

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF COMBINED UTILITIES REVENUE REFUNDING BONDS, 2011 SERIES, OF THE CITY OF LEXINGTON, NEBRASKA, IN THE AGGREGATE PRINCIPAL AMOUNT OF ONE MILLION SIX HUNDRED FIFTY THOUSAND DOLLARS (\$1,650,000) FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT AND REDEMPTION OF THE CITY'S OUTSTANDING COMBINED UTILITIES REVENUE BONDS, 2004 SERIES; DIRECTING THE APPLICATION OF THE PROCEEDS OF SAID BONDS; PRESCRIBING THE FORM, TERMS AND DETAILS OF SAID BONDS; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE SEWER, WATER AND ELECTRIC SYSTEMS OWNED BY THE CITY FOR THE PAYMENT OF SAID BONDS AND INTEREST THEREON; ESTABLISHING THE TERMS UPON WHICH ADDITIONAL BONDS OF EQUAL LIEN UPON REVENUES MAY BE ISSUED; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE OWNERS OF SAID BONDS; SELLING THE BONDS AND AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

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

Section 1. The Mayor and Council of the City of Lexington hereby find and determine:

(a) The City owns and operates its own sewage disposal plant and sanitary sewer system (as now existing or hereafter extended and improved, the "Sewer System"), waterworks plant and water system (as now existing or hereafter extended and improved, the "Water System") and electric light and power distribution system (as now existing or hereafter extended and improved, the "Electric System") (the Sewer System, the Water System and the Electric System (together with any additions, extensions and improvements thereto hereafter constructed or acquired) are herein referred to as the "Combined Utilities"), all of which are hereby determined to be revenue producing facilities under the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb. 2007, as amended;

(b) The City has heretofore issued and outstanding the following revenue bonds which are a lien upon and secured by a pledge of the revenue and earnings of the Combined Utilities:

Combined Utilities Revenue Bonds, 2004 Series, of the City of Lexington, Nebraska, date of original issue - September 28, 2004, issued pursuant to Ordinance No. 2186 in the original principal amount of Two Million Two Hundred Five Thousand Dollars (\$2,205,000), of which \$1,695,000 remain outstanding and unpaid (the "2004 Series Bonds").

Combined Utilities Revenue Bonds, 2008 Series, of the City of Lexington, Nebraska, date of original issue - September 26, 2008, issued pursuant to Ordinance No. 2251 in the original principal amount of Three Million Five Hundred Forty Thousand Dollars (\$3,540,000), of which \$3,305,000 remain outstanding and unpaid (the "2008 Series Bonds").

Combined Utilities Revenue Refunding Bonds, 2009 Series, of the City of Lexington, Nebraska, date of original issue - May 12, 2009, issued pursuant to Ordinance No. 2262 in the original principal amount of Four Million Three Hundred Sixty-five Thousand Dollars (\$4,365,000), of which \$3,905,000 remain outstanding and unpaid (the "2009 Series Bonds").

The 2004 Series Bonds, the 2008 Series Bonds and the 2009 Series Bonds represent the only indebtedness of the City for which the revenues and earnings of the Combined Utilities have been pledged. The 2008 Series Bonds and the 2009 Series Bonds which are to remain outstanding after the issuance of the 2011 Series Bonds are sometimes referred to herein as the "Outstanding Bonds."

(c) Since the issuance of the 2004 Series Bonds, the interest rates in the bond markets have declined and the City can effect a savings in interest costs by issuing refunding bonds to redeem the 2004 Series Bonds; the 2004 Series Bonds have been called for redemption on June 1, 2011 (the "Redemption Date"); and it is necessary and advisable for the City to issue its combined utilities revenue refunding bonds in the principal amount of \$1,650,000 to refund the 2004 Series Bonds as called on the Redemption Date. The 2004 Series Bonds will from and after the issuance of such refunding bonds be no longer outstanding (collectively, the "Refunded Bonds").

(d) Under the terms of Section 19 of Ordinance No. 2186, Section 19 of Ordinance No. 2251 and Section 19 of Ordinance No. 2262, the City is authorized to issue refunding bonds which qualify as "Additional Bonds" of equal lien to the 2008 Series Bonds and the 2009 Series Bonds, provided that the "Net Revenues Test" described in Section 19(b)(1) of Ordinance No. 2251 and Section 19(b)(1) of Ordinance No. 2262 can be satisfied. With respect to said conditions, the following determinations are hereby made:

- 1) The "Net Revenues" of the Combined Utilities as defined in Ordinance No. 2186, Ordinance No. 2251 and Ordinance No. 2262, as shown in the City's audit report as conducted by independent certified public accountants for the fiscal year ended September 30, 2010, were not less than \$2,000,000;
- 2) The "Average Annual Debt Service Requirements" of the 2008 Series Bonds, the 2009 Series Bonds and the proposed 2011 Series Bonds are not more than \$656,960.50 and the Maximum Annual Debt Service on the 2008 Series Bonds, the 2009 Series Bonds and the proposed 2011 Series Bonds is not more than \$863,900.00;
- 3) Said "Net Revenues" exceed 1.20 times said "Average Annual Debt Service Requirements" and "Maximum Annual Debt Service" of the 2008 Series Bonds and the 2009 Series Bonds as proposed to remain outstanding, and of the proposed 2011 Series Bonds.
- 4) All conditions required by Section 19 of Ordinance No. 2251 and Section 19 of Ordinance No. 2262 precedent to the issuance of the 2011 Series Bonds as "Additional Bonds" of equal priority and on a parity with the 2008 Series Bonds and the 2009 Series Bonds do exist and have happened.

(e) To satisfy the funding requirements described in this Section 1, it is necessary for the City to issue its Combined Utilities Revenue Refunding Bonds, 2011 Series, in the total principal amount of \$1,650,000 (the "2011 Series Bonds") pursuant to Sections 18-1803 to 18-1805 R.R.S. Neb. 2007, as amended. All conditions, acts and things required by law to exist or to be done precedent to the issuance of the 2011 Series Bonds as provided for in this Ordinance do exist and have been done and performed in regular and due time and form as required by law.

Section 2. In addition to the definitions provided in parentheses elsewhere in this Ordinance, the following definitions of terms shall apply, unless the context shall clearly indicate otherwise:

- (a) The term "Applicable Debt Service Reserve Transfer" shall mean the amount of any required transfer from the respective sub-accounts in the Combined Utilities Bond Reserve Account for the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds or any issue of Additional Bonds. The amount of any Applicable Debt Service Reserve Transfer shall apply under the terms of Ordinance No. 2251, Ordinance No. 2262 and this Ordinance so long as the Reserve Requirement is being maintained in the sub-account of the Combined Utilities

Bond Reserve Account for the respective series of bonds for which such Applicable Debt Service Reserve Transfer has been established. In the event of any deficiency with respect to such Reserve Requirement, the amount of the Applicable Debt Service Reserve Transfer next required to be made in order of time shall be reduced by the amount of such deficiency for purposes of any calculation or determination under the terms of Ordinance No. 2251, Ordinance No. 2262 and this Ordinance.

- (b) The term "Additional Bonds" shall mean any and all bonds hereafter issued by the City pursuant to the terms of Ordinance No. 2251, Ordinance No. 2262 and this Ordinance which are equal in lien to the 2008 Series Bonds, the 2009 Series Bonds and the 2011 Series Bonds including such bonds issued pursuant to Section 19 of said ordinances and refunding bonds issued pursuant to Section 20 of said ordinances, as and when such bonds become equal in lien to the 2008 Series Bonds, the 2009 Series Bonds and the 2011 Series Bonds, according to their terms and the terms of said Section 20.
- (c) "Average Annual Debt Service Requirements" shall mean that number computed by adding all of the principal and interest due when computed to the absolute maturity of the bonds for which such computation is required and dividing by the number of years remaining that the longest bond of any issue for which such computation is required has to run to maturity. In making such computation, the principal of any bonds for which mandatory redemptions are scheduled shall be treated as maturing in accordance with such schedule of mandatory redemptions.
- (d) The term "Deposit Securities" shall mean direct obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America, including obligations issued in book-entry form.
- (e) The term "Maximum Annual Debt Service" shall mean the maximum amount scheduled to fall due for payment of principal and interest in any fiscal year on the bonds for which such computation is required. In making such computation, the principal of any bonds for which mandatory redemptions are scheduled shall be treated as maturing in accordance with such schedule of mandatory redemptions.
- (f) The term "Net Revenues" shall mean the gross revenues derived by the City from the ownership or operation of the Combined Utilities, including investment income, but not including any income from sale or disposition of any property belonging to or forming a part of the Combined Utilities, less the ordinary expenses to the City of operating and maintaining the Combined Utilities payable from the Operation and Maintenance Account described in Section 13 of Ordinance No. 2251, Ordinance No. 2262 and this Ordinance. Operation and maintenance expenses for purposes of determining "Net Revenues" shall not include depreciation, amortization or interest on any bonds or other indebtedness. Net Revenues for all purposes of Ordinance No. 2251, Ordinance No. 2262 and this Ordinance shall be shown by an audit for the fiscal year in question as conducted by independent certified public accountants, provided, however, that in the case of issuance of Additional Bonds, for that period from the end of each fiscal year until the financial statements reported on by the City's accountants are available, Net Revenues shall either (i) be based upon the most recent fiscal year for which there are financial statements which have been reported on by such accountants so long as the unaudited financial information for the then most recently completed fiscal year as certified by the City Treasurer would not result in a contrary determination, if such unaudited financial information were deemed the completed and reported on results or (ii) based upon a report of the City's accountants that the completed and reported on results will not be less than such amount as such accountants shall confirm.

- (g) "Paying Agent and Registrar" shall mean the City Treasurer of the City of Lexington, Nebraska, as appointed to act as the combined paying agent and bond registrar for the 2011 Series Bonds pursuant to Section 4 hereof.
- (h) "Reserve Requirement" shall mean the amount required to be maintained in the respective sub-accounts in the Combined Utilities Bond Reserve Account for the 2008 Series Bonds, the 2009 Series Bonds, the Series 2011 Bonds or any issue of Additional Bonds.

Section 3. For the purposes described in Section 1 hereof, there shall be and there are hereby ordered issued the negotiable bonds of the City of Lexington, Nebraska, to be known as "Combined Utilities Revenue Refunding Bonds, 2011 Series" in the stated principal amount of One Million Six Hundred Fifty Thousand Dollars (\$1,650,000), with such 2011 Series Bonds bearing interest at the rates per annum and maturing on September 15 of the years shown in the principal amounts as follows:

<u>Maturing on September 15 of Year</u>	<u>Amount of Principal Maturing</u>	<u>Interest Rate Per Annum</u>
2011	\$ 30,000	0.35%
2012	110,000	0.70
2013	115,000	1.05
2014	115,000	1.40
2015	110,000	1.70
2016	115,000	2.10
2017	120,000	2.45
2018	120,000	2.75
2019	125,000	3.10
2020	130,000	3.30
2021	135,000	3.50
2022	140,000	3.65
2023	145,000	3.85
2024	140,000	4.00

The 2011 Series Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the 2011 Series Bonds shall be the date of delivery thereof. Interest on the 2011 Series Bonds, at the respective rates for each maturity, shall be payable semiannually on March 15 and September 15 of each year, commencing September 15, 2011 (each of said dates an "Interest Payment Date") and the 2011 Series Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. 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 5 hereof. The 2011 Series Bonds shall be numbered from 1 upwards in the order of their issuance. No 2011 Series 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 2011 Series Bonds issued shall be designated by the City's Treasurer as directed by the initial purchaser thereof. Payments of interest due prior to maturity or earlier redemption on the 2011 Series Bonds shall be made by the Paying Agent and Registrar, as designated pursuant to Section 4 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 2011 Series 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 4 hereof. Payments of principal and unpaid 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 2011 Series Bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the registered owner of any 2011 Series Bond as the absolute owner of such 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 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 2011 Series 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 2011 Series Bonds or claims for interest to the extent of the sum or sums so paid.

Section 4. The City Treasurer is hereby designated to serve as Paying Agent and Registrar for the 2011 Series Bonds. The City reserves the right, in the discretion of the Mayor and Council, to appoint a bank or trust company as successor to the City Treasurer in the capacity of Paying Agent and Registrar under the terms of an agreement to be approved at the time of any such designation. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the 2011 Series Bonds at the City offices. The names and registered addresses of the registered owner or owners of the 2011 Series Bonds shall at all times be recorded in such books. Any 2011 Series Bond may be transferred pursuant to its provisions at the office of said Paying Agent and Registrar by surrender of such 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 2011 Series Bond or 2011 Series Bonds of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the 2011 Series Bonds by this Ordinance, one such bond may be transferred for several such bonds of the same interest rate and maturity, and for a like aggregate principal amount, and several such bonds may be transferred for one or several such bonds, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a 2011 Series Bond, the surrendered 2011 Series Bond or Bonds shall be canceled and destroyed. All 2011 Series Bonds issued upon transfer of the 2011 Series Bonds so surrendered shall be valid obligations of the City evidencing the same obligations as the 2011 Series Bonds surrendered and shall be entitled to all the benefits and protection of this Ordinance to the same extent as the 2011 Series Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any 2011 Series Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any 2011 Series Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 5. In the event that payments of interest due on the 2011 Series 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 2011 Series 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 6. If the date for payment of the principal of or interest on the 2011 Series 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 7. 2011 Series Bonds maturing on or after September 15, 2016, 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 the principal amount thereof, together with accrued interest on the principal amount redeemed to the date fixed for redemption. Such optional redemption shall be made from time to time as shall be directed by the Mayor and Council of the City. The City may select the 2011 Series Bonds to be redeemed for such optional redemption in its sole discretion.

The 2011 Series Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Any 2011 Series Bond redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for a new 2011 Series Bond evidencing the unredeemed principal thereof. Notice of redemption of any 2011 Series 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 2011 Series Bond at said owner's registered address. Such notice shall designate the 2011 Series Bond or Bonds to be redeemed by maturity or otherwise, the date of original issue and the date fixed for redemption and shall state that such bond or bonds are to be presented for prepayment at the office of said Paying Agent and Registrar. In case of any 2011 Series Bond partially redeemed, such notice shall specify the portion of the principal amount of such bond to be redeemed. No defect in the mailing of notice for any 2011 Series Bond shall affect the sufficiency of the proceedings of the City designating the 2011 Series Bonds called for redemption or the effectiveness of such call for 2011 Series 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 bond for which defective notice has been given.

Section 8. The 2011 Series Bonds shall be in substantially the following form:

Notice of redemption shall be given by mail to the registered owner of any bond to be redeemed at said registered owner's address in the manner specified in the Ordinance authorizing said issue of bonds. Individual bonds may be redeemed in part but only in \$5,000 amounts or integral multiples thereof.

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 authorizing said issue of bonds, 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 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.

The revenues and earnings of the City's sewage disposal plant and sanitary sewer system, waterworks plant and water system and electric light and power distribution system (which together with any additions, extensions and improvements thereto hereafter constructed are herein referred to as the "Combined Utilities"), are pledged and hypothecated for the payment of all of the 2008 Series Bonds in the outstanding principal amount of \$3,305,000, the 2009 Series Bonds in the outstanding principal amount of \$3,905,000 and the 2011 Series Bonds in the principal amount of \$1,650,000 equally and ratably as provided in Ordinance No. 2251 authorizing issuance of the 2008 Series Bonds (the "2008 Ordinance"), Ordinance No. 2262 authorizing issuance of the 2009 Series Bonds (the "2009 Ordinance") and the Ordinance. The City agrees to maintain and collect rates and charges for sewer, water and electric service which shall be reasonable and adequate to produce revenues and earnings sufficient at all times to pay the interest and principal of all of said bonds as such interest and principal become due and to maintain and operate said Combined Utilities efficiently. The Ordinance which authorizes the issuance of the 2011 Series Bonds constitutes a contract between the City and the owners of said bonds and reserves the right to the City to issue additional bonds equal in lien to the 2008 Series Bonds, the 2009 Series Bonds and the 2011 Series Bonds under certain conditions and to issue junior lien bonds or notes when necessary.

The City agrees that it will maintain a special fund known as the "Combined Utilities Fund" into which it will pay all of the gross revenues collected and received from the operation of its Combined Utilities and will use the moneys in said fund only for the payment of the interest and principal of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any additional bonds of equal lien to the 2008 Series Bonds, the 2009 Series Bonds and the 2011 Series Bonds issued in accordance with the terms of the 2008 Ordinance, the 2009 Ordinance and the Ordinance, for the operation and maintenance of the Combined Utilities and for such other purposes as are permitted by said ordinances and will apply the moneys in said fund to the payment of said bonds as the principal and interest become due. The Ordinance also designates the terms and conditions on which this bond shall cease to be entitled to any lien, benefit or security under the Ordinance and all covenants, agreements and obligations of the City under the Ordinance may be discharged and satisfied at or prior to the maturity or redemption of this bond if monies or certain specified securities shall have been deposited with the a trustee.

The 2011 Series Bonds shall not be a debt of the City of Lexington within the meaning of any constitutional, statutory or charter limitation upon the creation of general obligation indebtedness of said City, and the City of Lexington shall not be liable for the payment thereof out of any moneys of said City other than from the revenues of its Combined Utilities.

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 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 REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY BOND ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR 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 PERSON 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.

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 did exist, did happen and were done and performed in regular and due form and time as required by law.

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, all as of the date of original issue specified above.

CITY OF LEXINGTON, NEBRASKA

(facsimile signature)
Mayor

ATTEST:

(facsimile signature)
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 _____ 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.

Date: _____

Registered Owner

Signature Guaranteed

By: _____

Authorized Officer

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 9. Each of the 2011 Series 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 2011 Series 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 (including any blanket 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 2011 Series Bonds. With respect to the issuance of the 2011 Series 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 2011 Series Bonds as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a 2011 Series Bond from a Bond Participant while the 2011 Series 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 2011 Series 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 2011 Series 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 2011 Series Bonds. The Paying Agent and Registrar shall make payments with respect to the 2011 Series 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 2011 Series 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 2011 Series 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 2011 Series Bonds or (ii) to make available 2011 Series Bonds registered in whatever name or names as the Beneficial Owners transferring or exchanging such 2011 Series Bonds shall designate.

(c) If the City determines that it is desirable that certificates representing the 2011 Series Bonds be delivered to the ultimate beneficial owners of the 2011 Series 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 2011 Series Bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the 2011 Series 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 2011 Series Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such 2011 Series Bond and all notices with respect to such 2011 Series Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the 2011 Series Bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the 2011 Series 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 2011 Series Bond unless and until such partially redeemed 2011 Series 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 2011 Series Bond as is then outstanding and all of the 2011 Series 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 2011 Series 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

2011 Series Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. Thereafter the 2011 Series Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration, and authentication of the 2011 Series Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to Ameritas Investment Corp. (the "Underwriter"), as initial purchaser thereof. The 2011 Series Bonds are hereby sold to the Underwriter for the sum of \$1,627,725.00, plus accrued interest, if any, to date of payment and delivery. The officers of the City (or any one of them) are hereby authorized to execute and deliver the Bond Purchase Agreement in the form presented with any changes as the executing officer shall deem appropriate, for and on behalf of the City.

The Underwriter shall have the right to direct the registration of the 2011 Series Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The City Clerk shall make and certify duplicate transcripts of the proceedings of the Mayor and Council with respect to the 2011 Series Bonds, one of which shall be delivered to said purchaser. The Underwriter and its agents, representatives and counsel (including the City's bond 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 2011 Series Bonds, including, without limitation, authorizing the release of the 2011 Series Bonds by the Depository at closing.

Section 10. Accrued interest, if any, received from the sale of the 2011 Series Bonds shall be applied to pay interest falling due on September 15, 2011, and shall be credited to the Combined Utilities Revenue Bond Payment Account (2011 Series Bond Payment Sub-account) as described in Section 13 hereof. Expenses of issuance of the 2011 Series Bonds may be paid from the proceeds of the 2011 Series Bonds. The net proceeds of the 2011 Series Bonds shall be applied in full upon receipt to the prepayment of the Refunded Bonds. The owners of the 2011 Series Bonds shall be subrogated to the rights of the owners of the Refunded Bonds from and after their redemption.

Section 11. The City hereby pledges and hypothecates all revenues and earnings, now or hereafter received, or otherwise due and owing to the City, derived from the ownership and operation of the City's Combined Utilities and all extensions and enlargements thereof, including any additions and improvements hereafter made, for the payment of principal of and interest on the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds as the same fall due. So long as said revenues and earnings are sufficient to make all required payments of principal and interest with respect to the 2008 Series Bonds,

the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds, all such required payments with respect to each such issue shall be made in full from the respective sub-accounts in the Combined Utilities Revenue Bond Payment Account for each such series. In the event that such revenues and earnings are insufficient to meet the required payments from the Combined Utilities Revenue Bond Payment Account, such revenues and earnings shall be allocated to the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any such Additional Bonds, pro rata in accordance with the respective unpaid principal amounts then outstanding for the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and such Additional Bonds. The pledge and hypothecation provided for 2008 Series Bonds, the 2009 Series Bonds and the 2011 Series Bonds, as provided for in Ordinance No. 2251, Ordinance No. 2262 and this Ordinance, is intended to be and shall provide for a first and prior pledge of, lien upon and security interest in the revenues of the Combined Utilities (subject to the right of the City to issue Additional Bonds as provided in Ordinance No. 2251, Ordinance No. 2262 and this Ordinance) for the payment of principal of and interest on the 2008 Series Bonds, the 2009 Series Bonds and the 2011 Series Bonds, superior to any pledge or promise made with respect to any other indebtedness of the City as to its Combined Utilities, and is intended to be a full exercise of the powers of the City provided for in Sections 18-1803 to 18-1805, R.R.S. Neb. 2007, as amended, with respect to its Combined Utilities.

Section 12. So long as any of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds issued pursuant to this Ordinance shall remain outstanding and unpaid, the City covenants and agrees to establish, revise, from time to time as necessary, and collect such rates, charges and rentals for the sewer, water and electric service furnished from the Combined Utilities adequate to produce revenues and earnings sufficient at all times:

(a) To provide for the payment of the interest and principal of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds as the same fall due.

(b) To pay all proper and necessary costs of operation and maintenance of the Combined Utilities and to pay for the necessary and proper repairs, replacements, enlargements, extensions and improvements to the Combined Utilities.

(c) To provide funds sufficient to make the deposits into the accounts required by Section 13 of Ordinance No. 2251, Section 13 of Ordinance No. 2262 and Section 13 of this Ordinance and any parallel or similar section of any ordinance authorizing the issuance of Additional Bonds.

(d) To maintain Net Revenues in each fiscal year adopted by the City for the Combined Utilities in an amount not less than 1.20 times the total amount of principal paid or payable (exclusive of any principal redeemed prior to maturity other than principal redeemed pursuant to a schedule of mandatory redemptions and taking into consideration any Applicable Debt Service Reserve Transfer

made in such fiscal year) and interest falling due during such fiscal year for the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds, excluding from principal paid the amount of any Applicable Debt Service Reserve Transfer for such fiscal year, if any.

Section 13. All revenues and earnings derived from the operation of the Combined Utilities of said City shall be set aside as collected and deposited into a separate fund previously established and designated (and referred to in this Ordinance) as the "Combined Utilities Fund". Any uninvested moneys in the Combined Utilities Fund shall be deposited in a separate bank account properly earmarked and deposit shall be made in a bank or banks designated by the Council and be secured as provided by law for public deposits. The City shall set up and maintain as long as any of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds or Additional Bonds are outstanding the accounts described in this Section 13 for the administration of said fund.

Within the Combined Utilities Fund there were previously established and maintained and are hereby confirmed the following accounts for allocation of the monies in said fund under the terms of Ordinance No. 2251, Ordinance No. 2262 and this Ordinance: (a) Combined Utilities Revenue Bond Payment Account; (b) Operation and Maintenance Account; (c) Combined Utilities Bond Reserve Account; and (d) Surplus Account.

Within each such account further sub-accounts have been, shall now, or may hereafter, be established as provided in Ordinance No. 2251, Ordinance No. 2262 and this Ordinance. Deposits shall be made to said accounts on a monthly basis, to the accounts in the order of priority as follows:

I. COMBINED UTILITIES REVENUE BOND PAYMENT ACCOUNT; Within the Combined Utilities Revenue Bond Payment Account there is hereby ordered established the 2011 Series Bond Payment Sub-account. Out of the Combined Utilities Fund the City shall transfer into the Combined Utilities Revenue Bond Payment Account on or before the tenth day of each calendar month the amounts required to be deposited to the 2011 Series Bond Payment Sub-account in accordance with the following requirements for such sub-account:

2011 Series Bond Payment Sub-account. From the monies deposited to the Combined Utilities Revenue Bond Payment Account from the Combined Utilities Fund, there shall be deposited monthly to the 2011 Series Bond Payment Sub-account the following amounts for the periods indicated:

(1) during the period beginning with and including June 10, 2011, to and including September 10, 2011, an amount equal to one-fourth (1/4) of the amount falling due for interest on the 2011 Series Bonds on September 15, 2011.

(2) during the period beginning with and including October 10, 2011, until the 2011 Series Bonds have been paid in full, an amount equal to one-sixth (1/6) of the amount falling due for interest on the 2011 Series Bonds on the next Interest Payment Date.

(3) during the period beginning with and including June 10, 2011, to and including September 10, 2011, an amount equal to one-fourth (1/4th) of the amount of principal maturing on the 2011 Series Bonds on September 15, 2011.

(4) during the period beginning with and including October 10, 2011, until the 2011 Series Bonds have been paid in full, an amount equal to one-twelfth (1/12th) of the amount of principal next maturing for the 2011 Series Bonds.

2009 Series Bond Payment Sub-account. From the monies deposited to the Combined Utilities Revenue Bond Payment Account from the Combined Utilities Fund, there shall be deposited to the 2009 Series Bond Payment Sub-account such amounts deposited at such times as shall be required to comply with the requirements of Ordinance No. 2262.

2008 Series Bond Payment Sub-account. From the monies deposited to the Combined Utilities Revenue Bond Payment Account from the Combined Utilities Fund, there shall be deposited to the 2008 Series Bond Payment Sub-account such amounts deposited at such times as shall be required to comply with the requirements of Ordinance No. 2251.

All such deposits to the 2011 Series Bond Payment Sub-account, the 2009 Series Bond Payment Sub-account and the 2008 Series Bond Payment Sub-account shall be made in such amounts and at such times that there will be sufficient sums in each such sub-account to meet the payments required to be made by the City with respect to the 2011 Series Bonds, the 2009 Series Bonds and the 2008 Series Bonds as the same fall due, including any and all transfers required to be made to the Paying Agent and Registrar for the 2011 Series Bonds, the 2009 Series Bonds and the 2008 Series Bonds. All such deposits are required to be made without preference or priority as between each such sub-account and any similar sub-account established for the 2011 Series Bonds, the 2009 Series Bonds, the 2008 Series Bonds or any issue of Additional Bonds and if amounts available are insufficient to make all deposits as required, the available funds shall be allocated on a pro rata basis in accordance with the terms of Section 11 of this Ordinance. In the event of the issuance of any Additional Bonds, the City shall in the ordinance authorizing their issuance provide for a related sub-account in the Combined Utilities Revenue Bond Payment Account and for deposits into such sub-account sufficient to make payments upon such Additional Bonds as the same fall due. Such sub-account and the deposits required to be made thereto shall have equal rank and standing with the 2008 Series Bond Payment Sub-account, the 2009 Series Bond Payment Sub-account, the 2011 Series Bond Payment Sub-account and the payments required to be made to each thereof. Each sub-account in the Combined Utilities Revenue Bond Payment Account shall constitute a separate fund held in trust by the City for the separate special benefit of the issue or series of bonds for which it is established.

- II. OPERATION AND MAINTENANCE ACCOUNT: After making all deposits required to the Combined Utilities Revenue Bond Payment Account in each month, the City shall set aside in the Operation and Maintenance Account each month an amount sufficient for the operation and maintenance of its Combined Utilities during the next period of one month (from deposit date to the next expected monthly deposit date for such account) and the expenses of maintenance and operation of said utilities shall be paid out of the Operation and Maintenance Account. Expenses for operation and maintenance shall include all ordinary and necessary costs for operating and maintaining the Combined Utilities and shall include, without limitation, wages, salaries, supplies, professional services, materials, insurance premiums, costs for purchased power and franchise fees charged by the City, if any, and shall also include any items necessary to maintain the properties of the Combined Utilities to achieve the capacity and performance for which such properties were designed and constructed, including the costs of installing equipment, accessories or appurtenances which are necessary during the life of such properties to maintain the capacity and performance for which such properties were designed and constructed. Within the Operation and Maintenance Account, the City shall maintain the Sewer System Maintenance and Replacement Sub-account created under Ordinance

No. 1994 (as and to the extent applicable and required), and shall deposit thereto and withdraw and apply therefrom such amounts as shall from time to time be required by the policies and regulations of either the United States Environmental Protection Agency or the Nebraska Department of Environmental Quality for purposes of maintaining and replacing the Sewer System's sewage treatment works. The City hereby covenants and agrees that in the event of any default in payment on 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds or any Additional Bonds, no franchise fees shall be payable from the Operation and Maintenance Account until all such payment defaults have been cured in full.

III. COMBINED UTILITIES BOND RESERVE ACCOUNT: Separate sub-accounts within the Combined Utilities Bond Reserve Account have been previously established under Ordinance No. 2251 for the 2008 Series Bonds and under Ordinance No. 2262 for the 2009 Series Bonds. Within the Combined Utilities Bond Reserve Account as established there is hereby ordered established a separate sub-account designated as the 2011 Series Bond Reserve Sub-account. From reserve monies held with respect to the Refunded Bonds, there shall be deposited to the 2011 Series Bond Reserve Sub-account the sum of \$157,525.00 (which amount shall be the "Reserve Requirement" for such sub-account) to be held as a debt service reserve securing the payment of the 2011 Series Bonds on a first and prior basis. In the event that at any time the monies in the 2011 Series Bond Payment Sub-account of the Combined Utilities Revenue Bond Payment Account are insufficient to pay either the interest on or the principal of the 2011 Series Bonds as the same fall due, the City shall apply the monies in the 2011 Series Bond Reserve Sub-account to pay such principal and interest and to prevent any default in payment with respect to the 2011 Series Bonds. If the City shall use any of the monies in the 2011 Series Bond Reserve Sub-account for such purpose and such use shall reduce the balance in said sub-account below the Reserve Requirement therefor, the City shall transfer funds next available in each month from the monies in the Combined Utilities Fund, after making all required deposits in each such month to the Combined Utilities Revenue Bond Payment Account and the Operation and Maintenance Account, until the Reserve Requirement for the 2011 Series Bond Reserve Sub-account has been restored. In any ordinance authorizing Additional Bonds, the City may make provision for the creation of an additional separate sub-account in the Combined Utilities Bond Reserve Account for each such issue of Additional Bonds provided that the required balance to be set for any such issue shall not exceed 1.25 times the Average Annual Debt Service Requirements for any such issue of Additional Bonds. The balance for any such sub-account may be established from monies of the Combined Utilities otherwise available, from periodic deposits made to such sub-account or from bond proceeds. Any such additional sub-account in the Combined Utilities Bond Reserve Account shall be of equal priority with the 2008 Bond Reserve Sub-account, the 2009 Bond Reserve Sub-account and the 2011 Bond Reserve Sub-account and available monies from the Combined Utilities Fund required to be deposited to each such sub-account at any time shall be allocated on a pro rata basis in accordance to the terms of Section 11 of this Ordinance. Each sub-account in the Combined Utilities Bond Reserve Account shall constitute a separate fund held in trust by the City for the separate special benefit of the issue or series of bonds for which it is established. The City shall make each Applicable Debt Service Reserve Transfer when and as required under the terms of the definition for such term.

IV. SURPLUS ACCOUNT:

After making the payments hereinabove required to be made into the Combined Utilities Revenue Bond Account, the Operation and Maintenance Account and the Combined Utilities Bond Reserve Account, all remaining funds shall be transferred into a Surplus Account. Moneys in the Surplus Account may be used as follows:

(a) To fill any deficiency in the foregoing accounts.

- (b) In lieu of tax payments or additional City franchise tax payments. So long as no deficiency exists in required monthly payments in the accounts established by Section 13 of Ordinance No. 2251, Ordinance No. 2262 and this Ordinance, payment may be made to the City annually, semiannually or quarterly as an in lieu of tax payment or additional franchise fee which can be used by the City for any purpose authorized by law.
- (c) Any lawful purpose connected with the Combined Utilities, including improvements, extensions and enlargements of the Combined Utilities and paying principal and interest on general obligation bonds of the City or junior lien indebtedness authorized to pay the cost of constructing improvements to any one of the utilities systems included in the Combined Utilities.
- (d) Retiring the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds or Additional Bonds prior to their maturity under their option provisions or by purchase on the open market.

Moneys on deposit in the Combined Utilities Fund or any account therein may to the extent practicable and reasonable be invested in direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America, or in any other lawful investments for cities of the class to which the City of Lexington belongs. Investments for the Combined Utilities Revenue Bond Payment Account shall mature at such times and in such amounts as shall be required to provide moneys to make the payments to be made from said Account. Moneys credited to the Combined Utilities Bond Reserve Account shall be invested in direct obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America, in obligations of any agency of the United States of America (whether or not guaranteed by the United States) so long as the obligations of such agency are rated in one or the other of the two highest rating categories (not taking into consideration subcategories, if any) of any recognized rating agency or in certificates of deposit which are fully insured by insurance of the Federal Deposit Insurance Corporation or (as to any uninsured amounts) secured by collateral securities as required by law, any of which securities or certificates of deposit shall mature or be redeemable at stated fixed prices at the option of the holder by not more than eight years from the date of such investment. All moneys and income from investments made from moneys credited to the Combined Utilities Revenue Bond Payment Account and the Combined Utilities Bond Reserve Account shall, when realized and collected, be credited to the respective Account from which such investments were made, unless there shall then be credited thereto the respective full amounts then required by paragraphs I and III of this Section 13, in which event such interest and income may be credited to the Surplus Account. All investments held for the credit of any Fund or Account may be sold when required to make the payments to be made from such Fund or Account. Any moneys credited to the

Combined Utilities Fund or any Account or Sub-account therein which are not invested shall be secured in the manner provided by law for the security of funds of cities of the class of which Lexington is one.

It is understood that the revenues of the Combined Utilities are to be credited to the various accounts hereinabove established in the order in which said accounts have been listed, and if within any period the revenues are insufficient to credit the required amounts in any of the said accounts, the deficiencies shall be made up the following period or periods after payment into all accounts enjoying a prior claim on the revenues have been made in full.

Section 14. The City will make deposits on or prior to the date each payment of interest or principal becomes due on the 2011 Series Bonds with the Paying Agent and Registrar. All such payments shall be made out of the Combined Utilities Revenue Bond Payment Account or from other funds of the Combined Utilities available for such purpose, in accordance with the terms of this Ordinance.

Section 15. The City of Lexington shall keep proper books of records and account, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Combined Utilities and the registered owners of any 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds or of any Additional Bonds or any duly authorized agent or agents of such registered owners (or by any Beneficial Owner establishing such ownership to the satisfaction of the Paying Agent and Registrar) shall have the right at all reasonable times to inspect all records, accounts and data relating thereto and to inspect said systems and all properties comprising the same. Within one hundred twenty days following the close of each fiscal year the City shall cause an audit of such books and accounts to be made by an independent firm of certified public accountants, showing the receipts and disbursements for account of the Combined Utilities, and such audit will be available for inspection by the registered owners (or by any Beneficial Owner establishing such ownership to the satisfaction of the Paying Agent and Registrar) of any of the 2011 Series Bonds. Each such audit, in addition to whatever matters may be thought proper by the accountant to be included therein, shall include the following:

- (a) A statement in detail of the income and expenditures of each component of the Combined Utilities for such fiscal year.
- (b) A balance sheet as of the end of such fiscal year.
- (c) The accountant's comments (if any) regarding the manner in which the City has carried out the requirements of this Ordinance, and the accountant's recommendation for any changes or improvements in the operation of the Combined Utilities or the components thereof.

All expenses incurred in the making of the audits required by this section shall be regarded and paid as a maintenance and operation expense. The City of Lexington shall furnish a copy of each such audit to the original purchaser of the 2011 Series Bonds and of any series of Additional Bonds, and to the holder or registered owner (or by any Beneficial Owner establishing such ownership to the satisfaction of the Paying Agent and Registrar) of at least twenty-five percent (25%) of any issues of combined utilities revenue bonds outstanding, upon request, after the close of each fiscal year, and said purchaser or purchasers or any such holder or registered owner (or by any Beneficial Owner establishing such ownership to the satisfaction of the Paying Agent and Registrar) shall have the right to discuss with the accountant making the audit the contents of the audit and to ask for such additional information as each may require.

Section 16. The City Treasurer shall be bonded, in addition to such Treasurer's official bond, by an insurance company licensed to do business in Nebraska, in amounts sufficient to cover at all times all the revenues and earnings of the Combined Utilities placed in such official's hands as determined appropriate from time to time by the Mayor and Council, based upon the advice of such experts or consultants as they shall deem appropriate. Any other person employed by the City in the collection or handling of moneys derived from the operation of said properties shall also be bonded in an amount sufficient to cover all moneys which may at any time be placed in such person's hands. The amount of such bonds shall be fixed by the Council, and the cost thereof shall be paid from the earnings of said Combined Utilities and they shall secure the faithful accounting of all moneys.

Section 17. The City will carry adequate insurance on the Combined Utilities in such amounts as are normally carried by private or public utilities engaged in similar operations, including, without limiting the generality of the foregoing, fire and windstorm insurance and public liability insurance. The cost of all such insurance shall be regarded and paid as an operation and maintenance expense.

All insurance moneys, except public liability, shall be deposited in a separate special fund held by the City Treasurer as part of the Combined Utilities Fund and subject to the pledge of this Ordinance and shall be used in making good the loss or damage in respect of which they were paid either by repairing the property damaged or replacing the property destroyed, and expenditures from said moneys shall be made only upon a certificate issued by a consulting engineer and filed with the City Clerk stating that the proceeds, together with any other moneys available for such purposes, are sufficient for the repair or replacement of any such properties; and when the City shall have been furnished with a certificate of a consulting engineer stating that

the property damaged or destroyed has been fully repaired or replaced and such repairs or replacements have been fully paid for, the residue, if any, of such insurance moneys shall be held in a separate special fund and be applied upon order of the Mayor and Council to paying the costs of further improvements to the Combined Utilities.

If the proceeds of any insurance shall be insufficient to repair or replace the property damaged or destroyed, the City may use and shall pay out for such purpose, to the extent of such deficiency, any money then held in the Surplus Account. If in the opinion of a consulting engineer the proceeds of any insurance, together with any amount then available for such purpose in the Surplus Account shall be insufficient to fully complete and pay for such repairs or replacements and if the City shall fail to supply such deficiency from other sources within a period of six months after receipt by the City of such insurance moneys, or if in the opinion of a consulting engineer it is to the best interest of the City not to repair or replace all or any part of the damaged properties and that failure to repair or replace the damaged properties shall not affect the sufficiency of the income and revenue from the remaining properties to properly maintain and operate the same, provide funds for the Combined Utilities Revenue Bond Payment Account and Combined Utilities Bond Reserve Account, as herein provided for, then such insurance moneys to the extent not applied to repair or replace the damaged properties shall remain in such separate special fund and be applied upon order of the Mayor and Council to paying the costs of further improvements to the Combined Utilities.

The proceeds of any and all policies for public liability shall be applied in paying the claims on account of which they were received.

Section 18. The City will maintain the Combined Utilities in good condition and operate the same in an efficient manner and at a reasonable cost. The City agrees with the registered owners from time to time of the 2011 Series Bonds and any Additional Bonds that the City will continue to own, free from all liens and encumbrances, and will adequately maintain and efficiently operate said Combined Utilities; provided, however, the City may dispose of property which is recommended for disposal by the manager or superintendent of the utilities, or an independent consulting engineer and which is determined as a matter of record by the Mayor and Council to have become obsolete, non-productive or otherwise unusable to the advantage of the City.

Section 19. To provide funds for any purpose or purposes related to the Combined Utilities, the City may issue Additional Bonds (other than Additional Bonds issued for refunding purposes which are governed

by Section 20 of Ordinance No. 2251, Section 20 of Ordinance No. 2262 and Section 20 of this Ordinance) payable from the revenues of the Combined Utilities having equal priority and on a parity with the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds then outstanding only upon compliance with the following conditions:

- (a) Such Additional Bonds shall be issued only pursuant to an ordinance which shall provide for an increase in the monthly credits into the Combined Utilities Revenue Bond Payment Account in amounts sufficient to pay, when due, the principal of and interest on the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds, any Additional Bonds then outstanding and the proposed Additional Bonds.
- (b) The City shall have complied with one or the other of the two following requirements:
 - (1) The Net Revenues derived by the City from its Combined Utilities for the fiscal year next preceding the issuance of the Additional Bonds (determined in accordance with the definition of such term set forth in Section 2(f), including, if applicable, a determination made for any period when financial statements have not yet been completed and reported on) shall have been at least equal to 1.20 times the Maximum Annual Debt Service (taking into consideration and excluding from debt service any Applicable Debt Service Reserve Transfer for any series of bonds) of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds; or
 - (2) The City shall have received a projection made by a consulting engineer or firm of consulting engineers, recognized as having experience and expertise in municipal utility systems, projecting that the Net Revenues of the Combined Utilities in each of the three full fiscal years after the issuance of such Additional Bonds will be at least equal to 1.35 times the Maximum Annual Debt Service (taking into consideration and excluding from debt service any Applicable Debt Service Reserve Transfer for any series of bonds) of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds. In making such projection, the consulting engineer shall use as a basis the Net Revenues of the Combined Utilities during the last fiscal year for which an independent audit has been prepared and shall adjust such Net Revenues as follows: (A) to reflect changes in rates which have gone into effect since the beginning of the fiscal year for which the audit was made, (B) to reflect such engineer's estimate of the net increase over or net decrease under the Net Revenues of the Combined Utilities for the fiscal year for which the audit was made by reason of: (i) changes of amounts payable under existing contracts for services; (ii) additional general income from sales to customers under existing rate schedules for various classes of customers or as such schedules may be revised under a program of changes which has been adopted by the Mayor and Council of the City; (iii) projected revisions in costs for labor, wages, salaries, machinery, equipment, supplies and other operational items; (iv) revisions in the amount of service to be supplied and any related administrative or other costs associated with such increases due to increased supply from the acquisition of any new facility or increased demand related to new customers; (v) such other factors affecting the projections of revenues and expenses as the consulting engineer deems reasonable and proper. Annual debt service on any proposed Additional Bonds to be issued may be estimated by the consulting engineer

in projecting Maximum Annual Debt Service, but no Additional Bonds shall be issued requiring any annual debt service payments in excess of the amounts so estimated by the consulting engineer.

The City hereby covenants and agrees that so long as any of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds are outstanding, it will not issue any bonds or notes payable from the revenues of the Combined Utilities except in accordance with the provisions of this Ordinance, provided, however, the City reserves the right to issue bonds or notes which are junior in lien to the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any such Additional Bonds with the principal and interest of such bonds or notes to be payable from monies credited to the Surplus Account as provided in Subsection 13(IV).

Section 20. The City may issue refunding bonds which shall qualify as Additional Bonds of equal lien to refund any 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds or Additional Bonds then outstanding, provided, that if any such 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds or Additional Bonds are to remain outstanding after the issuance of such refunding bonds, the principal payments due in any calendar year in which those bonds which are to remain outstanding mature, or in any calendar year prior thereto, shall not be increased over the amount of such principal payments due in such calendar years immediately prior to such refunding. Refunding Bonds issued in accordance with this paragraph of this Section 20 may be issued as Additional Bonds of equal lien without compliance with the conditions set forth in Subsection 19(b) of this Ordinance.

The City may also issue refunding bonds which shall qualify as Additional Bonds of equal lien to refund any 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds or Additional Bonds then outstanding provided, that, if any such 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds or Additional Bonds are to remain outstanding after the application of the proceeds of the refunding bonds to the payment of the bonds which are to be refunded, such issuance must comply with the Net Revenues test set forth in Subsection 19(b)(1) of this Ordinance and, if the proceeds of such refunding bonds are not to be applied immediately to the satisfaction of the bonds which are to be refunded, then such refunding bonds must provide by their terms that they shall be junior in lien to all 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds and any Additional Bonds outstanding at the time of issuance of such refunding bonds until the time of application of their proceeds to the satisfaction of the bonds which are to be refunded. In computing Maximum Annual Debt Service to show compliance with said Net Revenues test for such refunding bonds, all payments of principal

and interest due on such refunding bonds from the time of their issuance to the time of application of the proceeds of such refunding bonds to the satisfaction of the bonds which are to be refunded shall be excluded from such computation to the extent that such principal and interest are payable from sources other than the revenues of the Combined Utilities, such as bond proceeds or investment earnings on such proceeds while held in escrow, and/or from monies of the Combined Utilities but only those in the Surplus Account and all payments of principal and interest due on the bonds which are to be refunded from and after the time of such application shall also be excluded. For purposes of this paragraph of this Section 20, the time of application of the proceeds of the refunding bonds to the satisfaction of the bonds which are to be refunded shall be the time of deposit with the paying agent for such bonds which are to be refunded pursuant to Section 10-126 R.R.S. Neb. 2007 (or any successor statutory provision thereto) or the time when such bonds which are to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner.

Section 21. The City will not hereafter grant any franchise or right to any person, firm or corporation to own or operate a sewer, water or electrical plant or system in competition with that owned by the City.

Section 22. While any of the 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds or Additional Bonds are outstanding, the City will render bills to all customers for sewer, water and electrical services. If bills are not paid within sixty days after due, such utility service will be discontinued. The City agrees that it will order water service shut off on all properties served by water or sewer where there are delinquent water or sewer use charges and will order electric service shut off on all property served by electricity where there are delinquent electric charges, and will make appropriate charge for use of all properties of the City connected to the sewer, water and electrical systems. The City's obligations under this Section shall be subject, however, to any state or federal law governing the City's right to discontinue utility service.

Section 23. Except for amendments which are required for the correction of language to cure any ambiguity or defective or inconsistent provisions, omission or mistake or manifest error contained herein, no changes, additions or alterations of any kind shall be made by the City in the provisions of this Ordinance in any manner; provided, however, that from time to time the holders or owners of two-thirds (2/3rds) in principal amount of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and of Additional Bonds outstanding authorized hereunder, as to each such series or issue (not including any of said bonds credited to

any of the Accounts described in Section 13 of this Ordinance or any other of said bonds owned or controlled directly or indirectly by the City), by an instrument or instruments in writing signed by such holders or owners and filed with the City Clerk shall have power to assent to and authorize any modification of the rights and obligations of the City and of the registered owners of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and of Additional Bonds and interest pertaining thereto and the provisions of this Ordinance that shall be proposed by the City, and any action authorized to be taken with the assent and authority given as aforesaid of the holders or owners of two-thirds (2/3rds) in principal amount of said bonds (as to each such issue at the time of consent or approval) shall be binding upon all holders or owners of said 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds and Additional Bonds at the time outstanding hereunder and upon the City as fully as though such action were specifically and expressly authorized by the terms of this Ordinance; provided, always, that no such modification shall be made which will (a) extend the time of payment of the principal of or interest on any of said bonds or reduce the principal amount thereof or the rate of interest thereon; or (b) give to any of said bonds secured by this Ordinance any preference over any other of said bond or bonds; or (c) authorize the creation of any lien prior to the pledge of the revenues afforded by Ordinance No. 2251, Ordinance No. 2262 and this Ordinance for the 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds and any Additional Bonds or (d) reduce the percentage in principal amount of said outstanding bonds required to assent to or authorize any such modification. Any modification of the provisions of this Ordinance made as aforesaid shall be set forth in a supplemental ordinance to be adopted by the Mayor and Council of said City. Anything in this Section 23 notwithstanding, the City may in any ordinance authorizing Additional Bonds add additional agreements or covenants providing for the further securing of the 2008 Series Bonds, the 2009 Series Bonds, the 2011 Series Bonds and any Additional Bonds and may also provide for appropriate sub-accounts in the Combined Utilities Revenue Bond Payment Account and Combined Utilities Bond Reserve Account, the funds in which shall be held on a priority basis for each such issue of Additional Bonds under the terms and limitations provided for in this Ordinance.

Section 24. So long as any of the 2008 Series Bonds, 2009 Series Bonds, 2011 Series Bonds or any Additional Bonds of equal lien are outstanding, each of the obligations, duties, limitations and restraints imposed upon the City by this Ordinance shall be deemed to be a covenant between the City and every holder or owner of said bonds, and this Ordinance and every provision and covenant hereof shall constitute a contract of the City with every registered owner from time to time of said bonds. Any registered owner of a 2008 Series

Bond, 2009 Series Bond, 2011 Series Bond or of an Additional Bond or Bonds may by mandamus or other appropriate action or proceeding at law or in equity in any court of competent jurisdiction enforce and compel performance of this Ordinance and every provision and covenant thereof, including without limiting the generality of the foregoing, requesting the appointment of a receiver for the Combined Utilities and the enforcement of the performance of all duties required by the City by this Ordinance and the applicable laws of the State of Nebraska, including in such duties the making and collecting of sufficient rates, rentals, fees or charges for the use and service of the Combined Utilities, the segregation of the revenues of said systems and the application thereof to the respective Fund and Accounts and sub-accounts referred to and described in Section 13 of Ordinance No. 2251, Section 13 of Ordinance No. 2262 and Section 13 of this Ordinance.

Section 25. 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 2011 Series Bonds and any such bonds shall no longer be deemed outstanding hereunder if such bonds shall have been purchased and canceled by the City, or when 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 (1) sufficient money to make such payment and/or (2) Deposit Securities in such amount and bearing interest at such rates and payable at such time or times 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 such bond to be paid prior to maturity, the City shall have duly given notice of redemption of such bond as required by this Ordinance or given irrevocable instructions for the giving of such notice. Any such money so deposited with a bank or trust company may be invested and reinvested in Deposit Securities at the direction of the City, and all interest and income from such Deposit Securities in the hands of such bank or trust company in excess of the amount required to pay principal of and interest on the bonds for which such monies were deposited, shall be paid over to the City as and when collected. For purposes of this Section 25, any Deposit Securities shall be non-callable or callable only at the option of the holder.

Section 26. The Mayor, the City Clerk and the City Treasurer of the City are hereby authorized to do all things and execute all such documents as may by them be deemed necessary and proper to complete the issuance and sale of the 2011 Series Bonds as contemplated by this Ordinance.

Section 27. The City hereby covenants to the purchasers and holders of the 2011 Series 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 2011 Series Bonds, which would cause the 2011 Series 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, including payment and reporting of rebate, if any and as and to the extent determined applicable, due to the United States pursuant to Section 148(f) of the Code. 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 2011 Series Bonds. The City hereby designates the 2011 Series 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 \$10,000,000 during calendar 2011 (taking into consideration the exception for current refunding issues).

Section 28. In accordance with the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission, the City, being the only "obligated person" with respect to the 2011 Series Bonds, agrees that it will provide the following continuing disclosure information to the Municipal Securities Rulemaking Board (the "MSRB") in an electronic format as prescribed by the MSRB:

(a) not later than seven months after the end of each fiscal year of the City (the "Delivery Date"), financial information or operating data for the City of the type accompanying the audited financial statements of the City entitled "Management's Discussion and Analysis" ("Annual Financial Information");

(b) when and if available, audited financial statements for the City; audited financial information shall be prepared on the basis of generally accepted accounting principles; and

(c) in a timely manner not in excess of ten business days after the occurrence of the event, notice of the occurrence of any of the following events with respect to the 2011 Series Bonds:

(1) principal and interest payment delinquencies;

(2) non-payment related defaults, if material;

(3) unscheduled draws on debt service reserves reflecting financial difficulties;

(4) unscheduled draws on credit enhancements reflecting financial difficulties (not applicable to the 2011 Series Bonds);

(5) substitution of credit or liquidity providers, or their failure to perform (not applicable to the 2011 Series Bonds);

(6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the 2011 Series Bonds, or other material events affecting the tax status of the 2011 Series Bonds;

(7) modifications to rights of the holders of the 2011 Series Bonds, if material;

(8) bond calls, if material, and tender offers;

(9) defeasances;

(10) release, substitution, or sale of property securing repayment of the 2011 Series Bonds, if material;

(11) rating changes;

(12) bankruptcy, insolvency, receivership or similar events of the City (this event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);

(13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

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

(d) in a timely manner, notice of any failure on the part of the City to provide Annual Financial Information not later than the Delivery Date.

The City agrees that all documents provided to the MSRB under the terms of this continuing disclosure undertaking shall be in such electronic 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 or the accounting methods in accordance with which such information is presented, to the extent necessary or appropriate in the judgment of the City, consistent with the Rule. The City agrees that such covenants are for the benefit of the registered

owners of the 2011 Series 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, as described above, shall cease when none of the 2011 Series Bonds remain outstanding.

Section 29. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 30. All ordinances, resolutions or orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Section 31. The Preliminary Official Statement is hereby approved and the Mayor and City Clerk are hereby authorized to approve a final Official Statement with any changes deemed appropriate by them.

Section 32. This Ordinance shall be in force and take effect from and after its passage and approval according to law. This Ordinance shall be published in pamphlet form.

PASSED AND APPROVED this _____ day of _____, 2011.

Mayor

ATTEST:

City Clerk

(SEAL)