

AN ORDINANCE DIRECTING THE IMPROVEMENT, EXTENSION AND ENLARGEMENT OF THE MUNICIPAL ELECTRIC LIGHT AND POWER SYSTEM; RATIFYING THE ACTION THEREWITH TAKEN HERETOFORE; DIRECTING THE ISSUANCE OF ITS REVENUE BONDS, PAYABLE SOLELY OUT OF THE INCOME AND REVENUES FROM THE OPERATION OF SAID SYSTEM, TO PAY THE COST THEREFOR; PROVIDING THE FORM, TERMS AND CONDITIONS OF SAID BONDS AND THE MANNER AND TERMS OF THEIR ISSUANCE AND THE MANNER OF THE EXECUTION THEREOF; PROVIDING FOR THE DISPOSITION OF THE REVENUES DERIVED FROM THE OPERATION OF SAID SYSTEM; MAKING CERTAIN COVENANTS RELATING TO SAID SYSTEM; PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH AND WITH SAID BONDS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Las Animas (herein sometimes called the City), in the County of Bent and State of Colorado, is a public corporation, organized and existing under and by virtue of the Constitution and Laws of the State of Colorado; and

WHEREAS, the City duly acquired a municipal electric light and power system (herein sometimes called the system), and issued, in the aggregate principal amount of \$400,000.00, its Electric Light and Power Revenue Bonds, Series of November 1, 1941 (herein sometimes called the original bonds), for the purpose of defraying the cost of such acquisition, pursuant to the provisions of Ordinance No. 294, Series 1941, duly adopted and approved on the 22nd day of October, 1941, and duly and finally published in the Bent County Democrat on the 24th day of October, 1941; and

WHEREAS, pursuant to Ordinance No. 297, Series 1942, a Board of Electric Public Utilities Commissioners, to operate and manage the system, was duly created, and is now performing the functions prescribed in said Ordinance, and all laws thereunto enabling; and

WHEREAS, the City, pursuant to the provisions of Ordinance No. 301, Series 1946, duly adopted and approved on the 18th day of March, 1946, and duly and finally published in the Bent County Democrat on the 22nd day of March, 1946, issued in the aggregate principal amount of \$317,000.00 its Refunding Electric Light and Power Revenue Bonds, Series 1946 (herein sometimes called the refunding bonds), to refund a like amount of the original bonds; and

WHEREAS, the owners and holders of the refunding bonds were subrogated to the rights, remedies and privileges of the owners and holders of the original bonds; and all the terms, provisions, covenants and warranties of said Ordinance No. 294, Series 1941, and said Ordinance No. 297, Series 1942, were incorporated by reference into said Ordinance No. 301, Series 1946, except as specifically modified; and

WHEREAS, Section 5 (f) of said Ordinance No. 294, Series 1941, provides:

"That nothing in this ordinance shall be construed in such manner as to prevent the issuance by the City of Las Animas of additional bonds payable from the income and revenues derived from the operation of the system and constitution a lien upon said revenues; provided that before any such additional bonds are authorized or actually issued the net earnings of the system for the twelve months next preceding the date of the issuance of such additional bonds or the prospective net earnings from the then owned system, together with those from the additional property to be acquired or constructed as shown by the certificate of the City Engineer, shall have been or will be equal to a sum represented by one hundred and twenty per cent (120%) of the total amount of the interest accruing and the principal (if any) becoming due during the next ensuing fiscal year on the bonds issued under the provisions of this ordinance and the interest accruing during the next ensuing twelve months on the additional bonds so proposed to be issued. In no event shall the income and revenues of said system be used for or in any manner applied to the payment of the principal of any such additional bonds, unless and until all bonds issued under the provisions of this ordinance have been fully paid."

and

WHEREAS, none of the original bonds are now outstanding; and

WHEREAS, there are now outstanding refunding bonds in the aggregate principal amount of \$180,000.00 only; and

WHEREAS, the Mayor and City Council believe, and they hereby find and declare, that it will be greatly to the benefit and advantage of the City and the consumers of the electric light and power from the system to improve, extend and enlarge the system by the acquisition of additional fuel engines and other machinery and equipment, and by the enlargement of the power plant building to house said equipment and machinery at a cost of approximately \$235,000.00; and

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WHEREAS, except to the extent that the revenues have been pledged to the payment of the refunding bonds, the revenues of the system are not pledged, with the result that the net income derived from the operation of the system may be now pledged lawfully and irrevocably to the payment of revenue bonds issued for said purpose; and

WHEREAS, the Mayor and City Council have determined, and hereby determine, to finance wholly or in part said improvement, extension and enlargement of the system by the issuance of its City of Las Animas, Colorado, Electric Light and Power Revenue Bonds, Series of May 1, 1950 (herein sometimes called the extension bonds), in the aggregate principal amount of \$235,000.00, which shall be junior in lien to the refunding bonds; and

WHEREAS, the prospective net earnings of the system for the twelve months next preceding the date hereof, together with those from the additional property to be acquired or constructed as shown by a certificate of the City Engineer, will exceed a sum represented by one hundred and twenty per cent (120%) of the total amount of the interest accruing and the principal becoming due during the next ensuing fiscal year on the refunding bonds and the interest accruing during the next ensuing twelve months on the extension bonds so proposed to be issued; and

WHEREAS, it is the intent and purpose of this ordinance to authorize the extension bonds in such manner as not to affect adversely the rights or remedies of any of the owners or holders of the refunding bonds, and in such manner as not to affect adversely the securities pledged to the payment of any of the refunding bonds; and

WHEREAS, the Mayor and City Council had heretofore determined to issue said extension bonds in the aggregate principal amount of \$200,000.00; and

WHEREAS, said bonds in said amount were sold to Boettcher and Company, Denver, Colorado, and associates; and

WHEREAS, the City Council introduced and passed on first reading a bill which authorized the issuance of said bonds in said amount; and

WHEREAS, the City Council then duly advertised for and received bids so to improve, extend and enlarge the system; and

WHEREAS, said bids substantially exceeded the estimate of the cost previously made by the City for so improving, extending and enlarging the system; and

WHEREAS, the City rejected all of said bids and readvertised for bids so to improve, extend and enlarge the system; and

WHEREAS, of the four bids then submitted, the proposal of the Nordberg Manufacturing Company, the bidder submitting the best bid, was accepted by the City; and

WHEREAS, it was then determined that the extension bonds should be issued in the aggregate principal amount of \$235,000.00, as aforesaid, to obtain proceeds sufficient to pay the cost of so improving, extending and enlarging the system; and

WHEREAS, said Boettcher and Company has purchased the additional amount of \$35,000.00 of bonds at private sale; and

WHEREAS, the Mayor and City Council have determined, and hereby determine, to abandon the proceedings authorizing the issuance of the extension bonds in the aggregate principal amount of \$200,000.00; and

WHEREAS, the City and the purchasers of all of the extension bonds in the aggregate principal amount of \$235,000.00 have mutually agreed upon the provisions in this ordinance hereinafter provided; and

WHEREAS, the Mayor and City Council have determined, and do hereby determine, that it is necessary and for the best interests of the City and the inhabitants thereof that the extension bonds be so issued.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS:

Section 1. That the municipal electric light and power system of the City be improved, extended and enlarged by the expenditure of approximately \$235,000.00, and that said improvements, extensions and enlargements are hereby authorized.

Section 2. That all action heretofore taken by the City of Las Animas, and the officers of the City, directed toward the improvement, extension and enlargement of the municipal electric light and power system within the City and the issuances of its Electric Light and Power Revenue Bonds, Series of May 1, 1950, in the aggregate principal amount of \$235,000.00, for that purpose be, and the same is hereby, ratified, approved and confirmed, including, without limiting the generality of the foregoing, the sale of said bonds to Boettcher & Company, Denver, Colorado.

Section 3. That for the purpose of protecting the public health and advancing the general welfare of the citizens of the City, and for the purpose of providing funds for improving, extending and enlarging the municipal electric light and power system within the City, it is hereby declared necessary that the City of Las Animas make and issue its City of Las Animas, Colorado, Electric Light and Power Revenue Bonds, Series of May 1, 1950, payable both as to principal and interest solely out of the net income derived from the operation of said system, such net income being the gross income and revenues after deduction only for the necessary and reasonable expenses of operating and maintaining said municipal system, for an adequate depreciation fund, and for the payment of the principal and interest accruing on said refunding bonds, as hereinafter provided, and that said City pledge irrevocably and exclusively, subject to the provisions of said Ordinance No. 294, Series 1941, Ordinance No. 297, Series 1942, and Ordinance No. 301, Series 1946, such income to the payment of such bonds and the interest thereon, and such bonds shall not, in any event, constitute an indebtedness of the municipality within the meaning of any constitutional provision or any constitutional or statutory limitation.

Section 4. That said revenue bonds shall be in the aggregate principal amount of \$235,000.00, shall be dated as of the first day of May, 1950, shall consist of 235 bonds in t denomination of \$1,000.00 each, numbered from 1 to 235, both inclusive, shall bear interest payable semi-annually on the first days of May and November in each year, as evidenced by interest coupons attached to said bonds, and shall mature serially, as follows:

<u>Bond Numbers</u> (All Inclusive)	<u>Maturity Dates</u>	<u>Interest Rates</u>	<u>Amounts</u>
1 - 20	November 1, 1952	2-1/4%	\$20,000.00
21 - 40	November 1, 1953	2-1/4	20,000.00
41 - 60	November 1, 1954	2-1/4	20,000.00
61 - 80	November 1, 1955	2-1/4	20,000.00
81 - 100	November 1, 1956	2-1/4	20,000.00
101 - 120	November 1, 1957	2-1/4	20,000.00
121 - 140	November 1, 1958	2-1/4	20,000.00
141 - 180	November 1, 1959	2	40,000.00
181 - 200	November 1, 1960	2	20,000.00
201 - 220	November 1, 1960	2-1/4	20,000.00
221 - 235	November 1, 1961	2-1/4	15,000.00

Both principal and interest shall be payable in lawful money of the United States of America at the United States National Bank of Denver, in Denver, Colorado.

Bonds numbered 141 to 200, both inclusive, maturing on the first day of November in the years 1959 and 1960, are subject to redemption, in inverse numerical order, on November 1, 1953, or on any interest payment date thereafter; and after said bonds numbered 141 to 200, both inclusive, maturing on the first day of November in each of the years 1956, 1957 and 1958, and bonds numbered 201 to 235, both inclusive, maturing on the first day of November in the years 1960 and 1961, are subject to redemption, in inverse numerical order, on the first day of November, 1955, or on any interest payment date thereafter; said bonds numbered 81 to 235, both inclusive, being subject to redemption, as aforesaid, at the option of the City, at a price equal to the principal amount thereof with accrued interest to the redemption date, together with a premium of two per centum of the principal amount thereof.

Notice of redemption shall be given by the Treasurer of the City of Las Animas, in the name of the City, by publication of such notice at least once, at least thirty days prior to the redemption date, in a newspaper of general circulation in the City and a copy of such notice shall be sent by registered mail, at least thirty days prior to the redemption date, to Boettcher & Company, Denver, Colorado, and to Bosworth, Sullivan & Company, Denver, Colorado. Such notice shall specify the number or numbers of the bonds to be so redeemed (if less than all are to be redeemed) and the date fixed for redemption, and shall further state that on such redemption date there will become due and payable upon each bond so to be redeemed at The United States National Bank of Denver, in Denver, Colorado, the principal amount thereof with accrued interest to the redemption date, together with the stipulated premium and that from and after such date interest will cease to accrue. Notice having been given in the manner hereinbefore provided, the bond or bonds so called for redemption shall become due and payable on the redemption date so designated, and upon presentation thereof at The United States National Bank of Denver, together with all appurtenant coupons maturing subsequent to the redemption date, the City will pay the bond or bonds so called for redemption.

Section 5. That the revenue bonds hereby authorized shall be fully negotiable and shall have all the qualities of negotiable paper, and the holder or holders thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Negotiable Instruments Law. In the event any of said bonds shall not be paid at maturity, they shall continue to draw interest at the coupon rate specified in the bonds. Said bonds shall be payable to bearer and shall be signed in the name of the City of Las Animas by the Mayor, countersigned by the City Treasurer, attested by the City Clerk, and sealed with the corporate seal of said City, all as of the first day of May, 1950, and the interest coupons thereto attached shall be authenticated by the facsimile signature of the City Treasurer as it appears on said bonds, which officers, by the execution of said bonds, shall adopt as and for his signature the facsimile thereof appearing on said coupons. Said bonds and coupons bearing the signatures of the officers if office at the time of signing thereof shall be the binding and valid obligations of the City of Las Animas, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices. All of said bonds, together with the interest accruing thereon, shall be payable solely out of the net income to be derived from the operation of the system, and not otherwise, as hereinafter provided.

Section 6. That said bonds and the coupons attached thereto shall be in substantially the following form:

STATE OF COLORADO

COUNTY OF BENT

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CITY OF LAS ANIMAS
ELECTRIC LIGHT AND POWER REVENUE BOND
SERIES OF MAY 1, 1950

No. _____

\$1,000.00

The City of Las Animas, in the County of Bent and State of Colorado, for value received, hereby promises to pay, upon the presentation and surrender of this bond, to the bearer hereof, solely from the special fund provided therefor, as hereinafter set forth, on the first day of November, 19____, the principal sum of

ONE THOUSAND DOLLARS

and to pay solely from said special fund, interest hereon at the rate of $2\frac{1}{4}$ per centum per annum, payable semi-annually on the first days of May and November in each year, upon presentation and surrender of this bond and of the annexed coupons as they severally become due, both principal and interest being payable in lawful money of the United States of America at The United States National Bank of Denver, in Denver, Colorado.

*(This bond is subject to redemption at the option of the City of Las Animas on November 1, 1953, or on any interest payment date thereafter, at a price equal to the principal amount thereof with accrued interest to the redemption date, together with a premium of two per centum of the principal amount hereof. Redemption shall be made upon not less than thirty days' prior notice by publication in a newspaper of general circulation in the City of Las Animas in the manner and upon the conditions provided in the ordinance authorizing the issuance of this bond).

This bond does not constitute an indebtedness of the City of Las Animas within the meaning of any constitutional or statutory provision or limitation. Payment of this bond and the interest thereon shall be made solely from, and as security for such payment there is pledged, a special fund created in full conformity with law by Ordinance No. _____, Series 1950, identified as the "Las Animas Electric Light and Power Revenue Bond Sinking Fund, Series 1950," into which the City of Las Animas covenants to pay from the revenues derived from the operation of the system, after provision only for all necessary and reasonable expenses of operation and maintenance of said system, and for an adequate depreciation fund, and after provision for the payment of its outstanding Refunding Electric Light and Power Revenue Bonds, Series of 1946, the lien on said revenues for the payment of said Refunding Bonds being superior to the lien of this bond, sums sufficient to pay, when due, the principal of and the interest on the bonds of the series of which this is one. The City of Las Animas covenants and agrees with the holder of this bond and with each and every person who may become the holder hereof that it will keep and perform all the covenants of said ordinance, including, without limiting the generality of the foregoing, its covenant against the sale or mortgage of said system, or any part thereof, unless provision shall be made for the payment of the principal of and the interest on the bonds of the series of which this is one, and including its covenant that it will fix, maintain and collect rates for services rendered by said system sufficient to produce revenues or earnings to pay all operating and maintenance charges, an adequate depreciation fund, and both the principal of and the interest on the bonds authorized by such ordinance.

This bond is one of a series of 235 bonds of like tenor, amount and date issued and authorized by the City of Las Animas for the purpose of improving, extending and enlarging the City's Municipal electric light and power system, consisting of a generating plant and distribution system, with all necessary appurtenances, all in full conformity with the Constitution and Laws of the State of Colorado, and certain ordinances and resolutions of the City duly adopted prior to the issue hereof.

This bond is subject to the condition, and every holder hereof by accepting the same agrees with the obligor and every subsequent holder hereof, that (a) the delivery of this bond to any transferee shall vest title in this bond and in the interest coupons attached hereto in such transferee to the same extent for all purpose as would the delivery under like circumstances of any negotiable instrument payable to bearer; (b) the obligor and any agent of the obligor may treat the bearer of this bond as the absolute owner hereof for all purposes, and shall not be affected by any notice to the contrary; (c) the principal of and the interest on this bond shall be paid, and this bond and each of the coupons appertaining hereto are transferable free from and without regard to any equities between the obligor and the original or any intermediate holder hereof or any set-offs or cross-claims; and (d) the surrender to the obligor or any agent of the obligor of this bond and of each of the coupons shall be a good discharge to the obligor for the same.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the proper officers of said City in the issue of this bond.

IN WITNESS WHEREOF, the City of Las Animas has caused this bond to be signed by its Mayor, countersigned by its Treasurer, attested by its Clerk and sealed with its corporate

seal, and the coupons hereto annexed to be authenticated with the facsimile signature of said Treasurer this first day of May, 1950.

(Do Not Sign)
Mayor

Countersigned:

(Do Not Sign)
City Treasurer

(SEAL)

Attest:

(Do Not Sign)
City Clerk

*(To be inserted in bonds numbered 81 to 235, both inclusive, maturing November 1, 1956, and thereafter. The redemption date of November 1, 1953, is to be used in bonds numbered 141 to 200, both inclusive, maturing November 1, in the years 1959 and 1960, and the redemption date of November 1, 1955, in bonds numbered 81 to 140, both inclusive, maturing November 1, in the years 1956, 1957 and 1958, and in bonds numbered 201 to 235, both inclusive, maturing November 1, in the years 1960 and 1961).

(Form of Coupon)

No. _____ \$11.25
\$10.00

On the first day of November, 19____, ^{May}*(unless the bond to which this coupon is attached has been called for prior redemption), the City of Las Animas, in the County of Bent and State of Colorado, will pay to bearer

ELEVEN AND 25/100 DOLLARS
TEN AND NO/100 DOLLARS

in lawful money of the United States of America at The United States National Bank of Denver, in Denver, Colorado, solely from, and secured by a pledge of, a fund created from the net income and revenues derived from the operation of the municipal electric light and power system of said City, and providing for the payment of the semi-annual interest on its Electric Light and Power Revenue Bond, Series of May 1, 1950, and bearing

No. _____

(Facsimile Signature)
City Treasurer

(To be inserted in coupons maturing May 1, 1954, and thereafter, attached to bonds numbered 141 to 200, both inclusive, maturing November 1, in the years 1959 and 1960; and to be inserted in coupons maturing May 1, 1956, and thereafter, attached to bonds numbered 81 to 140, both inclusive, maturing on November 1, in the years 1956, 1957 and 1958, and attached to bonds numbered 201 to 235, both inclusive, maturing November 1, in the years 1960 and 1961).

Section 7. That the system shall continue to be operated for the purposes of this ordinance upon a fiscal year basis, commencing on the first day of January in each year and ending on the last day of December of the same year.

For the purposes of this Ordinance a special fund is hereby authorized to be continued and maintained and to be known as the "Las Animas Light and Power Fund." So long as any of said refunding bonds or the bonds hereby authorized shall be outstanding, either as to principal or interest, the entire gross income and revenues of the electric light and power system shall be set aside into said fund. Payments from said fund shall be made in the following manner:

- (A) (1) Out of said Las Animas Light and Power Fund there shall be set aside each year as an Operation and Maintenance Fund, such a percentage of said Las Animas Light and Power Fund as the City Council shall determine to be necessary for the proper operation and maintenance of said system. The said

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Operation and Maintenance Fund shall be used solely for the efficient and economical operation and maintenance of said system. Any surplus remaining in said Operation and Maintenance Fund at the end of any fiscal year and not needed for operation and maintenance purposes, shall, as long as any of said refunding bonds are outstanding, be transferred to the Las Animas Electric Light and Power Revenue Bond Sinking Fund (hereinafter sometimes called the sinking fund) and used for the purposes thereof, and if none of said refunding bonds are outstanding, said surplus shall be transferred to the Bond Fund, hereinafter referred to, and used for the purposes thereof.

- (2) Out of said Las Animas Light and Power Fund there shall be set aside each year as a Depreciation Fund, such a percentage of said Las Animas Light and Power Fund as the City Council shall determine to be necessary for making good any depreciation in said electric light and power system and in making such extensions or improvements thereof or additions thereto as the City Council may from year to year consider advisable; provided, however, that the amount so set aside each year as a Depreciation Fund shall be not more than ten per cent (10%) nor less than five per cent (5%) of the gross revenue of the system for the last preceding fiscal year. Said Depreciation Fund shall be expended from time to time in making good any depreciation in said electric light and power system, and in making such extensions or improvements thereof or additions thereto as the City Council may from year to year consider advisable. The amount in the Depreciation Fund shall be used whenever necessary to meet interest and principal requirements on said refunding revenue bonds or the revenue bonds authorized herein, and may be used at any time to call said bonds. Any accumulations in said Depreciation Fund which, in the opinion of the City Council, shall not be needed for the purpose of the Depreciation Fund, may, in the discretion of the City Council, be transferred to the Sinking Fund and used for the purpose thereof as long as any of said refunding bonds are outstanding, and if none are outstanding, to said Bond Fund and used for the purposes thereof.
 - (3) A fund known as the "Las Animas Electric Light and Power Revenue Bond Sinking Fund" shall continue to be maintained so long as any of said refunding bonds are outstanding, into which fund there shall be set aside and paid from the gross income and revenues of said system such amount thereof as shall remain after making provision for said Operation and Maintenance Fund and said Depreciation Fund, which amount shall be sufficient to pay the interest on and the principal of the said refunding bonds which are outstanding promptly as the same becomes due.
 - (4) There shall be and there is hereby created a fund to be known as the "Las Animas Electric Light and Power Revenue Bond Sinking Fund, Series 1950" (hereinafter sometimes called the Bond Fund), into which there shall be set aside and paid, from any balance remaining after the making of the payments hereinabove provided, such amount as shall be sufficient to pay the interest on and the principal of the bonds authorized by this ordinance promptly as the same becomes due.
 - (5) After the making of the payments hereinabove provided, there shall be paid monthly into the general fund of the City of Las Animas the sum of \$350.00 in lieu of the payment of taxes. Such payment shall be charged to the Operation and Maintenance Fund as an expense of operation; provided, however, such payment and such charge shall not be made or included as aforesaid for any month during which the payments required to be made by sub-paragraphs (1) to (4), both inclusive, of this paragraph (A) have not been made in full.
 - (6) Any balance remaining after the making of the payments herein provided shall be used by the City for the payment of interest accruing and principal falling due on additional bonds, if any, which may be hereinafter imposed, or for the prior redemption of the bonds issued under the provisions of this ordinance, or for the purchase in the open market of said refunding bonds or the bonds authorized herein, or shall be used to improve and extend said system, or shall be held as a reserve for said purposes.
- (B) The amounts paid into said Sinking Fund and into said Bond Fund created under the provisions of paragraph (A) (3) and (4) of this Section 7 shall be deposited in separate accounts in The United States National Bank of Denver and shall be used solely and only.

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and said funds are hereby expressly and exclusively pledged, for the purpose of paying the principal of and the interest on said re-funding bonds and the bonds herein authorized to be issued, respectively. Said payments shall be made into said funds on the first day of each month, except that when the first day of any month shall be a Sunday or a legal holiday, then such payments shall be made on the next succeeding secular day. The amount of the monthly payments to be made into said Sinking Fund and said Bond Fund, respectively, commencing on the first day of May, 1950, shall at least equal one-sixth of the amount necessary to pay the next maturing installment of interest accruing on each of said issues of bonds, and commencing on said date the amount of said monthly payments shall at least equal, in addition, one-twelfth of the next maturing installment of principal accruing on each of said issues of bonds. In the event the income and revenues derived during any one month are inadequate to make the payments required to be made into said Sinking Fund and/or said Bond Fund, the deficiency shall be made up and paid as aforesaid from the first income and revenues thereafter received. No payment need be made into said Sinking Fund or said Bond Fund if the amount then contained therein is equal to the entire amount of the outstanding bonds to be paid from said Funds, respectively, both as to principal and interest and prior redemption premium, if any, which will accrue prior to the redemption date on which said bonds will be redeemed.

- (C) Interest on said bonds accruing prior to the completion of said improvements, extensions and enlargements shall be paid, if sufficient funds are not available therefor from the revenues derived from the operation of said system, from the proceeds derived from the issue of the revenue bonds hereby authorized to the extent that such interest is not available from the funds received as accrued interest from the sale and delivery of said bonds, or any part thereof.
- (D) The payments hereinbefore required to be made into said Operation and Maintenance and Depreciation Funds shall be made in equal monthly installments on the first day of each month, except that when the first day of any month shall be a Sunday or a legal holiday, then such payments shall be made on the next succeeding secular day. In the event the income and revenues during any one month are inadequate to make the required payments into said funds, the deficiency shall be made up and paid as aforesaid from the first income and revenues thereafter received.

Section 8. That nothing in this ordinance contained shall be construed in such a manner as to prevent the issuance by the City of Las Animas of additional bonds payable from the income and revenues derived from the operation of the system and constituting a lien upon said revenues junior to the lien of the bonds herein authorized; provided, however, that before any such additional bonds are authorized or actually issued, the earnings derived from the operation of said system for the fiscal year immediately preceding the date of the authorization and issuance shall have been sufficient to pay the cost of operation and maintenance for said period, and the depreciation fund requirements set forth hereinabove for said fiscal year, and, in addition, sufficient to pay an amount representing 120% of the maximum annual principal and interest requirements in any year of the outstanding bonds of the City payable from the revenues of the system and the bonds proposed to be issued.

A written certification by a certified public accountant, to be employed by the City of Las Animas, that said earnings are sufficient to pay said amount shall be conclusively presumed to be accurate in determining the right of said City to authorize, issue, sell and deliver said additional bonds.

Any additional bonds issued in compliance with the terms hereof shall bear interest payable semi-annually on the first days of May and November in each year and shall mature on the first day of November in each year during the term of said bonds.

In determining whether additional bonds may be issued as aforesaid, consideration shall be given to the probable reduction or increase in operating or maintenance expenses that will result from the expenditure of the funds proposed to be derived from the issuance and sale of said bonds, and said cost of operation and maintenance for said fiscal year may be accordingly modified.

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Section 9. That the City of Las Animas hereby covenants and agrees with each and every holder of the bonds issued hereunder:

(a) Reference to the gross income and revenues of said electric light and power system, as made in this ordinance, is intended to include and shall be construed to include all revenues received by the City of Las Animas, or any municipal corporation succeeding to the rights of said City of Las Animas, from the operation of said electric light and power system of said City, and from the sale of electric current to the inhabitants of what is now the City of Las Animas (including all territorial annexations which may be made while said revenue bonds, or any part thereof, are outstanding) or from the sale of electrical energy distributed by means of the distribution system and operated by said City as the same may at any time exist to serve customers outside the City limits as well as customers within said City limits.

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(b) That while the bonds authorized herein, heretofore or hereafter, which shall be payable from revenues derived from said system, or any of said bonds, remain outstanding and unpaid, the rates (which shall be payable in lawful money of the United States of America) for all service rendered by the system to said City and to its inhabitants and to all consumers within or without the boundaries of said City, shall be reasonable and just, and equitably distribute the cost of the service between the users, taking into account and consideration the cost and value of the system, and the proper and necessary allowances for operation and maintenance and for the depreciation of the system and the amounts necessary for the retirement of all bonds payable from the revenues of the system, the accruing interest on all such bonds, and the payments required to be made into the general fund in lieu of taxes, and there shall be charged against all purchasers of electric service, including said City, such rates and amounts as shall be adequate to meet the requirements of this and the preceding sections hereof, all of which revenues, including those received from the City, shall be subject to distribution to the payment of the cost of operating and maintaining the system, the creation and maintenance of a depreciation fund, the payment of principal of and interest on the bonds heretofore and herein authorized, and to the payment into the general fund in lieu of taxes, as hereinbefore provided; that no free service shall be furnished by said system; that any use thereof or of the services rendered thereby by the City, or any department thereof, will be paid for at the reasonable value of the service so rendered, and that the income so derived shall be deemed to be income derived from the operation of the system, to be used and accounted for in the same manner as any other income derived from the operation of said system.

(c) That all bills for services rendered by or through the municipal system shall be rendered monthly at established rates on or about the first day of the month succeeding the month in which the service was rendered. In the event said bills, or any part thereof, are not paid in full within thirty days after the date when rendered, service shall be immediately discontinued and shut off.

(d) That if any service rate or charge herein or hereafter established in connection with the system is not paid within thirty days after the same is due and billed, the amount thereof, together with a penalty of ten percent of the amount due, and a reasonable attorney's fee, shall be recovered, if reasonably possible, in an appropriate civil action brought by the City of Las Animas.

(e) That when a delinquent account is paid in full, including any penalties and/or extra charges, as provided herein or hereafter, service shall be restored to such improved property by the City.

(f) That the total amount of outstanding bonds of the City shall not at any time exceed a sum equal to thirty-three and one-third per cent ($33\frac{1}{3}\%$) of the total assessed valuation of the City of Las Animas.

(g) That the City will operate and maintain said system, so long as any of the bonds herein authorized are outstanding, in an efficient operating condition and will make such extensions, improvements or additions thereto as may be necessary or advisable to insure its economical and efficient operation at all times and to an extent sufficient to supply public or private demands for service within the City.

(h) That so long as any of the bonds remain outstanding proper books of record and account will be kept by the City, separate and apart from all other records and accounts, complete and correct entries of all transactions relating to the system, and that the holder of any of the bonds, or any duly authorized agent or agents of such holders, shall have the right at all times to inspect all records, accounts and data relating thereto and to enter the system and all properties comprising said system. The City further 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 firm of certified public accountants, showing the income and disbursements for the 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 may be thought proper by the accountant to be included therein, shall include the following:

- (1) A statement in detail of the income and expenditures of the system for such fiscal year.
- (2) A balance sheet as of the end of such fiscal year.
- (3) The accountant's comment regarding the manner in which the City has carried out the requirements of this ordinance, and the accountant's recommendation for any change or improvement in the operation of the system.
- (4) A list of 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.
- (5) The number of electric connections at the end of the year.

All expenses incurred in the making of the audits required by this section shall be regarded and paid as a maintenance and operation expense. The City agrees to furnish a copy of each of such audits to the holder of any of the bonds at his request, and to The United States National Bank of Denver, after the close of each fiscal year, and that any such holder shall have the right to discuss with the accountant making the audit the contents of the audit and to ask for such additional information as he may reasonably require.

(i) That as long as any of the bonds hereby authorized are outstanding, the City shall not grant any franchise or license to a competing system, nor shall it permit, during said period, any person, association, firm or corporation to sell electric facilities to any consumer, public or private, within the City.

(j) That the holder or holders of twenty-five per cent (25%) in aggregate principal amount of bonds issued hereunder, at any time outstanding, shall have the right at all reasonable times to inspect the system and all records, accounts and data of the City relating thereto, and that upon request the City will furnish to any holder or holders financial statements and other information relating to the City and the system, as such holder or holders may from time to time reasonably require.

(k) That the City, in its operation of the system, will carry fire and extended coverage insurance, workman's compensation insurance and public liability insurance, and other types of insurance, in such amounts and to such extent as is normally carried by private corporations operating public utilities of the same type. The cost of such insurance shall be considered one of the operating costs of the system. In the event of loss or damage, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged, and any remainder shall be treated as net income and revenues, and shall be subject to distribution in the manner provided hereinabove in Section 7 of this ordinance for net income and revenues derived from the operation of the system.

(l) That the City will not sell, lease, mortgage, pledge or otherwise encumber, or in any manner dispose of or alienate the system, or any part thereof, including any and all extensions and additions that may be made thereto, until all the bonds herein authorized to be issued shall have been paid in full, both principal and interest, except that the City may sell any portion of said property which shall have been replaced by other property of at least equal value, or which shall cease to be necessary for the efficient operation of the system; provided, however, that in the event of any sale, as aforesaid, the proceeds of such sale shall be distributed as net income or revenues of the system in accordance with the provisions of Section 7 of this ordinance.

(m) That the bonds authorized to be issued herein shall constitute a first lien against the gross income and revenues derived from the operation of the system after provision is made for the payment of an Operation and Maintenance Fund, a Depreciation Fund, and the principal and interest on said refunding bonds, as hereinabove provided.

Section 10. That the bonds authorized to be issued hereunder, and from time to time outstanding, shall not be entitled to any priority one over the other in the application of the revenues of the system, regardless of the time or times of their issuance, it being the intention of the City Council that there shall be no priority among the bonds authorized to be issued pursuant to this ordinance regardless of the fact that they may be actually issued and delivered at different times. It is hereby expressly agreed and covenanted that the City will not hereafter issue any bonds or obligations payable from the revenues of the system until all bonds herein authorized have been paid in full, unless such additional bonds are issued in such manner as provided in Section 8 of this ordinance.

Section 11. That the provisions of Section 10 hereof are subject to the exception that if at any time after the bonds herein or hereafter authorized, or any part thereof, shall have been issued, the City Council shall find it desirable to refund said bonds; said bonds, or any part thereof, may be refunded (but only with the consent of holders thereof, unless the bonds have matured or are then callable for redemption and have been properly called, or unless said bonds are subject to refunding by operation of law at the option of the City), and the refunding bonds so issued shall enjoy complete equality of lien with the portion of said bonds which is not refunded, if any there be, and the holders of the refunding bonds shall be subrogated to all of the rights and privileges enjoyed by the holders of the bonds refunded thereby. The refunding bonds shall be issued with such details as the City Council may, by ordinance, provide, subject to the inclusion of said rights and privileges, provided that if only a part of the outstanding bonds is refunded, the interest rate of the refunded bonds may not be increased, except if refunded to pay maturing bonds; the refunded bonds may not mature at a date earlier than the maturity date of any of the bonds not refunded, and the refunding bonds shall either be delivered to the original purchaser of those bonds at par and accrued interest, or shall be delivered in exchange for the bonds refunded, and the proceeds thereof shall be used to pay the bonds refunded.

Section 12. That the proceeds derived from the sale of said bonds shall be deposited promptly upon the receipt thereof, in a separate account or accounts in a bank or banks which are members of the Federal Deposit Insurance Corporation, and the City Treasurer is hereby authorized and directed to deposit such proceeds in such bank or banks, and such proceeds shall be used solely for the purpose of improving, extending and enlarging said system as herein provided, but the purchaser of said bonds shall in no manner be responsible for the application

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or disposal by said City or any of its officers of any of the proceeds derived from the sale of said bonds. The proceeds shall be removed from said bank or banks only after the City Engineer has certified to the City Council that the amount so paid out was due for the construction of said improvements, extensions and enlargements to the system, wholly or in part, upon warrants signed by the proper City officials.

Section 13. That in order to insure the completion of said improvements, extensions and enlargements to the electric light and power system, and to protect the holder or holders of the bonds to be issued hereunder, the City of Las Animas will require the contractor to whom is given any contract for the construction of said improvements, extensions and enlargements to the electric light and power system, or any part thereof, to supply a completion bond or bonds satisfactory to the City, and that any sum or sums derived from said completion bond or bonds shall be used within six months after such receipt for the completion of said construction, and if not so used within such period, shall be placed in and be subject to the provisions of the Las Animas Light and Power Fund provided for herein.

Section 14. That notwithstanding any provisions contained herein, the term "revenue" or "income" from the system shall include all income and revenue derived by the City of Las Animas from the operation of the system whether resulting from additions, improvements or betterments to the system, or otherwise, and shall include all revenues received by the City of Las Animas, or any municipal corporation succeeding to the rights of the City of Las Animas from said system and from the sale of services to the inhabitants of what is now the City of Las Animas (including all territorial annexations which may be made while said revenue bonds, or any part thereof, are outstanding), or from the sale of electric services distributed by means of said system owned and operated by said City as the same may at any time exist to serve customers outside the City limits as well as customers within the City limits.

Section 15. That any holder of any one or more of said bonds or any of the coupons representing interest thereon, may either at law or in equity, by suit, action, mandamus or other appropriate proceeding in any court of competent jurisdiction protect the lien created by this ordinance on the revenues of said system, and may by suit, action, mandamus or other appropriate proceeding or proceedings enforce and compel the performance of any duty imposed upon said City by the provisions of this ordinance, including, without limiting the generality of the foregoing, the making and collecting of sufficient rates and charges and the segregation of the income and revenues of said system and the proper application thereof.

Section 16. That the officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance, including, without limiting the generality of the foregoing, the printing of said bonds and the execution of such certificates as may reasonably be required by the purchaser thereof relating to the signing of the bonds, the tenure and identity of the municipal official the assessed valuation and indebtedness of the City, the receipt of the bond purchase price and, if in accordance with the facts, the absence of litigation, pending or threatened, affecting the validity thereof.

Section 17. That, except to the extent the City must pay for services rendered to it by and through the system, notwithstanding anything in this ordinance contained, nothing herein shall be construed so as to impose an obligation upon the City requiring the City to expend any funds derived from sources other than from the operation of said municipal electric light and power system; and further, no obligation imposed upon the City of Las Animas by any provision of this ordinance shall constitute an indebtedness of the City of Las Animas within the meaning of any constitutional or statutory provision or limitation, but every such obligation shall be discharged solely out of the special fund herein designated the Las Animas Light and Power Fund, composed of earnings and revenues derived by the City from the operation of the municipal electric light and power system owned and operated by the City.

Section 18. That after said bonds have been issued, this ordinance shall be irrevocable until the indebtedness provided for herein, both principal and interest, shall be fully paid, satisfied and discharged.

Section 19. That all by-laws, orders, resolutions and ordinances, or parts of by-laws, orders, resolutions and ordinances, in conflict with this ordinance, are hereby repealed.

Section 20. That if any one or more sections, sentences, clauses or parts of this ordinance shall, for any reason, be questioned or held invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this ordinance, but shall be confined in its operation to the specific sections, sentences, clauses or parts of this ordinance so held unconstitutional and invalid, and the inapplicability and invalidity of any section, sentence, clause or part of this ordinance, in any one or more instances shall not affect or prejudice in any way the applicability and validity of this ordinance in any other instances.

Section 21. That by reason of the fact that the electric light and power system of the City of Las Animas is inadequate to supply the present and future needs of the City and its inhabitants, and that it is necessary immediately to raise funds to improve said system, therefore, it is hereby declared that an emergency exists, and that this ordinance is necessary for the immediate preservation of the public peace, health and safety.

Introduced, read and ordered published this 14th day of August, 1950.

ADOPTED AND APPROVED, this 14th day of August, 1950.

(signed) *E. A. Thaxton*
E. A. Thaxton

Mayor

(SEAL)

74100

It was thereupon moved by Alderman Nelson, and seconded by Alderman Lilly, that the foregoing ordinance entitled "An Ordinance directing the improvement, extension and enlargement of the municipal electric light and power system; ratifying the action therewith taken heretofore; directing the issuance of its revenue bonds, payable solely out of the income and revenues from the operation of said system, to pay the cost therefor; providing the form, terms and conditions of said bonds and the manner and terms of their issuance and the manner of the execution thereof; providing for the disposition of the revenues derived from the operation of said system; making certain covenants relating to said system; prescribing other details in connection therewith and with said bonds; and declaring an emergency," read in full at the meeting aforesaid, be published in full in The Bent County Democrat, a newspaper of general circulation published in the City of Las Animas in its issue of August 18, 1950; that said ordinance, after it is published, as aforesaid, be considered for final passage at a Regular meeting of the City Council to be held at the Council Chamber on Tuesday, the 5th day of September, 1950, at the hour of 7:30 o'clock, p.m.

The question being upon the adoption of said motion, the roll was called with the following result:

Those Voting Aye: Albert Coffey
 Don M. Chandler
 John M. Flinn
 Wayne Nelson
 Tom M. Lilly

Those Voting Nay: none

Five members of the Council having voted in favor of said motion, the presiding officer thereupon declared said motion carried, and said ordinance ordered published as aforesaid.

Thereupon, the meeting adjourned.

(signed) E. A. Thaxton
 Mayor

(SEAL)

Attest:
 (signed) D. A. McAfee
 City Clerk

STATE OF COLORADO)
)
 COUNTY OF BENT) SS
)
 CITY OF LAS ANIMAS)

I, (signed) D. A. McAfee, City Clerk of the City of Las Animas, Colorado, do hereby certify that the foregoing pages numbered from 1 to 32, both inclusive, constitute a full, true and correct copy of the record of the proceedings of the City Council of the City, taken at a regular meeting thereof, held on Monday, the 14th day of August, 1950, insofar as said minutes relate to an ordinance, a copy of which is therein set forth, entitled: "An Ordinance directing the improvements, extensions and enlargement of the municipal electric light and power system; ratifying the action therewith taken heretofore; directing the issuance of its revenue bonds, payable solely out of the income and revenues from the operation of said system, to pay the cost therefor; providing the form, terms and conditions of said bonds and the manner and terms of their issuance and the manner of the execution thereof; providing for the disposition of the revenues derived from the operation of said system; making certain covenants relating to said system; prescribing other details in connection therewith and with said bonds; and declaring an emergency."

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of said City this 14th day of August, 1950.

(signed) D. A. McAfee
 City Clerk

(SEAL)

STATE OF COLORADO)
)
 COUNTY OF BENT) SS.
)
 CITY OF LAS ANIMAS)

I, D. A. McAfee, City Clerk of the City of Las Animas, Colorado, do hereby certify that the foregoing ordinance No. 314 was read in full and passed on its first reading and ordered published at regular adjourned meeting of the City Council of the City of Las Animas, held on Monday, August 14, 1950, and it was published in full in the Bent County Democrat, a newspaper of general circulation, published in Las Animas, Colorado, on the 18th day of August, 1950.

I further certify that said Ordinance was placed on its second reading and final passage at a regular meeting of the City Council held on Tuesday, the 5th day of September, 1950, more than ten days after the first publication thereof; that at said meeting said ordinance was read in full, finally passed, adopted and approved and ordered published in the Bent County Democrat.

The City Council of the City of Las Animas, in the County of Bent and State of Colorado, met in Regular session in full conformity with law and the ordinances and rules of said City, at the Council Chamber, being the regular meeting place of said Council, on Tuesday, the 5th day of September, 1950, at the hour of 7:30 o'clock, P.M., at which meeting there were present and answering the roll call, the following:

- Mayor: E. A. Thaxton
Alderman: Tom M. Lilly
Leonard Rountree
Don M. Chandler
Albert Coffey
Wayne Nelson
John M. Flinn
Also Present: City Atty., Oakley Wade
City Clerk, D. A. McAfee
City Treas., F. H. Vandiver
Absent: none

The City Clerk presented the affidavit of publication, executed by Bent County Democrat, showing the publication of a proposed ordinance entitled: "An Ordinance directing the improvement, extension and enlargement of the municipal electric light and power system; ratifying the action therewith taken heretofore; directing the issuance of its revenue bonds, payable solely out of the income and revenues from the operation of said system, to pay the cost therefor; providing the form, terms and conditions of said bonds and the manner and terms of their issuance and the manner of the execution thereof; providing for the disposition of the revenues derived from the operation of said system; making certain covenants relating to said system; prescribing other details in connection therewith and with said bonds; and declaring an emergency," said affidavit of publication showing the publication of said ordinance in The Bent County Democrat, on Friday, the 18th day of August, 1950, being more than ten days prior to the date of this meeting.

On motion duly made and seconded, it was ordered that said affidavit be received, filed and preserved among the records of the City Clerk.

It was then moved by Alderman Rountree and seconded by Alderman Chandler that said ordinance entitled "An Ordinance directing the improvement, extension and enlargement of the municipal electric light and power system; ratifying the action therewith taken heretofore; directing the issuance of its revenue bonds, payable solely out of the income and revenues from the operation of said system, to pay the cost therefor; providing the form, terms and conditions of said bonds and the manner and terms of their issuance and the manner of the execution thereof; providing for the disposition of the revenues derived from the operation of said system; making certain covenants relating to said system; prescribing other details in connection therewith and with said bonds; and declaring an emergency," be placed on its second reading and be read by title only, which motion, having been put to a vote, was carried upon the following roll call:

- Those Voting Aye: Tom M. Lilly
Leonard Rountree
Don M. Chandler
Albert Coffey
Wayne Nelson
John M. Flinn
Those Voting Nay: none

The City Clerk then read said proposed ordinance by title.

Alderman Lilly, seconded by Alderman Coffey, moved that said proposed ordinance entitled "An Ordinance directing the improvement, extension and enlargement of the municipal electric light and power system; ratifying the action therewith taken heretofore; directing the issuance of its revenue bonds, payable solely out of the income and revenues from the operation of said system, to pay the cost therefor; providing the form, terms and conditions of said bonds and the manner and terms of their issuance and the manner of the execution thereof; providing for the disposition of the revenues derived from the operation of said system; making certain covenants relating to said system; prescribing other details in connection therewith and with said bonds; and declaring an emergency," by now placed upon its third reading, which motion was carried upon the following recorded vote:

- Those Voting Aye: Tom M. Lilly
Leonard Rountree
Don M. Chandler
Albert Coffey
Wayne Nelson
John M. Flinn
Those Voting Nay: none

74100

Alderman Rountree, seconded by Alderman Lilly, then moved that said ordinance entitled An Ordinance directing the improvement, extension and enlargement of the municipal electric light and power system; ratifying the action therewith taken heretofore; directing the issuance of its revenue bonds, payable solely out of the income and revenues from the operation of said system, to pay the cost therefor; providing the form, terms and conditions of said bonds and the manner and terms of their issuance and the manner of the execution thereof; providing for the disposition of the revenues derived from the operation of said system; making certain covenants relating to said system; prescribing other details in connection therewith and with said bonds; and declaring an emergency," do now pass, which motion was carried upon the following recorded vote:

Those Voting Aye: Tom M. Lilly
 Leonard Rountree
 Don M. Chandler
 Albert Coffey
 Wayne Nelson
 John M. Flinn

Those Voting Nay: none

It was thereupon moved by Alderman Lilly, and seconded by Alderman Rountree, that said ordinance be published in The Bent County Democrat, a newspaper of general circulation published in the City of Las Animas, in its issue of Sept. 8, 1950.

The question being upon the adoption of said motion, the roll was called with the following result:

Those Voting Aye: Tom M. Lilly
 Leonard Rountree
 Don M. Chandler
 Albert Coffey
 Wayne Nelson
 John M. Flinn

Those Voting Nay: none

Six members of said City Council having voted in favor of said motion, the Mayor declared said ordinance duly adopted and said motion carried, and the ordinance was ordered published in accordance with said motion.

There being no further business to come before the meeting, on motion duly made, seconded and carried, the meeting was adjourned.

(signed) E. A. Thaxton
 Mayor

SEAL)

Attest:

(signed) D. A. McAfee
 City Clerk

STATE OF COLORADO)
 COUNTY OF BENT) SS
 CITY OF LAS ANIMAS)

I, D. A. McAfee, City Clerk of the City of Las Animas, Colorado, do hereby certify that the foregoing Ordinance No. 314, Series 1950, was read in full and passed on first reading, and ordered published at a regular meeting of the City Council held on Monday the 14th day of August, 1950, and was published in full in The Bent County Democrat, a newspaper printed, published and of general circulation in the City of Las Animas, on the 18 day of August, 1950.

I further certify that said ordinance was placed on second reading and final passage at a regular meeting of the City Council held on Tuesday, the 5th day of September, 1950, more than ten days after the first publication thereof; that at said meeting, said ordinance was read in full, finally passed, adopted and ordered published in The Bent County Democrat.

I further certify that the foregoing pages, numbered 35 to 38, both inclusive, are a true, full and correct copy of the proceedings of the City Council of said City, insofar as said minutes relate to the final adoption of Ordinance No. 314, Series 1950, a copy of which is set forth in full in the minutes of the meeting held on the 5th day of September, 1950, a copy of which is likewise attached to the affidavit of the publisher on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 6th day of September, 1950.

(signed) D. A. McAfee
 City Clerk

(SEAL)