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ORDINANCE NO. O-07-93 by LR D. C.

AN ORDINANCE AUTHORIZING, PURSUANT TO THE PROVISIONS OF AMENDMENT 78 OF THE ARKANSAS CONSTITUTION AND A.C.A. § 14-78-101, ET SEQ., A SHORT-TERM FINANCING OBLIGATION IN THE FORM OF A PROMISSORY NOTE OR OTHER SIMILAR AGREEMENT TO RETIRE DEBTS PREVIOUSLY INCURRED FOR ACQUIRING, CONSTRUCTING, INSTALLING OR RENTING REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY HAVING AN EXPECTED USEFUL LIFE OF MORE THAN ONE (1) YEAR IN AND FOR FIRST STATE BANK SOCCER PARK; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Amendment 78 to the Arkansas Constitution provides that municipalities may incur short-term financing obligations maturing over a period of, or having a term, not to exceed five (5) years for the purpose of acquiring, constructing, installing or renting real property or tangible personal property having an expected useful life of more than one (1) year; and

WHEREAS, the City is a city of the first class organized under the laws of the State of Arkansas, and is the owner of a public park known as the First State Park, hereinafter referred to as "the Park," and

WHEREAS, First State Soccer Park, hereinafter referred to as "FSSP," is an Arkansas non-profit corporation organized to acquire, construct or install improvements to real property at the Park and to acquire or rent tangible personal property having an expected useful life of more than one (1) year, including equipment, and to further develop the Park's infrastructure and organize and/or arrange for programming of soccer games, leagues, schedules, programs, tournaments, camps, events or other soccer related activities primarily for the benefit of the youth of Conway but also for soccer and soccer related programming for the City in general; and

WHEREAS, Arkansas Rush formerly known as Conway United Soccer Association (CUSA), hereinafter referred to as "RUSH/CUSA," is an Arkansas non-profit corporation organized to acquire, construct or install improvements to real property at the Park and to acquire or rent tangible

personal property having an expected useful life of more than one (1) year, including equipment, and further develop the Park and organize and/or arrange for programming of soccer games, leagues, schedules, programs, tournaments, camps, events or other soccer related activities primarily for the benefit of the City of Conway and youth of Conway but also for soccer and soccer related programming for the City in general; and

WHEREAS, First State Bank "FSB" is a financial institution in Conway, Arkansas and has made substantial contributions toward the acquisition and development of the park; and

WHEREAS, it is the intent of the parties that the City take over all operation and maintenance responsibilities for the park and to pay for the benefit of development, construction and installation upon the Park of soccer park facilities, the benefit of which has been received by the City. In consideration for the public benefit previously received, the City shall pay or arrange to pay through obligations authorized by Amendment 78 to the Arkansas Constitution any debts, including accrued interest, previously incurred by FSSP or its predecessor, RUSH /CUSA, for acquiring, constructing or installing improvements to real property at the Park and acquiring or renting tangible personal property having an expected useful life of more than one (1) year, including equipment, used for the construction and development of the Park, including, but not limited to, the construction of game fields, parking lots, concession stands, bleachers or spectator stands, irrigation systems and restroom facilities; and

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

Section 1. The City shall execute, pursuant to the provisions of Amendment 78 of the Arkansas Constitution and Ark. Code Ann. § 14-78-101, *et seq.*, a short-term financing obligation in the form of a promissory note or other similar agreement, payable to FSB to retire debts and any

unpaid interest due previously incurred by FSSP or RUSH/CUSA, for the development of the Park.

Section 2. That the obligations shall mature over a period of, or have a term, not to exceed five (5) years.

Section 3. That the principal amount of the obligations to be issued is **ONE MILLION SIX HUNDRED EIGHTY-NINE THOUSAND SEVEN HUNDRED SEVENTY-SEVEN AND 41/100 DOLLARS (\$1,689,777.41)**. The rate of annual interest shall be 4.13%, tax exempt.

Section 4. The purposes for which the obligations are to be issued is to finance the City's assumption of all obligations of FSSP or RUSH/CUSA arising from all prior agreements between those parties relating to acquiring, constructing, installing or renting real property at the Park or acquiring or renting tangible personal property having an expected useful life of more than one (1) year at the Park for the development of the Park. The specific debts to be financed are set out as follows: Amounts sufficient to retire (1) indebtedness evidenced by that certain promissory note (Loan No. 2755204925) dated October 14, 2005 in the principal amount of THIRTY-TWO THOUSAND DOLLARS (\$32,000.00) with a maturity date of October 14, 2010, and a pay-off on August 2, 2007 of **TWENTY-ONE THOUSAND EIGHT HUNDRED FIFTY-FOUR AND 34/100 DOLLARS (\$21,854.34)**, including unpaid interest accumulated as of August 1, 2007 in the amount of ONE HUNDRED FIFTY AND 54/100 DOLLARS (\$150.54) and (2) that certain promissory note (Loan No. 2755204717) dated August 26, 2005 in the principal amount of ONE MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS (\$1,650,000.00) with a maturity date of October 15, 2007, and a pay-off on August 2, 2007 of **ONE MILLION SIX HUNDRED SIXTY-SEVEN THOUSAND NINE HUNDRED TWENTY-THREE AND 07/100 DOLLARS (\$1,667,923.07)** including interest accumulated as of August 1, 2007 in the amount of SEVENTEEN

THOUSAND NINE HUNDRED TWENTY-THREE AND 07/100 DOLLARS (\$17,923.07).

Section 5. With respect to the short-term financing obligation, the loan period shall be for a period of five (5) years; the payment schedule is for interest plus semi-annual principal payments beginning six (6) months from the date the short-term financing obligation closes, based upon said five (5) year amortization; the holder of the short-term financing obligation will be responsible for notifying the City of impending payments approximately ten days before each payment is due; and there shall be no prepayment penalty applied should the City elect to prepay any or all of the obligations.

Section 6. The City shall not authorize the issuance of obligations unless at the time of issuance, the aggregate principal amount of short-term financing obligations, including the obligations to be issued, outstanding and unpaid, will equal five percent (5%) or less of the assessed value of taxable property located within the municipality as determined by the last tax assessment completed prior to the issuance of the obligations to be issued.

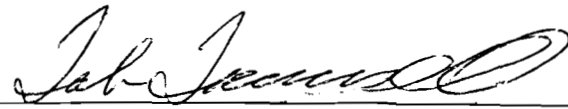
Section 7. That any tangible personal property, including equipment, pledged as collateral to secure any of the notes set out in, upon the date of execution of the short-term financing obligation, be accounted for and conveyed to the City by RUSH/CUSA and FSSP or either of them, in good condition, less reasonable wear and tear, and shall immediately become the property of the City, subject to any security interest which may be pledged by the City.

Section 8. That any ordinance in conflict herewith is hereby repealed to the extent of that conflict.

Section 9. That this ordinance is necessary for the protection of the peace, health and safety of the citizens of Conway, and therefore, an emergency is declared to exist, and this ordinance shall go into effect from and after its passage and approval.

PASSED this 31st day of July, 2007.

APPROVED:



MAYOR TAB TOWNSELL

ATTEST:



MICHAEL O. GARRETT, CITY CLERK