

RESOLUTION NO. 756

RESOLUTION AUTHORIZING A LOAN PURSUANT TO A LOAN AGREEMENT BETWEEN THE CITY OF CLINTON, TENNESSEE, AND THE PUBLIC BUILDING AUTHORITY OF THE CITY OF CLARKSVILLE, TENNESSEE, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$7,000,000; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH LOAN AGREEMENT AND OTHER DOCUMENTS RELATING TO SAID LOAN; APPROVING THE ISSUANCE OF A BOND BY THE PUBLIC BUILDING AUTHORITY; PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF SAID LOAN AND THE PAYMENT OF SUCH INDEBTEDNESS; CONSENTING TO THE ASSIGNMENT OF THE CITY'S OBLIGATION UNDER SUCH LOAN AGREEMENT; AND, CERTAIN OTHER MATTERS

WHEREAS, the City Council (the "Council"), of the City of Clinton, Tennessee (the "Municipality" or the "City"), has determined that it is necessary to finance the costs of certain "public works projects", as defined in Title 9, Chapter 21, Tennessee Code Annotated, as from time to time amended and supplemented, consisting of financing the costs of the extension, construction, repair, improvement, and equipping of the City's electrical transmission and distribution system (the "Electric System"), the acquisition of all other property real and personal appurtenant thereto and connected with such work, and to pay all legal, fiscal, administrative, planning, and engineering costs incident thereto, reimbursement for expenditures related to the foregoing, and to pay costs incident to the issuance of the Bond and the loan of the proceeds thereof to the City (collectively, the "Project"), by obtaining a loan from The Public Building Authority of the City of Clarksville, Tennessee (the "Authority");

WHEREAS, the Electric System is operated by the Clinton Utilities Board (the "Utilities Board");

WHEREAS, it has been determined by the Council of the City to be in the best interests of the City to finance the Project through The Tennessee Municipal Bond Fund fixed rate loan program;

WHEREAS, the Authority has been established pursuant to the provisions of Title 12, Chapter 10, Tennessee Code Annotated, as amended (the "Act"), and is authorized pursuant to the provisions of the Act to issue its bonds from time to time, in one more series, and to loan the proceeds thereof to the Municipality for the above described purposes;

WHEREAS, in order to effectuate the program, the Authority has authorized and approved by its Resolution, adopted May 13, 2015, the issuance of its Local Government Loan Program Bonds, in an aggregate principal amount not to exceed \$300,000,000;

WHEREAS, the Authority will issue its Local Government Loan Program Bond, Series 2017 (City of Clinton Utilities Board Electric System Loan) (the "Bond"), in the principal amount of not to exceed Seven Million Dollars (\$7,000,000), and loan the proceeds thereof to the Municipality pursuant to the provisions of a Loan Agreement, by and among the City, the Authority, and the Purchaser, as hereinafter defined, to be dated the date of issuance and delivery (the "Loan Agreement");

WHEREAS, the indebtedness evidenced by the Loan Agreement shall be payable solely from and secured by a pledge of the revenues to be derived by the Utilities Board from the operation of the Electric System of the City, subject to the payment of reasonable and necessary costs of operating, maintaining, repairing, and insuring such Electric System, and to any pledge of such revenues in favor of other obligations of the Electric System; and,

WHEREAS, the Bond is to be secured by and contain such terms and provisions as set forth in a Bond Purchase Agreement, entered into between the Authority and the purchaser of the Bond (the "Purchaser").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Clinton, Tennessee, as follows:

Section 1. Approval of the Loan. (a) For the purpose of providing funds to finance the Project and to pay costs incident to the issuance and sale of the Bond and the loan of the proceeds thereof to the City, the loan to the City from the Authority is hereby authorized in the principal amount of not to exceed \$7,000,000 and the City is hereby authorized to borrow such funds from the Authority (the "Loan").

(b) The Bond to be issued by the Authority shall bear interest at a fixed rate to be determined at the time of the issuance of the Bond, as provided in the Loan Agreement. The Mayor and City Recorder are authorized to enter into the Loan Agreement, such Loan Agreement to bear interest at a fixed rate, as the Mayor, upon consultation with the General Manager of the Utilities Board, shall determine is in the best interest of the Municipality. The Municipality shall make payments of interest

and principal in the amounts and on the dates set forth in the Loan Agreement from the sources and funds described herein and in the Loan Agreement. The final rate of interest payable on the Loan Agreement shall not exceed the maximum rate of interest permitted by applicable law. The Loan Agreement shall be for a term of twenty-five years. The final principal and interest payment dates, final interest rate payable, amortization of principal amounts of the loan evidenced by the Loan Agreement, and prepayment provisions of such Loan Agreement, may be established by the Mayor, upon consultation with the General Manager of the Utilities Board, at the time of the sale of the Bond and the execution and delivery of the Loan Agreement, as shall be determined to be in the best interests of the Municipality, in accordance with the terms of this Resolution and the Loan Agreement.

(c) The Council of the City understands and is aware that the Purchaser has the option to put the Bond for purchase to the Authority during the term of the Loan (the "Put Option"), at certain intervals upon not less than one hundred eighty days' written notice to the Authority, the Tennessee Municipal Bond Fund, as administrator, and the City.

The Council is aware of the risks and benefits associated with the Loan and the Put Option. The Council finds that the repayment structure of the Loan (including the Put Option) is in the public interest of the City.

The Council further agrees that it is willing to pay additional issuance costs associated with the refunding of the Loan and related Bond in the event the Put Option is exercised by the Purchaser. In the event that the Put Option is exercised by the Purchaser, and the City is unable to pay the Loan amount in full on such date and no subsequent holder can be determined, the Council commits to refund the Loan in the following manner:

(x) the Council shall submit a plan of refunding to the Comptroller or Comptroller's designee;

(y) the final maturity of the refunding debt obligation will not extend beyond the final maturity of the original Loan; and,

(z) the debt service structure of the refunding debt obligation will be substantially similar to or more declining than the debt structure of the original Loan.

The Council has not retained an independent municipal advisor in connection with the Loan. The Council understands and acknowledges that the Purchaser does not owe a fiduciary duty to the City and that the Purchaser is acting for its own business and commercial interests. The Board has consulted with such advisors and experts as it deems appropriate before the consideration and adoption of this Resolution.

Section 2. Approval of Loan Agreement. The form, terms, and provisions of the Loan Agreement are in the best interest of the Municipality and are hereby approved and the Council hereby authorizes the Mayor and the City Recorder of the Municipality to execute and deliver such Loan Agreement, such Loan Agreement to be in substantially the form of the Loan Agreement presented to this meeting, the execution of such Loan Agreement by the Mayor and the City Recorder to evidence their approval of any and all changes to such Loan Agreement, and any related documents necessary to the consummation of the transactions contemplated by the Loan Agreement.

Section 3. Fulfillment of Obligations. The Council of the Municipality is authorized and directed to fulfill all obligations of the Municipality under the terms of the Loan Agreement.

Section 4. Source of Payment. The Loan evidenced by the Loan Agreement shall be payable solely from and be secured by a pledge of the Net Revenues, as defined in the Loan Agreement, on a parity and equality of lien with any prior outstanding obligations payable from the Net Revenues of the Electric System, and any other Parity Debt, as defined in the Loan Agreement. The punctual payment of principal of, and interest on, the Loan Agreement, and any additional Parity Debt shall be secured equally and ratably by the Net Revenues without priority by reason of series, number, or time of sale and delivery. The Purchaser shall have no recourse to the power of taxation of the City. **Neither the full faith and credit nor the taxing power of the City is pledged for the payment of the indebtedness evidenced by the Loan Agreement or the Bond or the interest thereon.**

Section 5. Equality of Lien; Pledge of Net Revenues. The punctual payment of principal of, premium, if any, and interest on, the Loan Agreement, the Bond, and any additional Parity Debt shall be secured equally and ratably by the Net Revenues without priority by reason of number or time of sale or execution or delivery, and, subject to the payment of the reasonable and necessary costs of operating, maintaining, repairing, and insuring the Electric System, the Net Revenues are hereby irrevocably pledged to the punctual payment of such principal, premium, and interest, as the same become due.

Section 6. Operation of the Electric System. The Municipality hereby covenants and agrees, if and to the extent legally permissible, with the Purchaser, that the complete and independent control and operation of the Electric System shall be vested in the Utilities Board.

Section 7. Covenants Regarding the Operation of the Electric System. The Municipality hereby covenants and agrees with the Purchaser:

(a) That the City will permit no free electric service to be furnished to any consumer or user whatsoever, and the charges for all services supplied through the medium of the Electric System to the City and its residents and to all consumers shall be reasonable and just, taking into account and consideration the cost and value of the Electric System and the cost of maintaining and operating the Electric System, and the proper and necessary allowances for the depreciation thereof, and the amounts necessary for the payment of principal of, and interest on, the Loan Agreement and any Parity Debt, payable from such revenues, and there shall be charged against all users of the services of the Electric System and against all persons receiving services rendered by the Electric System such rates and amounts as shall be fully adequate to pay the principal of, and interest on, the Loan Agreement and any Parity Debt as they become due and to pay the cost of operation and maintenance of the Electric System, including any reasonable reserve established therefor.

(b) That the City shall maintain the Electric System in good condition and operate the Electric System in an efficient manner and at reasonable cost.

Section 8. Approval of Bond and Bond Purchase Agreement. For the purpose of providing funds to make the loan to the Municipality evidenced by the Loan Agreement, as provided herein and in the Loan Agreement, and to pay legal, fiscal, and administrative costs incident thereto, including costs incident to the issuance and sale of the Bond related to the Loan Agreement, the issuance and sale of the Bond by the Authority in connection with the Loan Agreement is hereby approved. The Municipality further approves the execution and delivery of the Bond Purchase Agreement by the Authority in connection with the issuance of the Bond.

Section 9. Disposition of Proceeds. The proceeds from the sale of the Bond shall be paid, from time to time, to the official of the City designated by law as the custodian of the funds, or his or her designee, upon submission of a requisition for such funds by the Municipality to the Purchaser, in accordance with the terms of the Loan Agreement. Such proceeds shall be disbursed from time to time solely to finance the costs of the Project and to pay costs of issuance incurred in connection with the issuance of the Bond and the loan of the proceeds thereof to the Municipality. Any monies remaining in the Project Fund after completion of the Project shall be used to pay debt service on the Bond.

Section 10. Consent to Assignment. The Municipality hereby consents to the assignment of all of the Authority's right, title, and interest in and to the Loan Agreement as security for the Bond to which such Loan Agreement relates, except for certain reserved rights of the Authority, to the Purchaser.

Section 11. Reimbursement Provisions. The Municipality may have made or may hereafter make expenditures with respect to the Project from a source of funds other than proceeds of the loan from the Authority under the Loan Agreement, such expenditures occurring prior to the execution and delivery of the Loan Agreement. The Municipality reasonably expects that it will reimburse such original expenditures with proceeds of the loan from the Municipality made pursuant to the Loan Agreement to the extent permissible under Treasury Regulation 1.150-2.

Section 12. Arbitrage Certification. The Municipality recognizes that the Purchaser of the Bond will have accepted it on, and paid therefor a price, that reflects the understanding that interest thereon is excludable from gross income for purposes of federal income taxation under laws in force on the date of delivery of the Bond. In this connection, the Municipality agrees that it shall take no action which may cause the interest on said Bond to be included in gross income for federal income taxation. It is the reasonable expectation of the Board of the Municipality that the proceeds of the Bond will not be used in a manner which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, and to this end the proceeds of the Bond and other related funds established for the purposes herein set out shall be used and spent expeditiously for the purposes described herein. The Board further covenants and represents that in the event it shall be required by Section 148(f) of the Code to pay any investment proceeds of the Bond to the United States government, it will make such payments as and when required by said Section 148(f) and will take such other actions as shall be necessary or permitted to prevent the interest on the Bond from becoming taxable. The Mayor and City Recorder, or either of them, are authorized and directed to make such certifications in this regard in connection with the sale of the Bond as either or both shall deem appropriate, and such certifications shall constitute a representation and certification of the Municipality.

Section 13. Miscellaneous Acts. The Mayor, the City Recorder, the City Manager, the City Attorney, the General Manager of the Utilities Board, and all other appropriate officials of the

Municipality are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, and deliver all such documents, instruments, and certifications, in connection with the execution of the Loan Agreement and the issuance of the Bond by the Authority, in addition to those acts, things, documents, instruments, and certifications hereinbefore authorized and approved, as may in their discretion, be necessary or desirable to implement or comply with the intent of this Resolution or any of the documents herein authorized and approved.

Section 14. Captions. The captions or headings in this Resolution are for convenience only and shall in no way define, limit, or describe the scope or intent of any provision hereof.

Section 15. Severability. Should any provision or provisions of this Resolution be declared invalid or unenforceable in any respect by final decree of any court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, ordinance, or provisions shall not affect the remaining provisions of such Resolution.


Section 16. Repeal of Conflicting Resolutions. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 17. Effective Date. This Resolution shall take effect upon its adoption, the welfare of the Municipality requiring it.

Adopted and approved this 26th day of June, 2017.

Attest:


Regina Ridenour, City Recorder


Scott Burton, Mayor

STATE OF TENNESSEE)
COUNTY OF ANDERSON)

I, Regina Ridenour, hereby certify that I am the duly qualified and acting City Recorder of the City of Clinton, Tennessee (the "Municipality"), and, as such official, I further certify as follows: (1) that attached hereto is a copy of a resolution excerpted from the minutes of the meeting of the City Council (the "Council"), of said Municipality held on June 26, 2017; (2) that I have compared said copy with the original minute record of said meeting in my official custody; (3) that said copy is a true, correct, and complete transcript from said original record insofar as said original record relates to, among other matters, the borrowing of funds and the incurring of indebtedness in the amount of not to exceed \$7,000,000 by said Municipality; (4) that the actions by said Board including the aforementioned, at said meeting were promptly and duly recorded by me in a book kept for such purpose; and, (5) that a quorum of the members of said Board was present and acting throughout said meeting.

WITNESS my official signature and the seal of said Municipality this 26th day of June, 2017.



Regina Ridenour
City Recorder

