

ORDINANCE NO. 988

AN ORDINANCE PROVIDING FOR THE ACQUISITION OF A SITE FOR AND CONSTRUCTION OF PARKING FACILITIES IN THE CITY OF EUREKA SPRINGS, ARKANSAS; PROVIDING FOR THE ISSUANCE OF MUNICIPAL PARKING REVENUE BONDS; PROVIDING FOR THEIR PAYMENT AND SECURITY; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Eureka Springs, Arkansas (the "City"), proceeding under the provisions of Act No. 185 of the Acts of Arkansas of 1965, as amended ("Act No. 185"), has, by Ordinance No. 936, adopted and approved May 4, 1972 as amended by Ordinance No. 942, passed on September 7, 1972, levied a tax of one percent (1%) upon the gross receipts from hotel and motel accommodations and upon the gross receipts of restaurants, cafes, cafeterias and other establishments selling food for on-premises consumption (the "City gross receipts tax"), and created a City Advertising and Promotion Commission (the "Commission"); and

WHEREAS, the City owns and operates, through the Commission a 1,500 seat auditorium and convention center (the "convention center"); and

WHEREAS, the City Council and the Commission have determined that in conjunction with the convention center the City should acquire a site for and construct off-street parking facilities (which land and construction will be herein sometimes referred to as "parking facilities"), at an estimated cost of \$50,000, including necessary expenses incidental to the construction and to the financing, with the site for the parking facilities being located in the City and generally described as follows:

Lot One (1) on Southeast side of West Main Street and Lot One (1) on the Northwest side of First street, South Main Street and being the property on the lot on which the building is erected from Main Street to First St. in Block 156 Riley and Armstrong Survey. Also Lots One (1) Two (2) Three (3) Front and Back on the North side of Armstrong Street, and Lots One (1) Two (2) Three (3) on South side of First Street, all West of Spring Avenue and known on Rileys Plat as Lots One (1) Two (2) and Three (3) in Block 157. This also includes an overpass built across First Street under an easement from the City and intended to cover all the property known as the Cook and Border Company, from Main to Armstrong Street, Also Lots Four and Five (4 & 5) front and back, Block 157 Armstrong Street and Lot Five Block 157 First Street in the City of Eureka Springs, and being the same property described in Deed dated August, 1960 and recorded in the Recorders Office of Western District, Carroll County, Arkansas, in Record Book 61 at Page 607.

and

WHEREAS, plans for the parking facilities are on file in the office of the City Clerk to which reference is hereby made for the details of the proposed construction; and

WHEREAS, the City does not have sufficient funds to pay the cost of accomplishing the parking facilities; and

WHEREAS, pursuant to the recommendations of the Commission, the City Council of the City has determined that the most feasible way to obtain the needed funds for the parking facilities will be to issue Auditorium and Convention Center Parking Revenue Bonds (the "bonds"); and

WHEREAS, the necessary arrangements have been made for the sale of the bonds to the Bank of Eureka Springs, Eureka Springs, Arkansas (the "purchaser") at 100¢ on the dollar plus accrued interest for bonds bearing interest at the rate of 6-3/4% per annum;

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

Section 1. That the parking facilities be accomplished and the Mayor, City Clerk and Commission are hereby authorized to take all action and to execute all contracts and instruments necessary or desirable in connection with the accomplishment of the parking facilities.

Section 2. That under the authority of the Constitution and laws of the State of Arkansas, including particularly Act No. 317 of the Acts of Arkansas of 1967, as amended ("Act No. 317"), and Act No. 185, Auditorium and Convention Center Parking Revenue Bonds are hereby authorized and ordered issued in the principal amount of \$50,000 for the purpose of financing the costs.

of accomplishing the parking facilities, paying necessary expenses incidental thereto and paying the expenses of issuing the bonds. The bonds shall be dated December 1, 1975, shall bear interest at the rate of 6-3/4% per annum, payable semiannually on June 1 and December 1 of each year, commencing June 1, 1976. The bonds shall mature on December 1 in each of the years 1976 to 1990, inclusive. The bonds shall be numbered from R-1 to R-15, inclusive, and shall be in the denomination hereinafter specified in Section 9.

Section 3. The sale of the bonds to the purchaser upon the terms described above is approved and confirmed.

Section 4. The bonds shall be executed on behalf of the City by the Mayor and City Clerk and shall have impressed thereon the ^{Seal}~~Seal~~ of the City. The bonds, together with interest thereon, shall be payable solely out the Parking Facilities Revenue Bond Fund, as hereinafter set forth, and shall be a valid claim of the holders thereof only against such Fund and the revenues pledged to such Fund, which revenues are 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 shall be fully registered, typewritten and in substantially the following form, and the Mayor and City Clerk are hereby expressly authorized and directed to make all recitals contained therein:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF CARROLL
CITY OF EUREKA SPRINGS
6-3/4% AUDITORIUM AND CONVENTION CENTER PARKING REVENUE BOND

No. _____

\$ _____

KNOW ALL MEN BY THESE PRESENTS:

That the City of Eureka Springs, County of Carroll, State of Arkansas (the "City"), acknowledges itself to owe, and for value received, hereby promises to pay to BANK OF EUREKA SPRINGS, Eureka Springs, Arkansas, or assigns, solely from the special fund provided as hereinafter set forth, the principal sum of

DOLLARS

in lawful money of the United States of America on the first day of December, 19____, and to pay solely from the special fund interest hereon at the rate of six and three-fourths percent (6-3/4%) per annum from date until paid, semiannually on June 1 and December 1 of each year, commencing June 1, 1976. Both the principal and interest on this bond are payable at the office of the City Clerk of the City.

This bond is one of an issue of fifteen (15) bonds aggregating Fifty Thousand Dollars (\$50,000), all of like tenor and effect, except as to number, denomination, maturity and right of prior redemption, and are issued for the purpose of financing the costs of accomplishing certain off-street parking facilities in the City at the location specified in the Authorizing Ordinance (the "parking facilities"), paying necessary expenses incidental thereto and paying the expenses of issuing the bonds.

The bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Act No. 317 of the Acts of Arkansas of 1967, as amended, and Act No. 185 of 1965, as amended, and pursuant to Ordinance No. _____ of the City, duly adopted and approved on the _____ day of _____, 1975 (the "Authorizing Ordinance"), and do not constitute an indebtedness of the City within any constitutional or statutory limitation. The bonds are not general obligations of the City but are special obligations payable solely from and secured by a pledge of (1) revenues derived from the operation of the parking facilities and (2) that amount of revenues derived from the gross receipts tax on hotel and motel accommodations and on restaurants, cafes, cafeterias and other establishments levied by Ordinance No. 936 of the City, as amended by Ordinance No. 942, adopted pursuant to the authority of Act No. 185 of the Acts of Arkansas of 1965, as amended, necessary, together with revenues derived from the parking facilities, to insure the prompt payment of the principal of and interest on the bonds and the maintenance of the debt service reserve at the required level (subject, however, to the release from the pledge of the revenues described in (2), at the option of the City Council of the City, in the event: (a) the revenues described in (1) are sufficient during each year of any period of five (5) consecutive years to cover operations and maintenance expenses, the required depreciation deposit and leave a balance equal to not less than 150% of average annual debt service requirements on all outstanding bonds, and (b) the debt service reserve in the Parking Facilities Revenue Bond Fund has been increased to an amount equal to at least two times the level required by the Authorizing Ordinance), all as specified in detail in the Authorizing Ordinance. The City covenants and agrees to maintain such rates and charges for the use of the parking facilities which shall be sufficient

at all times to provide, together with other available revenues, for the operation and maintenance expenses of the parking facilities, for the prompt payment of the principal of and interest on the bonds, as the same become due and to make required deposits in the Depreciation Fund and maintain the debt service reserve at the required level. A sufficient amount of the pledged revenues to provide for the prompt payment of the principal of and interest on the bonds is to be set aside in a special fund designated "Parking Facilities Revenue Bond Fund" created by the Authorizing Ordinance. Reference is hereby made to the Authorizing Ordinance for a detailed statement of the nature and extent of the revenue pledges and security and of the rights and obligations of the City and the bondholders.

The bonds are subject to redemption prior to maturity at the option of the City in inverse numerical order at a price of the principal amount being redeemed plus accrued interest to the date of redemption, as follows:

- (1) From surplus parking facilities operating revenues on any interest payment date.
- (2) From funds from any other source on any interest payment date on or after December 1, 1980.

Notice of redemption shall be mailed by first class mail to the registered owner of each bond addressed to such registered owner at his registered address and placed in the mails not less than thirty (30) days prior to the date fixed for redemption. Each notice shall specify the numbers and the maturities of the bonds being called and the date on which they shall be presented for payment. After the date specified in such call, the bond or bonds so called will cease to bear interest provided funds for their payment have been deposited with the City Clerk and, except for the purpose of payment, shall no longer be protected by the Authorizing Ordinance and shall not be deemed to be outstanding under the provisions of the Authorizing Ordinance.

This bond may be transferred only upon its surrender to the City Clerk as bond registrar, together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the bond registrar, such transfer to be made on the bond registration books maintained by the bond registrar and a new bond of like tenor and amount delivered to the transferee. The principal of and interest on this bond shall be payable only to or upon the order of the registered owner or his legal representative.

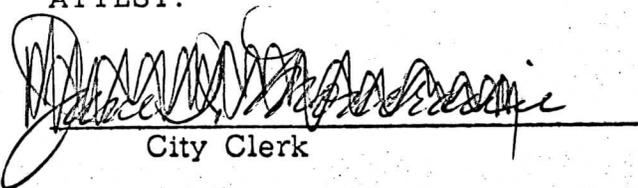
In certain events, on the conditions, in the manner and with the effect set forth in the Authorizing Ordinance, the principal of all the bonds issued under the Authorizing Ordinance and then outstanding may become or may be declared due and payable before the stated maturity thereof, together with the interest accrued thereon.

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 the bonds have existed, have happened and have been performed in due time, form and manner, as required by law; that the indebtedness represented by the bonds does not exceed any constitutional or statutory limitation; and that sufficient revenues have been pledged to and will be set aside into the special fund provided in the Authorizing Ordinance for the purpose of paying the principal of and interest on the bonds.

IN WITNESS WHEREOF, the City of Eureka Springs, Arkansas, has caused this bond to be signed by its Mayor and City Clerk, and to be sealed with the seal of the City, all as of the first day of December, 1975.

CITY OF EUREKA SPRINGS, ARKANSAS

ATTEST:



City Clerk

By



Mayor

(SEAL)

Section 6. That upon delivery of the bonds the City will proceed promptly to acquire and construct the parking facilities, which shall be continuously operated as a revenue producing undertaking. All moneys received from the operation thereof shall be deposited in such depository or depositories for the City as may be lawfully designated from time to time by the Commission, provided that such depository or depositories shall hold membership in the Federal Deposit Insurance Corporation. All deposits shall be designated so as to indicate the particular fund to which the revenues belong. Any deposit in any fund in excess of the amount insured by the Federal Deposit Insurance Corporation, unless invested as hereinafter provided, must be secured by bonds or other direct or fully guaranteed obligations of the United States of America.

Section 7. Parking Facilities Fund. All revenues derived from the operation of the parking facilities shall be paid into a special fund, which is hereby created and designated "Parking Facilities Fund." Such revenues so deposited in the Parking Facilities Fund are hereby pledged and shall be applied as hereinafter set forth.

Section 8. Parking Facilities Operation and Maintenance Fund. There shall be paid from the Parking Facilities Fund into a fund which is hereby created and designated "Parking Facilities Operation and Maintenance Fund" (the "Operation Fund") on the first business day of each month the amount estimated to be necessary for the payment of operation and maintenance expenses during that month. Moneys in the Operation Fund shall be used to pay the monthly expenses of operation, repair and maintenance of the parking facilities. Fixed annual charges such as insurance premiums and the cost of major repair and maintenance expenses may be computed and set up on an annual basis, and one-twelfth (1/12) of the amount thereof may be paid into the Operation Fund each month.

If in any month for any reason there shall be a deficiency in the amount deposited into the Operation Fund, the amount of such deficiency shall be added to the amount otherwise required to be transferred and paid into the Operation Fund in the next succeeding month. If in any fiscal year a surplus shall be accumulated in the Operation Fund which shall be in excess of the cost of maintaining and operating the parking facilities during the remainder of the fiscal year then current and during the fiscal year then next ensuing, any such excess shall be transferred to the Bond Fund; provided, however, that any such transfer into the Bond Fund shall be in addition to all other payments required to be made into the Bond Fund.

Section 9. Parking Facilities Revenue Bond Fund. (a) After making the required payment into the Operation Fund, there shall be deposited from the Parking Facilities Fund into a special fund which is hereby created and designated "Parking Facilities Revenue Bond Fund" (the "Bond Fund"), the sums in the amount and at the times hereafter stated in subsection (b) for the purpose of providing funds for the payment of the principal of and interest on the bonds as they mature, according to the following schedule:

<u>Year</u> (December)	<u>Amount</u>	<u>Bond</u> <u>Nos.</u>	<u>Interest</u>		<u>Total</u>
			<u>June 1</u>	<u>December 1</u>	
1976	\$2,000	R-1	\$1,687.50	\$1,687.50	\$5,375.00
1977	2,000	R-2	1,620.00	1,620.00	5,240.00
1978	2,000	R-3	1,552.50	1,552.50	5,105.00
1979	2,000	R-4	1,485.00	1,485.00	4,970.00
1980	3,000	R-5	1,417.50	1,417.50	5,835.00
1981	3,000	R-6	1,316.25	1,316.25	5,632.50
1982	3,000	R-7	1,215.00	1,215.00	5,430.00
1983	3,000	R-8	1,113.75	1,113.75	5,227.50
1984	3,000	R-9	1,012.50	1,012.50	5,025.00
1985	4,000	R-10	911.25	911.25	5,822.50
1986	4,000	R-11	776.25	776.25	5,552.50
1987	4,000	R-12	641.25	641.25	5,282.50
1988	5,000	R-13	506.25	506.25	6,012.50
1989	5,000	R-14	337.50	337.50	5,675.00
1990	5,000	R-15	168.75	168.75	5,337.50

(b) There shall be paid from the Parking Facilities Fund into the Bond Fund on the first business day of each month until all outstanding bonds, principal and interest, have been paid, or adequate provision made for such payment, a sum equal to $1/5$ of the next installment of interest and $1/10$ of the next installment of principal of all outstanding bonds, until a debt service reserve has been accumulated in an amount equal to the average annual principal and interest requirements on all outstanding bonds (the "required level"). When the debt service reserve has been established and so long as it is maintained at the required level the monthly payments may be reduced to a sum equal to $1/6$ of the next installment of interest and $1/12$ of the next installment of principal of all outstanding bonds, but if there are any expenditures therefrom, in accordance with the provisions hereof, the debt service reserve shall be brought back to the required level as soon as possible through the increased monthly deposits equal to the sum of $1/5$ and $1/10$, respectively, of the next installments of interest and principal of all outstanding bonds. The City may, at any time or from time to time, increase the level of the debt service reserve by making deposits therein from moneys remaining in the Parking Facilities Fund after the required provision for all other funds has been made and/or from revenues derived from the gross receipts tax not required to be deposited in the Bond Fund and/or in the Operation Fund in accordance with the provisions of Section 8 of this Ordinance. Expenditures shall be made from the debt service reserve only for the purpose of and to the extent necessary to prevent a default in the payment of the principal of and interest on the bonds.

(c) If the revenues in the Parking Facilities Fund shall be insufficient to make the required payment on the first business day of the following month into the Bond Fund, then the amount of any such deficiency in the payment made shall be added to the amount otherwise required to be paid into the Bond Fund on the first business day of the next month.

(d) When the moneys in the Bond fund shall be and remain sufficient to pay the principal of and interest on all the bonds then outstanding, there shall be no obligation to make any further payments into the Bond Fund.

(e) All moneys in the Bond Fund shall be used solely for the purpose of paying the principal of and interest on the bonds as the same become due, except that if at any time there shall be accumulated in the Bond Fund a surplus in excess of the amount necessary to insure the prompt payment of the principal of and interest on the bonds, as the same become due, and to maintain the debt service reserve at the required level, such surplus may be used as the City Council of the City shall determine, to redeem bonds prior to maturity in the manner provided herein for redemption prior to maturity or may be transferred to the Parking Facilities Fund.

(f) There shall be withdrawn from the Bond Fund at least five (5) days before any principal or interest due date and deposited with the City Clerk an amount equal to the amount that will be due for the sole purpose of paying the same, and no withdrawal of funds from the Bond Fund shall be made for any other purpose except in the case of an accumulated surplus which may be used as aforesaid in (e). All deposits shall be at the sole risk of the City and shall not operate as a payment of bond until so applied.

(g) The bonds shall be specifically secured by a pledge of all revenues required by this Ordinance to be placed into the Bond Fund. The pledge in favor of the bonds is hereby irrevocably made according to the terms of this Ordinance, and the City and the Commission and the officers and employees of the City and the Commission shall execute, perform and carry out the terms thereof in strict conformity with the provisions of this Ordinance.

Section 10. Parking Facilities Depreciation Fund. After making the required payments into the Operation Fund and the Bond Fund, there shall be paid from the Parking Facilities Fund into a fund which is hereby created and designated "Parking Facilities Depreciation Fund" (the "Depreciation Fund") on the first business day of the month immediately following the month in which the parking facilities become revenue producing and continuing on the first business day of each month thereafter while any of the bonds are outstanding, 3% of the revenues derived from the operation of the parking facilities. The moneys in the Depreciation Fund shall be used solely for the purpose of paying the cost of replacements made necessary by the depreciation of the parking facilities except, if at any time the amount of moneys on deposit in the Bond Fund shall be insufficient to pay the principal of and interest on the bonds as the same become due, moneys in the Depreciation Fund shall be used to the extent necessary to cover any such deficiency.

If in any fiscal year a surplus shall be accumulated in the Depreciation Fund over and above the amount necessary to defray the cost of the probable replacements during the then current fiscal year, and the next ensuing fiscal year, such surplus may be transferred and paid into the Bond Fund; provided, however, that such payments into the Bond Fund shall be in addition to all other payments hereinbefore required to be made into the Bond Fund.

Section 11. Any moneys remaining ⁱⁿ the Parking Facilities Fund after required provision for all other funds has been made, in accordance with the provisions pertaining thereto hereinabove set forth, may be used, as determined by the City Council of the City, for any or all of the following purposes:

(1) Redemption of bonds prior to maturity; or

(2) The construction and equipment (including payment of debt service and related expenses and charges in connection with, bonds issued therefor) of improvements and additions to the parking facilities or of other parking facilities (including acquisition of land and payment of any other related expenses) located elsewhere in the City; or

(3) For any lawful purpose.

Section 12. The City hereby expressly pledges, and covenants to use, revenues derived from the City gross receipts tax levied by Ordinance No. 936, as amended by Ordinance No. 942, of the Ordinances of the City, pursuant to the authority of Act No. 185, to the extent, and only to the extent, that such revenues may be required, together with revenues derived from the parking facilities, to make all required deposits under this Ordinance into the Operation Fund and into the Bond Fund in accordance with the provisions of this Ordinance. All revenues derived from the City gross receipts tax not required for the purposes aforesaid shall be released from this pledge (subject to the subsequent provisions hereof) and may be used by the City for any lawful purpose. In this regard, the Commission is hereby authorized to use from time to time all of the revenues derived from the City gross receipts tax for any purpose authorized by Act No. 185, or by Ordinance No. 936, as amended by Ordinance No. 942, or as authorized from time to time by any applicable law or ordinance, subject in all instances to the priority of pledge and claim on such revenues in favor of these bonds. If, at any time, it appears that revenues derived from the City gross receipts tax will be needed, as reasonably determined by the purchaser on the basis of projected revenues from the parking

facilities and expenditures thereof required by the provisions of this Ordinance, the purchaser shall notify the Commission of such need and of the amount determined by the purchaser that will be needed. Thereafter and until notified by the purchaser to the contrary, the Commission shall deposit in the Operation Fund and in the Bond Fund the amounts from the City gross receipts tax so specified in the notice from the purchaser to the Commission.

The City and the Commission covenant and agree that they will at all times while any of these bonds are outstanding, continue to collect the City gross receipts tax in at least the amount necessary to enable the City to discharge its obligations set forth in this Section 12 and in this Ordinance.

For all purposes hereunder the required amount of revenues derived from the City gross receipts tax to satisfy the pledge in favor of these bonds shall be considered part of the "pledged revenues," or revenues pledged to these bonds, for purposes of Section 13 and all other sections and provisions of this Ordinance. All references herein to "City" in connection with the City gross receipts tax, or in connection with the functions of the Commission, shall, where applicable, be deemed to mean or include the Commission.

The above pledge of revenues derived from the City gross receipts tax is hereby expressly conditioned as follows: The pledge of revenues derived from the City gross receipts tax may, at the option of the City Council of the City, be terminated in the event: (a) for any period of five (5) consecutive years during which, in each year of the period, revenues derived from the operation of the parking facilities are sufficient to cover operation and maintenance expenses, the required deposit in the Depreciation Fund and leave a balance equal to not less than 150% of the average annual debt service requirements on all outstanding bonds; and (b) the debt service reserve established by Section 9(b) of this Ordinance has been increased to a level equal to at least two times the required level specified by Section 9(b).

Section 13. The City covenants that it will not issue any bonds, or incur any obligation, secured by a prior or parity lien on or prior or parity pledge of the revenues pledged to these bonds. Nothing herein, however, shall prohibit the City from issuing obligations, secured by a subordinate lien on, or subordinate pledge of, the revenues pledged to these bonds.

Section 14. That it is hereby covenanted and agreed by the City with the holders of the bonds that the City and the Commission will faithfully and punctually perform all duties with reference to the parking facilities and the bonds, required by the Constitution and laws of the State of Arkansas and by this Ordinance, including the charging and collecting of sufficient rates and charges for the use of the parking facilities and the collection of the 1% City gross receipts tax, as herein specified and covenanted, the segregating of the revenues pledged hereby and the applying of the pledged revenues to the respective funds created hereby.

Section 15. That the bonds shall be subject to redemption prior to maturity in the manner and in accordance with the terms set out in the bond form.

Section 16. That the City will keep or cause to be kept proper books of accounts and records (separate from all other accounts and records) in which complete and correct entries shall be made of all transactions relating to the parking facilities and the operation thereof, and such books shall be available for inspection by the holder of any of the bonds at reasonable times and under reasonable circumstances. The City agrees to have these records audited by an independent public accountant at least once each year, and a copy of the audit shall be delivered to the purchaser. In the event the City fails or refuses to make the audit, the purchaser may have the audit made and the cost thereof shall be charged against the Operation Fund.

Section 17. That the City covenants and agrees that the parking facilities will be maintained in good condition and that the parking facilities will be operated in an efficient manner and at reasonable cost. While any of the bonds are outstanding, the City agrees that it will insure and at all times keep insured with fire and extended coverage insurance, in the amount of the full insurable value, in responsible insurance companies authorized and qualified under the laws of the State of Arkansas to assume the risks, the properties of the parking facilities at least to the extent that such properties would be covered by insurance by private companies engaged in similar types of operations, as reasonably determined by the City. In the event of loss, the proceeds of such insurance shall be applied solely toward the reconstruction and replacement of the parking facilities. If such proceeds are more than sufficient for such purposes, the balance remaining shall be deposited to the credit of the Bond Fund, and if such proceeds shall be insufficient for such purposes, the insufficiency shall be supplied, first, from moneys in the Depreciation Fund, second, from surplus moneys in the Operation Fund, and, third, from surplus moneys in the Parking Facilities Fund. Nothing herein shall be construed as requiring the City to expand any funds for operation and maintenance of the parking facilities or for premiums on insurance other than the pledged revenues, but nothing herein shall be construed as preventing the City from doing so.

Section 18. That the City covenants and agrees that so long as any bonds authorized hereby are outstanding, it will not mortgage or otherwise encumber the parking facilities, or any part thereof, and will not sell, lease or otherwise dispose of any substantial portion of the same without the prior written approval of the purchaser.

Section 19. (a) That if there be any default in the payment of the principal of and interest on any of the bonds, or if the City defaults in the performance of any covenant contained in this Ordinance, the holders of not less than ten percent (10%) in principal amount of the bonds then outstanding may, by proper suit compel the performance of the duties of the officials of the City and the Commission under the Constitution and laws of the State of Arkansas and under this Ordinance, and take any action or obtain any proper relief in law or in equity available under the Constitution and laws of the State of Arkansas. And, in the case of a default in the payment of the principal of and interest on any of the bonds, the holders of not less than ten percent (10%) in principal amount of the bonds then outstanding shall, apply in a proper action to a Court of competent jurisdiction for the appointment of a receiver to administer the parking facilities on behalf of the City and the bondholders with power to charge and collect (or by mandatory injunction or otherwise to cause to be charged and collected) rates and charges sufficient to provide for the payment of the bonds and interest thereon and for the payment of operation and maintenance expenses and to apply the revenues and income in conformity with the applicable laws of the State of Arkansas and with this Ordinance. When all defaults in principal and interest payments have been cured, the custody and operation of the parking facilities shall revert to the City.

(b) It is understood and intended that no one or more holders of the bonds hereby secured shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Ordinance, or to enforce any right hereunder except in the manner herein provided, that all proceeds at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all holders of the outstanding bonds and coupons, and that any individual rights of action or other right given to one or more of such holders by law are restricted by this Ordinance to the rights and remedies herein provided.

(c) That no remedy herein conferred upon or reserved to the holder of the bonds is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by any law or by the Constitution of the State of Arkansas.

(d) That no delay or omission of the holders of the bonds to exercise any right or power accrued upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy given by this Ordinance to the holders of the bonds may be exercised from time to time and as often as may be deemed expedient.

(e) That the holders of not less than ten percent (10%) in principal amount of the bonds then outstanding may waive any default which shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted under the provisions of this Ordinance or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

Section 20. (a) Moneys in the debt service reserve shall be invested and reinvested pursuant to the direction of the City in direct obligations of or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder not later than ten (10) years after the date of each such investment.

(b) Moneys held for the credit of any fund (other than the debt service reserve) may, at the option of the City, be invested and reinvested pursuant to the direction of the City in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, in bank certificates of deposit, or any lawful investment, which shall mature, or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the date or dates when the moneys held for the credit of the particular fund will be required for the purposes intended as specified by the City.

Section 21. That in the event the office of Mayor, City Clerk, Commission, or City Council shall be abolished or any two or more of such offices shall be merged or consolidated or in the event the duties of a particular office shall be transferred to another office or officer, or in the event of a vacancy in any such office by reason of death, resignation, removal from office or otherwise, or in the event any such officer shall become incapable of performing the duties of his office by reason of sickness, absence from the City or otherwise, all powers conferred and all obligations and duties imposed upon such office or officer shall be performed by the office or officer succeeding to the principal functions thereof, or by the office or officer upon whom such powers, obligations and duties shall be imposed by law.

Section 22. That the provisions of this Ordinance shall constitute a binding contract between the City and the holders of the outstanding bonds issued hereunder, and the City will at all times strictly adhere to the terms and provisions hereof and fully discharge all of its obligations hereunder. Subject to the terms and provisions contained in this section and not otherwise, the holders of not less than seventy-five percent (75%) in aggregate principal amount of the bonds then outstanding shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance supplemental hereto as shall be necessary or desirable for the purpose⁰⁵ of modifying, altering, amending, adding to or rescinding, in any particular any of the terms or provisions contained in this Ordinance or in any supplemental ordinance; provided, however, that nothing contained shall permit or be construed as permitting (a) an extension of the maturity of the principal of or the interest on any bond issued hereunder, or (b) a reduction in the principal amount of any bond or the rate of interest thereon, or (c) the creation of a lien upon or a pledge of revenues other than as expressly authorized by the appropriate provisions of this Ordinance as now adopted, or (d) the creation of a privilege of priority of any bond or bonds over any other bond or bonds, or (e) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

Section 23. That when the bonds have been executed and the seal of the City impressed as herein provided, they shall be delivered to the purchaser upon payment in cash of the purchase price plus accrued interest to the date of delivery of the bonds (called "total sale proceeds"). The City shall deposit the total sale proceeds in a special account of the City designated "Parking Facilities Construction Fund" (the "Construction Fund"), in a depository designated by the City that is a member of the Federal Deposit Insurance Corporation. The moneys in the Construction Fund in excess of the amount insured by the Federal Deposit Insurance Corporation, unless invested as herein authorized, shall be continuously secured by bonds or other direct or fully guaranteed obligations of the United States of America. The moneys in the Construction Fund shall be disbursed solely in payment of the cost of accomplishing the parking facilities, paying necessary expenses incidental thereto (including payment of interest during construction) and paying the expenses of issuing the bonds. Disbursements shall be on the basis of checks or requisitions which shall contain at least the following information: the person to whom payment is being made; the amount of the payment; and the purpose by general classification of the payment. Each check or requisition must be signed by one designated representative of the Commission and, if desired by the City Council and so specified as the depository of the Construction Fund, by one other person designated by the City Council. If requisitions are used, the depository shall issue its check upon the Construction Fund payable to the person designated in the requisition. The depository of the Construction Fund shall be required to keep accurate records as to all payments made on the basis of requisitions, and the Commission shall keep accurate records of all payments made on the basis of checks.

When the acquisition and construction of the parking facilities have been completed and all required expenses paid from the Construction Fund in connection with the parking facilities and the issuance of the bonds, this

fact shall be evidenced by a certificate signed by the designated representative of the Commission and by the Mayor, which certificate shall state, among other things, the date of the completion and that all obligations payable from the Construction Fund have been discharged. A copy of the certificate shall be filed with the depository of the Construction Fund and upon receipt thereof the depository of the Construction Fund shall take the necessary steps to transfer any remaining balance in the Construction Fund to the Parking Facilities Fund created by this Ordinance.

Section 24. That the provisions of this Ordinance are hereby declared to be separable, and if any provisions shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of the Ordinance.

Section 25. That all ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 26. That the Commission heretofore created pursuant to the provisions of Act No. 185 shall continue in office and shall continue to perform the duties specified by Act No. 185, by the ordinance creating the Commission, and by this Ordinance, and references herein to "City" shall when applicable be construed to include the Commission.

Section 27. 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 be issued and delivered.

Section 28. That it is hereby ascertained and declared that the parking facilities should be completed as soon as possible in order that the parking facilities be made available to the City and its inhabitants and visitors at the earliest possible time, all of which is hereby declared to be necessary for the welfare of the citizens of the City. Such cannot be accomplished without the issuance of the bonds authorized by this Ordinance, and therefore an emergency

is hereby declared to exist, 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 15, 1975.

ATTEST:

Jane I. Monerovic
City Clerk

APPROVED:

Archie
Mayor

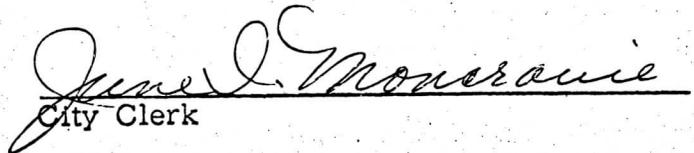
(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Eureka Springs, Arkansas, hereby certifies that the foregoing is a true, correct and compared copy of Ordinance No. 988, passed at a regular session of the City Council of Eureka Springs, Arkansas, held at the regular meeting place of the Council at 10:00 o'clock a.m., on the 15th day of November, 1975, and that the Ordinance is of record in Ordinance Record Book No. 3, page 560, now in my possession.

GIVEN under my hand and seal this 15th day of November, 1975.

11-20-75


City Clerk

(SEAL)

EXCERPTS FROM MINUTES OF A MEETING OF THE
EUREKA SPRINGS, ARK. CITY COUNCIL HELD

November 15, 1975

The City Council of the City of Eureka Springs,

Arkansas met in regular session at its regular meeting place in
Eureka Springs, Arkansas at 10:00 o'clock A.m., on the
15th day of November, 1975. The following were present:

Mayor W A Hill; City Clerk Monte Jurek,
; and Aldermen Westphal,
Eagan, Bland and Magee

Absent: Sarrett and Kennett

The Mayor stated that consideration should be given to an ordinance
providing for the acquisition of a site for and construction of parking facilities

This was a matter with which the Council was familiar and after a discussion,

Alderman Bland introduced an ordinance entitled:

AN ORDINANCE PROVIDING FOR THE ACQUISITION OF A
SITE FOR AND CONSTRUCTION OF PARKING FACILITIES
IN THE CITY OF EUREKA SPRINGS, ARKANSAS; PROVIDING
FOR THE ISSUANCE OF MUNICIPAL PARKING REVENUE
BONDS; PROVIDING FOR THEIR PAYMENT AND SECURITY;
PRESCRIBING OTHER MATTERS RELATING THERETO; AND
DECLARING AN EMERGENCY.

and the City Clerk _____ read the ordinance in full.

Alderman Bland, seconded by Alderman Magee, moved that the rule requiring the reading of an ordinance or resolution in full on three different days be suspended and that the ordinance be placed on its second reading. The Mayor put the question on the adoption of the motion and the roll being called, the following voted aye:

Westphal, Eagan, Bland
Magee

and the following voted nay: None

Thereupon the Mayor declared that at least two-thirds of all members of the Council having voted in favor of the motion to suspend the rule, the motion was carried and the rule suspended. The ordinance was then read by the City Clerk _____.

Alderman Magee, seconded by Alderman Bland then moved that the rule requiring the reading of an ordinance in full on three different days be further suspended and that the ordinance be placed on its third reading. The Mayor put the question on the adoption of the motion and the roll being called the following voted aye:

Westphal, Eagan, Bland and Magee

and the following voted nay: None

The Mayor declared that at least two-thirds of all members elected to the Council having voted in favor of the motion to suspend the rule, the motion was carried and the rule suspended. The ordinance was then read by the City Clerk _____.

Alderman Magee, seconded by Alderman Bland, moved that the ordinance be adopted. The question was put by the Mayor on the adoption of the motion and the roll being called, the following voted aye:

Westphal, Eagan, Bland and Magee

and the following voted nay: None

Alderman Magee, seconded by Alderman Bland, moved that Section 28, the emergency clause, be adopted, and on roll call the following voted aye:

Westphal, Eagan, Bland and Magee

and the following voted nay: None.

The Mayor thereupon declared the ordinance and the emergency clause adopted and signed the ordinance, which was attested by the City City and impressed with the seal of the City. The ordinance was given No. 988.

(Matters not relating to adoption of an ordinance providing for the acquisition of a site for and construction of parking facilities are omitted.)

There being no further business, the Council adjourned.

W. B. ...
Mayor

ATTEST:

Jane I. Monahan
City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of Eureka Springs, Arkansas, hereby certifies that the foregoing pages numbered 1 to 3, inclusive, are a true and correct copy of excerpts of the minutes of a meeting of the City Council of the City of Eureka Springs, Arkansas, at a regular session held at the regular meeting place of the Council in said City at 10:00 a .m. on November 15, 19 75, and the time and place of the meeting was furnished to each person who made a request therefor in accordance with the provisions of Act No. 63 of the Acts of Arkansas of 1967.

CERTIFIED this 15th day of November, 19 75.


CITY CLERK

(SEAL)

NOTICE OF AND CONSENT TO MEETING OF COUNCIL

The undersigned hereby acknowledge receipt of official and timely notice of a meeting of the City Council of the City of Eureka Springs, Arkansas, to be held on November 15, 1975, at 10:00 o'clock a.m., at the regular meeting place of the Council in the City of Eureka Springs, Arkansas, the purpose of the meeting being:

the consideration of an ordinance providing for the acquisition of a site for and construction of parking facilities

and for the transaction of such other business as may properly come before the Council.

The undersigned further consent to the meeting at the time and place and for the purposes hereinabove set forth and hereby ratify all action taken at said meeting for said purposes.

Cossie

Mayor

James L. Monerovic

City Clerk

William Westphal

Ray A. Egan

David V. Bland

Calvin A. Magee

