

## CITY OF LINCOLN, NEBRASKA

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY OF LINCOLN, NEBRASKA (A) ASSIGNING RECOVERY ZONE ECONOMIC DEVELOPMENT BOND LIMITATION TO THE WEST HAYMARKET JOINT PUBLIC AGENCY FOR THE PURPOSE OF ISSUING RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS UNDER THE AMERICAN RECOVERY AND REINVESTMENT TAX ACT OF 2009, AND (B) APPROVING THE ISSUANCE OF THE AGENCY'S (1) NOT TO EXCEED \$67,965,000 PRINCIPAL AMOUNT GENERAL OBLIGATION FACILITY BONDS, SERIES 2010B AND (2) GENERAL OBLIGATION RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS, SERIES 2010C IN A PRINCIPAL AMOUNT NOT TO EXCEED THE CITY'S RECOVERY ZONE FACILITY ALLOCATION; AND RELATED MATTERS.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LINCOLN, NEBRASKA:**

**Section 1.** The City Council (the "**Council**") of the City of Lincoln, Nebraska (the "**City**") hereby finds and determines as follows:

(a) The Council has heretofore approved the creation of the West Haymarket Joint Public Agency (the "**Agency**") pursuant to the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010 (the "**JPA Agreement**") executed and delivered by the City and The Board of Regents of the University of Nebraska (the "**Regents**") in accordance with the Nebraska Joint Public Agency Act (Chapter 13, Article 23, Reissue Revised Statutes of Nebraska, as amended, the "**Act**").

(b) The Agency has been formed for the purpose of (1) constructing, equipping, furnishing and financing public facilities in the West Haymarket area of the City, including but not limited to, (A) a sports/entertainment arena (the "**Arena**"), (B) roads, streets and sidewalks, (C) a pedestrian overpass, (D) public plaza space, (E) sanitary sewer mains, (F) water mains, (G) electric transmission lines, (H) drainage systems, (I) flood control, (J) parking garages and (K) surface parking lots (collectively, the "**Facilities**"), and (2) to (A) acquire land and to relocate existing businesses, and (B) undertake environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the Facilities (collectively, the "**Projects**," and, individually, a "**Project**"), (3) issuing bonds to finance the same (the "**Bonds**"), (4) providing for the operation, maintenance and management of the Arena and related facilities, (5) collecting revenues, rents, receipts, fees, payments and other income related to the Arena, (6) levying a tax, as required and as provided by the Act and the JPA Agreement to pay the principal or redemption price of and interest on the Bonds, when and as the same shall become due; and (7) exercising any power, privilege or authority to provide for the acquisition, construction, equipping, furnishing, financing and owning such capital improvements or other projects upon or related to any of the Projects as shall be determined by the governing body of the Agency to be necessary, desirable, advisable or in the best interests of any of the Participants in the manner and as provided by the Act.

(c) The City has received allocations of the national Recovery Zone Economic Development Bonds limitation (1) in the amount of \$17,504,000 pursuant to the American Recovery and Reinvestment

Tax Act of 2009, codified in Title 26 of the United States Code and Internal Revenue Service, Notice 2009-50, issued on June 12, 2009, and (2) in the amount of \$14,533,430 from the State of Nebraska Department of Economic Development pursuant to allocations of Recovery Zone Economic Development Bond limitation waived or deemed waived to the State of Nebraska, and the City may receive such additional amounts as may be allocated to the City by the State of Nebraska Department of Economic Development pursuant to allocations of Recovery Zone Economic Development Bonds limitation waived or deemed waived to the State of Nebraska (collectively, the “**Allocation**”).

(d) The City understands that the Agency will use the Allocation to issue Recovery Zone Economic Development Bonds (the “**Recovery Zone Bonds**”) pursuant to Section 1400U-2 of the Internal Revenue Code of 1986, as amended (the “**Code**”).

(e) The City understands that the Agency will issue the Recovery Zone Bonds in order to finance expenditures for “qualified economic development purposes,” within the meaning of Code Section 1400U-2(c), and specifically for constructing, equipping, furnishing and financing of various public facilities in the West Haymarket redevelopment area of the City, including but not limited to the Projects.

(f) The Projects are located within the jurisdiction of the City and the Agency, and within the geographic area that the City has determined suffers from a significant level of one or more of the following factors: poverty, unemployment, home foreclosures, or general distress.

(g) The City is authorized by applicable federal, state and local law to assign the Allocation, in whole or in part, to the Agency for the purposes provided herein.

(h) The Agency has determined that it is necessary, desirable, advisable and in the best interest of the Agency and the City to issue (1) its General Obligation Facility Bonds, Series 2010B, dated the date of delivery thereof, in a principal amount not to exceed \$67,965,000 (the “**Series 2010B Bonds**”) and (2) its General Obligation Recovery Zone Economic Development Bonds, Series 2010C, dated the date of delivery thereof, in a principal amount not to exceed the Allocation (the “**Series 2010C Bonds**”) constituting the Recovery Zone Bonds, for the purpose of paying (A) certain costs of the Projects, (B) the cost of interest accruing and falling due on the Series 2010B Bonds and the Series 2010C Bonds (collectively, the “**Bonds**”) through and including June 15, 2011, and (C) costs of issuing the Bonds.

(i) Article VI of the JPA Agreement provides that “the Agency shall not issue any bonds or other form of indebtedness without the question of whether the Agency should issue such bonds or indebtedness being first presented to, and approved by, the Mayor and Council of the City.”

**Section 2. Assignment of Recovery Zone Economic Development Bond Limitation.** Based upon the foregoing, the City Council of the City in good faith hereby assigns and transfers to the Agency (a) all \$32,037,430 principal amount of its Recovery Zone Economic Development Bond Allocation and (b) any future allocations received by the City from the State of Nebraska Department of Economic Development pursuant to allocations of Recovery Zone Economic Development Bond limitation waived or deemed waived to the State of Nebraska in order that the Agency may issue Recovery Zone Economic Development Bonds for the Projects.

**Section 3.** The issuance of (a) the Series 2010B Bonds in an aggregate principal amount not to exceed \$67,965,000 and (b) the Series 2010C Bonds in an aggregate principal amount not to exceed the Allocation, each of the Series 2010B Bonds and the Series 2010C Bonds having such additional designations (if any), principal maturities, interest rates and redemption provisions as shall be determined by the Finance Director of the City as the chief financial officer of the Agency in accordance with the

terms and conditions specified in the resolution of the Agency authorizing the issuance of the Series 2010B Bonds and the Series 2010C Bonds is hereby ratified, confirmed and approved.

**Section 4. Further Authority.** The appropriate staff and officers of the City are authorized and directed to take all necessary steps and do such acts to execute, acknowledge and deliver all such documents as may in their discretion be deemed necessary or desirable in order to carry out or comply with the terms and provisions of this Resolution in connection with assigning the Allocation to the Agency, including, without limitation, such actions as may be required to allocate any allocation received by the City from the State of Nebraska Department of Economic Development pursuant to allocations of Recovery Zone Economic Development Bond limitation waived or deemed waived to the State of Nebraska.

**Section 5.** This resolution shall take effect and be in force from and after its passage and publication according to law.

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**INTRODUCED BY:**

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**PASSED** \_\_\_\_\_, **2010.**

**AYES:** \_\_\_\_\_

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**NAYS:** \_\_\_\_\_

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**ABSENT OR NOT VOTING:**

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**Approved as to Form:**

\_\_\_\_\_

**City Attorney**

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**Bond Counsel**

**CONFLICT OF INTEREST:**

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**APPROVED:** \_\_\_\_\_, **2010.**

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**Mayor**