
THE CITY OF LINCOLN, NEBRASKA

ORDINANCE NO. _____

(Passed May __, 2009

Approved _____, 2009)

AN ORDINANCE AMENDING ORDINANCE NO. 19223

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. 19223 TO PROVIDE FOR
RESETTING THE INTEREST RATE ON THE BONDS FROM TIME TO TIME;
TO REPEAL CERTAIN PROVISIONS OF ORDINANCE NO. 19223, IN
CONNECTION THEREWITH; TAKING OTHER ACTION IN CONNECTION
WITH THE FOREGOING; AND RELATED MATTERS.**

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

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

(a) Pursuant to the provisions of Ordinance No. 19223 (the “**Ordinance No. 19223**”) passed by the Council on March 9, 2009, and approved by the Mayor on March 12, 2009, the City authorized the issuance of not to exceed \$764,000 in principal amount of its Lincoln Flats/Bank of the West Redevelopment Project Taxable Tax Allocation Bonds (the “**Bonds**”) to finance the Lincoln Flats Project (as defined in Ordinance No. 19223).

(b) Capitalized terms used and not otherwise defined in this Ordinance have the meanings assigned to those terms in the Ordinance No. 19223.

(c) Ordinance No. 19223 provided for the sale of the Bonds with fixed rate(s) of interest for the life of the Bonds.

(d) It is necessary, desirable, advisable and in the best interest of the City that certain amendments be made to Ordinance No 19223 to provide for one or more adjustments to the interest rate on the Bonds, as determined by the Finance Director in the exercise of his sole and absolute discretion, to permit the sale of the Bonds as provided in the Bond Ordinance.

Section 2. Section 3.1 of Ordinance No 19223 is hereby amended to read as follows:

Section 3.1. Authorization of Bonds. Pursuant to and in full compliance with the Redevelopment Law, the Home Rule Charter of the City, and this Ordinance, and for the purpose of providing funds to (a) pay the cost of acquiring, purchasing, constructing, reconstructing, improving, extending, rehabilitating, installing, equipping, furnishing, and completing the Project, (b) make a deposit into the Reserve Account established within the Special Fund, and (c) the costs of issuing the Bonds, the City shall issue Bonds from time to time in one ore more series as determined by the Finance Director in the aggregate principal amount not to exceed \$764,000. The Bonds shall be designated as “The City of Lincoln, Nebraska Lincoln Flats/Bank of the West Redevelopment Area Taxable Tax Allocation Bonds,” shall have an appropriate series designation as determined by the Finance Director, shall be dated the Date of Original Issue, shall mature, subject to right of prior redemption, not later than November 1, 2024, as determined by the Finance Director, and shall bear interest (computed on the basis of a 360-day year consisting of twelve, 30-day months) at a rate, as the same may be adjusted from time to time in accordance with the provisions of this Ordinance, not to exceed 10.00% per annum.

The Bonds, together with the interest thereon, are special, limited obligations of the City payable solely from the Revenue and the amounts on deposit in the funds and accounts established

by this Ordinance. The Bonds shall not in any event be a debt of the City (except to the extent of the Revenue and other money pledged under this Ordinance), the State, nor any of its political subdivisions, and neither the City (except to the extent of the Revenue and other money pledged under this Ordinance), the State nor any of its political subdivisions is liable in respect thereof, nor in any event shall the principal of and interest on the Bonds be payable from any source other than the Revenue and other money pledged under this Ordinance. The principal of and interest on all such Bonds shall be payable solely from the Revenues and any other money pledged or made available pursuant to this Ordinance for their payment, and all of the covenants, agreements and provisions of this Ordinance shall be for the benefit and security of all and singular the present and future Owners without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter provided, of any Bond over any other Bond by reason of priority in the issue, sale or negotiation thereof, or otherwise. The Bonds do not constitute a debt within the meaning of any constitutional, statutory, or charter limitation upon the creation of general obligation indebtedness of the City and does not impose any general liability upon the City. Neither any official of the City nor any person executing the Bonds shall be liable personally on the Bonds by reason of its issuance. The validity of the Bonds is not and shall not be dependent upon the completion of the Project or upon the performance of any obligation relative to the Project.

The Revenue and such other funds are hereby pledged and assigned for the payment of the Bonds, and shall be used for no other purpose than to pay the principal of and interest on the Bonds, except as may be otherwise expressly authorized in this Ordinance. The Bonds shall not constitute a debt of the City within the meaning of any constitutional, statutory, or charter limitation upon the creation of general obligation indebtedness of the City, and the City shall not be liable for the payment thereof out of any money of the City other than the Tax Revenue and the other funds referred to herein.

Nothing in this Ordinance shall preclude the payment of the Bonds from (a) the proceeds of future bonds issued pursuant to law or (b) any other legally available funds. Nothing in this Ordinance shall prevent the City from making advances of its own funds howsoever derived to any of the uses and purposes mentioned in this Ordinance.

The validity of the Bonds is not and shall not be dependent upon the completion of the Project or upon the performance by anyone of his obligation relative to the Project.

Section 3. Section 3.2 (f) of Ordinance No. 19223 is hereby amended to read as follows:

(f) The Finance Director is hereby authorized to hereafter, from time to time, specify, set, designate, determine, establish and appoint, as the case may be, and in each case in accordance with and subject to the provisions of this Ordinance, (1) the Date of Original Issue, the principal amount of each Bond in accordance with **Section 3.2(a)** and the series designation thereof, (2) the maturity date of the Bonds, which shall in no event be later than November 1, 2024, (3) the rate or rates of interest per annum to be carried by each Bond in accordance with the first paragraph of **Section 3.1**, which may, if determined by the in the best interest of the City by the Finance Director, be periodically adjusted on such dates (which shall be May 1 and/or November 1) based on an appropriate market index as shall be determined by the Finance Director; provided, however, that the annual rate of interest on any Bond shall not exceed 10.00%, and (4) any other term of the Bonds not otherwise specifically fixed by the provisions of this Ordinance.

Section 4. Section 9.1 Ordinance No. 19223 is hereby amended to read as follows:

Section 9.1. Form of Bonds. The Bonds shall be in substantially the following form:

(FORM OF BONDS)

**UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF LANCASTER**

THE CITY OF LINCOLN

**LINCOLN FLATS/BANK OF THE WEST REDEVELOPMENT PROJECT
TAXABLE TAX ALLOCATION BOND, SERIES _____**

No. R-1 \$ _____

<u>Date of Original Issue</u>	<u>Date of Maturity</u>	<u>Rate of Interest</u>
		[Variable]

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ **DOLLARS**

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THE BOND SET FORTH ON THE FOLLOWING PAGES, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH AT THIS PLACE.

IN WITNESS WHEREOF, THE CITY OF LINCOLN, NEBRASKA has caused this bond to be signed by the manual signature of its Mayor, registered in the office of its Finance Director, countersigned by the manual signature of its Finance Director or Acting Finance Director, and its corporate seal imprinted hereon.

Registered in the Office of the
Finance Director of the City of
Lincoln, Nebraska

THE CITY OF LINCOLN, NEBRASKA

By: _____ (manual signature)
Mayor

(manual signature)
Finance Director of The
City of Lincoln, Nebraska

(Original Seal)

THE CITY OF LINCOLN, NEBRASKA (the “City”) acknowledges itself indebted to, and for value received hereby promises to pay, but solely from certain specified tax revenues and other funds hereinafter specified, to the Registered Owner named above, or registered assigns, on the Date of Maturity stated above (or earlier as hereinafter referred to), the Principal Amount stated above upon presentation and surrender hereof at the office of the registrar and paying agent herefor, the Treasurer of The City of Lincoln, Nebraska (the “Registrar”), and in like manner to pay interest on said Principal

Amount at the Rate of Interest determined as provided in Ordinance No. 19223 duly passed and adopted by the Council on March 9, 2009 and approved by the Mayor on March 12, 2009, as from time to time amended and supplemented (the “**Ordinance**”), provided that in no event will the interest rate on any Bonds exceed 10.00% per annum. Interest hereon shall be calculated on the basis of a 360-day year consisting of twelve, 30-day months, from the Date of Original Issue stated above, or the most recent interest payment date to which interest has been paid or duly provided for, as specified below, to maturity or earlier redemption, payable semiannually on May 1 and November 1 of each year until payment in full of such Principal Amount, beginning _____, 200__, by check or draft mailed to the Registered Owner hereof as shown on the bond registration books maintained by the Registrar on the 15th day of the month preceding the month in which the applicable interest payment date occurs, at such owner’s address as it appears on such bond registration books. The principal of this bond and the interest hereon are payable in any coin or currency which on the respective dates of payment thereof is legal tender for the payment of debts due the United States of America.

This bond is issued by the City under the authority of and in full compliance with the Constitution and statutes of the State of Nebraska, including particularly Article VIII, Section 12 of the Nebraska Constitution, Sections 18-2101 to 18-2153, inclusive, Reissue Revised Statutes of Nebraska, as amended, the Home Rule Charter of the City, and under and pursuant to the Ordinance.

This bond has been issued by the City for the purpose of financing the costs of purchasing, constructing, reconstructing, acquiring, improving, extending, rehabilitating, installing, equipping, furnishing and completing certain public improvements within the area identified and referred to as the City’s Lincoln Flats/Bank of the West Redevelopment Plan, which is more specifically described in the Ordinance, and to carry out the City’s corporate purposes and powers in connection therewith.

Reference is hereby made to the Ordinance for the provisions, among others, with respect to the collection and disposition of certain tax and other revenues, the special funds charged with and pledged to the payment of the principal of and interest on this bond, the nature and extent of the security thereby created, the terms and conditions under which this bond has been issued, the rights and remedies of the Registered Owner of this bond, and the rights, duties, immunities and obligations of the City. By the acceptance of this bond, the Registered Owner assents to all of the provisions of the Ordinance.

This bond is a special limited obligation of the City payable as to principal and interest solely from and is secured solely by the Tax Revenue (as defined in the Ordinance) and certain other money, funds and securities pledged under the Ordinance, all on the terms and conditions set forth in the Ordinance. The Tax Revenue represent that portion of ad valorem taxes levied by public bodies of the State of Nebraska, including the City, on real property in the Project Area (as defined in this Ordinance) which is in excess of that portion of such ad valorem taxes produced by the levy at the rate fixed each year by or for each such public body upon the valuation of the Project Area as of a certain date and as has been certified by the County Assessor of Lancaster County, Nebraska to the City in accordance with law.

The principal of and interest hereon shall not be payable from the general funds of the City nor shall this bond constitute a legal or equitable pledge, charge, lien, security interest or encumbrance upon any of the property or upon any of the income, receipts, or money and securities of the City or of any other party other than those specifically pledged under the Ordinance. This bond is not a debt of the City within the meaning of any constitutional, statutory or charter limitation upon the creation of general obligation indebtedness of the City, and does not impose any general liability upon the City and the City shall not be liable for the payment hereof out of any funds of the City other than the Tax Revenues and other funds pledged under the Ordinance, which Tax Revenues and other funds have been and hereby are pledged to the punctual payment of the principal of and interest on this bond in accordance with the provisions of this Ordinance.

Reference is hereby made to the Ordinance, a copy of which is on file in the office of the City Clerk, and to all of the provisions of which each owner of this bond by its acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for this bond; the Tax Revenues and other money and securities pledged to the payment of the principal of and interest on this bond; the nature and extent and manner of enforcement of the pledge; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the owner of this bond; the rights, duties and obligations of the City and the Registrar thereunder; the terms and provisions upon which the liens, pledges, charges, trusts and covenants made therein may be discharged at or prior to the maturity or redemption of this bond, and this bond thereafter no longer be secured by the Ordinance or be deemed to be outstanding thereunder, if money or certain specified securities shall have been deposited with the Registrar sufficient and held in trust solely for the payment hereof; and for the other terms and provisions thereof.

This bond is subject to redemption prior to maturity, at the option of the City, in whole or in part at any time at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest on such principal amount to the date fixed for redemption. Reference is hereby made to the Ordinance for a description of the redemption procedures and the notice requirements pertaining thereto.

In the event this bond is called for prior redemption, notice of such redemption shall be given by first-class mail to the Registered Owner hereof at its address as shown on the registration books maintained by the Registrar not less than 10 days prior to the date fixed for redemption, unless waived by the Registered Owner hereof. If this bond, or any portion thereof, shall have been duly called for redemption and notice of such redemption duly given as aforesaid, then upon such redemption date the portion of this bond so redeemed shall become due and payable and if money for the payment of the portion of the bond so redeemed and the accrued interest thereon to the date fixed for redemption shall be held for the purpose of such payment by the Registrar, interest shall cease to accrue and become payable hereon from and after the redemption date.

This bond is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance, and upon surrender and cancellation of this bond. Upon such transfer, a new bond of the same series and maturity and for the same principal amount will be issued to the transferee in exchange therefor. The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal of and interest due hereon and for all other purposes.

This bond is being issued as fully a registered bond without coupons. This bond is subject to exchange as provided in the Ordinance.

It is hereby certified, recited and declared that all acts, conditions and things required to have happened, to exist and to have been performed precedent to and in the issuance of this bond have happened, do exist and have been performed in regular and due time, form and manner; that this bond does not exceed any constitutional, statutory or charter limitation on indebtedness; and that provision has been made for the payment of the principal of and interest on this bond as provided in this Ordinance.

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(FORM OF ASSIGNMENT)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Print or Type Name, Address and Social Security Number
or other Taxpayer Identification Number of Transferee

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Bond on the bond register kept by the Registrar for the registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within bond in every particular.

Signature Guaranteed By:

Name of Eligible Guarantor Institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15)

By: _____
Title: _____

Section 5. Partial Invalidity. If any one or more of the covenants or agreements or portions thereof provided in this Ordinance on the part of the City or the Registrar to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds, but the Owners of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

If any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 6. Law and Place of Enforcement of this Ordinance. The Ordinance shall be construed and interpreted in accordance with the laws of the State. All suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in the State except to the extent necessary for

enforcement, by any trustee or receiver appointed by or pursuant to the provisions of this Ordinance, or remedies under this Ordinance.

Section 7. Effect of Article and Section Headings and Table of Contents. The headings or titles of the several Articles and Sections, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Ordinance.

Section 8. Repeal of Inconsistent Ordinances. Sections 3.1, 3.2(f) and 9.1 of Ordinance No. 19223 are hereby repealed. Any ordinance of the City, and any part of any ordinance or resolution, inconsistent with this Ordinance is hereby repealed to the extent of such inconsistency.

Section 9. Publication and Effectiveness of This Ordinance. Pursuant to Article VII, Section 7, of the City Charter, this Ordinance shall be posted on the official bulletin board of the City in lieu of and in place of newspaper publication with notice of passage and such posting to be given by publication one time in the official newspaper by the City Clerk.

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INTRODUCED BY:

PASSED _____, **2009.**

AYES: _____

NAYS: _____

ABSENT OR NOT VOTING:

Approved as to Form:

City Attorney

Bond Counsel

CONFLICT OF INTEREST:

APPROVED: _____, **2009.**

Mayor