

ORDINANCE NO. 732

AN ORDINANCE PROVIDING FOR THE CONSTRUCTION AND OPERATION OF IMPROVEMENTS TO THE WATERWORKS SYSTEM OF THE CITY OF EUREKA SPRINGS, ARKANSAS; PROVIDING FOR THE ISSUANCE OF REVENUE BONDS FOR SAID IMPROVEMENTS; FIXING THE DETAILS IN RESPECT OF SAID BONDS AND PROVIDING FOR THE METHOD OF PAYMENT THEREOF AND DECLARING AN EMERGENCY.

WHEREAS, the public interests and necessity require that certain improvements be constructed for the purpose of cleaning and improving the capacity of the City Waterworks Reservoir and for the purpose of extending mains, improving the pumping facilities, purifying the water, and many other needed improvements to the Water Reservoir and Water System, which Waterworks System is owned and operated by the City of Eureka Springs, Arkansas, and

WHEREAS, the City Commission of said City has caused plans and specifications to be made, together with an estimate of the costs of the same and the excess revenue of the present operation of said Water System is sufficient to pay the bonds herein authorized to be issued without an additional increase in rates, and

WHEREAS, the City Commission has approved the plans and estimated and declares that it is for the best interests of the said City that said improvements be constructed, and

WHEREAS, said City is without funds with which to carry out said plans but from the proceeds of the Bonds, hereinafter ordered to be issued, (hereinafter called the Bonds), authorized by Act 131 of the Acts of the regular session of the General Assembly of the State of Arkansas for the year, 1933, as amended by Act 107 of 1935 of the General Assembly of the state of Arkansas;

NOW, THEREFORE BE IT ORDAINED by the City Commission of said City of Eureka Springs, Arkansas, as follows:

Section 1. The estimated cost of the construction of said improvements to the Waterworks System of the City of Eureka Springs, Arkansas is found and declared to be the sum of Ten Thousand Dollars (\$10,000.00).

Section 2. The improvements, (also referred to as the Works), shall be constructed according to plans approved by the City Commissioners.

Section 3. All the Revenues for the Waterworks System, after the payment of the operating expenses, shall constitute the net Revenues of the works, and at the end of each month a sufficient amount of the surplus shall be deposited to a Bond Fund for the purpose of paying the Bonds each year, as herein authorized to be issued. In the event an additional surplus should remain, the City may use such surplus, or any part thereof, in its discretion to provide a fund for extentions, betterments, and additions to the Works, or to purchase any of the Bonds outstanding.

All Bonds purchased shall forthwith be cancelled and shall not again be issued. The moneys paid into the Bond Fund shall be deposited in a bank or banks and shall not be used for any purpose other than the payment of the Bonds and interests herein provided.

Section 4. So long as any of the Bonds are outstanding the System shall be operated upon a fiscal year basis, commencing the first day of January, 1948, and ending at the end of each year thereafter.

Section 5. Revenue Bonds of the City, (hereinafter called Bonds), shall be issued in the total amount of Ten Thousand Dollars, (\$10,000.00), which amount is necessary to provide sufficient funds to pay all costs of the herein described contemplated improvements, including necessary expenses; said Bonds each to be designated "Waterworks Revenue Bonds", which shall be dated January 15, 1948, and shall be in the denomination of Five Hundred Dollars (\$500.00) each, and they shall be numbered from 1 to 20, both inclusive, and shall mature in numerical number every six months thereafter.

The Bonds shall bear interest at the rate of 4 per centum (per cent) per annum, payable July 15, 1948, and semiannually thereafter, on the 15th day of January and July, each year, shall be signed by the Mayor and sealed with the corporate seal of the City and attested by the City Clerk of said City, and the interest upon said Bonds shall be evidenced by coupons thereto attached, such coupons to be signed by said Mayor and said City Clerk by their facsimile signatures; the said Mayor and said City Clerk shall execute said Bonds by their own signatures. The Bonds and coupons shall be payable in such funds as at the time of the respective payments are legal tender for the payment of debts due the United States of America, at the office of the Treasurer of the City of Eureka Springs, Arkansas.

The Bonds, together with the interests thereof, shall be payable out of the surplus or Bond Fund, as hereinbefore defined, and shall be a valid claim of the holder thereof only against the Bond Fund and the amount of the Revenues pledged to said fund, which amount of said Revenue 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 as the same becomes due and payable.

Section 6. That said Bonds and Coupons shall be in substantially the following form:

(Form of Bond)

The United States of America.  
State of Arkansas,  
County of Carroll,  
City of Eureka Springs  
Four Per Cent WATERWORKS REVENUE BOND

No. \_\_\_\_\_ \$500.00.

KNOW ALL MEN BY THESE PRESENTS;

That the City of Eureka Springs, in the County of Carroll, State of Arkansas, hereby acknowledges itself to owe and for value received, promises to pay to bearer, as hereinafter stated, the sum of Five Hundred Dollars, (\$500.00) on the 15th day of July, 1948, with interest at the rate of 4 per centum (per cent) per annum, payable July 15, 1948, and semiannually thereafter on the 15th day of January, and July, in each year, upon presentation and surrender of the annexed coupons, as they severally become due. Both principal thereof and interest thereon shall be payable in such funds as at the time of the respective payments are legal tender for the payments of debts due the United States of America at the office of the Treasurer of the City of Eureka Springs, Arkansas.

This Bond is one of a series of twenty Bonds, aggregating Ten Thousand, (\$10,000.00), each in the denomination of Five Hundred Dollars, (\$500.00), dated January 15, 1948, numbered from 1 to 20, both inclusive, one of said

Bonds being due each six months hereafter as per numerical number and issued for the purpose of providing for the payment of the costs of construction, of improvements to the Waterworks System of said City.

This Bond and the series of which it forms a part, are issued in accordance with the provisions of Act 131 of the regular session of the General Assembly of the State of Arkansas, for the year 1933, and as amended by Act 107 of the General Assembly of 1935, and do not constitute an indebtedness of said City within any constitutional or statutory limitation, and are payable solely from a fixed amount of the Revenues of said Waterworks System. Said amount has been duly set aside, pledged and mortgaged as a special fund for that purpose and identified as the "Bond Fund," under which this Bond is authorized to be issued by authority of Ordinance No. 732.

In and by said Act 131 of the General Assembly of the State of Arkansas for the year, 1933, and as amended, there is granted and created a statutory Mortgage Lien on said Waterworks System, to and in favor of the holders of said bonds and each of them, and to and in favor of the holders of each of the coupons evidencing the interest on said bonds; and said waterworks system shall remain subject to such statutory Mortgage Lien until the payment in full of all of said bonds, both principal and interest, which have been made.

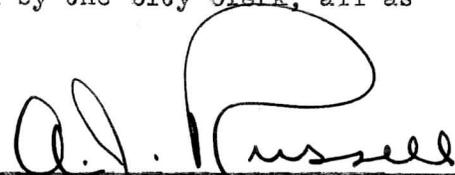
This bond is transferable by delivery, unless registered as to principal, at the office of the Treasurer in the City of Eureka Springs, in the state of Arkansas, and such registration noted thereon by such Treasurer. After such registration, upon delivery to said Treasurer of a written instrument of transfer executed by the registered holder or by his attorney thereunto duly authorized, this bond may be transferred, and such transfer shall be similarly noted hereon. No transfer hereof shall be valid unless so made, but this bond may be discharged from registration by being in like manner transferred to bearer, and thereupon transferability by delivery shall be restored and this bond may again from time to time be registered or transferred to bearer as before. No such registration shall affect the negotiability of the coupons appertaining hereto, which shall continue to be transferable by delivery merely and shall remain payable to bearer.

It is hereby CERTIFIED, RECITED, and DECLARED that all acts, conditions and things required to exist, happen and to be performed pursuant to and in the issuance of this bond have existed, having happened, and have been performed in due time, form and manner as required by law and that sufficient of the income and revenue to be derived from the operation of said system has been pledged to and will be set aside into said Special Fund for the payment of the principal and interest on said bonds.

IN WITNESS WHEREOF, said City of Eureka Springs, Arkansas, by its City Commissioners, has caused this Bond to be signed by the Mayor thereof, and sealed with the corporate seal of said City and attested by its Clerk, and has caused the coupons, hereto attached, to be authenticated by the facsimile signatures of said Mayor and attested by the City Clerk, all as of the 15th day of January, 1948.

ATTEST:

  
\_\_\_\_\_  
CITY CLERK,  
Eureka Springs, Arkansas

  
\_\_\_\_\_  
MAYOR,  
Eureka Springs, Arkansas

Section 7. After the Bonds have been executed, as herein provided, they shall be sold and delivered from time to time or all at once, at a price that shall not be less than par and the proceeds received therefrom shall be used solely for the payment of construction costs of the Works, including engineering, legal and other necessary expenses.

Section 8. There has been established by an Ordinance of the City Commissioners just and equitable rates or charges for the use of the services rendered by the Works, to be paid by the property owners in proportion to the water consumed and that said System is more than self sustaining and provides a sufficient amount according to the aforesaid rates to create a surplus, much more than needed for the payment and retirement of the Bonds herein authorized. So long as the bonds herein authorized to be issued are outstanding and unpaid, the rates now charged shall not be reduced.

Section 9. 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 Works required by the constitution and statutes of the state of Arkansas, including charging and collecting reasonable and sufficient rates lawfully established for services rendered by the Works segregating the revenue and applying a sufficient amount of the surplus in the Bond Fund, as herein provided.

Section 10. The City shall continue to keep a proper set of books and records showing collections and expenditures and will furnish to any holder or purchaser of any of the bonds at the time outstanding, at the written request of such holder, a complete operating and income statement of the Works.

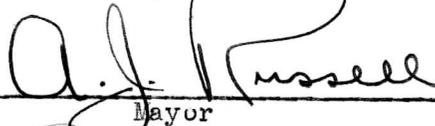
Section 11. If default is made in the payment of any bond or interest, the holders of such bond or bonds are hereby authorized to take such legal procedure as will protect and cause the payment of such bonds and interest. The bonds herein issued, as stated in their face, under the Acts of 1933 and as amended, are a lien and a Mortgage upon the Waterworks System, aforesaid, the same being out of debt and worth several hundred thousands of dollars.

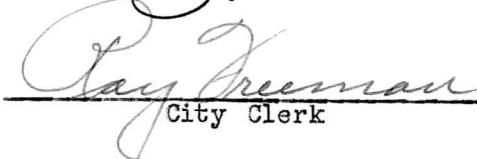
Section 12. That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

It is ascertained and declared that the lack of sufficient water for the reservoir and the enlargement of the same and improvements endangers the health and safety of the inhabitants of said City.

It is therefore, declared that an emergency exists, that this Ordinance is necessary for the immediate preservation of the public peace, health and safety, and that this Ordinance shall take effect and be in force from and after its passage.

Passed January 6, 1948.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

(SEAL)

City Commissioners