

ORDINANCE NO. 1933

CITY OF LEXINGTON, NEBRASKA

ORDINANCE NO. 1933

AN ORDINANCE AUTHORIZING THE ISSUANCE OF VARIOUS PURPOSE BONDS OF THE CITY OF LEXINGTON, NEBRASKA, IN THE PRINCIPAL AMOUNT OF ONE MILLION FIFTEEN THOUSAND DOLLARS (\$1,015,000) FOR THE PURPOSE OF PAYING THE COSTS OF IMPROVING STREETS AND INTERSECTIONS IN IMPROVEMENT DISTRICT NOS. 86-2, 90-01 AND 235; WATER MAIN EXTENSIONS IN WATER EXTENSION DISTRICT NO. 90-1 AND FLOOD CONTROL IMPROVEMENTS IN IMPROVEMENT DISTRICT NO. 91-1; 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 ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

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

Section 1. The Mayor and Council hereby find and determine: that pursuant to ordinances heretofore duly enacted, Improvement District Nos. 86-2, 90-01 and 235 were created in said City and certain street improvements were constructed in said Districts; that said improvements have been completed and accepted and hereby are accepted by the City; that the cost of said improvements, as reported by the City's Engineer, is not less than \$650,000, of which \$620,000 is District cost and \$30,000 is the cost of improving intersections and areas formed by the crossing of streets, avenues or alleys and one-half of the streets adjacent to real estate owned by the City; that additional miscellaneous costs including a portion of the interest to become due on July 15, 1992 on the bonds herein authorized to be issued and issuance costs have been or are being incurred for said improvements in an amount not less than \$29,000; that special assessments have been levied according to law on the real estate in said Districts specially benefited by said

improvements and such special assessments are valid liens on the lots and tracts of land upon which they are assessed; that after applying available monies to be collected from the special assessments, certain grant funds and other funds available for such purpose, there will remain due and payable from the City on the district costs not less than \$570,000 and on the intersection costs not less than \$30,000; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of Intersection Improvement Bonds in the amount of \$30,000 pursuant to Section 16-626 R.R.S. Neb. 1943, and to the issuance of Street Improvement Bonds of said District in the amount of \$570,000 pursuant to Section 16-623 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 an ordinance passed and approved, certain flood control improvements shall be constructed in Improvement District No. 91-1; that the City has received bids for said work and the estimated cost of constructing said improvements as reported by the City's engineer is not less than \$150,000; for purposes of paying the cost of said improvements it is necessary and advisable for the Mayor and Council to authorize the issuance of general obligation flood control bonds of the City in an amount not to exceed \$150,000, provided that such bonds shall be issued only after notice and hearing have been published as required by Section 16-6,108, R.R.S. Neb. 1943, and that upon compliance with the notice and hearing requirements provided for in Section 16-6,108, R.R.S. Neb. 1943, all

conditions, acts and things required by law to exist or to be done precedent to the issuance of general obligation flood control bonds of the City in the principal amount of \$150,000 shall exist and have been done as required by law.

Section 3. The Mayor and Council further find and determine: that pursuant to ordinance duly enacted Water Extension District No. 90-1 was created for said City and water extension improvements ordered constructed; that said improvements have been completed and accepted by the City and are hereby accepted; that the cost of said improvements as heretofore found by the City's engineers and by the Mayor and Council is not less than \$260,000; that additional miscellaneous costs requiring financing, including a portion of interest to become due on July 15, 1992 on the bonds herein authorized, have been or are being incurred for said improvements in an amount not less than \$5,000; that special assessments have been levied according to law on the real estate specially benefited by said improvements and such special assessments are valid liens on the lots and tracts of land upon which they are assessed; that after applying available monies collected from special assessments, certain grant monies and other funds available for such purpose, there still remains due and payable from the City not less than \$265,000; that all conditions, acts and things required by law to exist or to be done precedent to the issuance of District Water Service Extension Bonds of said District in the amount of \$265,000 pursuant to Section 19-2405, 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, 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 One Million Fifteen Thousand Dollars (\$1,015,000) under Sections 18-1801 and 18-1802 R.R.S. Neb. 1943, to pay the cost of improvements 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 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 One Million Fifteen Thousand Dollars (\$1,015,000) (the "Bonds"), with said Bonds bearing interest at the rates per annum (said interest to be computed on the basis of a 360-day year consisting of twelve 30-day months) and maturing on July 15 of each year in the principal amounts as follows:

<u>Principal Amount</u>	<u>Maturing on July 15 of Year</u>	<u>Interest Rate</u>
\$ 10,000	1993	5.20%
15,000	1994	5.40
90,000	1995	5.60
90,000	1996	5.80
145,000	1997	6.00
155,000	1998	6.10
160,000	1999	6.20
170,000	2000	6.30
180,000	2001	6.35

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 August 1, 1991. Interest on the Bonds, at the respective rates for each maturity, shall be payable on July 15, 1992, and semiannually thereafter on January 15 and July 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 the 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 prior to maturity or earlier redemption 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 and interest 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. _____ is hereby designated as 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 corporate trust 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 corporate trust 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 such owner's duly authorized agent, and thereupon the Paying Agent and Registrar on behalf of the City will deliver at such office (or send by registered mail to the transferee owner or owners thereof at the transferee owner's or owners' risk and expense), registered in the name of the 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 obligations 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 or to transfer any Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

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 principal 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 July 15, 1997 and thereafter shall be subject to redemption, in whole or in part, prior to maturity at any time on or after July 15, 1996, 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 new Bonds evidencing the unredeemed principal thereof. Notice of redemption of any Bond 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 Bond or Bonds are to be presented for prepayment at the principal corporate trust 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>
	July 15, _____	August 1, 1991	

Registered Owner:

Principal Amount: _____ Dollars (\$ _____)

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 to maturity (or earlier redemption) from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable on July 15, 1992, and on January 15 and July 15 of each year thereafter (each of said dates an "Interest Payment Date"). Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal and interest payable at maturity hereof or earlier redemption are payable upon presentation and surrender of this bond at the principal corporate trust office of _____, the Paying Agent and Registrar, in _____, Nebraska. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed by the 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 registered 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 One Million Fifteen Thousand Dollars (\$1,015,000), 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 improving streets, alleys and intersections and areas formed by the crossing of streets, avenues or alleys and streets adjacent to real estate owned by the City in Improvement District Nos. 86-2, 90-01 and 235, flood control improvements in Improvement District No. 91-1 and water extension improvements in Water Extension District No. 90-1 in said City, all in strict compliance with Sections 16-623, 16-626, 16-6,106 to 16-6,109, 18-1801, 18-1802 and 19-2405, R.R.S. Neb. 1943, as amended. 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.

Bonds of this issue maturing July 15, 1997 and thereafter are subject to redemption at the option of the City, in whole or in part, at any time on or after July 15, 1996, 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 of any bond to be redeemed 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 such owner's attorney duly authorized in writing at the principal corporate trust 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 principal 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 special assessments levied upon real estate specially benefited by the improvements in said districts are valid liens on the lots and tracts of land upon which they have been levied and when collected shall be set aside and constitute a sinking fund for the payment of the principal and interest of said bonds; the City agrees that it will collect said special assessments and, in addition thereto, will 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 make up the deficiency between the amounts collected on said special assessments and the amount required to fully pay the principal and interest of said bonds 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:

Neldene Skwarck
Deputy 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.

_____, Nebraska
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(s)

Signature Guaranteed

By _____

Authorized Officer(s)

Note: The signature(s) on this assignment MUST
CORRESPOND with the name(s) 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 bond certificates 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 bond certificates 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 bond certificates and to direct their execution by facsimile or manual 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 bond certificates 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. 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 Chiles Heider Division, Shearson Lehman Brothers Inc., as initial purchaser thereof, upon receipt of 98% 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.

Section 12. 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 13. The proceeds of the Bonds shall be applied to the cost of the improvements or to the payment of warrant or other indebtedness incurred for the payment of costs as described in Sections 1, 2 and 3 hereof, and to pay a portion of the interest falling due on the Bonds on July 1, 1992.

Section 14. The special assessments levied as described in Sections 1, 2 and 3 of this ordinance and the interest on said assessments shall constitute a sinking fund for the payment of the principal and interest of said Bonds. The City agrees that it will collect said special assessments and, in addition thereto, shall cause to be levied and collected annually a special levy of taxes on all the taxable property in this City, in addition to all other taxes, sufficient in rate and amount to make up the deficiency between the amounts collected on said special assessments and the

amount required to fully pay the principal and interest of the Bonds when and as such principal and interest become due.

Section 15. 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 monies held in any sinking fund for the Bonds, which would cause the Bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103(b) and 148 and all applicable regulations thereunder throughout the term of said bond issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax exempt status (as to taxpayers generally) of interest payable on the Bonds. The City hereby designates the Bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code, and covenants and warrants that it does not reasonably expect to issue bonds or other obligations aggregating in principal amount more than \$10,000,000 during calendar 1991.

Section 16. 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 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 (including obligations issued or held in book entry form on the books of the Department of Treasury of the United States of America) 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 payable 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 17. The use of a Preliminary Official Statement is hereby approved and the Mayor and City Clerk/Treasurer are hereby

authorized to review and approve on behalf of the City a Final Official Statement providing information with respect to the Bonds.

Section 18. 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 28th day of June,
1991.

Meldene Stwerek
Deputy City Clerk

(SEAL)



Robert L. Hawk
Mayor