

ORDINANCE NO. 2278

AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS OF THE CITY OF LEXINGTON, NEBRASKA, IN THE PRINCIPAL AMOUNT OF ONE MILLION TWO HUNDRED SEVENTY THOUSAND DOLLARS (\$1,270,000) FOR THE PURPOSE OF PAYING AND REDEEMING \$1,245,000 OF THE CITY'S OUTSTANDING GENERAL OBLIGATION BONDS, DATE OF ORIGINAL ISSUE - SEPTEMBER 1, 2004; DIRECTING THE APPLICATION OF THE PROCEEDS OF SAID BONDS; PRESCRIBING THE FORM OF SAID BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF TAXES TO PAY THE SAME; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA:

Section 1. The Mayor and City Council hereby find and determine that there have been heretofore issued and are now outstanding and unpaid valid and interest bearing bonds of the City of Lexington, Nebraska, as follows:

General Obligation Bonds, Series 2004, of the City of Lexington, Nebraska, date of original issue - September 1, 2004, in the principal amount of One Million Two Hundred Forty-five Thousand Dollars (\$1,245,000), numbered as shown on the books of the Paying Agent and Registrar, in denomination of \$5,000 each, becoming due and bearing interest as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
\$ 60,000	October 15, 2010	3.45%	529437 FS9
65,000	October 15, 2011	3.65	529437 FT7
65,000	October 15, 2012	3.85	529437 FU4
70,000	October 15, 2013	4.00	529437 FV2
70,000	October 15, 2014	4.10	529437 FW0
75,000	October 15, 2015	4.20	529437 FX8
80,000	October 15, 2016	4.30	529437 FY6
80,000	October 15, 2017	4.40	529437 FZ3
85,000	October 15, 2018	4.45	529437 GA7
90,000	October 15, 2019	4.55	529437 GB5
95,000	October 15, 2020	4.65	529437 GC3
95,000	October 15, 2021	4.70	529437 GD1
100,000	October 15, 2022	4.80	529437 GE9
105,000	October 15, 2023	4.85	529437 GF6
110,000	October 15, 2024	4.95	529437 GG4

Said bonds are hereinafter referred to as the "Refunded Bonds."

The Refunded Bonds are subject to redemption at any time on or after September 1, 2009, at par and accrued interest, and said interest is payable semiannually. The proceeds of the Refunded Bonds were used to pay the costs of construction, equipping and furnishing of a public library facility in the City of Lexington.

The Refunded Bonds are valid, interest bearing obligations of the City of Lexington, Nebraska, and have been called for redemption on March 30, 2010. Since the Refunded Bonds were issued, the rates of interest have so declined in the markets that by taking up and paying off said Refunded Bonds on said call date, a substantial savings in the amount of yearly running interest will be made to the City; that for the purpose of making said redemption, it is for the best interest of the City to issue general obligation refunding bonds of the City in the principal amount of \$1,270,000; that all conditions, acts and things required to exist or to be done precedent to the issuance of refunding bonds of the City of Lexington, Nebraska, in the principal amount of One Million Two Hundred Seventy Thousand Dollars (\$1,270,000), pursuant to Section 10-142 R.R.S. Neb. 2007, do exist and have been done as required by law.

Section 2. To provide for the refunding of the Refunded Bonds as set forth in Section 1 hereof, there shall be and there are hereby ordered issued General Obligation Refunding Bonds, Series 2010, of the City of Lexington, Nebraska, in the principal amount of One Million Two Hundred Seventy Thousand Dollars (\$1,270,000) (the "Series 2010 Bonds") with said bonds bearing interest at the rates per annum (said interest to be computed on the basis of a 360-day year consisting of twelve 30-day months) and maturing on October 15 of each year in the principal amounts as follows:

<u>Principal</u>	<u>Date of Maturity</u>	<u>Interest Rate</u>
\$ 65,000	October 15, 2010	0.70%
75,000	October 15, 2011	1.05
75,000	October 15, 2012	1.40
75,000	October 15, 2013	1.65
75,000	October 15, 2014	2.00
80,000	October 15, 2015	2.40
85,000	October 15, 2016	2.75
80,000	October 15, 2017	3.00
85,000	October 15, 2018	3.30
90,000	October 15, 2019	3.50
95,000	October 15, 2020	3.60
90,000	October 15, 2021	3.70
95,000	October 15, 2022	3.80
100,000	October 15, 2023	3.90
105,000	October 15, 2024	4.00

The Series 2010 Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The Series 2010 Bonds shall bear date of original issue of the date of delivery

thereof. Interest on the Series 2010 Bonds, at the respective rates for each maturity, shall be payable semiannually on April 15 and October 15 of each year, commencing October 15, 2010 (each of said dates an "Interest Payment Date") and the Series 2010 Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the close of business on the last business day of the month immediately preceding the month in which the Interest Payment Date occurs (the "Record Date"), subject to the provisions of Section 4 hereof. The Series 2010 Bonds shall be numbered from 1 upwards in the order of their issuance. No Series 2010 Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Series 2010 Bonds issued shall be designated by the City's Treasurer as directed by the initial purchaser thereof. Payments of interest due on the Series 2010 Bonds prior to maturity or date of redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Series 2010 Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 3 hereof. Payments of principal and accrued interest thereon due at maturity or at any date fixed for redemption prior to maturity shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the Series 2010 Bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the registered owner of any Series 2010 Bond as the absolute owner of such Series 2010 Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such Series 2010 Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Series 2010 Bond in accordance with the terms of this Ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Series 2010 Bonds or claims for interest to the extent of the sum or sums so paid.

Section 3. The City Treasurer is hereby designated as the Paying Agent and Registrar for the Series 2010 Bonds provided that the City reserves the right to designate a bank or trust company to serve in such capacity and upon such agreed terms as shall be determined by the Mayor and Council. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Series 2010 Bonds at the City offices. The names and registered addresses of the registered owner or owners of the Series 2010 Bonds shall at all times be recorded in such books. Any Series 2010 Bond may be transferred pursuant to its provisions at the office of said Paying Agent and Registrar by surrender of such Series 2010 Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar on behalf of the City will 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 such transferee owner or owners, a new Series 2010 Bond or Series 2010 Bonds of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Series 2010 Bonds by this Ordinance, one Series 2010 Bond may be transferred for several such Series 2010 Bonds of the same interest rate and maturity, and for a like aggregate principal amount, and several such Series 2010 Bonds may be transferred for one or several such Series 2010 Bonds, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Series 2010 Bond, the surrendered Series 2010 Bond shall be canceled and destroyed. All Series 2010 Bonds issued upon transfer of the Series 2010 Bonds so surrendered shall be valid obligations of the City evidencing the same obligations as the Series 2010 Bonds surrendered and shall be entitled to all the benefits and protection of this Ordinance to the same extent as the Series 2010 Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any Series 2010 Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Series 2010 Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 4. In the event that payments of interest due on the Series 2010 Bonds on an Interest

Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the Series 2010 Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 5. If the date for payment of the principal of or interest on the Series 2010 Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Lexington, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 6. Series 2010 Bonds maturing October 15, 2015 and thereafter shall be subject to redemption, in whole or in part, prior to maturity at any time on or after the fifth anniversary of the date of original issue thereof, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City may select the Series 2010 Bonds to be redeemed in its sole discretion but the Series 2010 Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Series 2010 Bonds redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for new Series 2010 Bonds evidencing the unredeemed principal thereof. Notice of redemption of any Series 2010 Bond called for redemption shall be given at the direction of the City by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such Series 2010 Bond at said owner's registered address. Such notice shall designate the Series 2010 Bond or Series 2010 Bonds to be redeemed by maturity or otherwise, the date of original issue and the date fixed for redemption and shall state that such Series 2010 Bond or Series 2010 Bonds are to be presented for prepayment at the office of said Paying Agent and Registrar. In case of any Series 2010 Bond partially redeemed, such notice shall specify the portion of the principal amount of such Series 2010 Bond to be redeemed. No defect in the mailing of notice for any Series 2010 Bond shall affect the sufficiency of the proceedings of the City designating the Series 2010 Bonds called

for redemption or the effectiveness of such call for Series 2010 Bonds for which notice by mail has been properly given and the City shall have the right to further direct notice of redemption for any such Series 2010 Bond for which defective notice has been given.

Section 7. The Series 2010 Bonds shall be in substantially the following form:





This bond is transferable by the registered owner or such owner's attorney duly authorized in writing at the office of the Paying Agent and Registrar upon surrender and cancellation of this bond, and thereupon a new bond or bonds of the same aggregate principal amount, interest rate and maturity will be issued to the transferee as provided in the Ordinance, subject to the limitations therein prescribed. The City, the Paying Agent and Registrar and any other person may treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment due hereunder and for all purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

If the date for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Lexington, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond and in the issuance of the bonds refunded hereby did exist, did happen and were done and performed in regular and due form and time as required by law and that the indebtedness of said City, including this bond, does not exceed any limitation imposed by law. The City agrees that it will cause to be levied and collected annually a tax by valuation on all the taxable property in the City, in addition to all other taxes, sufficient in rate and amount to pay the principal and interest of said bonds as the same become due.

AS PROVIDED IN THE ORDINANCE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE ORDINANCE, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE ORDINANCE TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT AND REGISTRAR. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS BOND MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE ORDINANCE.

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE PAYING AGENT AND REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE PAYING AGENT AND REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY BOND ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREOF IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSONS IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.



This bond shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar.

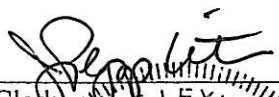
IN WITNESS WHEREOF, the Mayor and Council of the City of Lexington, Nebraska, have caused this bond to be executed on behalf of the City with the facsimile signatures of the Mayor and the City Clerk and by causing the official seal of the City to be imprinted hereon or affixed hereto, all as of the date of original issue specified above.


CITY OF LEXINGTON, NEBRASKA



\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

(SEAL) 

**CERTIFICATE OF AUTHENTICATION  
AND REGISTRATION**

This bond is one of the series designated therein and has been registered to the owner named in said bond and the name of such owner has been recorded in the books of record maintained by the undersigned as Paying Agent and Registrar for said issue of bonds.

\_\_\_\_\_  
City Treasurer,  
Paying Agent and Registrar  
for the City of Lexington, Nebraska

(Form of Assignment)

For value received \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ (Social Security or Taxpayer I.D. No. \_\_\_\_\_) the within bond and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to transfer the same on the books of registration in the office of the within mentioned Paying Agent and Registrar with full power of substitution in the premises.

Dated: \_\_\_\_\_

Registered Owner(s)  
\_\_\_\_\_  
\_\_\_\_\_

Signature Guaranteed

By \_\_\_\_\_  
Authorized Officer(s)

Note: The signature(s) on this assignment MUST CORRESPOND with the name(s) as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever, and must be guaranteed by a commercial bank or a trust company or by a firm having membership on the New York, Midwest or other stock exchange.

Section 8. Each of the Series 2010 Bonds shall be executed on behalf of the City with the facsimile signatures of the Mayor and the City Clerk and shall have imprinted thereon the City's seal. The Series 2010 Bonds shall be issued initially as "book-entry-only" bonds under the services of The Depository Trust Company (the "Depository"), with one typewritten bond per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a Letter of Representations (the "Letter of Representations") in the form required by the Depository (which may be in the form of a blanket letter, including any such letter previously executed and delivered), for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Series 2010 Bonds. With respect to the issuance of the Series 2010 Bonds as "book-entry-only" bonds, the following provisions shall apply:

(a) The City and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Series 2010 Bonds as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a Series 2010 Bond from a Bond Participant while the Series 2010 Bonds are in book-entry form (each, a "Beneficial Owner") with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Series 2010 Bonds;

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Series 2010 Bonds, including any notice of redemption; or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Series 2010 Bonds. The Paying Agent and Registrar shall make payments with respect to the Series 2010 Bonds only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Series 2010 Bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Bond, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange Series 2010 Bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable

notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Series 2010 Bonds or (ii) to make available Series 2010 Bonds registered in whatever name or names as the Beneficial Owners transferring or exchanging such Series 2010 Bonds shall designate.

(c) If the City determines that it is desirable that certificates representing the Series 2010 Bonds be delivered to the ultimate beneficial owners of the Series 2010 Bonds and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of bond certificates representing the Series 2010 Bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the Series 2010 Bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Series 2010 Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such Series 2010 Bond and all notices with respect to such Series 2010 Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Series 2010 Bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the Series 2010 Bonds may be delivered in physical form to the following:

(i) any successor securities depository or its nominee; or

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section.

(f) In the event of any partial redemption of a Series 2010 Bond unless and until such partially redeemed bond has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such bond as is then outstanding and all of the Series 2010 Bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository is terminated or resigns and is not replaced, the City shall immediately provide a supply of printed bond certificates, duly executed by manual or facsimile signatures of the Mayor and City Clerk and sealed with the City's seal, for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of such certificates and to direct their execution by manual or facsimile signatures of its then duly

qualified and acting Mayor and City Clerk and by imprinting thereon or affixing thereto the City's seal. In case any officer whose signature or facsimile thereof shall appear on any Series 2010 Bond shall cease to be such officer before the delivery of such bond (including such certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption), such signature or 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 bond. The Series 2010 Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Series 2010 Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration, and authentication of the Series 2010 Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to Ameritas Investment Corp., as initial purchaser thereof. The Series 2010 Bonds are hereby sold to said purchaser for the sum of \$1,252,537.50, plus accrued interest, if any, thereon to date of payment and delivery. Bond counsel and such purchaser and its agents, representatives and counsel are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Series 2010 Bonds, including without limitation, authorizing the release of the Series 2010 Bonds by the Depository at closing. Said initial purchaser shall have the right to direct the registration of the Series 2010 Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The officers of the City (or any one of them) are hereby authorized to execute and deliver the Bond Purchase Agreement for and on behalf of the City. The Treasurer of the City shall maintain a record of information with respect to the Series 2010 Bonds as required under Section 10-140, R.R.S. 2007, and shall cause the same to be filed in the office of the Auditor of Public Accounts of the State of Nebraska. The City Clerk shall make and certify a duplicate transcript of the proceedings of the Mayor and Council with respect to the Series 2010 Bonds which shall be delivered to said purchaser. The officers of the City are further authorized to take such actions as such officers may deem necessary or appropriate in order to carry out the terms of this Ordinance.

Section 9. The proceeds of the Series 2010 Bonds along with City funds on hand shall be applied to the payment and satisfaction of principal of and interest on the Refunded Bonds as called for redemption on March 30, 2010 as described in Section 1 hereof upon order of the Mayor and Council.



Accrued interest received from the sale of the Series 2010 Bonds, if any, shall be applied to pay interest falling due on said Series 2010 Bonds on October 15, 2010. Expenses of issuance of the Series 2010 Bonds may be paid from the proceeds of the Series 2010 Bonds.

Section 10. The holders of the Series 2010 Bonds shall be subrogated to all rights of the holders of the Refunded Bonds from and after their payment and redemption on March 30, 2010. The City agrees that it shall cause to be levied and collected annually a special levy of taxes on all the taxable property in the City, in addition to all other taxes, sufficient in rate and amount to fully pay the principal and interest of the Series 2010 Bonds when and as such principal and interest become due.

Section 11. The City hereby covenants to the purchasers and holders of the Series 2010 Bonds hereby authorized that it will make no use of the proceeds of said bond issue, including monies held in any sinking fund for the Series 2010 Bonds, which would cause the Series 2010 Bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103(b) and 148 and all applicable regulations thereunder throughout the term of said bond issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax exempt status (as to taxpayers generally) of interest payable on the Series 2010 Bonds. The City hereby designates the Series 2010 Bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not reasonably expect to issue tax-exempt bonds or other tax-exempt obligations aggregating in principal amount more than \$30,000,000 during calendar 2010.

Section 12. The City's obligations under this Ordinance with respect to any or all of the Series 2010 Bonds herein authorized shall be fully discharged and satisfied as to any or all of such Series 2010 Bonds and any such Series 2010 Bond shall no longer be deemed to be outstanding hereunder if such Series 2010 Bond has been purchased by the City and canceled or when the payment of the principal of and interest thereon to the respective date of maturity or redemption (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 national or state bank having trust powers, or trust company, in trust, solely for such payment (i) sufficient money to make such payment and/or (ii) direct general obligations (including obligations issued

or held in book entry form on the books of the Department of Treasury of the United States of America) of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "U.S. Government Obligations") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will ensure the availability of sufficient money to make such payment; provided, however, that with respect to any Series 2010 Bond to be paid prior to maturity, the City shall have duly called such bond for redemption and given notice of such redemption as provided by law or made irrevocable provision for the giving of such notice. Any money so deposited with such bank or trust company may be invested or reinvested in U.S. Government Obligations at the direction of the City, and all interest and income from U.S. Government Obligations in the hands of such bank or trust company in excess of the amount required to pay principal of and interest on the Series 2010 Bonds for which such monies or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

Section 13. In accordance with the requirements of Rule 15c2-12 (as now existing or as subsequently amended, the "Rule") promulgated by the Securities and Exchange Commission, the City hereby agrees that it will provide the following continuing disclosure information:

(a) to the Municipal Securities Rulemaking Board (the "MSRB") and to the Underwriter, the City shall provide information generally consistent with the information set forth in the Management's Discussion and Analysis contained in its audited financial statements, and its audited financial statements; such information is expected to be available not later than seven months after the end of each fiscal year for the City. Governmental and business-type activities in the government-wide financial statements and the proprietary and fiduciary fund financial statements are to be presented on the accrual basis of accounting and the governmental funds financial statements are presented on the modified accrual basis of accounting in conformity with generally accepted accounting principles, subject to the City's discretion to change accounting methods as and to the extent that it deems appropriate from time to time.

(b) in a timely manner to the MSRB, notice of the occurrence of any of the following events with respect to the Series 2010 Bonds, if in the judgment of the City, such event is material:

- (1) principal and interest payment delinquencies,
- (2) non-payment related defaults,
- (3) unscheduled draws on debt service reserves reflecting financial difficulties (there are no debt service reserves established for the Series 2010 Bonds under the terms of the Ordinance),

- (4) unscheduled draws on credit enhancements reflecting financial difficulties (there is no credit enhancement on the Series 2010 Bonds),
- (5) substitution of credit or liquidity providers, or their failure to perform (not applicable to the Series 2010 Bonds),
- (6) adverse tax opinions or events affecting the tax-exempt status of the Series 2010 Bonds,
- (7) modifications to rights of the holders of the Series 2010 Bonds,
- (8) bond calls,
- (9) defeasances,
- (10) release, substitution, or sale of property securing repayment of the Series 2010 Bonds, and
- (11) rating changes (the Series 2010 Bonds are not rated and no rating for the Series 2010 Bonds is expected to be requested).

The City has not undertaken to provide notice of the occurrence of any other material event, except the events listed above.


The City hereby agrees that all information required to be filed with the MSRB under the terms of its continuing disclosure undertaking shall be provided for filing in such format and accompanied by such identifying information as shall be prescribed by the MSRB. The City reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the City, consistent with the Rule. The City hereby agrees that such covenants are for the benefit of the registered owners of the Series 2010 Bonds (including Beneficial Owners) and that such covenants may be enforced by any registered owner or Beneficial Owner, provided that any such right to enforcement shall be limited to specific enforcement of such undertaking and any failure shall not constitute an event of default under this Ordinance. The continuing disclosure obligations of the City under this Ordinance, as described above, shall cease when none of the Series 2010 Bonds remain outstanding.

Section 14. The Preliminary Official Statement is hereby approved and the Mayor and City Clerk are hereby authorized to approve on behalf of the City a final Official Statement with any changes deemed appropriate by them.

Section 15. This Ordinance shall be in force and take effect from and after its passage and publication in pamphlet form as provided by law.

PASSED AND APPROVED this 23<sup>rd</sup> day of February, 2010.

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

