

ORDINANCE NO. 93-215

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF WATER AND SEWER REFUNDING REVENUE BONDS; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF 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 are operated as a single, integrated municipal undertaking (the "System") by the Clinton Water and Sewer Commission (the "Commission"); and

WHEREAS, the City Council has determined that the City will be able to receive a substantial savings by refunding its Water and Sewer Revenue Refunding Bonds, Series 1989 (the "1989 Bonds") authorized by Ordinance No. 89-183 of the City, adopted March 23, 1989 (the "1989 Ordinance"); and

WHEREAS, the City can refund the 1989 Bonds by the issuance of Water and Sewer Refunding Revenue Bonds, Series 1993, in the principal amount of \$330,000 (the "bonds"); and

WHEREAS, the City has made arrangements for the sale of the bonds to T. J. Raney & Sons, a division of Morgan Keegan & Company, Inc. (the "Purchaser"), at a price of 97.75% of par plus accrued interest (the "Purchase Price") pursuant to a Bond Purchase Agreement (the "Agreement") which has been presented to and is before this meeting; 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 on January 7, 1964; and

WHEREAS, the City has outstanding an issue of Water and Sewer Revenue Bonds, Series 1991 (the "1991 Bonds") authorized by Ordinance No. 91-093, adopted February 14, 1991 (the "1991 Ordinance"); and

WHEREAS, the coverage test for securing the bonds with a lien on revenues of the System on a parity with the lien on System revenues in favor of the 1991 Bonds has been met;

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

Section 1. The refunding of the 1989 Bonds shall be accomplished. The Mayor and City Recorder are hereby authorized to take, or cause to be taken, all action necessary to accomplish the same and to execute all required contracts.

Section 2. The City Council hereby finds and declares that the period of usefulness of the System will be more than 10 years, which is longer than the term of the bonds.

Section 3. The offer of the Purchaser for the purchase of the bonds from the City at the Purchase Price for bonds bearing interest at the rates per annum, maturing and otherwise subject to the terms and provisions hereafter in this Ordinance set forth in detail be, and is hereby accepted, and the Agreement, in substantially the form submitted to this meeting, is approved and the bonds are hereby sold to the Purchaser. The Mayor is hereby authorized and directed to execute and deliver the Agreement on behalf of the city and to take all action required on the part of the City to fulfill its obligations under the Agreement, including the delivery of an Official Statement for use by the Purchaser in connection with the sale of the bonds. The Mayor be, and he is hereby, authorized and directed, for and on behalf of the City, to execute an deliver the Official Statement to the Purchaser.

Section 4. Under the authority of the Constitution and laws of the State of Arkansas (the "State"), including particularly Title 14, Chapter 234, Subchapter 2, Title 14, Chapter 235, Subchapter 2, and Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated 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), City of Clinton, Arkansas, Water and Sewer Refunding Revenue Bonds, Series 1993 are hereby authorized and ordered issued in the principal amount of \$330,000 for the purpose of refunding the 1989 Bonds. The bonds shall mature on May 1 in the years and in the amounts and shall bear interest as follows:

<u>Year (May 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1994	\$ 15,000	2.65%
1995	30,000	3.00%
1996	35,000	3.40%
1997	40,000	3.50%
1998	40,000	3.85%
1999	40,000	4.00%
2000	40,000	4.15%
2001	45,000	4.25%
2002	45,000	4.35%

The bonds shall be dated November 1, 1993 and shall be issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. Unless the City shall otherwise direct, the bonds shall be numbered from 1 upward in order of issuance. Each bond shall have a CUSIP number.

Interest on the bonds shall be payable on May 1, 1994, and semiannually thereafter on May 1 and November 1 of each year. Payment of each installment of interest shall be made to the person in whose name the bond is registered on the registration books of the City maintained by First National Bank of Lawrence County, Walnut Ridge, Arkansas, as Trustee and Paying Agent (the "Trustee"), at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the "Record Date"), irrespective of any transfer or

exchange of any such bond subsequent to such Record Date and prior to such interest payment date.

Each bond shall bear interest from the payment date next preceding the date on which it is authenticated unless it is authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated prior to the first interest payment date, in which event it shall bear interest from November 1, 1993, or unless it is authenticated during the period from the Record Date to the next interest payment date, in which case it shall bear interest from such interest payment date, or unless at the time of authentication thereof interest is in default thereon, in which event it shall bear interest from the date to which interest has been paid.

Only such bonds as shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in Section 6 hereof (the "Certificate") duly executed by the Trustee shall be entitled to any right or benefit under this Ordinance. No bond shall be valid and obligatory for any purpose unless and until the Certificate shall have been duly executed by the Trustee, and the Certificate upon any such bond shall be conclusive evidence that such bond has been authenticated and delivered under this Ordinance. The Certificate on any bond shall be deemed to have been executed if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate on all of the bonds.

In case any bond shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new bond of like date, number, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated bond, or in lieu of and in substitution for such bond destroyed or lost, upon the owner paying the reasonable expenses and charges of the City and Trustee in connection therewith, and, in the case of a bond destroyed or lost, his filing with the Trustee evidence satisfactory to it that such bond was destroyed or lost, and of his ownership thereof, and furnishing the City and Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new bond. In the event any such bond shall have matured, instead of issuing a new bond, the City may pay the same without the surrender thereof. Upon the issuance of a new bond under this Section 4, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

The City shall cause books for the registration and for the transfer of the bonds as provided herein and in the bonds. The Trustee shall act as the bond registrar. Each bond is transferable by the registered owner thereof or by his attorney duly authorized in writing at the principal office of the Trustee. Upon such transfer a new fully registered bond or bonds of the same maturity, of authorized denomination or denominations, for the same aggregate

principal amount will be issued to the transferee in exchange therefor.

No charge shall be made to any owner of any bond for the privilege of transfer or exchange, but any owner of any bond requesting any such transfer or exchange shall pay any tax or other governmental charge required to be paid with respect thereto. Except as otherwise provided in the immediately preceding sentence, the cost of preparing each new bond upon each exchange or transfer and any other expenses of the City or the Trustee incurred in connection therewith shall be paid by the City. The City shall not be required (i) to issue, transfer or exchange any bond during a period beginning at the opening of business 15 days before any selection of bonds of that maturity for redemption and ending at the close of business on the day of the first mailing of the relevant notice of redemption, or (ii) to transfer or exchange any bonds selected for redemption in whole or in part.

The person in whose name any bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or premium, if any, or interest of any bond shall be made only to or upon the order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such bond to the extent of the sum or sums so paid.

In any case where the date of maturity of interest on or principal of the bonds or the date fixed for redemption of any bonds shall be a Saturday or Sunday or shall be in the State a legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal (and premium, if any) need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after the date of maturity or date fixed for redemption.

Section 5. The bonds shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Recorder and shall have impressed or imprinted thereon the seal of the City. The bonds, together with interest thereon, are secured by and are payable solely from revenues derived from the System ("Revenues") which are hereby pledged and mortgaged for the equal and ratable payment of the bonds. The pledge of Revenues in favor of the bonds shall be on a parity with the pledge in favor of the 1991 Bonds, but subordinate to the pledge in favor of the 1964 Bonds. The bonds and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation.

Section 6. The bonds and the Certificate shall be in substantially the following form and the Mayor and City Recorder

are hereby expressly authorized and directed to make all recitals contained therein:

REGISTERED

(Form of Bond)

REGISTERED

No. _____

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF VAN BUREN
CITY OF CLINTON
WATER AND SEWER REFUNDING
REVENUE BOND,
SERIES 1993

Interest Rate: _____ % Maturity Date: May 1, _____
Dated Date: November 1, 1993

Registered Owner:

Principal Amount: _____

CUSIP No.: _____

_____ Dollars (\$ _____)

KNOW ALL MEN BY THESE PRESENTS:

That the City of Clinton, County of Van Buren, State of Arkansas (the "City"), for value received, hereby promises to pay, but solely from the source as hereinafter provided and not otherwise, to the Registered Owner shown above upon the presentation and surrender hereof at the principal corporate trust office of First National Bank of Lawrence County, Walnut Ridge, Arkansas, or its successor or successors, as Trustee and Paying Agent (the "Trustee"), on the Maturity Date shown above, the Principal Amount shown above, 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 and private debts and to pay by check or draft interest thereon, but solely from the source as hereinafter provided and not otherwise, in like coin or currency from the interest commencement date specified below at the Interest Rate per annum shown above, payable May 1, 1994 and semiannually thereafter on the first days of May and November of each year, until payment of such principal sum or, if this bond or a portion hereof shall be duly called for redemption, until the date fixed for redemption, and to pay interest on overdue principal and interest (to the extent legally enforceable) at the rate borne by this bond. Payment of each installment of interest shall be made to the person in whose name this bond is registered on the registration books of the City maintained by the Trustee at the close of business on the fifteenth day of the month (whether or not a business day) next preceding each interest payment date (the "Record Date"), irrespective of any transfer or exchange of this bond subsequent to such Record Date and prior to such interest payment date.

This bond shall bear interest from the payment date next preceding the date on which it is authenticated unless it is

authenticated on an interest payment date, in which event it shall bear interest from such date, or unless it is authenticated prior to the first interest payment date, in which event it shall bear interest from the Dated Date shown above, or unless it is authenticated during the period from the Record Date to the next interest payment date, in which case it shall bear interest from such interest payment date, or unless at the time of authentication hereof interest is in default hereon, in which event it shall bear interest from the date to which interest has been paid.

This bond is one of an issue of City of Clinton, Arkansas Water and Sewer Refunding Revenue Bonds, Series 1993, aggregating Three Hundred Thirty Thousand Dollars (\$330,000) in principal amount (the "bonds"), and is issued for the purpose of refunding certain outstanding bonds payable from revenues of the City's water and sewer (combined) system (the "System"), paying necessary expenses incidental thereto and to the authorization and issuance of the bonds.

The bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas (the "State"), including particularly Title 14, Chapter 234, Subchapter 2, Title 14, Chapter 235, Subchapter 2, and Title 14, Chapter 164, Subchapter 4 of the Arkansas Code of 1987 Annotated and applicable decisions of the Supreme Court of Arkansas, including particularly City of Harrison v. Braswell, 209 Ark. 1094, 194 S.W. 2d 12 (1946), and pursuant to Ordinance No. 91-093, duly adopted on February 14, 1991, as supplemented by Ordinance No. _____, duly adopted on October 14, 1993 (collectively, the "Authorizing Ordinance"), and do 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 payable solely from the revenues derived from the operation of the System. The pledge of System revenues to the payment of the bonds is on a parity with the pledge in favor of the City's Water and Sewer Revenue Bonds, Series 1991 (the "1991 Bonds"), but is subordinate to the pledge in favor of the City's Water and Sewer System Refunding and Improvement Revenue Bonds, Series 1964. An amount of System revenues sufficient to pay the principal of and interest on the bonds and the 1991 Bonds has been duly pledged and set aside into the 1971 Water and Sewer Revenue Bond Fund identified in the Authorizing Ordinance. Reference is hereby made to the Authorizing Ordinance for a detailed statement of the terms and conditions upon which the bonds are issued, of the nature and extent of the security for the bonds, and the rights and obligations of the City, the Trustee and the registered owners of the bonds. The City has fixed and has covenanted and agreed to maintain rates for the services of the System which shall be sufficient at all times to provide for the proper and reasonable expenses of operation and maintenance of the System and for the payment of the principal of and interest on the bonds, including Trustee's fees, as the same become due and payable, to establish and maintain a debt service reserve and to make the required deposit for the depreciation of the System.

to all registered owners of bonds to be redeemed. Failure to mail an appropriate notice or any such notice to one or more registered owners of bonds to be redeemed shall not affect the validity of the proceedings for redemption of other bonds as to which notice of redemption is duly given in proper and timely fashion. All such bonds or portions thereof thus called for redemption and for the retirement of which funds are duly provided in accordance with the Authorizing Ordinance prior to the date fixed for redemption will cease to bear interest on such redemption date.

This bond is transferable by the registered owner hereof in person or by his attorney-in-fact duly authorized in writing at the principal corporate trust office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Authorizing Ordinance, and upon surrender and cancellation of this bond. Upon such transfer a new fully registered bond or bonds of the same maturity, of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefor. This bond is issued with the intent that the laws of the state shall govern its construction.

The City and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due hereon and for all other purposes, and neither the City nor the Trustee shall be affected by any notice to the contrary.

The bonds are issuable only as fully registered bonds in the denomination of \$5,000, and any integral multiple thereof. Subject to the limitations and upon payment of the charges provided in the Authorizing Ordinance, fully registered bonds may be exchanged for a like aggregate principal amount of fully registered bonds of the same maturity of other authorized denominations.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the bonds do exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by the bonds, together with all obligations of the City, does not exceed any constitutional or statutory limitation; and that the above referred to revenues pledged to the payment of the principal of and premium, if any, and interest on the bonds as the same become due and payable will be sufficient in amount for that purpose.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Authorizing Ordinance until the Certificate of Authentication hereon shall have been signed by the Trustee.

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds designated Series 1993 in and issued under the provisions of the within mentioned Authorizing Ordinance.

Date of Authentication: _____

FIRST NATIONAL BANK OF LAWRENCE
COUNTY
Walnut Ridge, Arkansas
TRUSTEE

By _____
Authorized Signature

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, _____ ("Transferor"),
hereby sells, assigns and transfers unto _____, the
within bond and all rights thereunder, and hereby irrevocably
constitutes and appoints _____ as attorney to
transfer the within bond on the books kept for registration thereof
with full power of substitution in the premises.

DATE: _____

Transferor

GUARANTEED BY: _____

NOTICE: Signature(s) must be guaranteed by a member of or participant in the Securities Transfer Agents Medallion Program (STAMP), or in another signature guaranty program recognized by the Trustee.

Section 7. Since the bonds are being issued on a parity of security with the 1991 Bonds, the bonds are to have the benefit of and are to be governed by the 1991 Ordinance and all of the provisions of the 1991 Ordinance (including those incorporated therein by reference), except those provisions clearly inconsistent herewith or inapplicable hereto, including, without limitation, the provisions pertaining to the establishment and charging of rates for services of the System, vacancies in office, the collection, depositing, securing, disbursing, investing and handling of Revenues and funds, the parity bond requirements and the operation, maintenance, insurance and care of the System, are hereby made

applicable hereto and are incorporated herein by reference as though fully set forth at this point. The effect of the above covenant shall be to continue the applicable provisions in full force and effect even after the payment of the 1991 Bonds and until the bonds are paid, or provision made therefor. In this regard, the following funds incorporated into the 1991 Ordinance are hereby confirmed and continued: Water and Sewer System Revenue Fund (the "Revenue Fund"); Water and Sewer System Operation and Maintenance Fund (the "Operation and Maintenance Fund"); Water and Sewer System Revenue Bond Fund (the "Prior Bond Fund"); 1971 Water and Sewer Bond Fund (the "Bond Fund"); and Water and Sewer System Depreciation Fund.

Section 8. (a) After making payments into the Operation and Maintenance Fund, there shall be paid from the Revenue Fund into the Bond Fund the sums in the amounts and at the times described below for the purpose of providing funds for the payment of the principal of and interest on the 1991 Bonds and the bonds, as they mature, with Trustee's fees, and as 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 (i) 1/5 of the next installment of interest on the 1991 Bonds and the bonds plus (ii) 1/10 of the next installment of principal of the bonds and the 1991 Bonds. Once the debt service reserve in the Bond Fund (the "Debt Service Reserve") shall reach an amount equal to the average annual debt service requirement on the 1991 Bonds and the bonds, the monthly payments into the Bond Fund may be reduced to (i) 1/6 of the next installment of principal of the bonds and the 1991 Bonds plus (ii) 1/12 of the next installment of interest on the 1991 Bonds and the bonds, but thereafter, if the Debt Service Reserve becomes impaired, increased payments of 1/5 and 1/10 shall be resumed until the impairment is cured. The City shall recalculate the required level for the Debt Service Reserve when the bonds or the 1991 Bonds are retired.

The City shall maintain records reflecting the Bond Fund and Debt Service Reserve as constituted of two subaccounts, identified, respectively, as the "1991 Subaccount" and the "1993 Subaccount." The 1991 Subaccount shall hold all debt service payments for the 1991 Bonds and the portion of the Debt Service Reserve relating to the 1991 Bonds, and the 1993 Subaccount shall hold all debt service payments for the bonds and the portion of the Debt Service Reserve relating to the bonds. The maintenance of records reflecting a 1991 Subaccount and a 1993 Subaccount shall not be interpreted to affect in any way the parity of security between the bonds and the 1991 bonds, and the Bond Fund and Debt Service Reserve shall secure each of them on a parity of pledge and security, without distinction or priority.

The City shall also pay into the Bond Fund such additional sums as necessary to provide for the Trustee's fees and expenses and any arbitrage rebate due the United States Treasury