

**THE CITY OF LINCOLN, NEBRASKA**

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**ORDINANCE NO.** \_\_\_\_\_

**(Passed \_\_\_\_\_, 2010,**

**Approved \_\_\_\_\_, 2010)**

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**Authorizing Not to Exceed**

**\$22,500,000**

**GENERAL OBLIGATION  
BOND ANTICIPATION NOTES  
SERIES 2010**

**\$27,500,000**

**TAX ANTICIPATION NOTES  
SERIES 2010**

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THE CITY OF LINCOLN, NEBRASKA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF (A) GENERAL OBLIGATION BOND ANTICIPATION NOTES, SERIES 2010 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$22,500,000 (THE "BOND ANTICIPATION NOTES") AND (B) TAX ANTICIPATION NOTES, SERIES 2010, OF THE CITY OF LINCOLN, NEBRASKA, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$27,500,000 (THE "TAX ANTICIPATION NOTES"), FOR THE PURPOSE OF PAYING THE COSTS OF LAND ACQUISITION AND IMPROVEMENTS THEREON IN CONNECTION WITH CONSTRUCTING, EQUIPPING AND FURNISHING A NEW SPORTS/ENTERTAINMENT ARENA IN THE WEST HAYMARKET AREA OF THE CITY; PRESCRIBING CERTAIN TERMS OF THE NOTES; DELEGATING, AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO EXERCISE HIS INDEPENDENT JUDGMENT AND ABSOLUTE DISCRETION IN DETERMINING CERTAIN OTHER TERMS OF THE NOTES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON (1) THE BOND ANTICIPATION NOTES FROM THE PROCEEDS OF BONDS TO BE ISSUED BY OR MADE AVAILABLE TO THE CITY NOTES AND (2) THE TAX ANTICIPATION NOTES BY THE LEVY OF A TAX ON ALL OF THE TAXABLE PROPERTY WITHIN THE CITY OR FROM OTHER FUNDS MADE AVAILABLE TO THE CITY; AUTHORIZING AND APPROVING CERTAIN OTHER DOCUMENTS AND ACTIONS AND RELATED MATTERS

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

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

(a) The City is duly organized and validly existing as a city of the primary class and political subdivision of the State of Nebraska (the "State") under Chapter 15, Reissue Revised Statutes of Nebraska, as amended.

(b) Pursuant to Resolution No. A-85721 adopted by the Council on February 8, 2010, a special election was duly called and held in the City in conjunction with the statewide primary election on May 11, 2010, at which time the qualified electors of the City voted upon the proposition of issuing general obligation bonds of the City in an aggregate principal amount not to exceed \$25,000,000 (the "Bonds") for the purpose of paying costs incident to acquiring, constructing, equipping and furnishing the Lincoln Haymarket Arena and related facilities and improvements (the "Project"), such Bonds to be payable from the income, proceeds and revenue of the Lincoln Haymarket Area and related facilities and improvements, from state appropriations under the Convention Center Facility Financing Assistance Act and/or other state sources and from other available revenue, income and receipts of the City, including certain City sales, use and occupation and/or property tax revenue sufficient to pay the principal of and interest upon the Bonds as the same become due and payable. At such election there were 66,333 qualified electors voting on the proposition with the following results:

FOR said general obligation bonds and said tax levy	37,541
AGAINST said general obligation bonds and said tax levy	28,792

Such results were duly canvassed and certified to the City by the Election Commissioner of The County of Lancaster, Nebraska, and more than a majority of the qualified electors voting on the proposition approved the issuance of the Bonds.

(b) The estimated life of the Project is in excess of forty (40) years.

(c) The City is authorized by Article IX, Sections 39 to 43, inclusive, of the City Charter to issue its bond anticipation notes in an aggregate principal amount not to exceed \$22,500,000 (the “**Bond Anticipation Notes**”) for the purpose of providing interim financing for the costs of the Project.

(d) The City is authorized pursuant to Section 18-1750, Reissue Revised Statutes of Nebraska, as amended (“**Section 18-1750**”), to borrow money to the amount of 70% of the unexpended balance of total anticipated receipts (as determined pursuant to Section 18-1750) for the current fiscal year and the following fiscal year.

(e) It is necessary, advisable, desirable and in the best interest of the City that tax anticipation notes of the City (the “**Tax Anticipation Notes**”) be issued at this time for the purpose of paying certain costs relating to property acquisition and site preparation with respect to the Project and the costs of issuing such notes.

(f) The City anticipates receipts for the current fiscal year and the following fiscal year of \$\_\_\_\_\_ from the levying of taxes for the current fiscal year and the following fiscal year, determined pursuant to Section 18-1750.

(g) Based upon the most recent report of the City’s Treasurer, the total general fund expenditures from September 1, 2009 to and including the expected date of issuance of the Tax Anticipation Notes herein authorized (the “**Closing Date**”) is \$\_\_\_\_\_ leaving an unexpended balance of total anticipated general fund receipts of not less than \$\_\_\_\_\_.

(h) As of the Closing Date, the City will have \$\_\_\_\_\_ outstanding in notes or warrant indebtedness payable from the general fund.

(i) It is necessary, desirable, advisable and in the best interest of the City to borrow money and issue its negotiable Tax Anticipation Notes as provided under Section 18-1750, in an aggregate principal amount not to exceed \$27,500,000.

**Section 2. Authorization of Notes.** For the purpose of paying the costs set forth in **Section 1** of the Project and paying the costs of issuing the Notes herein authorized, there are hereby ordered issued (a) Bond Anticipation Notes of the City in an aggregate principal amount not to exceed Twenty-Two Million Five Hundred Thousand Dollars (\$22,500,000), designated as “The City of Lincoln, Nebraska General Obligation Bond Anticipation Notes, Series 2010” (the “**Bond Anticipation Notes**”) and (b) Tax Anticipation Notes of the City in an aggregate principal amount not to exceed Twenty-Seven Million Five Hundred Thousand Dollars (\$27,500,000), designated as “The City of Lincoln, Nebraska General Obligation Tax Anticipation Notes, Series 2010” (the “**Tax Anticipation Notes**”). The Bond Anticipation Notes and the Tax Anticipation Notes (collectively, the “**Notes**”) shall mature not later six months after the date of issuance thereof and shall bear interest at the rate established by the Finance

Director in accordance with the provisions of **Section 6** not to exceed \_\_\_\_\_% (computed on the basis of a 360-day year consisting of twelve 30-day months) payable at maturity.

**Section 3. Definitions.** In addition to those words and terms elsewhere defined herein:

“**Clerk**” means the Clerk, Deputy Clerk, Acting Clerk or Acting Deputy Clerk of the City.

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

“**Controller**” means the Controller or Acting Controller of the City, or any successor officer acting in the same or similar capacity.

“**Debt Service Fund**” means the General Obligation Bonded Indebtedness Debt Service Fund described in **Section 19** hereof.

“**Deposit Securities**” means direct or unconditionally guaranteed obligations of the United States of America, including any such obligations issued in book-entry form.

“**Escrow Obligations**” means (a) Deposit Securities, (b) certificates of deposit issued by a bank or trust company that are (1) fully insured by the Federal Deposit Insurance Corporation or similar corporation chartered by the United States of America, or (2) secured by a pledge of any Deposit Securities having an aggregate market value, exclusive of accrued interest, equal to the principal amount of the certificates so secured, which security is held in a custody account by a custodian satisfactory to the Registrar, (c) evidences of a direct ownership in future interest or principal on Deposit Securities, which Deposit Securities 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 (d) obligations issued by any state of the United States of America or any political subdivision, public instrumentality or public authority of any state, which obligations are fully secured by and payable solely from Deposit Securities that are held pursuant to an agreement 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 payments secured thereby.

“**Finance Director**” means the Finance Director or the Acting Finance Director of the City.

“**Outstanding**” when used with reference to Notes shall mean, as of any date, all Notes theretofore issued and not yet paid or discharged under the terms of this Ordinance.

“**Purchaser**” means the purchaser of the Notes selected by the Finance Director in accordance with the provisions of **Section 6**.

“**Registrar**” means the Treasurer of the City, and any successor thereto.

“**Tax Certificate**” means the Federal Tax Certificate, if any, dated the date of delivery of the Notes executed and delivered by the City in connection with the issuance of the Notes, as the same may be amended or supplemented in accordance with the provisions thereof.

“**Treasurer**” means the Treasurer, Deputy Treasurer, Acting Treasurer or Acting Deputy Treasurer of the City.

**Section 4. General Obligation Pledge; Application of Note Proceeds.**

(a) **General Obligation Pledge.** The Notes are general obligations of the City, and the full faith and credit and the taxing powers of the City have been and are hereby pledged for the payment of the principal of and interest on the Notes. The City hereby covenants and agrees to issue and sell such Bonds in a sufficient amount and at such times as will enable it to pay the principal of and interest on the Notes at or prior to maturity, to the extent not paid from other legally available funds of the City. The City has provided for the levy of a tax upon the taxable property in the City sufficient in rate and amount to pay the principal of and interest on the Tax Anticipation Notes as the same become due and payable to the extent other funds legally available to the City for such purpose are insufficient, which tax shall be in excess of and in addition to all other taxes now or hereafter authorized to be levied by the City.

The City also reserves the right to issue additional notes for the purposes of (1) paying the balance of the costs of the Project or (2) refunding the Notes at or prior to maturity. This Ordinance constitutes an irrevocable contract between the City and the registered owners of the Notes, which contract may not be changed or altered without the written consent of the registered owner of the Notes then outstanding.

(b) **Application of Note Proceeds.** The Notes shall be sold to the Purchaser at a purchase price equal to 100% of the principal amount thereof. The net proceeds from the sale of the Notes shall be received by the Finance Director and deposited, credited, used and applied to the payment of the costs of the Project and the costs of issuing the Notes.

**Section 5. Payment of Notes.** Payment of the principal and interest due at maturity shall be made by the Registrar to the registered owner of the Notes upon presentation and surrender of the Notes to the Registrar. The City and the Registrar may treat the registered owner of any Note as the absolute owner of such Note for the purpose of making payments thereon and for all other purposes and neither the City nor the Registrar shall be affected by any notice or knowledge to the contrary whether such Note or any interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Note in accordance with the terms of this Ordinance shall be valid and effectual and shall be a discharge of the City and the Registrar in respect of the liability upon the Notes or claims for interest to the extent of the sum or sums so paid.

**Section 6. Authority of Finance Director.** 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, (a) the date of original issue of the Notes and the manner of numbering with respect thereto, (b) the principal amount of the Bond Anticipation Notes to be issued, which shall in no event exceed an aggregate of \$22,500,000 in original principal amount and the principal amount of the Tax Anticipation Notes to be issued, which shall in no event exceed an aggregate of \$27,500,000, (c) the final maturity to be no later than six months after the date of issuance of the Notes, (d) whether the Notes shall be issued with a single advance or multiple advances, (e) the form and content of the note purchase agreement or similar document, if any, used by the City to sell the Notes to the Purchaser, (f) the identity of the Purchaser, (g) the rate of interest to be carried by the Notes (not to exceed \_\_\_\_\_% per annum), (h) the date, if any, on which the Notes shall be subject to redemption prior to maturity and the redemption price or prices, not to exceed \_\_\_\_\_% of the principal amount thereof and the periods during which such redemption prices are applicable, and (i) all of the other terms and provisions of the Notes not otherwise specified or fixed by the provisions of this Ordinance.

**Section 7. Delivery of Notes.** Upon execution and authentication of the Notes, they shall be delivered to the Treasurer, acting on behalf of the City, who is authorized to deliver them to the Purchaser upon receipt of the purchase price therefor as agreed upon by the Finance Director and the Purchaser. The Purchaser shall have the right to direct the registration of the Notes as to ownership. The

Clerk is hereby authorized and directed to make and certify a transcript of the proceedings of the City with respect to the Notes, a copy of which transcript shall be delivered to the Purchaser.

**Section 8. Form of Notes Generally.** The definitive Notes are issuable in registered form without coupons in denominations of \$5,000 or any integral multiple thereof. The Notes issued under the provisions of this Ordinance shall be in substantially the form set forth in this **Section 8**, 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. All such Notes 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 of any securities exchange on which the Notes may be listed or any usage or requirement of law with respect thereto.

The Notes shall be in substantially the following form:

Registered No. R-\_\_\_\_\_ Registered \$ \_\_\_\_\_

**STATE OF NEBRASKA  
COUNTY OF LANCASTER  
THE CITY OF LINCOLN  
GENERAL OBLIGATION  
[BOND ANTICIPATION NOTE/TAX ANTICIPATION NOTE]  
SERIES 2010**

Date of Original Issue                      Maturity Date                      Interest Rate  
\_\_\_\_\_, 2010                                      \_\_\_\_\_, 20\_\_\_\_                                      \_\_\_\_\_%

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:** \_\_\_\_\_ **DOLLARS**

**REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS NOTE 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 Note to be signed in its name and on its behalf by the manual or facsimile signature of its Mayor, and its corporate seal (or a facsimile thereon) to be hereunto affixed, imprinted, engraved or otherwise reproduced and countersigned by the manual or facsimile signature of its Finance Director.

**THE CITY OF LINCOLN, NEBRASKA**

By: \_\_\_\_\_ (facsimile signature)  
Mayor

**COUNTERSIGNED:** Registered in the Finance  
Department of the City of  
Lincoln, Nebraska

\_\_\_\_\_  
(facsimile signature)  
Finance Director

**NOTE REGISTRAR'S CERTIFICATE OF AUTHENTICATION**

This Note is one of the Notes described in the within-mentioned Note Ordinance.

Dated: \_\_\_\_\_, 2010

**TREASURER, CITY OF LINCOLN,  
NEBRASKA, Note Registrar and Paying Agent**

By \_\_\_\_\_  
Authorized Signature

**THE CITY OF LINCOLN, NEBRASKA** (the “City”) hereby acknowledges itself indebted to, and for value received hereby promises to pay to the Registered Owner stated above, or registered assigns, on the Maturity Date stated above (or earlier as hereinafter described), the Principal Amount stated above upon presentation and surrender hereof at the office of the note registrar and paying agent, the Treasurer of the City, in Lincoln, Nebraska (the “Registrar”), and in like manner to pay interest on said Principal Amount at the Interest Rate stated above from the Date of Original Issue stated above to maturity, payable on the Maturity Date. The principal hereof and the interest hereon are payable in any coin or currency that on the respective dates of payment thereof is legal tender for the payment of debts due the United States of America.

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***Bond Anticipation Notes***

This Note is one of an authorized series of Notes of like designation herewith aggregating \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in principal amount issued by the City under the authority of and in full compliance with the constitution and statutes of the State of Nebraska and the Charter of the City, including, particularly Article IX, Sections 39 to 43, inclusive, of the Charter, which were authorized by Ordinance No \_\_\_\_\_ duly passed by the Council on \_\_\_\_\_, 2010 and approved by the Mayor on \_\_\_\_\_, 2010 (the “Ordinance”) for the purpose of paying the costs of acquiring certain real property and site preparation relating to the development of the West Haymarket area of the City and paying the costs of issuance of the Notes.

The City has covenanted in the Ordinance to take all steps required to issue and sell its general obligation various in a sufficient amount and at such times as will enable it to pay the principal of and interest on the Note at or prior to maturity. The City has also reserved the right to issue additional bond anticipation notes for the purposes of (1) paying the balance of the costs of the Project, (2) refunding the Notes at or prior to maturity or (3) paying for additional improvements for the City. Reference is hereby made to the Ordinance, all of the provisions of which any registered owner of this note by its acceptance hereof thereby assents, for a complete description of the nature and extent of the security for the Notes and the covenants of the City with respect thereto.

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***Tax Anticipation Notes***

This Note is one of an authorized series of Notes of like designation herewith aggregating \_\_\_\_\_ Dollars (\$\_\_\_\_\_) in principal amount issued by the City under the authority of and in full compliance with the constitution and statutes of the State of Nebraska, including, particularly, Section 18-1750, Reissue Revised Statutes of Nebraska, as amended, and under and pursuant to Ordinance

No. \_\_\_\_\_ duly passed by the Council on \_\_\_\_\_, 2010 and approved by the Mayor on \_\_\_\_\_, 2010 (the “**Ordinance**”) for the purpose of paying the costs of acquiring certain real property and site preparation relating to the development of the West Haymarket area of the City and paying the costs of issuance of the Notes.

The full faith and credit of the City has been and is hereby pledged for the payment of the principal of and interest on this Note, and to the extent other funds legally available to the City are insufficient therefore, the Council shall annually provide for the levy of a tax in addition to all other taxes upon the taxable property in the City sufficient in rate and amount to pay the principal of this Note and the interest hereon as the same becomes due and payable, which tax shall be in excess of and in addition to all other taxes now or hereafter authorized to be levied by the City.

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Reference is hereby made to the Ordinance, a copy of which is on file in the office of the Clerk, and to all the provisions of which any owner of this Note by its acceptance hereof hereby assents, for a description of and the nature and extent of the security for the Notes issued under the Note Ordinance, including this Note; the tax revenues pledged to the payment of the principal of and interest on this Note; the terms and provisions upon which the covenants made therein may be discharged at or prior to the maturity of this Note, and this Note thereafter no longer be secured by the Note Ordinance or be deemed to be outstanding thereunder, if sufficient money or certain specified securities shall have been deposited with the Registrar or the Treasurer and held in trust solely for the payment hereof; and for the other terms and provisions thereof.

The Notes are subject to redemption prior to maturity at the option of the City at any time on or after \_\_\_\_\_, 2010, in whole or in part in such principal amounts as the City may, in its absolute discretion, determine and by lot within a maturity, at a redemption price equal to [100%] of the principal amount of the bond to be redeemed, together with accrued interest on such principal amount to the dated fixed for redemption.

In the event this Note is called for 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. If this Note shall have been duly called for redemption and notice of such redemption duly given as provided, then upon such redemption date this Note shall become due and payable and if money for the payment of this Note at the then applicable redemption price and the interest accrued on the principal amount hereof to the date of 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 Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Note Ordinance and upon surrender and cancellation of this Note. Upon such transfer, a new Note or Notes of the same series and maturity, of any authorized denomination or denominations and for the same aggregate 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 the principal of and interest due hereon and for all other purposes.

The Notes of this series are issuable only as fully registered Notes without coupons in denominations of \$5,000, or any integral multiple thereof not exceeding the principal amount maturing in any one year. As provided in the Note Ordinance and subject to certain limitations therein set forth, the Notes of this series are exchangeable for a like aggregate principal amount of Notes of this series of a

different authorized denomination, as requested by the Registered Owner or its duly authorized attorney upon surrender thereof to the Registrar.

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 Note and the series and issue of which it is one have happened, do exist and have been performed in regular and due time, form and manner; that this Note and the issue and series of which it is one do 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 Note and the series and issue of which it is one as provided in the Note Ordinance.

### 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 Note and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ agent to transfer the within Note on the Note Register kept by the Paying Agent 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 Note 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: \_\_\_\_\_

### Section 9. Details of Notes.

(a) Both the principal of and interest on each Note shall be payable in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts. The principal of all Notes upon maturity and the interest due thereon, shall be payable at the office of the Registrar, upon presentation and surrender of such Notes as the same shall become due and payable. Payment of the interest on each Note shall be due upon maturity.

(b) Each Note shall be executed by the manual or facsimile signatures of the Mayor and the Finance Director and the original or a facsimile of the official seal of the City shall be impressed or printed thereon. In case any officer whose signature or facsimile signature shall appear on any Note shall cease to be such officer before the delivery of such Note, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such person had remained in office

until such delivery, and also any Note may be signed by such persons as at the actual time of the execution of such Note shall be the proper officers to sign such Note although at the date of such Note such persons may not have been such officers.

(c) The City shall provide the Registrar with a supply of Note certificates for issuance upon subsequent transfers. In the event that such supply of certificates shall be insufficient to meet the requirements of the Registrar for issuance of replacement Note certificates upon transfer, the City agrees to order printed an additional supply of Note certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting officers. In case any officer whose (facsimile) signature appears on any Note ceases to be such officer before the delivery of such Note (including any Note certificates delivered to the Registrar for issuance upon transfer), such (facsimile) signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Note.

**Section 10. Authentication of Notes.** Only such Notes as shall have endorsed thereon a certificate of authentication duly executed by the Registrar shall be entitled to any benefit or security under this Ordinance. No Notes shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Registrar, and such certificate of the Registrar upon any Note shall be conclusive evidence that such Note has been duly authenticated and delivered under this Ordinance. The Registrar's certificate of authentication on any Note shall be deemed to have been duly executed if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Notes that may be issued hereunder at any one time.

**Section 11. Exchange of Notes.** Notes, upon surrender thereof at the office of the Registrar, together with an assignment duly executed by the registered owner thereof, or its attorney or legal representative in such form as shall be satisfactory to the Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Notes of the same issue and series, of any denomination or denominations authorized by this Ordinance and bearing interest at the same rate, and in substantially the same form as the Notes surrendered for exchange. The City shall make provision for the exchange of the Notes at the office of the Registrar.

**Section 12. Negotiability, Registration and Transfer of Notes.** The Registrar shall keep books for the registration and registration of transfer of Notes as provided in this Ordinance. The transfer of any Note may be registered only upon the books kept for the registration and registration of transfer of Notes upon surrender thereof to the Registrar, together with an assignment duly executed by the registered owner or its attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such registration of transfer the City shall execute and the Registrar shall authenticate and deliver in exchange for such Note a new Note or Notes, registered in the name of the transferee, of any denomination or denominations authorized by this Ordinance in an aggregate principal amount equal to the principal amount of such Note surrendered or exchanged, of the same series and maturity and bearing interest at the same rate.

In all cases in which Notes shall be exchanged or the transfer of Notes shall be registered hereunder, the City shall execute and the Registrar shall authenticate and deliver at the earliest practicable time Notes in accordance with the provisions of this Ordinance. All Notes 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 Note for each registered 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 any Note 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 Notes within 10 days prior to the maturity of the Note.

**Section 13. Ownership of Notes.** As to any Note, 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 the principal of and interest on such Note shall be made only to or upon the order of the registered owner thereof or its legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

**Section 14. Disposition and Destruction of Notes.** All Notes surrendered to the Registrar for payment shall be canceled upon such payment by the Registrar and, upon written request of the Finance Director, shall be destroyed.

**Section 14. The Registrar.** The Registrar shall keep and maintain for the City books for the registration and transfer of the Notes at its office. The name(s), registered address(es) and tax identification number(s) of the registered owner or owners of the Notes shall at all times be recorded in such books. Any Note may be transferred pursuant to its provisions at the office of the Registrar by surrender of such Note for cancellation, accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner in person or by such registered owner's duly authorized agent, and thereupon the Registrar, on behalf of the City, shall deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new Note or Notes of the same series, interest rate, aggregate principal amount and maturity. One Note may be transferred for several such Notes of the same series, interest rate and maturity, and for a like aggregate principal amount, and several such Notes may be transferred for one or several such Notes, respectively, of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Note, the surrendered Note shall be canceled and destroyed. All Notes issued upon transfer of the Notes so surrendered shall be valid obligations of the City evidencing the same obligation as the Notes surrendered and shall be entitled to all the benefits and protection of this Ordinance to the same extent as the Notes upon transfer of which they were delivered. The City and the Registrar shall not be required to transfer any Note less than 10 days prior to the maturity thereof.

**Section 15. 2010 West Haymarket Property Acquisition Fund; General Bonded Indebtedness Debt Service Fund.**

(a) **2010 West Haymarket Property Acquisition Fund.** The net proceeds of the Notes shall be deposited by the Finance Director or the Controller in a project fund, which is hereby created and established, to be known as the 2010 West Haymarket Property Acquisition Fund, and shall be disbursed according to such procedures as shall be established by the Finance Director or the Controller (1) to pay the costs of the Project, and (2) to pay the costs of issuance of the Notes.

(b) **Debt Service Fund.** There is hereby created and established a fund to be held by the City to be known as the Note Debt Service Fund (the "**Debt Service Fund**"), in which there shall be established (1) a Bond Anticipation Note Account, and (2) and Tax Anticipation Note Account for the purpose of paying the principal of and interest on the Notes at or prior to the maturity thereof.

There shall be deposited into the Bond Anticipation Note Account in the Debt Service Fund as and when received, (1) any accrued interest received upon the issuance, sale and delivery of the Bond Anticipation Notes, (2) the proceeds of any evidences of indebtedness issued to provide for the payment of the principal of and interest on the Bond Anticipation Notes, and (3) all other money received by the City that is required or that is accompanied by directions that such money is to be paid into the Bond Anticipation Note Account in the Debt Service Fund. Money in the Bond Anticipation Note Account in

the Debt Service Fund shall be used solely for the payment of the principal of and interest on the Bond Anticipation Notes at or prior to the maturity thereof.

There shall be deposited into the Tax Anticipation Note Account in the Debt Service Fund as and when received, (1) any accrued interest received upon the issuance, sale and delivery of the Tax Anticipation Notes, (2) all ad valorem taxes levied and collected by the City under this Ordinance, and (3) all other money received by the City that is required or that is accompanied by directions that such money is to be paid into the Tax Anticipation Note Account in the Debt Service Fund. Money in the Tax Anticipation Note Account in the Debt Service Fund shall be used solely for the payment of the principal of and interest on the Tax Anticipation Notes at or prior to the maturity thereof.

**Section 16. Transfer of Funds to Registrar.** The Finance Director is hereby authorized and directed to withdraw from (a) the Bond Anticipation Note Account in the Debt Service Fund sums sufficient to fully pay the principal of and interest on the Bond Anticipation Notes as and when the same become due and (b) the Tax Anticipation Note Account in the Debt Service Fund sums sufficient to fully pay the principal of and interest on the Tax Anticipation Notes as and when the same become due and (c) to pay the charges for services rendered by the Registrar, and to forward such sums to the Registrar in immediately available funds no less than 5 business days before the date when such principal, interest and fees mature or become due.

**Section 17. 2010 Tax Anticipation Notes Rebate Account.** To ensure proper compliance with the tax covenants contained in **Section 23** hereof, the City shall establish and the Treasurer shall maintain for the Notes an account in the City's Arbitrage Rebate Fund, separate from any other fund or account established and maintained hereunder, which account shall be designated as the 2010 Bond/Tax Anticipation Notes Rebate Account (the "**Rebate Account**"). All money at any time deposited in the Rebate Account in accordance with the provisions of the Tax Certificate delivered by the City in connection with the Notes, as amended or supplemented, shall be held by the Treasurer for the account of the City in trust for payment to the federal government of the United States of America of all amounts of rebatable arbitrage due and owing on the Notes, and neither the City nor the registered owner of any Note shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Account shall be governed hereby and by the Tax Certificate. The Treasurer shall invest all amounts held in the Rebate Account in accordance with the Tax Certificate. Money shall not be transferred from the Rebate Account except in accordance with the Tax Certificate.

**Section 18. Discharge of Liens and Obligations.** The City's obligations under this Ordinance and the liens, pledges, dedications, covenants and agreements of the City herein made or provided for shall be fully discharged and satisfied as to any of the Notes issued hereunder, and said Notes shall no longer be deemed Outstanding hereunder if such Notes shall have been purchased and canceled by the City or, as to any of said Notes not theretofore purchased and canceled by the City, when payment of the principal of and interest thereon to the respective dates of maturity (a) shall have been made or caused to be made in accordance with the terms thereof; or (b) shall have been provided for by depositing with a state or national bank having trust powers or trust company in trust solely for such payment (1) sufficient money to make such payment and/or (2) Escrow Obligations in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the registered owners as to principal at such times as will ensure the availability of sufficient money to make such payment and such Notes shall cease to draw interest from the date of maturity and, except for the purposes of such payment, shall no longer be entitled to the benefits of this Ordinance. Any such money so deposited with the aforesaid state or national bank or trust company as provided in this **Section 22** may be invested and reinvested in Deposit Securities at the direction of the City and all interest and income from all such Deposit Securities in the hands of the aforesaid trustee bank or trust company that are not required to pay the principal of and interest on the Notes for which such deposit has been made shall be paid to the City as and when realized and collected.

**Section 19. Tax Covenants.** If the Purchaser of the Notes is other than an appropriate fund of the City, the City will comply with the following:

(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 Notes and (2) it will not use or permit the use of any proceeds of Notes 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 Notes. 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 Notes 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 Notes, (2) it will use the proceeds of the Notes as soon as practicable and with all reasonable dispatch for the purposes for which the Notes are issued, and (3) it will not invest or directly or indirectly use or permit the use of any proceeds of the Notes or any other funds of the City in any manner, or take or omit to take any action, that would cause the Notes to be “arbitrage Notes” 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 of America pursuant to Section 148(f) of the Code and any Treasury Regulations applicable to the Notes from time to time. This covenant shall survive payment in full or defeasance of the Notes. The City specifically covenants to pay or cause to be paid to the United States of America the required amounts of rebatable arbitrage at the times and in the amounts as determined by the Tax Certificate. 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 Notes, such amendment or replacement will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes.

(d) The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any Note to be a “private activity Note.”

The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Notes pursuant to the provisions of this Ordinance until the final maturity date of all Notes outstanding.

**Section 20. General and Specific Authorizations; Ratification of Prior Actions.** Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Council hereby (a) authorizes and directs the Mayor, the Finance Director, the Treasurer, the Clerk, the City Attorney, the Controller, any individual authorized to act on their behalf, 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 purchaser or purchasers of the Notes and its or their 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 or the Controller 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 Notes 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 Notes. The execution and delivery by the Finance Director or the Controller 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 that 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 Notes, together with all other actions taken in connection with any of the matters that are the subject hereof, are hereby in all respects authorized, adopted, specified, accepted, ratified, approved and confirmed.

**Section 21. Proceedings Constitute Contract; Enforcement Thereof.** The provisions of this Ordinance, of any supplemental ordinance, and of any resolutions or other proceedings providing for the sale of the Notes and the terms and provisions thereof shall constitute a contract between the City and the registered owners of the Notes and the provisions thereof shall be enforceable by any registered owner of a Note for the equal benefit and protection of all such registered owners similarly situated, 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 of Nebraska in any court of competent jurisdiction. Such contract is made under and is to be construed in accordance with the laws of the State of Nebraska.

After the issuance and delivery of the Notes, 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 22. Benefits of Ordinance Limited to the City and Owners of the Notes.** With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Ordinance or the Notes is intended or should be construed to confer upon or give to any person other than the City and the registered owners of the Notes, 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 registered owners from time to time of the Notes as herein and therein provided.

**Section 23. 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 Note. Nothing herein contained shall, however, relieve any such officer or employee from the performance of any duty provided or required by law.

**Section 24. 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 25. 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 Notes, but the registered owners of the Notes 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 26. Applicable Law and Place of Enforcement of this Ordinance.** This Ordinance shall be construed and interpreted in accordance with the laws of the State of Nebraska. All suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in Lincoln, Nebraska 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 27. 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, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Ordinance.

**Section 28. 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 29. Publication and Effectiveness of this Ordinance; Declaration of Emergency.** 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. Whereas an emergency exists, this Ordinance shall take effect and be in force from and after its passage and publication as herein and in the City Charter provided.

*[The remainder of this page intentionally left blank.]*

**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**

\_\_\_\_\_

**Bond counsel**

**CONFLICT OF INTEREST:**

\_\_\_\_\_

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

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**Mayor**