

ORDINANCE NO. 63

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF WATER REVENUE BONDS, INCREASING THE WATER RATES IN ORDER TO PROVIDE THE REVENUES TO PAY SAID BONDS, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Clinton, Arkansas, owns and operates a municipal waterworks system on which it has an indebtedness represented by three water revenue bond issues, as follows: (1) First lien issue of \$38,600 dated March 1, 1953, with a balance of \$31,100 outstanding, due on September 1 of the years 1959 to 1973, inclusive; (2) a \$10,000 issue on a parity as to interest payments with the first lien bonds, but second lien as to principal, all due on September 1, 1974; and (3) \$6,000 issue dated September 1, 1953, on a parity with the first lien bonds, with a balance of \$3,500 outstanding, due on September 1 of the years 1959 to 1965, inclusive, but the City needs to expand the system in order to meet the needs of its citizens, and especially of a new poultry processing plant, and it is to the advantage of the City and its inhabitants to do this in order to provide additional employment; and

WHEREAS, the processing plant agrees to pay, in addition to the meter charges for the water it uses, a flat \$125 per month charge, and the City be raising the minimum charge per connection by \$1.00 per month can secure enough additional revenues to pay the estimated cost of the improvements over a period of from one to seventeen years, and the City has had plans made by L. M. McGoodwin, a consulting engineer, of Fayetteville, Arkansas, which plans are on file in the office of the City Recorder and show an estimated cost of \$35,000; and

WHEREAS, E. L. Villareal & Company, investment bankers, Little Rock, Arkansas, have agreed to buy a bond issue of \$35,000 before conversion, bearing interest at the rate of 5.15 per centum per annum payable semi-annually, and maturing as hereinafter set out, provided that the City will pledge for their payment in water revenues, subject to the lien of the hereinabove described bonds,

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but setting apart for the new issue all of the revenue derived from the increase of \$1.00 per month in the minimum charge, and the additional \$125 per month to be paid by the processing plant; and the additional revenue derived from these two sources will be sufficient to give a coverage of approximately 140 per cent of the average annual requirements for the payment of the new bonds; and

WHEREAS, the said E.L. Villareal & Company have agreed to pay par and accrued interest for these bonds and in addition to pay the expenses of printing the bonds and the fees of the trustee and paying agent and the bond approving attorneys upon certain conditions, one of which is that they may have the right to convert the bonds to bonds bearing interest at a lower rate per annum, and they have presented computations showing that the cost of maturing \$35,000 in bonds gearing interest at the rate of 5.15 per cent per annum, dated February 1, 1959, and maturing on August 1 of each year as follows:

\$1250	in 1960 to 1963, inclusive
1500	in 1964 to 1967, inclusive
2000	in 1968 and 1969
2500	in 1970 to 1973, inclusive
3000	in 1974
3500	in 1975 and 1976

is \$55,213.74, and they have converted these bonds to \$39,500 in bonds dated February 1, 1959, bearing interest at the rates of  $3\frac{1}{2}$  per cent and 4 per cent per annum, maturing over the same period of time as hereinabove set out, at a total cost of principal and interest of \$55,130. so that the City will receive the same amount for its bonds but will pay \$83.74 less for retiring them; now, therefore,

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

SECTION 1. The City Council finds that it is necessary to make the improvements to its municipal waterworks system in order to provide adequate water for the domestic, commercial and manufacturing needs of the City, and therefore the Council does determine to make the improvements which briefly described, are as follows: Construction of a new primary treatment unit for the water treatment plant designed for a capacity of 400 gallons per minute, a new filter designed for 200 gallons per minute, a 50,000 gallon clear treated water storage tank, a low lift pump to pump water from the river and a high service pump at 400 gallons per minute to deliver water

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to the system, and the installation of approximately 600 feet of 6-inch pipe to deliver water to the new poultry processing plant and approximately 1500 feet of 8-inch pipe to make a connection in the distribution system so that the water can be delivered.

SECTION 2. The City Council finds that the sale of the \$35,000 in bonds bearing interest at the rate of 5.15 per cent per annum to E.L. Villareal & Company is a fair sale at a price that is allowed by law, and that the conversion of these bonds to \$39,500 bearing interest and maturing as hereinafter set out, gives to the City for its bonds the full amount that it would receive if there were no conversion and it does not require the City to pay any more on account of conversion; therefore, the sale of the bonds and the conversion are both approved.

SECTION 3. That under the authority of the general statutes of the State of Arkansas, and particularly Act No. 131 of the General Assembly of the State of Arkansas for the year of 1933, as amended (sometimes hereinafter called "Act No. 131, as amended,"), revenue bonds be issued in the total amount of \$39,500, the proceeds of the sale of which shall be used to pay the cost of the new improvements, construction, and for six months after the completion thereof, and other necessary expenses; that said bonds be designated "City of Clinton, Arkansas, \_\_\_\_ per cent Water Revenue Bonds of 1959," be dated as of February 1, 1959, numbered from 1 to 41, both inclusive, be sometimes hereinafter referred to as "bonds of 1959," be in the denomination of \$1000 each except Nos. 23, 26, and 29, which shall be in the denomination of \$500 each, be callable as hereinafter set out, and mature in numerical order on August 1 of each year as follows:

<u>YEAR</u>	<u>BOND NOS.</u>	<u>AMOUNT</u>
1960	1 and 2	\$2000
1961	3 and 4	2000
1962	5 and 6	2000
1963	6 and 7	2000
1964	8 and 9	2000
1965	10 and 11	2000
1966	12 and 13	2000
1967	14 and 15	2000
1968	16 and 17	2000
1969	19 and 20	2000

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<u>YEAR</u>	<u>BOND NOS.</u>	<u>AMOUNT</u>
1970	21,22, and 23	\$2500
1971	24,25, and 26	2500
1972	27,28, and 29	2500
1973	30,31, and 32	3000
1974	33,34, and 35	3000
1975	36,37, and 38	3000
1976	39,40, and 41	3000

The bonds shall bear interest payable semi-annually beginning August 1, 1959, at the following rates per annum: Nos. 1 to 20, inclusive, at  $3\frac{1}{2}\%$ , and Nos. 21 to 41, inclusive, at 4%. The bonds shall be signed by the Mayor and City Recorder and sealed with the corporate seal of the City; the interest upon the bonds shall be evidenced by coupons attached, thereto, the coupons to be signed by said Mayor by his facsimile signature, and the Mayor shall be the execution of the bonds adopt as and for his own proper signature his facsimilie signature appearing on said coupons. Both principal and interest of the bonds shall be payable in any coin or currency which on the dates of payment thereof is legal tender for the payment of debts due the United States of America, at the office of The First National Bank in Little Rock, Arkansas.

The bonds together with interest, thereon, shall be payable solely out of the Water Revenue Bond Fund of 1959 as hereinafter described, and shall be a valid claim of the holder thereof only against such Fund, and the amount of the revenues pledged to said Fund, which amount of said revenues is hereby pledged and mortgaged for the equal and ratable payment of the interest on and principal of the bonds of 1959, and shall be used for no other purpose, except as hereinafter set out.

SECTION 4. Said bonds of 1959 and coupons shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF ARKANSAS  
COUNTY OF VAN BUREN  
CITY OF CLINTON

Per Cent Water Revenue Bond of 1959

No. \_\_\_\_\_

Amount\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

That the City of Clinton, in the County of Van Buren, State of Arkansas, for value received hereby promises to pay, solely from the special fund provided therefore as hereinafter set forth, to

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bearer, the sum of \_\_\_\_\_ DOLLARS on the first day of August, 19\_\_, with interest thereon at the rate of \_\_\_\_\_ per centum (\_\_\_\_%) per annum from date until paid, payable on August 1, 1959, and semi-annually thereafter on the first days of February and August, upon presentation and surrender of the annexed coupons as they severally become due. Both principal hereof and interest hereon shall be payable in any coin or currency which on the dates of payment thereof is legal tender for the payment of debts due the United States of America, at the office of The First National Bank in Little Rock, Little Rock, Arkansas.

This bond is one of a series of bonds aggregating Thirty-Nine Thousand Five Hundred Dollars (\$39,500), all of like tenor and effect except as to number, denomination, interest rate, and maturity, numbered from 1 to 41, both inclusive, and issued for the purpose of improving and enlarging the municipal waterworks system for said City. (The waterworks system will be hereinafter called the "System.")

This bond and the series of which it forms a part are issued pursuant to and in accordance with the provisions of the laws and Constitution of the State of Arkansas, and particularly Act No. 131 of the Acts of the General Assembly of the State of Arkansas for the year 1933, as amended, and do not constitute an indebtedness of the City of Clinton within any constitutional or statutory limitation. Said bonds are payable solely from a fixed amount of the revenues from the System, which amount shall be sufficient to pay the principal of and interest on the bonds as the same become due and payable. Said amount has been duly set aside and pledged as a special fund for that purpose and identified as the "Water Revenue Bond Fund of 1959," created by Ordinance No. 63 of the City of Clinton, Arkansas, passed and approved on the 21st day of January, 1959, being the ordinance by which this bond is authorized to be issued, and recorded in the office of the Circuit Clerk and ex officio Recorder of Van Buren County, Arkansas, and reference is made thereto for a detailed description of said Water Revenue Bond Fund of 1959. The said City of Clinton has fixed and has covenanted

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and agreed to maintain rates for water services which shall be sufficient at all times to provide for the payment of the reasonable expenses of operation, repair and maintenance of said System, and to provide for the payment of the principal of and interest on the bonds of this issue and the other water revenue bonds issued by the City and now outstanding, as the same become due and payable.

This bond is expressly made negotiable by the statutes under which it is issued, and issued with the intent that the laws of the State of Arkansas shall govern the construction thereof.

After a reserve fund of \$3000 has been established, the City pledges itself to use the available surplus from the revenues pledged for the payment of the bonds of this issue to call said bonds for payment prior to maturity, and on and after August 1, 1964, the City may call bonds for payment prior to maturity with funds from any source, but all calls shall be made in inverse numerical order at par and accrued interest, and only on an interest paying date. In the event a call is made, the City shall publish notices for such call for redemption once a week for two weeks in some newspaper of general circulation throughout the State of Arkansas and published in the City of Little Rock, Arkansas, giving the number and maturity of each bond being called, the first publication to be at least fifteen days prior to the date fixed for redemption, and after the date fixed for redemption each bond so called will cease to bear interest, provided funds for its payment are on deposit with the paying agent at that time.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all conditions, things and acts required to exist, to happen and to be performed precedent to and in the issuance of this bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that sufficient of the income and revenue which is deemed to be derived from the operation of said System has been pledged to and will be set aside into said special fund for the payment of the principal of and interest on said bonds; and these bonds do not exceed any statutory or constitutional limitation.

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This bond shall not be valid until it shall have been authenticated by the certificate hereon, duly signed by the The First National Bank in Little Rock, Little Rock, Arkansas.

IN WITNESS WHEREOF, the City of Clinton, Arkansas, by its City Council, has caused this bond to be signed by the Mayor and City Recorder thereof and sealed with the corporate seal of said City, and has caused the coupons hereto attached to be executed by the facsimile signature of said Mayor, all as of the first day of February, 1959.

CITY OF CLINTON, ARKANSAS      By: FLOY BERKOWITZ, Mayor.  
(Seal)

Attest: G. M. AYERS, City Recorder.

(Form of Coupon)

No. \_\_\_\_\_ \$ \_\_\_\_\_

On the first day of February (August), 19\_\_, unless the bond to which this coupon is attached is sooner called payment, the City of Clinton, Arkansas, promises to pay to bearer the sum of \_\_\_\_\_ DOLLARS in any coin or currency which on said date is legal tender for the payment of debts due the United States of America, solely out of the fund specified in the bond to which this coupon appertains, at the office of The First National Bank in Little Rock, Little Rock, Arkansas, being interest then due on its Water Revenue Bond of 1959 dated February 1, 1959, and numbered \_\_\_\_\_.

CITY OF CLINTON, ARKANSAS      By: \_\_\_\_\_  
MAYOR

(All coupons shall be for six months' interest. The Mayor's signature shall be lithographed.)

On the back of said bonds is to appear the following:

CERTIFICATE

This bond is one of the 41 Water Revenue Bonds of 1959 aggregating \$39,500 described within.

THE FIRST NATIONAL BANK IN LITTLE ROCK, LITTLE ROCK, ARKANSAS,  
Trustee.

By \_\_\_\_\_, Trust Officer, Little Rock, Ark.

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SECTION 5. In order to pay the Water Revenue Bonds of 1959 and the interest thereon as they mature, the following monthly rates for water service are hereby established and set up:

MORE \_\_\_\_\_ MORE \_\_\_\_\_

#### MONTHLY WATER RATES

For domestic users: First 3,000 gallons or less .....	\$3.50
For commercial users: First 3,000 gallons or less .....	4.50
For all users: Next 3,000 gallons.....	\$.40 per 1,000 gallons
Next 4,000 gallons.....	\$.30 per 1,000 gallons
Next 15,000 gallons.....	\$.25 per 1,000 gallons
Over 25,000 gallons.....	\$.15 per 1,000 gallons
Minimum charge for domestic users.....	\$3.50
Minimum charge for commercial users.....	4.50
Fire Hydrants.....	75.00
per year per hydrant, payable at the rate of \$18.75 quarterly	

In addition to the charge for water as shown by its water meter, the Clinton Poultry and Egg plant shall pay \$125 per month because of the additional cost to supply it in the quantity it requires.

SECTION 6. The additional revenue derived from the increased minimum monthly charge and the special charge to the Clinton Poultry and Egg Plant shall be deposited in a separate fund to be designated "Water Revenue Bond Fund of 1959," and after a reserve of \$3000 has been accumulated in said Water Revenue Bond Fund of 1959, the surplus must be used to call bonds for prepayment, except that the City will neither be required nor permitted to call bonds for partial payment.

SECTION 7. In addition to the fund hereinabove created by Section 6. of this ordinance, the City agrees that in the event there are surplus water revenues as defined by Section 12. of Ordinance No. 53, of the City of Clinton, passed and approved March 23, 1953, and recorded in Record Book Vol. Misc. 13, pages 61 to 70, inclusive, in the office of the Circuit Clerk and ex officio Recorder of Van Buren County, Arkansas, and there is either a deficit or a deficit is about to occur in the Water Revenue Bond Fund of 1959, hereinabove created, it will transfer available funds from such surplus to the Water Revenue Bond Fund of 1959, subject to any priority that the presently outstanding water revenue bonds may have on such funds.

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SECTION 8. Nothing in this ordinance is intended to nor shall be construed to impair the obligations of the City to the holders of any of its presently outstanding water revenue bonds.

SECTION 9. There shall be a statutory mortgage lien upon that part of the waterworks system constructed from the proceeds of this water revenue bond issue, which shall exist in favor of the holders of the bonds of 1959 and each of them and to and in favor of the holders of the coupons attached to said bonds, and such improvements shall remain subject to such statutory mortgage lien until payment in full of the interest on and principal of said bonds; provided, however, that such statutory mortgage lien shall be interpreted according to the decision of the Supreme Court of Arkansas cited as City of Harrison v. Braswell 209 Ark. 1094, 194 SW (2d) 12, and that said statutory lien shall not be asserted or enforced so as to result in a foreclosure or sale of any of the properties constituting the municipal waterworks, but said statutory mortgage lien shall be recognized and enforced only for the purpose of preventing the sale, attempted mortgage, lease, or disposal in any other manner, of an integral part of said System.

SECTION 10. Nothing in this ordinance shall be construed to prevent the issuance by the City of additional bonds to finance or pay the cost of constructing any extensions, betterments or additions to the System; provided, however, that the City shall not authorize or or issue any such additional bonds so long as any of these bonds are outstanding unless the gross revenues derived from the System for the fiscal year then next preceding shall have been sufficient to provide for all costs of operation, repair, maintenance and depreciation of the System and leave a balance equal to at least 150 per cent of the aggregate of (a) principal and interest payments for such year on all bonds then outstanding and the fiscal agency charges therefor; and (b) one year's interest on the total issue of such additional bonds then proposed to be issued; and (c) an amount of principal of such additional bonds for one year computed by dividing the total amount of such issue by the number of years to the final maturity date of such bonds. Provided, no bonds shall be issued

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having a lien on net revenues prior to the lien of the bond issue authorized by this ordinance, but nothing herein shall be construed to prevent the City from issuing bonds subject to the prior lien of the City's water revenue bonds then outstanding.

SECTION 11. The Mayor and City Recorder are hereby authorized and directed to execute the bonds and deliver them to the buyers upon payment of the full purchase price and accrued interest. The money received for accrued interest shall be paid into the Water Revenue Bond Fund of 1959. The balance of the money received for the bond issue shall be deposited in a fund hereby created and shall be designated "1959 Construction Fund," and shall be used solely for the purpose of paying the cost of the improvements according to the plans thereof which are now on file, together with the necessary engineering, legal, bond costs, and other expenses incidental to such construction, and except for legal, bond and engineering costs, shall be paid out only on engineer's estimates, and each depository shall be notified of this requirement. Provided, the City shall be and is hereby authorized to set aside in the Water Revenue Bond Fund of 1959 from the proceeds of the bond sale a sum sufficient to pay interest on the bonds during the period of construction of the improvements, as estimated by the engineer, and for six months thereafter, and the paying agent's fees. The 1959 Construction Fund may be deposited in one or more banks, each of which shall be required to give security for that part of the deposit, which exceeds the amount guaranteed by said Federal Deposit Insurance Corporation, said security to be either a surety bond executed by a corporation authorized to do business in Arkansas, or the escrow deposit of bonds issued by or fully guaranteed by the United States of America. In the event that any funds remain in the 1959 Construction Fund after completion of the improvements, such balance shall be immediately transferred to the Bond Fund of 1959.

SECTION 11 (a) It shall be the duty of the City Treasurer to deliver to the Trustee, not less than five days before the due date of any semi-annual payment of interest or annual payment of principal, a check or voucher drawn on the Water Revenue Bond Fund of 1959,

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to be used to meet the payment then due, together with the with the paying charges hereinafter set out. The amounts of the payments are as follows:

<u>YEAR</u>	<u>PRINCIPAL</u>	<u>INTEREST</u>				<u>TOTAL</u>
	August 1 of each year	Feb. 1 3½ per cent	Aug. 1	Feb. 1 4 per cent	Aug. 1	
1959	\$	\$	\$350	\$	\$390	\$740
1960	2000	350	350	390	390	\$3480
1961	2000	315	315	390	390	3410
1962	2000	280	280	390	390	3340
1963	2000	245	245	390	390	3270
1964	2000	210	210	390	390	3200
1965	2000	175	175	390	390	3130
1966	2000	140	140	390	390	3060
1967	2000	105	105	390	390	2990
1968	2000	70	70	390	390	2920
1969	2000	35	35	390	390	2850
1970	2500			390	390	3280
1971	2500			340	340	3180
1972	2500			290	290	3080
1973	3000			240	240	3480
1974	3000			180	180	3360
1975	3000			120	120	3240
1976	3000			60	60	3120

These amounts shall be proportionately reduced in the event any bonds are called for payment prior to maturity.

SECTION 12. The terms "City" and "Bond Fund" as used in this section shall mean, respectively, the incorporated Town or the City issuing the Bonds, and the Fund provided by this ordinance for the payment of the Bonds.

For and in consideration of the purchase and acceptance of the Bonds authorized by this ordinance and to facilitate their payment, with interest, the City agrees to the following terms:

(a) None of the facilities or services afforded by the System shall be furnished without a reasonable charge being made therefore. In the event that the City or any department, agency, or instrumentality thereof shall avail itself of the facility or services afforded by the System the reasonable value of the services and facilities so afforded shall be charged against the City or such department, agency, or instrumentality, and shall be paid for as charges therefor accrue. The revenues so received from the City shall be deemed to be revenues derived from the operation of the System; provided, however, that nothing herein shall be construed as requiring the City or any department, agency, or instrumentality

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thereof to avail itself of the facilities or services afforded by the System.

(b) The City will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost. So long as any of the Bonds are outstanding, the City agrees to maintain fire, lightning and tornado insurance on the System in an amount which mormally would be carried by a private company engaged in a similar type of business. These insurance policies are to be taken with companies approved by the Trustee, are to carry a clause making them payable to the Trustee as its interest may appear, are to be kept continuously in force, and either the original policies of insurance shall be placed in the custody of the Trustee or the Trustee shall be furnished evidence, satisfactory to wit that policies have been issued and carry the loss payable to the Trustee clause. In the event of loss, the proceeds of such insurance are to be applied solely toward the reconstruction, replacement, or repair of the System. In such event the City will, with reasonable promptness, cause to<sup>be</sup> commenced and completed the reconstruction, replacement and repairs. Nothing herein shall be construed as requiring the City to expend any funds for premiums on its insurance on the System which are derived from sources other than the operation of the System.

(c) The City Treasurer shall be the custodian of the revenue derived from the System, and shall give bond as such custodian. Such bond shall be in an amount not less than \$\_\_\_\_\_ and shall be approved by the Trustee.

(d) The System shall be operated upon a fiscal year basis, beginning \_\_\_\_\_ of each year and ending and including the following \_\_\_\_\_.

(e) So long as any of the Bonds are outstanding, the City will not mortgage,pledge, or otherwise encumber the system or any part thereof or any revenues therefrom, except as herein provided, and will not sell, lease, or otherwise dispose of any substantial portion of the same. The obligations of the City set out in this ordinance, the pledge of revenues, and the City's agreement not to

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mortgage, pledge or otherwise encumber the System, shall be made a matter of public record by having a certified copy of this ordinance recorded as a mortgage in the office of the Circuit Clerk and ex officio Recorder of Van Buren County, Arkansas.

(f) All revenues from the System shall be deposited in such depository or depositories as may be lawfully designated from time to time, subject, however, to the giving of security by each such depository as now or as hereafter may be required, and provided each such depository shall hold membership in the Federal Deposit Insurance Corporation. All deposits shall be made in the name of the City and be so designated as to indicate the particular fund to which the revenues belong. Payments from each fund set out in this ordinance shall be made by check or voucher signed by two duly designated persons and drawn on the depository in which the moneys in said fund shall have been deposited, and each such check or voucher shall briefly specify the purpose of the expenditure.

(g) The bonds, together with interest thereon, are not general obligations of the City nor do they constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely out of the Bond Fund and shall be a valid claim of the holders thereof only against said Fund, and the amount of the revenues pledged to said Fund, and which Fund is hereby pledged for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the principal and interest of the Bonds as the same mature, except as provided in this ordinance.

(h) It is covenanted and agreed by the City with the holder or holders of the Bonds, or any of them, that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and statutes of the State of Arkansas, including the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System and apply the revenues therefrom to the respective funds herein created.

(i) The City will keep proper books of records and accounts (separate from all other records and accounts) in which complete

and correct entries shall be made of any transactions relating to the System. The City agrees to have these records audited by an independent certified public accountant at least once each year, and it shall furnish the Trustee a copy of this audit. In the Event that the City fails or refuses to make the audit, the Trustee may have the audit made, the cost thereof to be charged to the cost of operation.

(j) If there be any default in the payment of either the principal of or the interest on any of the Bonds, the holder or holders thereof may enforce any mortgage lien granted by statute and may by proper suit compel the performance of the duties of the officials of the City, as set forth in the statutes authorizing the Bonds. If there be default in the payment of the principal of or interest on the Bonds or if the City shall fail to keep any other obligation which it herein assumes, and such default shall continue for thirty days thereafter, any court having jurisdiction in any proper action, which may be instituted either by the Trustee on behalf of all the bondholders, or by the holder of a Bond in default, may appoint a receiver to administer the System on behalf of the City, with power to charge and collect rates sufficient to provide for the expenses of the receivership, the payment of the Bonds and interest thereon, and the payment of the operating expenses, and to apply the income and revenues in conformity with said statutes and this ordinance, providing for the issuance of said Bonds, but when all defaults are cured, the receivership shall be ended and the management and control of the system restored to the City.

(k) The City further covenants and agrees that if default is made in the payment of any Bond or coupon, or if the City fails to meet any Bond Fund requirements, the holder of such Bond may declare that Bond immediately due and payable and in default, and either the Trustee on behalf of all the bondholders or any bondholder for himself may institute suit to enforce the pledge lien herein granted. The failure to exercise this option upon any default shall not be a waiver of the right to exercise it upon any subsequent default.

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(l) The Bonds authorized hereby shall be callable for payment before maturity according to the terms set out in the bond form.

(m) The City hereby agrees to make all payments on Bonds and interest only through the designated paying agent. All Bonds paid or purchased, either at or before maturity, shall be canceled when such payment or purchase is made, together with all unmatured coupons appertaining thereto, shall be returned to the City, and shall not be reissued. All unpaid interest coupons maturing on or prior to the date of such payment or purchase shall continue to be payable to the respective bearers thereof.

(n) The charges for paying Bonds and interest coupons shall be one-eighth of 1 percent on principal and 5c per coupon; provided, the minimum fee for any semi-annual payment shall be \$5.00. No withdrawal from the Bond Fund shall be made for any purpose other than the payment of Bonds and interest, and the monthly deposits in the Bond Fund or with the Trustee shall be at the sole risk of the City and shall not operate as a payment of the Bonds or coupons until so applied.

(o) Wherever reference is made in this ordinance to a Trustee, it shall refer to The First National Bank in Little Rock, Little Rock, Arkansas. The said Trustee shall be responsible only for wilful misconduct in the execution of this trust. The recitals of fact herein contained, and contained in the Bonds, except the recitals in the Trustee's Certificate, are statements of the City and shall not be construed as being made by the Trustee. The Trustee shall not be required effect insurance against fire or damage to mortgaged property, nor to advance any money to pay insurance premiums, nor to pay any charges or special assessments against said property, nor to see that this pledge of revenue is properly recorded and kept in force as a pledge, nor shall it be required to take notice or be deemed to have had notice of any default of the City in the failure to perform any of the conditions of this ordinance, unless said Trustee shall have been specifically notified in writing of said default; nor shall it be required to take any action

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hereunder until it shall have been indemnified to its satisfaction by the holders of the Bonds, or some of them, against loss or damage on account thereof. The Trustee is authorized in its discretion to release any real or personal property no longer used in the operation of the System. The holder of holders of a majority in value of the Bonds at any time outstanding may at their option remove the Trustee, and may appoint a successor trustee for one either removed or resigned, by an instrument duly acknowledged and filed for record in the office of the Circuit Clerk and ex-officio Recorder of Van Buren County. The Trustee may resign at any time upon ten days' notice written to the City Recorder. The successor trustee shall have the rights and powers of the originally appointed Trustee.

(p) It is hereby declared that the provisions of this ordinance are separable, and if any provision of this ordinance shall for any reason, be held illegal or invalid, it shall not affect the validity of the remainder of the ordinance.

(q) It is hereby declared that the provisions of this ordinance constitute a contract by and between the City and the holders of the Bonds and interest coupons issued by authority hereof; and after the Bonds have been issued and paid for, the terms of said provisions shall not be changed except with the written consent of the holders of all Bonds and coupons then outstanding.

SECTION 13. The Mayor is hereby directed to publish for one insertion in the VAN BUREN COUNTY DEMOCRAT which is hereby found and declared to be a newspaper published in and of general circulation in the City of Clinton, Arkansas, a certified copy of this ordinance, preceded by a notice signed by him in substantially the following form:

#### NOTICE

Notice is hereby given that the City Council of the City of Clinton, Arkansas has adopted the ordinance hereinafter set out; that said City contemplates the issuance of the bonds described in

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said ordinance; that any person interested may appear before the Council on the 12th day of February, 1959, at 7:00 o'clock PM at the usual place of meeting in the City of Clinton, and be heard. At such hearing all objections and suggestions will be heard and said Council will take such action as is deemed proper in the premises.

DATED this 21st day of January, 1959.

FLOY BERKOWITZ, Mayor of Clinton

SECTION 14. It is hereby ascertained and declared that there is immediate need, in order to protect the health and property of the inhabitants of the City, to improve and enlarge the waterworks system of the City of Clinton, Arkansas, therefore, an emergency exists and this ordinance is necessary for the preservation of the public peace, health and safety, and shall take effect and be in force without delay from and after its passage.

Passed: January 21, 1959.

Approved: FLOY BERKOWITZ, Mayor.

(Seal)

Attest: G. M. AYERS, City Recorder.

#### CERTIFICATE

I, the undersigned, City Recorder of the City of Clinton, Arkansas, hereby certifies the foregoing to be a true copy of an ordinance passed by the City Council on the 21st day of January, 1959, at a duly called and constituted meeting at which more than two-thirds of the total number of members-elect of the Council were present and voted for said ordinance, which is now of record in Book 1, page 108, of the records of said City.

CERTIFIED under my hand and the seal of said City this 21st day of January, 1959.

G. M. AYERS, City Recorder

(Seal)