

ORDINANCE NO. 157

AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF EXTENSIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER SYSTEM OF THE CITY OF TONTITOWN, ARKANSAS; AUTHORIZING THE ISSUANCE AND SALE OF A REVENUE BOND FOR THE PURPOSE OF FINANCING THE COST OF THE CONSTRUCTION; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

BE IT ORDAINED by the City Council of the City of Tontitown, Arkansas that:

Section 1. Certain terms used herein are defined in the bond form appearing in Section 5 of this Ordinance; other terms used herein shall have the following definitions:

"Accountant" means an independent certified public accountant not in the regular employ of the Issuer.

"Authorized Officers" means Daniel ^R~~E~~. Watson, Mayor, and Frances Franco, City Recorder, or successors.

"Bond" means City of Tontitown, Arkansas Water Revenue Bond authorized by this Ordinance in the Principal Amount.

"Code" means the Internal Revenue Code of 1986, as amended.

"Construction Fund" means a special fund created by this Ordinance and designated "Water Revenue Bond Construction Fund, Series 2002."

"Depreciation Fund" means a special fund which is hereby created and designated "Water Depreciation Fund."

"Memorandum of Agreement" means the Memorandum of Agreement between the Issuer and the Arkansas Soil and Water Conservation Commission, No. 00178-CGO-L, dated November 26, 2001, as now or hereafter revised.

"Operation and Maintenance Fund" means a special fund which is hereby created and designated "Water Operation and Maintenance Fund."

"Revenue Fund" means a special fund which is hereby created and designated "Water Revenue Fund."

Section 2. The Improvements shall be accomplished. Acquiring, constructing and equipping the Improvements as more specifically described in the report prepared by the Project

Consultant are hereby approved, authorized and directed. The Authorized Officers are hereby authorized to take, or cause to be taken, all action necessary to accomplish the Improvements and to execute all required contracts and documents, including, but not limited to, the Memorandum of Agreement and a Non-Arbitrage Certificate. The City Council hereby finds and declares that the period of usefulness of the System will be more than 40 years, which is longer than the term of the Bond.

Section 3. (a) Under the authority of the laws of the State of Arkansas, including particularly the Acts, the issuance of the Bond is hereby authorized and the Bond is ordered issued for the purpose of accomplishing the Improvements and paying necessary expenses incidental thereto and to the issuance of the Bond.

(b) The Bond shall be initially dated the date of original issuance and delivery, shall mature on the Maturity Date and shall bear interest from the Date of Issue at the Interest Rate. Principal of and interest on the Bond shall be payable according to the Payment Schedule.

(c) The Bond shall be issuable only as a fully registered Bond without coupons in one denomination and shall be numbered "R-1".

(d) The Trustee is designated to act for the Registered Owner.

(e) The Bond, upon subsequent transfer, shall be exchanged for a new Bond dated as of the Payment Date to which interest has been paid, or if it is transferred prior to a date on which any interest has been paid, it shall be dated the Date of Issue. Principal and interest on the Bond shall be payable on the Payment Dates. Payment of each installment of principal and interest (except final payment) shall be made to the person in whose name the Bond is registered on the registration books of the Issuer maintained by the Trustee, as bond registrar, at the close of business on the Record Date, irrespective of any transfer or exchange of any such Bond subsequent to such Record Date, and prior to such Payment Date, by check or draft mailed by the Trustee to such Registered Owner, at his address on such registration books. Final payment of principal of the Bond shall be payable at the principal corporate trust office of the Trustee.

(f) Only such Bond as shall have endorsed thereon a Certificate of Authentication substantially in the form set forth herein duly executed by the Trustee shall be entitled to any right or benefit hereunder. No Bond shall be valid and obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed by the Trustee, and such certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder.

(g) In case the Bond shall become mutilated or be destroyed or lost, the Issuer shall cause to be executed and the Trustee may authenticate and deliver a new Bond of like date, number, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated Bond, or in lieu of and in substitution for such Bond destroyed or lost, upon the Registered Owner paying the reasonable expenses and charges of the Issuer and Trustee in connection therewith, and, in the case of the Bond being destroyed or lost, his filing with the Trustee evidence satisfactory to it that the Bond was destroyed or lost, and of his ownership thereof, and furnishing the Issuer and Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new Bond. Upon the issuance of a new Bond under this Section, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

(h) The Issuer shall cause to be maintained books for the registration and for the transfer of the Bond as provided herein and in the Bond. The Trustee shall act as the bond registrar. The Bond is transferable only at the principal office of the Trustee by the Registered Owner thereof or by his attorney duly authorized in writing. Upon such transfer the ownership of the Bond shall be registered to the subsequent Registered Owner, and a new fully registered Bond of the same maturity, for the same Principal Amount, less the amount of partial redemption, if any, will be issued in exchange therefor to the subsequent Registered Owner.

(i) No charge shall be made to any Registered Owner of any Bond for the privilege of transfer, but any Registered Owner of the Bond requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto. Except as otherwise provided in the immediately preceding sentence, the cost of preparing each new Bond upon each transfer and any other expenses of the Issuer or the Trustee incurred in connection therewith, shall be paid by the Issuer.

(j) The person in whose name the Bond shall be registered shall be deemed and regarded as the absolute Registered Owner thereof for all purposes, and payment of or on account of the principal or interest on the Bond shall be made only to or upon the order of the Registered Owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid. Neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

(k) When the Payment Date or date fixed for redemption of the Bond shall be a Saturday or Sunday or shall be in the State

of Arkansas a legal holiday or a day on which banking institutions are authorized by law to close, then payment of principal or interest need not be made on such date but may be made the next succeeding business day with the same force and effect as if made on the Payment Date or date fixed for redemption and no interest shall accrue for the period after the Payment Date or date fixed for redemption.

(1) The Bond shall be executed on behalf of the Issuer by the manual signatures of the Authorized Officers and the seal of the Issuer shall be affixed thereto.

Section 4. The sale of the Bond to the Arkansas Soil and Water Conservation Commission pursuant to the Memorandum of Agreement for the purchase price of par, plus accrued interest, if any, is hereby authorized subject to the Interest Rate, Maturity Date and other terms and provisions set forth in detail herein. The Memorandum of Agreement, in substantially the form submitted to this meeting, is hereby approved. The Mayor is hereby authorized and directed to execute and deliver the Memorandum of Agreement on behalf of the Issuer and to take all action required on the part of the Issuer to fulfill its obligations under the Memorandum of Agreement. The Mayor is further authorized and directed to execute and deliver any necessary revision to the Memorandum of Agreement on behalf of the Issuer in order to modify any provisions thereof to conform to the terms of this Ordinance.

Section 5. The Bond and the Trustee's Certificate of Authentication shall be in substantially the following form and the Authorized Officers are hereby expressly authorized and directed to make all recitals on behalf of the Issuer contained therein:

(Form of Bond)

REGISTERED

REGISTERED

No. R-1

\$270,500

UNITED STATES OF AMERICA
STATE OF ARKANSAS
CITY OF TONTITOWN
WATER REVENUE BOND

As used in this Bond the following terms shall have the following definitions:

"Act" or "Acts" whether one or more means Title 14, Chapter 234, Subchapter 2, Title 14, Chapter 164, Subchapter 4, and Title 19, Chapter 9, Subchapter 6, of the Arkansas Code of 1987 Annotated.

"Bond Fund" means a special fund which has been created by the Issuer's Authorizing Action and is designated "2001 Water Revenue Bond Fund."

"Date of Issue" means the date the Bond is issued and delivered to the original purchaser, which is _____, 2002.

"Dated Date" means the Date of Issue or, if this Bond is exchanged and registered to a subsequent Registered Owner, the Payment Date immediately prior to such exchange or registration.

"Improvements" means extensions, betterments and improvements to the System, including particularly, without limitation, extension of water service to approximately 20 new customers.

"Interest Rate" means 5.90%.

"Issuer" means City of Tontitown, Arkansas.

"Issuer's Authorizing Action" means City of Tontitown, Arkansas Ordinance No. ____ duly adopted and approved by the Issuer on January 8, 2002.

"Maturity Date" means June 1, 2032.

"Payment Date" means December 1, 2002 and every June 1 and December 1 thereafter.

"Payment Schedule" means \$ _____ on December 1, 2002 and, thereafter, equal semi-annual installments of \$9,670 on each Payment Date to and including December 1, 2031, with \$9,592.21 due on the Maturity Date.

"Principal Amount" means \$270,500.

"Project Consultant" means Engineering Services, Inc.

"Record Date" means the 15th day of the month (whether or not a business day) next preceding each Payment Date.

"Redemption Schedule" means the following schedule for optionally redeeming this Bond on the Redemption Dates at the Redemption Price (expressed as percentages of the Principal Amount) set forth in the following schedule, together with accrued interest to the Redemption Date:

<u>Redemption Dates</u> <u>(Dates Inclusive)</u>	<u>Redemption Price</u>
Prior to July 1, 2010	No Redemption
July 1, 2010 and thereafter	Par

"System" means the water system of the Issuer.

"Trustee" means Regions Bank, Little Rock, Arkansas.

KNOW ALL MEN BY THESE PRESENTS:

That the Issuer, for value received, hereby promises to pay, by check or draft, to the order of Arkansas Soil and Water Conservation Commission or registered assigns (collectively, the "Registered Owner"), at the principal office of the Trustee, the Principal Amount with interest thereon, at the Interest Rate per annum shown above, in such coin or currency from the Dated Date hereof, payable as provided in the Payment Schedule until payment in full of such Principal Amount or, if this Bond or a portion hereof shall be duly called for redemption, until the date fixed for redemption, and to pay interest on overdue principal and interest (to the extent allowed by law) at the rate borne by this Bond. Payments shall be first applied to accrued interest and the balance thereof shall be applied to principal. Payment shall be made to the person in whose name this Bond is registered on the registration books of the Issuer maintained by the Trustee at the close of business on the Record Date, irrespective of any transfer or exchange of this Bond, subsequent to the Record Date and prior to such Payment Date.

This Bond is issued for the purpose of financing and paying the costs of the construction of Improvements, and paying necessary expenses incidental thereto and to the issuance of this Bond.

This Bond is issued pursuant to and in full compliance with provisions of the Constitution and laws of the State of Arkansas, including particularly the Acts, and pursuant to the Issuer's Authorizing Action, and does not constitute an indebtedness of the Issuer within any constitutional or statutory limitation.

This Bond is not a general obligation of the Issuer, but is a special obligation of the Issuer payable solely from receipts received from the operation of the System (the "Revenues"). This Bond is secured by a statutory mortgage lien upon the System and a pledge by the Issuer of the Revenues pursuant to the provisions of the Acts in favor of the Registered Owner of this Bond.

An amount of Revenues sufficient to pay the principal of and interest on this Bond has been duly pledged and set aside as a special fund for that purpose, and will be deposited from time to time into the Bond Fund created pursuant to the Issuer's Authorizing Action, under which this Bond is authorized to be issued. Reference is hereby made to the Issuer's Authorizing Action for a detailed statement of the terms and conditions upon which this Bond is issued, of the terms and conditions for the issuance of additional bonds, of the nature and extent of the security for this Bond, and of the rights and obligations of the Issuer, the Trustee and the Registered Owner.

This Bond is subject to mandatory redemption at par from bond proceeds not used to pay the cost of the Improvements on the first Payment Date following the date of the Project Consultant's completion certificate, and to redemption at the option of the Issuer, pursuant to the Redemption Schedule. Notice of redemption identifying portions of this Bond to be redeemed shall be given by the Trustee, not less than 15 days prior to the date fixed for redemption, by mailing a copy of the redemption notice by first class mail, postage prepaid, to the Registered Owner. In the event of partial redemption, prepayments shall be applied in inverse order of maturity, the length of the Payment Schedule shall be reduced accordingly and the amount due on each Payment Date shall not be reduced.

The Issuer has fixed and has covenanted and agreed to maintain rates for the services of the System which shall be sufficient at all times to provide for the proper and reasonable expenses of operation and maintenance of the System and for the payment of the principal of and interest on this Bond, including Trustee's fees, if any, as the same become due and payable, to maintain any required debt service reserves and to make the required deposit for the depreciation of the System.

This Bond is transferable by the Registered Owner hereof only as provided in the Issuer's Authorizing Action. The Issuer and the Trustee may deem and treat the Registered Owner as the absolute owner hereof for the purpose of receiving payment of principal and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Issuer's Authorizing Action until it shall have been authenticated by execution of the Certificate of Authentication hereon duly signed by the Trustee. This Bond is issued with the intent that the laws of the State of Arkansas shall govern its construction.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed

under the Constitution and laws of the State of Arkansas, 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 does not exceed any constitutional or statutory limitation; and that the Revenues have been pledged in accordance with the Acts sufficient to pay this Bond and interest hereon until this Bond and interest hereon have been fully paid and discharged.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed by the undersigned Authorized Officers and its corporate seal to be affixed hereto, all as of the Dated Date shown above.

CITY OF TONTITOWN, ARKANSAS

ATTEST:

Francis Franco
City Recorder

By: David R. [Signature]
Mayor

(SEAL)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is issued under the provisions of the within mentioned Issuer's Authorizing Action.

REGIONS BANK
Little Rock, Arkansas
TRUSTEE

By: _____
Authorized Signature