

ORDINANCE NO. 1689

LEXINGTON, NEBRASKA

ORDINANCE NO. 1689

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF COMBINED UTILITY BOND ANTICIPATION NOTES--1981 SERIES--IN THE AMOUNT OF ONE MILLION FIFTY-FIVE THOUSAND DOLLARS (\$1,055,000) FOR THE PAYMENT OF THE OUTSTANDING COMBINED UTILITY BOND ANTICIPATION NOTES OF THE CITY OF LEXINGTON, NEBRASKA; AGREEING TO ESTABLISH RATES AND CHARGES TO PROVIDE FOR COSTS OF OWNERSHIP, OPERATION AND DEBT SERVICE; AGREEING TO ISSUE REVENUE BONDS TO PAY THE NOTES AND ACCRUED INTEREST AT MATURITY AND ORDERING THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA:

Section 1. The Mayor and Council of the City of Lexington, Nebraska, hereby find and determine that the City has heretofore constructed additions and improvements to the water plant and distribution system, sewer plant and system and electric light and power plant and distribution system, hereinafter referred to as the combined utility system, owned and operated by the City and has paid a portion of the cost of said improvements by the issuance of Combined Utility Bond Anticipation Notes of the City in the total principal amount of \$1,055,000, which Notes are due October 1, 1981, and optional for prepayment at any time; that the City has agreed to pick up and pay the Bond Anticipation Notes by the issuance of Combined Revenue Bonds of the City but that because the City does not have funds on hand with which to pay the notes and because the City has not yet made arrangements for permanent financing as contemplated it is necessary to borrow money to pay the notes at maturity, and it is hereby deemed necessary for this purpose to issue additional notes to be designated Combined Utility Bond Anticipation Notes--1981 Series-- which will not be a debt of the municipality within the meaning of any constitutional, statutory or other limitation on the creation of general obligation indebtedness, and the municipality shall not be liable for the payment thereof out of any money of the municipality other than the money received by the issuance and sale of bonds as contemplated herein or from

the funds of the City available to pay interest on said Notes and to pay a portion of the cost of the project so as to reduce the required financing by revenue bonds. The City hereby agrees that it will establish, maintain, revise and collect charges and rates with respect to its combined utility throughout the life of the notes sufficient to provide for all costs associated with the ownership, operation, maintenance, renewal and replacement of the facilities for which the notes were issued and the payment of the principal and interest on all indebtedness incurred with respect thereto as well as all outstanding bonded indebtedness payable from the earnings of the combined system and to produce earnings sufficient to enable the City to issue and sell bonds in an amount sufficient to pay the principal and interest thereon of all notes issued pursuant hereto and it will issue such Combined Revenue Bonds in an amount sufficient to pay the notes, both principal and interest, and will use the proceeds of the sale of said bonds for such payment at or before maturity.

Section 2. Notes to be designated Combined Utility Bond Anticipation Notes--1981 Series--in the amount of \$1,055,000 are hereby authorized to be issued to Robert E. Schweser Company Incorporated, Agent. The Council shall hereafter by appropriate resolution, when ordering the delivery of the Notes, determine the denominations of the Notes, the due date, the prepayment option provisions and the rate of interest the Notes shall bear. The interest will be payable annually on October 1 of each year. If the Note or an interest payment is not paid at maturity or due date, the Note or interest installment will bear interest thereafter until paid at a rate equal to the maximum rate of interest allowed per annum under Section 45-101.03, Reissue Revised Statutes of Nebraska, 1943. Said Notes shall be

dated the date of their delivery, be executed on behalf of the City by the manual signatures of the Mayor and Clerk and be delivered to Robert E. Schweser Company Incorporated, acting as agent for the purchasers thereof, upon receipt of payment for said notes, which shall not be less than par.

Section 3. The Combined Utility Bond Anticipation Notes--1981 Series--shall be in substantially the following form:

CITY OF LEXINGTON, NEBRASKA  
COMBINED UTILITY  
BOND ANTICIPATION NOTE  
--1981 SERIES--

No. \_\_\_\_\_

\$ \_\_\_\_\_

On October 1, 19\_\_, for value received the City of Lexington, Nebraska, hereby promises to pay to Robert E. Schweser Company Incorporated, Agent, \_\_\_\_\_ Thousand Dollars (\$\_\_\_\_\_) with interest from the date of delivery until maturity at the rate of \_\_\_\_\_ per centum (\_\_\_\_%) per annum, payable October 1, 1982, and annually thereafter at the office of Robert E. Schweser Company Incorporated, acting as Paying Agent for the City for purpose of interest payments only, in Omaha, Nebraska, upon presentation and surrender of the Notes for notation of interest payment. The principal of this Note shall be payable at the office of the City Treasurer upon presentation and surrender of the Note when due or when called for payment under its option provision. If the Note or an interest payment is not paid at maturity or due date, the Note or interest installment will bear interest thereafter until paid at a rate equal to the maximum rate of interest allowed per annum under Section 45-101.03, Reissue Revised Statutes of Nebraska, 1943. This Note and accrued interest shall be payable from funds received by the City from the issuance and sale of its Combined Revenue Bonds and is optional for payment at any time. This Note is one of an issue of Notes in the total principal amount of \$1,055,000 issued pursuant to Ordinance No. \_\_\_\_\_. All of the provisions and agreements of said Ordinance are by reference made a part of this instrument, and all such agreements accrue to the payee, owner or assignee of this Note. This Note shall not be a debt of the City

of Lexington within the meaning of any constitutional, statutory or charter limitation upon the creation of general obligation indebtedness of said City and said City shall not be liable for the payment thereof out of any money of the municipality other than from proceeds of the issuance of Combined Revenue Bonds, as aforesaid, or other funds of the City available to pay interest on said Note or a portion of the cost of the project so as to reduce the required financing.

Delivered this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

\_\_\_\_\_  
(Do not sign)  
Mayor

\_\_\_\_\_  
(Do not sign)  
City Clerk

Payment Record \_\_\_\_\_  
\_\_\_\_\_

Section 4. The principal of said notes shall be payable at the office of the City Treasurer upon presentation and surrender of the notes when due or when called for payment on their option date. Robert E. Schweser Company Incorporated is hereby designated to serve as Paying Agent for interest payments only. Interest on said notes will be payable at the offices of said Paying Agent in Omaha, Nebraska, upon presentation and surrender of the notes for notation of interest payment. The City Treasurer is hereby authorized to make payment from funds available to said Paying Agent of an amount sufficient to cover the interest falling due on all such notes as may be outstanding not less than three days prior to any interest payment date.

Section 5. Notice of the call of any of said notes for payment prior to maturity shall be sufficient if it has been communicated by any means by the City to the named payee of each of the notes.

Section 6. Additional Combined Utility Bond Anticipation Notes can be authorized if deemed necessary by the Council by appropriate ordinance.

Section 7. The City further agrees that if for any reason the City is prevented from paying interest on the Bond Anticipation Notes herein provided for, the City will issue Bond Anticipation Notes for the purpose of paying said interest as and when the same becomes due and will sell said Notes and use the proceeds of the sale of said Notes to pay said interest.

Section 8. The City of Lexington, Nebraska, hereby covenants to the purchasers and holders of the notes hereby authorized that it will make no use of the proceeds of said note issue, including moneys held in any sinking fund for the payment of said notes, which would cause said bonds to be arbitrage bonds within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended, and further covenants to comply with said Section 103(c) and all applicable regulations thereunder throughout the term of said bond issue.

Section 9. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this 8th day of September, 1981.

Elwood S. Edmunds  
Mayor

ATTEST:

Paul E. Muehl  
City Clerk

