ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND APPROVING THE ISSUANCE OF A NOT TO EXCEED $3,362,000 PRINCIPAL AMOUNT INDUSTRIAL DEVELOPMENT PROMISSORY REVENUE NOTE, SERIES 2010 (NEBRASKA SCHOOL ACTIVITIES ASSOCIATION PROJECT); APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT, A DEED OF TRUST, CONSTRUCTION SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS AND A TAX COMPLIANCE AGREEMENT AND CLOSING DOCUMENTATION; DELEGATING, AUTHORIZING AND DIRECTING THE MAYOR, FINANCE DIRECTOR AND CLERK TO EXERCISE THEIR OWN INDEPENDENT DISCRETION AND JUDGMENT IN DETERMINING AND FINALIZING THE TERMS, PROVISIONS, FORM AND CONTENTS OF EACH OF SUCH DOCUMENTS; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE AND THE TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT; AND RELATED MATTERS.

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

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

(a) The City is duly organized and validly existing as a city of the primary class and a political subdivision of the State of Nebraska (the **"State"**) with lawful power and authority to pass and adopt this Ordinance acting by and through the Mayor and Council.

(b) The City, in furtherance of the purposes, and pursuant to the provisions of Article XIII, Section 2 of the Nebraska Constitution and Sections 13-1101 to 13-1110, inclusive, Reissue Revised Statutes of Nebraska, as amended (the **"Act"**) and Ordinance No. 18858 (the **"Prior Ordinance"**), passed by the Council on December 11, 2006 and approved by the Mayor on December 13, 2006, in order to provide for the public welfare and development in the State has:

(1) acquired, constructed, installed, improved and completed, but solely from the proceeds of the sale of City's $3,500,000 principal amount Industrial Development Revenue Bond, Series 2007 (Nebraska School Activities Association Project), dated July 17, 2007 (the **"2007 Bond"**) on certain real estate (the **"Project Site"**) located within the limits of the City and in an area designated in the manner required by law as blighted and substandard (A) a building and other related fixtures and improvements (the **"Project Improvements"**) and (B) certain items of equipment and personal property (the **"Project Equipment"**) for use in connection with the Project Site (such Project Site, Project Improvements and Project Equipment are referred to collectively as the **"Project"**); and

(2) leased the Project to the Nebraska School Activities Association (the **"Corporation"**), a Nebraska nonprofit corporation, for the rental and upon the terms and conditions set forth in a Lease Agreement, dated July 17, 2007 (the **"2007 Lease Agreement"**) between the City and the Corporation; and

(3) issued the 2007 Bond under and pursuant to the Act and a Trust Indenture, dated July 17, 2007 (the **"2007 Indenture"**) between the City and U.S. Bank National Association, as bond trustee, with respect to the Project for the purpose of paying the costs of acquiring,

constructing, installing, improving and completing the Project and paying the costs and expenses incident to the issuance of the 2007 Bond.

(c) The City and the Corporation have determined that it is necessary, desirable, advisable and in the best interest of the Corporation to provide for the payment and redemption of the 2007 Bond through the issuance of its Industrial Development Promissory Revenue Note, Series 2010 (Nebraska School Activities Association Project), dated the date of its issuance (the **"Note"**), pursuant to the terms and provisions of a Lease Agreement, dated the date of its execution and delivery (the **"2010 Lease Agreement"**) among the City, the Corporation and U.S. Bank National Association (the **"Lender"**), the purchaser of the Note.

(d) To secure the Note, (1) the City will assign to the Lender its right to receive Lease Payments under the 2010 Lease Agreement, and(2) the City and the Corporation will execute and deliver a Deed of Trust, Security Agreement and Assignment of Rents and Leases, dated the date of its execution and delivery (the **"Deed of Trust"**), to U.S. Bank National Association, as deed trustee, for the benefit of the Lender, as beneficiary, granting a first lien on the Project and a first priority security interest in certain other interests of the City and the Corporation.

(e) The following documents (the **"Financing Documents"**) have been prepared in connection with the payment and redemption of the 2007 Bond and the issuance of the Note to refinance acquisition, purchase, construction, installation, improvement and completion of the Project:

(1) the form of the 2010 Lease Agreement setting forth the terms and conditions under which the Project will be leased to the Corporation, the terms of the Note and the conditions and security for the Note;

(2) the form of the Deed of Trust; and

(3) the form of the Tax Compliance Agreement between the Corporation and the City entered into in order to set forth certain representations, facts, expectations, terms and conditions relating to the use and investment of the proceeds of the Note, to establish and maintain the exclusion of interest on the Note from gross income for federal income tax purposes, and to provide guidance for complying with the arbitrage rebate provisions of Section 148(f) of the Internal Revenue Code.

(f) The issuance of the Note and refinancing the Project will effectuate the public purposes of the City and carry out the purposes of Article XIII, Section 2 of the Nebraska Constitution and Sections 13-1101 to 13-1110, inclusive, Reissue Revised Statutes of Nebraska, as amended, by, among other things, eliminating blighted and substandard conditions and encouraging economic development in the State.

(g) The Project is located within the limits of the City and in an area which, in accordance with the provisions of the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended, has been designated by the City as blighted and substandard, within the meaning of such term as used in the Act.

(h) In accordance with the requirements of the Act, the Council does hereby determine and find the following:

(1) The amount necessary to pay the principal of and interest on the Note will be the sums of basic rent calculated in the manner specified and provided for in Article III of the 2010 Lease Agreement;

(2) The payments to be made by the Corporation pursuant to such Article III of the 2010 Lease Agreement will be sufficient in amount to pay all principal and interest requirements on the Note as the same become due;

(3) The Corporation has in the 2010 Lease Agreement covenanted and agreed with the City to maintain the Project, to pay all taxes with respect thereto and to indemnify and save harmless the City and the Lender against and from any loss, damage or claim suffered, occasioned by or incurred in connection with the Project; and

(4) The 2010 Lease Agreement is in full and complete compliance and conformity with all of the provisions of the Act.

(i) The Note is a special limited revenue obligation of the City payable solely out of the basic rental payments of the Corporation under the 2010 Lease Agreement and other amounts pledged pursuant to the 2010 Lease Agreement or the Deed of Trust, and shall not be a general liability of the City or a charge against its general credit or taxing powers.

(j) The Note will not and shall never constitute a debt, liability or general obligation of the State of Nebraska, or any political subdivision, agency or instrumentality thereof, nor will the faith and credit or the taxing power of the State of Nebraska be pledged to the payment of the principal of or interest on the Note. Under no circumstance will any tax revenues ever by used to pay any portion of the debt service on the Note.

Section 2. Authorization of the Note. The City is authorized to issue the Note in a principal amount not to exceed $3,362,000 in order to obtain funds to provide for the payment and redemption of the 2007 Bond to refinance the costs of the Project. The Note shall be issued under and shall have the terms and provisions set forth in the 2010 Lease Agreement and shall be secured as described in the 2010 Lease Agreement and the Deed of Trust. The Note shall be dated, shall bear interest subject to adjustment as provided in the 2010 Lease Agreement at an initial interest rate not to exceed 5.75% per annum, and shall mature in principal installments with a final maturity not later than December 31, 2028, shall have such redemption provisions (including premiums), be subject to tender and have such other terms as shall be determined by the Finance Director in the manner described herein. The final terms of the Note shall be specified in the 2010 Lease Agreement upon the execution thereof, and the signatures of the Mayor or the Finance Director and the Clerk executing the 2010 Lease Agreement shall constitute conclusive evidence of their approval and the City's approval thereof. The Note shall be executed on behalf of the City by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk and shall have the corporate seal of the City affixed thereto or imprinted thereon.

Section 3. Limited Obligations. The Note shall be a limited obligation of the City payable solely from the sources and in the manner as provided in the 2010 Lease Agreement, and shall be secured by the Deed of Trust and a pledge and assignment of the Lease Payments to the Lender and in favor of the registered owner of the Note, as provided in the 2010 Lease Agreement. The Note and interest thereon shall not be deemed to constitute a debt or liability of the State of Nebraska (the **"State"**) or of any political subdivision thereof within the meaning of any constitutional provision or statutory limitation of the State and shall not constitute a pledge of the full faith and credit of the State or of any political subdivision thereof, but shall be payable solely from the funds provided for in the 2010 Lease Agreement and the Deed of Trust. The issuance of the Note shall not, directly, indirectly or contingently, obligate the State or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. The State shall not in any event be liable for the payment of the principal or redemption price of or interest on the Note or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the City. No breach by the City of any such pledge, mortgage,

obligation or agreement may impose any liability, pecuniary or otherwise, upon the State or any charge upon its general credit or against its taxing power.

Section 4. Authorization and Approval of Documents. Each of the Financing Documents is hereby approved in substantially the forms presented to the City and attached to this Ordinance (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver each of the Financing Documents with such changes therein as shall be approved by the Mayor or the Finance Director and the City Attorney, such officers' signatures thereon being conclusive evidence of their approval and the City's approval thereof.

Section 5. Execution of Note and Financing Documents. The Mayor and the Clerk are hereby authorized and directed to execute the Note by manual or facsimile signature and to deliver the Note to the Purchaser for and on behalf of and as the act and deed of the City in the manner provided in the 2010 Lease Agreement. The Mayor or the Finance Director are hereby authorized and directed to execute and deliver the Financing Documents for and on behalf of and as the act and deed of the City. The Clerk or any Deputy Clerk is hereby authorized and directed to attest to the Financing Documents and to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 6. Final Terms. The Mayor or the Finance Director is hereby authorized, for and on behalf of the City, to establish for the Note (a) the aggregate principal amount thereof, which shall not exceed $3,362,000, (b) the principal and interest payment dates thereof and the principal amount thereof maturing on such dates, with a final maturity not later than December 31, 2028, (c) the date on which the Note is subject to the optional redemption provisions of the 2010 Lease Agreement and the redemption prices thereof, (d) the date or dates upon which the Lender may tender the Note for payment in advance of its final maturity, (e) the initial interest rate to be borne by the Note, not to exceed 5.75% per annum, which may thereafter be adjusted in accordance with the terms of the 2010 Lease Agreement to a rate not exceeding the maximum interest rate permitted by law. All of such final terms shall be set forth in the 2010 Lease Agreement as executed and delivered.

Section 7. Further Authority. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such further action, and to approve and execute such other documents, certificates and instruments, including, without limitation, any security documents, financing statements, note endorsements, arbitrage certificates, closing certificates or tax forms as may be necessary or desirable to carry out and comply with the intent of this Ordinance , and to carry out, comply with and perform the duties of the City with respect to the Note and the Financing Documents.

Section 8. Severability. If any one or more provisions of this Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed severable from the remaining provisions hereof and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance.

If any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid in any particular case in any jurisdiction or jurisdictions, or in all cases because it conflicts with any constitution or statute or rule or 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 9. Section Headings. The headings or titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning or construction, interpretation or effect of this Ordinance.

Section 10. Repeal of Conflicting Ordinances. All prior ordinances of the City or any parts thereof in conflict with any or all of this Ordinance are hereby repealed to the extent of such conflict.

Section 11. 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 Clerk.

INTRODUCED BY:

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PASSED _____, 2010.

ABSENT OR NOT VOTING:

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AYES: _____

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NAYS: _____

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Approved as to Form:

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City Attorney

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Bond Counsel

CONFLICT OF INTEREST:

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APPROVED: _____, 2010.

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Mayor