

ORDINANCE NO. 72

AN ORDINANCE PROVIDING FOR THE CONSTRUCTION OF GAS TRANSMISSION LINES AND A COMPLETE DISTRIBUTION SYSTEM FOR NATURAL GAS TO SERVE THE CITY OF CLINTON, ARKANSAS; PROVIDING FOR THE ISSUANCE OF GAS TRANSMISSION AND DISTRIBUTION SYSTEM REVENUE CONSTRUCTION BONDS OF THE CITY TO PAY THE COSTS OF CONSTRUCTION; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS by Ordinance duly passed on the 17th day of July, 1965, there was submitted to the qualified electors of the city of Clinton, Arkansas, the question of whether it should issue Gas Transmission and Distribution System Revenue Construction Bonds in the amount of \$580,000.00, for the purpose of constructing gas transmission lines and a distribution system for natural gas to serve the City of Clinton, Arkansas; and

WHEREAS due notice of the election was given as required by law and that at said election 177 votes were cast in favor of said bond issue and 6 votes were cast against it; and

WHEREAS the Council of the City of Clinton, Arkansas has determined to construct gas transmission lines and a complete distribution system for natural gas to serve the City of Clinton under the provisions of Act No. 71 of the Acts of the General Assembly of the State of Arkansas for 1949, as amended, and had caused to be filed with the Recorder by a duly qualified engineer, chosen by the Council, plans and specifications for, and an estimate for the cost of, the gas transmission lines and the gas distribution system; and

WHEREAS such plans provide for the construction of gas transmission lines from a point at or near Clinton, Arkansas into the City of Clinton, and a complete gas distribution system consisting in general of gas distribution lines, including meters; and

WHEREAS, according to the above mentioned estimate, the cost of the construction will be \$580,000.00, including the cost of securing necessary rights of way for the transmission lines, engi-

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neering, legal and other expenses incidental to the construction and to the issuance of the bonds hereinafter authorized, and interest to the estimated date of the completion of the construction; and

WHEREAS in order to raise the money to pay the cost of the construction, the Council has determined to issue the Gas Transmission and Distribution System Revenue Construction Bonds hereinafter authorized, to be payable from the revenues of the gas transmission lines and distribution system; and

WHEREAS the City has entered into a contract with T. J. Raney & Sons for the sale of \$580,000.00 of bonds at the price of par for bonds bearing interest at the rate of 4% per annum, and accrued interest to date of delivery, to be dated September 1, 1965 and to mature serially on September 1 in each of the years 1966 to 1985, inclusive; and

WHEREAS the Council has leased to Arkansas Louisiana Gas Company for a term of twenty (20) years, with an option to purchase, the natural gas distribution system and its related facilities for rentals and a purchase price sufficient to pay the bonds in full, principal and interest, as they mature.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLINTON, ARKANSAS:

SECTION 1. That the above described gas transmission lines and gas distribution system be constructed.

SECTION 2. That the sale of the proposed issue of \$580,000.00 of 4% bonds to T. J. Raney & Sons, be, and the same hereby is, approved and confirmed. The said purchaser shall have the privilege of designating a bank as Trustee and Paying Agent, the designation to be filed with the Recorder and approved by the Council prior to the issuance of the bonds.

SECTION 3. That under the authority of the Constitution and laws of the State of Arkansas, particularly Act No. 71 of 1949, as amended, Gas Transmission and Distribution System Revenue Construction Bonds of the City of Clinton are hereby authorized and

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ordered issued in the total amount of Five Hundred Eighty Thousand and no/100 Dollars (\$580,000.00), the proceeds of the sale of which are necessary to provide sufficient funds to pay the cost of the construction of gas transmission lines and a complete distribution system to serve the City of Clinton, Arkansas, described herein, including the cost of securing necessary rights of way for the transmission lines, engineering, legal and other expenses incidental thereto and to the issuance of the bonds, and interest to the estimated date of completion of the construction. The Bonds shall be numbered consecutively from 1 to 580, inclusive, and shall be in the denomination of \$1,000.00 each. The bonds shall be dated September 1, 1965, and all bonds bear interest at the rate of 4% per annum.

The interest shall be payable semi-annually on March 1 and September 1 of each year commencing _____, the interest to be evidenced by interest coupons, and the principal and interest shall be payable in lawful money of the United States of America upon presentation of the bond or proper coupon at the office of the Paying Agent designated by the purchaser. The bonds shall mature on September 1 in each year as follows, but are callable as hereinafter set forth in the bond form in Section 5 hereof.

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SECTION 4. That the bonds shall be executed on behalf of the City by the Mayor and the City Recorder and shall have impressed thereon the seal of the City. Interest coupons attached to each of the bonds may have the facsimile signature of the Mayor lithographed or printed thereon, which signature shall have the same force and effect as if he had personally signed each of said coupons. The bonds, together with interest thereon, shall be payable solely out of the Gas Transmission and Distribution Revenue Bond 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. 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

_____% GAS TRANSMISSION AND DISTRIBUTION
SYSTEM REVENUE CONSTRUCTION BOND

No. _____

\$1,000

KNOW ALL MEN BY THESE PRESENTS:

That the City of Clinton, in the 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 ONE THOUSAND DOLLARS in lawful money of the United States of America, on the first day of September, 19__, and to pay solely from said special fund, interest hereon at the rate of four percent (4%) per annum from date, semi-annually on March 1 and September 1 each year, commencing _____, upon presentation

(continued)

and surrender of the annexed coupons as they severally become due. Both principal hereof and interest hereon are made payable at The First National Bank in Little Rock, Little Rock, Arkansas.

This bond is one of a series of Five Hundred and Eighty (580) bonds, aggregating Five Hundred Eighty Thousand and no/100 Dollars (\$580,000.00), numbered from 1 to 580, inclusive, all of like tenor and effect except as to number, rate of interest, right of prior redemption and maturity, and are issued for the purpose of providing for the payment of the cost of the construction of gas transmission lines and a complete distribution system for natural gas to serve the City of Clinton, Arkansas.

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, particularly Act No. 71 of the General Assembly of the State of Arkansas for the year 1949, as amended by Act No. 71 of the General Assembly of the State of Arkansas for the year 1951, and pursuant to ordinances of the Council of the City of Clinton, Arkansas duly adopted and pursuanat to an election duly held at which the majority of the legal voters of the City voting at said election voted in favor of the issuance of said bonds. Said bonds are not general obligations of the City, but are special obligations payable solely from a fixed amount of the gross revenues from the gas transmission lines and distribution system, which amount shall be sufficient to pay the principal of and interest on the bonds as they 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 "Gas Transmission and Distribution Revenue Bond Fund", created by Ordinance No. ____, duly adopted and approved on the ____ day of ____, 19__, under which this bond is authorized to be issued, and in said ordinance the City of Clinton has covenanted and agreed to maintain rates for natural gas services which shall be sufficient at all times to provide for the payment of the principal of and interest on the bonds as the same become due and payable, and has covenanted and agreed to provide for the

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creation of separate depreciation funds for necessary replacements to said gas transmission lines and distribution system and to provide for the payment of the reasonable expenses of operation and maintenance of said gas transmission lines and distribution system.

This bond is expressly made negotiable under said Act 71 of 1949, and is issued with the intent what the laws of the State of Arkansas shall govern the construction thereof.

By virtue of the authority of said Act 71 of the General Assembly of the State of Arkansas for the year 1949, as amended, there is granted and created a statutory mortgage lien on the said gas transmission lines and distribution system to and in favor of the holders of the bonds and to and in favor of the holders of each of the coupons evidencing the interest on said bonds, and said gas transmission lines and distribution system shall remain subject to such statutory mortgage lien until the payment in full of all said bonds, both principal and interest, shall have been made.

The bonds shall be non-callable prior to September 1, 1976. On or after September 1, 1976, the bonds are callable at the option of the City, in whole or in part, from funds from any source in inverse numerical order on any interest paying date at a price of par plus accrued interest and plus a premium of 3% of the principal amount being redeemed, such premiums being reduced 1% each calendar year after 1976, until September 1, 1979, and thereafter the Bonds shall be callable at par and accrued interest on any interest paying date. Notice of the call for redemption shall be published by the Recorder once a week for two weeks in a newspaper published in the City of Little Rock, Arkansas having a general circulation throughout the State of Arkansas, giving the number and maturity of each bond being called, the first publication to be at least fifteen (15) days prior to the redemption date, and after the date fixed for 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.

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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.

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 said gas transmission lines and distribution system has been pledged to and will be set aside into said special fund for the payment of the principal and interest on said bonds.

IN WITNESS WHEREOF, The City of Clinton, Arkansas, by its City Council, has caused this bond to be executed by the Mayor and the City Recorder thereof and sealed with the corporate seal of said City and has caused the attached interest coupons to be executed by the facsimile signature of said Mayor, all as of the 1st day of September, 1965.

CITY OF CLINTON, ARKANSAS

BY _____
MAYOR

RECORDER
(Seal)

(Form of Coupon)

No. _____ \$ _____

March
On the 1st day of September, 19__, the City of Clinton, Van Buren County, Arkansas, 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 this bond to which this coupon is attached, _____ DOLLARS in lawful money of the United States of America at the office of The First National Bank in Little

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Rock, Little Rock, Arkansas, being six (6) months' interest then due on its Gas Transmission and Distribution System Revenue Construction Bond, dated September 1, 1965, and numbered _____.

CITY OF CLINTON, ARKANSAS

By _____
MAYOR

(The signature of the Mayor may be lithographed.)

On each bond shall appear the following

CERTIFICATE

This is one of a series of bonds described herein aggregating \$580,000.00.

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

_____, 19__

SECTION 6. That the Council finds that the rentals to be paid by Arkansas Louisiana Gas Company to the City of Clinton, Arkansas, under the provisions of the lease authorized to be executed by Ordinance No. ____ of the ordinances of the City of Clinton are sufficient to produce a total revenue sufficient to provide for the payment of the bonds herein authorized to be issued, both principal and interest as the same fall due and are payable, and that the said lease provides adequately for the maintenance and depreciation of the gas transmission lines and distribution system.

SECTION 7. That the Treasurer of the City shall be the custodian of the rentals and other revenues derived from the gas transmission lines and distribution system, and all such rentals and other revenues shall be kept separate and apart from the other funds of the City and shall be deposited by him in such depository or depositories as may be designated from time to time, subject, however, to the giving of security by such depository or depositories

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as now or as hereafter may be required by law, and provided that all such depositories shall be members of the Federal Deposit Insurance Corporation. 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. That the City covenants and agrees that while any bonds are outstanding, the gas transmission lines and distribution system will be operated as a revenue producing undertaking, and that there will always be collected sufficient revenue therefrom (either as rentals or rates) to provide for the prompt payment of the principal of and interest on the bonds and for necessary operation, maintenance and depreciation expenses.

SECTION 9. Gas Transmission and Distribution Revenue Bond Fund. That a fund is hereby created and designated "Gas Transmission and Distribution Revenue Bond Fund" into which there shall be placed as received all rentals and other revenues derived from Arkansas Louisiana Gas Company, payable under the provisions of that certain lease authorized to be executed by Ordinance No. _____ of the ordinances of the City of Clinton, Arkansas adopted and approved on the _____ day of _____, 19____. Such revenues deposited in the Gas Transmission and Distribution Revenue Bond Fund are hereby pledged and shall be applied to the payment of all bonds issued hereunder and secured hereby, and the interest thereon, as they mature according to the following schedule:

<u>YEAR</u>	<u>AMOUNT</u>	<u>MAR. 1 INT.</u>	<u>SEPT. 1 INT.</u>	<u>TOTAL</u>
1966	\$19,000	\$11,600.00	\$11,600.00	\$42,200.00
1967	20,000	11,220.00	11,220.00	42,440.00
1968	21,000	10,820.00	10,820.00	42,640.00
1969	22,000	10,400.00	10,400.00	42,800.00
1970	22,000	9,960.00	9,960.00	41,920.00
1971	23,000	9,520.00	9,520.00	42,040.00
1972	24,000	9,060.00	9,060.00	42,120.00
1973	25,000	8,580.00	8,580.00	42,160.00
1974	26,000	8,080.00	8,080.00	42,160.00
1975	27,000	7,560.00	7,560.00	42,120.00
1976	29,000	7,020.00	7,020.00	43,040.00
1977	30,000	6,440.00	6,440.00	42,880.00
1978	32,000	5,840.00	5,840.00	43,680.00
1979	33,000	5,200.00	5,200.00	43,400.00
1980	34,000	4,540.00	4,540.00	43,080.00
1981	36,000	3,860.00	3,860.00	43,720.00
1982	37,000	3,140.00	3,140.00	43,280.00
1983	38,000	2,400.00	2,400.00	42,800.00
1984	40,000	1,640.00	1,640.00	43,280.00
1985	42,000	840.00	840.00	43,680.00
	<u>\$580,000</u>	<u>\$137,720.00</u>	<u>\$137,720.00</u>	<u>\$855,440.00</u>

SECTION 10. That it shall be the duty of the Treasurer to withdraw from the Gas Transmission and Distribution Revenue Bond 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 coupon for the sole purpose of paying the same, together with the Paying Agent's fee of 12½¢ for each \$100 par value of bonds and 5¢ for each coupon, with the minimum payment to be \$5,000, and no withdrawal of funds from said Gas Transmission and Distribution Revenue Bond Fund shall be made for any other purpose except as otherwise authorized in this ordinance. 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. 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. All unpaid interest coupons maturing on or prior to the date of such payment shall continue to be payable to the respective bearers thereof.

SECTION 12. 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 bond form in Section 5 hereof.

SECTION 13. 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 gas transmission lines and distribution system. The City will furnish to any holder or purchaser of any of the bonds at the time outstanding at the written request of such holder or purchaser, not more than sixty (60) days after the close of each fiscal year, complete audit receipts and disbursements of its revenues from the gas transmission lines and distribution system covering such fiscal year, certified by a certified public accountant.

SECTION 14. That there shall be a statutory mortgage lien upon the gas transmission lines and distribution system described herein, including the real property on which they are situated, as provided in Act No. 71 of the Acts of the General Assembly of the

State of Arkansas for the year 1949, as amended, 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 the bonds, and the gas transmission lines and distribution system shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest on the bonds. If there be any default in the payment of either the principal of or interest on any of the bonds, and such default shall continue for thirty (30) days thereafter, the holder or holders thereof may enforce the statutory mortgage lien upon the gas transmission lines and distribution system in accordance with the provisions of Section 11 of said Act No. 71 of 1949, as amended, and may by proper suit compel the performance of the duties of the officials of the City. If there be default in the payment of the principal of or interest on the bonds, and such default shall continue for thirty (30) days thereafter, any court having jurisdiction in any proper action may appoint a receiver to administer the gas transmission lines and distribution system on behalf of the City, with power to charge and collect rates sufficient to provide for 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 this ordinance.

SECTION 15. That when the bonds herein authorized to be issued have been executed by the Mayor and Recorder and the seal of the City impressed, as herein provided, they shall be delivered to the Trustee Bank, which shall authenticate them and deliver them to the purchaser, on payment in cash of \$580,000.00 and accrued interest to date of delivery. Contemporaneously with such delivery and payment, the said Bank shall apply the proceeds of the bonds as follows:

The proceeds shall be deposited in The First National Bank in Little Rock, Little Rock, Arkansas, in a trust fund secured by direct obligations of the United States or by a corporate surety bond, and disbursed by it solely in payment of the cost of construction of the gas transmission lines and distribution system,

including the cost of securing necessary rights of way, engineering, legal and other expenses incidental to the construction and to the issuance of the bonds, but only on checks, warrants or vouchers signed by the Mayor and Recorder briefly specifying the disbursement or expenditure, accompanied by a certificate signed by the consulting engineer of such construction that an obligation in a stated amount has been incurred on account of the cost of construction, and to whom such obligation is owed, except that no such certificate shall be required for the payment of engineering, legal and other incidental expenses. Any unexpended balance remaining after the final completion of the construction shall be deposited in the Bond Fund.

When the bonds are delivered to the said First National Bank in Little Rock, Little Rock, Arkansas, the Mayor shall take from said Bank its receipt and an agreement to deliver the bonds and apply the proceeds as authorized in this Section 15.

SECTION 16. That 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 of bona fide general circulation in the City of Clinton, Arkansas, this ordinance, to which shall be attached a notice signed by him in substantially the following form:

N O T I C E

Notice is hereby given that the Council of the City of Clinton, Arkansas has adopted the ordinance hereinafter set out; that the City contemplates the issuance of bonds described in said ordinance; and that any person interested may appear before the Council on the ____ day of November, 1965, at ____ o'clock __.m. at the usual meeting place of the Council held in Clinton, Arkansas, and present protests. At such hearing all objections and suggestions will be heard and the said Council will take such action as it deems proper in the premises.

Dated this ____ day of November, 1965.

MAYOR

ATTEST:

RECORDER

(continued)

SECTION 17. That the Trustee of the bonds issued hereunder shall be The First National Bank in Little Rock, Little Rock, Arkansas. The Trustee shall only be responsible for the exercise of good faith and reasonable prudence in the execution of its trust. 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 percent (10%) in principal amount of the bonds of this issue then outstanding and shall have been offered reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby. The Trustee may resign at any time by ten (10) days' notice in writing to the Mayor of the City and the majority in value of the holders of the outstanding bonds of this issue 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 removal, the majority in value of the holders of the outstanding bonds of this issue 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 bonds of this issue shall fail to fill a vacancy within thirty (30) days after the same shall occur, then the City shall forthwith designate a new Trustee by a written instrument filed in the office of the City Recorder. The original Trustee and any successor Trustee shall file a written acceptance and agreement to execute the trust imposed upon it or them by this ordinance, but only upon the terms and conditions set forth in this ordinance and subject to the provisions of this ordinance, to all of which the respective holders of the bonds agree. Such written acceptance shall be filed with the City Recorder, and a copy thereof shall be placed in the bond transcript. Any successor Trustee shall have all of the powers herein granted to the original Trustee. In the event of a change in the office of Trustee, the old Trustee which has resigned or been removed shall cease to be paying agent, and the successor

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Trustee shall become the paying agent.

SECTION 18. That this ordinance shall not create any right of any character, and no right of any character shall arise under or pursuant to it, until the bonds authorized by this ordinance shall have been issued and delivered.

SECTION 19. 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 20. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 21. That it is ascertained and declared that the lack of gas transmission lines and a distribution system for natural gas to serve the inhabitants of the City of Clinton, Arkansas subjects the City to greater fire hazards and greatly endangers the life, health and property of the inhabitants thereof, and that it is necessary for said City to immediately construct gas transmission lines and a distribution system for natural gas to protect and preserve the life, health and property of its inhabitants. 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: November 4, 1965.

APPROVED: D. PATRICK ELLIS, Mayor.

ATTEST: FLOY BERKOWITZ, Recorder.

CERTIFICATE

The undersigned, Recorder of Clinton, Arkansas, thereby certifies that the foregoing pages numbered 1 to 17, inclusive, are a true and perfect copy of Ordinance No. ____ passed at a regular session of the Council of Clinton, Arkansas, held at the regular meeting place of the Council at 7:30 o'clock P.M. on the 4th day of November, 1965, and that said ordinance is of record in Ordinance Record Book No. ____, Page ____, now in my possession.

Given under my hand and seal this 4th day of November, 1965.

FLOY BERKOWITZ, Recorder

(Seal)

AMENDED by Ordinance No. 77, dated December 21, 1965