

## WATERWORKS REVENUE BOND

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE BORROWING OF MONEY, ISSUING A WATERWORKS REVENUE BOND THEREFOR IN THE AMOUNT OF \$11,000.00 FOR CONSTRUCTING A WATERWORKS SYSTEM; PRESCRIBING THE BOND FORM, THE TERMS AND CONDITIONS OF ISSUE AND RETIREMENT, MAKING PROVISION FOR PAYMENT AND SECURITY THEREOF AND DECLARING AN EMERGENCY.

WHEREAS, it has been determined that there is immediate need for the construction of an extension to the Town's waterworks system; and

WHEREAS, it is necessary to defray a portion of the cost of constructing and equipping said extension, including engineering and legal fees and other necessary and related expenses, by obtaining a loan made, or insured, by the United States of America in accordance with the applicable provisions of the Consolidated Farmers Home Administration Act of 1961, it being determined that the Town is unable to obtain sufficient credit elsewhere to finance said system, taking into consideration prevailing private and cooperative rates and terms currently available;

NOW, THEREFORE, BE IT ORDAINED BY THE Town of Brookland, Arkansas:

SECTION 1: That the Town proceed with the construction of the extension to the waterworks system and for defraying the cost thereof to obtain such financial assistance as is available by a loan, made or insured by the United States of America, acting by and through the Farmers Home Administration, United States Department of Agriculture.

SECTION 2: That pursuant to the general statutes of Arkansas, and particularly Act 131 of 1933, as amended (Ark. Stats. 19-4201 et seq.) the Town is hereby authorized to borrow \$11,000.00 and issue as evidence thereof a waterworks revenue bond. Said bond shall be dated as of the date of delivery, bear interest at the rate of four and one-half per cent (4 1/2%) per annum and be payable in annual amortized installments beginning on January 1, 1969, and on each succeeding January 1 thereafter, until the face amount of the bond plus interest thereon is fully paid, except that the final payment of the entire indebtedness if not sooner paid shall be due and payable 40 years from the date of the bond. So long as such bond is held or insured by the United States of America, such principal and

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interest shall be payable to the office of the Farmers Home Administration, United States Department of Agriculture, Jonesboro, Arkansas, or at such other place as may be designated by the Government.

The bond, together with the interest thereon, shall be payable solely from the income and revenues to be derived from the operation of the water system, a sufficient portion of which is hereby pledged in payment of the bond and said bond shall be additionally secured by a statutory mortgage lien on the lands, buildings, machinery and equipment comprising such waterworks system. Said bond shall be payable equally and rateably secured with the bond issued under the Bond Ordinance adopted on September 14, 1965.

SECTION 3: Said Bond shall be signed by the Mayor and Recorder and be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF ARKANSAS  
COUNTY OF CRAIGHEAD

TOWN OF BROOKLAND

WATERWORKS REVENUE BOND

KNOW ALL MEN BY THESE PRESENTS:

That the Town of Brookland, in the County of Craighead, State of Arkansas, for value received, hereby promises to pay to the order of the United States of America, through the Farmers Home Administration, United States Department of Agriculture, at its office in Jonesboro, Arkansas, the principal sum of Eleven Thousand Dollars (\$11,000.00), with interest on the unpaid principal balance at the rate of four and one-half per cent (4 1/2%) per annum. The said principal and interest shall be payable in the following installments on or before the following dates: \$568.00 January 1, 1969, and \$568.00 thereafter on each January 1 until the principal and interest are fully paid, except that the final payment of the entire indebtedness evidenced hereby if not sooner paid shall be due and payable forty (40) years from the date of this Bond.

This bond is issued pursuant to and in accordance with the provisions of Act 131 of 1933, as amended (Ark. Stats. 19-4201 et seq.), for the purpose of paying the cost of constructing an extension to the waterworks system, and does not constitute an indebtedness of the State of Arkansas and does not constitute an indebtedness or pledge of the general credit of the Town



within the meaning of any constitutional or statutory limitation. Said bond is payable solely from a fixed amount of net revenues from the Waterworks System, which amount shall be sufficient to pay the principal and interest on said bond as the same becomes due and payable. Said amount has been duly set aside and pledged as a special fund for that purpose and identified as the "Waterworks Revenue Bond Fund," created by the ordinance by which this bond is authorized to be issued, and the said Town has fixed and has covenanted and agreed to maintain rates for water service which shall be sufficient at all times to provide for the payment of the reasonable expenses of operation, repair and maintenance of said System, to provide for adequate depreciation, reserve, and to provide for the payment of the principal of and interest on the bond as the same becomes due and payable. This bond is additionally secured by a mortgage upon the Waterworks System constructed with the proceeds derived from the sale of the bond.

Prepayments of scheduled installments, or any portion thereof, may be made at any time; except that for insured loans to tax-exempt public bodies, prepayments cannot be made during the first five years from the date hereof. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the sources of funds involved, shall, after payment of interest, be applied to the installments last to become due under this bond and shall not affect the obligation to pay the remaining installments as scheduled herein.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required to be done precedent to and in issuing this bond have been done, have happened, and have performed in legal and due form as required by law; that a sufficient amount of the income and revenue deemed 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 this bond.

IN WITNESS WHEREOF, The Town of Brookland, Arkansas, by its Town Council, has caused this bond to be signed by the Mayor and Recorder thereof and sealed with the corporate seal of said Town, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

TOWN OF BROOKLAND, ARKANSAS

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Recorder

(SEAL)



SECTION 4: The Town by Ordinance No. 1965-2 dated September 14, 1965, fixed the rates to be charged for water services, and the rates so fixed are reasonable and the necessary minimum rates to be charged, and said rates will produce a total revenue sufficient to pay the reasonable costs of the operation, repair and maintenance of the System, provide a sinking fund sufficient to assure prompt payment of the bond and reserves therefor and provide for an adequate depreciation fund for repairs, extensions and improvements. The rates so fixed shall never be reduced, except as provided in Section 10 (b), until the Bond and interest thereon shall have been paid in full, and said rates shall, when necessary, be increased in an amount sufficient to provide for the maintenance of the funds hereinafter described.

SECTION 5: Construction Fund. All development funds shall be deposited at the time of loan closing in the Construction Fund under a Deposit Agreement approved by the Farmers Home Administration. These funds will be deposited in a supervised bank account in a bank covered by Federal Deposit Insurance. Money in this fund shall be withdrawn only on checks signed by the Treasurer and countersigned by the County Supervisor of the Farmers Home Administration. Withdrawal shall be only for the purposes specified in the loan application. The Town's share of any liquidated damages will be deposited in the construction fund to assure completion of the project, or for payment on the loan. When the construction of works of improvement has been completed, or all authorized loan purposes have been paid in full, any balance remaining in the Construction Fund shall be withdrawn and applied on the bond as an extra payment and the Construction Fund will be closed; provided that if a grant is involved any funds remaining after construction has been completed will be deemed to be grant funds and shall be returned to the Finance Office of the Farmers Home Administration.

SECTION 6: Waterworks Revenue Fund. The special fund provided in and established under Section 8 of the Ordinance adopted September 14, 1965, and designated as the Waterworks Revenue Fund shall be maintained so long as the bond hereby authorized is outstanding, which fund shall be separate and apart from all other funds and into which shall be deposited all income and revenues derived from the operation of the system. Said fund shall be expended and used only in the manner and order provided in said Ordinance, and as hereinafter specified:

1. The Town agrees to maintain so long as the bond hereby authorized is outstanding, the Operation and Maintenance Fund, the Waterworks Revenue Bond Fund, and the Depreciation Fund provided for in the Ordinance adopted September 14, 1965, and further covenants and agrees to adjust the deposits in the Waterworks Revenue Bond Fund as follows:



- (a) In the Waterworks Revenue Bond Fund on the same basis as prescribed in Section 9 of the Ordinance of September 14, 1965, to reflect the available annual debt service on the bond hereby authorized.

SECTION 7: Subject to the foregoing, which are cumulative, any balance in the Waterworks Revenue Fund shall be used for the purpose of prepaying on said bond or to make improvements or extensions to the System.

SECTION 8: That so long as the bond hereby authorized remains unpaid, the Town will not borrow any money from any source or contract or enter into any agreement or incur any other liabilities to be paid from a pledge of the revenues of the Waterworks, in connection with making improvements or extensions to said waterworks, or for any purpose, without obtaining the prior written consent of the State Director of the Farmers Home Administration.

SECTION 9: The depository bank of each fund hereinabove created shall give security, by the escrow deposit of notes 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 \$15,000.00. Monies on deposit to the credit of accounts and funds established and maintained in conformity with the provisions of this ordinance shall be invested by the Depository Bank, upon request by the Town, in direct obligations of, or obligations the principal of and interest on which are guaranteed by the United States of America. 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 June 30 and December 31 of each year. Interest earned on such investments shall be deposited in the fund from which the investment was made.

SECTION 10: The Town covenants and agrees that so long as the bond remains unpaid:

(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 Town 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 Town or such department, agency, or instrumentality and shall be paid for as the charges therefor accrue. The revenues so received shall be deemed to be revenues derived from the operation of the System; provided, however, that nothing herein shall be construed as requiring the Town or any department, agency or instrumentality thereof to avail itself of the facilities or services afforded by the System.

(b) That no reduction in the initial rate schedule for the waterworks may be made unless:

1. The Town has fully complied with all of the provisions of this Ordinance for at least the full calendar year immediately preceding such proposed reduction of the initial rate schedule; and

2. The Reserve Fund provided in Section 6 (2) has been built up to the required minimum reserve of \$\_\_\_\_\_.

3. The audit required to be made by Section 10 (b) herein below of this ordinance for the full calendar year immediately preceding such proposed rate reduction discloses that the estimated revenues which would result from the proposed rate schedule will be sufficient to produce adequate revenues or earnings annually to pay the annual operation and maintenance expenses, the costs of all essential replacements and repairs to the waterworks, the principal of and interest on the waterworks revenue bond, and any other obligations payable annually from the revenues of the waterworks, and provide payments for the Reserve Fund required by this Ordinance; and

4. The prior written approval of the State Director of the Farmers Home Administration has been obtained, so long as the waterworks revenue bond issued hereunder is held or insured by the Government.

(c) It will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost and 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 business. These insurance policies are to be taken with companies approved by the Farmers Home Administration, and are to carry a clause making them payable to the United States of America (Farmers Home Administration) 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 Farmers Home Administration or the Farmers Home Administration shall be furnished evidence satisfactory to it that the policies have been issued and carry the loss payable to the United States of America (Farmers Home Administration). 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 it will, with reasonable promptness, cause to be



commenced and completed the reconstruction, replacement and repairs. Nothing herein shall be construed as requiring the Town to expend any funds for premiums on its insurance on the System which are derived from sources other than the operation of the System.

(d) The 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 \$\_\_\_\_\_ and shall be approved by the Farmers Home Administration.

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

(f) It will not sell, lease, mortgage, pledge or otherwise encumber, or in any manner dispose of, or otherwise alienate, the waterworks or any part thereof, or any revenues therefrom, including any and all extensions and additions that may be made thereto, until the bond herein authorized to be issues shall have been paid in full, both principal and interest, except that so long as the bond is held, or insured by, the Government, with the prior written approval of the State Director of the Farmers Home Administration, it may sell any portion of said property which shall have been replaced by other property of at least equal value, or which shall cease to be necessary for the efficient operation of the System, but in no manner nor to such extent as might prejudice the security for the payment of the bond herein authorized; provided, however, that in the event of any sale as aforesaid, the proceeds of such sale shall be distributed as net income of the system in accordance with the provisions of this Ordinance.

(g) 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 Town 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 monies in said fund shall have been deposited, and each such check or voucher shall briefly specify the purpose of the expenditure.

(h) It 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 and have these records audited at least once each year, and it shall furnish the Farmers Home Administration a copy of this audit.



(i) If there be any default in the payment of either the principal or of the interest on the bond, the holder or holders thereof may enforce any mortgage lien and may by proper suit compel the performance of the duties of the officials of the Town as set forth in the statutes authorizing the bond. If there be default in the payment of the principal or of interest on the bond, or if the Town 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 by the holder of the bond in default, may appoint a receiver to administer the system on behalf of the Town, with power to charge and collect rates sufficient to provide for the expenses of the receivership, the payment of the bond 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, but when all defaults are cured, the receivership shall be ended and the management and control of the System restored to the Town.

(j) If default is made in the payment of the bond, or if bond fund requirements are not met, the holder of such bond may declare the bond immediately due and payable and in default, and 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.

(k) It will, prior to December 31 of each year, beginning December 31, 1967, prepare a budget for the ensuing calendar year of the Waterworks covering prospective revenues and receipts, operation and maintenance expenses, and deposits to be made during such calendar year in the various funds set up by this Ordinance. A copy of such budget will be forwarded promptly to the State Director of the Farmers Home Administration or other official designated by the Government.

(l) If at any time it shall appear to the Government that the Town is able to call for redemption or refund the then outstanding bond, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and period of time, or by other means, the Town will, upon request of the Government, redeem, refund, or apply for and accept such loan in sufficient amount to repay the Government or the holders of the bond, or both, and will take all actions as may be required in connection with such redemption or refund.

(m) If the loan is insured by the Government, the Town covenants and agrees to pay to the Government any insurance charge which may be specified in the Government's insurance endorsement.



(n) In the event the Government shall make any advances to meet payments on the bond, or the payment of insurance premiums or other advances which may be required to protect the Government's security interest as to any bond, held or insured by it, the Town will pay in addition to the interest on the unpaid bond, interest on all such advances or expenditures in connection therewith made by the Government, at the same per annum rate specified in the bond. All such advances, expenditures and interest thereon shall be deemed payable upon demand immediately, after any such expenditure by the Government and shall take priority over all other payments from the bond fund payments set forth herein.

SECTION 11: All contracts for constructing the waterworks system shall be subject to the prior approval of the Government and shall contain such provisions as may be required by the Government, including the EQUAL OPPORTUNITY CLAUSE relating to public contracts and to construction work involving Federal assistance. The Mayor and Recorder are hereby authorized and directed to execute Form FHA 400-1 entitled "Equal Opportunity Agreement," to which is attached and made a part thereof an "Equal Opportunity Clause" designated as Form FHA 400-2 which shall be incorporated in, or attached as a rider to, each construction contract involving \$10,000 or more.

SECTION 12: The Mayor and Recorder are hereby directed to publish this Ordinance, as required by law, preceded by notice of hearing signed by them, in substantially the following form:

#### NOTICE

Notice is hereby given that the Town of Brookland, Arkansas, has adopted the Ordinance hereinafter set out; that the Town contemplates the issuance of the bond described in said Ordinance; and that any person interested may appear before the Town Council on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., at the usual place of meeting of the Town Council in Brookland, Arkansas, to show cause in favor of or against the issuance of said bond.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Recorder

SECTION 13: 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 waterworks system; 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: October 30, 1967.

APPROVED:

Lester S. Elder  
Mayor

ATTEST:

Lennie D. Elder  
Recorder

(SEAL)

CERTIFICATE

I, the undersigned, Recorder of Brookland, 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 Town Council were present and voted for said Ordinance, which is now of record in Book 1, Page \_\_\_\_\_, of the records of said Town.

CERTIFIED under my hand and sealed with the corporate seal of said Town this 30 day of October, 1967.

Lennie D. Elder  
Recorder

(SEAL)