

ORDINANCE NO. 2015-06

AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF BETTERMENTS AND IMPROVEMENTS TO THE WATER FACILITIES OF THE CITY OF TUCKERMAN, ARKANSAS; AUTHORIZING THE ISSUANCE OF A WATER AND SEWER REVENUE BOND FOR THE PURPOSE OF FINANCING A PORTION OF THE COST OF THE CONSTRUCTION; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE BOND; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Tuckerman, Arkansas (the "City") owns and operates water and sewer facilities, which water and sewer facilities are operated as one interrelated municipal undertaking (the "System"); and

WHEREAS, the City Council has determined that betterments and improvements to the water facilities of the System (the "construction") should be made in order that the City and its inhabitants may have adequate and proper water facilities; and

WHEREAS, the City Council has had prepared by a duly qualified consulting engineer a preliminary report and estimates of costs of the proposed construction, which have been examined and approved by the City Council and a copy filed in the office of the City Clerk where they may be inspected by any interested person; and

WHEREAS, the City Council, pursuant to Ordinance No. 2015-04, passed and approved on February 10, 2015 (the "2015A Bond Ordinance") has authorized the issuance of a City of Tuckerman, Arkansas Water and Sewer Revenue Bond in the principal amount of \$2,047,000 (the "2015A Bond") to finance a portion of the costs of the construction; and

WHEREAS, the City does not have available funds to undertake the construction but can obtain the necessary funds by the issuance of a Water and Sewer Revenue Bond in the principal amount of \$168,000 (the "bond") and the 2015A Bond, from a grant from an agency of the United States of America and from a loan from an agency of the State of Arkansas; and

WHEREAS, the City has entered into a Loan Agreement with the United States Department of Agriculture (the "Government"), whereby the Government has committed to purchase the bond; and

WHEREAS, the Loan Agreement provides that the bond will bear interest at the lower of the prevailing Rural Development ("RD") interest rate at the time of loan approval (2.75%) or the prevailing RD interest rate at the time the bond is issued; and

WHEREAS, the City is authorized, under the provisions of Title 14, Chapter 234, Subchapter 2 of the Arkansas Code of 1987 Annotated, Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated, and Title 14, Chapter 235, Subchapter 2 of the Arkansas

Code of 1987 Annotated (collectively, the "Authorizing Legislation"), to accept the offer of the Government; and

WHEREAS, the City has outstanding its (i) loan dated April 1, 2009 (the "2009 Loan") from the Arkansas Natural Resources Commission; and (ii) Water and Sewer Refunding Revenue Bonds, Series 2003 (the "2003 Bonds"), authorized by Ordinance No. 03, passed and approved July 22, 2003 (the "2003 Bond Ordinance"); and

WHEREAS, the City is contemplating, but has not authorized, the issuance of water and sewer refunding revenue bonds for the purpose of refunding the 2003 Bonds (the "2015 Refunding Bonds"); and

WHEREAS, the issuance of the 2015 Refunding Bonds will be authorized by an ordinance to be adopted by the City Council (the "2015 Refunding Bond Ordinance"); and

WHEREAS, if the 2003 Bonds are outstanding when the bond is issued, "Public Bonds" herein shall mean the 2003 Bonds; otherwise "Public Bonds" shall mean the 2015 Refunding Bonds; and

WHEREAS, if the 2003 Bonds are outstanding when the bond is issued, "Public Bond Ordinance" herein shall mean the 2003 Bond Ordinance; otherwise "Public Bond Ordinance" shall mean the 2015 Refunding Bond Ordinance;

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

Section 1. The construction shall be accomplished. The Mayor and City Clerk are hereby authorized to take, or cause to be taken, all action necessary to accomplish the construction and to execute all required contracts and documents.

Section 2. The offer of the Government of par for the bond is hereby accepted, and the bond is hereby sold to the Government. The purchase price shall be paid in multiple advances as funds are needed for the construction, to pay bond issuance expenses and to fund interest during construction.

Section 3. The City Council hereby finds and declares that the period of usefulness of the System after completion of the construction will be more than 40 years.

Section 4. Under the authority of the Constitution and laws of the State of Arkansas (the "State"), including particularly the Authorizing Legislation, and applicable decisions of the Supreme Court of the State, including particularly City of Harrison v. Braswell, 209 Ark. 1094, 194 S.W. 2d 12 (1946), a City of Tuckerman, Arkansas Water and Sewer Revenue Bond is hereby authorized and ordered issued in the principal amount of \$168,000. The bond shall be dated as of the date of its delivery and shall bear interest at the lower of the prevailing RD interest rate at the time of loan approval (2.75% per annum) or the prevailing RD interest rate at the time the bond is issued. Interest only shall be payable on the first anniversary

date from the date of the bond. Thereafter, principal of and interest on the bond shall be payable in monthly amortized installments commencing thirteen (13) months from the date of the bond and continuing monthly thereafter on the same day (provided, however, that if the bond is dated on the 29th, 30th or 31st day of any month, the monthly payments shall be made on the 28th day of each month). If the interest rate is 2.75% the amortized monthly payments shall be in the amount of \$587 each. If the interest rate is lower, the monthly payments shall be in the amount necessary to amortize the bond in 468 equal monthly installments. The amount of each monthly payment shall be applied first to payment of interest then due and the balance shall be applied to a reduction of principal. The amortized installments of principal and interest shall continue until the principal of the bond, with interest, is fully paid, except that final payment of the bond shall be due and payable not later than forty (40) years from the date of the bond, subject to prepayment prior to maturity as provided in the face of the bond.

The bond will be issued in typewritten form, registered as to both principal and interest, payable to the registered owner, or registered assigns, and shall be numbered R-1.

Payment of principal and interest shall be by check or draft mailed to the registered owner thereof at its address shown on the bond registration books of the City which shall be maintained by the City Clerk as Bond Registrar, without presentation or surrender of the bond (except upon final payment) and such payments shall discharge the obligation of the City to the extent thereof. The City Clerk 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 bond have been fully paid, it shall be canceled and delivered to the City Clerk.

Section 5. The bond shall be executed on behalf of the City by the Mayor and City Clerk and shall have impressed thereon the seal of the City. The bond is not a general obligation of the City but is a special obligation, the principal of and interest on which are secured by a pledge of and are payable from revenues derived from the operation of the System ("Revenues"). The pledge of Revenues in favor of the bond is subordinate to the pledge in favor of the 2009 Loan, the Public Bonds and the 2015A Bond (collectively, the "Prior Debt"). The bond and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation.

Section 6. (a) The 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:

The Mayor thereupon declared the Ordinance adopted and signed the Ordinance, which was attested by the City Clerk and sealed with the seal of the City. The Ordinance was given No. 2015-06.

(Matters not relating to the bond ordinance are omitted.)

There being no further business, the Council adjourned.

ATTEST:

Larry R. Bawn
Mayor

Panda J. Gaulton
City Clerk

(SEAL)