

Gothenburg, Nebraska

A Special meeting of the Mayor and City Council of the City of Gothenburg, Nebraska, was held at the City Council Room at 1:00 o'clock P. M., on the 22<sup>nd</sup> day of February, 1967.

The Mayor presided and the City Clerk recorded the proceedings.

On roll call the following were present.

Mayor L.R. Brand; City Clerk Jane Ballmer  
Councilmen M. J. Ayres, Arlond Garrath, Warren Lamb,  
Wesley Stebbins.

Absent None.

Councilman Garrath introduced the following ordinance and moved its adoption, whereupon Councilman M. J. Ayres seconded the motion, said ordinance being in words and figures following:

#### ORDINANCE

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00) SEWER REVENUE BONDS OF THE CITY OF GOTHENBURG, IN THE COUNTY OF DAWSON, IN THE STATE OF NEBRASKA, FOR THE PURPOSE OF EXTENDING AND IMPROVING THE SANITARY SEWERAGE SYSTEM OF THE CITY, BY CONSTRUCTING A NEW SEWAGE TREATMENT PLANT AND PURCHASING A SITE THEREFOR, AND OTHERWISE IMPROVING THE SANITARY SEWERAGE SYSTEM OF SAID CITY; PRESCRIBING THE FORM OF SAID BONDS AND PLEDGING THE REVENUE DERIVED FROM THE RENTAL OR USE CHARGE TO EXTENSIONS THEREOF AND ADDITIONS THERETO AND REQUIRING THE CITY TO MAINTAIN AND COLLECT A RENTAL OR USE CHARGE SUFFICIENT IN AMOUNT TO PAY THE COST OF OPERATING, MAINTAINING AND EQUIPPING SAID SYSTEM AND TO PAY THE PRINCIPAL AND INTEREST OF SAID BONDS AS THE SAME COME DUE; LIMITING PAYMENT OF SAID BONDS SOLELY TO THE REVENUES TO BE DERIVED FROM THE OPERATION OF SAID SANITARY SEWERAGE SYSTEM; CREATING CERTAIN RESERVE FUNDS; PROVIDING COVENANTS AS TO THE LIMITATION OF THE CREATION OF FURTHER INDEBTEDNESS; AND MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH.

Said ordinance was fully and distinctly read and on motion duly made, seconded and adopted, it was described as Ordinance No. 191 and the title thereof was approved.

Councilman Garrath moved that the statutory rule requiring ordinances to be fully and distinctly read on three different days be dispensed with so that Ordinance No. 191 can be adopted at this

meeting, which motion was seconded by Councilman M. J. Ayres

and the Yeas and Nays being called on the passage of said motion, the

following Councilmen voted YEA: Ayres, Garrath, Lamb  
Stebbins

The following voted NAY: None

The motion having been concurred in by three-fourths of the City Council, was declared passed and adopted, and said statutory rule suspended.

Thereupon said Ordinance No. 191 was read by title a second time and was then read at large and put upon final passage. The Mayor stated the question is: "Shall said Ordinance No. 191 be passed and

adopted?" The Yeas and Nays were called and the following Councilmen voted

YEA: Ayres, Garrath, Lamb, Stebbins

The following voted NAY: None

The passage and adoption of said ordinance having been concurred in by a majority of all members elected to the City Council, said ordinance was by the Mayor declared passed and adopted, and the Mayor, in the presence of the City Council, signed and approved said ordinance and the Clerk attested the passage and approval of the same and affixed his signature and the seal of the City thereto.

The following is a true copy of said ordinance.

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$225,000.00) SEWER REVENUE BONDS OF THE CITY OF GOTHENBURG, IN THE COUNTY OF DAWSON, IN THE STATE OF NEBRASKA, FOR THE PURPOSE OF EXTENDING AND IMPROVING THE SANITARY SEWERAGE SYSTEM OF THE CITY OF GOETHENBURG, AND PURCHASING A NEW SEWERAGE TREATMENT PLANT AND PURCHASING A SITE THEREFOR, AND OTHERWISE IMPROVING THE SANITARY SEWERAGE SYSTEM OF SAID CITY; PRESCRIBING THE FORM OF SAID BONDS AND PLEDGING THE REVENUE DERIVED FROM THE RENTAL OR USE CHARGE TO BE COLLECTED FROM THE USERS OF SAID SYSTEM INCLUDING ALL EXTENSIONS THEREOF AND ADDITIONS THERETO AND REQUIRING THE CITY TO MAINTAIN AND COLLECT A RENTAL OR USE CHARGE SUFFICIENT IN AMOUNT TO PAY THE COST OF OPERATING, MAINTAINING AND EQUIPPING SAID SYSTEM AND TO PAY THE PRINCIPAL AND INTEREST OF SAID BONDS AS THE SAME COME DUE' LIMITING PAYMENT OF SAID BONDS SOLELY TO THE REVENUES TO BE DERIVED FROM THE OPERATION OF SAID SANITARY SEWERAGE SYSTEM; CREATING CERTAIN RESERVE FUNDS; PROVIDING COVENANTS AS TO THE LIMITATION OF THE CREATION OF FURTHER INDEBTEDNESS; AND MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOTHENBURG, NEBRASKA.

Section 1. The Mayor and City Council of the City of Gothenburg, Nebraska hereby find and determine: The City of Gothenburg owns and operates a sewerage system for the disposal in a sanitary manner, of the liquid and solid wastes, sewage and night soil of the City. In order to protect the health of the inhabitants of the City and to comply with the laws of the State and the requirements of the Department of Health of the State of Nebraska, it is necessary and in the public interest that the sanitary sewerage system of the City be improved, extended and equipped by constructing a new sewerage treatment plant, and purchasing a site therefore, and otherwise improving the sanitary sewerage system of said City. The preliminary plans and specifications for, and estimate of the cost of such improvements, extensions, construction, and equipment needed at this time have been and are hereby approved. The cost of making such improvements, extensions, and construction and purchasing such equipment will be not less than Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) and it is desirable and necessary for the City to issue revenue bonds for said purposes payable solely from the revenues derived from the operation of said sewerage system, including all improvements, extensions, and betterments thereof hereafter constructed or acquired.



(For Bond Nos. 8 to 49, inclusive) with interest thereon at the rate of Three and Sixty Hundredths per centum (3.60 %) per annum from date until maturity, represented by one set of coupons, and in addition thereto, at the rate of One and Forty Hundredths per centum (1.40 %) per annum from date until

September 15, 1968, represented by supplemental coupons which shall have the letter "A" affixed to their numbers and may be detached from these bonds and sold separately.

(For Bond Nos. 50 to 100, inclusive) with interest thereon at the rate of Three and Seventy Hundredths per centum (3.70 %) per annum from date until maturity, represented by one set of coupons, and in addition thereto, at the rate of One and Forty Hundredths per centum (1.40 %) per annum from date until

September 15, 1968, represented by supplemental coupons which shall have the letter "A" affixed to their numbers and may be detached from these bonds and sold separately.

(For Bond Nos. 101 to 164, inclusive, with interest thereon at the rate of Three and Eighty Hundredths per centum (3.80 %) per annum from date until maturity, represented by one set of coupons, and in addition thereto, at the rate of One and Forty Hundredths per centum (1.40 %) per annum from date until

September 15, 1968 represented by supplemental coupons which shall have the letter "A" affixed to their numbers and may be detached from these bonds and sold separately.

(For Bond Nos. 165 to 225, inclusive, with interest thereon at the rate of Three and Eighty-Five Hundredths per centum (3.85 %) per annum from date until maturity, represented by one set of coupons, and in addition thereto, at the rate of One and Forty Hundredths per centum (1.40 %) per annum from date until

September 15, 1968 represented by supplemental coupons which shall have the letter "A" affixed to their numbers and may be detached from these bonds and sold separately.

Said interest shall be payable semi-annually on the fifteenth day of March and September of each year. Attached to each bond shall be interest coupons payable at the time the respective interest payments thereon become due and for the amount thereof.

Section 3. Both principal of and interest on said Sewer Revenue Bonds shall be payable in lawful money of the United States of America at the office of the County Treasurer of the County of Dawson, State of Nebraska, in the City of Lexington, Nebraska. Said bonds shall be signed by the Mayor sealed with the corporate seal of said City, and attested by the City Clerk, and the interest coupons attached to said bonds shall be executed by the facsimile signatures of said Mayor and said City Clerk, and said officials, by the execution of said bonds, shall adopt as and for their own proper signatures their respective facsimile signatures appearing on said coupons.

Said bonds, together with interest thereon, shall be payable solely from the revenues collected as rentals or fees charged for the use of the sanitary sewerage system, including the disposal plant, and such bonds shall not in any event constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation.

Section 4. Said bonds and coupons shall be in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF DAWSON  
CITY OF GOTHENBURG

SEWER REVENUE BOND

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

\$1,000.00

KNOW ALL MEN BY THESE PRESENTS: that the City of Gothenburg, in the County of Dawson, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to bearer on the fifteenth day of March, 19\_\_\_\_, out of the special fund hereinbelow designated, the sum of ONE THOUSAND DOLLARS (\$1,000.00) in lawful money of the United States of America, together with interest thereon

(Insert rates as set out in Section 2 of the Bond Ordinance)

All of which interest shall be payable semi-annually on the fifteenth day of March and September of each year on presentation and surrender of the interest coupons hereto attached, as they severally become due.

(For Bond Nos. 41 to 225, inclusive) This bond shall be redeemable at the option of the City as a whole or in part at any time on or after March 15, 1972, at par and accrued interest thereon to the redemption date, provided, however, if less than all of said bonds are redeemed at any time, the bonds shall be redeemed in the inverse order in which they are numbered.

Both the principal hereof and the interest hereon are payable in lawful money of the United States of America at the office of the Treasurer of Dawson County, in Lexington, Nebraska.

This bond is payable solely from revenues derived from a rental or use charge to be collected from the users of the sanitary sewerage system, including the disposal plant of said City, and not otherwise, and is issued under authority of the provisions of Chapter 18, Article 5 and Section 10-126, Reissue Revised Statutes of Nebraska, 1943, as amended, Laws of Nebraska, 1965, Cumulative Supplement, and all laws amendatory thereof and supplementary thereto, for the purpose of paying the cost of improving, extending and equipping the sanitary sewerage system of this City, and this bond does not constitute an indebtedness of said City within any constitutional or statutory limitation.

Under said laws and the ordinance adopted pursuant thereto, the revenues derived from the operation of the sanitary sewerage system of said City shall be deposited in a separate fund designated as the "Gothenburg Sewer Revenue Fund" of said City, which shall be used in paying the cost of operation and maintenance of such system, and paying the principal of and interest on all bonds of said City that are issued under authority of said laws and all amendments thereto and are payable by their terms only from the revenue of the sanitary sewerage system of said City.

It is hereby certified and recited that all acts, conditions, and things required to be done precedent to and in the issuance of this bond have been done and have happened and have been performed in regular and due form of law, and that provision has been made for depositing in said "Gothenburg Sewer Revenue Fund" the revenues received from the operation of said sanitary sewerage system to be applied in the manner as hereinabove set forth, and said City hereby covenants and agrees that it will fix and maintain rates for service and collect and account for revenues from said sanitary sewerage system sufficient at all times to pay the principal of and interest on all bonds issued by said City which by their terms are

payable solely from the revenues of said sanitary sewerage system, and to comply with all the covenants of the ordinance under which this bond is issued.

This bond is one of an authorized issue of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) of the denomination of \$1,000.00 each, numbered 1 to 225, inclusive, of even date and like tenor herewith except as to maturity and rate of interest.

When proposed by the City and to the extent permitted by and as provided in the ordinance authorizing the issue of this bond and the series of which it forms a part, the rights and obligations of the City and of the holders of the said bonds and interest coupons may be modified in certain respects with the assent and authorization in writing, given as in the said ordinance provided, of the holders of seventy-five per cent (75%) in principal amount of the bonds then outstanding under the said ordinance, excluding bonds directly or indirectly owned or controlled by the City, provided, however, that no such modification shall be made which will (a) extend the time of payment of the principal of or the interest on any bond or reduce the principal amount thereof or the rate of interest thereon or the redemption price thereof, or (b) give to any bond or bonds of the said issue any preference over any other bond or bonds of the said issue, or (c) authorize the creation of any pledge prior to (or on a parity with) the pledge afforded by the said ordinance, or (d) deprive any bond holder of the security of the pledge afforded by the said ordinance, or (e) reduce the percentage in principal amount of the outstanding bonds required to assent to or authorize any such modification.

THIS BOND and all of the bonds of this issue shall have all of the qualities of negotiable instruments, and this bond and each of the coupons hereto appertaining may be negotiated by delivery by any person having possession thereof, howsoever such possession may have been acquired, and any holder who shall have taken this bond or any of said coupons from any person for value and without notice shall thereby acquire absolute title to this bond or such coupons as the same may be, free of any defenses enforceable against any prior holder and free from all equities and claims of ownership of any such prior holder, and the said City and any paying agent may deem and treat the bearer of this bond and the bearer of any interest coupon appertaining hereto as the absolute owner thereof for all purposes.

IN WITNESS WHEREOF, said City of Gothenburg, in the County of Dawson, in the State of Nebraska, by its City Council has caused this bond to be signed by its Mayor, its corporate seal to be hereto affixed and attested by its City Clerk, and the coupons hereto attached to be signed by the facsimile signatures of said Mayor and said City Clerk, which officials, by the execution of this bond, do adopt as and for their own proper signatures their respective facsimile signatures appearing on said coupons, and this bond to be dated the fifteenth day of March, 1967.

CITY OF GOTHENBURG, NEBRASKA

By     A R Brand     Mayor

Attest:

    Jane Ballman      
City Clerk



(FORM OF COUPON)

NO. \_\_\_\_\_ \$ \_\_\_\_\_

On the fifteenth day of March (September), 19     , (Unless the bond to which this coupon is attached has theretofore been called for payment as therein provided and payment made or provided for,) the City of Gothenburg, Dawson County, Nebraska, will pay to bearer \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States of America only out of the Sewer Revenue Fund of said City at the office of the County Treasurer of Dawson County, Lexington, Nebraska, being interest then due on its Sewer Revenue Bond, dated March 15, 1967.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Section 6. The City Clerk shall make and certify in duplicate a complete transcript of the proceedings had and done by said City precedent to the issuance of said bonds, one of which transcripts shall be filed in the office of the Auditor of Public Accounts of the State of Nebraska, and the other shall be delivered to the purchaser of said bonds. After being executed by the Mayor and City Clerk, said bonds shall be delivered to the City Treasurer who shall be responsible therefore under his official bond, and the Treasurer shall cause said bonds to be registered in the office of the County Clerk of Dawson County, and then shall cause said bonds to be transmitted with a certified transcript aforesaid to the Auditor of Public Accounts of the State of Nebraska to be registered in said Auditor's office. The City Treasurer is authorized and directed to deliver said bonds to the purchaser upon receipt of the purchase price in accordance with the contract of the City with said purchaser.

Section 7. While the bonds authorized hereunder or any of them remain outstanding or unpaid, rates charged for sewer service shall be sufficient at all times to pay the cost of operation and maintenance of the City's Sanitary Sewer System, to provide for the accounts established by this ordinance, to pay the interest on the principal of all bonds which by their terms are payable from the revenues of said sanitary sewerage system, and to carry out the covenants of this ordinance.

Section 8. Hypothecation. The City hereby pledges and hypothecates the revenues and earnings derived and to be derived from the operation of said sewerage system and all betterments, extensions and improvements thereof, including any additions and improvements constructed thereto, for the payment of said bonds, both principal and interest.

Section 9. That upon the issuance of the Sewer Revenue Bonds herein provided for, the entire sanitary sewerage system, including the disposal plant, of said City shall be operated on a fiscal year basis (the fiscal year for the purpose of this ordinance being the twelve months period commencing on May 1st of each year and ending on April 30th of the following year) and all of the revenues from any source whatsoever derived from the operation of said system shall be set aside as collected and be deposited in a separate fund which is hereby created to be designated as the "Gothenburg

Sewer Revenue Fund" of said City, which shall be used only in paying the reasonable cost of operating and maintaining said system, including salaries, wages, cost of materials, supplies, insurance and the reasonable replacements necessary to render efficient service, paying the principal of and interest on all revenue bonds of said City which by their terms are payable solely from the revenues derived from the sanitary sewerage system of this City, providing for adequate reserves and for improvements, extensions and betterments as hereinafter provided.

Section 10. That there be and there are hereby created and established separate special accounts of the Gothenburg Sewer Revenue Fund to be designated severally "Operation and Maintenance Account", "Bond and Interest Sinking Fund Account", "Bond and Interest Reserve Account", and "Surplus Account", into which there shall be credited on the first business day of each month all moneys held in the Sewer Revenue Fund of said City, in accordance with the following provisions:

(a) There shall be credited to the Operation and Maintenance Account on the first business day of each month an amount sufficient to pay the reasonable expense of operation and maintenance and repair of said sanitary sewerage system for the next succeeding month not provided for by other funds including, without limiting the generality of the foregoing, salaries, wages, cost of materials, supplies and insurance.

(B) There shall be credited to the Bond and Interest Sinking Fund Account on the first business day of each month an amount equivalent to one-sixth of the interest becoming due on all outstanding bonds payable from the revenues of said sanitary sewerage system on the next succeeding interest payment date, and an additional amount equal to not less than one-twelfth of the principal of all said bonds becoming due on the next succeeding principal maturity date.

(c) From the surplus funds derived from the operation of said sanitary sewerage system of said City, now on hand and available for that purpose, there shall be immediately credited (subject to the provisions of this sub-paragraph (c) hereinafter set forth) to the Bond and Interest Reserve Account the sum of \$18,000, or the maximum annual principal and

interest requirement on the bonds, whichever sum is the greater. ✓ If all such sum is not now available, there shall be credited to this account all amounts in excess of that required to be credited to the accounts (a) and (b) herein above referred to until this account reaches \$18,000. The moneys in said Reserve Account shall be held and used to pay principal or interest of the bonds authorized pursuant to this ordinance when there are insufficient funds available at any time to pay such principal or interest. When any money is paid out of said Reserve Account there shall be credited to said account each month after funds have been credited to accounts (a) and (b) hereinabove referred to, all sums necessary until such account has been restored to the said aggregate amount of \$18,000 or the maximum annual principal and interest requirement on the bonds, whichever sum is the greater.

(d) All moneys remaining in the Gothenburg Sewer Revenue Fund of said City after crediting the required amounts to the respective accounts hereinabove provided for shall be credited to the Surplus Account. The Funds in said account shall be used only for the following purposes; First; for making up any deficiencies necessary to credit the accounts (a) to (c), inclusive, with the required amounts therefor as hereinabove provided. Second: All sums remaining in said Surplus Account after making up any deficiencies necessary to credit the accounts (a) to (c), inclusive, as hereinabove provided shall be held in said Surplus Account and shall be used for the improvement, enlargement, extension or betterment of the sanitary sewerage system of said City or for the making of any extensions, repairs, replacements or improvements thereof, or for the purchase and acquisition of any equipment necessary therefor, or for calling and redeeming any bonds of said City prior to their maturity which by their terms are payable from the revenues derived from the operation of the sanitary sewerage system, provided, however, nothing in this subsection shall be construed to prohibit the City Council from ordering and directing that all the funds of such Surplus Account or any portion thereof be used to pay principal of or interest on bonds authorized pursuant to this ordinance prior to maturity in accordance with their terms.

(e) The moneys to be credited to the accounts (c) and (d), as hereinabove created may be invested from time to time in interest bearing bonds or other direct obligations of the United States Government; provided, however, the funds of said respective accounts shall be so invested as in the judgment of the City Council will not be required for expenditure within a period of ninety days from and after the date of investment thereof; provided, further that all such securities so purchased shall mature not more than five years from the date of each purchase. All accrued interest on any funds so invested shall be credited to the account for which the investment was made.

Section 11. The pledge hereunder of revenues and earnings derived and to be derived from the operation of said sewer system and all extensions and improvements thereof for the payment of principal and interest on the bonds issued hereunder shall be on the gross earnings of said sewer system, and shall be prior and superior to amounts required for operation and maintenance of said system. When and if necessary to pay principal and interest on such bonds as the same become due, the City of Gothenburg coveanants and agrees not to use sewer revenues and earnings to pay expenses of operation and maintenance but shall levy upon all the taxable property within said City to the extent permitted by law to provide for the operation and maintenance of said sewer system.

Section 12. That it is hereby covenanted and agreed that the revenues of the sanitary sewerage system are to be paid into the various special accounts hereinabove established and created in the order in which said accounts have been listed, and if within any period of time the revenues are insufficient to place the required amounts in any of said accounts, the deficiencies shall be made up the following perior or periods after payments into all the accounts enjoying a prior claim of revenues have been made in full.

Section 13. At least fifteen (15) days before each payment of interest or principal become due on any of said bonds, the City will deposit with the County Treasurer of Dawson County an amount of money sufficient to pay the interest and principal of the bonds which become due on such payment

date, such payments to be made out of the Bond and Interest Sinking Fund Account.

Section 14. That the City hereby agrees to carry insurance on the sanitary sewerage system, including the disposal plant, of the kind and in the amounts which are usually carried upon similar properties, including without limiting the generality of the foregoing, fire, and public liability, and all moneys received for losses under such insurance policies, except public liability, shall be credited to the Surplus Accounts and used in making good the loss or damage in respect of which they were paid either by repairing the property damaged or replacing the property destroyed and provision for making good such loss or damage shall be made within ninety days from date of the loss. The payment of premiums for all insurance policies required under the provisions of this section shall be considered a maintenance and operation expense.

The proceeds of any and all policies for public liability shall be paid into the Operation and Maintenance Account and used in paying the claims on account of which they were received.

The City Treasurer and City Clerk shall be bonded in addition to their official bonds by an insurance company licensed to do business in Nebraska, in an amount sufficient to cover at all times all the revenue and earnings of said sewerage system which are 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 by such an insurance company in an amount sufficient to cover all which may at any time be placed in his hands. The amount of such bonds shall be fixed by the City Council and the cost thereof and the premiums on all insurance policies on the property or issued in connection with the operation thereof shall be paid as a part of the operating expenses of the property.

Section 15. The City covenants and agrees that so long as any of the bonds herein authorized remain outstanding proper books and records and accounts will be kept by the City separate and apart from all other records and accounts showing correct and complete entries of all transactions of the sanitary sewerage system, and that the holders of any of said bonds or any duly authorized agent or agents of such holders shall have the right at

any and all reasonable times to inspect the records, accounts and audit relating thereto, and to inspect the system and all property comprising the system. Said City further covenants and agrees that it will within sixty days following the close of each fiscal year cause an audit of such books and accounts to be made by an independent certified public accountant or firm of certified public accountants, showing the receipts and disbursements for and on account of the system, and that such audit will be available for inspection by the holders of any of the bonds. Each such audit, in addition to whatever matters may be thought proper by the accountants to be included therein, shall without limiting the generality of the foregoing, include the following:

- (a) A statement in detail of the income and expenditures of the system for such fiscal year.
- (b) A balance sheet as of the end of such fiscal year, with the amounts there are on hand in each of the funds and accounts.
- (c) The accountant's comment regarding the method in which the City has carried out the requirements of this ordinance, and the accountant's recommendations for any changes or improvements in the operation of the system.
- (d) A list of all the insurance policies in force at the end of the fiscal year, setting out as to each policy the amount of the policy, the risks covered, the name of the insurer and the expiration date of the policy.

All expenses incurred in the making of the audit required by this section shall be regarded and paid as a maintenance and operation expense, and it is further covenanted and agreed that a copy of each such audit shall be available for inspection at any time and a summary thereof shall be furnished to the holder of any of the bonds, or his agent, at his request, and any holder of a bond or bonds authorized under this ordinance shall have the right to discuss with the accountant making the audit the contents of the audit and to ask for any additional information he may reasonably require. When requested in writing, monthly statements of receipts and disbursements shall be mailed each month to the original purchasers of the bonds authorized by this ordinance, and to investment banking firms and statistical reporting services.

Section 16. That it is hereby covenanted and agreed that additional sewer revenue bonds may be issued to share ratably and equally in the revenues of said sanitary sewerage system and in the covenants provided for by this ordinance but shall be issued only if the following conditions are

met:

- (a) The net earnings of the sanitary sewerage system for the last preceding completed fiscal year, prior to the issuance of such additional bonds must equal one and one-half times the combined maximum principal and interest requirements for any succeeding twelve months period, on all the bonds then outstanding and then to be issued. The term "Net Earnings" for the purpose of this section shall be deemed to be the gross revenues for said last preceding fiscal year as established by this ordinance, after deducting therefrom all maintenance and operation expenses for the last preceding completed fiscal year.
- (b) The amounts required to be credited to the respective accounts (a) to (c), inclusive, of Section 10 provided for by this ordinance, must have been credited in full to date of such additional bonds.
- (c) The additional bonds must be due serially with principal and interest amortized over a period not shorter than the remaining life of any of the then outstanding bonds with principal payments beginning not less than three years from the date of the additional bonds, in such manner as to make the total amount of principal of and interest on the outstanding bonds in each year reasonably equal each year in which there is a maturity of principal.

In addition to the foregoing, if prior to the payment of the bonds hereby authorized, it shall be found desirable to refund all or a part of the bonds hereby authorized, said bonds may be refunded notwithstanding the restrictions as to the issuance of additional bonds set forth in this section (with the consent of the holders thereof if any bonds are to be refunded prior to maturity, unless the bonds to be refunded are subject to redemption prior to maturity and provisions for call and redemption thereof is duly made), and any refunding bonds so issued shall share ratably and equally in the revenues of said sanitary sewerage system and the pledge thereof under this ordinance with the portion of the bonds hereby authorized which are not refunded; provided, however, that if only a portion of said outstanding bonds are to be refunded at any time, such obligations shall not be refunded bearing interest at a rate greater than the interest rate provided by this ordinance, or maturing at a date earlier than the final maturity of such bonds not refunded.

Section 17. The City will maintain the sanitary sewerage system, including extensions and improvements, in good condition and operate the same in an efficient manner and at a reasonable cost. The City agrees with the holders from time to time of the bonds of this issue that the City will



continue to own, free from all liens and encumbrances, and will adequately maintain and efficiently operate said sanitary sewerage system.

Section 18. It is hereby covenanted and agreed that while any Sewer Revenue Bonds issued hereunder are outstanding the City will not grant any franchise or right to any person, firm or corporation to own or operate a sanitary sewerage system in competition with that owned by the City.

Section 19. Sewerage service furnished to the City from its sewerage system and sewage treatment plant, while any of said Revenue Bonds are outstanding, shall be paid for by the City at the established rates. Payment of such sewerage services shall be made monthly from the corporate funds into the Gothenburg Sewer Revenue Fund created by this ordinance as revenue derived from the operation of the sewerage system in the same manner as other revenue is required to be deposited. No free service shall be rendered while any of these bonds are outstanding.

Section 20. Any holder of a bond or bonds or any of the coupons of any bond or bonds issued hereunder may in any civil action, mandamus or other proceedings, enforce and compel performance of all duties required by this ordinance and the laws of the State of Nebraska, including the making and collecting of sufficient rates for service and segregating the revenues of said system and the application thereof to the respective funds and accounts created by this ordinance, and the City hereby covenants and agrees not to sell, lease, loan, mortgage or in any manner dispose of said sanitary sewerage system, including any and all extensions and improvements that may be made thereto (provided the covenant in this section shall not prevent the City from disposing of any property which in the judgment of the City Council is no longer useful or profitable in the operation of said system and the proceeds from the sale of any such property are paid into the Bond and Interest Sinking Fund Account herein established) until all of the bonds herein authorized to be issued shall have been paid in full, both principal and interest, or unless and until provision shall have been made for the payment of all such bonds and interest thereon in full; and the City further covenants and agrees with the holders of said bonds to maintain in good condition and continuously operate said sanitary sewerage system.

Section 21. The proceeds derived from the sale of the bonds hereby authorized exclusive of any accrued interest thereon shall be deposited in a separate fund in the treasury of the City known as the "Sanitary Sewer Construction Fund of 1967 of the City of Gothenburg, Nebraska", which is hereby created, and is sometimes hereinafter referred to as the "Construction Fund" which fund shall be kept in a bank or banks which are duly designated depositories for the funds of said City. Said funds shall be held and used solely to construct the improvements and extensions to the sanitary sewerage system of said City as provided by this ordinance, and shall be held for the benefit of said City for the purposes herein provided, and for the benefit of the holder or holders of the bonds hereby authorized as their interest may appear. Withdrawals from said fund shall be made on duly authorized and executed claims, and, if for payment of construction costs, shall be accompanied by a certificate executed by the City's engineer and consulting engineers that such payment is being made for a purpose within the scope of this ordinance and that the amount of such payment represents only the contract price or reasonable value of property, labor, materials, services or obligations being paid for.

If upon the completion of making said extensions and enlargements as certified by the City engineer or consulting engineers, any moneys shall remain in said "Construction Fund", said money shall be credited to and deposited in the Bond Reserve Account until such account aggregates the sum of \$18,000, or the maximum annual principal and interest on the bonds, whichever sum is greater, and all excess over and above the amount necessary to be credited to the Bond Reserve Account shall be transferred and credited to the Bond and Interest Sinking Fund Account, ordered to be established by this ordinance. Any amount received by the City on account of accrued interest on said bonds shall be deposited in said Bond and Interest Sinking Fund Account.

If the City Council shall determine at any time that the amount of proceeds in the Construction Fund Account is in excess of the amount necessary to pay authorized expenditures therefrom during the next ensuing month, it may by resolution direct the City Treasurer to invest such excess

in interest bearing bonds or other general obligations of the United States Government having a maturity of not later than the time when such proceeds will be required for construction, and in any event not to exceed one year from date of investment, and all such investments, as well as income therefrom shall be carried to the credit of the Construction Fund. As and when such funds are thus needed, the City Council shall direct the City Treasurer by resolution to cause a sufficient amount of such investments to be sold and converted into cash to the credit of the Construction Fund.

Section 22. That from time to time the holders of seventy-five per cent (75%) in principal amount of the bonds outstanding hereunder (not including bonds owned or controlled directly or indirectly by the City), by an instrument or instruments in writing signed by such holders and filed with the City, shall have power to assent to and authorize any modification of the rights and obligations of the City and of the holders of the bonds and interest coupons issued hereunder and the provisions of this ordinance that shall be proposed by the City and any action herein authorized to be taken with the assent and authority given as aforesaid of the holders of seventy-five per cent (75%) in principal amount of the bonds at the time outstanding hereunder and upon the City, as fully as though such action was specifically and expressly authorized by the terms of this ordinance; provided always, that no such modification shall be made which will (a) extend the time of payment of the principal of or the interest on any bond or reduce the principal amount thereof or the rate of interest thereon or the redemption price thereof, or (b) give to any bond or bonds secured by this ordinance any preference over any other bond or bonds so secured, or (c) authorize the creation of any pledge prior to or on a parity with the pledge afforded by this ordinance, or (d) deprive any bond holder of the security afforded by the pledge of this ordinance, or (e) reduce the percentage in principal amount of the outstanding bonds required to assent to or authorize any such modification. Any modification of the provisions of this ordinance or of any ordinance supplemental hereto made as aforesaid shall be set forth in a supplemental ordinance to be adopted by the City Council of said City.

Section 23. Provisions of this ordinance shall constitute a contract between the City and the holders of the bonds herein authorized to be issued until such time as all of said bonds issued hereunder and the interest thereon shall be paid in full, or unless and until provision shall have been made for the payment of all bonds and interest thereon in full.

Section 24. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

Section 25. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Section 26. This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED AND APPROVED this 22<sup>nd</sup> day of February 1967.

R P Board  
Mayor

Attest:

Janet Seelmer  
City Clerk

(SEAL)