Bill No. 09-75 **Introduced: 5-4-2009**

THE CITY OF LINCOLN, NEBRASKA

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ORDINANCE NO. _____

PASSED: _____, 2009
APPROVED: _____, 2009

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AUTHORIZING NOT TO EXCEED

$950,000

SHOEMAKER TRAVEL PLAZA REDEVELOPMENT PROJECT
TAX ALLOCATION BONDS, SERIES 2009

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* This Table of Contents is not part of this Ordinance as adopted but is provided for convenience of reference only.

THE CITY OF LINCOLN, NEBRASKA

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A CITY OF LINCOLN, NEBRASKA TAX ALLOCATION BOND, SERIES 2009, IN A PRINCIPAL AMOUNT NOT TO EXCEED $950,000 FOR THE PURPOSE OF (1) PAYING THE COSTS OF ACQUIRING, PURCHASING, CONSTRUCTING, RECONSTRUCTING, IMPROVING, EXTENDING, REHABILITATING, INSTALLING, EQUIPPING, FURNISHING AND COMPLETING CERTAIN PUBLIC IMPROVEMENTS WITHIN THE CITY'S SHOEMAKER TRAVEL PLAZA REDEVELOPMENT PROJECT AREA, INCLUDING ACQUIRING ANY REAL ESTATE AND/OR INTERESTS IN REAL ESTATE IN CONNECTION THEREWITH, AND (2) PAYING THE COSTS OF ISSUANCE THEREOF; PRESCRIBING THE FORM AND CERTAIN DETAILS OF THE BOND; PLEDGING CERTAIN TAX REVENUE AND OTHER REVENUE TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND AS THE SAME BECOME DUE; LIMITING PAYMENT OF THE BONDS TO SUCH TAX REVENUES; CREATING AND ESTABLISHING FUNDS AND ACCOUNTS; DELEGATING, AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO EXERCISE HIS INDEPENDENT DISCRETION AND JUDGMENT IN DETERMINING AND FINALIZING CERTAIN TERMS AND PROVISIONS OF THE BOND NOT SPECIFIED HEREIN; TAKING OTHER ACTIONS AND MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING; AND RELATED MATTERS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LINCOLN, NEBRASKA:

ARTICLE I

FINDINGS AND DETERMINATIONS

Section 1.1. Findings and Determinations. The City Council (the **"Council"**) of The City of Lincoln, Nebraska (the **"City"**) hereby finds and determines as follows:

(a) The City, pursuant to Resolution Nos. A-83550, A-83802, A-84239, and A-85297 (collectively, the **"Resolution"**), approved the West "O" Street Redevelopment Plan (hereinafter defined as the **"Redevelopment Plan"**) under and pursuant to which the City shall undertake from time to time to redevelop and rehabilitate the Redevelopment Area (hereinafter defined).

(b) Pursuant to the Redevelopment Plan, the City has previously obligated itself and/or will hereafter obligate itself to acquire, purchase, construct, reconstruct, improve, extend, rehabilitate, install, equip, furnish and complete, at the cost and expense of the City, certain public improvements in the Redevelopment Area, some or all of which may be accomplished through the City's public improvements executive order process (collectively, the **"City Improvements"**), including, without limitation, acquisition of right-of-way, street improvements, street lights and traffic signals, water main extension and certain energy efficiencies (collectively, the **"Project"**), as more fully described in the Redevelopment Agreement (hereinafter defined).

(c) The City is authorized by the Redevelopment Law (hereinafter defined) and its Home Rule Charter to issue tax allocation bonds for the purpose of paying the costs and expenses of the Project, the principal and interest of which is payable from certain tax revenue as set forth in the Redevelopment Law.

(d) In order to provide funds to pay the costs of the Project, it is necessary, desirable, advisable, and in the best interest of the City for the City to issue one or more tax allocation bonds in an aggregate principal amount not to exceed $950,000 (the **"Bonds"**).

(e) All conditions, acts and things required to exist or to be done precedent to the issuance of the Bond do exist and have been done as required by law.

ARTICLE II

CERTAIN DEFINITIONS; COMPUTATIONS; CERTIFICATES AND OPINIONS; ORDERS AND DIRECTIONS

Section 2.1. Definitions of Special Terms. Unless the context clearly indicates some other meaning or may otherwise require, and in addition to those terms defined elsewhere herein, the terms defined in this **Section 2.1** shall, for all purposes of this Ordinance, any ordinance or other instrument amendatory hereof or supplemental hereto, and any certificate, opinion, instrument or document herein or therein mentioned, have the meanings specified herein, with the following definitions to be equally applicable to both the singular and plural forms of any terms defined herein:

"Assessor" means the Assessor of Lancaster County, Nebraska.

"Bonds" means the City's Shoemaker Travel Plaza Redevelopment Project Tax Allocation Bonds, issued in one or more series, which may include Taxable Bonds and Tax-Exempt Bonds, issued pursuant to this Ordinance.

"City Improvements" means the public improvements to be purchased, constructed, reconstructed, acquired, improved, extended, rehabilitated, installed, equipped, furnished and completed in the Project Area in accordance with the Redevelopment Plan, including, but not limited to, the public improvements constituting the Project.

"Clerk" means the Clerk of the City.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder.

"Date of Original Issue" means the date each respective Bond is issued and delivered pursuant to **Section 3.2(a)**.

"Debt Service" means, as of any particular date of computation, and with respect to any period, the amount to be paid or set aside as of such date or such period for the payment of the principal of or interest on the Bonds.

"Escrow Obligations" means (a) Government Obligations, (b) certificates of deposit issued by a bank or trust company which are (1) fully insured by the Federal Deposit Insurance Corporation or similar

corporation chartered by the United States or (2) secured by a pledge of any Government Obligations having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured, which security is held in a custody account by a custodian satisfactory to the Registrar or the Registrar, as the case may be, or (c)(1) evidences of a direct ownership in future interest or principal on Government Obligations, which Government Obligations are held in a custody account by a custodian satisfactory to the Registrar pursuant to the terms of a custody agreement in form and substance acceptable to the Registrar and (2) obligations issued by any state of the United States or any political subdivision, public instrumentality or public authority of any state, which obligations are fully secured by and payable solely from Government Obligations, which Government Obligations are held pursuant to an agreement in form and substance acceptable to the Registrar and, in any such case, maturing as to principal and interest in such amounts and at such times as will insure the availability of sufficient money to make the payment secured thereby.

"Finance Director" means the Finance Director, or Acting Finance Director as the case may be, of the City.

"Fiscal Year" means the twelve month period established by the City or provided by law from time to time as its fiscal year.

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America.

"Interest Payment Date" means May 1 and November 1 of each year any Bond is outstanding, commencing on the first Interest Payment Date following the Date of Original Issue.

"Ordinance" means this ordinance as from time to time amended or supplemented.

"Owner" means the person(s) identified as the owner(s) of the Bonds from time to time, as indicated on the books of registry maintained by the Registrar.

"Project" means the purchasing, constructing, reconstructing, acquiring, improving, extending, rehabilitating, installing, equipping, furnishing and completing of the public improvements identified and described in the Redevelopment Agreement, which collectively constitute a portion of the City Improvements.

"Project Area" means the area identified and referred to as the Redeveloper Property in the Redevelopment Agreement.

"Project Revenue" means all net rents, proceeds, revenue and other income derived by the City by virtue of any lease, sale, conveyance or other disposition of any part of the Project, plus all sums received by the City as a result of damage to or destruction or condemnation of the Project, but shall not mean any part of the Tax Revenue.

"Record Date" means, for each Interest Payment Date, the 15th day of the month immediately preceding such Interest Payment Date.

"Redevelopers" means the Redevelopers as defined in the Redevelopment Agreement responsible for purchasing, constructing, reconstructing, acquiring, improving, extending, rehabilitating, installing, equipping, furnishing and completing the Project on behalf of the City.

"Redevelopment Agreement" means City of Lincoln Redevelopment Agreement (Shoemaker Travel Plaza Redevelopment Project) , dated the date of its execution, between the City and Shoemaker's Truck Station Inc., relating to the Project.

"Redevelopment Area" means the community redevelopment area described, defined or otherwise identified or referred to in the Redevelopment Plan.

"Redevelopment Law" means Article VIII, Section 12 of the Constitution of the State and Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended.

"Redevelopment Plan" means the "West "O" Street Redevelopment Plan" passed, adopted and approved by the City pursuant to the Resolution, and shall include any amendment of said Redevelopment Plan heretofore or hereafter made by the City pursuant to law.

"Refunding Bonds" means the bonds authorized to be issued pursuant to **Article V**.

"Registrar" means the Treasurer of The City of Lincoln, Nebraska, in its capacity as registrar and paying agent for the Bond.

"Resolution" means, collectively, Resolution Nos. A-83550, A-83802, A-84239, and A-85297, together with any other resolution providing for an amendment to the West "O" Street Redevelopment Plan.

"Revenue" means the Project Revenue and the Tax Revenue.

"Special Fund" means the fund by that name created in **Section 7.1**.

"State" means the State of Nebraska.

"Tax Certificate" means, collectively, the Federal Tax Certificate executed and delivered by the City in connection with the issuance of each Bond issued as a Tax-Exempt Bond, as the same may be amended or supplemented in accordance with its provisions.

"Tax Revenue" means, with respect to the Project, (a) those tax revenues referred to (1) in the last sentence of the first paragraph of Article VIII, Section 12 of the Constitution of the State and (2) in Section 18-2147, Reissue Revised Statutes of Nebraska, as amended, and (b) all payments made in lieu thereof.

"Taxable Bond" means any of a series of the City's Shoemaker Travel Plaza Redevelopment Project Taxable Tax Allocation Bond, the interest on which is determined by the City to be includable in gross income for federal income tax purposes

"Tax-Exempt Bond" means any of a series of the City's Shoemaker Travel Plaza Redevelopment Project Tax Allocation Bond, the interest on which is determined by the City to be excludable from gross income for federal income tax purposes

"Treasurer" means the Treasurer of Lancaster County, Nebraska.

Section 2.2. Definitions of General Terms. Unless the context clearly indicates otherwise or may otherwise require, in this Ordinance words importing persons include firms, partnerships, associations, corporations (public and private), public bodies and natural persons, and also include executors, administrators, trustees, receivers or other representatives.

Unless the context clearly indicates otherwise or may otherwise require, in this Ordinance the terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Ordinance as a whole and not to any particular section or subdivision thereof.

Unless the context clearly indicates otherwise or may otherwise require, in this Ordinance: (a) references to Articles, Sections and other subdivisions, whether by number or letter or otherwise, are to the respective or corresponding Articles, Sections or subdivisions of this Ordinance as such Articles, Sections, or subdivisions may be amended or supplemented from time to time; and (b) the word "heretofore" means before the time of passage of this Ordinance, and the word "hereafter" means after the time of passage of this Ordinance.

Section 2.3. Computations. Unless the facts shall then be otherwise, all computations required for the purposes of this Ordinance shall be made on the assumption that the principal of and interest on the Bond shall be paid as and when the same become due.

Section 2.4. Certificates, Opinions and Reports. Except as otherwise specifically provided in this Ordinance, each certificate, opinion or report with respect to compliance with a condition or covenant provided for in this Ordinance shall include: (a) a statement that the person making such certificate, opinion or report has read the pertinent provisions of this Ordinance to which such covenant or condition relates; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate, opinion or report are based; (c) a statement that, in the opinion of such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; (d) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with; and (e) an identification of any certificates, opinions or reports or other sources or assumptions relied on in such certificate, opinion or report.

Any opinion of counsel may be qualified by reference to the exercise of judicial discretion, the constitutional powers of the United States of America, the sovereign police powers of the State, and to valid bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights.

Section 2.5. Evidence of Action by the City. Except as otherwise specifically provided in this Ordinance, any request, direction, command, order, notice, certificate or other instrument of, by or from the City shall be effective and binding upon the City for the purposes of this Ordinance if signed by its Mayor, its Council Chair, its Clerk, its Treasurer, its Finance Director, its City Attorney or by any other person or persons authorized to execute the same by statute, charter or by an ordinance or resolution of the City.

ARTICLE III

AUTHORIZATION AND ISSUANCE OF BONDS; GENERAL TERMS AND PROVISIONS

Section 3.1. Authorization of Bonds. Pursuant to and in full compliance with the Redevelopment Law, the Home Rule Charter of the City, and this Ordinance, and for the purpose of providing funds to pay (a) the cost of acquiring, purchasing, constructing, reconstructing, improving, extending, rehabilitating, installing, equipping, furnishing, and completing the Project, and (b) the costs of issuing the Bonds, the City shall issue Bonds from time to time in one ore more series, which may be Taxable Bonds or Tax-Exempt Bonds, in the aggregate principal amount described in **Section 3.2**, not to exceed $950,000. The Bonds shall be designated as "The City of Lincoln, Nebraska Shoemaker Travel Plaza Redevelopment Project [Taxable] Tax Allocation Bond," shall have an appropriate series designation as determined by the Finance Director, shall be dated the Date of Original Issue, shall mature, subject to right of prior redemption, not later than November 1, 202__, as determined by the Finance Director, and shall bear interest (computed on the basis of a 360-day year consisting of twelve, 30-day months) at a rate not to exceed ___.00% per annum.

The Bonds, together with the interest thereon, are special, limited obligations of the City payable solely from the Revenue and the amounts on deposit in the funds and accounts established by this Ordinance. The Bonds shall not in any event be a debt of the City (except to the extent of the Revenue and other money pledged under this Ordinance), the State, nor any of its political subdivisions, and neither the City (except to the extent of the Revenue and other money pledged under this Ordinance), the State nor any of its political subdivisions is liable in respect thereof, nor in any event shall the principal of and interest on the Bonds be payable from any source other than the Revenue and other money pledged under this Ordinance. The Bonds do not constitute a debt within the meaning of any constitutional, statutory, or charter limitation upon the creation of general obligation indebtedness of the City and does not impose any general liability upon the City. Neither any official of the City nor any person executing the Bonds shall be liable personally on the Bonds by reason of its issuance. The validity of the Bonds is not and shall not be dependent upon the completion of the Project or upon the performance of any obligation relative to the Project.

The Revenue and such other funds are hereby pledged and assigned for the payment of the Bonds, and shall be used for no other purpose than to pay the principal of and interest on the Bonds, except as may be otherwise expressly authorized in this Ordinance. The Bonds shall not constitute a debt of the City within the meaning of any constitutional, statutory, or charter limitation upon the creation of general obligation indebtedness of the City, and the City shall not be liable for the payment thereof out of any money of the City other than the Tax Revenue and the other funds referred to herein.

Nothing in this Ordinance shall preclude the payment of the Bonds from (a) the proceeds of future bonds issued pursuant to law or (b) any other legally available funds. Nothing in this Ordinance shall prevent the City from making advances of its own funds howsoever derived to any of the uses and purposes mentioned in this Ordinance.

Section 3.2. Details of Bonds; Authority of Finance Director.

(a) The Bonds shall be issued to the respective purchasers thereof, as Owners, from time to time, as soon as reasonably practicable upon receipt by the Finance Director of a certificate (the **"Completion Certificate"**), executed by the City's Director of Public Works and Utilities and an authorized representative of each of the Redevelopers, (1) certifying that a portion of the Project has been substantially completed and (2) certifying the actual costs incurred by the Redevelopers in the completion of such portion of the Project. Each Bond shall be dated the Date of Original Issue and issued to the respective Owners in a principal amount not to exceed the lesser of (A) the actual costs of completing such portion of the Project, as specified in the respective Completion Certificate, and (B) that principal amount, the debt service on which, when aggregated with the debt service on all Bonds then Outstanding,

does not exceed the Revenue available for the payment of debt service on all Bonds then Outstanding and the Bond to be issued. The aggregate principal of Bonds outstanding at any time shall not to exceed an aggregate of $950,000.

(b) Interest on the Bonds from each respective Date of Original Issue or the most recent Interest Payment Date to which interest has been paid or duly provided for, is payable on each Interest Payment Date until the principal of the Bonds has been paid, whether at maturity or upon earlier redemption; provided, however, if any interest on any Bond is in default, such Bond shall bear interest from the date to which interest has been paid.

(c) Both the principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. Payments of interest on the Bonds due prior to maturity or earlier redemption and payment of any principal upon redemption price to maturity shall be made by check mailed by the Registrar on each Interest Payment Date to the Owners, at the Owners' address as it appears on the books of registry maintained by the Registrar on the Record Date. The principal of the Bonds and the interest thereon due at maturity or upon earlier redemption shall be payable upon presentation and surrender of the Bonds to the Registrar.

(d) In the event that payments of interest due on any Bond on an Interest Payment Date are not timely made, such interest shall cease to be payable to the Owner thereof as of the Record Date for such Interest Payment Date and shall be payable to the Owner as of a special record date for payment of defaulted interest to be designated by the Registrar whenever money for the purpose of paying such defaulted interest becomes available.

(e) The Bonds shall be executed by the manual signatures of the Mayor and Finance Director of the City and the original, official seal of the City shall be impressed or printed thereon. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if s/he had remained in office until such delivery, and each Bond may be signed by such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

(f) The Finance Director is hereby authorized to hereafter, from time to time, specify, set, designate, determine, establish and appoint, as the case may be, and in each case in accordance with and subject to the provisions of this Ordinance, (1) the Date of Original Issue, the principal amount of each Bond in accordance with **Section 3.2(a)** and the series designation thereof, (2) the maturity date of the Bonds, which shall in no event be later than November 1, 202__, (3) whether a series of Bonds shall be issued as Taxable Bonds or Tax-Exempt Bonds and the rate of interest per annum to be carried by Bonds of such series in accordance with the first paragraph of **Section 3.1** and (4) any other term of the Bonds not otherwise specifically fixed by the provisions of this Ordinance.

(g) Any Bond issued upon transfer or exchange of any other Bond shall be dated as of the Interest Payment Date next preceding the date of registration thereof in the offices of the Registrar, unless such date of registration shall be an Interest Payment Date, in which case it shall be dated as of such date of registration; provided, however, that if, as shown by the records of the Registrar, interest on such Bond shall be in default, the Bond in lieu of the Bond surrendered for transfer or exchange may be dated as of the date to which interest has been paid in full on the Bond surrendered; and provided further, that if the date of

registration shall be prior to the first Interest Payment Date, the Bond shall be dated of its Date of Original Issue.

(h) When any portion of any Bond shall have been duly called for redemption and payment thereof duly made or provided for, interest thereon shall cease on the principal amount of such Bond so redeemed from and after the date of redemption thereof.

(i) The Bonds shall be issued to the respective Owners thereof as shall be mutually agreed between the Redevelopers and the Finance Director for a price equal to 100% of the principal amount thereof. No Bond shall be delivered to any Owner unless the City shall have received from the Owner thereof such documents as may be required by the Finance Director to demonstrate compliance with all applicable laws. The City may impose such restrictions on the transfer of any Bond as may be required to ensure compliance with all requirements relating to any such transfer.

Section 3.3. Form of Bonds Generally. The Bonds shall be issued in fully registered form without coupons. The Bonds shall be in substantially the form set forth in **Article IX**, with such appropriate variations, omissions and insertions as are permitted or required by this Ordinance and with such additional changes as the Finance Director may deem necessary or appropriate. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

Section 3.4. Appointment of Registrar. The Registrar is hereby appointed the registrar and paying agent for the Bonds. The Registrar shall specify its acceptance of the duties, obligations and trusts imposed upon it by the provisions of this Ordinance by a written instrument deposited with the City prior to the Date of Original Issue of the initial Bond. The City reserves the right to remove the Registrar upon 30 days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and the Bonds in its possession to the successor Registrar and shall deliver the bond register to the successor Registrar. The Registrar shall have only such duties and obligations as are expressly stated in this Ordinance and no other duties or obligations shall be required of the Registrar.

Section 3.5. Exchange of Bonds. Any Bond, upon surrender thereof at the principal office of the Registrar, together with an assignment duly executed by the Owner or its attorney or legal representative in such form as shall be satisfactory to the Registrar, may, at the option of the Owner thereof, be exchanged for another Bond in a principal amount equal to the principal amount of the Bond surrendered or exchanged, of the same series and maturity and bearing interest at the same rate. The City shall make provision for the exchange of the Bonds at the principal office of the Registrar.

Section 3.6. Negotiability, Registration and Transfer of Bonds. The Registrar shall keep books for the registration and registration of transfer of the Bonds as provided in this Ordinance. The transfer of the Bonds may be registered only upon the books kept for the registration and registration of transfer of the Bonds upon (a) surrender thereof to the Registrar, together with an assignment duly executed by the Owner or its attorney or legal representative in such form as shall be satisfactory to the Registrar and (b) evidence that the assignee is a bank or a qualified institutional buyer as defined in Rule 144A promulgated by the Securities and Exchange Commission and the Owner has obtained and provided to the City, prior to such transfer and assignment, an investor's letter in form and substance satisfactory to the City evidencing compliance with the provisions of all federal and state securities laws. Upon any such registration of transfer the City shall execute and deliver in exchange for such Bond a new Bond, registered in the name of

the transferee, in a principal amount equal to the principal amount of the Bond surrendered or exchanged, of the same series and maturity and bearing interest at the same rate.

In all cases in which any Bond shall be exchanged or a transfer of a Bond shall be registered hereunder, the City shall execute at the earliest practicable time execute and deliver a Bond in accordance with the provisions of this Ordinance. The Bond surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Registrar. Neither the City nor the Registrar shall make a charge for the first such exchange or registration of transfer of any Bond by any Owner. The City or the Registrar, or both, may make a charge for shipping, printing and out-of-pocket costs for every subsequent exchange or registration of transfer of such Bond sufficient to reimburse it or them for any and all costs required to be paid with respect to such exchange or registration of transfer. Neither the City nor the Registrar shall be required to make any such exchange or registration of transfer of any Bond during the period between a Record Date and the corresponding Interest Payment Date.

Section 3.7. Ownership of Bonds. As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and interest on such Bond and the interest on any such Bond shall be made only to or upon the order of the Owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 3.8. Disposition and Destruction of Bonds. The Bonds, upon surrender to the Registrar for final payment, whether at maturity or upon earlier redemption, shall be canceled upon such payment by the Registrar and, upon written request of the Finance Director, be destroyed.

ARTICLE IV

REDEMPTION OF BONDS

Section 4.1. Redemption of Bonds. The Bonds are subject to redemption at the option of the City prior to the maturity thereof at any time as a whole or in part from time to time in such principal amount as the City shall determine, at a redemption price equal to 100% of the principal amount then being redeemed plus accrued interest thereon to the date fixed for redemption.

Section 4.2. Redemption Procedures. The Finance Director is hereby authorized, without further action of the Council, to call all or any portion of the principal of the Bond for payment and redemption prior to maturity on such date as the Finance Director shall determine, and shall deposit sufficient funds in the Debt Service Account from the Surplus Account to pay the principal being redeemed plus the accrued interest thereon to the date fixed for redemption. The Finance Director may effect partial redemptions of any Bond without notice to the Owner and without presentation and surrender of such Bond, but total redemption of any Bond may only be effected with notice to the Owner and upon presentation and surrender of such Bond to the Registrar. Notice of a total redemption of any Bond shall be sent by the Registrar by first-class mail not less than five days prior to the date fixed for redemption to the Owner's address appearing on the books of registry maintained by the Registrar and indicate (a) the title and designation of the Bond, (b) the redemption date, and (c) a recitation that the entire principal balance of such Bond plus all accrued interest thereon is being called for redemption on the applicable redemption date.

Section 4.3. Determination of Outstanding Principal Amount of Bonds. Notwithstanding the amount indicated on the face of any Bond, the principal amount of such Bond actually outstanding from time to time shall be determined and maintained by the Registrar. The Registrar shall make a notation in the books of registry maintained for each Bond indicating the original principal amount of such Bond as determined in accordance with **Section 3.2(a)** and make such additional notations as are required to reflect any redemption of such Bond from time to time. Any Owner may examine the books of registry maintained by the Registrar upon request, and the Registrar shall grant such request as soon as reasonably practicable.

ARTICLE V

REFUNDING BONDS

Section 5.1. Refunding Bonds. Refunding Bonds may be issued at any time by the Finance Director for the purpose of refunding (including by purchase) any Bond or any portion thereof, including amounts to pay principal and interest to the date of maturity or redemption (or purchase) and the expenses of issuing the Refunding Bonds and of effecting such refunding; provided that the Debt Service on all bonds to be outstanding after the issuance of the Refunding Bonds shall not be greater in any Fiscal Year than would have been the Debt Service in such Fiscal Year were such refunding not to occur.

ARTICLE VI

EFFECTIVE DATE OF PROJECT; PLEDGE OF REVENUE

Section 6.1. Effective Date of Project. For purposes of Section 18-2147, Reissue Revised Statutes of Nebraska, as amended, the effective date of the Project shall be determined in the manner provided in the Redevelopment Plan. The Finance Director is hereby directed to notify the Assessor of the effective date of the Project on the form prescribed by the Property Tax Administrator.

Section 6.2. Collection of Revenue; Pledge of Revenue. As provided for in the Redevelopment Plan, and pursuant to the provisions of the Redevelopment Law, for the period contemplated thereby, the Tax Revenue collected in the Project Area shall be allocated to and, when collected, paid into the Special Fund along with any Project Revenue collected under the terms of this Ordinance to pay the principal of and interest on the Bonds. When the Bonds, including interest and all other indebtedness and costs of construction incurred by the City in connection with the City Improvements have been paid, the Tax Revenue shall be applied as provided for in the Redevelopment Law.

The Revenue is hereby allocated and pledged in its entirety to the payment of the principal of and interest on the Bonds and to the payment of the City Improvements (including the Project), until the principal of and interest on the Bonds have been paid (or until money for that purpose has been irrevocably set aside), and the Revenue shall be applied solely to the payment of the principal of and interest on the Bonds and all costs of construction incurred by the City in connection with the City Improvements as provided herein. Such allocation and pledge is and shall be for the sole and exclusive benefit of the Owners and shall be irrevocable.

In accordance with the provisions of Section 18-2150, Reissue Revised Statutes of Nebraska, as amended, a copy of this **Section 6.2** shall be certified by the Clerk and filed by the Clerk with the Assessor and the Treasurer.

Section 6.3. Potential Insufficiency of Revenue. The City makes no representations, covenants, or warranties to the Owners that the Revenue will be sufficient to pay the principal of and interest on the Bonds. Payment of the principal of and interest on the Bonds is limited solely and exclusively to the Revenue pledged under the terms of this Ordinance, and is not payable from any other source whatsoever.

ARTICLE VII

CREATION OF FUNDS AND ACCOUNTS; PAYMENTS THEREFROM

Section 7.1. Creation of Funds and Account. There is hereby created and established by the City a special trust fund called the "Shoemaker Travel Plaza Redevelopment Project Tax Allocation Special Fund" (the **"Special Fund"**), which fund shall be held by the Finance Director of the City separate and apart from all other funds and money of the City under his control.

There are hereby created and established in the Special Fund the following special trust accounts:

(a) Debt Service Account; and
(b) Surplus Account.

So long as the Bonds, or any interest thereon, remains unpaid, the money in the foregoing funds and accounts shall be used for no purpose other than those required or permitted by this Ordinance, any ordinance supplemental to or amendatory of this Ordinance and the Redevelopment Law.

Section 7.2. Special Fund. All of the Revenue shall be deposited into the Special Fund. The Revenue accumulated in the Special Fund shall be used and credited in the following order of priority:

(a) **Debt Service Account**. Credits shall be made into the Debt Service Account so that the balance in the Debt Service Account prior to the date of the payment of any installment of Debt Service on the Bonds shall be equal to the amount of Debt Service due on such installment payment date. Money in the Debt Service Account shall be used solely for the payment of Debt Service on the Bonds as the same becomes due.

(b) **Surplus Account**. After the credits required by **Section 7.2(a)** have been made, the remaining Revenue in the Special Fund shall be deposited into the Surplus Account and used and applied by the City to (1) redeem principal of the Bonds or (2) pay any costs of construction incurred by the City in connection with the City Improvements, in its sole and absolute discretion.

ARTICLE VIII

COVENANTS OF THE CITY

So long as the Bonds are outstanding and unpaid, the City will (through its proper officers, agents or employees) faithfully perform and abide by all of the covenants, undertakings and provisions contained in this Ordinance or in the Bonds, including the following covenants and agreements for the benefit of the Owners which are necessary, convenient and desirable to secure the Bonds and will tend to make them more marketable; provided, however, that such covenants do not require the City to expend any money other than the Revenue nor violate the provisions of State law with respect to tax revenue allocation.

Section 8.1. Management and Operation of Properties. The City covenants and agrees that it will cause all properties owned by it and comprising any part of the Project to be managed and operated in a sound and businesslike manner.

Section 8.2. No Priority. The City covenants and agrees that it will not issue any obligations the principal of or interest on which is payable from the Revenue which have, or purport to have, any lien upon the Revenue prior or superior to or in parity with the lien of the Bonds and the interest thereon; provided, however, that nothing in this Ordinance shall prevent the City from issuing and selling bonds or other obligations which have, or purport to have, any lien upon the Revenue which is junior to the Bonds and the Debt Service thereon, or from issuing and selling bonds or other obligations which are payable in whole or in part from sources other than the Revenue.

Section 8.3. To Pay Principal of and Premium and Interest on Bonds. The City will duly and punctually pay or cause to be paid solely from the Revenue the principal of and interest on the Bonds on the dates and at the places and in the manner provided in the Bonds according to the true intent and meaning thereof and hereof, and will faithfully do and perform and fully observe and keep any and all covenants, undertakings, stipulations and provisions contained in the Bonds and in this Ordinance.

Section 8.4. Books of Account; Financial Statements. The City covenants and agrees that it will at all times keep, or cause to be kept, proper and current books of account (separate from all other records and accounts) in which complete and accurate entries shall be made of all transactions relating to the Project, the Revenue and other funds relating to the Project. Within 180 days after the close of each Fiscal Year, the City shall cause such books of account to be audited by an independent certified public accountant, which audit may be part of the annual audit of the accounts of the City. The audit report shall show in reasonable detail the income and expenses for such Fiscal Year relating to the Project, including the transactions relating to the Special Fund, and a copy of the audit report shall be made available to the Owner upon written request. Each such audit report shall state therein that the auditor has examined and is familiar with the provisions of this Ordinance relating to the matters set forth above, and that as to such matters the City is in compliance therewith or, if not in compliance therewith, the details of such failure to comply and the action to be taken by the City to be in compliance therewith.

Section 8.5. Eminent Domain Proceeds. The City covenants and agrees that should all or any part of the Project be taken by eminent domain or other proceedings authorized by law for any public or other use under which the property will be exempt from ad valorem taxation, the net proceeds realized by the City therefrom shall constitute Project Revenue and shall be deposited into the Special Fund and used for the purposes and in the manner described in **Section 7.2**.

Section 8.6. Protection of Security. The City is duly authorized under all applicable laws to create and issue the Bonds and to adopt this Ordinance and to pledge the Revenue in the manner and to the extent provided in this Ordinance. The Revenue so pledged is and will be free and clear of any pledge, lien, charge, security interest or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge created by this Ordinance, except as otherwise expressly provided herein, and all corporate action on the part

of the City to that end has been duly and validly taken. The Bonds are and will be a valid obligations of the City in accordance with its terms and the terms of this Ordinance. The City shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of and security interest granted with respect to the Revenue pledged under this Ordinance and all the rights of the Owners under this Ordinance against all claims and demands of all persons whomsoever.

Section 8.7. Tax Covenants.

(a) The City covenants and agrees that (1) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Tax-Exempt Bonds and (2) it will not use or permit the use of any proceeds of Tax-Exempt Bonds or any other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Tax-Exempt Bonds. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Tax-Exempt Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

(b) The City covenants and agrees that (1) it will comply with all requirements of Section 148 of the Code to the extent applicable to the Tax-Exempt Bonds, (2) it will use the proceeds of the Tax-Exempt Bonds as soon as practicable and with all reasonable dispatch for the purposes for which the Tax-Exempt Bonds are issued, and (3) it will not invest or directly or indirectly use or permit the use of any proceeds of the Tax-Exempt Bonds or any other funds of the City in any manner, or take or omit to take any action, that would cause the Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code.

(c) The City covenants and agrees that it will pay or provide for the payment from time to time of all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any Treasury Regulations applicable to the Tax-Exempt Bonds from time to time. This covenant shall survive payment in full or defeasance of the Tax-Exempt Bonds. The City specifically covenants to pay or cause to be paid to the United States, the required amounts of rebatable arbitrage at the times and in the amounts as determined by the Tax Certificates. Notwithstanding anything to the contrary contained herein, the Tax Certificate may be amended or replaced if, in the opinion of counsel nationally recognized on the subject of municipal bonds, such amendment or replacement will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Tax-Exempt Bonds.

(d) The City covenants and agrees that it will not use any portion of the proceeds of the Tax-Exempt Bonds, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any Tax-Exempt Bond to be a "private activity bond."

(e) The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to **Article X** of this Ordinance or any other provision of this Ordinance, until the final maturity date of the Bonds.

ARTICLE IX

FORM OF BONDS

Section 9.1. Form of Bonds. The Bonds shall be in substantially the following form:

(FORM OF BONDS)

THIS BOND MAY BE TRANSFERRED ONLY IN THE MANNER AND ON THE TERMS AND CONDITIONS AND SUBJECT TO THE RESTRICTIONS STATED IN SECTION ____ OF ORDINANCE NO. _____ OF THE CITY OF LINCOLN, NEBRASKA.

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF LANCASTER

THE CITY OF LINCOLN

SHOEMAKER TRAVEL PLAZA REDEVELOPMENT PROJECT
[TAXABLE] TAX ALLOCATION BOND, SERIES _____

No. R-1 **$_____**

Date of Original Issue	**Date of Maturity**	**Rate of Interest**

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ DOLLARS

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THE BOND SET FORTH ON THE FOLLOWING PAGES, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH AT THIS PLACE.

IN WITNESS WHEREOF, **THE CITY OF LINCOLN, NEBRASKA** has caused this bond to be signed by the manual signature of its Mayor, registered in the office of its Finance Director, countersigned by the manual signature of its Finance Director or Acting Finance Director, and its corporate seal imprinted hereon.

Registered in the Office of the
Finance Director of the City of
Lincoln, Nebraska

THE CITY OF LINCOLN, NEBRASKA

By: _____(manual signature)_____
Mayor

_____(manual signature)_____
Finance Director of The
City of Lincoln, Nebraska

(Original Seal)

THE CITY OF LINCOLN, NEBRASKA (the **"City"**) acknowledges itself indebted to, and for value received hereby promises to pay, but solely from certain specified tax revenues and other funds hereinafter specified, to the Registered Owner named above, or registered assigns, on the Date of Maturity stated above (or earlier as hereinafter referred to), the Principal Amount stated above upon presentation and surrender hereof at the office of the registrar and paying agent herefor, the Treasurer of The City of Lincoln, Nebraska (the **"Registrar"**), and in like manner to pay interest on said Principal Amount at the Rate of Interest stated above, calculated on the basis of a 360-day year consisting of twelve, 30-day months, from the Date of Original Issue stated above, or the most recent interest payment date to which interest has been paid or duly provided for, as specified below, to maturity or earlier redemption, payable semiannually on May 1 and November 1 of each year until payment in full of such Principal Amount, beginning _____, 200__, by check or draft mailed to the Registered Owner hereof as shown on the bond registration books maintained by the Registrar on the 15th day of the month preceding the month in which the applicable interest payment date occurs, at such owner's address as it appears on such bond registration books. The principal of this bond and the interest hereon are payable in any coin or currency which on the respective dates of payment thereof is legal tender for the payment of debts due the United States of America.

This bond is issued by the City under the authority of and in full compliance with the Constitution and statutes of the State of Nebraska, including particularly Article VIII, Section 12 of the Nebraska Constitution, Sections 18-2101 to 18-2153, inclusive, Reissue Revised Statutes of Nebraska, as amended, the Home Rule Charter of the City, and under and pursuant to Ordinance No. _____ duly passed and adopted by the City on May ____, 2009, as from time to time amended and supplemented (the **"Ordinance"**).

This bond has been issued by the City for the purpose of financing the costs of purchasing, constructing, reconstructing, acquiring, improving, extending, rehabilitating, installing, equipping, furnishing and completing certain public improvements within the area identified and referred to as the City's West "O" Street Redevelopment Plan, which is more specifically described in the Ordinance, and to carry out the City's corporate purposes and powers in connection therewith.

Reference is hereby made to the Ordinance for the provisions, among others, with respect to the collection and disposition of certain tax and other revenues, the special funds charged with and pledged to the payment of the principal of and interest on this bond, the nature and extent of the security thereby created, the terms and conditions under which this bond has been issued, the rights and remedies of the Registered Owner of this bond, and the rights, duties, immunities and obligations of the City. By the acceptance of this bond, the Registered Owner assents to all of the provisions of the Ordinance.

This bond is a special limited obligation of the City payable as to principal and interest solely from and is secured solely by the Tax Revenue (as defined in the Ordinance) and certain other money, funds and securities pledged under the Ordinance, all on the terms and conditions set forth in the Ordinance. The Tax Revenue represent that portion of ad valorem taxes levied by public bodies of the State of Nebraska, including the City, on real property in the Project Area (as defined in this Ordinance) which is in excess of that portion of such ad valorem taxes produced by the levy at the rate fixed each year by or for each such public body upon the valuation of the Project Area as of a certain date and as has been certified by the County Assessor of Lancaster County, Nebraska to the City in accordance with law.

The principal of and interest hereon shall not be payable from the general funds of the City nor shall this bond constitute a legal or equitable pledge, charge, lien, security interest or encumbrance upon any of the property or upon any of the income, receipts, or money and securities of the City or of any other party

other than those specifically pledged under the Ordinance. This bond is not a debt of the City within the meaning of any constitutional, statutory or charter limitation upon the creation of general obligation indebtedness of the City, and does not impose any general liability upon the City and the City shall not be liable for the payment hereof out of any funds of the City other than the Tax Revenues and other funds pledged under the Ordinance, which Tax Revenues and other funds have been and hereby are pledged to the punctual payment of the principal of and interest on this bond in accordance with the provisions of this Ordinance.

Reference is hereby made to the Ordinance, a copy of which is on file in the office of the City Clerk, and to all of the provisions of which each owner of this bond by its acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for this bond; the Tax Revenues and other money and securities pledged to the payment of the principal of and interest on this bond; the nature and extent and manner of enforcement of the pledge; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the owner of this bond; the rights, duties and obligations of the City and the Registrar thereunder; the terms and provisions upon which the liens, pledges, charges, trusts and covenants made therein may be discharged at or prior to the maturity or redemption of this bond, and this bond thereafter no longer be secured by the Ordinance or be deemed to be outstanding thereunder, if money or certain specified securities shall have been deposited with the Registrar sufficient and held in trust solely for the payment hereof; and for the other terms and provisions thereof.

This bond is subject to redemption prior to maturity, at the option of the City, in whole or in part at any time at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest on such principal amount to the date fixed for redemption. Reference is hereby made to the Ordinance for a description of the redemption procedures and the notice requirements pertaining thereto.

In the event this bond is called for prior redemption, notice of such redemption shall be given by first-class mail to the Registered Owner hereof at its address as shown on the registration books maintained by the Registrar not less than 10 days prior to the date fixed for redemption, unless waived by the Registered Owner hereof. If this bond, or any portion thereof, shall have been duly called for redemption and notice of such redemption duly given as aforesaid, then upon such redemption date the portion of this bond so redeemed shall become due and payable and if money for the payment of the portion of the bond so redeemed and the accrued interest thereon to the date fixed for redemption shall be held for the purpose of such payment by the Registrar, interest shall cease to accrue and become payable hereon from and after the redemption date.

This bond is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance, and upon surrender and cancellation of this bond. Upon such transfer, a new bond of the same series and maturity and for the same principal amount will be issued to the transferee in exchange therefor. The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal of and interest due hereon and for all other purposes.

This bond is being issued as fully a registered bond without coupons. This bond is subject to exchange as provided in the Ordinance.

It is hereby certified, recited and declared that all acts, conditions and things required to have happened, to exist and to have been performed precedent to and in the issuance of this bond have happened, do exist and have been performed in regular and due time, form and manner; that this bond does not exceed

any constitutional, statutory or charter limitation on indebtedness; and that provision has been made for the payment of the principal of and interest on this bond as provided in this Ordinance.

(FORM OF ASSIGNMENT)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

_____

Print or Type Name, Address and Social Security Number
or other Taxpayer Identification Number of Transferee

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Bond on the bond register kept by the Registrar for the registration thereof, with full power of substitution in the premises.

Dated: _____

_____

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within bond in every particular.

Signature Guaranteed By:

_____

Name of Eligible Guarantor Institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15)

By: _____
Title: _____

ARTICLE X

DEFEASANCE; MONEY HELD FOR PAYMENT OF DEFEASED BOND

Section 10.1. Discharge of Liens and Pledges; Bond No Longer Outstanding Hereunder. The obligations of the City under this Ordinance, including any ordinances, resolutions or other proceedings supplemental hereto, and the liens, pledges, charges, trusts, assignments, covenants and agreements of the City herein or therein made or provided for, shall be fully discharged and satisfied as to the Bonds or any portion thereof, and the Bonds or any portion thereof shall no longer be deemed to be outstanding hereunder and thereunder,

(a) when any Bond or portion thereof shall have been canceled, or shall have been surrendered for cancellation or is subject to cancellation, or shall have been purchased from money in any of the funds held under this Ordinance, or

(b) if any Bond or portion thereof is not canceled or surrendered for cancellation or subject to cancellation or so purchased, when payment of the principal of such Bond or any portion thereof, plus interest on such principal to the due date thereof (whether such due date be by reason of maturity or upon redemption or prepayment, or otherwise), either (a) shall have been made or caused to be made in accordance with the terms thereof, or (b) shall have been provided by irrevocably depositing with the Registrar for the Bonds, in trust and irrevocably set aside exclusively for such payment, (1) money sufficient to make such payment or (2) Escrow Obligations maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient money to make such payment.

Provided that, with respect to any total redemption of any Bond, notice of redemption shall have been duly given or provision satisfactory to the Registrar shall have been made therefor, or waiver of such notice, satisfactory in form, shall have been filed with the Registrar.

At such time as any Bond or portion thereof shall no longer be outstanding hereunder, as provided, such Bond or portion thereof shall cease to draw interest from the due date thereof (whether such due date be by reason of maturity or upon redemption or prepayment or otherwise) and, except for the purposes of any such payment from such money or such Escrow Obligations, such Bond or portion thereof shall no longer be secured by or entitled to the benefits of this Ordinance.

Any such money so deposited with the Registrar for any Bond or portion thereof as provided in this **Section 10.1** may at the direction of the Finance Director also be invested and reinvested in Escrow Obligations, maturing in the amounts and times as hereinbefore set forth. All income from all Escrow Obligations in the hands of the Registrar which is not required for the payment of such Bond or portion thereof and interest thereon with respect to which such money shall have been so deposited, shall be paid to the City and deposited in the Special Fund as and when realized and collected for use and application as is other money deposited in that fund.

Anything in this Ordinance to the contrary notwithstanding, if money or Escrow Obligations have been deposited or set aside with the Registrar pursuant to this **Section 10.1** for the payment of any Bond and such Bond shall not have in fact been actually paid in full, no amendment to the provisions of this **Section 10.1** shall be valid as to or binding upon the Owner thereof without the consent of such Owner.

Section 10.2. Certain Limitations After Due Date. If sufficient money or Escrow Obligations shall have been deposited in accordance with the terms hereof with the Registrar in trust for the purpose of paying the Bonds or any portion thereof and the accrued interest thereon when the same becomes due, whether at maturity or upon earlier redemption, all liability of the City for such payment shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Registrar to hold such money or Escrow Obligations, without liability to the Owners for interest thereon, in trust for the benefit of the Owners, who thereafter shall be restricted exclusively to such money or Escrow Obligations for any claim for such payment of whatsoever nature on his part.

Notwithstanding the provisions of the preceding paragraph of this **Section 10.2**, money or Escrow Obligations held by the Registrar in trust for the payment and discharge of the principal of and accrued interest on any Bond which remain unclaimed for five years after the date on which such payment shall have

become due and payable, either because the Bonds shall have reached their maturity date or because the entire principal balance of the Bonds shall have been called for redemption, if such money was held by the Registrar or such paying agent at such date, or for five years after the date of deposit of such money, if deposited with the Registrar after the date when such Bond became due and payable, shall, at the written request of the City be repaid by the Registrar to the City as the City's property and free from the trust created by this Ordinance, and the Registrar shall thereupon be released and discharged with respect thereto, and the Owner thereof shall look only to the City for the payment thereof.

ARTICLE XI

AMENDING AND SUPPLEMENTING OF ORDINANCE

Section 11.1. **Amending and Supplementing of Ordinance Without Consent of Owners**. The City may at any time without the consent or concurrence of the Owners of the Bonds adopt an ordinance amendatory hereof or supplemental hereto if the provisions of such supplemental ordinance do not materially adversely affect the rights of the Owners of the Bonds, for any one or more of the following purposes:

(a) To make any changes or corrections in this Ordinance as to which the City shall have been advised by counsel that the same are verbal corrections or changes or are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provision or omission or mistake or manifest error contained in this Ordinance, or to insert in this Ordinance such provisions clarifying matters or questions arising under this Ordinance as are necessary or desirable;

(b) To add additional covenants and agreements of the City for the purpose of further securing payment of the Bonds;

(c) To surrender any right, power or privilege reserved to or conferred upon the City by the terms of this Ordinance;

(d) To confirm as further assurance any lien, pledge or charge, or the subjection to any lien, pledge or charge, created or to be created by the provisions of this Ordinance; and

(e) To grant to or confer upon the Owner of the Bonds any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon them.

The City shall not adopt any supplemental ordinance authorized by the foregoing provisions of this **Section 11.1** unless in the opinion of counsel the adoption of such supplemental ordinance is permitted by the foregoing provisions of this **Section 11.1** and the provisions of such supplemental ordinance do not materially and adversely affect the rights of the Owners of the Bonds.

Section 11.2. Amending and Supplementing of Ordinance with Consent of Owners. With the consent of the Owners of not less than a majority in principal amount of the Bonds then outstanding, the City from time to time and at any time may adopt an ordinance amendatory hereof or supplemental hereto for the purpose of adding any provisions to, or changing in any manner or eliminating any of the provisions of, this Ordinance, or modifying or amending the rights and obligations of the City under this Ordinance, or modifying or amending in any manner the rights of the Owners of the Bonds then outstanding; provided, however, that, without the specific consent of the Owner of each such Bond which would be affected

thereby, no supplemental ordinance amending or supplementing the provisions hereof shall: (a) change the fixed maturity date for the payment of interest thereon or the terms of the redemption thereof, or reduce the principal amount of any Bond or the rate of interest thereon or the Redemption Price payable upon the redemption or prepayment thereof; (b) reduce the percentage of Bonds, the Owners of which are required to consent to any supplemental ordinance amending or supplementing the provisions of this Ordinance; (c) give to any Bond or Bonds any preference over any other Bond or Bonds secured hereby; (d) authorize the creation of any pledge of the Tax Revenues and other money and securities pledged hereunder, prior, superior or equal to the pledge of and lien and charge thereon created herein for the payment of the Bonds except to the extent provided in **Articles III** and **V**; or (e) deprive any Owner of the Bonds in any material respect of the security afforded by this Ordinance. Nothing in this paragraph contained, however, shall be construed as making necessary the approval of the Owners of the Bonds of the adoption of any supplemental ordinance authorized by the provisions of **Section 11.1**.

It shall not be necessary that the consents of the Owners of the Bonds approve the particular form of wording of the proposed amendment or supplement or of the proposed supplemental ordinance effecting such amendment or supplement, but it shall be sufficient if such consents approve the substance of the proposed amendment or supplement. After the Owners of the required percentage of Bonds shall have filed their consents to the amending or supplementing hereof pursuant to this Section, the City may adopt such supplemental ordinance.

Section 11.3. Effectiveness of Supplemental Ordinance. Upon the adoption (pursuant to this **Article XI** and applicable law) by the City of any supplemental ordinance amending or supplementing the provisions of this Ordinance or upon such later date as may be specified in such supplemental ordinance, (a) this Ordinance and the Bonds shall be modified and amended in accordance with such supplemental ordinance, (b) the respective rights, limitations of rights, obligations, duties and immunities under this Ordinance and the Owners of the Bonds shall thereafter be determined, exercised and enforced under this Ordinance subject in all respects to such modifications and amendments, and (c) all of the terms and conditions of any such supplemental ordinance shall be a part of the terms and conditions of the Bonds and of this Ordinance for any and all purposes.

ARTICLE XII

MISCELLANEOUS

Section 12.1. General and Specific Authorizations; Ratification of Prior Actions. Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the City Council hereby (a) authorizes and directs the Mayor, Finance Director, City Treasurer, City Clerk, City Attorney, City Controller and all other officers, officials, employees and agents of the City to carry out or cause to be carried out, and to perform such obligations of the City and such other actions as they, or any of them, in consultation with bond counsel, the Owner and its counsel shall consider necessary, advisable, desirable or appropriate in connection with this Ordinance, including without limitation the execution and delivery of all related documents, instruments, certifications and opinions, and (b) delegates, authorizes and directs the Finance Director the right, power and authority to exercise his independent judgment and absolute discretion in (1) determining and finalizing all terms and provisions to be carried by the Bonds not specifically set forth in this Ordinance and (2) the taking of all actions and the making of all arrangements necessary, proper, appropriate, advisable or desirable in order to effectuate the issuance, sale and delivery of the Bonds. The execution and delivery by the Finance Director or by any such other officers, officials, employees or agents of the City of any such documents, instruments, certifications and opinions, or the doing by them of any act

in connection with any of the matters which are the subject of this Ordinance, shall constitute conclusive evidence of both the City's and their approval of the terms, provisions and contents thereof and of all changes, modifications, amendments, revisions and alterations made therein and shall conclusively establish their absolute, unconditional and irrevocable authority with respect thereto from the City and the authorization, approval and ratification by the City of the documents, instruments, certifications and opinions so executed and the actions so taken.

All actions heretofore taken by the Finance Director and all other officers, officials, employees and agents of the City, including without limitation the expenditure of funds and the selection, appointment and employment of bond counsel and financial advisors and agents, in connection with issuance and sale of the Bonds, together with all other actions taken in connection with any of the matters which are the subject hereof, be and the same is hereby in all respects authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 12.2. Proceedings Constitute Contract; Enforcement Thereof. The provisions of this Ordinance shall constitute a contract between the City and the Owners and the provisions thereof shall be enforceable by the Owners by mandamus, accounting, mandatory injunction or any other suit, action or proceeding at law or in equity that is presently or may hereafter be authorized under the laws of the State in any court of competent jurisdiction. Such contract is made under and is to be construed in accordance with the laws of the State.

After the issuance and delivery of any Bond, this Ordinance and any supplemental ordinance shall not be repealable, but shall be subject to modification or amendment to the extent and in the manner provided in this Ordinance, but to no greater extent and in no other manner.

Section 12.3. Benefits of Ordinance Limited to the City and the Owners. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Ordinance or the Bonds is intended or should be construed to confer upon or give to any person other than the City and the Owners of the Bonds any legal or equitable right, remedy or claim under or by reason of or in respect to this Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. The Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City and the Owner from time to time of the Bonds as herein and therein provided.

Section 12.4. No Personal Liability. No officer or employee of the City shall be individually or personally liable for the payment of the principal of or interest on any Bond. Nothing herein contained shall, however, relieve any such officer or employee from the performance of any duty provided or required by law.

Section 12.5. Effect of Saturdays, Sundays and Legal Holidays. Whenever this Ordinance requires any action to be taken on a Saturday, Sunday or legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday or legal holiday, such time shall continue to run until midnight on the next succeeding business day.

Section 12.6. Partial Invalidity. If any one or more of the covenants or agreements or portions thereof provided in this Ordinance on the part of the City or the Registrar to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining

covenants and agreements or portions thereof provided in this Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds, but the Owner of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

If any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 12.7. Law and Place of Enforcement of this Ordinance. The Ordinance shall be construed and interpreted in accordance with the laws of the State. All suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in the State except to the extent necessary for enforcement, by any trustee or receiver appointed by or pursuant to the provisions of this Ordinance, or remedies under this Ordinance.

Section 12.8. Effect of Article and Section Headings and Table of Contents. The headings or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Ordinance.

Section 12.9. Repeal of Inconsistent Ordinance. Any ordinance of the City, and any part of any ordinance or resolution, inconsistent with this Ordinance is hereby repealed to the extent of such inconsistency.

Section 12.10. Publication and Effectiveness of this Ordinance. Pursuant to Article VII, Section 7, of the City Charter, this Ordinance shall be posted on the official bulletin board of the City in lieu of and in place of newspaper publication with notice of passage and such posting to be given by publication one time in the official newspaper by the City Clerk.

[The remainder of this page intentionally left blank.]

INTRODUCED BY:

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PASSED _____, 2009.

AYES: _____

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NAYS: _____

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ABSENT OR NOT VOTING:

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Approved as to Form:

_____
City Attorney

_____
Bond Counsel

CONFLICT OF INTEREST:

_____

APPROVED: _____, 2009.

_____
Mayor