
THE CITY OF LINCOLN, NEBRASKA

ORDINANCE NO. _____

(Passed _____, 2015

Approved _____, 2015)

**AN ORDINANCE AMENDING ORDINANCE NO. 19403
AS AMENDED BY ORDINANCE NO. 19590**

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 19403, AS PREVIOUSLY AMENDED BY ORDINANCE NO. 19590, TO INCREASE THE AUTHORIZED PRINCIPAL AMOUNT OF BONDS TO \$3,015,000; TO REPEAL CERTAIN PROVISIONS OF ORDINANCE NO. 19403, AS AMENDED BY ORDINANCE NO. 19590, IN CONNECTION THEREWITH; TAKING OTHER ACTION IN CONNECTION WITH THE FOREGOING; 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 as follows:

(a) Pursuant to the provisions of Ordinance No. 19403 (the “**Ordinance No. 19403**”) passed by the Council on June 28, 2010, and approved by the Mayor on June 30, 2010, which was amended by Ordinance No. 19590 (the “**Ordinance No. 19590**”); Ordinance No. 19403 as amended by Ordinance No. 19590 is herein referred to as (the “**Bond Ordinance**”) the City authorized the issuance of its not to exceed \$2,633,000 principal amount Haymarket Hotel and Tool House Redevelopment Project Tax Allocation Bonds (the “**Bonds**”) to finance the Project (as defined in the Bond Ordinance).

(b) Capitalized terms used and not otherwise defined in this Ordinance have the meanings assigned to those terms in the Bond Ordinance.

(c) The Bond Ordinance specified that the aggregate principal amount of the Bonds shall not exceed \$2,633,000.

(d) It is necessary, desirable, advisable and in the best interest of the City that certain amendments be made to the Bond Ordinance to increase the authorized principal amount of Bonds to \$3,015,000.

Section 2. The Title of the Bond Ordinance is hereby amended to read as follows:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A CITY OF LINCOLN, NEBRASKA TAX ALLOCATION BOND, SERIES 2010, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$2,633,015,000 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 HAYMARKET HOTEL & TOOL HOUSE 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

Section 3. Section 1.1 of the Bond Ordinance is hereby amended to read as follows:

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-70273 , A-71073, A-71490, A-71701, A-72046, A-72329, A-72774, A-73000, A-73698, A-74165, A-74186, A-74291, A-74603, A-74583, A-75257, A-75784, A-75974, A-76438, A-77828, A-78138, A-78688, A-80587, A-81681, A-83005, A-83839, A-84238, A-84478, A-84603, A-84867, A-84924, A-85062, A-85323, A-85518, A-85547, A-85574, A-85641, A-85689, A-86139 and A-86302 (collectively, the “**Resolution**”), approved the Lincoln Center 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, those improvements 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 (hereinafter defined), 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 \$2,6333,015,000 (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.

Section 4. Section 3.1 of the Bond Ordinance is hereby amended to read as follows:

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 or

more series, which may be Taxable Bonds or Tax-Exempt Bonds, in the aggregate principal amount described in Section 3.2, not to exceed \$~~2,6333,015~~,000. The Bonds shall be designated as "The City of Lincoln, Nebraska Haymarket Hotel & Tool House 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 the November 1 following the sixteenth anniversary of the Effective Date (as defined in the Redevelopment Agreement), 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 8.50% 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 5. Section 3.2 (a) of the Bond Ordinance is hereby amended to read as follows:

(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 \$2,6333,015,000.

Section 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 Owners 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 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 8. Effect of Article and Section Headings and Table of Contents. The headings or titles of the several Articles and Sections, 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 9. Repeal of Inconsistent Ordinances. The Title and Sections 1.1, 3.1 and 3.2(a) of Ordinance No. 19403, as amended by Ordinance No. 19590, are hereby repealed. 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 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.

INTRODUCED BY:

PASSED _____, 2015.

Approved as to Form:

City Attorney



Bond Counsel

APPROVED: _____, 2015.

Mayor