

ORDINANCE NO. 1805

CITY OF LEXINGTON, NEBRASKA

ORDINANCE NO. 1805

AN ORDINANCE OF THE CITY OF LEXINGTON, NEBRASKA, AUTHORIZING THE ISSUANCE OF VARIOUS PURPOSE BONDS OF THE CITY OF LEXINGTON, IN THE PRINCIPAL AMOUNT OF SEVEN HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$745,000) TO PAY THE COST OF IMPROVEMENTS IN SOUTH TRUNK STORM SEWER EXTENSION AND IMPROVEMENT DISTRICT NO. 223 AND TO PROVIDE FOR THE REFUNDING OF CERTAIN OF THE CITY'S OUTSTANDING BONDS; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF TAXES TO PAY THE SAME; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; PROVIDING FOR THE DISPOSITION OF BOND PROCEEDS; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

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

Section 1. The Mayor and Council hereby find and determine that there have been heretofore issued and are now outstanding and unpaid valid and interest bearing bonds of the City of Lexington, Nebraska, as follows:

Refunding Bonds of the City of Lexington, Nebraska, dated November 1, 1983, in the principal amount of Four Hundred Sixty Thousand Dollars (\$460,000), numbered as shown on the records of the Paying Agent and Registrar, in denomination of \$5,000 or integral multiples thereof, becoming due and bearing interest as follows:

| <u>Principal Amount</u> | <u>Maturing April 15 of Year</u> | <u>Interest Rate Per Annum</u> |
|-------------------------|----------------------------------|--------------------------------|
| \$ 75,000 | 1988 | 7.25% |
| 85,000 | 1989 | 7.50 |
| 90,000 | 1990 | 7.75 |
| 100,000 | 1991 | 8.00 |
| 110,000 | 1992 | 8.30 |

Said bonds are subject to redemption at any time on or after April 15, 1986, and said interest is payable semiannually. Said bonds were authorized and ordered issued by Ordinance No. 1735 which was passed and approved on the 11th day of October, 1983, and were issued for the purpose of taking up and paying off the City's outstanding Various Purpose Bonds, dated April 15, 1982, in the principal amount of \$580,000. All of the above said bonds are herein referred to as the "Outstanding Bonds".

The Outstanding Bonds are valid, interest bearing obligations of the City of Lexington, Nebraska, and have been called for redemption on June 16, 1986; that since the Outstanding Bonds were issued, the rate of interest has so declined in the markets that by taking up and paying off said bonds on said call date, a substantial savings in the amount of yearly running interest will be made to the City; that for the purpose of making said redemption on June 16, 1986, it is for the best interest of the City to issue refunding bonds of the City in the principal amount of \$472,000; that all conditions, acts, and things required to exist or to be done precedent to the issuance of refunding bonds of the City of Lexington, Nebraska, in the principal amount of Four Hundred Seventy-Two Thousand Dollars (\$472,000), pursuant to Section 10-142 R.R.S. Neb. 1943, do exist and have been done as required by law.

Section 2. The Mayor and Council further find and determine: That pursuant to a resolution adopted, certain flood control improvements shall be constructed in the South Trunk Storm Sewer Extension; that the City has received bids for said work and the cost of constructing said improvements, as reported by the City's Engineer is not less than \$100,000; that the Mayor and Council have held a hearing on the issuance of the City's general obligation flood control bonds in an amount not to exceed \$120,000, after notice as required by law; that it is now necessary and appropriate that bonds be issued to provide funds to pay the cost of improvements for said Extension; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of General Obligation Flood Control Bonds for South Trunk

Storm Sewer Extension in the amount of \$100,000 pursuant to Sections 16-6,106 to 16-6,109, R.R.S. Neb. 1943, do exist and have been done as required by law.

Section 3. The Mayor and Council of the City of Lexington, Nebraska, further find and determine: That pursuant to Ordinance No. 1582 as adopted by the Mayor and Council on February 14, 1978, Improvement District No. 223 of the City of Lexington was duly created; that the City signed a contract with the State of Nebraska for the construction of certain street improvements in said District; that the State received bids for said work and the City's share of the final costs of such improvements is now determinable and due the State; that the City's share of the costs of such improvements (exclusive of any intersection costs), including engineering costs, interest on warrants, bond issue discount and miscellaneous costs associated therewith, is not less than \$173,000; that it is necessary and appropriate that bonds be issued to provide funds to pay the City's share of the final costs of improvements for said District; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Street Improvement Bonds of said District in the amount of \$173,000 pursuant to Section 16-623 R.R.S. Neb. 1943, do exist and have been done as required by law.

Section 4. The Mayor and Council of the City of Lexington, Nebraska, hereby further find and determine: That all conditions, acts and things required to exist or to be done precedent to the issuance of Various Purpose Bonds of the City of Lexington,

Nebraska, in the principal amount of Seven Hundred Forty-Five Thousand Dollars (\$745,000) under Sections 18-1801 and 18-1802 R.R.S. Neb. 1943, to pay the cost of improvements and the refunding of bonds as mentioned in Sections 1, 2 and 3 hereof, do exist and have been done as required by law.

Section 5. To pay the cost of the improvements and refunding of bonds specified in Sections 1, 2 and 3 hereof, there shall be and there are hereby ordered issued Various Purpose Bonds of the City of Lexington, Nebraska, in the principal amount of Seven Hundred Forty-Five Thousand Dollars (\$745,000) with said bonds bearing interest at the rates per annum and to become due on April 15 of the years as indicated below:

| <u>Principal Amount</u> | <u>Maturing April 15 of Year</u> | <u>Interest Rate Per Annum</u> |
|-------------------------|--|------------------------------------|
| \$ 85,000 | 1988 | 5.700 % |
| 115,000 | 1989 | 5.900 |
| 120,000 | 1990 | 6.200 |
| 130,000 | 1991 | 6.400 |
| 140,000 | 1992 | 6.650 |
| 35,000 | 1993 | 6.850 |
| 35,000 | 1994 | 7.000 |
| 40,000 | 1995 | 7.050 |
| 45,000 | 1996 | 7.100 |

The bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the bonds shall be June 15, 1986. Interest on the bonds, at the respective rates for each maturity, shall be payable on October 15, 1986, and semiannually thereafter on April 15 and October 15 of each year (each of said dates an "Interest Payment Date") and the bonds shall bear such interest from the date of

original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the close of business on the last business day of the month immediately preceding the month in which each Interest Payment Date occurs (the "Record Date"), subject to the provisions of Section 7 hereof. The bonds shall be numbered from 1 upwards in the order of their issuance. No bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the bonds issued shall be designated by the City's Treasurer as directed by the initial purchaser thereof. Payments of interest due on the bonds shall be made by the Paying Agent and Registrar, as designated pursuant to Section 6 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 6 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the registered owner of any bond as the absolute owner of such bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such bond or any

installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any bond in accordance with the terms of this Ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the bonds or claims for interest to the extent of the sum or sums so paid.

Section 6. Fremont National Bank and Trust Company is hereby designated the Paying Agent and Registrar for the bonds. Said Paying Agent and Registrar shall serve in such capacities under the terms of an agreement entitled "Paying Agent and Registrar's Agreement" between the City and said Paying Agent and Registrar, the form of which is hereby approved. The Mayor and City Clerk are hereby authorized to execute said agreement in substantially the form presented but with such changes as they shall deem appropriate or necessary. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the bonds at its principal office. The names and registered addresses of the registered owner or owners of the bonds shall at all times be recorded in such books. Any bond may be transferred pursuant to its provisions at the principal office of said Paying Agent and Registrar by surrender of such bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by his duly authorized agent, and thereupon the Paying Agent and Registrar on behalf of the City will deliver at its office (or send by registered mail to the transferee owner or owners

thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new bond or bonds of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the bonds by this Ordinance, one bond may be transferred for several such bonds of the same interest rate and maturity, and for a like aggregate principal amount, and several such bonds may be transferred for one or several such bonds, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a bond, the surrendered bond shall be cancelled and destroyed. All bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the bonds surrendered and shall be entitled to all the benefits and protection of this Ordinance to the same extent as the bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any bond during any period from any Record Date until its immediately following Interest Payment Date.

Section 7. In the event that payments of interest due on the bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 8. If the date for payment of the principal of or interest on the bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city where the corporate trust office of the Paying Agent and Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 9. Bonds maturing on or after April 15, 1991 shall be subject to redemption, in whole or in part, prior to maturity at any time on or after April 15, 1990, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City may select the bonds to be redeemed in its sole discretion but the bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Bonds redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for a new bond evidencing the unredeemed principal thereof. Notice of redemption of any bonds called for redemption shall be given at the direction of the City by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such bond at said owner's registered address. Such notice shall designate the bond or bonds to be redeemed by maturity or otherwise, the date of original issue and the date fixed for redemption and shall state that such bonds are to be presented for prepayment at the principal office of said

Paying Agent and Registrar. In case of any bond partially redeemed, such notice shall specify the portion of the principal amount of such bond to be redeemed. No defect in the mailing of notice for any bond shall affect the sufficiency of the proceedings of the City designating the bonds called for redemption or the effectiveness of such call for bonds for which notice by mail has been properly given and the City shall have the right to further direct notice of redemption for any such bond for which defective notice has been given.

Section 10. The bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF DAWSON

VARIOUS PURPOSE BOND OF
THE CITY OF LEXINGTON, NEBRASKA

No. _____

\$ _____

| <u>Interest Rate</u> | <u>Maturity Date</u> | <u>Date of Original Issue</u> | <u>Cusip No.</u> |
|----------------------|----------------------|-------------------------------|------------------|
| | April 15, _____ | June 15, 1986 | |

Registered Owner:

Principal Amount:

KNOW ALL MEN BY THESE PRESENTS: That the City of Lexington, in the County of Dawson, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above (said interest to be computed on the basis of a 360-day year consisting of twelve 30-day months), payable on October 15, 1986, and on April 15 and October 15 of each year thereafter (each of said dates an "Interest Payment Date"). The principal hereof is payable upon presentation and surrender of this bond at the principal office of _____,

_____, the Paying Agent and Registrar, in _____, Nebraska. Interest on this bond will be paid on each Interest Payment Date by a check or draft mailed by said Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the last business day of the month immediately preceding the month in which the Interest Payment Date occurs, to such owner's address as shown on such books and records. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available. For the prompt payment of this bond, principal and interest, as the same become due, the full faith, credit and resources of said City are hereby irrevocably pledged.

This bond is one of an issue of fully registered bonds of the total principal amount of Seven Hundred Forty-Five Thousand Dollars (\$745,000), of even date and like tenor except as to date of maturity, rate of interest and denomination which were issued by the

City for the purpose of paying the costs of flood control improvements in South Trunk Storm Sewer Extension and street improvements in Improvement District No. 223, and to provide for the refunding of the City's outstanding Refunding Bonds dated November 1, 1983, in the principal amount of \$460,000, all in strict compliance with and in pursuance of Sections 10-142, 16-623, 16-6,106 to 16-6,109, 18-1801 and 18-1802, R.R.S. Neb. 1943. The issuance of said bonds has been authorized by proceedings duly had and an ordinance legally passed, approved and published by the Mayor and Council of said City.

Any or all of the bonds of said issue maturing on or after April 15, 1991, are subject to redemption at the option of the City, in whole or in part, at any time on or after April 15, 1990, at par plus interest accrued on the principal amount redeemed to the date fixed for redemption. Notice of redemption shall be given by mail to the registered owner hereof at said registered owner's address in the manner specified in the Ordinance authorizing said issue of bonds. Individual bonds may be redeemed in part but only in \$5,000 amounts or integral multiples thereof.

This bond is transferable by the registered owner or his attorney duly authorized in writing at the office of the Paying Agent and Registrar upon surrender and cancellation of this bond, and thereupon a new bond or bonds of the same aggregate principal amount, interest rate and maturity will be issued to the transferee as provided in the Ordinance authorizing said issue of bonds, subject to the limitations therein prescribed. The City, the Paying Agent and Registrar and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment due hereunder and for all purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

If the date for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city where the corporate trust office of the Paying Agent and Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts, and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as required by law and that the indebtedness of said City, including this bond, does not exceed any limitation imposed by law. The City agrees that it shall cause to be levied and collected annually a tax by valuation on all the taxable property in the City, in addition to all other taxes, sufficient in rate and amount to pay the principal of and interest on this bond as the same become due.

This bond shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar.

IN WITNESS WHEREOF, the Mayor and Council of the City of Lexington, Nebraska, have caused this bond to be executed on behalf of the City with the facsimile signatures of the Mayor and the City Clerk and by causing the official seal of the City to be imprinted hereon, all as of the date of original issue specified above.

CITY OF LEXINGTON, NEBRASKA

Robert L. Hawks
Mayor

ATTEST:

City Clerk

(SEAL)

Certificate of Authentication

This bond is one of the bonds authorized by Ordinance of the Mayor and Council of the City of Lexington, in the County of Dawson, in the State of Nebraska, described in the foregoing bond.

Paying Agent and Registrar

By: _____
Authorized Signature

(Form of Assignment)

For value received _____

_____ hereby sells, assigns and transfers unto

(Social Security or Taxpayer I.D. No. _____)

the within bond and hereby irrevocably constitutes and appoints _____, attorney, to transfer the same on the books of registration in the office of the within mentioned Paying Agent and Registrar with full power of substitution in the premises.

Dated: _____

Registered Owner

Signature Guaranteed

By _____

Authorized Officer

Note: The signature on this assignment MUST CORRESPOND with the name as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever, and must be guaranteed by a commercial bank or a trust company or by a firm having membership on the New York, Midwest or other stock exchange.

Section 11. Each of the bonds shall be executed on behalf of the City with the facsimile signatures of the Mayor and the City Clerk and shall have imprinted thereon the City's seal. A supply of such bonds for issuance upon subsequent transfers or in the event of partial redemption shall also be so executed and delivered to the Paying Agent and Registrar. In the event that such supply of bonds shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement bonds upon transfer or partial redemption, the City agrees to order printed an additional supply of bonds and to direct their execution by manual or facsimile signatures of its then duly qualified and acting Mayor and City Clerk and by imprinting thereon or affixing thereto the City's seal. In case any officer whose signature or facsimile thereof shall appear on any bond shall cease to be such officer before the delivery of such bond (including such bonds delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such bond. The bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City Treasurer shall cause the bonds to be registered in the office of the Auditor of Public Accounts of the State of Nebraska and in the office of the County Clerk of Dawson County. Thereafter the bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration, and authentication of the bonds, they shall be delivered to the City

Treasurer, who is authorized to deliver them to Shearson Lehman Brothers Inc., Chiles Heider Division, as initial purchaser thereof, upon receipt of 97.50% of the principal amount of the bonds plus accrued interest thereon to date of payment for the bonds. Said initial purchaser shall have the right to direct the registration of the bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The City Clerk shall make and certify duplicate transcripts of the proceedings of the Mayor and Council with respect to the bonds, one of which shall be filed with the Auditor of Public Accounts and the other of which shall be delivered to said purchaser.

Section 12 The proceeds of the bonds shall be applied to the redemption of bonds as described in Section 1 hereof, to the payment of costs of construction of the improvements described in Section 2 hereof and to the payment of warrant or other indebtedness incurred for the payment of costs as described in Section 3 hereof.

Section 13. The City of Lexington hereby covenants and agrees that it shall cause to be levied and collected annually a tax by valuation on all the taxable property in the City, in addition to all other taxes, sufficient in rate and amount to pay the principal of and interest on the bonds herein authorized when and as such principal and interest become due. The holders of the bonds of this issue shall be subrogated to the rights of the holders of the Refunding Bonds dated November 1, 1983, from and after the redemption of said bonds on June 16, 1986, including the right to have special assessments set aside as a sinking fund for the payment of principal thereof and interest thereon.

Section 14. The City hereby covenants to the purchasers and holders of the bonds hereby authorized that it will make no use of the proceeds of said bond issue, including money held in any sinking fund attributable to said bonds, 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. The City further agrees to take all actions necessary under current federal law or current federal law as it is presently proposed to be modified by H.R. 3838, as and to the extent applicable, to maintain the tax exempt status of interest payable on the Bonds.

Section 15. The City's obligations under this Ordinance with respect to any or all of the bonds herein authorized shall be fully discharged and satisfied as to any or all of such Refunding Bonds and any such bond shall no longer be deemed to be outstanding hereunder if such bond has been purchased by the City and cancelled or when the payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof or (b) shall have been provided for by depositing with the Paying Agent and Registrar for the bonds, or with a national or state bank having trust powers or trust company, in trust, solely for such payment (i) sufficient money to make such payment or (ii) direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "U.S. Government Obligations") in such amount

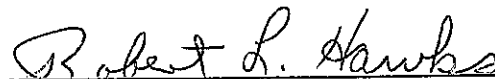
and bearing interest at such rates and payable at such time or times and maturing or redeemable at stated fixed prices at the option of the holder as to principal at such time or times as will ensure the availability of sufficient money to make such payment; provided, however, that with respect to any bond to be paid prior to maturity, the City shall have duly called such bond for redemption and given notice of such redemption as provided by law or made irrevocable provision for the giving of such notice. Any money so deposited with such bank or trust company or with the Paying Agent and Registrar may be invested or reinvested in U.S. Government Obligations at the direction of the City, and all interest and income from U.S. Government Obligations in the hands of such bank or trust company or Paying Agent and Registrar in excess of the amount required to pay principal of and interest on the bonds for which such monies or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

Section 16. This Ordinance shall be in force and take effect from and after its passage and publication in pamphlet form as provided by law.

PASSED AND APPROVED this 13th day of May,

1986.


Clerk


Mayor

