

ORDINANCE NO. 69A

AN ORDINANCE PROVIDING FOR THE CONSTRUCTION OF A SEWER SYSTEM AND IMPROVEMENTS TO THE WATERWORKS SYSTEM; PROVIDING FOR THE ISSUANCE OF WATER AND SEWER REFUNDING AND IMPROVEMENT REVENUE BONDS, SERIES 1964; SETTING UP CERTAIN FUNDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS the City of Clinton, Arkansas does not have a sewer system and its water system is inadequate at this time, and has had prepared by a duly qualified consulting engineer plans and estimates of the cost for the construction of a sewer system and improvements to the water system with related facilities (which will be operated as one municipal project and which will be hereinafter sometimes referred to as the "Project"); and

WHEREAS the plans and estimates have been examined and approved by the City Recorder, and subject to the inspection of any interested person; and

WHEREAS a brief general description of the Project is as follows: Sanitary sewer facilities, including collection lines lift station, treatment facilities and appurtenances (herein called the "Project"); and

WHEREAS the estimated cost of the Project to the City is \$644,400, including engineering, legal and other necessary expenses incidental to the construction of the Project and to the issuance of bonds; and

WHEREAS it has been determined that of the total estimated cost, \$102,00 can be financed with the proceeds to be derived from a federal grant for the construction of sanitary sewer facilities under Public Law 660, 84th Congress, and \$296,400 can be financed with the proceeds to be derived form a federal grant under the Area Redevelopment Program, and the sum of \$246,000 can be financed by the issuance of Water and Sewer System Revenue Bonds under Act No. 131 of the Acts of the General Assembly of the State of Arkansas for the year 1933, as amended, Act No. 132

(continued)

of the Acts of the General Assembly of the State of Arkansas for the year 1933, and the decision of the Supreme Court of the State of Arkansas in the case of City of Harrison v. Braswell, 209 Ark. 1094; and

WHEREAS the City now has outstanding \$65,000 in Water System Revenue Bonds and has entered into a contract with E. L. Villareal & Company, Inc., for the refunding of said outstanding bonds by the purchasing of a like amount of bonds of this issue at the identical interest rates and maturities as the outstanding bonds, the total amount of this issue being \$311,000, of which said sum of \$65,000 represents bonds to be refunded; and

WHEREAS after due advertisement, City of Clinton, Arkansas, Water and Sewer Refunding and Improvement Revenue Bonds in the principal amount of \$246,000 were offered for sale on sealed bids on the 26th day of March, 1963, and at said sale the United States of America bid par plus accrued interest at the rate of 3 5/8% per annum for certain bonds, being Bond Nos. 67 through 116, inclusive, and 3 1/2% per annum for certain bonds, being Bonds Nos. 117 thorough 312, inclusive; and

WHEREAS the purchasers have agreed to name The First National Bank in Little Rock, Little Rock, Arkansas, or its successor, as Trustee and Paying Agent;

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

SECTION 1. That the Project be constructed.

SECTION 2. That the sale at par and accrued interest of \$311,000 principal amount of bonds to the purchasers described above be, and the same is hereby, authorized, approved and confirmed.

SECTION 3. That under the authority of the Constitution and laws of the State of Arkansas, including particularly Act No. 131 of the Acts of the General Assembly of the State of Arkansas for the year 1933, as amended, Act No. 132 of the Acts of the General Assembly of the State of Arkansas for the year 1933, Act

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No. 297 of the Acts of the General Assembly of the State of Arkansas for the year 1937, and the decision of the Supreme Court of Arkansas in the case of City of Harrison v. Braswell, 209 Ark. 1094, City of Clinton, Arkansas, Water and Sewer Refunding and Improvement Revenue Bonds, Series 1964, are hereby authorized and ordered issued in the total amount of \$311,000, of which proceeds \$246,000 are necessary to provide funds, together with the proceeds of a federal grant under Public Law 660, 84th Congress, and the proceeds of a federal grant under the Area Redevelopment Program to construct the Project, the estimated cost of which being \$644,400, including engineering, legal and other necessary expenses incidental to the construction of the Project and to the issuance of the bonds, in accordance with the plans of a duly qualified consulting engineer heretofore submitted to and approved by the Council, and a copy of which is on file in the office of the City Recorder, and with the remaining principal amount of bonds (\$65,000) to be used for refunding the outstanding Water System Revenue Bonds. The bonds shall be dated March 1, 1964, and Bonds Nos. 1 to 11, inclusive, shall bear interest at the rate of $3\frac{1}{4}\%$ per annum; Bonds Nos. 12 to 36, inclusive, shall bear interest at the rate of $3\frac{1}{2}\%$ per annum; Bonds Nos. 37 to 56, inclusive, shall bear interest at the rate of 4% per annum; Bonds Nos. 57 to 66, inclusive, shall bear interest at the rate of $4\frac{1}{4}\%$ per annum; Bonds Nos. 67 to 116, inclusive, shall bear interest at the rate of $3\frac{5}{8}\%$ per annum; and Bonds Nos. 117 to 312, inclusive, shall bear interest at the rate of $3\frac{1}{2}\%$ per annum, payable semi-annually on March 1 and September 1 of each year commencing March 1, 1965, and shall mature on March 1 of each year as follows, but shall be callable for payment prior to maturity as hereinafter set forth:

<u>YEAR</u>	<u>BOND NOS.</u>	<u>AMOUNT</u>
1965	1	\$ 500
1966	2 - 3	2,000
1967	4 - 5	2,000
1968	6 - 7	2,000
1969	8 - 9	2,000

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<u>YEAR</u>	<u>BOND NOS.</u>	<u>AMOUNT</u>
1970	10 - 11	\$ 2,000
1971	12 - 14	3,000
1972	15 - 17	3,000
1973	18 - 20	3,000
1974	21 - 24	4,000
1975	25 - 28	4,000
1976	29 - 32	4,000
1977	33 - 37	4,000
1978	38 - 42	5,000
1979	43 - 48	6,000
1980	49 - 54	6,000
1981	55 - 61	7,000
1982	62 - 69	8,000
1983	70 - 77	8,000
1984	78 - 85	8,000
1985	86 - 93	8,000
1986	94 - 101	8,000
1987	102 - 110	9,000
1988	111 - 119	9,000
1989	120 - 128	9,000
1990	129 - 138	10,000
1991	139 - 148	10,000
1992	149 - 159	11,000
1993	160 - 170	11,000
1994	171 - 182	12,000
1995	183 - 194	12,000
1996	195 - 206	12,000
1997	207 - 218	12,000
1998	219 - 231	13,000
1999	232 - 244	13,000
2000	245 - 257	13,000
2001	258 - 270	13,000
2002	271 - 284	14,000
2003	285 - 298	14,000
2004	299 - 312	14,000

The bonds shall be in the denomination of \$1,000 each, except that Bond Nos. 1 and 37 shall be in the denomination of \$500 each, and the bonds shall be numbered consecutively from 1 to 312, inclusive. The bonds shall be negotiable coupon bonds payable to bearer and the principal and interest shall be payable in any coin or currency which, on the date of payment, is legal tender for the payment of debts due the United States of America upon presentation of the bonds proper coupons at the office of The First National Bank in Little Rock, Little Rock, Arkansas, or at the option of the holder, at the office of The Chase Manhattan Bank, which is located in the Borough of Manhattan, City and State of New York.

SECTION 4. That the bonds shall be executed on behalf of the City by the Mayor and City Recorder and shall have impressed thereon the seal of the City. Interest coupons attached to each

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of said bonds shall have the facsimile signature of the Mayor of the City lithographed or printed thereon, which signature shall have the same force and effect as if she had personally signed each of said coupons. The bonds, together with interest thereon, shall be payable solely out of the Water and Sewer System Revenue Bond and Interest Sinking Fund as hereinafter defined, and shall be a valid claim of the holders thereof only against such fund and the amount of the revenues pledged to such fund, which amount of said revenues is hereby pledged and mortgaged for the equal and ratable payment of the bonds and shall be used for no other purpose than to pay the principal of and interest on the bonds, except as hereinafter specifically provided. The bonds and interest thereon shall not constitute an indebtedness of the City within any constitutional or statutory limitation.

SECTION 5. That the bonds and coupons shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF VAN BUREN
CITY OF CLINTON
_____% WATER AND SEWER REFUNDING
AND IMPROVEMENT REVENUE BOND
SERIES 1964

No. _____

\$ _____

KNOW ALL MEN BY THESE PRESENTS:

That the City of Clinton, County of Van Buren, and State of Arkansas, acknowledges itself to owe, and for value received, hereby promises to pay to bearer, solely from the special fund provided as hereinafter set forth, the principal sum of _____ DOLLARS in any coin or currency which, on the date of payment, is legal tender for the payment of debts due the United States of America upon the first day of March, 196____, and to pay solely from said special fund interest hereon at the rate of _____ per cent (____%) per annum from date, semi-annually on March 1 and September 1 of each year, until the principal hereof is fully paid, commencing March 1, 1965, upon presentation and surrender of the annexed coupons as they severally become due. Both principal

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and interest of this Revenue Bond are made payable at the office of The First National Bank in Little Rock, Little Rock, Arkansas, or, at the option of the holder, at the office of The Chase Manhattan Bank, which is located in the Borough of Manhattan, City and State of New York.

This bond is one of a series of three hundred twelve bonds, aggregating Three Hundred Eleven Thousand Dollars (\$311,000), dated March 1, 1964 and numbered from one (1) to three hundred twelve (312), inclusive, all of like tenor and effect except as to number, rate of interest, denomination, and maturity, and the bonds are issued for the purpose of financing a portion of the cost of constructing a sewer system and improvements to the water system with related facilities, the construction of an access road and appurtenances, and refunding outstanding Water System Revenue Bonds of the City.

This bond and the series of which it forms a part are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Act Nos. 131 and 132 of the Acts of the General Assembly of the State of Arkansas for the year 1933, Act No. 297 of the Acts of the General Assembly of the State of Arkansas for the year 1937, and the decision of the Supreme Court of the State of Arkansas in the case of City of Harrison v. Braswell, 209 Ark. 1094, and pursuant to Ordinance No. ____ of the City Council of the City of Clinton, Arkansas, duly adopted and approved on the ____ day of _____, 1964, which ordinance sets forth specifically and in detail the pledges and covenants of the City for the payment of the principal of and interest on the bonds and to which reference may be had for a detailed statement of said pledges and covenants. The bonds do not constitute an indebtedness of the City of Clinton within any constitutional or statutory limitation. They are not general obligations of the City but are special obligations payable solely from the net revenues derived from the operation of the sewer and waterworks system. An amount thereof at least sufficient to pro-

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vide for the payment of the principal of, interest on, and paying agent's fees in connection with the bonds has been duly set aside and pledged as a special fund for that purpose and identified as the "Water and Sewer System Revenue Bond and Interest Sinking Fund" created by Ordinance No. _____, under which this bond is authorized to be issued. The City of Clinton has established and has covenanted and agreed to maintain rates for sewer and water services which shall be at least sufficient at all times to provide for the payment of the reasonable expenses of operation and maintenance of the sewer and waterworks system, to provide for the payment of the principal of and interest on the bonds as the same become due and payable and the paying agent's fees, and to provide depreciation funds for necessary replacements and repairs.

By virtue of the authority of said Act No. 131 of the General Assembly of the State of Arkansas for the year 1933, as amended, there is granted and created a statutory mortgage lien on the waterworks system to and in favor of the holder of this bond, and the bonds of the issue of which it forms a part, and to and in favor of the holders of each of the coupons evidencing the interest on this bond, and the bonds of the issue of which it forms a part; and said waterworks system shall remain subject to such statutory mortgage lien until the payment in full of all of said bonds.

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

The bonds of this issue will be callable for payment prior to maturity (1) from the proceeds of the sale of the bonds remaining after payment of all costs of construction on the next interest paying date in inverse numerical order at par and accrued interest; and (2) on and after ten (10) years from date of issue, callable at the option of the City, in whole or in part, in inverse numerical order on any interest paying date upon not less than thirty (30) days prior notice at par and accrued interest to date so fixed for redemption plus a premium of four per cent (4%) on all bonds so called at the expiration of the tenth (10th) year, with a reduction

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of one-fourth ($\frac{1}{4}$) of one per cent (1%) per year until the expiration of the twenty-sixth (26th) year, after which date there shall be no premium on any bonds so called. Notice of the call of redemption shall be published one time in a newspaper published in the City of Little Rock, Arkansas and having a general circulation throughout the State of Arkansas, at least thirty (30) days prior to the redemption date, giving the number and maturity of each bond being called, and after the date fixed redemption, each bond so called shall 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 acts, conditions and things required to exist, happen and be performed, precedent to and in the issuance of this bond, have existed, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by this bond and the issue of which it forms a part does not exceed any constitutional or statutory limitations; and that sufficient of the income and revenue which is deemed to be derived from the operation of the sewer and waterworks 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.

This bond shall not be valid until it shall have been authenticated by the certificate hereon duly signed by 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 the City, and has caused the coupons hereto attached to be executed by the facsimile signature of said Mayor, all as of the 1st day of March, 1964.

CITY OF CLINTON, ARKANSAS

By _____
MAYOR

CITY RECORDER
(Seal)

(continued)

COUPON

No. _____

\$ _____

March
 On the first day of September, 196____, the City of Clinton, Van Buren County, Arkansas, upon surrender hereof, unless the bond to which this coupon is attached is paid prior thereto, hereby promises to pay to bearer, solely out of the fund specified in the bond to which this bond is attached _____ DOLLARS in any coin or currency which, on the date of payment 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, being six (6) months' interest then due on its Water and Sewer Refunding and Improvement Revenue Bonds, Series 1964, dated March 1, 1964, and numbered _____.

CITY OF CLINTON, ARKANSAS

By _____
MAYOR

On each bond shall appear the following:

CERTIFICATE

This is to certify that this bond is one of a series of three hundred twelve (312) $3\frac{1}{4}\%$, $3\frac{1}{2}\%$, 4% , $4\frac{1}{4}\%$ and $3-5/8\%$ Water and Sewer Refunding and Improvement Revenue Bonds, Series 1964, of the issue mentioned and described herein.

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

By _____

_____, 1964

SECTION 6. (a) That in order to pay the principal of and interest on the bonds as they mature, Ordinance No. 66, passed and approved by the City Council on the 7th day of March, 1963, established the rates to be charged for the use of the sewer and waterworks system, is hereby approved and confirmed. The City Council hereby finds and declares the rates so established are fair, reasonable and necessary minimum rates.

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(b) That the City covenants and agrees with the holders of the bonds and coupons that said rates will produce a total revenue sufficient to pay the reasonable operation and maintenance expenses of the sewer and waterworks system, to pay the principal of and interest on the bonds as they mature, and the paying agent's fees, and to provide a debt service reserve and a depreciation fund for necessary replacements or repairs to the sewer and waterworks system. Said rates shall never be reduced until all outstanding bonds and coupons thereto attached have been paid in full and shall, from time to time when necessary, be increased to an amount sufficient to provide for the above set forth purposes, and for the maintenance of the funds hereinafter described.

(c) That none of the facilities or services afforded by the sewer and waterworks system 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 or services afforded by the sewer and waterworks 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 the charges therefor accrue. The revenues so received from the City shall be deemed to be revenues derived from the operation of the sewer and waterworks system, and shall be used and accounted for in the same manner as any other revenue derived from the operation of the sewer and waterworks system, provided, however, nothing herein shall be construed as requiring the City or any department, agency, or instrumentality thereof to avail itself of the facilities or services afforded by the sewer and waterworks system.

SECTION 7. That the Treasurer of the City shall be custodian of the revenues derived from the sewer and waterworks system, and shall give bond for the faithful discharge of all duties as such custodian. The amount of such bond shall be equal to the total of said funds in custody of the Treasurer at any one time and such bond shall be approved by the Trustee. A like bond, in a sufficient

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amount to be approved by the City Council and Trustee, shall be required of each other city employee handling funds of the waterworks and sewer system. All waterworks and sewer revenue received by the Treasurer from the operation of the waterworks and sewer system shall be deposited by him in such depository or depositories as shall from time to time be designated by the City Council, provided, that all such depositories shall be members of the Federal Deposit Insurance Corporation, and all deposits in any depository 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. All deposits made by the Treasurer shall be in the name of the City and shall be so designated as to indicate the particular fund to which the revenues belong.

SECTION 8. Water and Sewer System Revenue Fund. That all income and revenues, as received, derived from the operation or ownership of the combined water and sewer system, and all unexpended funds in the Revenue and Operation and Maintenance Funds, if any, established in accordance with the ordinances authorizing the issuance of the bonds herein refunded, shall be deposited into a special account which is hereby created and designated Water and Sewer System Revenue Fund. The revenues in the Water and Sewer System Revenue Fund are hereby pledged and shall be applied in the manner hereinafter set forth.

SECTION 9. Water and Sewer System Operation and Maintenance Fund. That there shall be paid by the Treasurer from the Water and Sewer System Revenue Fund into a fund which is hereby created and designated "Water and Sewer System Operation and Maintenance Fund" on or before the fifth day of the month following completion of the Project, and continuing on or before the fifth day of each month thereafter while any sewer and waterworks revenue bonds shall be outstanding, an amount sufficient to pay the reasonable and necessary monthly expenses of operation and maintenance of the sewer and waterworks system for such month and from which disbursements shall be made only for those purposes. Fixed annual charges,

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such as insurance premiums, and the cost of 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 Water and Sewer System Operation Maintenance Fund each month. If any month, for any reason, there shall be a failure to transfer and pay the required amount into said fund, then the amount of any deficiency shall be added to the amount otherwise required to be transferred and paid into said fund in the next succeeding month.

If in any fiscal year, a surplus shall be accumulated in the Water and Sewer System Operation and Maintenance Fund over and above the amount which shall be necessary to defray the reasonable and necessary costs of operation and maintenance of the sewer and waterworks system during the remainder of the then current fiscal year and the next ensuing fiscal year, such surplus may be transferred to and deposited in the Water and Sewer System Revenue Bond and Interest Sinking Fund; provided, however, that any such transfer into the Water and Sewer System Revenue Bond and Interest Sinking Fund shall be in addition to all other payments required to be made into said fund.

SECTION 10. Water and Sewer System Revenue Bond and Interest Sinking Fund. (1) It is hereby ordered that an account and fund, which is hereby designated "Water and Sewer System Revenue Bond and Interest Sinking Fund", be established and created in a bank which is a member of the Federal Deposit Insurance Corporation for the purpose of paying the principal of and interest on the bonds as they mature and to provide a debt service reserve, and into which account shall be deposited all accrued interest, if any, received from the sale and/or exchange of the bonds, and all the funds and/or investments in the Bond and Interest Sinking Fund and Reserve Fund, if any, established in accordance with the Resolution authorizing the issuance of the Bonds herein refunded. Simultaneously with the delivery of the bonds issued under this Ordinance, the entire amounts on deposit in the Bond Funds being maintained in connection with the Water Revenue Bonds being refunded hereby shall be withdrawn therefrom and deposited in the Water and

Sewer System Revenue Bond and Interest Sinking Fund. The principal of and interest on the bonds shall be paid as they mature according to the following schedule, to-wit:

YEAR	BOND NOS.	PRINCIPAL	INTEREST		TOTAL
			MARCH 1	SEPTEMBER 1	
1965	1	\$ 500	\$11,093.75	\$5,538.75	\$17,132.50
1966	2 - 3	2,000	5,538.75	5,506.25	13,045.00
1967	4 - 5	2,000	5,506.25	5,437.75	12,980.00
1968	6 - 7	2,000	5,473.75	5,441.25	12,915.00
1969	8 - 9	2,000	5,441.25	5,408.75	12,850.00
1970	10 - 11	2,000	5,408.75	5,376.25	12,785.00
1971	12 - 14	3,000	5,376.25	5,323.75	13,700.00
1972	15 - 17	3,000	5,323.75	5,271.25	13,595.00
1973	18 - 20	3,000	5,271.25	5,218.75	13,490.00
1974	21 - 24	4,000	5,218.75	5,148.75	14,367.50
1975	25 - 28	4,000	5,148.75	5,078.75	14,227.50
1976	29 - 32	4,000	5,078.75	5,008.75	14,087.50
1977	33 - 37	4,000	5,008.75	4,928.75	14,437.50
1978	38 - 42	5,000	4,928.75	4,828.75	14,757.50
1979	43 - 48	6,000	4,828.75	4,708.75	15,537.50
1980	49 - 54	6,000	4,708.75	4,588.75	15,297.50
1981	55 - 61	7,000	4,588.75	4,442.50	16,031.25
1982	62 - 69	8,000	4,442.50	4,281.88	16,724.38
1983	70 - 77	8,000	4,281.88	4,136.87	16,418.75
1984	78 - 85	8,000	4,136.87	3,991.88	16,128.75
1985	86 - 93	8,000	3,991.88	3,846.87	15,838.75
1986	94 - 101	8,000	3,846.87	3,701.88	15,548.75
1987	102 - 110	9,000	3,701.88	3,538.75	16,240.63
1988	111 - 119	9,000	3,538.75	3,377.50	15,916.25
1989	120 - 128	9,000	3,377.50	3,220.00	15,597.50
1990	129 - 138	10,000	3,220.00	3,045.00	16,265.00
1991	139 - 148	10,000	3,045.00	2,870.00	15,915.00
1992	149 - 159	11,000	2,870.00	2,677.50	16,547.50
1993	160 - 170	11,000	2,677.50	2,485.00	16,162.50
1994	171 - 182	12,000	2,485.00	2,275.00	16,760.00
1995	183 - 194	12,000	2,275.00	2,065.00	16,340.00
1996	195 - 206	12,000	2,065.00	1,855.00	15,920.00
1997	207 - 218	12,000	1,855.00	1,645.00	15,500.00
1998	219 - 231	13,000	1,645.00	1,417.50	16,062.50
1999	232 - 244	13,000	1,417.50	1,190.00	15,607.50
2000	245 - 257	13,000	1,190.00	962.50	15,152.50
2001	258 - 270	13,000	962.50	735.00	14,697.50
2002	271 - 284	14,000	735.00	490.00	15,225.00
2003	285 - 298	14,000	490.00	245.00	14,735.00
2004	299 - 312	14,000	245.00		14,245.00

(2) That after making the monthly deposits into the "Water and Sewer System Operation and Maintenance Fund," there shall be paid by the Treasurer from the Water and Sewer System Revenue Fund and deposited in the Water and Sewer System Revenue Bond and Interest Sinking Fund on or before the fifth day of each month, beginning on or before the fifth day of the month following completion of the Project, a sum equal to one-fifth (1/5) of the next installment of interest and one-tenth (1/10) of the next installment of principal, and an amount sufficient to provide for the

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Paying Agent's fees thereon; provided, however, that after there shall have been accumulated in said Water and Sewer System Revenue Bond and Interest Sinking Fund a sum as a debt service reserve in the amount of \$17,000, the Treasurer shall transfer and deposit in the aforesaid manner, such sums as may be necessary to meet the then current year's debt service and maintain said debt service reserve of \$17,000.

(3) If the revenues of the sewer and waterworks system are insufficient to make the required payment by the fifth day of the following month into the Water and Sewer System Revenue Bond and Interest Sinking 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 Water and Sewer System Revenue Bond and Interest Sinking Fund by the fifth day of the next month.

(4) That if, for any reason, the funds in the Water and Sewer System Revenue Bond and Interest Sinking Fund shall at any time be insufficient to meet any interest and/or principal payment on the bonds, the sum then held as a debt service reserve shall be used to the extent necessary to make said interest and/or principal payment, but such reserve shall be reimbursed from the Water and Sewer System Revenue Fund shall be used for any other purposes except for making the payments hereinabove required to be made into the Water and Sewer System Revenue Bond and Interest Sinking Fund. The debt service shall be continuously maintained in the amount above specified and shall be used solely as herein provided.

(5) That when the moneys in the Water and Sewer System Revenue Bond and Interest Sinking Fund, including the debt service reserve, shall be and remain sufficient to pay the principal of and interest on all outstanding Water and Sewer System Revenue Bonds, and the Paying Agent's fees, there shall be no obligation to make any further payments into the Water and Sewer System Revenue Bond and Interest Sinking Fund.

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(6) That all moneys in the Water and Sewer System Revenue Bond and Interest Sinking Fund shall be used solely for the payment of the principal of and interest on the bonds herein authorized and the Paying Agent's fees, except as herein expressly provided. If any surplus shall exist in the Water and Sewer System Revenue Bond and Interest Sinking Fund over and above the amount necessary to insure the prompt payment of the principal of and interest on the bonds as the same become due and the Paying Agent's fees and over and above the amount of the debt service reserve, such surplus may be used at the option of the City for the payment of the principal of and interest on any bonds that may be called for redemption prior to maturity. Moneys in the Water and Sewer System Revenue Bond and Interest Sinking Fund over and above the amount necessary to insure the prompt payment of the principal of and interest on the bonds as they mature, and the Paying Agent's fees, and moneys in the debt service reserve, may be invested in direct obligations of, or obligations the principal of and interest on which are guaranteed by the United States Government.

(7) That it shall be the duty of the Treasurer to withdraw from the Water and Sewer System Revenue Bond and Interest Sinking Fund at least five (5) days before the maturity date of any bond or interest coupon issued hereunder and to deposit with the Paying Agent an amount equal to the amount of such bond or interest coupon for the sole purpose of paying same, together with the Paying Agent's fee. Such deposit shall be at the sole risk of the City and shall not operate as a payment of the bonds or coupons until so applied.

SECTION 11. Water and Sewer System Depreciation Fund. There is hereby created a fund designated "Water and Sewer System Depreciation Fund", which shall be established in a bank which is a member of the Federal Deposit Insurance Corporation into which all of the funds and/or investments to comprise said depreciation fund as provided for in this section shall be deposited. Simultaneously with the delivery of the bonds issued under

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this Ordinance, the entire amounts on deposit in the Depreciation Funds being maintained in connection with the Water Revenue Bonds being refunded hereby shall be withdrawn therefrom and deposited in the Water and Sewer System Depreciation Fund. There shall be paid by the Treasurer from the Water and Sewer System Depreciation Fund on or before the 5th day of the month following completion of the Project and continuing on or before the 5th day of each month thereafter while any Water and Sewer System Revenue Bonds are outstanding and unpaid 5% of the gross revenues of the sewer and waterworks system for the preceding month. Moneys in the Water and Sewer System Depreciation Fund shall be used solely for the purpose of paying the cost of replacements and repairs made necessary by the depreciation of the sewer and waterworks system, or for the cost of economically justifiable extensions to the sewer and/or waterworks system; however, in the event that funds in the Water and Sewer System Revenue Bond and Interest Sinking Fund shall be reduced below the amount required to meet the current debt service plus the reserve of \$17,000, funds on deposit in the Water and Sewer System Depreciation Fund may be transferred to the Water and Sewer System Revenue Bond and Interest Sinking Fund to the extent required to eliminate the deficiency in that Fund. If in any fiscal year a surplus shall be accumulated in the Water and Sewer System Depreciation Fund over and above the amount necessary to defray the cost of probable replacements and repairs made necessary by the depreciation of the sewer and waterworks system during the then current fiscal year and the next ensuing fiscal year, such surplus may be transferred and paid into the Water and Sewer System Revenue Bond and Interest Sinking Fund; provided, however, that such payments into the Water and Sewer System Revenue Bond and Interest Sinking Fund shall be in addition to all other payments hereinbefore required to be made into the said Water and Sewer System Revenue Bond and Interest Sinking Fund. The moneys in the Water and Sewer System Depreciation Fund may

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be invested in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States Government.

SECTION 12. That payments from the respective funds shall be made by check or voucher, signed by the City Treasurer and the managing officer of the sewer and waterworks system and drawn on the depository with which the moneys in said funds shall have been deposited, and each such check or voucher shall briefly specify the purpose of the expenditure.

SECTION 13. That any surplus remaining in the Water and Sewer System Revenue Fund after making full provision for the other funds hereinabove provided for may be used, at the option of the City, for the redemption of outstanding Water and Sewer System Revenue Bonds prior to maturity at the price, time and manner provided herein for call and payment of bonds prior to maturity, for the construction of extensions, betterments and improvements to the sewer and water works system, for any other lawful purpose.

SECTION 14. That all bonds paid, either at or before maturity, shall be cancelled when such payment is made, together with all unmatured coupons appertaining thereto, and held by the Treasurer 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.

SECTION 15. That the sewer and waterworks system shall be operated on a fiscal year basis beginning January 1 of each year and ending December 31 of the same year.

SECTION 16. That the bonds authorized hereby and issued hereunder shall be callable for payment prior to maturity in accordance with the terms set out in the face of the bond form in Section 5 of this ordinance.

SECTION 17. That as long as any of the bonds authorized hereby and issued hereunder are outstanding, the City shall not issue or attempt to issue any bonds or obligations claimed to be entitled to a priority or a parity of lien on the revenues of the

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sewer and waterworks system over or with the lien securing the bonds of the issue herein authorized, including the revenues of any and all future extensions, betterments and improvements to the waterworks and sewer system.

The above set forth prohibition shall not be deemed to include obligations, the security and source of payment of which are subordinate and subject to the priority of the bonds herein authorized to be issued.

SECTION 18. That 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 sewer and waterworks system required by the Constitution and statutes of the State of Arkansas, including making and collecting of reasonable and sufficient rates lawfully established for services rendered by the sewer and waterworks system, segregating the revenues of the system and its application to the respective funds herein created.

SECTION 19. That the City will keep proper books of accounts and records (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the operation of the sewer and waterworks system, and such books shall be available for inspection by the Trustee and its duly authorized representative and by the holder of any of the bonds 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, and a copy of the audit shall be delivered to the Trustee and to any bondholder who shall request the same not later than sixty (60) days after the close of each fiscal year. In the event the City fails or refuses to make the audit, the Trustee, or any holder of the bonds, may have the audit made, and the cost thereof shall be charged against the Water and Sewer System Operation and Maintenance Fund.

SECTION 20. That the City covenants and agrees that it will maintain the sewer and waterworks system in good condition and

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operate the same in an efficient manner and at reasonable cost. While any Water and Sewer Refunding and Improvement Revenue 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 sewer and waterworks system against loss or damage thereto from fire, lightning, tornado, winds, riot, civil commotion, strike, malicious, damages, explosion and against loss or damage from any other causes customarily insured against by private companies engaged in a similar business type. The 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 interests may appear, and are either to be placed in the custody of the Trustee or satisfactory evidence of such insurance shall be filed with the Trustee. In the event of loss, the proceeds of such insurance shall be applied solely toward the reconstruction, replacement, or repair of the sewer and waterworks system, 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 Water and Sewer System Revenue Fund, and if such proceeds shall be insufficient for purposes, the deficiency shall be supplied, first, from moneys in the Water and Sewer System Depreciation Fund, and second, from moneys in the Water and Sewer System Operation and Maintenance Fund. Nothing herein shall be construed as requiring the City to expend any funds for operation and maintenance of the sewer and waterworks system or for premiums on its insurance which are derived from sources other than the operation of the Sewer and Water works System, but nothing herein shall be construed as preventing the City from doing so.

SECTION 21. That so long as any of the bonds are outstanding, the City covenants and agrees that it will not mortgage, pledge, or otherwise encumber the sewer and waterworks system or any

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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 22. That the owner or owners of all improved property lying within the area that will be served by the sewer system, after its completion, are hereby directed and required to connect all toilet and waste water facilities of such improved property with said sewer system as soon as the service is available; and the owners of property that is improved after the completion of the sewer system shall immediately connect the toilet and waste water facilities of such property with the sewer system.

SECTION 23. That the City shall send or cause to be sent a written notice to any owner of property so improved that can be served by the sewer system but is not connected to make such connection within two (2) weeks from the date of said notice. If, after said notice, the property owner fails to make such connection the City agrees to institute appropriate action on a court of competent jurisdiction to compel such connection. Furthermore, any property owner who fails or refuses to connect his improved property with the sewer system after being notified to do so shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Two Dollars (\$2.00) and not more than Ten Dollars (\$10.00), and each day's failure or refusal after the expiration of the time fixed in the notice to make the connection shall be a separate offense; provided, however, that the provisions of this sentence shall be effective to make such failure a misdemeanor only in the event the City Health Officer or other duly designated individual or board, has found and determined that such failure on the part of any particular property owner constitutes a hazard to the public health and safety of the inhabitants of the City.

SECTION 24. That there shall be a statutory mortgage lien upon the waterworks system constructed from the proceeds of this

bond issue, which shall exist in favor of the holder of the bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and said waterworks system shall remain subject to such statutory mortgage lien until payment in full of the interest on and principal of the bonds, provided, however, that such statutory mortgage lien shall be interpreted according to the decision of the Supreme Court of the State of Arkansas in City of Harrison v. Braswell, 209 Ark. 1094.

SECTION 25. That the City covenants that the bonds issued hereunder shall have the protection of the provisions of Section 13 of Act No. 132 of 1933, Ark. Stats. 19-4113. The City agrees to bring foreclosure suits for past due service charges.

SECTION 26. That if there be any default in the payment of either the principal of or interest on any of the bonds, the holder or holders of any of the bonds 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 complete any other obligations which it herein assumes, and such default shall continue for thirty (30) 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 sewer and waterworks system on behalf of the City, with power to charge and collect rates (or by mandatory injunction or otherwise to cause to be charged and collected) sufficient to provide for the expenses of the receivership, the payment of the bonds and interest thereon, and for 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 sewer and waterworks system restored to the City.

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SECTION 27. That no remedy conferred by this ordinance upon the Trustee or upon the holder or holders of the bonds is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by this ordinance, or by Act No. 131 of the Acts of Arkansas of 1933, as amended, by Act No. 132 of the Acts of Arkansas of 1933, or by any other law. No waiver of any default or breach of duty or contract by the Trustee or by any holder of the bonds shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of the Trustee or any bondholder 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 acquiescence therein. Every substantive right and every remedy conferred upon the Trustee and upon the holders of the bonds may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the Trustee or the holder or holders of the bonds, then and in every such case the City, the Trustee and such holder or holders shall be restored to their former positions and rights and remedies as if no such suit action or proceeding had been brought or taken.

SECTION 28. That whenever the word "Trustee" is used in this ordinance, it shall refer to the First National Bank in Little Rock, Little Rock, Arkansas, or its successor. The recitals in this ordinance and in the face of the bonds are the recitals of the City and not of the Trustee. The Trustee shall not be required to take any action as Trustee unless it shall have been requested to do so in writing by the holders of not less than ten per cent (10%) in principal amount of the Water and Sewer Refunding and Improvement Revenue Bonds then outstanding and shall have been offered reasonable security and indem-

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nity against the cost, expense and liabilities to be incurred therein or thereby. The Trustee may resign at any time by ten (10) days' notice in writing to the City and the majority in value of the holders of outstanding Water and Sewer Refunding and Improvement Revenue Bonds at any time, with or without cause, may remove the Trustee. In the event of a vacancy in the office of Trustee, either by resignation or by removal, the majority in value of the holders of the outstanding Water and Sewer Refunding and Improvement Revenue Bonds may appoint a new Trustee, such appointment to be evidenced by a written instrument or instruments filed with the City Recorder. If the majority in value of the holders of the outstanding Water and Sewer Refunding and Improvement Revenue Bonds shall fail to fill a vacancy within thirty days (30) after the same shall occur, then the City shall forth with designate a new Trustee by a written instrument filed in the office of the City Recorder. Any successor Trustee shall have all the powers herein granted to the original Trustee.

SECTION 29. That when the bonds herein authorized to be issued 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 Trustee which shall authenticate them and deliver them to the purchaser upon payment in cash to the Trustee of the purchase price thereof plus accrued interest to the date of delivery (called "total sales proceeds").

From the total sales proceeds, there shall be deposited in the Water and Sewer System Revenue Bond and Interest Sinking Fund a sum sufficient to pay the interest on the bonds during the construction of the Project. The Trustee shall withhold sufficient monies to accomplish the refunding of the outstanding Water System Revenue Bonds on the first date that they may be redeemed and shall see that the necessary steps (including satisfactory arrangements for the publishing of the call notice) have been taken to accomplish the redemption of said outstanding bonds.

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The remainder of the total sales proceeds shall be deposited in a special account to be designated "Construction Account" with a depository, designated by the City Council, that is a member of the Federal Deposit Insurance Corporation. Moneys in the Construction Account in excess of the amount insured by the Federal Deposit Insurance Corporation must be continuously secured by direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States Government. The moneys in the Construction Account shall be disbursed solely in payment of the cost of the sewer and water-works system and related facilities, including engineering, legal and other necessary expenses incidental thereto and to the issuance of bonds. The disbursements shall be made only on warrants, checks or vouchers signed by the City Treasurer briefly specifying the disbursement or expenditure and accompanied by a certificate signed by the engineer in charge of the construction that an obligation in a stated amount has been incurred on account of the cost of the said construction and to whom such obligation is owed, except that no such certificate shall be required before the payment of engineering, legal fees or the cost of issuing the bonds. Any unexpended balance in the Construction Account remaining after the completion of the construction of the Project must be used to call the bonds of the issue authorized hereby for payment prior to maturity in multiples of not less than \$1,000, and any amount remaining shall be deposited in the Water and Sewer System Revenue Bond and Interest Sinking Fund. Moneys held for the credit of the Construction Account which exceed the estimated disbursement for the next ninety (90) days shall, upon request by the City, be invested and reinvested by the depository bank in direct obligations of, or obligations the principal of and interest on which are guaranteed, by the United States Government, provided that any such direction shall be accompanied by a certificate of the engineer in charge of the construction as to when the funds to be so invested will be needed for the construction, and the obligations in which investment is made must

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have maturity dates, or must be subject to redemption by the holder at the option of the holder, on or prior to the date so certified by the engineer. Moneys so invested in United States Government obligations, as above defined, need not be secured by the depository bank.

SECTION 30. That there shall be published for one insertion in the Van Buren County Democrat, which is hereby found and declared to be a newspaper of general circulation in the City of Clinton, Arkansas, this ordinance, to which shall be attached a notice signed by the Mayor in substantially the following form:

N O T I C E

Notice is hereby given that the City Council of the City of Clinton, Arkansas has adopted the ordinance hereinafter set out and that the City contemplates the issuance of the Water and Sewer Refunding and Improvement Revenue Bonds, Series 1964, described herein; that any person interested may appear before a meeting of the City Council on the _____ day of _____, 1964, at _____ o'clock ____m., at the usual meeting place of the City Council and present protests. At such hearing all objections and suggestions will be heard and the Council will take such action as is deemed proper in the premises.

Dated this _____ day of _____, 1964.

Mayor, City of Clinton, Arkansas

SECTION 31. That in the event the office of Mayor, City Recorder, City Treasurer, City Council 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 officer shall become incapable of performing the duties of his office by reason of

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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.

SECTION 32. That 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 33. That Ordinance No. 68, enacted the 1st day of August, 1963, and all other ordinances and parts of ordinances in conflict herewith are repealed hereby.

SECTION 34. That 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.

SECTION 35. That the lack of a sewer and waterworks system and related facilities is very detrimental to the welfare, health and property of the inhabitants of the City and that such system and facilities can be made available only by the issuance of bonds. It is, therefore, declared that an emergency exists and this ordinance being necessary for the preservation of the public peace, health and safety shall be in force and shall take effect immediately upon and after its passage.

PASSED: January 7, 1964.

APPROVED: PAT ELLIS, Mayor.

ATTEST: ARLENE SHANNON, City Recorder.

C E R T I F I C A T E

The undersigned, City Recorder of the City of Clinton, Arkansas, hereby certifies that the foregoing pages numbered 1 to 34, inclusive, are a true and perfect copy of Ordinance No. 69, passed at a regular session of the City Council of Clinton, Arkansas, held at the regular meeting place of the Council at 7:00 o'clock p.m., on the 7th day of January, 1964, and that the said ordinance is of record in Ordinance Record Book No. 1, page _____, now in my possession.

Given under my hand and seal this 17th day of February.
1964.

FLOY BERKOWITZ, City Recorder.

(Seal)