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City of Conway, Arkansas
Ordinance No. O-09-103

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#327602

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE TO PROVIDE SHORT-TERM FINANCING UNDER AMENDMENT NO. 78 TO THE ARKANSAS CONSTITUTION FOR CERTAIN INFRASTRUCTURE IMPROVEMENTS TO THE CITY OF CONWAY STREET SYSTEM; PROVIDING FOR PAYMENT OF THE PRINCIPAL OF THE INTEREST ON THE NOTE; APPROPRIATING STREET PROJECT FUNDS; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City of Conway, Arkansas (the "City") is authorized and empowered under the provisions of Amendment No. 78 to the Arkansas Constitution ("Amendment No. 78") and Act No. 1808 of 2001 (codified as Title 14), to incur tax exempt 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 and renting real property or tangible personal property having an expected useful life of more than one year; and

WHEREAS, it is proposed that the City issue its Promissory Note in the principal amount up to \$2,000,000 (the "Note") under Amendment No. 78 and the Act for the purpose of financing all or a portion of the cost for certain infrastructure improvements for the City of Conway, specifically the Salem Road Railroad Overpass Project, the College Avenue Connection to Elm Street Project and engineering cost for the Environmental Assessment for the Western Arterial Loop (the "Projects"); and

WHEREAS, the City intends to arrange for the loan (the "Loan") from a financial institution (the "Lender") and to issue the Promissory Note to the Lender at a price of par in consideration for the Loan.

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

SECTION 1: The City of Conway City Council (the "City Council") hereby finds that the Projects are real or tangible personal property having a useful life of more than one year. The City Council further finds that the sum of the principal amount of the Note and the outstanding principal amount of the City's promissory notes do not exceed five percent (5%) of the assessed value of taxable property located within the City as determined by the last tax assessment completed before the issuance of the Note.

SECTION 2: That under the authority of the Constitution and laws of the State of Arkansas, including particularly Amendment No. 78 and the Act, the Note is hereby authorized and ordered issued in the principal amount up to \$2,000,000 for the purpose of financing all or a portion of the cost for construction of improvements upon, and/or acquisition of, the Property and paying expenses of issuing the Note. The Note shall be dated the date of issuance and shall bear interest on the outstanding principal amount at a fixed rate not to exceed 4.35% per annum (calculated on the basis of the actual number of days elapsed in a year of 365 days (366 days in a leap year). The Note shall be repaid in five substantially equal amount amortized installments of principal and interest, commencing one year from the date of the Note and continuing on the same day of each year thereafter, with the final installment due five years from the date of the Note. The Note shall be issued in fully registered form.

SECTION 3. That the Lender shall be selected by the Mayor, and approved by the City Council, based upon the commitment or proposal for the Loan that the Mayor determines to have the lowest cost to the City. The City's Director of Finance has solicited proposals or commitments for the Loan from at least three financial institutions having offices in Faulkner County. The Mayor shall have the right to reject any and all proposals and commitments.

SECTION 4. That the first draw on the borrowings will occur on or about December 1, 2009 and the City will execute the Promissory Note prior to that date. Interest will begin to accrue as of the date of the first draw on borrowings.

SECTION 5. That as provided in Amendment No. 78, the annual debt service payments on the Note in each fiscal year shall be charged against and paid from the general revenue of the City of such fiscal year. For the purpose of making the annual debt service, there is hereby, and shall be, appropriated to pay the Note, an amount of general revenue of the City sufficient for such purposes. The City's Director of Finance is hereby authorized and directed to withdraw from the Street Fund of the City the amounts and the times necessary to make the annual debt service payments on the Note. Such funds may be provided by pay as you go funding provided by the Sales and Use Tax Bonds, Street Impact Funds, or any other funds typically available for infrastructure improvements.

SECTION 6: That the Mayor and City Clerk, for and on the behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance execution, and delivery of the Note, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. The Mayor and City Clerk are hereby further authorized and directed, for and on behalf of the City, and to execute all papers, documents, certificates, and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

SECTION 7. That in the event any title, section, paragraph, item, sentence, clause, phrase, or word of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not be affect the remaining portions of this Ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

SECTION 8: That all ordinances or resolutions of the City in conflict herewith are hereby repealed to the extent of such conflict.


SECTION 9: That funds provided through such borrowings are hereby appropriated and budgetary authority is provided for the Projects in an amount up to \$2,000,000.

Passed on this 1ST day of September, 2009.

Approved:


Mayor Tab Townsell

Attest:


Michael O. Garrett
City Clerk/Treasurer