

CITY OF LEXINGTON, NEBRASKA

ORDINANCE NO. 562

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF AN ELECTRIC REVENUE REFUNDING BOND OF THE CITY OF LEXINGTON, NEBRASKA OF THE PRINCIPAL AMOUNT OF ONE HUNDRED FIFTY SIX THOUSAND DOLLARS (\$156,000) FOR THE PURPOSE OF TAKING UP AND PAYING OFF THE OUTSTANDING ELECTRIC LIGHT REVENUE REFUNDING BONDS OF SAID CITY OF THE PRINCIPAL AMOUNT OF ONE HUNDRED FIFTY SIX THOUSAND DOLLARS (\$156,000), DATED MARCH 1, 1949; PRESCRIBING THE FORM OF SAID BOND AND PLEDGING THE NET EARNINGS AND PROFITS OF THE ELECTRIC ~~PLANT AND POWER~~ ~~PLANT~~ DISTRIBUTION SYSTEM OF THE CITY FOR THE PAYMENT OF SAID BOND AND MAKING A CONTRACT WITH THE HOLDER OF SAID BOND IN REFERENCE THERETO AND PROVIDING FOR THE PAYMENT OF PRINCIPAL AND INTEREST THEREOF.

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

Section 1. The Mayor and Council of the City of Lexington hereby find and determine: Said City has heretofore issued and there are now outstanding its Electric Light Revenue Refunding Bonds dated March 1, 1949 of the principal amount of One Hundred Fifty-six Thousand Dollars (\$156,000) consisting of 156 bonds of \$1,000.00 each, bearing serial numbers from

21

to

176

both numbers inclusive; said bonds by their terms are redeemable at any time at par and accrued interest and bear interest at the rate of two and one eighth per centum (2 1/8%) per annum, payable semi-annually, and said bonds are not general obligations of the City; by issuing an Electric Revenue Refunding Bond as provided by this ordinance and paying off said outstanding bonds a saving can be effected in the amount of yearly running interest to be paid on said indebtedness; all conditions, acts and things required by law to exist or to be done precedent to the issuance of the bond provided in this ordinance do exist and have been done as provided by Section 18-1101, R. S. Supp. 1949 of Nebraska.

Section 2. For the purpose of taking up and paying off said outstanding Electric Light Revenue Refunding Bonds of the City of the princi-

Section 5. There are hereby pledged to the payment of said bond all the net income, revenues and moneys received by the City from the operation of said electric distribution system; and all income, revenues and moneys received or collected by the City, shall be trust funds in the hands of the City for the purpose of operating, maintaining and repairing said system and paying the annual installments of interest and the principal of said bond. All income, revenues and moneys shall be paid by the City when and as received and collected to The First Trust Company of Lincoln, Nebraska, in a special trust account (hereinafter referred to as the "Special Trust Account") to be held and disposed of by said Trustee in the manner hereinafter provided.

On or before the 15th day of each calendar month the Trustee shall from the aforesaid Special Trust Account make the following allocation and disbursements in the following order, to-wit:

(a) The Trustee shall set aside from the aforesaid Special Trust Account, in an account designated as "Interest Account", one twelfth (1/12) of the interest to become due and payable during the next ensuing twelve months' period on said bond.

(b) The Trustee shall set aside each month from the Special Trust Account an amount equal to one thirty-sixth of the principal amount of the bond issued pursuant to this ordinance. The Trustee shall apply said money to the payment of said bond as the Council may direct.

(c) The Trustee shall set aside for the account of the City from the aforesaid Special Trust Account an amount equal to the necessary expenses incidental to the operation of said electric distribution system, the proper maintenance thereof, customer accounting and collecting, and the compensation of the Trustee, incurred by the City during the preceding month, as shown by a certified statement of such expenses to be furnished the Trustee by the City as promptly after the first day of each calendar month as possible. The moneys so set aside shall be paid to the City and used solely for the purpose of paying the expenses so certified to the Trustee.

(d) The Trustee shall set aside from the aforesaid Special Trust Account an amount equal to the cost of power purchased by the City and sold within said City during the preceding month. The City shall furnish

the Trustee with a certificate showing the total of such charges as promptly as possible after the first day of each calendar month, and thereupon the Trustee shall pay to the City the moneys so set aside and the City shall apply the same solely to the payment of the cost of such power.

(e) The Trustee shall set aside from the aforesaid Special Trust Account into a special account, to be known as the "Renewal and Replacement Account", an amount not less than five (5) per centum of the gross revenues received by the City during the preceding month, after deducting an amount equal to the cost of purchased power during such month. The Trustee shall pay to the City from time to time, moneys from said Renewal and Replacement Account, but solely for the purpose of making renewals and replacements to the properties and for no other purpose. The Trustee shall not make payments into said Renewal and Replacement Fund when and as long as the funds therein shall aggregate the sum of Ten Thousand Dollars (\$10,000).

(f) The Trustee shall set aside into a special account, to be known as the "Operating Reserve Account", an amount not less than three (3) per centum of the gross revenues received by the City during the preceding month. The moneys in said Operating Reserve Account may be paid to the City from time to time for the purpose of making improvements and extensions and for paying non-recurring costs of operation. When, and for so long as the moneys in said Operating Reserve Account shall aggregate the sum of Ten Thousand Dollars (\$10,000) the Trustee shall omit payments into said account.

(g) From the balance of the moneys remaining in the Special Trust Account, after setting aside or paying the amounts specified in subparagraphs (a) to (f) inclusive, the Trustee shall pay over to the City of Lexington the sum of \$1491.09, being an amount equivalent to the taxes received by the City and the School District heretofore.

(h) All moneys remaining in the Special Trust Account, after the payments provided for in the preceding paragraphs (a) to (g) inclusive, of this section, shall be held by the Trustee as a sinking fund for the redemption of said bonds; provided, with the approval of the Trustee, any such money in the sinking fund may be used from time to time for the purpose

of meeting deficiencies in the payments required under sub-paragraphs (a) to (f) of this section, or for improvements, betterments and extensions. In the event there shall be no default by the City in paying the principal of and interest on said bond and there shall be in the sinking fund moneys in excess of two times the next succeeding installment of interest, the Trustee may, and at the request of the City shall, apply such excess moneys to the redemption of said outstanding bond.

Section 6. While the bond authorized hereunder remains outstanding or unpaid, the City hereby covenants that rates charged for the electrical energy shall be sufficient at all times to pay cost of operation and maintenance; to provide a depreciation fund; and to pay the interest of and principal on the electric revenue refunding bond issued hereunder; and there shall be charged against all users of said electrical energy, including the City of Lexington, such rates and amounts for electrical energy as shall be adequate to meet the requirements of this section. The City agrees that the electric current distributed through said distribution system and used in lighting the streets of the City during the life of said revenue bond shall be taken into account and paid for by the City at the usual and regular rates therefor, charged to other customers and to this end the ^{MAYOR} ~~Mayor~~ and City Council shall each year levy, in addition, a tax sufficient to pay for said electric current. Compensation for services rendered the City shall be charged against the City and payment for the same from the corporate funds shall be made monthly into the "Special Trust Account" created by this ordinance as revenues derived from the operation of the electric distribution system in the same manner as other revenues are required to be deposited.

Section 7. The holder of said electric revenue refunding bond issued hereunder may, either in law or equity, by suit, action, mandamus or other proceedings, enforce or compel performance of all duties required by this ordinance, including the making and collecting of sufficient rates for electrical energy for that purpose and application of income and revenue therefrom.

Section 8. It is hereby covenanted and agreed that while said

electric revenue refunding bond is outstanding said City will not consent to or permit the creation of a charge of any kind on the revenues of said distribution system.

Section 9. The City of Lexington hereby covenants and agrees with the holder of said bond herein proposed to be issued that it will punctually perform all duties with reference to said electric distribution system, required by the Constitution and Laws of the State of Nebraska, including the making and collecting of sufficient rates for electric energy and segregating the revenues of said plant and the application thereof as provided by this ordinance, and it hereby covenants and agrees not to sell, lease, loan, mortgage or in any manner dispose of said electric distribution system, including any and all extensions and improvements that may be made thereto until said bond herein authorized to be issued shall have been paid in full, both principal and interest; and the City further covenants and agrees with the holder of said bond to maintain in good condition and continuously operate said electric distribution system.

Section 10. The provisions of this ordinance shall constitute a contract between the City of Lexington and the holder of said bond; provided, however, the terms of said contract may be changed and this ordinance amended by the written consent of the holder of said bond which written consent shall be filed with the City Clerk.

Section 11. The City will maintain insurance ~~on said property for the benefit of the holder of said bond of the kind and in the amounts which would normally be carried by private companies engaged in a similar type of business including loss and damage by fire, lightning, wind and other risks included in the said coverage policy and also~~ against public liability and workmen's compensation. All premiums or other charges in connection therewith shall be paid as a part of the cost of operation. ~~The proceeds of any such insurance received by the City by reason of damage to or destruction of the property shall be used to repair or reconstruct the property or to pay for the cost of damage or destruction of the property and shall be used to pay the said bond prior to its maturity. During the period of emergency caused by any such~~

~~Part of the City shall be responsible for the maintenance and operation of the electric plant and distribution system.~~

Section 12. The City Treasurer and the City Clerk shall be bonded, in addition to their official bonds, by an insurance company licensed to do business in Nebraska in amounts sufficient to cover at all times all the revenues and earnings of said electric ~~plant~~ system placed in their hands. Any other person employed by the City in the collection or handling of moneys derived from the operation of said property shall also be bonded in an amount sufficient to cover all moneys which may at any time be placed in his hands. The amount of such bonds shall be fixed by the Council, and the cost thereof shall be paid from the earnings of said electric plant, and they shall secure the faithful accounting for all moneys.

Section 13. The City will cause all of said property and all additions and betterments thereto and extensions thereof to be maintained in good repair, working order and condition and will from time to time make all necessary repairs, replacements, renewals, extensions and betterments and will operate the property in an efficient manner and at reasonable cost.

Section 14. The City will keep proper books, records and accounts separate from all other records and accounts in which complete and correct entries will be made of all transactions relating to the said electric ~~plant~~ ~~and distribution system~~ distribution system and other property hereinabove referred to. Said books of account shall be kept in accordance with the laws of the State of Nebraska or in accordance with the uniform system of accounts or a system prescribed by the Federal Power Commission or other federal authority having jurisdiction over public utilities operating electric light and power properties.

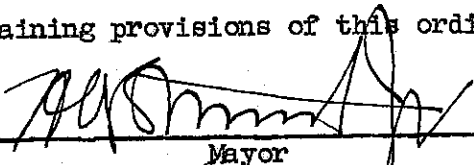
On or before the 10th day of each month the City will furnish to Kirkpatrick-Pettis Company, Omaha, Nebraska, a summary of the receipts and disbursements and cash balances of said property for the preceding calendar month and within 60 days of the end of each fiscal year the City will furnish to said Company a complete financial statement in reasonable detail prepared by a certified public accountant covering the operation of said property for such fiscal year. For the purpose of this ordinance the

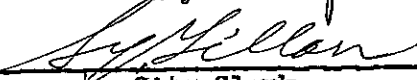
fiscal year shall be deemed to begin on the first day of May
each year.

Section 15. This ordinance shall be in full force and effect from and after its passage as provided by law.

Section 16. Said bond having been sold to Kirkpatrick-Pettis Company, the City Treasurer is authorized to deliver the same to said purchaser upon payment therefor as provided by the contract of sale. The City Treasurer is authorized and directed to apply the proceeds of the sale of said bond to the payment and redemption of the outstanding bonds dated March 1, 1949 hereinabove referred to.

Section 17. If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.



Mayor


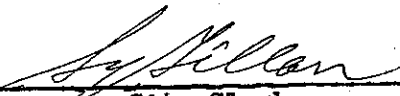
City Clerk

(SEAL)

STATE OF NEBRASKA)
COUNTY OF DAWSON) ss
CITY OF LEXINGTON)

I, S. Y. Gillan, the duly elected, qualified and acting City Clerk of the City of Lexington in Dawson County, State of Nebraska hereby certify: That the annexed and foregoing is a full, true and complete copy of Ordinance No. 562 as the same appears of record on the journal and ordinance books of said City; that said ordinance was duly passed by the City Council and approved and signed by the Mayor on the 10th day of January, 1950 and was duly published in the Lexington Clipper a legal newspaper published and of general circulation in said City, on the 12th day of January, 1950.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 10th day of January, 1950.



City Clerk

(S E A L)