THE CITY OF LINCOLN, NEBRASKA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LINCOLN, NEBRASKA AUTHORIZING AND APPROVING A LEASE-PURCHASE TRANSACTION WITH UNION BANK AND TRUST COMPANY, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS OF (1) PURCHASING AND INSTALLING LIGHT POLES AND RELATED EQUIPMENT, SUCH AS LIGHT FIXTURES, WIRING, AND OTHER ITEMS NECESSARY TO COMPLETE THE INSTALLATION OF NEW STREET LIGHTS IN NEWLY DEVELOPED RESIDENTIAL AND COMMERCIAL AREAS AS WELL AS REPLACING, REBUILDING AND RELOCATING STREET LIGHTS IN ESTABLISHED AREAS, (2) REPAIRING AND REPLACING APPROXIMATELY 2,800 SIDEWALK SECTIONS WITHIN THE CITY AND (3) CONSTRUCTING STREETSCAPE ENHANCEMENTS AND RELATED COSTS FOR AN ENTRYWAY CORRIDOR TO THE CITY AND TO PAY COSTS OF ISSUANCE THEREOF; APPROVING THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED $9,500,000 PRINCIPAL AMOUNT OF CERTIFICATES OF PARTICIPATION IN SUCH LEASE; FIXING IN PART AND PROVIDING FOR THE FIXING IN PART OF CERTAIN PROVISIONS OF THE LEASE; AND RELATED MATTERS.

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

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

(a) It is necessary, desirable, advisable and in the best interests of the City that the City (1) purchase and install light poles and related equipment, such as light fixtures, wiring, and other items necessary to complete the installation of new street lights in newly developed residential and commercial areas as well as replace, rebuild and relocate street lights in established areas, (2) repair and replace approximately 2,800 sidewalk sections including Americans With Disabilities Act-compliant curb ramps within the City and (3) construct streetscape enhancements, including site demolition and preparation, trees and other landscaping, irrigation (including taps, meters, street tree and center median irrigation), 18-foot tall illuminated district markers fabricated from corten steel, decorative banners and poles, electrical service, and other related costs (including contingencies, final design and construction documents, construction administration and engineering, utility relocations, and traffic control) for an entryway corridor to the City (collectively, the **"Equipment"**) for the continued health, safety and welfare of the City's residents.

(b) The City has carefully considered the options available to it with respect to financing the acquisition and installation of the Equipment.

(c) In order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the City to take the following actions:

1. Enter into a Lease-Purchase Agreement (the **"Lease"**) with Union Bank and Trust Company (the **"Trustee"**), pursuant to which the City, as lessee, will lease the Equipment from the Trustee, as lessor, with an option to purchase the Trustee's interest in the Equipment, substantially in the form presented herewith;

2. Execute and deliver a Continuing Disclosure Undertaking (the **"Disclosure Certificate"**) pursuant to which the City agrees to provide certain financial and other information with respect to the Certificates of Participation, Series 2014A (the **"Certificates of Participation"**), evidencing proportionate interests of the owners thereof in basic rent payments to be made by the City under the Lease, the form of which is described in the Preliminary Official Statement (as defined below);

3. Execute and deliver a Tax Compliance Agreement (the **"Tax Certificate"**) pursuant to which the City makes certain representations and covenants related to the exclusion of the interest portions of Basic Rent under the Lease from gross income for purposes of federal income taxation, substantially in the form presented herewith;

4. Approve a Declaration of Trust (the **"Declaration of Trust"**) by the Trustee, pursuant to which the Certificates of Participation will be executed and delivered, substantially in the form presented herewith; and

5. Approve an Official Statement respecting the Certificates of Participation, to be in substantially the same form as the Preliminary Official Statement respecting the Certificates of Participation, substantially in the form presented herewith (the **"Preliminary Official Statement,"** and together, the **"Official Statement"**).

The Lease, the Disclosure Certificate and the Tax Certificate are referred to together herein as the **"City Documents."**

Section 2. Authorization and Approval of City Documents and Declaration of Trust. The City Documents and the Declaration of Trust are hereby approved in substantially the forms submitted to and reviewed by the Council on the date hereof, with such changes therein as are approved by the Interim Finance Director (the **"Finance Director"**).

The Finance Director is hereby authorized and directed to determine (a) the principal amount of the Lease, which shall not exceed $9,500,000 (b) the principal installments to be due thereunder, (c) the final maturity of the Lease, which shall not be later than December 31, 2024, (d) the rate of interest to be carried by each principal installment such that the true interest cost shall not exceed 3.00%, and (e) the prepayment provisions, which may include a prepayment premium not to exceed 104%. The Finance Director, after receiving advice from the City Attorney and special tax counsel, is hereby authorized to make such changes, additions or deletions with respect to the Lease as may be in the best interests of the City prior to the signing thereof. The Finance Director's execution of the City Documents will be conclusive evidence of such approval.

The Finance Director is hereby authorized and directed to execute and deliver the City Documents and to approve changes to the Declaration of Trust on behalf of and as the act and deed of the City. The Clerk is hereby authorized to affix the City's seal to the City Documents and attest such seal.

Section 3. Approval of Official Statement. The Preliminary Official Statement is hereby "deemed final" as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission. The final Official Statement is hereby authorized and approved, supplementing, amending and completing the Preliminary Official Statement, with such changes therein and additions thereto as are agreed to by the officer of the City approving the final Official Statement, such officer's approval thereof to be conclusive evidence thereof, and the public distribution of the final Official Statement are in all

respects hereby authorized and approved. The Finance Director of the City is hereby authorized to execute and deliver the final Official Statement on behalf of and as the act and deed of the City.

Section 4. Sale of Certificates. The Certificates shall be sold with a maximum underwriting discount of 1.00% and a maximum net original issue discount of 2.00% through a negotiated sale or a public sale as determined by the Finance Director to be in the best interest of the City. If the Certificates are sold through a public sale, the Certificates shall be sold to the responsible bidder offering to purchase the Certificates at the lowest true interest cost to the City as described in the Notice to Bidders dated such date and in such form as shall be determined by the Finance Director on behalf of the City with respect to the Certificates. If the Certificates are sold through a negotiated sale, the Certificates shall be sold pursuant to a Certificate Purchase Agreement to an underwriter determined by the Finance Director dated such date and in such form as shall be determined by the Finance Director on behalf of the City with respect to the Certificates. The Finance Director, on behalf of the City, is hereby authorized and directed to take all necessary actions and execute all necessary documents to award the sale of the Certificates as provided herein.

Section 5. The Mayor, Finance Director, Clerk, Deputy Clerk, Treasurer, Deputy Treasurer, City Attorney and any Assistant City Attorney, are hereby authorized to execute and deliver for and on behalf of the City the City Documents and all additional certificates, documents, opinions, or other papers and to perform all other acts as they may deem necessary or appropriate in order to implement and carry out the matters herein authorized.

Section 6. 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, Clerk, Treasurer, City Attorney, 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 special tax counsel, the Lessor and its counsel, the purchaser of the Certificates 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 to the Finance Director the right, power and authority to exercise his independent judgment and absolute discretion in (1) determining and finalizing the terms and provisions of the Lease and the Certificates 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 execution and delivery of the Lease and the issuance, sale and delivery of the Certificates and the use of proceeds thereof. 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 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 special tax counsel, financial advisors, and other agents in connection with the execution and delivery of the Lease and the issuance, sale and delivery of the Certificates, together with all other actions taken in connection with any of the matters that are the subject hereof, are in all respects hereby authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 7. The provisions of this Ordinance, of any supplemental ordinance, and of any resolutions or other proceedings providing for the execution and delivery of the Lease and the sale of the Certificates and the terms and provisions thereof shall constitute a contract between the City, the Lessor and the registered owners of the Certificates, and the provisions thereof shall be enforceable by any owner of a Certificate for the equal benefit and protection of all such 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 (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 execution and delivery of the City Documents, and the issuance, sale and delivery of the Certificates, this Ordinance and any supplemental ordinance shall not be subject to repeal, but shall be subject to modification or amendment only to the extent and in the manner provided for in this Ordinance.

Section 8. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Ordinance, the City Documents or the Certificates is intended or should be construed to confer upon or give to any person other than the City, the Trustee and the registered owners of the Certificates, 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, lease 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, the Lessor and the registered owners from time to time of the Certificates as herein and therein provided.

Section 9. No officer or employee of the City shall be individually or personally liable for the performance of any duties or obligations under the City Documents or the payment of the principal of or interest on any Certificate. Nothing herein contained shall, however, relieve any such officer or employee from the performance of any duty provided or required by law.

Section 10. Whenever this Ordinance or the City Documents 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 or the City Documents 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 11. If any one or more of the covenants or agreements or portions thereof provided in this Ordinance on the part of the City to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such lease 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 Lease, but the Lessor and the registered owners of the Certificates shall retain all the rights and benefits afforded to them hereunder and under the Lease or 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 whatsoever.

Section 12. This 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 13. 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 14. This ordinance shall take effect and be in force from and after its passage and publication according to law.

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INTRODUCED BY:

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PASSED _____, **2014.**

AYES: _____

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NAYS: _____

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ABSENT OR NOT VOTING:

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CONFLICT OF INTEREST:

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APPROVED: _____, **2014.**

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Mayor

Approved as to Form:

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City Attorney

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Special Tax Counsel