

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

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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:

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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

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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

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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:

James Rodgers
City Recorder

By John B. Ham
Mayor

(SEAL)

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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

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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

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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

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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

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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,

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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

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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.

Section 17. The principal and interest installments shall be prepayable prior to maturity as provided in the bond form in Section 6 hereof.

Section 18. As long as any of the bonds are outstanding, the City shall not issue or attempt to issue any bonds having or claimed to be entitled to a priority of lien on the revenues of the Airport over the lien securing the bonds, including any and all future extensions, betterments and improvements to the Airport.

Nothing herein shall be construed in any manner to prevent the issuance by the City of additional revenue bonds to finance or pay the cost of constructing extensions, betterments and improvements to the Airport; however, any such additional bonds shall not be issued on a parity with the outstanding bonds of this issue unless and until there shall have been procured and filed in the office of the City Recorder a statement by a certified public accountant not in the regular employ of the City reciting the opinion that the net revenues (net revenues being gross revenues of the Airport less operation and maintenance expenses) of the Airport for the fiscal year preceding the year in which such parity bonds are to be issued were not less than 120% of the average annual debt service requirements (principal and interest) on all outstanding bonds to which the revenues of the Airport are pledged and the bonds then proposed to be issued.

The additional bonds, the issuance of which is restricted and conditioned by this Section 18, shall not be deemed to mean bonds the security and source of payment of which are subordinate and subject to the priority of the bonds.

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The provisions of this Section 18 may be waived by the holders of 75% in principal amount of the bonds at any time outstanding.

Section 19. It is covenanted and agreed by the City with the holder or holders of the bonds that it will faithfully and punctually perform all duties with reference to the Airport required by the Constitution and laws of the State of Arkansas and by this Ordinance, including, without limitation, the making and collecting of reasonable and sufficient rates lawfully established for facilities and services of the Airport, segregating the revenues of the Airport and applying them to the respective funds herein created.

It is further covenanted and agreed by the City with the holder or holders of the bonds that the City will maintain public liability insurance covering the City's ownership and operation of the Airport, with maximum liability limits of not less than \$10,000 for personal injury or death of a single person, \$20,000 for personal injury or death of more than one person in a single accident or occurrence and \$5,000 for property damage arising from a single accident or occurrence.

Section 20. The City will keep proper records, books and accounts relating to the operation of the Airport, which shall be kept separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the operation of the Airport. Such books shall be available for inspection by the holder of any of the bonds, or the agent or the representative of any bondholder, at reasonable times and under reasonable circumstances. The City agrees to have these records audited by an independent certified public accountant at least once each year. If the United States of America holds any of the

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bonds, the City will furnish to the United States of America; or, so long as any of the bonds remain outstanding, the City will furnish, if so requested in writing, to any bondholder or registered owner or to any Paying Agent: (1) On or before thirty (30) days after the close of each fiscal year a statement of the operations of the Airport for the past fiscal year in form and content in the manner hereinafter specified, and (2) on or before ninety (90) days after the close of each fiscal year, a copy of the report of the certified public accountant. Both reports required by the last preceding sentence shall contain at least the following information:

(a) Comment regarding the manner in which the City has complied with the covenants in this Bond Ordinance and recommendations for any changes or improvements in the operation of the Airport;

(b) Statement of income and expense for the Airport;

(c) Statement showing analysis of each fund including deposits, withdrawals and beginning and ending balances;

(d) Balance sheet for the Airport;

(e) Schedule of insurance policies and fidelity bonds showing, with respect to each policy and bond, the amount and nature of risk covered, the expiration date, the name of the insurer;

(f) Names and titles of principal officers;

(g) The current assessed valuation of all taxable real and personal property located in the City, and a report on tax rates, levies and collections of the City; and

(h) A general statement concerning any events of circumstances which possibly might affect the financial status of the Airport.

The reports referred to above shall cover the operations of the Airport for all of the last ensuing fiscal year. In the event the City fails or refuses to furnish or cause such reports to be furnished, any holder or registered owner of the bonds, may have the reports made, and the cost thereof shall be charged against the Operation and Maintenance Fund.

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Section 21. The City covenants and agrees that it. will maintain the Airport in good condition and operate it in an efficient manner and at reasonable cost. While any bonds are outstanding, the City agrees that it will insure, and at all times keep insured, in the amount of the actual value thereof, in a responsible insurance company or companies authorized and qualified under the laws of the State of Arkansas to assume the risk thereof, all properties of the Airport against loss or damage thereto from fire, lightning, tornado, winds, riot, strike, civil commotion, malicious damage, explosion, and against loss or damage from any other causes customarily insured against in the case of similar properties. In the event of loss, the proceeds of such insurance shall be applied solely toward the reconstruction, replacement or repair of the Airport, and in such event the City will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement and repair work. If such proceeds are more than sufficient for such purposes, the balance remaining shall be deposited to the credit of the Airport Revenue Fund, and if such proceeds shall be insufficient for such purposes, the deficiency shall be supplied, first, from moneys in the Depreciation Fund, second, from moneys in the Operation and Maintenance Fund, and third, from available moneys in the Airport Revenue Fund. Nothing herein shall be construed as requiring the City to expend any funds for operation and maintenance of the Airport or for premiums on its insurance which are derived from sources other than the operation of the Airport, but nothing herein shall be construed as preventing the City from doing so.

Section 22. So long as any of the bonds are outstanding, the City covenants and agrees that it will not mortgage, pledge, or otherwise encumber the Airport

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or any part thereof, including any and all betterments and improvements thereto or any revenues therefrom, except as herein provided, and will not sell, lease, or otherwise dispose of any substantial portion of the same.

Section 23. (a) If there be any default in the payment of the principal of or interest on any bond, or if the City defaults in any Bond Fund requirement or in the performance of any of the other covenants contained and set forth in this Ordinance, the holder or registered owner may, by proper suit compel the performance of the duties of the officials of the City as set forth in Act No. 53 of 1949, as amended, and Act No. 175 of 1959, as amended, and in this Ordinance. And, in the case of a default in the payment of the principal of and interest on any of the outstanding bonds, or if the City fails to comply with any other obligation which it herein assumes, any holder or registered owner of the bonds may appear in a proper action in a court of competent jurisdiction for and shall be entitled to: (i) the appointment of a receiver to administer the Airport on behalf of the City and the bondholders or registered owners with power to charge and collect (or by mandatory injunction or otherwise to cause to be charged and collected) rates sufficient to provide for the payment of the expenses of operation and maintenance and to pay any bonds and interest outstanding and to apply the revenue in conformity with the provisions of this Ordinance (the custody and operation of the Airport to revert to the City when all defaults in principal and interest payments have been cured) or (ii) foreclosure on the properties constituting the Airport.

(b) It is understood and intended that no one or more holders or registered owners of the bonds hereby secured

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shall have any right in any manner whatever by his or their action to affect, ~~disturb~~ or prejudice the security of this Ordinance, or to enforce any right hereunder except in the manner herein provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all holders or registered owners of the outstanding bonds, and that any individual rights of action or other right given to one or more of such holders or registered owners by law are restricted by this Ordinance to the rights and remedies herein provided.

(c) No remedy conferred upon or reserved to the holders or registered owners of the bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or available under the law.

(d) No delay or omission of any holders or registered owners of the bonds to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Ordinance to the holders and registered owners of the bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(e) The holders or registered owners of not less than a majority in principal amount of bonds then outstanding may waive any default which shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted under the provisions of this Ordinance or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

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Section 24. The City covenants that it will not sell or otherwise dispose of any portion of the Airport and that it will not encumber the same or any part thereof or its interest therein or create or permit to be created any charge or lien on the Airport revenues except as may be expressly authorized herein; provided, however, the City may, from time to time, sell, exchange or otherwise dispose of any properties or release, relinquish or extinguish any interest therein which is not needed or serves no useful purpose in connection with the maintenance and operation of the Airport, by reason of having worn out, become obsolete or otherwise of no further use, and the proceeds, if any, derived therefrom shall be applied to the replacement of the property so sold or disposed of, if replacement is necessary or desirable, or if not so applied, shall be deemed to be revenues derived from the Airport. All replacement property replacing or substituted for any of the property mortgaged hereby shall immediately upon acquisition and without any further act become and be subject to the lien securing the bonds, in accordance with the terms hereof.

Section 25. When the bonds herein authorized have been executed by the Mayor and City Recorder and the seal of the City impressed, as herein provided, they shall be delivered to the purchaser upon payment of the purchase price. The proceeds from the sale of the bonds shall be disbursed as follows:

(a) The amount necessary to provide for the payment of interest during the construction period shall be deposited in the Bond Fund and the balance of the proceeds shall be deposited in a special account of the City designated "Airport Construction Fund" (the "Construction Fund") in a bank that is a member of the Federal Deposit Insurance Corporation and used for the payment of the costs of construction and paying necessary expenses incidental thereto, including legal and engineering fees and expenses.

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Moneys in the Construction Fund in excess of the amount insured by the Federal Deposit Insurance Corporation shall be continuously secured by bonds or other direct or fully guaranteed obligations of the United States of America, except that any moneys invested as hereafter authorized need not be so secured.

The moneys in the Construction Fund shall be disbursed solely in payment of the cost of the construction, paying necessary expenses incidental thereto and paying expenses of issuing the bonds. Disbursements shall be on the basis of checks or requisitions which shall contain at least the following information: The person, firm or corporation to whom payment is being made; the amount of the payment; and the purpose by general classification of the payment. Each check or requisition must be signed by the individual occupying the managing office of the Airport designated by the Airport Commission and approved by the City Council, and in the case of all items of expense over which the consulting engineers shall exercise supervision (which shall include all expenses except engineering fees, legal fees and expenses pertaining

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to the issuance of the bonds) each check or requisition shall be accompanied by a certificate signed by the consulting engineers (or by a representative thereof designated by the consulting engineers), certifying approval thereof. In the case of requisitions, the depository shall issue its check upon the Construction Fund payable to the person, firm or corporation designated in the requisition. The depository of the Construction Fund shall be required to keep records as to all payments made on the basis of requisitions, and the managing officer of the Airport shall keep records of all payments made on the basis of checks.

When the construction shall have been completed, this fact shall be evidenced by the filing with the depository in which the Construction Fund is deposited of a certificate signed by the managing officer of the Airport, and the consulting engineer, which certificate shall state the date of such completion and shall state that all obligations which are payable from the Construction Fund have been discharged. Upon receipt of the above certificate the depository with which the Construction Fund is deposited shall pay or transfer any remaining balance pursuant to the written direction or check signed by the managing officer of the Airport and one other person designated by the City Council with any such remaining balance to be transferred into the Bond Fund, and applied immediately to the prepayment of bonds, in multiples of \$1,000 in principal amount. Any remaining balance of less than \$1,000 shall be deposited in the debt service reserve in the Bond Fund. The City shall require the depository to execute an appropriate Deposit Agreement embodying the substance of the provisions of this Section 25.

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Section 26. (a) Moneys held for the credit of the Construction Fund which exceed the estimated disbursements on account of the construction for the next ninety (90) days shall, as nearly as may be practicable, be continuously invested and reinvested in direct obligations of, or obligations the principal of and interest on which are fully guaranteed by, the United States Government, which shall mature, or which shall be subject to redemption by the holder or registered owner at the option of the holder or registered owner, not later than the date or dates when the moneys will be needed for project disbursements.

(b) Moneys held for the credit of the debt service reserve in the Bond Fund shall be continuously invested and reinvested in direct obligations of, or obligations the principal of and interest on which are fully guaranteed by, the United States Government, which shall mature, or which shall be subject to redemption by the holder or registered owner thereof, at the option of such holder or registered owner, not later than ten (10) years after the date of investment.

(c) Moneys held for the credit of any other fund may, at the option of the City, be invested and reinvested by the City in direct obligations of, or obligations the principal of and interest on which are fully guaranteed by, the United States Government, which shall mature, or which shall be subject to redemption by the holder or registered owner thereof at the option of such holder or registered owner, not later than the date or dates when the moneys held for the credit of the particular fund will be required for the purpose intended.

(d) Obligations so purchased as an investment of moneys in any such fund shall be deemed at all times to be a

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part of such fund, and the interest accruing thereon and any profit realized from such investment shall be credited to such fund, and any loss resulting from such investment shall be charged to such fund.

(e) Moneys so invested in United States Government obligations, as above defined, need not be secured by the depository bank.

Section 27. That in the event the office of Mayor, City Recorder, City Treasurer, City Council or Airport Commission shall be abolished, or any two or more of such offices shall be merged or consolidated, or in the event the duties of a particular office shall be transferred to another office or officer, or in the event of a vacancy in any such office by reason of death, resignation, removal from office or otherwise, or in the event any such officer shall become incapable of performing the duties of his office by reason of sickness, absence from the City or otherwise, all powers conferred and all obligations and duties imposed upon such office or officer shall be performed by the office or officer succeeding to the principal functions thereof, or by the office or officer upon whom such powers, obligations and duties shall be imposed by law. In this regard, if the City should ever fail to maintain the office of Treasurer, the duties of the Treasurer hereunder shall be performed by the City Recorder.

Section 28. The provisions of this Ordinance shall constitute a binding contract between the City and the holders or registered owners of the outstanding bonds issued hereunder, and the City will at all times strictly adhere to the terms and provisions hereof and fully discharge all of its obligations hereunder. Subject to the terms and provisions contained in this Section and not otherwise, the holders or

registered owners of not less than seventy-five percent (75%) in aggregate principal amount of the bonds then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance supplemental hereto as shall be necessary or desirable for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Ordinance or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting (a) an extension of the maturity of the principal of or interest on any bond issued hereunder, or (b) a reduction in the principal amount of any bond or the rate of interest thereon, or (c) the creation of a lien upon or a pledge of revenues other than as expressly authorized by the appropriate provisions of this Ordinance as now adopted, or (d) the creation of a privilege or priority of any bond or bonds over any other bond or bonds, or (e) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

Section 29. The City covenants that it shall not take any action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest payable on the bonds to be subject to federal income taxation. Without limiting the generality of the foregoing, the City covenants that the proceeds of the sale of the bonds will not be used directly or indirectly in such manner as to cause the bonds to be treated as "arbitrage bonds" within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended.

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Section 30. This Ordinance shall not create any right of any kind, and no right of any kind shall arise hereunder pursuant to it, until the bonds authorized by this Ordinance shall be issued and delivered.

Section 31. The provisions of this Ordinance are hereby declared to be separable, and if any provision shall for any reason be held illegal or invalid, it shall not affect the validity of the remainder of the Ordinance.

Section 32. References in this Ordinance to "holder" or "bondholder" shall, when appropriate, be deemed to include the registered owner of the bonds.

Section 33. All ordinances and resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 34. It is hereby ascertained and declared that the Airport is presently inadequate to serve the needs of the City and the inhabitants thereof and that the completion of the construction is therefore essential to the continued economic development of the City and its environs. It is, therefore, declared that an emergency exists, and this Ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage.

PASSED: October 6, 1977.

APPROVED:

ATTEST:

Jaye Rogers
City Recorder

John B. [Signature]
Mayor

(SEAL)

CERTIFICATE

The undersigned, City Recorder of the City of Clinton, Arkansas, hereby certifies that the foregoing pages, numbered from 1 to 30, inclusive, are a true and perfect copy of Ordinance No. 106, adopted at a regular session of the City Council of the City of Clinton, held at the regular meeting place in the City at 6 o'clock p.m., on the 6 day of October, 1977, and that the Ordinance is of record in Ordinance Record Book No. 2, Page _____, now in my possession.

GIVEN under my hand and seal on this 6 day of October, 1977.

Jay Kodger
City Recorder

(SEAL)