025	2,393,631.00	475,871.00	211,498.00	1,706,262.00
October 15, 2025	2,393,631.00	456,676.00	202,967.00	1,733,988.00
April 15, 2026	2,393,631.00	437,169.00	194,297.00	1,762,165.00
October 15, 2026	2,393,631.00	417,344.00	185,486.00	1,790,801.00
April 15, 2027	2,393,631.00	397,198.00	176,532.00	1,819,901.00
October 15, 2027	2,393,631.00	376,724.00	167,433.00	1,849,474.00
April 15, 2028	2,393,631.00	355,917.00	158,185.00	1,879,529.00
October 15, 2028	2,393,631.00	334,772.00	148,788.00	1,910,071.00
April 15, 2029	2,393,631.00	313,284.00	139,237.00	1,941,110.00
October 15, 2029	2,393,631.00	291,447.00	129,532.00	1,972,652.00
April 15, 2030	2,393,631.00	269,254.00	119,669.00	2,004,708.00
October 15, 2030	2,393,631.00	246,701.00	109,645.00	2,037,285.00
April 15, 2031	2,393,631.00	223,782.00	99,459.00	2,070,390.00
October 15, 2031	2,393,631.00	200,490.00	89,107.00	2,104,034.00
April 15, 2032	2,393,631.00	176,820.00	78,587.00	2,138,224.00
October 15, 2032	2,393,631.00	152,765.00	67,895.00	2,172,971.00
April 15, 2033	2,393,631.00	128,319.00	57,031.00	2,208,281.00
October 15, 2033	2,393,631.00	103,476.00	45,989.00	2,244,166.00
April 15, 2034	2,393,631.00	78,229.00	34,768.00	2,280,634.00
October 15, 2034	2,393,631.00	52,572.00	23,365.00	2,317,694.00
April 15, 2035	2,393,607.00	26,497.00	11,777.00	2,355,333.00

The Series 2012B Bond shall be issued in the form of a single typewritten bond, registered as to both principal and interest, payable to the Bondholder, or registered assigns, as set forth hereinafter in the bond form, and shall be numbered R12B-1.

Payment of principal and interest shall be by check or draft mailed to the Bondholder at its address shown on the registration books of the City which shall be maintained by the City Clerk or his designee as Bond Registrar, without presentation or surrender of the Series 2012B Bond (except upon final payment), and such payments shall discharge the obligation of the City to the extent thereof. The City Clerk or his designee shall keep a payment record and make proper notations thereon of all payments of principal and interest.

Payment of principal and interest shall be in any coin or currency of the United States of America which, as at the time of payment, shall be legal tender for the payment of debts due the United States of America. When the principal of and interest on the Series 2012B Bond has been fully paid, it shall be delivered to the City Clerk and shall be canceled.

Section 5. The Series 2012B Bond shall be executed on behalf of the City by its Mayor and City Clerk, and shall have impressed thereon the seal of the City. In order to pay the principal of and interest on the Series 2012B Bond and the Servicing Fee in connection therewith, there is hereby pledged all of the revenues derived from the operation of the Wastewater System (the "Revenues"). Such pledge of Revenues is made on a parity basis with the existing pledge of Revenues securing the Series 1992 Bond and on a junior and subordinate basis to the existing pledge of Revenues securing the Series 2004 Bonds, the Series 2009 Bonds, the Series 2010 Bonds, the Series 2012A Bonds and any Additional Bonds, as such term is defined in the Trust Indenture dated as of April 1, 2004, as amended (the "Indenture"), by and between the City and First Security Bank, as trustee, pursuant to which the Series 2004 Bonds, Series 2009 Bonds, Series 2010 Bonds and Series 2012A Bonds are issued and secured. The City covenants and agrees that all Revenues will be accounted for separately as special funds on the books of the City, and receipts of said Revenues will be deposited and will be used solely as provided herein and in the Indenture. The Series 2012B Bond is not a general obligation of the City but is a special obligation, the principal of and the interest on which, and the Servicing Fee in connection therewith, are secured by a pledge of the Revenues. The principal of and interest on the Series 2012B Bond shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction.

Section 6. The Series 2012B Bond 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:

Registered **United States of America** **Registered**
No. R12B-1 **\$70,000,000**

State of Arkansas
County of Faulkner
City of Conway, Arkansas
Wastewater Revenue Improvement Bond
Subordinate Series 2012B

Registered Owner: ARKANSAS DEVELOPMENT FINANCE AUTHORITY

Principal Amount: SEVENTY MILLION DOLLARS

Know All Men By These Presents:

That the City of Conway, Arkansas (the "City") hereby acknowledges itself to owe, and for value received promises to pay to the order of the Arkansas Development Finance Authority, or registered assigns, but solely from the special fund provided therefor as hereinafter set forth, in lawful money of the United States of America, the Principal Amount shown above (or so much of the Principal Amount as should have been advanced as shown on the Record of Payment of Advances attached hereto), and to pay in like coin or currency interest thereon at the rate of 2.25% per annum from the date of each advance. A servicing fee of 1.00% per annum (the "Servicing Fee") shall also be payable by the City to the Arkansas Development Finance Authority or its successor in the same manner and upon the same dates as interest hereon.

Interest on the unpaid balance of the total principal amount outstanding and the Servicing Fee shall be payable on October 15, 2012, April 15, 2013, October 15, 2013, April 15, 2014, October 15, 2014 and April 15, 2015. Principal, interest and the Servicing Fee shall be payable on October 15, 2015, and on each April 15 and October 15 thereafter until the unpaid principal is paid in full as follows:

[Here will be inserted the amortization schedule
set forth in Section 4 of this Ordinance.]

Payments of principal and interest due hereon shall be made, except for final payment, without presentation and surrender of this bond, directly to the Registered Owner at its address shown on the registration book of the City maintained by the City Clerk or his designee as Bond Registrar, and such payments shall fully discharge the obligation of the City to the extent of the payments so made.

This bond is issued for the purpose of (i) providing financing for the costs of acquisition, construction and equipping of the City's proposed Tupelo Bayou wastewater treatment plant project (the "Project"), and (ii) paying costs of authorizing and issuing this bond, and is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Amendment No. 65 to the Constitution of the State of Arkansas ("Amendment 65") and Arkansas Code Annotated Sections 14-164-401 *et seq.* (Repl. 1998 & 2011 Supp.) (as from time to time amended, the "Act"), and pursuant to Ordinance No. O-12-37 of the City, duly adopted and approved on the 24th day of April, 2012 (the "Authorizing Ordinance"). Reference is hereby made to the Authorizing Ordinance for the details of the nature and extent of the security and of the rights and obligations of the City and the Registered Owner of this bond.

This bond may be assigned only upon the written approval of the Arkansas Natural Resources Commission (the "Commission"), and in order to effect such assignment, the assignor shall promptly notify the City Clerk by registered mail, and the assignee shall surrender this bond along with a written assignment and written approval of the Commission to the City Clerk for transfer on the registration records. Every assignee shall take this bond subject to all payments and prepayments of principal and interest (as reflected on the Payment Record maintained by the City Clerk or his designee) prior to such surrender for transfer.

This bond may be prepaid at the option of the City from funds from any source, in whole but not in part, at any time on and after October 15, 2022, at a prepayment price equal to the principal amount outstanding, plus accrued interest and the Servicing Fee to the prepayment date. Notice of any such prepayment shall be given to the registered owner of this bond at least 90 days prior to the prepayment date. Such notice shall be in writing mailed to the address of the registered owner of this bond at the address appearing on the bond registration records maintained by the City Clerk.

This bond does not constitute an indebtedness of the City or the State of Arkansas within the meaning of any constitutional or statutory limitation or provision, and the taxing power of the City is not pledged to the payment of the principal of and interest on this bond.

This bond is not a general obligation of the City, but is a special limited obligation payable solely from the revenues derived from the operation of the City's wastewater system (the "Revenues"). Such pledge of Revenues is made on a parity basis with the existing pledge of Revenues securing the City's outstanding Sewer Revenue Bond, Series 1992 (the "Series 1992 Bond"), and on a junior and subordinate basis to the existing pledge of Revenues securing the City's Wastewater Revenue Improvement Bonds, Series 2004 (the "Series 2004 Bonds"), Wastewater Revenue Improvement Bonds, Series 2009 (the "Series 2009 Bonds"), Wastewater Revenue Improvement Bonds, Series 2010 (the "Series 2010 Bonds"), Wastewater Revenue Improvement Bonds, Series 2012A (the "Series 2012A Bonds") and any Additional Bonds, as such term is defined in the Trust Indenture dated as of April 1, 2004, as amended (the "Indenture"), by and between the City and First Security Bank, as trustee, pursuant to which the Series 2004 Bonds, Series 2009 Bonds, Series 2010 Bonds and Series 2012A Bonds are issued and secured. The City has covenanted and agreed that all Revenues will be accounted for separately as special funds on the books of the City, and receipts of said Revenues will be deposited and will be used solely as provided in the Authorizing Ordinance and in the Indenture. Pursuant to the Authorizing Ordinance, an amount of Revenues sufficient to pay principal and interest on this bond as due shall be set aside monthly in a special fund created for that purpose identified as the 2012B Bond Fund. The City has fixed and has covenanted and agreed in the Authorizing Ordinance to maintain rates for Wastewater System services which shall be sufficient at all times to provide for the payment of the reasonable expenses of operation and maintenance of the Wastewater System, to provide for the payment of principal and interest on all indebtedness to which Revenues are pledged as the same shall become due, and to establish and maintain any required debt service reserves. Reference is made to the Authorizing Ordinance for a detailed statement of the nature and extent of the security, and the rights and obligations of the City and registered owner of this bond.

This bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

No recourse shall be had for the payment of the principal of or premium, if any, or interest on this bond or for any claim based thereon or upon any obligation, covenant, or agreement contained in this bond or in the Authorizing Ordinance against any past, present or future alderman, officer or employee of the City, or any alderman, officer or employee of any successor of the City, as such, either directly or through the City or any successor of the City, under any rule of law or equity, statute, or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such alderman, officer or employee as such is hereby expressly waived and released as a condition of and consideration for the issuance of this bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by the Constitution and statutes of the State of Arkansas to exist, happen and be performed precedent to and in the issuance of this bond do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by this bond does not exceed or violate any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this bond, as provided in the Authorizing Ordinance.

IN WITNESS WHEREOF, the City of Conway, Arkansas has caused this bond to be executed in its name by the manual signatures of its Mayor and City Clerk, thereunto duly authorize, and its corporate seal to be affixed hereto, all as of the 24th day of April, 2012.

CITY OF CONWAY, ARKANSAS

By: 
 Mayor Tab Townsell

Attest:


 Michael O. Garrett
 City Clerk/Treasurer

[SEAL]

REGISTRATION CERTIFICATE

Date of Registration	Name of Registered Owner	Signature of City Clerk
	Arkansas Development Finance Authority	

RECORD OF PAYMENT OF ADVANCES

Date of Advance*	Amount of Advance	Total Principal Outstanding	Signature of Vice President of Arkansas Development Finance Authority

*The date of each advance shall be the interest commencement date from which the principal amount of such advance bears interest and from which the Servicing Fee is calculated.

Section 7. The City has heretofore fixed rates for services of the Wastewater System by Ordinance No. O-12-14 adopted and approved on April 10, 2012 (the "Rate Ordinance"), which rates are hereby ratified and confirmed. The City covenants and agrees that the rates established by the Rate Ordinance will produce gross Revenues at least sufficient to pay monthly operation and maintenance expenses of the Wastewater System, to pay the principal of and interest on all indebtedness to which Revenues are pledged as the same become due, to pay the Servicing Fee as the same becomes due, and to create and maintain any required debt service reserves (collectively, the "Required Payments"). The City covenants always to maintain rates for Wastewater System services (including increases as necessary) sufficient to provide for the Required Payments.

Section 8. All of the terms and provisions of the Indenture, as now in effect, except for those provisions clearly inapplicable hereto or in direct conflict herewith, including, without limitation, those terms and provisions pertaining to the receipt, investment and handling of Revenues, are hereby made applicable hereto and incorporated by reference as though fully set forth herein. The effect of the foregoing sentence shall be to continue the applicable provisions in full force and effect until the Series 2012B Bond is paid, or provision made therefor, even after payment of the Series 2004 Bonds, Series 2009 Bonds, Series 2010 Bonds and Series 2012A Bonds.

Section 9. The City covenants that it will continuously operate the Wastewater System as a revenue-producing undertaking and will not sell or lease the same, or any substantial portion thereof, without the prior written approval of the Bondholder and the Commission; provided, however, that nothing herein shall be construed to prohibit the City from making such dispositions of properties of the Wastewater System and such replacements and substitutions for properties of the Wastewater System as shall be necessary or incidental to the efficient operation of the Wastewater System as a revenue-producing undertaking.

Section 10. After making the required monthly payments into the Operation and Maintenance Fund being maintained pursuant to the Indenture, and after making the required payments into the Bond Fund being maintained pursuant to the Indenture for the Series 2004 Bonds, the Series 2009 Bonds, the Series 2010 Bonds, the Series 2012A Bonds and any Additional Bonds (as defined in the Indenture), and after making any required payments into the Debt Service Reserve Fund for the Series 2010 Bonds, the Series 2012A Bonds and any Additional Bonds secured thereby, and simultaneously with any transfer from the Revenue Fund with respect to the Series 1992 Bond, there shall be paid from the Revenue Fund (the "Revenue Fund") being maintained pursuant to the Indenture into a special account of the City established with the Bondholder (the "2012B Bond Fund") the following amounts on the following dates:

- (i) On October 15, 2012, April 15, 2013, October 15, 2013, April 15, 2014, October 15, 2014 and April 15, 2015, an amount equal to interest due on the Series 2012B Bond on such dates; and
- (ii) Commencing on May 1, 2015, and on the first business day of each month thereafter through and including April 1, 2035, an amount equal to 1/6 of the principal of and interest on the Series 2012B Bond next due.

If Revenues are insufficient to make any of the above-described payments, then the amount of such deficiency shall be added to the amount otherwise required to be paid into the 2012B Bond Fund on the next required payment date. When the moneys held in the 2012B Bond Fund which represent payments by the City and investment earnings thereon or the proceeds of investments therefrom (collectively, "City Funds") shall be and remain sufficient to pay in full the principal of and interest on the Series 2012B Bond, the City shall not be obligated to make any further payments into the 2012B Bond Fund. All moneys in the 2012B Bond Fund representing City Funds shall be used solely for the purpose of paying the principal of and interest on the Series 2012B Bond, and the City shall receive a credit for the amount of such City Funds on hand in the 2012B Bond Fund and available for the payment of the principal and interest currently due on a Series 2012B Bond payment date irrespective of whether the Bondholder has applied or caused to be applied such funds on that date for such purpose. The Series 2012B Bonds shall be specifically secured by a pledge of all Revenues required to be deposited into the 2012B Bond Fund. This pledge in favor of the Series 2012B Bond 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.

After making the payments into the 2012B Bond Fund as provided above, there shall be paid from the Revenue Fund to the Authority an amount equal to the Servicing Fee then due. The Servicing Fee shall be payable on each date that interest on the Series 2012B Bond is due and shall be calculated on the same basis as interest on the Series 2012B Bond. The payment of the Servicing Fee is expressly made subordinate to the payment of the principal of and interest on the Series 2012B Bond.

Section 11. The City shall assure that (i) not in excess of 10% of the proceeds of the Series 2012B Bond is used for Private Business Use (as defined below) if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2012B Bond during the term thereof are, under the terms of the Series 2012B Bond or any underlying arrangement, directly or indirectly secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or are to be derived from payments, whether or

not to the City, in respect of property or borrowed moneys used or to be used for a Private Business Use; and (ii) that, in the event that both (A) in excess of 5% of the proceeds of the Series 2012B Bond are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2012B Bond during the term thereof are, under the terms of the Series 2012B Bond or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or are to be derived from payments, whether or not to the City, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of proceeds of the Series 2012B Bond used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project.

The City shall assure that not in excess of 5% of the proceeds of the Series 2012B Bond are used, directly or indirectly, to make or finance a loan to persons other than state or local governmental units.

As used in this Section, "Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

Section 12. Installments of principal and interest on the Series 2012B Bond shall be prepayable prior to maturity as provided in the form of the Series 2012B Bond set forth in Section 6 of this Ordinance.

Section 13. So long as the Series 2012B Bond is outstanding, the City shall not issue or attempt to issue any bonds or other indebtedness having or claimed to be entitled to a pledge of the Revenues on a priority or parity basis with the lien thereon securing the Series 2012B Bond except as provided in this Section 13. The City may additional bonds secured by and payable from Revenues to finance or pay the cost of constructing extensions, betterments and improvements to the Wastewater System or to refund outstanding bonds of the City originally issued for such purposes. Such additional bonds may be issued and secured by and payable from Revenues on a priority basis to or on a parity basis with the lien on Revenues securing the Series 2012B Bond, but only if there shall have been procured and filed with the City and the Bondholder a statement by an independent certified public accountant not in the regular employ of the City reciting the opinion that (i) the Net Revenues (Net Revenues being gross Revenues less operation and maintenance expenses, but not including depreciation) for the fiscal year preceding the year in which such additional bonds are to be issued were not less than 110% of the maximum annual principal, interest and Servicing Fee requirements on all outstanding bonds and other indebtedness to which the Revenues are pledged, including the proposed additional bonds, or (ii) the Net Revenues for the fiscal year succeeding the year in which such additional bonds are to be issued are projected to be sufficient in amount, taking in consideration any enacted increase in the Wastewater System rates, to be not less than 110% of the maximum annual principal, interest and Servicing Fee requirements on all outstanding bonds and other indebtedness to which the Revenues are pledged, including the proposed additional bonds. The City may issue bonds or other indebtedness, the security and source of payment of which are subordinate and subject to the pledge of Revenues securing the Series 2012B Bond without complying with the terms and conditions of this Section 13. The provisions of this Section 13 may be waived by the holders of at least 75% in outstanding principal amount of the Series 2012B Bond.

Section 14. It is covenanted and agreed by the City with the Bondholder and the Commission that it will faithfully and punctually perform all duties with reference to the Wastewater System required by the Constitution and laws of the State of Arkansas and by this Ordinance, including, without limitation, the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the Wastewater System and the segregating of the Revenues.

The City covenants and agrees that the Bondholder shall have the protection of all the provisions of the Act and this Ordinance, and that the City will diligently proceed to enforce those provisions to the end of the Bondholder realizing fully upon its security. If the City shall fail to proceed within thirty (30) days after written request shall have been filed by the Bondholder or the Commission, the Bondholder or the Commission may proceed to enforce all such provisions.

If there be any default in the payment of the principal of or interest on the Series 2012B Bond, or if the City defaults in any 2012B Bond Fund requirement or in the performance of any of the other covenants contained in this Ordinance or in the Bond Purchase Agreement, the Bondholder and the Commission (with respect to covenants contained in the Bond Purchase Agreement) may, by proper suit, compel the performance of the duties of the officials of the City under the laws of the State of Arkansas. In the case of a default in the payments of the principal of and interest on the Series 2012B Bond, the Bondholder may apply to a court of competent jurisdiction for the appointment of a receiver to administer the Wastewater System on behalf of the City and the Bondholder with the power to charge and collect (or by mandatory injunction or otherwise to cause to be charged and collected) rates sufficient to provide for the payment of the expenses of operation, repair and maintenance of the Wastewater System and to pay principal of and interest on all indebtedness secured by Revenues, and to apply Revenues in accordance with the provisions of this Ordinance. When all defaults in the payment of the principal of and interest on the Series 2012B Bond have been cured, the custody and operation of the Wastewater System shall revert to the City.

No remedy herein conferred upon or reserved to the Bondholder is intended to be exclusive of any other remedy or remedies herein provided or provided by law, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by law. No delay or omission of the Bondholder to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any default or an acquiescence therein; and every power and remedy given by this Ordinance to the Bondholder may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon. Any costs of enforcement of the Series 2012B Bond or of any provision of this Ordinance, including reasonable attorney's fees, shall be paid by the City. The Authority may enforce all rights and exercise all remedies available to the Bondholder in the event the Servicing Fee is not paid when due.

Section 15. When the Series 2012B Bond has been executed by the Mayor and City Clerk and the seal of the City impressed thereon as herein provided, it shall be delivered to the Bondholder upon the payment of all or a portion of the purchase price in accordance with the Bond Purchase Agreement. The purchase price shall be deposited, as and when received, in a special account of the City hereby created in a bank that is a member of the Federal Deposit Insurance Corporation and designated the "2012B Wastewater Construction Fund" (the "Construction Fund"). The moneys in the Construction Fund shall be used for accomplishing the Project, paying or reimbursing expenses incidental thereto and paying the expenses of issuing the Series 2012B Bond approved in accordance with the Bond Purchase Agreement. Payments from the Construction Fund shall be by check or voucher signed by the Chief Executive Officer of the Corporation or his designee, and drawn on the depository. Each such check or voucher shall briefly specify the purpose of the expenditure.

When the Project has been completed and all required expenses paid and expenditures made from the Construction Fund for and in connection with the accomplishment of the Project and the financing thereof, this fact shall be evidenced by a certificate signed by the Chief Executive Officer of the Corporation or his designee, 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 bank, the Bondholder and the Commission.

Disbursements shall be made by the Bondholder for costs of the Project pursuant to written Disbursement Requests as provided in the Bond Purchase Agreement.

Section 16. The terms and provisions of this Ordinance shall constitute a binding contract among the City, the Bondholder and the Commission, and no variation or change in the undertaking herein set forth shall be made while the Series 2012B Bond is outstanding unless consented to in writing by the Bondholder and the Commission.

Section 17. The City covenants and agrees that it will maintain the Wastewater System in good condition and operate it in an efficient manner and at reasonable cost. The City agrees to keep proper records, books and accounts relating to the operation of the Wastewater System, which shall be kept separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the operation of the Wastewater System in accordance with generally accepted government accounting standards. Such books shall be available for inspection by the Bondholder and the Commission, or the agent or the representative of either, at reasonable times and under reasonable circumstances. The City agrees to have these records audited annually and to furnish the audit report and any operating data requested by the Commission with respect to the Wastewater System to the Bondholder and the Commission.

Section 18. So long as the Corporation operates the Wastewater System under the franchise granted by the City, performance by the Corporation of any duty or obligation of the City hereunder shall be deemed performance by the City. Throughout this Ordinance, references to the City shall, if appropriate, be deemed to specifically include the Corporation.

Section 19. The City agrees that the Bondholder may pledge the Series 2012B Bond as security for the payment of its revolving loan fund revenue bonds (the "ADFA Bonds"), and the trustee or any municipal bond insurer for the ADFA Bonds may exercise any rights or remedies available to the Bondholder under this Ordinance or the Bond Purchase Agreement while the Series 2012B Bond is pledged and/or the ADFA Bonds are insured. In addition, the City agrees that while the Series 2012B Bond is pledged and/or the ADFA Bonds are insured, copies of all financial statements and operating data relating to the City, the Wastewater System and the Revenues shall be furnished to the trustee and/or any municipal insurer for the ADFA Bonds.

Section 20. 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 2012B Bond and to effect the execution and delivery of the Bond Purchase Agreement, 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 21. 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 2012B Bond.

Section 22. 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 23. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 24. It is hereby found and determined that there is an urgent need to finance certain improvements, extensions and betterments to the Wastewater System in order to alleviate hardships to the residents of the City, and in order to do so on the most favorable terms, it is necessary to enter to 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 24th DAY OF April, 2012.

Approved:



Mayor Tab Townsell

Attest:



Michael O. Garrett
City Clerk/Treasurer

(SEAL)