

ORDINANCE NO. 106

AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF EXTENSIONS, BETTERMENTS AND IMPROVEMENTS TO THE MUNICIPAL AIRPORT OF THE CITY OF CLINTON, ARKANSAS; AUTHORIZING THE ISSUANCE OF AIRPORT REVENUE BONDS FOR THE PURPOSE OF FINANCING A PORTION OF THE COST OF THE CONSTRUCTION; PROVIDING FOR THE PAYMENT OF 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 its Municipal Airport (the "Airport") and, based on due investigation and the recommendation of the City's Airport Commission, has determined that extensions, betterments and improvements should be made to the Airport in order that the City and its inhabitants may have adequate air transportation facilities (the "construction"); and

WHEREAS, the total estimated cost of the construction and of authorizing and issuing bonds and paying interest during construction is \$200,000; and

WHEREAS, the City can obtain funds to undertake the construction and pay the cost of authorizing and issuing bonds and paying interest during construction by the issuance of Airport Revenue Bonds in the principal amount of \$30,000 and by the obtaining of federal grant funds in the amount of \$170,000; 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 \$30,000 in principal amount of Airport Revenue Bonds, at an interest rate of 5% per annum; and

WHEREAS, the City is authorized under the Constitution and laws of the State of Arkansas, including particularly Act

No. 53 of 1949, as amended, and Act No. 175 of 1959, as amended, to accept the offer of the United States of America, Farmers Home Administration (the "purchaser");

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

Section 1. The construction shall be accomplished. The Mayor, the City Recorder and the Airport Commission 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 United States of America, Farmers Home Administration, of par for \$30,000 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 United States of America.

Section 3. The City Council hereby finds and declares that the period of usefulness of the Airport after completion of the construction will be more than twenty-five (25) years.

Section 4. Under the authority of the Constitution and laws of the State of Arkansas, including particularly Act No. 53 of 1949, as amended and Act No. 175 of 1959, as amended, City of Clinton, Arkansas Airport Revenue Bonds are hereby authorized and ordered issued in the principal amount of \$30,000, the proceeds of the sale of which are necessary to finance the cost to the City of the construction, including necessary expenses incidental thereto and to pay the expenses of issuing the bonds. The bonds shall be dated as of the date of their delivery and

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shall bear interest at the rate of five percent (5%) per annum. Interest shall be payable on the anniversary date of the bonds, ~~commencing on the first anniversary date.~~ The principal of the bonds shall be payable in annual amortized installments of principal and interest on each anniversary date ~~commencing with the second anniversary date,~~ until the principal of the bonds, with interest, is fully paid, except that final payment of the bonds shall be due and payable twenty-five (25) years from the date of the bonds, subject to prepayment prior to maturity as provided in the face of the bonds. Notwithstanding the above, if the anniversary date of the bonds falls on a day of the month subsequent to the 28th day payments on the bond shall be on the 28th day of the month.

The bonds will be issued in the form of a single typewritten 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 such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public 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.

Anything herein set forth to the contrary notwithstanding, it is expressly provided and agreed that the City may enter into a supplementary payment agreement with the purchaser providing for payment of the principal and interest of the bonds in monthly installments, on terms acceptable to the purchaser and the City, and the Mayor and City Recorder are hereby authorized to execute such an agreement on behalf of the City and to execute such writings and take such other action as may be necessary in connection therewith or incidental thereto.

Section 5. 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 and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation. 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 Airport and by a mortgage lien on the properties constituting the Airport, being the lands, located in Van Buren County, described as follows, together with the improvements, buildings and fixtures now or hereafter located thereon:

Section 6. (a) 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:

(Form of single registered bond)
(To be typewritten)

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF VAN BUREN
CITY OF CLINTON
AIRPORT REVENUE BOND

No. R-1

\$30,000

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

THIRTY 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 annual amortized installments of principal and interest on each anniversary date, commencing on the second anniversary date (interest only being due on the first anniversary date), except that if an anniversary date occurs on a day of the month subsequent to the 28th day payment shall be made on the 28th day, until the principal and interest are fully paid, provided that the final payment of the entire indebtedness, if not sooner paid, shall be due and payable twenty-five (25) 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 a portion of the costs of constructing extensions, betterments and improvements (the "construction") to the Municipal Airport of the City (the "Airport") and costs of authorizing and issuing the bonds and paying interest during construction, and is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Act No. 53 of 1949, as amended, and Act No. 175 of 1959 as amended, and pursuant to Ordinance No. 106 of the City, duly adopted and approved on the 6 day of October 1977 (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 obligations 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. The bond is a special obligation secured solely by a pledge of revenues derived from the operation of the Airport and by a mortgage lien on the properties constituting the Airport. A sufficient amount of Airport revenues has been duly set aside and pledged as a special fund for that purpose, identified as the "Airport Revenue Bond Fund," created by the Authorizing Ordinance. The

City has fixed and has covenanted and agreed to maintain rates for use of the Airport which shall be sufficient at all times at least to provide for the payment of the reasonable expenses of operation and maintenance of the Airport to provide for the payment of the principal of and interest on all the outstanding bonds to which Airport revenues are pledged as the same become due, to establish and maintain a debt service reserve 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 6 day of October, 1977.

CITY OF CLINTON, ARKANSAS

ATTEST:

Jane Rodgers
City Recorder

BY *John B. Egan*
MAYOR

(SEAL)

Section 7. The City covenants and agrees that the rates previously established for the facilities and services of the Airport will produce gross revenues at least sufficient to pay operation and maintenance expenses of the Airport, pay the principal of and interest on all outstanding bonds to which Airport revenues are pledged, as the same become due, to create and maintain a debt service reserve, and to make the required deposits for depreciation as specified by this Ordinance. The City covenants always to maintain rates (including increases as necessary) for the facilities and services of the Airport 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 Airport 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 and interest on all bonds then outstanding to which Airport revenues are pledged.

Section 8. None of the facilities or services afforded by the Airport shall be furnished without a charge being made therefor. In the event that the City or any department, agency or instrumentality thereof shall avail itself of the facilities and services afforded by the Airport, the reasonable value of the services or facilities so afforded shall be charged against the City or such department, agency or instrumentality and

shall be paid for as the charges therefor accrue. The revenues so received shall be deemed to be revenues derived from the operation of the Airport and shall be used and accounted for in the same manner as any other revenue derived from the operation of the Airport; provided, however, that nothing herein shall be construed as requiring the City or any department, agency or instrumentality thereof to avail itself of the facilities afforded by the Airport.

Section 9. The Treasurer of the City shall be custodian of the gross revenues derived from the operation of the Airport 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 Airport 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 10. Airport Revenue Fund. All revenues derived from the operation of the Airport shall be paid into a

special fund, which is hereby created and designated "Airport Revenue Fund." Revenues in the Airport Revenue Fund are hereby pledged and shall be applied to payment of the expenses of operation and maintenance of the Airport, to the payment of the principal of and interest on all outstanding bonds to which Airport revenues are pledged, to the establishment and maintenance of a debt service reserve and to the providing of a depreciation fund, all in the manner hereinafter set forth in this Ordinance.

Section 11. Airport Operation and Maintenance Fund.

There shall be paid by the Treasurer from the Airport Revenue Fund into a fund, which is hereby created and designated "Airport Operation and Maintenance Fund" ("Operation and Maintenance Fund"), on the first business day of each month while any of the bonds are outstanding, an amount sufficient to pay the reasonable and necessary monthly expenses of operation, repair, maintenance and the insuring of the Airport for such month and from which disbursements shall be made only for those purposes. Fixed annual charges, such as insurance premiums and the cost of major repair and maintenance expenses may be computed and set up on an annual basis and one-twelfth (1/12) of the amount thereof may be paid into the Operation and Maintenance Fund each month.

If, in any month, for any reason there shall be a failure to transfer and pay the required amount into the Operation and Maintenance Fund, the amount of any deficiency shall be added to the amount otherwise required to be transferred and paid into the Operation and Maintenance Fund in the next succeeding month. If in any fiscal year a surplus shall be accumulated in the Operation and Maintenance Fund

over and above the amount which shall be necessary to defray the reasonable and necessary cost of operation, repair, maintenance and insuring of the Airport during the remainder of the then current fiscal year and the next ensuing fiscal year, such surplus may be transferred and deposited in the Airport Revenue Fund.

Section 12. Airport Revenue Bond Fund. (a) On the first business day of each month, after making the required payments into the Operation and Maintenance Fund, there shall be paid into a special fund in the name of the City which is hereby created and designated "Airport Revenue Bond Fund" (the "Bond Fund"), the sums in the amounts and at the times hereinafter stated in subsection (b) for the purpose of providing funds for the payment of the principal of and interest on the bonds as they mature, and to establish a debt service reserve.

(b) There shall be paid into the Bond Fund on the first business day of each month until all outstanding bonds with interest thereon have been paid in full or provision made for such payment, a sum equal to one-twelfth (1/12) of the installment of interest, or principal and interest, due on the next installment payment date (plus any additional amount that may be necessary at the time of the delivery of the bonds fully to provide for the first interest payment on the bonds, if any additional amount be required), on all outstanding bonds, plus the sum of \$17.00 until a debt service reserve shall have been accumulated in the amount of \$2,000. When the debt service reserve has been accumulated in the required amount, the monthly payments into the Bond Fund may be reduced to one-twelfth (1/12) of the installment of interest, or principal and interest, due on the next installment payment

date, but if the debt service reserve becomes impaired, the additional monthly payment of \$17.00 shall be resumed until the impairment is cured.

(c) If the revenues of the Airport are insufficient to make the required payment on or before the first business day of the following month into the Bond Fund, then the amount of any such deficiency in the payment made shall be added to the amount otherwise required to be paid into the Bond Fund on the first business day of the next month.

(d) If, for any reason, the City Treasurer shall fail at any time to make any of the required payments into the Bond Fund, or if for any reason the Bond Fund shall be insufficient at any time to make the required payments for principal, and interest, as due, any sums then held in the debt service reserve shall be used to the extent necessary in the payment of the principal of and interest on the bonds, but such reserve shall be reimbursed from the first available moneys in the Airport Revenue Fund by the increased monthly payments specified in (b) above. The debt service reserve shall be used solely as herein provided.

(e) When the moneys held in the Bond Fund, including the debt service reserve, shall be and remain sufficient to pay the principal of and interest on all of the bonds then outstanding, the City Treasurer shall not be obligated to make any further payments into the Bond Fund.

(f) All moneys in the Bond Fund shall be used solely for the purpose of paying the principal of and interest on the bonds, except as herein specifically provided. If a surplus shall exist in the Bond Fund over and above the amount necessary to insure the payment, when due, of principal and interest and over and above the debt service reserve, such surplus shall,

at the option of the City, (1) be used for the prepayment or redemption of bonds prior to maturity or (2) be used for the construction of improvements and extensions to the Airport.

(g) It shall be the duty of the City Treasurer to withdraw from the Bond Fund on or before the date of any installment hereunder and to pay to the registered owner, or assigns, an amount equal to the amount of such installment for the sole purpose of paying the same, and no withdrawal of funds from the Bond Fund shall be made for any other purpose except as otherwise authorized in this Ordinance. Such deposits shall be at the sole risk of the City and shall not operate as a payment of the bonds or interest until so applied.

(h) The bonds of this issue shall be specifically secured by a pledge of all the revenues required to be placed into the Bond Fund. This pledge in favor of the bonds is hereby irrevocably made according to the terms of this Ordinance, and the City and its officers and employees shall execute, perform and carry out the terms thereof in strict conformity with the provisions of this Ordinance.

Section 13. Airport Depreciation Fund. After making the required payment into the Operation and Maintenance Fund and making the payment into the Bond Fund, there shall be paid by the Treasurer from the Airport Revenue Fund into a fund which is hereby created and designated "Airport Depreciation Fund" ("Depreciation Fund") on the first business day of each month, while any of the bonds are outstanding, an amount equal to 2% of the gross revenues of the Airport for the preceding month until there is accumulated the sum of \$500. So long as the Depreciation Fund is maintained in the required amount, the monthly payment into the Depreciation Fund may cease, but it shall be resumed as necessary to maintain

the required amount. **Moneys in the Depreciation Fund shall** be used to pay the cost of necessary replacements made necessary by the **depreciation of the Airport; provided, however, that moneys in the Depreciation Fund may be used to the extent necessary to prevent a default in the payment of the principal of and interest on the bonds as the same become due and to maintain the debt service reserve in the required amount.**

If in any fiscal year a surplus shall be accumulated in the Depreciation Fund over and above the amount necessary to pay the estimated cost of necessary replacements during the then current fiscal year and the next ensuing fiscal year, such surplus shall be transferred and paid into the Airport Revenue Fund.

Section 14. Any surplus in the Airport Revenue Fund, after making full provision for the other funds hereinabove provided for, may be used, at the option of the City:

(a) for the redemption of the bonds of this issue in the manner and upon the terms applicable to redemption prior to maturity; or

(b) for the construction of extensions, betterments and improvements to the Airport (including payment of the principal of and interest on bonds issued therefor but subject to the provisions herein set forth pertaining to parity bonds); or

(c) for any lawful municipal purpose.

Section 15. Payments from the respective funds shall be made by check or voucher, signed by the City Treasurer and the Mayor, and drawn on the depository. Each such check or voucher shall briefly specify the purpose of the expenditure.

Section 16. The bonds paid either at or before maturity shall be canceled and shall not be reissued.