15R-227 Introduce: November 2, 2015

RESOLUTION NO. _____

A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF LINCOLN, NEBRASKA TO REIMBURSE CERTAIN EXPENSES FROM THE PROCEEDS OF CITY OF LINCOLN, NEBRASKA CERTIFICATES OF PARTICIPATION IN CONNECTION WITH THE ACQUISITION AND INSTALLATION OF MATERIALS AND EQUIPMENT FOR LIGHT POLES AND RELATED EQUIPMENT FOR LIGHTING OF STREETS, FIBER OPTIC NETWORK INSTALLATIONS AND EXPANSIONS, FIRE APPARATUS AERIAL TRUCKS AND FIRE ENGINES, A FIRE STATION, AND A ROOF AND HVAC SYSTEMS FOR THE CITY MUNICIPAL SERVICE CENTER

BE IT RESOLVED by the Council (the **"Council"**) of the City of Lincoln, Nebraska (the **"City"**) as follows:

Section 1. Findings.

(a) The City has begun the acquisition of materials and equipment for and the installation of (i) light poles and related equipment for the lighting of streets (the **"Streetlights"**); (ii) fiber optic network installations and expansions (the **"Fiber Infrastructure"**); (iii) fire apparatus aerial trucks and new fire engines (the **"Firefighting Apparatus"**) ; (iv) a fire station to replace the City's existing Fire Station No. 11, which is currently located in space provided by the Lincoln Airport Authority (the **"Fire Station"**); and (v) a new roof and HVAC systems for the City's Municipal Services Center (the **"MSC Roof and HVAC"**; and together with the Streetlights, Fiber Infrastructure, Firefighting Apparatus and Fire Station, (the **"Project"**) in the current fiscal year to provide for the health, safety and welfare of its residents.

(b) Pursuant to Section 15-201.02, Reissue Revised Statutes of Nebraska, as amended (**"Section 15-201.02"**), the City is authorized to enter into installment contracts for the purchase of real and personal property, which contracts need not be restricted to a single year and may provide for the purchase of the property in installment payments to be paid over more than one fiscal year.

(c) The City anticipates entering into one or more lease-purchase agreements (the **"Lease Agreements"**) pursuant to its authority under Section 15-201.02 in connection with all or portions of the Project to finance all or a portion of the costs of the Project through issuance, sale and delivery of one or more series of Certificates of Participation in the Lease Agreements (the **"COPs"**).

(d) The City anticipates incurring a portion of the costs of the Project prior to the issuance of the COPs and desires to preserve its ability to reimburse such costs under the provisions of the Internal Revenue Code of 1986, as amended (the **"Code"**), and the applicable regulations thereunder (the **"Regulations"**).

(e) The Regulations govern the City's use of proceeds derived from the sale of the COPs to reimburse "original expenditures" made by the City prior to the authorization of the COPs. Specifically, the Code requires the City to declare its official intent to reimburse original expenditures made in furtherance of the Project not later than 60 days after payment of such original expenditures. The Code requires that tax-exempt obligations be issued, and a reimbursement allocation be made, from the proceeds of those obligations within 18-months after the later of the date the original expenditure is paid or the Project is placed in service or abandoned, but in no event more than three (3) years after the date the expenditure is paid.

(f) It is necessary, desirable, advisable and in the best interests of the City that the requirements of the Regulations be satisfied to preserve the ability of the City to reimburse costs of the Project made by the City from and after the date of the passage and adoption of this Resolution from the proceeds of the COPs.

Section 2. Declaration of Intent and Related Matters.

(a) In accordance with the provisions of this Resolution and Section 1.150-2 of the Regulations, the Council hereby declares the official intent of the City to reimburse all or part of the costs of the Project through the execution and delivery of the Lease Agreements and the issuance of the COPs in connection therewith, the interest portion of which will be excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. Prior to the execution and delivery of the Lease Agreements and the issuance of the COPs, the City is authorized to advance moneys in the following amounts for costs of the following portions of the Project:

Project	Amount
Streetlights	$3,000,000
Fiber Infrastructure	$600,000
Firefighting Apparatus	$2,000,000
Fire Station	$1,676,000
MSC Roof and HVAC	$2,150,000

(b) Except for (i) expenditures to be paid or reimbursed from sources other than the COPs, (ii) "de minimus expenditures" defined under Section 1.150-2(f)(1) of the Regulations, and (iii) "preliminary expenditures" defined under Section 1.150-2(f)(2) of the Regulations, no expenditures made in furtherance of the Project have been paid by the City more than 60 days prior to the adoption of this Resolution.

(c) Payments under the Lease Agreements constituting debt service on the COPs will be paid from the City's General Fund.

(d) The COPs will be issued at such times and in the amounts, and upon the terms and conditions agreed to between or among the City, the lessor under the Lease Agreements and the purchaser(s) of the COPs, as authorized by the Council at a meeting held for such purpose.

(e) As of the date of this Resolution, there are no funds of the City reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than the contemplated issuance of the COPs.

Section 3. Authorizations.

(a) The Finance Director and the City Controller (each an **"Authorized Officer"**) are hereby authorized to take any further action that is necessary to preserve the ability of the City to reimburse original expenditures made in furtherance of the Project from and after the date of the passage and adoption of this Resolution from the proceeds of the COPs.

(b) The Authorized Officers shall be, and each of them hereby is, authorized to execute on behalf of the City and to deliver any and all other instruments and documents including, but not limited

to, such certificates or instruments as may be required under the terms of this Resolution necessary to be executed and delivered in connection with this Resolution and the approvals made hereby.

(c) An Authorized Officer shall be responsible for making the "reimbursement allocations" described in Section 1.150-2 of the Regulations by transferring the appropriate amount of COPs proceeds to the City accounts used to temporarily finance some or all of the Project. Each allocation must be evidenced by an entry on the official books of the City maintained for the Project and must specifically identify the original expenditure being reimbursed.

Section 4. Ratification. All acts and deeds heretofore done by any officer, employee or agent of the City, on behalf of the City, to preserve the City's ability to reimburse expenditures made in furtherance of the Project with the proceeds of the COPs are hereby ratified, confirmed and approved.

Section 5. Effective Dates. This Resolution will be in full force and effect from and after its passage and adoption by the Council and approval by the Mayor.

Section 6. Conflicting Resolutions Repealed. All resolutions of the Council, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

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INTRODUCED BY:

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APPROVED AS TO FORM:

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City Attorney

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Bond Counsel