

ORDINANCE NO. 51

AN ORDINANCE AUTHORIZING THE INCORPORATED TOWN OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS, TO ISSUE WATER REVENUE BONDS, SERIES 1971; SETTING UP CERTAIN FUNDS; AND DECLARING AN EMERGENCY.

WHEREAS, Tontitown, an Incorporated Town of Washington County, Arkansas (sometimes hereinafter termed "Town"), plans to acquire and operate a municipal water system; and

WHEREAS, the Town has had McGoodwin, Williams and Yates, Inc., Consulting Engineers, of Fayetteville, Arkansas, prepare plans, specifications and estimates of the cost of the proposed improvements, which are now on file in the office of the Town Recorder and show the cost of the construction, acquisition of sites, easements, interest during construction, and engineering and legal fees, in the total amount of \$143,000, which will be paid by a loan of \$132,000 by the Farmers Home Administration of the United States Department of Agriculture (sometimes hereinafter termed "FHA"), for which the Town will issue and deliver to the FHA, Water Revenue Bonds for \$132,000, which will bear interest at the rate of 5% per annum, be dated as of the date of delivery, and mature as hereinafter set out, and a contribution of \$11,000 by the Town; and

WHEREAS, at a public sale after due advertisement, the Town has received an offer whereby the purchaser will pay par for the bonds; and

WHEREAS, the Town Council considers this to be a fair offer, one which is reasonable and at a price allowed by law, and, therefore, the Town does hereby officially and formally accept the offer and the bonds are sold to the purchaser; and

WHEREAS, the purchaser is ready to accept the bonds as soon as the Town can legally make delivery; now, therefore,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TONTITOWN, ARKANSAS:

SECTION 1. The Town Council hereby finds and declares that there is immediate need for the construction of the proposed improvements, described as follows:

Securing a satisfactory water supply, providing a distribution system, installing fire hydrants, water meter settings, and all appurtenant items needed to provide a municipal water system for the Town and its inhabitants

at an estimated cost of \$143,000. The construction is hereinafter called the "Project" and the entire water system after the completion of the Project is hereinafter sometimes collectively called the "System".

SECTION 2. The Council determines that the Town shall issue, 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 1933, as amended, water revenue bonds in the total amount of \$132,000. The proceeds of the sale shall be used to pay part of the cost of the Project, including engineering and legal fees, interest on the bonds during the period of construction, and other necessary expenses. Said bonds shall be designated "Town of Tontitown, Arkansas Water System Revenue Bonds, Series 1971" (hereinafter sometimes called "Bonds"), be dated as of the date of delivery; be numbered from 1 to 132, both inclusive, be in the denomination of \$1,000; be callable as hereinafter set out; and mature in numerical order on January 1 of each year as follows:

YEAR	BOND NOS. (both inclusive)	AMOUNT EACH YEAR
1975 to 1979	1 to 5	\$ 1,000
1980 to 1987	6 to 21	2,000
1988 to 1995	22 to 45	3,000
1996 to 2000	46 to 65	4,000
2001 to 2004	66 to 85	5,000
2005 to 2007	86 to 103	6,000
2008 to 2010	104 to 124	7,000
2011	125 to 132	8,000

The Bonds shall be negotiable and shall bear interest payable annually on January 1 of each year, beginning January 1, 1973, at the rate of five per centum (5%) per annum until the principal and interest shall have been fully paid, except that the installment due in the year 2011 shall be due and payable on the day that will be 40 years after the date of the Bond. The Bonds shall be signed by the Mayor and Town Recorder and sealed with the corporate seal of the Town; 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 by the execution of the Bonds adopt as and for his own proper signature his facsimile signature appearing on said coupons. Both the principal and interest of said Bonds shall be payable in any coin or currency which on the respective date of payment thereof is legal tender for payment of debts due the United States of America, at the office of _____ Farmers Home Administration, Fayetteville, Arkansas _____.

Any or all of said Bonds may be issued in fully registered form and if so, both the principal and interest shall be payable to the registered owner at his address shown on the bond registration book of said Town. No transfer of a registered Bond shall be valid unless made on the registration book and similarly noted on the Bond.

Said Bonds shall be payable solely from the net revenues of the water system.

SECTION 3. Said Bonds and coupons shall be in substantially the following form:

C O U P O N

No. _____

\$ _____

On the first day of January, _____, upon surrender hereof, unless the Bond to which this coupon is attached is sooner called for payment, the Incorporated Town of Tontitown, Arkansas, promises to pay to bearer (or if said Bond is registered, to the registered Owner) the amount shown hereon, in any coin or currency which on said date is legal tender for 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 Farmers Home Administration, Fayetteville,
Arkansas
being interest then due on the Town's Water System Revenue Bond, Series 1971, dated _____, 19____, and numbered _____

INCORPORATED TOWN OF TONTITOWN, ARKANSAS

By 
Mayor

(All coupons, except No. 1 due January 1, 1973, shall be for twelve months' interest. The Mayor's signature on the coupons may be lithographed or engraved.)

If the Bond be registered, there shall be printed on the reverse of said Bond a registration certificate in substantially the following form:

REGISTRATION CERTIFICATE

I, the undersigned, Town Recorder within and for the Incorporated Town of Tontitown, Washington County, Arkansas, do hereby certify that the within Bond has been registered as to principal and interest as indicated in the registration blank below in a book provided for that purpose and in the manner required by law.

REGISTRATION

DATE OF
REGISTRATION

NAME OF REGISTERED OWNER

SIGNATURE OF
REGISTRATION AGENT

SECTION 4. At the option of the original purchaser, there shall be issued in lieu of coupon bonds a single bond with a face value in the aggregate principal amount of the bonds purchased by such purchaser. Such bond shall be issued in fully registered form and without coupons. If interim certificates as hereinafter authorized are issued to the purchaser of the bond, said bond shall be dated as of the date of the delivery of the first interim certificate, otherwise, the said bond shall be dated as of the date of its delivery, and shall mature as to principal in installments, in amounts, and at the times corresponding to the schedule of maturity for coupon bonds. Interest upon the principal amount of said registered bond or upon the balance of the said principal amount from time to time remaining unpaid, shall be payable annually on January 1 in each year, with the first interest payment date being January 1 next following the date of the bond.

All payments in respect of such bond, whether of principal or interest and including prepayments of principal, shall be made directly to the registered owner at his address shown on the Bond Registration Book of the Town without, except for final payment, the presentation or surrender of such registered bond and all such payments shall discharge the obligation of the Town in respect of such bond.

Prepayments of installments can be made on any January 1, in reverse chronological order of the said installments and in multiples of \$1,000, in the principal amount thereof, plus accrued interest to the date of prepayment.

At the request of the registered owner, such registered bond may be converted to coupon bonds, and upon surrender thereof to the Town, the Town will at its expense, deliver in exchange for such registered bond, coupon bonds in an aggregate principal amount equal to the principal amount then unpaid, of any such registered bond and having maturities corresponding to the maturities of the principal installments then unpaid of the registered bond, bearing interest at the

rate borne by the registered bond and having annexed thereto coupons representing such interest maturing after the date to which interest on such registered bond has been fully paid.

In order to obtain funds for construction purposes immediately and prior to the preparation and delivery of the definitive bond authorized by this section, the Town is authorized to issue interim certificates of indebtedness. Such interim certificates may be issued to the purchaser of the definitive bond to evidence receipt of partial advances of the purchase price of the bond, or they may be issued to obtain interim financing on a short term basis from sources other than the bond purchaser. Interim certificates of indebtedness shall be payable within three (3) years from their date of issuance and, if issued to the purchaser of the bond authorized by this section, they shall bear interest from their date at the bond rate; if issued to obtain a short term loan from sources other than the bond purchaser, the certificates shall bear interest at such loan rate. The interim certificates of indebtedness shall be issued for the express purpose of providing construction funds in anticipation of the issuance of the definite water revenue bond and such certificates, to the extent then outstanding, with accrued interest, shall be exchanged for, or paid from the proceeds of, such definitive bond.

That a fully registered bond issued in lieu of coupon bonds and the interim certificates shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF WASHINGTON
INCORPORATED TOWN OF TONTITOWN

WATER SYSTEM REVENUE BOND, SERIES 1971

No. _____

\$1,000

KNOW ALL MEN BY THESE PRESENTS:

That the Incorporated Town of Tontitown, in the County of Washington, State of Arkansas, for value received hereby promises to pay to bearer, or if this Bond be registered, to the registered owner, solely from the special fund provided therefor as hereinafter set forth, the sum of

ONE THOUSAND DOLLARS

on the first day of January, _____, with interest thereon at the rate of five per centum (5%) per annum payable on the first day of January in each year beginning January 1, 1973, until the principal hereof is paid only upon presentation and surrender of the annexed coupons as they severally mature. Both the principal of and interest on this Bond shall be payable in any coin or currency which on the respective dates of payment thereof is legal tender for payment of debts due the United States of America, at the office of Farmers Ark. Home Administration, Fayetteville,, provided that, if this Bond be registered, both principal and interest shall be payable to the registered owner at his address appearing on the bond registration book of said Town. No transfer of a registered Bond shall be valid unless made on the bond registration book and similarly noted on the Bond.

This Bond is one of a series of Bonds aggregating One Hundred Thirty Two Thousand Dollars (\$132,000), all of like tenor and effect except as to number, maturity, and privilege of prepayment, numbered from 1 to 132, both inclusive, and issued for the purpose of paying part of the cost of the Town's water 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, 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 Town of Tontitown within any constitutional or statutory limitation. Said Bonds are payable solely from the net revenues from the water system which will be set aside and pledged as a special fund for that purpose created by Ordinance No. 49 of the Town of Tontitown, Arkansas, identified as the 1971 Water Revenue Bond and Interest Sinking Fund, and the said Town of Tontitown has fixed and has covenanted and agreed to maintain rates for water services which will be sufficient at all times to provide for the payment of the reasonable expenses of operation and maintenance of said System, to provide adequately for depreciation, and to provide for the payment of the principal of and interest on the Town's Water Revenue Bonds, Series 1971, as the same become due and payable.

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

The Bonds of this issue maturing on January 1, 1975, through January 1, 1981, are non-callable prior to their respective maturities. Bonds maturing on January 1, 1982 or any January 1 thereafter, may be redeemed, in whole or in part, in inverse numerical order, at par and accrued interest, with funds from any source, on January 1 of any year.

In the event the Town elects to exercise the option to call any Bonds for prepayment, it shall publish notice thereof, giving the number and maturity of each Bond being called, once a week for two

weeks in an English-language newspaper of general circulation throughout the State of Arkansas, the first publication to be not less than thirty days prior to the date fixed for redemption. All Bonds so called shall cease to bear interest after the date fixed for their redemption, provided funds for their payment are on deposit with the paying agent at that time.

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

IN WITNESS WHEREOF, the Town of Tontitown, Arkansas, by its Town Council, has caused this Bond to be signed by the Mayor and Town Recorder thereof and sealed with the corporate seal of said Town, and has caused the coupons hereto attached to be executed by the facsimile signature of said Mayor, all as of the first day of _____, 1971.

INCORPORATED TOWN OF TONTITOWN, ARKANSAS

(SEAL)

By 
Mayor

ATTEST?


Town Recorder

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF WASHINGTON
INCORPORATED TOWN OF TONTITOWN

WATER SYSTEM REVENUE BOND, SERIES 1971

No. _____

\$132,000

KNOW ALL MEN BY THESE PRESENTS:

That the Incorporated Town of Tontitown, in the County of Washington, State of Arkansas, for value received hereby promises to pay to the registered owner hereof but solely from the special fund provided therefor as hereinafter set forth, the sum of One Hundred Thirty Two Thousand Dollars, in installments on the first day of January in each of the years and in the principal amount as follows:

YEAR (inclusive)	AMOUNT EACH YEAR
1975 to 1979	\$ 1,000
1980 to 1987	2,000
1988 to 1995	3,000
1996 to 2000	4,000
2001 to 2004	5,000
2005 to 2007	6,000
2008 to 2010	7,000
2011	8,000

and to pay interest on the balance of said principal sum remaining unpaid at the rate of five per centum (5%) per annum from the date hereof, payable annually on January 1 of each year beginning January 1, 1973, except that the installment due in the year 2011 shall be due and payable on the day that will be 40 years after the date of the Bond, until the principal hereof is paid. Both the principal of and interest on this Bond shall be payable in any coin or currency which on the respective dates of payment thereof is legal tender for payment of debts due the United States of America, directly to the registered owner at his address appearing on the bond registration book of said Town. At the request of the registered owner or his legal representative, this Bond may be converted at the expense of the Town to serial coupon bonds to the amount of the then unpaid installments.

This Bond is issued pursuant to and in accordance with the provisions of the laws and Constitution of the State of Arkansas, particularly Act No. 131 of the Acts of the General Assembly of the State of Arkansas for the year 1933, as amended, and does not constitute an indebtedness of the Incorporated Town of Tontitown within any constitutional or statutory limitation. Said Bond is payable solely from the net revenues of the Water System, which revenues shall be set aside and have been pledged as a special fund for that purpose, created by Ordinance No. 49, identified as the "1971 Water System Revenue Bond and Interest Sinking Fund", and the said Incorporated Town of Tontitown has fixed and has covenanted and agreed to maintain rates for water services which will be sufficient at all times to provide for the payment of the reasonable expenses of operation and maintenance of said System, to provide adequately for depreciation, and to provide for the payment of the installments of principal and interest on the Bond of this issue as the same become due and payable. This Bond is expressly made negotiable by the statutes under which it is issued, and is issued with the intent that the laws of the State of Arkansas shall govern the construction thereof.

The Town shall have the right to prepay installments on any January 1, in inverse chronological order of the said installments and in multiples of \$1,000, in the principal amount thereof, plus accrued interest to the date of prepayment, and must pay on the next available interest payment date, in inverse order of maturities of principal, at par plus accrued interest, proceeds of the sale of the bonds in excess of \$1,000 remaining after the completion of the construction of the system.

Notice of any prepayment shall be given at least thirty (30) days prior to the date fixed for such prepayment by mailing to the

registered owner of this bond notice fixing such date of prepayment and specifying the amount of principal to be prepaid and the amount of accrued interest thereon to the date of such prepayment.

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

IN WITNESS WHEREOF, the Incorporated Town of Tontitown, Arkansas, by its Town Council, has caused this Bond to be signed by the Mayor and the Town Recorder thereof and sealed with the corporate seal of said Town, all of the _____ day of _____, 1971.

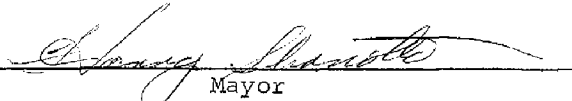
INCORPORATED TOWN OF TONTITOWN, ARKANSAS

(SEAL)

ATTEST:


Town Recorder

By


Mayor

There shall be placed on the reverse of said Bond a registration certificate in substantially the following form:

REGISTRATION CERTIFICATE

I, the undersigned, Town Recorder within and for the Town of Tontitown, Arkansas, Washington County, do hereby certify that the within Bond has been registered as to principal and interest as indicated in the registration blank below in a book provided for that purpose and in the manner required by law.

REGISTRATION

DATE OF REGISTRATION	NAME OF REGISTERED OWNER	SIGNATURE OF REGISTERED OWNER
_____	_____	_____
_____	_____	_____
_____	_____	_____

* * * * *

INCORPORATED
TOWN OF TONTITOWN

INTERIM CERTIFICATE OF INDEBTEDNESS

No. _____ \$ _____

For value received, the Incorporated Town of Tontitown, Washington County, Arkansas, hereby acknowledges itself indebted and promises to pay to _____, at its office in _____ County, Arkansas, the principal sum of _____ DOLLARS (\$ _____)

on January 1, 19____, plus interest thereon from the date hereof at the rate of _____% per annum, payable annually on January 1 in each year beginning January 1 next following the date hereof.

This certificate is one of a series of _____ certificates in an aggregate amount not to exceed \$_____, issued to evidence an advance of funds under the Town's bond issue sold to the United States of America for constructing its water system in accordance with the bond Ordinance No. _____ of the Town adopted on _____. This is a special obligation payable solely from the net revenues of the water system and from a pledge of the proceeds of the definitive bond, and it does not constitute an indebtedness of the Town within any constitutional or statutory limitation. This certificate is issued for the express purpose of providing construction funds in anticipation of the issuance and delivery of a definitive water revenue bond under the aforesaid bond ordinance, and on or before the maturity date hereof this, and other such certificates, to the extent then outstanding, with accrued interest, shall be exchanged for, or paid from the proceeds of, such definitive bond.

IN WITNESS WHEREOF, the Incorporated Town of Tontitown has caused this certificate to be signed by the Mayor and Town Recorder and sealed with the corporate seal of said Town on the _____ day of _____, 19_____.

INCORPORATED TOWN OF TONTITOWN, ARKANSAS

(SEAL)

By Shirley Harrell
Mayor

ATTEST:

Richard M. Adenmaguire Sr.
Town Recorder

SECTION 5. In order to pay the Bonds and the interest thereon as they mature, the Town Council by Ordinance No. 49, passed and approved December 7, 1971, fixed the water rates. The Council hereby finds the rates so fixed to be reasonable and the necessary minimum rates to be charged, and said rates are hereby approved and confirmed. The Council further finds and declares that said rates will produce total revenues sufficient to pay the reasonable costs of the operation and maintenance of the System, to provide adequately for depreciation, and to provide annual net revenues as hereinafter defined, sufficient to pay the Bonds and interest as they mature and to accumulate and maintain a debt service reserve in the amount of \$7,900. The rates so fixed shall never be reduced to the extent that the net revenues of the System will not be sufficient to provide the funds hereinafter created, and shall when necessary be increased in an amount sufficient to provide for the maintenance of such funds.

SECTION 6. The Town covenants and agrees to maintain so long as any of the Bonds are outstanding, the following funds, established by Ordinance No. 49:

(a) "Water System 1971 Revenue Fund" (hereinafter termed "1971 System Revenue Fund"), into which shall be deposited all income and revenues derived from the operation of the System, to be expended and used only in the manner and order hereinafter specified, all as permitted and defined by applicable statutes.

(b) "1971 Water System Operation and Maintenance Fund" (hereinafter termed "1971 Operation and Maintenance Fund"), into which shall be deposited, on or before the fifth day of each month, such sums as are estimated to be required for the necessary operation and maintenance expenses of the System for the current month.

(c) "1971 Water System Revenue Bond and Interest Sinking Fund" (hereinafter termed "1971 Bond Fund"), into which shall be deposited all accrued interest received from the sale of the Bonds, and, on or before the fifth day of each month from the System Revenue Fund, sums equal to at least one tenth of the amount of interest due the next succeeding interest payment date plus one tenth of the principal due on the next principal payment date until the required debt service reserve in the amount of \$7,900 has been accumulated. Thereafter it shall transfer and deposit such sums monthly as are necessary to meet the then current year's debt service and maintain the required reserve of \$7,900. The undertaking to transfer and pay the prescribed amounts from the 1971 System Revenue Fund into the 1971 Bond Fund shall be cumulative, so that in the event the revenues during any month are inadequate to make the required transfer and payment, or if for any other reason there be a failure to make such transfer and payment, the amount of the deficiency shall be made up from the first available revenues thereafter received, and the same shall be in addition to the amounts otherwise required to be transferred and paid into said 1971 Bond Fund. No further payments need be made into the 1971 Bond Fund after and so long as such amount of the Bonds shall have been retired that the amount then held in the 1971 Bond Fund, including the reserve, is equal to the entire amount of the interest and principal that will have accrued and become due at the time of the retirement or maturity of all the Bonds then remaining outstanding.

(d) "1971 Water System Depreciation Fund" (hereinafter termed "1971 Depreciation Fund"), into which shall be deposited, on or before the fifth day of each month from the 1971 System Revenue Fund, sums equal to five per centum of the gross revenues of the System for the preceding month until there has been accumulated in the Depreciation Account a reserve of \$2000 or an amount that will meet emergency expense for the current year and the next year. Moneys in this fund

are to be used to pay for necessary replacements or repairs to the water facilities or for the cost of economically justifiable extensions to the distribution system. However, in the event that funds in the 1971 Bond Fund should be reduced below the amount required to meet the current debt service plus the required reserve, funds on deposit in the 1971 Depreciation Fund may be transferred to the 1971 Bond Fund to the extent required to eliminate the deficiency in that fund.

SECTION 7. The Town expressly reserves the right to issue, in one or more installments, additional bonds or obligations payable from or secured by a lien on or pledge of the net revenues of the System, and said additional bonds, when issued, may be payable from and secured by a pledge of and lien on the net revenues of the System, and said additional bonds may be issued on a parity in all respects with the Bonds herein authorized. No additional bonds, however, shall be issued unless (a) the net revenues of the System for the fiscal year immediately preceding the issuance and sale of such additional bonds are equal to at least one and four-tenths (1.4) times the average annual debt service requirements of the then outstanding Bonds, as certified by an independent public accountant or by an auditor of the State's Local Audits Division, and (b) the projected net revenues of the System for the life of the then outstanding Bonds and the additional bonds then proposed to be issued are equal to at least one and four-tenths (1.4) times the average annual debt service requirements of said additional bonds, as prepared by a qualified, recognized consulting engineer; provided, however, that it shall not be necessary for the Town to meet the above requirements to issue additional bonds if the Town obtains

the written consent of the owners or holders of at least seventy-five percent (75%) of the Bonds then outstanding; or to issue junior lien bonds subject to the priority of bonds then outstanding.

SECTION 8. The 1971 Bond Fund shall be used solely and only and is hereby pledged for the purpose of paying the interest on and accomplishing the retirement of the Bonds. It shall be the duty of the Town Treasurer to deposit in the 1971 Bond Fund on the fifth day of each month after the issuance of these Bonds the respective sums which are required to be withdrawn from the System Revenue Fund and paid into said 1971 Bond Fund, and the 1971 Bond Fund shall be and remain in and on deposit as a trust account until applied in payment of principal and interest of the Bonds according to the schedule set out in the face of the Bond.

These amounts shall be proportionately reduced in the event any Bonds are paid prior to maturity.

It shall be the duty of the Town Treasurer to deliver to the registered owner, not less than five days before the due date of any annual payment of interest and principal of this bond issue, a check or voucher drawn on the 1971 Bond Fund, to be used to meet the payment then due.

SECTION 9. The Mayor and Town Recorder are hereby authorized and directed to execute the Bond and deliver it to the Farmers Home Administration, Fayetteville, Ark. upon payment of \$132,000, and interest shall begin to accrue from the date of delivery of the Bond. The proceeds from the sale of the bonds and or interim certificates of indebtedness shall be disbursed as follows:

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

- (b) In the case of the permanent and definitive bond, the amount necessary, if any, to pay in full the outstanding principal and accrued interest to date of payment of any interim certificates of indebtedness shall be used for that purpose, and the balance deposited into the Construction Fund and used for the accomplishment of the improvements and the expenses incurred by the Town in authorizing, selling and issuing the bonds.

SECTION 10. The depository bank of each fund hereinabove created shall give security, either by a corporate bond or by the escrow deposit of bonds or other direct or fully guaranteed obligations of the United States of America, for all sums of each fund on deposit with it in excess of \$20,000.

Upon request by the Town, moneys on deposit to the credit of accounts and funds established and maintained in conformity to the provisions of this ordinance shall be invested by the depository bank in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States Government.

Where the Town is required to maintain fixed amounts in such accounts and funds, the investments shall be valued in terms of current market value as of December 31 of each year. Interest earned on such investments shall be deposited in the fund from which the investment was made.

SECTION 11. The Town Treasurer covenants that it will keep proper records, books and accounts relating to the operation of the System, separate from all other records and accounts of the Town, in accordance with generally accepted accounting practices followed on privately-owned facilities of like type and size, in which complete and correct entries shall be made of all pertinent transactions. Such records, books and accounts shall be open to inspection by any bondholder and his agent and representative.

The Town further covenants that so long as the Government holds any of the Bonds, it will furnish to the Government, or, so long as any of the Bonds remain outstanding, it will furnish, upon request, to any bondholder (or Trustee when applicable) (1) on or before thirty days after close of each fiscal year a statement on the operations of the System for the past fiscal year in form and content in the minimum hereinafter specified, and (2) on or before ninety days after the close of each fiscal year a copy of a report by a certified public accountant, or a public accountant, or a State auditing official

(authorized respectively by State laws to perform such independent audits), and on the operation of the System for the next preceding fiscal year including therein the following information:

- a. Comment regarding the manner in which the Town has complied with covenants in this ordinance, and recommendations for any changes or improvements in the operation of the System;
- b. Statement of Income and Expense;
- c. Balance Sheet;
- d. Schedule of insurance policies and fidelity bonds showing with respect to each policy and bond the nature and amount of risk covered, the expiration date, and the name of the insurer;
- e. Schedule of the number of customers (connected and unconnected to the System) by classifications set forth in the rate ordinance (No. _____ passed and approved _____, and any amendments thereafter adopted), and showing the rate schedule currently in effect.

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 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 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 System; provided, however, that nothing herein shall be construed as requiring the City or any department, agency, or instrumentality thereof to avail itself of the facilities 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 normally 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 it that the 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 be 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 revenues derived from the System, and shall give bond as such custodian. Such bond shall be in an amount not less than \$30,000 and shall be approved by the Trustee.

(d) The System shall be operated upon a fiscal year basis, beginning January 1 of each year and ending and including the following December 31.

(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 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 Washington 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, 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 applying 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.

(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 1/8 of 1% 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

NO TRUSTEE

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 to 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 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 or 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

County.

The Trustee may resign at any time upon ten days' written notice to the City. The successor trustee shall have all 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. Because there is no newspaper published in the Town of Tontitown, the Mayor and Town Recorder are hereby directed to post more than ten days before the date fixed for the hearing, a certified copy of this ordinance in three (3) of the most public places within the said Town of Tontitown, attached to a notice of hearing signed by them, in substantially the following form:

NOTICE

Notice is hereby given that the Town Council of Tontitown, Arkansas, has adopted the ordinance hereinafter set out; that the Town contemplates the issuance of the bonds described in said ordinance; and that any person interested may appear before the Council on the 23 day of December, 1971, at 7:30 o'clock P.M. at Knights of Columbus Hall in Tontitown, 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 7 day of December, 1971.


Mayor of Tontitown, Arkansas

(SEAL)

ATTEST:


Town Recorder

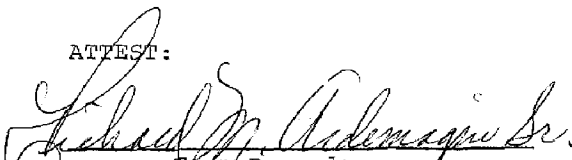
SECTION 14. It is hereby ascertained and declared that there is immediate need, in order to protect the health and property of the inhabitants of the Town, for the construction of the improvements set out in this Ordinance; therefore, an emergency exists and this Ordinance is necessary for the preservation of the public peace, health, and safety, and shall take effect and be in force without delay from and after its passage.

PASSED: December 7, 1971.

(SEAL)

APPROVED: 
Mayor

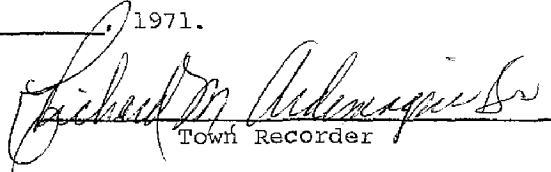
ATTEST:


Town Recorder

C E R T I F I C A T E

I, the undersigned, Town Recorder of the Incorporated Town of Tontitown, Arkansas, hereby certify the foregoing to be a true copy of an ordinance passed by the Town Council 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 One, Page , of the records of said Town.

CERTIFIED under my hand and the seal of said Town, this 7 day of December, 1971.


Town Recorder

(SEAL)