

ORDINANCE NO. 101

AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF EXTENSIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER AND SEWER SYSTEM OF THE CITY OF CLINTON, ARKANSAS; AUTHORIZING THE ISSUANCE OF WATER AND SEWER REVENUE BONDS FOR THE PURPOSE OF FINANCING A PORTION OF THE COST OF THE CONSTRUCTION; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Clinton, 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 has determined that extensions, betterments and improvements (the "construction"), should be made to the System in order that the City and its inhabitants may have adequate and proper water and sewer 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 Recorder where it may be inspected by any interested person; and

WHEREAS, the total estimated cost of the construction and of authorizing and issuing bonds and paying interest during construction is \$1,000,800; and

WHEREAS, the City does not have available funds to undertake the construction but can obtain the necessary funds for paying the cost of the construction and paying the cost of authorizing and issuing bonds and paying interest during construction by the issuance of Water and Sewer Revenue Bonds in the principal amount of \$520,000 and from grant funds obtained from an agency or agencies of the United States of America and from available funds of the City; and

WHEREAS, the City has outstanding an issue of Water and Sewer Refunding and Improvement Revenue Bonds, Series 1964, dated March 1, 1964 (the "1964 Bonds"), authorized by Ordinance No. 69, adopted and approved January 7, 1964 (the "1964 Ordinance"); and

WHEREAS, the City has outstanding an issue of Water and Sewer System Improvement Revenue Bonds, Series 1971, dated March 1, 1971 (the "1971 Bonds"), authorized by Ordinance No. 91, adopted and approved September 23, 1971 (the "1971 Ordinance"); and

WHEREAS, the City has entered into a Loan Agreement with the United States of America, Farmers Home Administration, whereby the United States of America has committed to purchase \$520,000 in principal amount of Water and Sewer Revenue Bonds, at an interest rate of 5% per annum; and

WHEREAS, the City is authorized, under the provisions of Act No. 131 of the Acts of Arkansas of 1933, as amended, and Act No. 132 of the Acts of Arkansas of 1933, as amended, to accept the offer of the United States of America, Farmers Home Administration (the "Government");

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

Section 1. That the construction be accomplished. The Mayor and City Recorder 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. That the offer of the United States of America, Farmers Home Administration, of par for \$520,000 in principal amount of bonds bearing interest at the rate of 5% per annum is hereby accepted, and the bonds are hereby sold to the Government.

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

Section 4. Under the authority of the Constitution and Laws of the State of Arkansas, including particularly Act No. 131

of the Acts of Arkansas of 1933, as amended, Act No. 132 of the Acts of Arkansas of 1933, as amended, and applicable decisions of the Supreme Court of the State of Arkansas, including particularly City of Harrison v. Braswell, 209 Ark. 1094, 194 S. W. 2d 12 (1946), City of Clinton, Arkansas, Water and Sewer Revenue Bonds are hereby authorized and ordered issued in the principal amount of \$520,000, the proceeds of the sale of which are necessary to finance the cost to the City of the construction, including the necessary expenses incidental thereto, to pay the expenses of issuing the bonds and to pay interest during construction. References in this Ordinance to the unqualified word "bonds" shall, unless the context requires otherwise, be deemed reference to the permanent bonds authorized by this Section 4 and not to the temporary bonds authorized by Section 6(b). The bonds shall be dated as of the date of their delivery and shall bear interest at the rate of five percent (5%) per annum. The principal of and interest on the bonds shall be payable in annual amortized installments of principal and interest commencing three years from the date of the bonds and continuing annually thereafter on the same month and day; interest only shall be payable on the first and second anniversary dates after the date of the bonds; provided, however, that if the bonds are dated on the 29th, 30th, or 31st day of any month the annual payments of interest and amortized installments shall be made on the 28th day of the month in which the annual payments are due. The amortized installments of principal and interest shall continue until the principal of the bonds, with interest, is fully paid, except that final payment of the bonds shall be due and payable not later than forty (40) years from the date of the bonds, subject to prepayment prior to maturity as provided in the face of the bonds.

The bonds will be issued in the form of a single type-written bond, registered as to both principal and interest, payable to the registered owner, or assigns, as set forth hereinafter

in the permanent bond form, and shall be numbered R-1. (Even though a single bond is being issued, reference herein will be to "bonds.")

Payment of principal and interest shall be by check or draft mailed to the registered owner thereof, without presentation or surrender of the bonds (except upon final payment) and such payments shall discharge the obligation of the City to the extent thereof. The City Recorder 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 any bond has been fully paid, the bond shall be canceled and delivered to the City Recorder.

Section 5. That the bonds shall be executed on behalf of the City by the Mayor and City Recorder and shall have impressed thereon the seal of the City. The bonds are not general obligations of the City but are special obligations, the principal of and interest on which are secured by a pledge of and are payable from revenues derived from the System. The pledge of System revenues is subordinate to the pledge in favor of the 1964 Bonds and the 1971 Bonds. The bonds and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation.

Section 6. (a) That the bonds shall be in substantially the following form and the Mayor and City Recorder are hereby authorized and directed to make all the recitals contained therein:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF VAN BUREN
CITY OF CLINTON
5% WATER AND SEWER REVENUE BOND

No. R-1

\$520,000

KNOW ALL MEN BY THESE PRESENTS:

That the City of Clinton, Van Buren County, Arkansas (the "City"), for value received, hereby acknowledges itself to owe and promises to pay to the registered owner, or assigns, solely from the special fund provided as hereinafter set forth, the principal sum of

FIVE HUNDRED TWENTY THOUSAND DOLLARS

with interest on the unpaid balance of the aggregate principal sum at the rate of five percent (5%) per annum from the date hereof. The principal and interest shall be payable in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of debts due the United States of America and shall be payable in the following installments on or before the following dates: Interest only on the first and second anniversary dates after the date of this bond; and \$_____ three years from the date of this bond and annually thereafter on the same month and day (except that if this bond is dated the 29th, 30th or 31st of any month the annual payment shall be due on the 28th day immediately preceding the anniversary date) until the principal and interest are fully paid, except that final payment of the entire indebtedness, if not sooner paid, shall be due and payable forty (40) years from the date of this bond.

Payments of the principal and interest installments due hereon shall be made, except for final payment, without presentation and surrender of this bond, directly to the registered owner at his address shown on the bond registration book of the City, 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 financing the cost to the City of constructing extensions, betterments and improvements to the water and sewer facilities of the City, which facilities are operated as one interrelated municipal undertaking (the "System"), and costs of authorizing and issuing the bonds and paying interest during construction (with the balance of the

cost to be paid from grant funds obtained from an agency or agencies of the United States of America and available funds of the City), and is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Act No. 131 of the Acts of Arkansas of 1933, as amended, Act No. 132 of the Acts of Arkansas of 1933, as amended, and applicable decisions of the Supreme Court of the State of Arkansas, including particularly City of Harrison v. Braswell, 209 Ark. 1094, 194 S. W. 2d 12 (1946), and pursuant to Ordinance No. _____ of the City, duly adopted and approved on the _____ day of _____, 197_ (the "Authorizing Ordinance").

Prepayments of principal installments, or any portion thereof, may be made from funds from any source at any time at the option of the City in inverse chronological order of maturity at a price of the principal amount thereof plus accrued interest. Such prepayments shall not affect the obligation of the City to pay the remaining installments as scheduled herein.

This bond does not constitute an indebtedness of the City within any constitutional or statutory limitation or provision, and the taxing power of the City is not pledged to the payment of the principal of or interest on the bond. This bond is a special obligation payable solely from revenues derived from the operation of the System. In this regard, the pledge of System revenues is subordinate to the pledge of System revenues to an issue of Water and Sewer Refunding and Improvement Revenue Bonds, Series 1964, dated March 1, 1964 (the "1964 Bonds") and an issue of Water and Sewer System Improvement Revenue Bonds, Series 1971, dated March 1, 1971 (the "1971 Bonds") so long as any of the 1964 Bonds or the 1971 Bonds are outstanding. A sufficient amount of System revenues to pay principal and interest has been duly set aside and pledged as a special fund for that purpose, identified as the "1975 Water and Sewer Revenue Bond Fund," created by the Authorizing Ordinance. The City has

fixed and has covenanted and agreed to maintain rates for use of the System which shall be sufficient at all times at least to provide for the payment of the reasonable expenses of operation and maintenance of the System, provide for the payment of the principal of and interest on all the outstanding bonds to which System revenues are pledged as the same become due, to establish and maintain debt service reserves and to provide a depreciation fund, all as set forth in the Authorizing Ordinance.

This bond may be assigned, and upon assignment the assignor shall promptly notify the City Recorder by registered mail, and the assignee shall surrender this bond to the City Recorder for transfer on the registration records. Every assignee shall take this bond subject to all payments and prepayments of principal and interest (as reflected by the Payment Record maintained by the City Recorder), prior to such surrender for transfer.

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 regular and due time, form and manner as required by law; that the bond does not exceed 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 Clinton, Arkansas, has caused this bond to be executed in its name by its Mayor and City Recorder, thereunto duly authorized, with the manual signatures of the Mayor and City Recorder, and its corporate seal to be affixed, all as of the _____ day of _____, 1975.

ATTEST:

City Recorder
(SEAL)

CITY OF CLINTON, ARKANSAS
By Mayor

Section 6. (b) Pending the preparation and delivery of the permanent and definitive bonds hereinabove authorized, temporary bonds in the aggregate principal amount of not to exceed \$520,000 may be issued for the purpose of providing construction funds immediately and in anticipation of the issuance of such permanent and definitive bonds. The temporary bonds shall be in such denominations as the Mayor shall determine, be numbered from 1 upwards, be sold at a price of 100¢ on the dollar, be dated the day of delivery, bear interest at the rate of _____ percent per annum and be payable two (2) years from their date. Upon delivery of the permanent and definitive bonds, the temporary bonds to the extent then outstanding, with accrued interest, shall be exchanged for, or paid from the proceeds of, the permanent and definitive bonds and shall be canceled. The temporary bonds shall be typewritten and in substantially the following form:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF VAN BUREN
CITY OF CLINTON
TEMPORARY WATER AND SEWER REVENUE BOND

No. _____ \$

KNOW ALL MEN BY THESE PRESENTS:

The City of Clinton, Van Buren County, Arkansas, hereby acknowledges itself indebted and promises to pay to _____ at its office in _____ County, Arkansas, or assigns, the principal sum of _____ DOLLARS

on _____, 19____, plus interest thereon from the date hereof at the rate of _____ percent per annum, payable one year from date and at maturity.

This bond is one of an issue of temporary bonds in an aggregate amount not to exceed \$520,000 issued for the purpose of providing construction funds in anticipation of the issuance of permanent and definitive bonds for constructing extensions,

betterments and improvements to the Water and Sewer System in accordance with the Authorizing Ordinance of the City (Ordinance No. _____, adopted on _____). The temporary bonds are not general obligations of the City but are special obligations payable solely from the revenues of the System and from a pledge of the proceeds of the permanent and definitive bonds. In this regard, the pledge of System revenues is subordinate to the pledge of System revenues to an issue of Water and Sewer Refunding and Improvement Revenue Bonds, Series 1964, dated March 1, 1964 (the "1964 Bonds") and an issue of Water and Sewer System Improvement Revenue Bonds, Series 1971, dated March 1, 1971 (the "1971 Bonds"), so long as any of the 1964 Bonds or the 1971 Bonds are outstanding. The City has fixed and has covenanted and agreed to maintain rates for use of the System which shall be sufficient at all times to at least provide for the payment of the reasonable expenses of operation and maintenance of the System, provide for the payment of the principal of and interest on all the outstanding bonds to which System revenues are pledged as the same become due, to establish and maintain debt service reserves and to provide a depreciation fund, all as set forth in the bond ordinance. The City covenants and agrees that on or before the maturity date herof, this and other such temporary bonds, to the extent then outstanding, with accrued interest, shall be exchanged for, or paid from the proceeds of, such permanent and definitive bonds.

This bond may be redeemed at any time prior to maturity, from funds from any source, at a price of par and accrued interest to date of redemption upon ten (10) days prior written notice by first class mail to the owner hereof.

IT IS HEREBY CERTIFIED that all conditions, acts and things required to exist, to have happened and to have been performed in regular time, form and manner.

IN WITNESS WHEREOF, the City of Clinton, Arkansas, has caused this bond to be signed by the Mayor and City Recorder and

sealed with the corporate seal on this _____ day of _____,
19__.

CITY OF CLINTON, ARKANSAS

ATTEST:

City Recorder
(SEAL)

Mayor

Section 6. (c) So long as the permanent bond is held, or payment of principal and interest thereon is insured, by the Government, the City shall, at the option of the Government, prepay all or any part of any annual installment of interest or of principal and interest by making monthly payments in advance of the due date of the annual installment. The aggregate of the monthly payments made in any year upon direction of the Government shall not exceed the amount of the annual installment for such year, but nothing herein shall be construed to prohibit or restrict the City, at its option, from other prepayments as in this Ordinance provided. Monthly payments for the purpose of prepayment pursuant to this subsection shall be commenced, terminated and resumed from time to time as directed by the Government by notice to the Mayor.

Monthly payments shall be credited upon the annual installment next due. On each annual installment due date the City shall pay, as the balance due on the annual installment, the difference, if any, between the amount of the annual installment if no prepayments had been made and the aggregate credits upon such annual installment. The amount of each monthly payment shall be applied first to the payment of accrued interest to the date of payment on the unpaid principal balance due on the bond, and the balance shall constitute a prepayment of principal. No such prepayment of principal shall, however, affect the obligation of the City to pay and prepay annual installments in the dollar amounts scheduled in the bond and as provided herein and such annual installments shall be paid and prepaid until all principal of and interest on the bond have been fully paid.

The Mayor and Recorder shall, when and so often as requested by the Government, execute and deliver, on behalf of the City, an appropriate agreement containing the substance of this subsection.

Section 7. That Section 3, of Ordinance No. 93, adopted and approved June 1, 1972, as amended by Ordinance No. 93

Amendment, adopted and approved April 4, 1974 (collectively "Ordinance No. 93"), be amended by the adoption of the following rates to be charged for water to be furnished and services to be rendered to Non-Resident Customers by the Water System:

For the first 1,000 gallons of water consumed (or portion thereof) per month - \$6.00 (which shall be the monthly minimum charge).

For the next 3,000 gallons of water consumption per month - \$2.00 per 1,000 gallons.

For the next 6,000 gallons of water consumption per month - \$1.00 per 1,000 gallons.

For the next 10,000 gallons of water consumption per month - \$.70 per 1,000 gallons.

For all monthly water consumption in excess of 20,000 gallons - \$.50 per 1,000 gallons.

All other rates, including water and sewer, fixed by Ordinance No. 93 are hereby confirmed and shall continue to be collected.

The City covenants and agrees that the rates established will produce gross revenues at least sufficient to pay operation and maintenance expenses of the System, pay the principal of and interest on all outstanding bonds to which System revenues are pledged, as the same become due and the Paying Agent's fees, create and maintain debt service reserves, and make the required deposits for depreciation as specified by this Ordinance. The City covenants always to maintain rates (including increases as necessary) which will provide for the maintenance of the funds hereinafter described. The rates shall never be reduced while any of the bonds are outstanding unless there is obtained from a certified public accountant not in the regular employ of the City a certificate reciting the opinion that the proposed new rates will produce sufficient net revenues (net revenues being gross revenues to be derived during the next

twelve (12) months less the reasonably anticipated cost of operation and maintenance for the next twelve (12) months and less the required deposits for depreciation of the System for the next twelve (12) months) equal to not less than 120% of the maximum amount that will become due in any year thereafter for principal, interest and Paying Agent's fees on all bonds then outstanding to which System revenues are pledged.

Section 8. That the Treasurer of the City shall be custodian of the gross revenues derived from the operation of the System and shall give bond for the faithful discharge of his duties as such custodian. The amount of the bond shall at all times be at least equal to the total funds in his custody at any one time. From and after the delivery of any bonds issued under the provisions of this Ordinance, the System shall be continuously operated as a revenue-producing undertaking. All moneys received by the Treasurer shall be deposited by him in such depository or depositories for the City as may be lawfully designated from time to time by the City Council; subject, however, to the giving of security as now or hereafter may be required by law, and provided that each depository must hold membership in the Federal Deposit Insurance Corporation. All deposits shall be in the name of the City and shall be so designated as to indicate the particular fund to which the revenues belong. Any deposit in excess of the amount insured by the Federal Deposit Insurance Corporation shall be secured by bonds or other direct or fully guaranteed obligations of the United States of America unless invested as herein authorized.

Section 9. That all of the provisions of the 1964 Ordinance and the 1971 Ordinance authorizing the issuance of the 1964 Bonds and the 1971 Bonds, except those provisions clearly inapplicable hereto, including, without limitation, the provisions pertaining to the collection and the handling of revenues and funds, to the operation, maintenance and care of the System, and