
ORDINANCE NO. 20-98

AMENDED ORDINANCE AUTHORIZING THE ISSUANCE OF

\$260,000
TOWN OF ANDERSON, TEXAS
SEWER SYSTEM REVENUE BONDS
SERIES 1998

Adopted on September 10, 1998

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ORDINANCE NO. 20-98

AN AMENDED ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ANDERSON, TEXAS AUTHORIZING THE ISSUANCE AND SALE OF TOWN OF ANDERSON, TEXAS, SEWER SYSTEM REVENUE BONDS, SERIES 1998, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$260,000, PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE SECURITY FOR AND PAYMENT OF SAID BONDS; AWARDED THE SALE THEREOF; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the City Council (the "City Council") of the Town of Anderson, Texas (the "City") has determined that revenue bonds should be issued, instead of certificates of obligation, as originally authorized by its ordinance dated May 14, 1998.

WHEREAS, notice of intention to issue said certificates of obligation has been published in *The Navasota Examiner*, a newspaper of general circulation in the City, on April 16, 1998 and April 23, 1998, respectively, the date of the first publication of such notice being before the fourteenth (14th) day prior to the tentative date stated therein for the passage of this Ordinance and such publication shall suffice for the amendment of the ordinance to issue revenue bonds instead of certificates of obligation; and

WHEREAS, on the 14th day of May, 1998, the City Council convened at 7:00 p.m. and, pursuant to the published notice of intention, considered passage of an ordinance authorizing the issuance of said certificates of obligation; and

WHEREAS, on the 10th day of September, 1998, the City Council convened at 7:00 p.m. and, considered amending the ordinance authorizing the issuance of said certificates of obligation and issuing revenue bonds instead; and

WHEREAS, no petition protesting the issuance of the certificates of obligation described in the aforesaid notice, signed by at least 5% of the qualified electors of the City, has been presented to or filed with the City Secretary or any other City official on or prior to the date of the passage of this ordinance; and

WHEREAS, this City Council hereby finds and determines that the above specified revenue bonds should be issued at this time; and

WHEREAS, it is affirmatively found and determined that this City Council is authorized to proceed with the issuance, sale and delivery of such bonds, as authorized

by the Constitution and laws of the State of Texas, including particularly TEX. REV. CIV. STAT. ANN. arts. 1111 through 1118, as amended; and

WHEREAS, the Ordinance adopted on the 14th day of May, 1998, authorizing the issuance of certificates of obligation is hereby amended to read as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ANDERSON, TEXAS:

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01. Definitions. Unless otherwise expressly provided or unless the context clearly requires otherwise, in this Ordinance the following terms shall have the meanings specified below:

"Additional Bonds" shall mean the additional bonds payable from and secured by a lien on the Net Revenues of the Sewer System, on a parity with the Bonds permitted to be issued under the provisions of this Ordinance.

"Bond" means any of the Bonds.

"Bonds" means the City's Bonds entitled "Town of Anderson, Texas Sewer System Revenue Bonds , Series 1998" in the aggregate principal amount of \$260,000 authorized to be issued by Section 3.01 of this Ordinance.

"City Council" means the governing body of the City.

"Closing Date" means the date of the delivery of and payment for the first installment of the Bonds to be delivered to the Purchaser.

"Code" means the Internal Revenue Code of 1986, as amended, including the regulations and published rulings thereunder.

"Delivery Date" means, with respect to any Bond, the date on which such Bond is delivered to the Purchaser in accordance with Section 13.02 of this Ordinance.

"Escrow Agreement" means that certain escrow agreement dated as of September 10, 1998, by and between the City and The First National Bank, Anderson, Texas, as Escrow Agent, referred to in Article XIII of this Ordinance.

"Event of Default" means any Event of Default as defined in Section 10.01 of this Ordinance.

"Holder" or "Owner" means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

"Initial Bond" means the Bond described in Section 3.04(b) and 6.02(d).

"Interest Payment Date" means, with respect to any Bond, the date or dates upon which interest on the Bond is scheduled to be paid until the maturity of the Bond, such dates being February 1 and August 1 of each year commencing with the February 1 or August 1 immediately following the Delivery Date.

"Net Revenues" means the gross revenues derived from the operation of the System, after deducting the expenses of operation and maintenance of the System, including all salaries, labor, materials, repair and extensions necessary to render efficient service, provided, however, that only such repairs and extensions, as in the judgment of the City Council of the City reasonably and fairly exercised by the passage of appropriate ordinances, are necessary to keep the System in operation and render adequate service to said City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair any outstanding Bond shall be deducted in determining "Net Revenues." Depreciation and payments into and out of the Interest and Sinking Fund and Reserve Fund, hereinafter created shall never be considered as expenses of operation and maintenance.

"Ordinance" means this Ordinance.

"Original Issue Date" means the initial date of the Bonds which is designated in Section 3.02(a) of this Ordinance.

"Outstanding Bonds" mean any Bonds previously issued by the City for the purpose of making additions, extensions or improvements to the System on parity with the Bonds.

"Paying Agent/Registrar" means The First National Bank, Anderson, Texas, any successor thereto or an entity which is appointed as and assumes the duties of paying agent/registrar as provided in this Ordinance.

"Purchaser" means the person, firm or entity initially purchasing the Bonds from the City and which is designated in Section 14.01 of this Ordinance.

"Record Date" means the Record Date as prescribed by Section 3.03(b) of this Ordinance.

"Register" means the Register specified in Section 3.06(a) of this Ordinance.

"System" and "Sewer System" mean the City's Sewer System, including all present and future extensions, enlargements, additions, replacements and improvements thereto.

"Unclaimed Payments" means money deposited with the Paying Agent/Registrar for the payment of the principal of or interest on the Bonds as the same come due and payable and remaining unclaimed by the Owners of Bonds for 90 days after the applicable payment or redemption date.

Section 1.02. Other Definitions. The term "City" shall have the meaning assigned in the preamble to this Ordinance.

Section 1.03. Findings. The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.04. Table of Contents, Titles and Headings. The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.05. Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Ordinance.

ARTICLE II

SECURITY FOR THE BONDS

Section 2.01. Pledge of Revenues. The Bonds herein authorized are and shall be payable from and secured by an irrevocable first lien on and pledge of the Net Revenues

to be derived from the operation and/or ownership of the System, and the Net Revenues are further pledged irrevocably to the establishment and maintenance of the funds hereinafter created.

Section 2.02. Special Obligations. The Bonds and the interest thereon shall constitute special obligations of the City, payable solely from the Net Revenues herein pledged, and the holder or holders of the Bonds shall never have the right to demand payment thereof out of any funds raised or to be raised by taxation.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01. Authorization. The City's Bonds to be designated "Town of Anderson, Texas Sewer System Revenue Bonds, Series 1998," are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, in the aggregate principal amount of \$260,000 for the purpose of the construction, acquisition and installation of additions, improvements and extensions to the City's Sewer System.

Section 3.02. Date, Denomination, Maturities, Numbers and Interest.

(a) The Bonds shall have the Original Issue Date of June 1, 1998, and shall be in fully registered form, without coupons, in the denomination of \$1,000 or any integral multiple thereof and shall be numbered separately from one upward or such other designation acceptable to the City and the Paying Agent/Registrar.

(b) The Bonds shall mature on February 1 in the years and in the principal amounts and interest rates as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2000	\$5,000	4.500%	2019	\$7,000	4.500%
2001	5,000	4.500%	2020	7,000	4.500%
2002	5,000	4.500%	2021	7,000	4.500%
2003	5,000	4.500%	2022	7,000	4.500%
2004	5,000	4.500%	2023	7,000	4.500%
2005	5,000	4.500%	2024	7,000	4.500%
2006	5,000	4.500%	2025	7,000	4.500%
2007	5,000	4.500%	2026	7,000	4.500%
2008	6,000	4.500%	2027	7,000	4.500%
2009	6,000	4.500%	2028	8,000	4.500%
2010	6,000	4.500%	2029	8,000	4.500%
2011	6,000	4.500%	2030	8,000	4.500%
2012	6,000	4.500%	2031	8,000	4.500%
2013	6,000	4.500%	2032	8,000	4.500%
2014	6,000	4.500%	2033	10,000	4.500%
2015	6,000	4.500%	2034	10,000	4.500%
2016	6,000	4.500%	2035	10,000	4.500%
2017	6,000	4.500%	2036	10,000	4.500%
2018	7,000	4.500%	2037	10,000	4.500%

(c) Each Bond shall bear interest from the Delivery Date thereof or the most recent Interest Payment Date to which interest has been paid or provided for at the rate that is the lower of (i) 4.500% per annum or (ii) the Purchaser's rate of interest applicable to the loan evidenced by the Bonds, in effect on the Closing Date, such interest payable semiannually on February 1 and August 1 of each year until the earliest of maturity or prior redemption, commencing with the February 1 or August 1 immediately following the Delivery Date.

Section 3.03. Medium, Method and Place of Payment.

(a) The principal of, premium, if any, and interest on the Bonds shall be paid in lawful money of the United States of America as provided in this Section.

(b) Interest on the Bonds shall be payable to the Owner whose name appears in the Register at the close of business on the fifteenth day of the month preceding such Interest Payment Date (the "Record Date").

(c) Interest on the Bonds shall be paid by check (dated as of the Interest Payment Date) and sent by the Paying Agent/Registrar to the person entitled to such

payment, first class United States mail, postage prepaid, to the address of such person as it appears in the Register or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid; provided, however, that such person shall bear all risk and expenses of such customary banking arrangements.

(d) The principal of each Bond shall be paid to the person in whose name such Bond is registered on the due date thereof (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the principal trust corporate office of the Paying Agent/Registrar.

(e) If a day for the payment of the principal of or interest on the Bonds is Saturday, Sunday, legal holiday, or a day on which banking institution in the city in which the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which such banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

(f) Notwithstanding the above, so long as the Bonds are held by the United States of America (USA), acting by and through its agency, the Rural Utilities Service (RUS), or any successor agency, the City may make payments directly to the United States of America, RUS district office, currently located in Bryan, Texas and not through the Paying Agent/Registrar.

Section 3.04. Control, Execution and Initial Registration.

(a) The Mayor of the City is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval by the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) Initially, a single Bond (the "Initial Bond") representing the entire principal amount of the Bonds registered in the name of the purchaser of the Bonds, or its designee, shall be executed and submitted to the Attorney General of the State of Texas for his approval, and, thereupon, the Comptroller of Public Accounts of the State of Texas, or a deputy designated in writing to act on behalf of the Comptroller, will execute the Comptroller's Registration Certificate.

(c) After the Initial Bond has been approved by the Attorney General and registered by the Comptroller of Public Accounts, the Paying Agent/Registrar shall register

the Bonds in the name of the Purchaser or its designee, and shall cancel the Initial Bond and deliver the Bonds in accordance with the provisions of Article XIII of this Ordinance.

(d) The Bonds shall be executed on behalf of the City by the Mayor and City Secretary of the City, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(e) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(f) No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon either (i) the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, or (ii) the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution of an authorized signatory of the Paying Agent/Registrar. It shall not be required that the same authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. Either of such certificates upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified or registered and delivered.

Section 3.05. Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment of the principal thereof and premium, if any, thereon, for the further purpose of making and receiving payment of the interest thereon (subject to the provisions herein that interest is to be paid to the person in whose name the Bond is registered on the Record Date), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the person deemed to be the owner of any Bond in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.06. Registration, Transfer and Exchange.

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at its principal corporate office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) Registration of any Bond may be transferred in the Register only upon the presentation and surrender thereof at the principal corporate office of the Paying Agent/Registrar for transfer of registration and cancellation, together with proper written instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of the Bonds, or any portion thereof in any integral multiple of \$1,000, to the assignee or assignees thereof, and the right of such assignee or assignees thereof to have the Bond or any portion thereof registered in the name of such assignee or assignees. No transfer of any Bond shall be effective until entered in the Register. Upon assignment and transfer of any Bond or portion thereof, a new Bond or Bonds will be issued by the Paying Agent/Registrar in conversion and exchange for such transferred and assigned Bond. To the extent possible the Paying Agent/Registrar will issue such new Bond or Bond in not more than three business days after receipt of the Bond to be transferred in proper form and with proper instructions directing such transfer.

(c) Any Bond may be converted and exchanged only upon the presentation and surrender thereof at the principal corporate office of the Paying Agent/Registrar, together with a written request therefor duly executed by the registered owner or assignee or assignees thereof, or its or their duly authorized attorneys or representatives, with guarantees of signatures satisfactory to the Paying Agent/Registrar, for a Bond or Bonds of the same maturity and interest rate and in any authorized denomination and in an aggregate principal or maturity amount equal to the unpaid principal or maturity amount of the Bond presented for exchange. If a portion of any Bond is redeemed prior to its scheduled maturity as provided herein, a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in the denomination or denominations of any integral multiple of \$1,000 at the request of the registered owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon surrender thereof for cancellation. To the extent possible, a new Bond or Bonds will be required to be delivered by the Paying Agent/Registrar to the registered owner of the Bond or Bonds in not more than three business days after receipt of the Bond to be exchanged in proper form and with proper instructions directing such exchange.

(d) Each Bond issued in exchange for any Bond or portion thereof assigned, transferred or converted shall have the same principal maturity date and bear interest at the same rate as the Bond for which it is being exchanged. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond. The Paying