

091916 agenda

MCCOOK CITY COUNCIL

REGULAR MEETING

Monday - September 19, 2016
6:30 P.M. - City Council Chambers

- **Call to Order and Roll Call.**
 - **Open Meetings Act Announcement.**
**A copy of the Open Meetings Act is posted by the entrance to the Council Chambers and is available for public review.*
 - **Invocation.**
The McCook Ministerial Association - Gary Brethour - St. Patricks Catholic Church.
 - **Pledge of Allegiance.**
1. **Citizen's Comments.**
**The Council welcomes your input. You may address the Council at this time on items that are not on tonight's agenda. According to Nebraska Open Meeting Laws no action may be taken by Council.*

At the appropriate time during the meeting, citizens wishing to comment on tonight's Agenda items will be given an opportunity.
 2. **Announcements & Recognitions.**
 3. **Consent Agenda.**
**The Consent Agenda is approved on one motion. Any item listed on the Consent Agenda may, by the request of any single Councilmember or public in attendance, be considered as a separate item under the Regular Agenda.*
 - A. Approve the minutes of the September 6, 2016 special City Council meeting.
091916 minutes
 - B. Approve the request from AmFirst Bank to use Kelley park, the Walking Trail, and city owned portions of the old Broken Tee Golf Course for their Annual 5k Cross Country Road Race to be held on Saturday, October 29, 2016 between the hours of 4:00 P.M. and 10:00 P.M. and approve the request to close the Park Road in the north part of Kelley Park from 7:00 P.M. to 10:00 P.M.
091916 amfirst
 - C. Receive and file claim for damages from Candis Shaw and instruct that it be submitted to the City's insurance carrier for review and appropriate action.
091916 shaw
 - D. Approve the application for a Special Designated Liquor License submitted by Schmick's Market, Inc., Liquor License #IDK-084561, for a Girls Night Out Event Reception-Sampling/Tasting to be held at the Community Hospital (Prairie View rooms A & B), 1301 East "H" Street, on October 6, 2016, from 4:00 P.M. to 11:59 P.M.
091916 sdl schmiks
 - E. Adopt Resolution No. 2016-16 setting the property tax request for FY 2016/2017 at a different amount than the property tax request for the prior year.
091916 tax res
 - F. Receive and file report of the surplus city property auction held on August 25, 2016.
091916 surplus
 - G. Approve the letter requesting a waiver of the Nebraska Liquor Control Commission policy allowing more than twelve (12) Special Designated Licenses in a calendar year at the McCook Municipal Auditorium, 305 West 5th Street, McCook, Nebraska.
091916 sdl waiver
 - H. Adopt Resolution No. 2016-15 providing for the adoption of the Limited English Proficiency Plan for the city of McCook.
091916 lep plan
 - I. Ratify the Mayor's appointment to the Planning Commission, appointing Garret Rippen to replace Jerda Garey-Vickers - term expires September 2019.
091916 ratify
 - J. Authorize Century Link to occupy city right of way for the installation of underground communication cable

and electronic equipment in the location identified on the attached map and authorize the Mayor to sign the Application to Occupy Right of Way.

[091916 century link](#)

K. Authorize the use of Community Betterment Funds to cover the rental fees for the annual Coat Closet and McCook Toy Box events to be held at the McCook City Auditorium.

[091916 comm better](#)

L. Receive and file the claims for the month of August 2016 as published September 20, 2016.

[091916 claims](#)

4. Regular Agenda.

A. Approve, under suspension of the rules, Ordinance No. 2016-2943, establishing a parameters bond ordinance, relating to the authorization of up to \$10,000,000 in aggregate principal amount of Combined Utilities Revenue Refunding Bonds, Series 2016, of the City of McCook, Nebraska.

[091916 bond refinance](#)

B. Approve Ordinance No. 2016-2939 providing for the amendment of Appendix F, Solid Waste Collection Fees, of the City of McCook Code of Ordinances upon its third and final reading.

[091916 solid waste](#)

C. Introduce and approve Ordinance No. 2016-2941 providing for the amendment to amending sewer rates.

[091916 sewer rates](#)

D. Introduce and approve Ordinance No. 2016-2942 amending Section 51.072 Determination of Use Charges, changing the language of how sewer usage is calculated for commercial and carwash facilities upon its first reading.

[091916 sewer code chgs](#)

E. Council Comments.

▪ Adjournment.

MCCOOK CITY COUNCIL

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 - **Open Meetings Act Announcement.**
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- At the appropriate time during the meeting, citizens wishing to comment on tonight's Agenda items will be given an opportunity.*
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 - C. Receive and file claim for damages from Candis Shaw and instruct that it be submitted to the City's insurance carrier for review and appropriate action.
 - D. Approve the application for a Special Designated Liquor License submitted by Schmick's Market, Inc., Liquor License #IDK-084561, for a Girls Night Out Event Reception-Sampling/Tasting to be held at the Community Hospital (Prairie View rooms A & B), 1301 East "H" Street, on October 6, 2016, from 4:00 P.M. to 11:59 P.M.
 - E. Adopt Resolution No. 2016-16 setting the property tax request for FY 2016/2017 at a different amount than the property tax request for the prior year.

- F Receive and file report of the surplus city property auction held on August 25, 2016.
- G Approve the letter requesting a waiver of the Nebraska Liquor Control Commission policy allowing more than twelve (12) Special Designated Licenses in a calendar year at the McCook Municipal Auditorium, 305 West 5th Street, McCook, Nebraska.
- H Adopt Resolution No. 2016-15 providing for the adoption of the Limited English Proficiency Plan for the city of McCook.
- I Ratify the Mayor's appointment to the Planning Commission, appointing Garret Rippen to replace Jerda Garey-Vickers - term expires September 2019.
- J Authorize Century Link to occupy city right of way for the installation of underground communication cable and electronic equipment in the location identified on the attached map and authorize the Mayor to sign the Application to Occupy Right of Way.
- K Authorize the use of Community Betterment Funds to cover the rental fees for the annual Coat Closet and McCook Toy Box events to be held at the McCook City Auditorium.
- L Receive and file the claims for the month of August 2016 as published September 20, 2016.

4. Regular Agenda.

- A. Approve, under suspension of the rules, Ordinance No. 2016-2943, establishing a parameters bond ordinance, relating to the authorization of up to \$10,000,000 in aggregate principal amount of Combined Utilities Revenue Refunding Bonds, Series 2016, of the City of McCook, Nebraska.
- B. Approve Ordinance No. 2016-2939 providing for the amendment of Appendix F, Solid Waste Collection Fees, of the City of McCook Code of Ordinances upon its third and final reading.
- C. Introduce and approve Ordinance No. 2016-2941 providing for the amendment to amending sewer rates.
- D. Introduce and approve Ordinance No. 2016-2942 amending Section 51.072 Determination of Use Charges, changing the language of how sewer usage is calculated for commercial and carwash facilities upon its first reading.
- E. Council Comments.

▪ **Adjournment.**

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: 3A

Approve the minutes of the September 6, 2016 regular City Council meeting.

BACKGROUND:

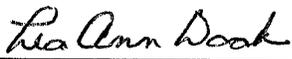
Receive and approve the minutes.

**FISCAL
IMPACT:** None.

RECOMMENDATION:

Approve the minutes of the September 6, 2016 regular City Council meeting.

APPROVALS:



Lea Ann Doak, City Clerk

September 15, 2016

MCCOOK CITY COUNCIL

September 6, 2016

6:30 P.M.

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 6:30 o'clock P.M. in the City Council Chambers.

Present: Mayor Gonzales, Councilmembers Calvin, Hepp, McDowell, Weedon.

Absent: None.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak, Police Chief Brown, Library Director Crocker, Utilities Director Dutcher, Fire Chief Harpham, and Public Works Director Potthoff.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on September 1, 2016, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Mayor and members of the City Council and a copy of the Acknowledgment of Receipt of such notice is attached to these minutes. Availability of the agenda was communicated in the advance notice to the Mayor and Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Mayor Gonzales announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review. Following the Pledge of Allegiance to the flag of the United States of America, Mayor Gonzales called the meeting to order.

1. Citizen's Comments.

No one was present for citizen's comments.

2. Announcements & Recognitions.

There were no announcements or recognitions.

3. Presentations.

- A. Presentation by Barb Ostrum, Coordinator, for the Annual Coat Closet and McCook Toy Box and request that the fees for the use of the McCook Municipal Auditorium be waived for said events; and authorize the use of Community Betterment Funds to cover costs of the said rental fees.

Barb Ostrum, Coordinator, for the Annual Coat Closet and McCook Toy Box requested that the fees for the use of the McCook Municipal Auditorium be waived for said events or that the Council authorize the use of Community Betterment Funds to cover costs of the rental fees.

It was the consensus of the Council to have the use of Community Betterment Funds placed on the next regular agenda.

- B. Receive and file the Annual Cashflow Analyses for the Water and Sewer Enterprise Funds, as prepared by Public Financial Management, Inc.

A telephone conference call was held with Jenny Blankenship, CPA for Public Financial Management (PFM) for review of the cashflow analyses for the Water and Sewer Enterprise Funds. Some of the key points were the Debt Coverage Ratios, the Ending Cash Balance, Cash Balance as % of O & M, and Net Operating Income. No Water rate increase was recommend. A 3% rate increase for Sewer was proposed. Three scenarios were reviewed, a 1% increase, a \$1.00 increase to the Base Rates Only, and the 3% increase, as to their impact of future rate increases.

It was the consensus of the Council to proceed with the \$1.00 increase to the Base Rates only.

4. Consent Agenda.

- A. Approve the minutes of the August 29, 2016 special City Council meeting.

Upon a motion by Councilmember Weedon, seconded by Mayor Gonzales, the Council voted to approve the minutes of the August 29, 2016 special City Council meeting. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

- B. Approve the application for a Special Designated Liquor License submitted by Lighthouse Marina & Grill, Inc., Liquor License #IB-062875, for reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on November 12, 2016 from 4:00 P.M. to 12:00 A.M.

Upon a motion by Councilmember Weedon, seconded by Mayor Gonzales, the Council voted to approve the application for a Special Designated Liquor License submitted by Lighthouse Marina & Grill, Inc., Liquor License #IB-062875, for reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on November 12, 2016 from 4:00 P.M. to 12:00 A.M. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

- C. Authorize Century Link to occupy city right of way for the installation of underground communication cable in three locations identified on the attached maps and authorize the Mayor to sign the Application to Occupy Right of Way.

Upon a motion by Councilmember Weedon, seconded by Mayor Gonzales, the Council voted to authorize Century Link to occupy city right of way for the installation of underground communication cable in three locations identified on the attached maps and authorize the Mayor to sign the Application to Occupy Right of Way. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

- D. Approve the application for a Special Designated Liquor License submitted by Loop Brewery, Liquor License #IK-093351, for a reception to be held at the Red Willow County Fairgrounds Community Building, 1412 West 5th Street, on October 1, 2016, from 3:00 P.M. to 1:00 A.M.

Upon a motion by Councilmember Weedon, seconded by Mayor Gonzales, the Council voted to approve the application for a Special Designated Liquor License submitted by Loop Brewery, Liquor License #IK-093351, for a reception to be held at the Red Willow County Fairgrounds Community Building, 1412 West 5th Street, on October 1, 2016, from 3:00 P.M. to 1:00 A.M. The motion

passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

- E. Approve the application for a Special Designated Liquor License submitted by Loop Brewery, Liquor License #IK-093351, for a dueling pianos to be held at the McCook Municipal Auditorium, 302 West 5th Street, on October 22, 2016 from 6:00 P.M. to 1:00 A.M.

Upon a motion by Councilmember Weedin, seconded by Mayor Gonzales, the Council voted to approve the application for a Special Designated Liquor License submitted by Loop Brewery, Liquor License #IK-093351, for a dueling pianos to be held at the McCook Municipal Auditorium, 302 West 5th Street, on October 22, 2016 from 6:00 P.M. to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

- F. Approve the application for a Special Designated Liquor License submitted by the McCook Economic Development Corporation for a retirement mixer to be held at W Design Associates, 214 East 1st Street, September 28, 2016 from 7:00 A.M. to 1:00 A.M.

Upon a motion by Councilmember Weedin, seconded by Mayor Gonzales, the Council voted to approve the application for a Special Designated Liquor License submitted by the McCook Economic Development Corporation for a retirement mixer to be held at W Design Associates, 214 East 1st Street, September 28, 2016 from 7:00 A.M. to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

- G. Approve the McCook Public Schools request to allow their band and students to march utilizing city streets to attend the Homecoming Pep Rally that is scheduled to be held on Wednesday, September 14, 2016 in Norris Park.

Upon a motion by Councilmember Weedin, seconded by Mayor Gonzales, the Council voted to approve the McCook Public Schools request to allow their band and students to march utilizing city streets to attend the Homecoming Pep Rally that is scheduled to be held on Wednesday, September 14, 2016 in Norris Park. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

5. Regular Agenda.

- A. Appoint a committee to review and select a property and casualty insurance carrier beginning in the 2016-2017 fiscal year.

Upon a motion by Mayor Gonzales, seconded by Councilmember Hepp, the Council voted to ratify the Mayor's appointments of Tom Buresh, Councilmember McDowell, and Councilmember Weedin to the committee to review and select a property and casualty insurance carrier beginning in the FY2016-2017; City Manager Schneider, Deputy City Clerk Schmidt, and City Clerk Doak will also serve on the committee. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

- B. Approve Ordinance No. 2016-2937 providing for the adoption of the budget for FY 2016/2017 upon its third and final reading.

Considered upon its third and final reading, Ordinance No. 2016-2937 entitled:

AN ORDINANCE TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; TO PROVIDE FOR AN EFFECTIVE DATE.

Ordinance No. 2016-2937 was read by title only and thereafter Councilmember Hepp moved for final passage of the Ordinance, which motion was seconded by Councilmember McDowell.

Council discussion included Jaycee Ballpark restrooms and Barnett Park pond restoration as possible future sales tax projects; diminishing sales tax dollars; the need to maintain the contingency fund and General Fund reserve; proposed increase in property tax levy; expressed concerns for those on a fixed income; possibly should have been making gradual increases over the years; do not want to have to borrow for routine operations; and expressed support of the proposed budget.

The Mayor then stated the question: "Shall Ordinance No. 2016-2937 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell, Weedin. NAY: None. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of the Council, the Mayor declared the Ordinance lawfully passed and adopted upon publication as required by law.

- C. Approve Ordinance No. 2016-2938 providing for the adoption of the 2016/2017 Fiscal Year Employee Classification Pay Plan upon its third and final reading.

Considered upon its third and final reading, Ordinance No. 2016-2938 entitled:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA PROVIDING FOR THE ADOPTION OF THE 2016/2017 FISCAL YEAR EMPLOYEE CLASSIFICATION AND PAY PLAN; PROVIDING FOR AN EFFECTIVE DATE FOR THE IMPLEMENTATION OF THE CLASSIFICATION AND PAY PLAN; REPEALING ANY AND ALL OTHER ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2016-2938 was read by title only and thereafter Councilmember Calvin moved for final passage of the Ordinance, which motion was seconded by Councilmember Hepp. The Mayor then stated the question: "Shall Ordinance No. 2016-2938 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell, Weedin. NAY: None. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of the Council, the Mayor declared the Ordinance lawfully passed and adopted upon publication as required by law.

- D. Approve Ordinance No. 2016-2939 providing for the amendment of Appendix F, Solid Waste Collection Fees, of the City of McCook Code of Ordinances upon its second reading.

Considered upon its second reading, Ordinance No. 2016-2939 entitled:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF APPENDIX F, SOLID WASTE COLLECTION FEES, OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES; PROVIDING FOR A RATE TO BE CHARGED FOR SOLID WASTE COLLECTION AND DISPOSAL; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2014-2909 AND ANY AND ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM AND FOR AN EFFECTIVE DATE

OF THIS ORDINANCE.

now comes up on its second reading.

Ordinance No. 2016-2939 was read by title only. Motion was made by Councilmember Weedon, seconded by Councilmember McDowell, to approve Ordinance No. 2016-2939 on its second reading. Upon roll call vote the following Councilmembers voted YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None. Motion carried. Whereupon the Mayor declared said Ordinance No. 2016-2939 approved on its second reading.

E. Introduce and approve, under suspension of the rule, Ordinance No. 2016-2940 setting the salary and compensation of City Manager Nathan A. Schneider.

Mayor Gonzales introduced Ordinance No. 2016-2940 by title. The Clerk read the Ordinance by title:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA SETTING THE SALARY AND COMPENSATION OF THE CITY MANAGER OF THE CITY OF MCCOOK; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2016-2940 was introduced and read by title only. Mayor Gonzales moved that the statutory rule requiring reading on three different days be suspended. Councilmember Calvin seconded the motion to suspend the rule and upon roll call vote the following Councilmembers voted YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None. The motion to suspend the rule was adopted by three-fourths of the Council and the statutory rule was declared suspended for consideration of said Ordinance.

Mayor Gonzales moved for final passage of the Ordinance, which was seconded by Councilmember Calvin. The Mayor then stated the question: "Shall Ordinance No. 2016-2940 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None. Motion carried. The passage and adoption of said Ordinance, having been concurred in by a majority of all members of the Council, the Mayor declared the Ordinance lawfully passed and adopted upon publication as required by law.

F. An Executive Session may be held for the protection of the public interest for a strategy session with respect to litigation that is imminent regarding the special assessment on property located at 810 West 4th Street.

Upon a motion by Councilmember Weedon, seconded by Councilmember Calvin the Council voted to move into executive session for the protection of the public interest for a strategy session with respect to litigation that is imminent regarding the special assessment on property located at 810 West 4th Street at 8:04 P.M. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

The Mayor then stated for the record that at this time, pursuant to the Nebraska Open Meetings Act, a closed session will be held for the purpose of protection of the public interest for a strategy session with respect to litigation that is imminent regarding the special assessment on property located at 810 West 4th Street. The Council will reconvene in public session following this closed session.

Upon a motion by Councilmember McDowell, seconded by Councilmember Calvin, the Council voted to move out of executive session at 8:20 P.M. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

G. Council Comments.

There were no Council comments.

▪ **Adjournment.**

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 8:20 P.M.

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer

CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING

ITEM: 3B

RECOMMENDATION:

APPROVE THE REQUEST FROM AMFIRST BANK TO USE KELLEY PARK, THE WALKING TRAIL AND CITY OWNED PORTIONS OF THE OLD BROKEN TEE GOLF COURSE FOR THEIR ANNUAL 5K CROSS COUNTRY ROAD RACE TO BE HELD ON SATURDAY OCTOBER 29, 2016 BETWEEN THE HOURS OF 4:00 P.M. AND 10:00 P.M. IN ADDITION APPROVE THE REQUEST TO CLOSE THE PARK ROAD IN THE NORTH PART OF KELLEY PARK FROM 7:00 P.M. TO 10:00 P.M.

BACKGROUND:

This event will take place in Kelley Park, along the walking trail and in parts of the city owned property that was once the Broken Tee golf course and will include both runners and walkers. During the event, participants will be crossing East 5th Street with assistance from crossing guards, as well as signs notifying motorists of the participants.

New this year the bank is including a "Haunted Walk" using the hike/bike trail and lower shelter house. In order to provide a safe event for the participants, the bank is requesting permission to close the park road that is just south of the lower shelter house from 7:00 p.m. to 10:00 p.m.

Amfirst Bank will be providing the City with a certificate of insurance.

FISCAL
IMPACT: None.

RECOMMENDATION:

APPROVE THE REQUEST FROM AMFIRST BANK TO USE KELLEY PARK, THE WALKING TRAIL AND CITY OWNED PORTIONS OF THE OLD BROKEN TEE GOLF COURSE AS WELL AS CLOSE THE PARK ROAD IN THE NORTH PART OF KELLEY PARK FROM 7:00 P.M. TO 10:00 P.M. FOR THEIR ANNUAL 5K CROSS COUNTRY ROAD RACE TO BE HELD ON SATURDAY OCTOBER 29, 2016 BETWEEN THE HOURS OF 4:00 P.M. AND 10:00 P.M.

APPROVALS:



Kyle Potthoff, Public Works Director

September 14, 2016



Nate Schneider, City Manager

September 14, 2016



602 West "B" Street • P.O. Box 1447 • McCook, NE 69001
(308) 345-1555 • FAX (308) 345-7844 • Cell (308) 345-2610

AmFirst Investment Service located at AmFirst Bank

August 31, 2016

City of McCook
City Council Members
505 W. C Street
McCook, NE 69001

To Whom It May Concern:

This is a letter to request permission for AmFirst Bank to host a 5k road race on October 29, 2016. The race will take place on the old Broken Tee golf course, the hike/bike trails and Kelly Park. We request permission to use the parks and city property between the hours of 4:00 to 10:00 on that Saturday evening.

Also, new this year will be a "Haunted Walk" using the hike/bike trail and lower shelter building from 7:00 to 10 PM. We also ask permission to use the facilities in this manner. We will have insurance coverage for both events and will show the City of McCook as the insured. If possible, we would like to ask permission to close the road in the North part of Kelley Park from 7:00 to 10:00 as we estimate 300 to 400 people participating in this event.

In addition, we ask that Kelly park and the old Broken Tee golf course be mowed close to the 17th to help increase the safety of the runners and walkers. Thanks for your attention to this matter.

If you have any questions, please contact me at (308) 345-1555.

Sincerely,

Stacy R. Priebe
AmFirst Bank

Securities and Insurance offered through LPL Financial and its affiliates, member FINRA/SIPC

Not FDIC Insured	No Bank Guarantee	May Lose Value
Not a Deposit	Not Insured by any Federal Agency	

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: 3C

Receive and file claim for damages from Candis Shaw and instruct that it be submitted to the City's insurance carrier for review and appropriate action.

BACKGROUND:

Attached to this report you will find the Property Damage Incident Form received from Candis Shaw.

This matter is being placed on the agenda for the Council to receive and file and forward to the insurance carrier for disposition.

FISCAL

IMPACT: None.

RECOMMENDATION:

Receive and file claim for damages from Candis Shaw and instruct that it be submitted to the City's insurance carrier for review and appropriate action.

APPROVALS:



Lea Ann Doak, City Clerk

September 14, 2016



Nathan A. Schneider, City Manager

September 14, 2016



PROPERTY DAMAGE INCIDENT FORM

PHONE NO.: 303-831-5239 EMAIL: judy.brent@usi.biz OR FAX (303)831-5295

Name of Company: CITY OF MCCOOK

Incident Information

Date of Incident: 09-05-16 Time of Incident: 9:00pm

Location: 402 West 4th St McCook NE Phone Number: 308-325-9852

Address: 406 W 4th Street

City: Indianola State: NE Zip Code: 69034

Name of Person Reporting: Candis Shaw

Description of property damaged: Completely messed up front end on my blazer.

Estimate Value: IV/A

Claim Details - What Happened: (Give as much detail as possible.) There was a flood and a Dumpster came from an alley jumped the side walk and smashed into my front end of my blazer.

Name of Person reporting: Candis Shaw

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: **3D**

RECOMMENDATION:

Approve the application for a Special Designated Liquor License submitted by Schmick's Market, Inc., Liquor License #IDK-084561, for a Girls Night Out Event Reception-Sampling/Tasting to be held at the Community Hospital (Prairie View rooms A & B), 1301 East "H" Street, on October 6, 2016, from 4:00 P.M. to 11:59 P.M.

BACKGROUND:

Schmick's will be catering this event at the Community Hospital. They are making application to allow them to serve alcohol at this temporary location. Approval of the City Council is required with all applications.

**FISCAL
IMPACT:** None.

RECOMMENDATION:

Approve the application for a Special Designated Liquor License submitted by Schmick's Market, Inc., Liquor License #IDK-084561, for a Girls Night Out Event Reception-Sampling/Tasting to be held at the Community Hospital (Prairie View rooms A & B), 1301 East "H" Street, on October 6, 2016, from 4:00 P.M. to 11:59 P.M.

APPROVALS:



Lea Ann Doak, City Clerk

September 14, 2016

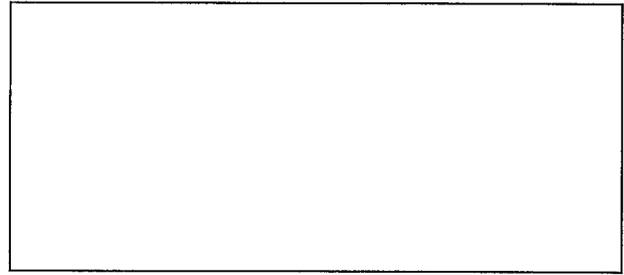


Nathan A. Schneider, City Manager

September 14, 2016

APPLICATION FOR SPECIAL DESIGNATED LICENSE

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov/
Email Applications: michelle.porter@nebraska.gov



DO YOU NEED POSTERS? YES NO

NON PROFIT APPLICANTS

(Check one that best applies)

Municipal Political Fine Arts Fraternal Religious Charitable Public Service

LIQUOR LICENSE HOLDERS

Liquor license number and class (i.e. C-55441)

IDK-084561

COMPLETE ALL QUESTIONS

1. Type of alcohol to be served and/or consumed: Beer Wine Distilled Spirits

2. Licensee name (last, first,), corporate name or limited liability company (LLC) name
(As it reads on your liquor license)

NAME: Schmick, Tyler William, Schmick's Market Inc.

ADDRESS: 212 Westview Plaza

CITY McCook

ZIP 69001

3. Location where event will be held; name, address, city, county, zip code

BUILDING NAME Community Hospital (Prairie View rooms A&B)

ADDRESS: 1301 East H St.

CITY McCook

ZIP 69001

COUNTY and COUNTY # Red Willow #48

a. Is this location within the city/village limits? YES NO

b. Is this location within the 150' of church, school, hospital or home for aged/indigent or for veterans and/or wives? YES NO

c. Is this location within 300' of any university or college campus? YES NO

4. Date(s) and Time(s) of event (no more than six (6) **consecutive** days on one application)

Date Oct. 6th, 2016	Date	Date	Date	Date	Date
Hours From 4 pm	Hours From	Hours From	Hours From	Hours From	Hours From
To 11:59 pm	To	To	To	To	To

a. Alternate date: _____

b. Alternate location: _____
(Alternate date or location must be specified in local approval)

5. Indicate type of activity to be carried on during event:

Dance ___ Reception Fund Raiser ___ Beer Garden ___ Sampling/Tasting

Other Girls night out event

6. Description of area to be licensed

Inside building, dimensions of area to be covered **IN FEET** 50 x 50
 (not square feet or acres)

*Outdoor area dimensions of area to be covered **IN FEET** _____ x _____

***SKETCH OF OUTDOOR AREA (or attach copy of sketch) (sample sketch)**

If outdoor area, how will premises be enclosed?

___ Fence; ___ snow fence chain link cattle panel
 ___ other _____

___ Tent

7. How many attendees do you expect at event? 100

8. If over 150 attendees. Indicate the steps that will be taken to prevent underage persons from obtaining alcohol beverages. (Attach separate sheet if needed)

We will card anyone everyone who looks under 40.

9. Will premises to be covered by license comply with all Nebraska sanitation laws? YES NO

a. Are there separate toilets for both men and women? YES NO

10. Where will you be purchasing your alcohol?

Wholesaler _____ Retailer _____ Both X _____ BYO _____
(includes wineries)

11. Will there be any games of chance operating during the event? YES ___ NO X

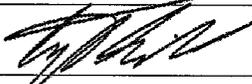
If so, describe activity _____

NOTE: Only games of chance approved by the Department of Revenue, Charitable Gaming Division are permitted. All other forms of gambling are prohibited by State Law: There are no exceptions for Non Profit Organizations or any events raising funds for a charity. This is only an application for a Special Designated License under the Liquor Control Act and is not a gambling permit application.

12. Any other information or requests for exemptions: _____

13. Name and **telephone number/cell phone number** of immediate **supervisor**. This person will be at the location of the event when it occurs, able to answer any questions from Commission and/or law enforcement before and during the event, and who will be responsible for ensuring that any applicable laws, ordinances, rules and regulations are adhered to. **PLEASE PRINT LEGIBLY**

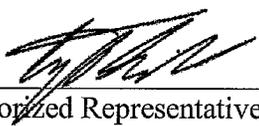
Print name of Event Supervisor Tyler Schmick

Signature of Event Supervisor 

Event Supervisor phone: Before 308-737-7362 During 308-737-7362
Email address schmicksmarket@gmail.com

Consent of Authorized Representative/Applicant

14. I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

sign here 
Authorized Representative/Applicant

Owner/Operator 8/31/2016
Title Date

Tyler Schmick
Print Name

This individual must be listed on the application as an officer or stockholder unless a letter has been filed appointing an individual as the catering manager allowing them to sign all SDL applications.

The law requires that no special designated license provided for by this section shall be issued by the Commission without the approval of the local governing body. For the purposes of this section, the local governing body shall be the city or village within which the particular place for which the special designated license is requested is located, or if such place is not within the corporate limits of a city or village, then the local governing body shall be the county within which the place for which the special designated license is requested is located.

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: **3E**

Adopt Resolution No. 2016-16 setting the property tax request for FY 2016/2017 at a different amount than the property tax request for the prior year.

BACKGROUND:

This is the final step of the budget process as required by Nebraska Revised Statute 77-1601.02 which provides that the property tax request for the prior year shall be the property tax request for the current year unless the Council passes by majority vote a resolution or ordinance setting the tax request at a different amount after a special hearing has been held. Our hearing was held at the same time as the budget hearing on August 15, 2016.

Our levy amount for the General Fund will be \$.349044. The current city valuation will generate \$1,243,160 tax revenue for the coming fiscal year. The City's maximum levy is \$.45.

**FISCAL
IMPACT:** None.

RECOMMENDATION:

Adopt Resolution No. 2016-16 setting the property tax request for FY 2016/2017 at a different amount than the property tax request for the prior year.

APPROVALS:



Lea Ann Doak, City Clerk

September 14, 2016



Nathan A. Schneider, City Manager

September 14, 2016

RESOLUTION NO. 2016-16

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization unless the Governing Body of the City of McCook passes by majority vote a resolution or ordinance setting the tax request at a different amount; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request; and

WHEREAS, it is in the best interests of the City of McCook that the property tax request for the current year be a different amount than the property tax request for the prior year.

NOW, THEREFORE, the Governing Body of the City of McCook, by a majority vote, resolves that:

1. The 2016-2017 property tax request be set at \$1,243,160 for the General Fund.
2. A copy of this resolution be certified and forwarded to the County Clerk prior to October 13, 2016.

PASSED AND APPROVED THIS 19th DAY OF September, 2016.

-s- Michael D. Gonzales, Mayor

ATTEST:

-s- Lea Ann Doak, City Clerk

CITY MANAGERS REPORT
19 SEPTEMBER, 2016 CITY COUNCIL MEETING

ITEM: 3F

RECOMMENDATION:

RECEIVE AND FILE THE REPORT OF THE SURPLUS CITY PROPERTY
AUCTION HELD 25 AUGUST, 2016

BACKGROUND:

An auction of surplus property of the City of McCook was conducted at the Transfer Station on August 25, 2016. A total of \$11,087 was received for the auction items. Tax was collected and is included in the totals for the monies received. Expenses amounted to \$847, leaving a net amount of \$10,240.

The sale proceeds, other than Sales tax and less expenses, will be transferred to the appropriate City funds pursuant to State Statute.

FISCAL IMPACT:

\$10,240 OF SALE PROCEEDS, LESS SALES TAX WILL BE PLACED IN THE
APPROPRIATE CITY FUNDS PURSUANT TO STATE LAW

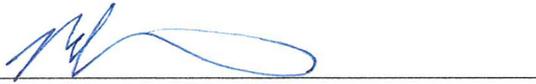
RECOMMENDATION:

RECEIVE AND FILE THE REPORT OF THE SURPLUS CITY PROPERTY
AUCTION HELD 25 AUGUST, 2016

APPROVALS:


Isaac S. Brown, Chief of Police

9-14-16
Date


Nate Schneider, City Manager

9-14-16
Date

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: 3G

Approve the letter requesting a waiver of the Nebraska Liquor Control Commission policy allowing more than twelve (12) Special Designated Licenses in a calendar year at the McCook Municipal Auditorium, 305 West 5th Street, McCook, Nebraska.

BACKGROUND:

Staff has been contacted by the Nebraska Liquor Control Commission (NLCC) regarding the request for the thirteenth SDL for the McCook Municipal Auditorium. As indicated on the application, only twelve (12) SDLs will be issued at any specific location that could otherwise hold a liquor license. Regulation 013.06 states:

“**013.06** It is the declared policy of the Commission that Special Designated Licenses should not be used to avoid the oversight and accountability imposed upon a regular retail license. Therefore, applications for Special Designated Licenses may be denied if the proposed location could otherwise be granted a regular license and if such regular license best serves the purposes of the Liquor Control Act. To help accomplish this policy any location that has received twelve (12) Special Designated Licenses in one calendar year shall have any further applications set for hearing to make a determination whether additional licenses are justified prior to the issuance of the requested Special Designated License.”

According to the NLCC the majority of the locations owned by municipalities have requested a waiver of this policy which is then placed in their file.

**FISCAL
IMPACT:** None.

RECOMMENDATION:

Approve the letter requesting a waiver of the Nebraska Liquor Control Commission policy allowing more than twelve (12) Special Designated Licenses in a calendar year at the McCook Municipal Auditorium, 305 West 5th Street, McCook, Nebraska.

APPROVALS:



Lea Ann Doak, City Clerk

September 15, 2016



Nathan A. Schneider, City Manager

September 15, 2016



Mike Gonzales, Mayor

P.O. BOX 1059 • 505 WEST "C" STREET • McCOOK, NE 69001-1059 • PHONE (308) 345-2022 • FAX (308) 345-1461

September 19, 2016

Nebraska Liquor Control Commission
PO Box 95046
Lincoln NE 68509-5046
FAX: 402-471-2814

RE: Waiver Request of Policy regarding number of Special Designated Licenses
at the McCook Municipal Auditorium

The City of McCook hereby requests that the declared policy of the Commission that only twelve (12) Special Designated Licenses (SDLs) can be issued for a location in one calendar year be waived for the McCook Municipal Auditorium located at 305 West 5th Street. Due to the closing of a local business the auditorium is being used for more catering events. The City of McCook is not in a position to provide this service, nor do we desire to apply for a regular license for this location. The Council considers each SDL application for this location before approving and allowing consumption of alcohol at this city-owned facility. All but one of the twelve SDLs approved this year have been to individuals with a regular retail license to help insure that proper oversight and accountability is maintained. The one non-licensed SDL was to the McCook Chamber of Commerce.

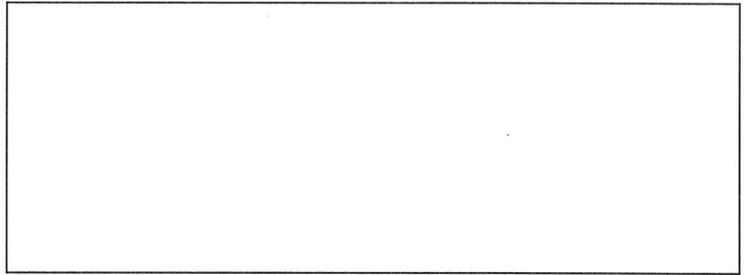
If you have any questions regarding this, please contact our office.

Sincerely,

Mike Gonzales
Mayor

APPLICATION FOR SPECIAL DESIGNATED LICENSE

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov/
Email Applications: michelle.porter@nebraska.gov



Special Designated License (SDL) Application Quick Checklist

Requirements:

- Application **MUST** include approval from the local governing body (city, village or county clerk of where the event is to be held). Contact this jurisdiction for further requirements. **EFFECTIVE MAY 1, 2015, applications will no longer be accepted without the local approval attached to the application.**
- Only 501c Non-profit organizations or Retail license holders can apply for a Special Designated License. No SDL will be issued to Retail license holders operating under a Temporary Operating Permit (TOP).
- Include \$40 fee for each day/area. Check is payable to the Nebraska Liquor Control Commission (NLCC). If you have a Catering license, there are no fees required. You may also pay online at [PAYPORT](#)
- **Applicant** is responsible for all paperwork and fees being sent to the NLCC office before the 10-day deadline. It is not the responsibility of the local governing body to send the application to the NLCC.
- When requesting alternate date(s) and/or location(s), approval from local governing body must include approval for these alternate date(s) and/or locations(s). If requesting sales on Sunday, attach copy of local ordinance or resolution.
- Application must be received in Nebraska Liquor Control Commission (NLCC) office a **MINIMUM** of ten (10) business days prior to date of event (weekends, holidays & date of event are not included in this count). **NO EXCEPTIONS!** *See the [calendar](#)
- When requesting an outdoor area, you must include a box-type diagram of the area to be licensed.
- Non Caterer applicants are only allowed six (6) SDLs per calendar year, this includes consecutive days used on one application (i.e. July 4 – 9 = 6 days).
- Only twelve (12) SDLs will be issued at any specific location that could otherwise hold a liquor license.

Non Profit Application **MUST**:

- Include page five (5) of application showing Federal ID number.
- When requesting an exemption from NLCC rules; i.e. waiver of double fencing, request must be received in (NLCC) office a **MINIMUM** of 30 days prior to the date of the event; waiving double fence must complete Form 140.

APPLICATION FOR SPECIAL DESIGNATED LICENSE

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov/
Email Applications: michelle.porter@nebraska.gov

DO YOU NEED POSTERS? YES NO

NON PROFIT APPLICANTS

(Check one that best applies)

Municipal Political Fine Arts Fraternal Religious Charitable Public Service

LIQUOR LICENSE HOLDERS

Liquor license number and class (i.e. C-055441)

COMPLETE ALL QUESTIONS

1. Type of alcohol to be served and/or consumed: Beer Wine Distilled Spirits

2. Licensee name (last, first,), corporate name or limited liability company (LLC) name
(As it reads on your liquor license)

NAME: _____

ADDRESS: _____

CITY _____ **ZIP** _____

3. Location where event will be held; name, address, city, county, zip code

BUILDING NAME _____

ADDRESS: _____ **CITY** _____

ZIP _____ **COUNTY and COUNTY #** _____

a. Is this location within the city/village limits? YES NO

b. Is this location within the 150' of church, school, hospital or home for aged/indigent or for veterans and/or wives? YES NO

c. Is this location within 300' of any university or college campus? YES NO

4. Date(s) and Time(s) of event (no more than six (6) **consecutive** days on one application) If dates are non-consecutive, please complete a separate application.

Date _____ Hours From _____ To _____	Date _____ Hours From _____ To _____	Date _____ Hours From _____ To _____	Date _____ Hours From _____ To _____	Date _____ Hours From _____ To _____	Date _____ Hours From _____ To _____
---	---	---	---	---	---

a. Alternate date: _____

b. Alternate location: _____
(Alternate date or location must be specified in local approval)

5. Indicate type of activity to be carried on during event:

Dance Reception Fund Raiser Beer Garden Tasting
 Other _____

6. Description of area to be licensed

Inside building, dimensions of area to be covered **IN FEET** _____ x _____
 (not square feet or acres)

*Outdoor area dimensions of area to be covered **IN FEET** _____ x _____

***SKETCH OF OUTDOOR AREA (or attach a diagram)**

If outdoor area, how will premises be enclosed?

Fence; snow fence chain link cattle panel
 other _____
 Tent

7. How many attendees do you expect at event? _____

8. If over 150 attendees. Indicate the steps that will be taken to prevent underage persons from obtaining alcohol beverages. (Attach separate sheet if needed)

9. Will premises to be covered by license comply with all Nebraska sanitation laws? YES NO

a. Are there separate toilets for both men and women? YES NO

This page is required to be completed by Non-Profit applicants only.

**Application for Special Designated License
Under Nebraska Liquor Control Act
Affidavit of Non-Profit Status**

I HEREBY DECLARE THAT THE CORPORATION MAKING APPLICATION FOR A SPECIAL DESIGNATED LICENSE UNDER THE NEBRASKA LIQUOR CONTROL ACT IS EITHER A MUNICIPAL CORPORATION, A FINE ARTS MUSEUM INCORPORATED AS A NONPROFIT CORPORATION, A RELIGIOUS NONPROFIT CORPORATION WHICH HAS BEEN EXEMPTED FROM THE PAYMENT OF FEDERAL INCOME TAXES, A POLITICAL ORGANIZATION WHICH HAS BEEN EXEMPTED FROM THE PAYMENT OF FEDERAL INCOME TAXES, OR ANY OTHER NONPROFIT CORPORATION, THE PURPOSE OF WHICH IS FRATERNAL, CHARITABLE, OR PUBLIC SERVICE AND WHICH HAS BEEN EXEMPTED FROM THE PAYMENT OF FEDERAL INCOME TAXES AS PER §53-124.11(1).

AS SIGNATORY I CONSENT TO THE RELEASE OF ANY DOCUMENTS SUPPORTING THIS DECLARATION AND ANY DOCUMENTS SUPPORTING THIS DECLARATION WILL BE PROVIDED TO THE NEBRASKA LIQUOR CONTROL COMMISSION, THE NEBRASKA STATE PATROL OR ANY AGENT OF THE LIQUOR CONTROL COMMISSION IMMEDIATELY UPON DEMAND. I ALSO CONSENT TO THE INVESTIGATION OF THIS CORPORATE ENTITY TO DETERMINE IT'S NONPROFIT STATUS.

I AGREE TO WAIVE ANY RIGHTS OR CAUSES OF ACTION AGAINST THE NEBRASKA LIQUOR CONTROL COMMISSION, THE NEBRASKA STATE PATROL OR ANY PARTY RELEASING INFORMATION TO THE AFOREMENTIONED PARTIES.

NAME OF CORPORATION

FEDERAL ID NUMBER

SIGNATURE OF TITLE OF CORPORATE OFFICERS

THE ABOVE INDIVIDUAL STATES THAT THE STATEMENT ABOVE IS TRUE AND CORRECT: IF ANY FALSE STATEMENT IS MADE ON THIS APPLICATION, THE APPLICANT SHALL BE DEEMED GUILTY OF PERJURY AND SUBJECT TO PENALTIES PROVIDED BY LAW. (SEC. §53-131.01) NEBRASKA LIQUOR CONTROL ACT

SUBSCRIBED IN MY PRESENCE AND SWORN TO BEFORE ME THIS _____ DAY OF _____

NOTARY PUBLIC SIGNATURE & SEAL

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: **3H**

Adopt Resolution No. 2016-15 providing for the adoption of the Limited English Proficiency Plan of the City of McCook.

BACKGROUND:

The attached Limited English Proficiency Plan (LEP) has been prepared to address the City of McCook's responsibilities as a recipient of Federal financial assistance as they relate to the needs of individuals with limited English language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color or national origin in programs and activities receiving Federal finance assistance.

Executive Order 13166, titled "Improving Access to Services for Persons with Limited English Proficiency", indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination. It directs Federal agencies to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including the City of McCook.

**FISCAL
IMPACT:** None.

RECOMMENDATION:

Adopt Resolution No. 2016-15 providing for the adoption of the Limited English Proficiency Plan of the City of McCook.

APPROVALS:



Lea Ann Doak, City Clerk

September 14, 2016



Nathan A. Schneider, City Manager

September 14, 2016

RESOLUTION NO. 2016-15

WHEREAS, the Nebraska Department of Roads has described four factors that should be addressed in drafting a Limited English Proficiency Plan in compliance with Executive Order 12166; and

WHEREAS, the Public Works Director and the Deputy City Clerk have been appointed Co-Title VI/ADA Coordinators for the City of McCook; and

WHEREAS, the City's Co-Title VI/ADA Coordinators have examined those factors defined by the Nebraska Department of Roads and the conclusions are reflected in the proposed Limited English Proficiency Assistance Plan.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of McCook, Nebraska, that the Limited English Proficiency Assistance Plan, marked as Exhibit "A", attached hereto and made a part hereof, be and is hereby adopted and approved.

PASSED AND APPROVED THIS 19TH DAY OF September, 2016.

-s- Michael D. Gonzales, Mayor

ATTEST:

-s- Lea Ann Doak, City Clerk

Limited English Proficiency Plan



**Co-Title VI/ADA Coordinators
505 West C Street
P.O. Box 1059
McCook, NE 69001
(308) 345-2022**

I. Introduction

This Limited English Proficiency Plan (LEP) has been prepared to address the City of McCook's responsibilities as a recipient of Federal financial assistance as they relate to the needs of individuals with limited English language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color or national origin in programs and activities receiving Federal financial assistance. Specifically Title VI provides that "no person shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, be subject to discrimination under any program or activity receiving Federal financial assistance."

Executive Order 13166, titled "Improving Access to Services for Persons with Limited English Proficiency", indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination. It directs Federal agencies to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including the City of McCook.

Plan Summary

The City of McCook has developed this Limited English Proficiency Plan to help identify reasonable steps for providing language assistance to persons with limited English proficiency who wish to access services provided. As defined in Executive Order 13166, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English.

This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP persons that assistance is available.

As part of preparing this Plan, the City of McCook used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP persons eligible to be serviced or likely to be encountered by City of McCook;
2. The frequency with which LEP persons using a particular language come in contact with City of McCook;
3. The nature and importance of services provided by the City of McCook to the LEP population; and
4. The resources available to City of McCook, and costs associated with providing LEP services.

II. Meaningful Access: Analysis of the Four Factors

1. The number or a proportion of LEP persons in the service area who may be served or are likely to require City of McCook services.

According to the U.S. 2010 Census Report and detailed in its document 2010-2014 American Community Survey 5-Year Estimates for McCook, Nebraska it is determined that:

- The total number of persons over five years of age in the City of McCook is 7,150.
- 6907 speak only English; 96.6% of the population.
- 243 speak a language other than English; 3.4% of the population.
- 161 speaking another language(s) are classified as “Speak English Very Well”; 2.25% of the population.
- 82 speaking another language(s) are classified as “Speak English Not Well”; 1.15% of the population.
- 6 speaking another language(s) are classified as “Speak English Not at All”; .08% of the population.

This data indicates that only 1.23% of the population in McCook, Nebraska are LEP persons.

2. The frequency with which LEP persons come in contact with City of McCook services.

The City will continue to assess the frequency with which its employees have, or could have, contact with LEP persons. This includes documenting face-to-face contacts, telephone inquiries and applications for employment, water and sewer utility service, library services, housing services, building permits and police and fire services. The City employees have indicated that there is occasional contact with persons with LEP in regard to Spanish; however, there is very infrequent contact with LEP persons that speak a language other than Spanish as their primary language.

3. The nature and importance of services provided by City of McCook to the LEP population.

There is no large geographic concentration of any type of LEP individuals in the service area for the City of McCook. The overwhelming majority of the population speaks only English. As a result there are not many social, service, professional and leadership organizations within the City of McCook service area that focus on outreach to LEP individuals. The City of McCook elected officials and staff are most likely to encounter LEP individuals through office visits, phone conversations, notifications from staff of impacts on services and attendance at meetings.

4. The resources available to the City of McCook, and overall costs to provide LEP assistance.

The City of McCook will continue to review its available resources that could be used for providing LEP assistance, which of its documents would be most valuable to be translated if the need should arise, and contact local citizens that would be willing to provide voluntary Spanish translation if needed within a reasonable time period. Other language assistance, if needed, would be provided through a telephone interpreter line for which City of McCook would pay a fee.

III. Language Assistance

A person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to City of McCook services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

After identification or anticipation of an LEP person who needs language assistance, the City of McCook may utilize any of the following:

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge in languages LEP persons would understand.
- Provide “I Speak” cards to assist in identifying the language interpretation needed if the occasion arises.
- Provide necessary documents in the needed language.

When the City of McCook sponsors an informational meeting or event, a staff person may greet participants as they arrive. By informally engaging participants in conversation it is possible to gauge each attendee’s ability to speak and understand English. Although translation may not be able to be provided at the event it will help identify the need for future events.

A. Language Assistance Measures - Although there is a very low percentage in the City of McCook of LEP individuals, that is, persons who speak English “not well” or “not at all”, it will strive to offer the following measures:

1. The City of McCook staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating English.
2. The following resources will be available to accommodate LEP persons:

- i. Volunteer interpreters for the Spanish language are available and will be provided within a reasonable time period.
- ii. Language interpretation will be accessed for all other languages through a telephone interpretation service.

B. Periodic Reviews - City of McCook staff will be informally surveyed periodically on their experience concerning any contacts with LEP persons since the last periodic review.

IV. Staff Training

The following training will be provided to all staff:

- Information on the Title VI Policy and LEP responsibilities.
- Description of language assistance services offered to the public.
- Use of the “I Speak” cards.
- Documentation of language assistance requests.
- How to handle a potential Title VI/LEP complaint.

All contractors or subcontractors performing work for City of McCook will be required to follow the Title VI/LEP guidelines.

V. Translation of Documents

- City of McCook weighed the cost and benefits of translating documents for potential LEP groups. Considering the expense of translating the documents, the likelihood of frequent changes in documents and other relevant factors, at this time it is an unnecessary burden to have any documents translated.
- Due to the very small local LEP population, City of McCook does not have a formal outreach procedure in place, as of 2016. Translation resources have been identified and are limited in this region. However, when and if the need arises for LEP outreach, City of McCook will prepare documents or schedule meetings for which the target audience is expected to include LEP individuals. As is needed documents, notices, flyers and agendas will be printed in an alternative language based on the known LEP population.

VI. Monitoring

The City of McCook will monitor and update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when data from next U.S. Census is available, or when it is clear that higher concentrations of LEP individuals are present in the City of McCook service area. Updates will include the following:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP persons have been addressed.

- Determine the current LEP population in the service area.
- Determine whether the need for translation services has changed.
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine whether City of McCook's financial resources are sufficient to fund language assistance resources needed.
- Determine whether the City of McCook fully complies with the goals of this LEP Plan.
- Determine whether complaints have been received concerning the City's failure to meet the needs of LEP individuals.

VII. Dissemination of City of McCook LEP Plan

- Post signs at City offices notifying LEP persons of the LEP Plan and how to access language services.
- The City of McCook's LEP Plan and Title VI complaint procedure is located on the City of McCook's website at www.ci.McCook.ne.us. Any person or agency may request a copy of the Plan via telephone, fax, mail, or in person and will be provided a copy of the Plan at no cost. LEP individuals may request a copy of the Plan in alternative languages which will be provided if feasible.

Questions or comments regarding the LEP Plan may be submitted to the City of McCook:

Co-Title VI/ADA Coordinators
505 West C Street
P.O. Box 1059
McCook, NE 69001
(308) 345-2022

CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING

ITEM: 31

RECOMMENDATION:

Ratify the Mayor's appointment to the Planning Commission, appointing Garret Rippen to replace Jerda Garey-Vickers - term expires September 2019.

BACKGROUND:

The Mayor has contacted all appointees and they are willing to serve on the various boards.

FISCAL

IMPACT: None.

APPROVALS:



Lea Ann Doak, City Clerk

September 15, 2016



Nathan A. Schneider, City Manager

September 15, 2016

PLANNING COMMISSION

ADAM WOLFORD
71802 Susanna Drive
Appointed - September 2013
Term Expires - September, 2016 (Replaced Michael Eklund)
(Extra Territorial Representative)

344-8519 (Rehab Center)
340-3545 (C)
awolford@chmccook.org

TERRI SHIPSHOCK
2111 Blake Drive
Appointed - December, 2013 (Replaced Flora Lundberg)
Term Expires - September, 2016

344-5365 (O)
345-2315 (H)
(320) 282-4373 (C)
tshipshock@chmccook.org

TAMMIE HILKER
512 East 5th
Appointed - September 25, 1995
Reappointed - September, 2013
Term Expires - September, 2016

345-3717 (H)
340-7861 (C)
thilker@alloisp.com

GARRET RIPPEN
1711 West 2nd Street
Appointed - September, 2016 (Replaced Jerda Garey-Vickers)
Term Expires - September, 2019

340-9328 (C)

DONALD O. HARPST
505 North Cherokee
Appointed - February, 2000
Reappointed - October, 2014
Term Expires - September, 2017

344-5303 (H)
dharpst@swnebr.net

KURT VOSBURG*
#13 Wedgewood
Appointed - November, 2005
Reappointed - October, 2014
Term Expires - September, 2017

345-8490 (O)
340-0005 (H)

JESSE STEVENS
1606 West 2nd Street
jesse@hometownfamilyradio.com
Appointed - September, 2012 as Alternate
Appointed - March, 2015 (replaced Lonnie Anderson)
Term Expires - September, 2017

345-5688 (H)
345-5598 (O)
340-2932 (C)

CHAD LYONS
1201 West 2nd Street
Appointed - September, 2009 (replaced Dan Miller)
Reappointed - September, 2012
Term Expires - September, 2015

345-2140 (H)
340-9433 (C)
cklyons85@gmail.com
clyons@mccookbison.org

DALE DUELAND
112 East N
Appointed - September, 1997
Reappointed - September, 2012
Term Expires - September, 2015

345-1154 (Farm)
345-6163 (H)
350-1660 (Cell radio)

dmandue@ocsmccook.com

DENISE GAREY - ALTERNATE
#8 12th Street Court
Appointed - August 2016 (Replaced Ben Siegfried)
Term Expires - March, 2018

340-1942 (C)

*Denotes Chairperson

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: 3J

RECOMMENDATION:

AUTHORIZE CENTURY LINK TO OCCUPY CITY RIGHT OF WAY FOR THE INSTALLATION OF UNDERGROUND COMMUNICATION CABLE AND ELECTRONIC EQUIPMENT IN THE LOCATION IDENTIFIED ON THE ATTACHED MAP AND AUTHORIZE THE MAYOR TO SIGN THE APPLICATION TO OCCUPY RIGHT OF WAY.

BACKGROUND:

Century Link is asking permission to occupy City of McCook Right of Way to install underground communication cable and electronic equipment.

The location begins approximately 80' west of the West First and West "J" Street intersection and ends approximately 99' west of the same intersection.

Century Link plans to place electronic equipment cabinets within the ROW as part of this project. These cabinets will be approximately 60" in height. City staff has checked the vision triangle for both the West 1st and West "J" Street intersection and the alley intersection between West 1st and West 2nd Street and has found that these proposed cabinets will fall outside of the vision triangle.

These permissions are only related to City owned ROW and does not include any other properties owned privately or by any other government agency. Century Link will be required to gain permission/permits for all other properties from the owner of such properties.

We have attached maps that identify the location and a copy of the \$2,500.00 check for the required performance guarantee.

**FISCAL
IMPACT:** None.

RECOMMENDATION:

AUTHORIZE CENTURY LINK TO OCCUPY CITY RIGHT OF WAY FOR THE INSTALLATION OF UNDERGROUND COMMUNICATION CABLE AND ELECTRONIC EQUIPMENT IN THE LOCATION IDENTIFIED ON THE ATTACHED MAP AND AUTHORIZE THE MAYOR TO SIGN THE APPLICATION TO OCCUPY RIGHT OF WAY.

APPROVALS:



Kyle Pothhoff, Public Works Director

September 14, 2016



Jesse Dutcher, Utilities Director

September 14, 2016



Nate Schneider, City Manager

September 14, 2016



 Car 75' from Intersection

BRENT LAMB
CENTURYLINK
21680 PLUM CREEK DR
GRETN A NE 68028

Commercial Convenience Check **216**

COPY

September 1, 2016 68-1/510
Date

Pay to the order of City of Mc Cook

\$ 2,500

Two thousand - five - hundred & 00/100

Dollars



Bank of America



Bank of America, N.A.
Richmond, VA

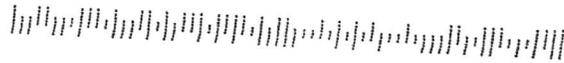
Void after 60 days
For Deposit Only

For A/c: 081567

Brent Lamb

⑆051000017⑆045210056167921⑆0216

Harland Clarke



**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM NO. 3K Authorize the use of Community Betterment Funds to cover the rental fees for the annual Coat Closet and McCook Toy Box events to be held at the McCook City Auditorium.

BACKGROUND:

At our last meeting, Barb Ostrum made a request for a waiver of the rental fees or for the use of Community Betterment Funds to cover the rental fees at the McCook Auditorium for the annual Coat Closet and McCook Toy Box events that will be held in November and October of this year. Council has granted this request in the past, which has helped to defray costs and ensure the viability of these events.

RECOMMENDATIONS:

ITEM NO. ___ Authorize the use of Community Betterment Funds to cover the rental fees for the annual Coat Closet and McCook Toy Box events to be held at the McCook City Auditorium.

APPROVALS:

APPROVALS:



Nathan A. Schneider, City Manager

September 17, 2016



Lea Ann Doak, City Clerk

September 17, 2016

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: 3L

Receive and file the claims for the month of August 2016 as published September 20, 2016.

BACKGROUND:

Claims are presented to the Council and published each month as outline in the City Code of Ordinances.

Staff is always available to address any questions that the Council may have regarding a specific claim.

**FISCAL
IMPACT:** None.

RECOMMENDATION:

Receive and file the claims for the month of August 2016 as published September 20, 2016.

APPROVALS:



Lea Ann Doak, City Clerk

September 15, 2016

CITY OF MCCOOK
CLAIMS FOR AUGUST, 2016
ABBREVIATIONS FOR LEGALS: PS - PERSONAL SERVICES; S- SUPPLIES; SC -
SERVICES & CHARGES; CO - CAPITAL OUTLAY; BT - BUDGET TRANSFERS

20/20 TECH-SC 1,599.00; 7-D-SC 28.49; ADVANTAGE BIZ EQUIP-S 1161.95; ALAMAR-S 591.73; ALLEN, B-SC 187.86; ALLMAX SOFTWARE-SC 200.00; AMAZON-SC 245.30; AMERICAN AGLAB-SC 1085.17; AMERICAN ELEC-SC 110.95; AMERICAN LEGION POST-SC 132.42; ARNOLD POOL-S 350.25; ARROW CAR WASH-S 29.70; ARROW INT'L-S 777.53; AS CENTRAL SVC-SC 896.00; BACKUPBRACE-S 78.90; BAIRD HOLM-SC 350.00; BAKER & TAYLOR-S 465.63; BARNETT'S-S 415.59; BCBS-SC 688.05; BIRCH COMM-SC 31985.09; BLACK HILLS CORP-S 1,443.97; BONINI, F-SC 125.00; BSB CONST-CO 332878.12; BW TELCOM-SC 124.56; C&K-S 858.29; CALACT-SC 465.00; CAMBRIDGE TELE-SC 259.69; CARQUEST-S 2269.32; CASH WA-S 9747.96; CENTRAL PLAINS LIBRARY-S 15.00; CENTURY LINK-SC 893.99; CHIEF SUPPLY-S 604.37; CITY HEALTH INS-SC 121,538.00; CITY OF MCCOOK-PS 325479.97; CITY UTILITIES 14763.70; CIVICPLUS-SC 2928.75; COAST TO COAST SOLUTIONS-S 267.30; COMFORT INN-SC 281.85; COMMON SCENTS-S 207.98; COMPUTER SUPPLIES & SVC-S 394.77; CONSOLIDATED MGMT-SC 7.88; CPI-SC 20196.89; CREATIVE PRODUCT SOURCING-S 397.95; CROCKER, J-SC 135.60; CULLIGAN (SALT)-S 192.00; D&L PEST-SC 138.00; D&S-S 5861.99; DANKO-S 6400.40; DELTA AIR-SC 391.20; DEMCO-S 923.82; DEVENY-S 540.57; DIAMOND VOGEL-S 4808.73; DITCH WITCH UNCON-CO 39.40; EAKES-S 2,054.70; EDWARDS MACH-S 148.37; EILER, H-SC 93.75; EMS-SC 3947.67; ENGINEERED CONTROLS-S 1446.24; ESCHLIMAN-S 496.23; ETS CORP-SC 383.22; FASTENAL-S 751.10; FEDERAL SIGNAL CORP-SC 425.00; FICA-PS 16382.84; FIRE PROTECTION PUBLICATIONS-SC 70.00; FIREGUARD-CO 38388.09, S-110.46; FIVE POINTS BANK-SC 1515.69; FV CO-OP-S 16,306.34; GALE GRP-S 245.08; GALLS-S 140.30; GARY'S-S 746.00; GERHOLD-S 835.94; GOOGLE*SVCS-SC 273.38; GREAT PLAINS COMM-S 129.95, SC 585.95; HASLER-S 1,000.00; HAUXWELL PUMP-S 4833.52; HAWKINS-S 9464.89; HENNING BROS LEASING-SC 59.00; HERITAGE SR CTR-SC 117.00; HG KLUG-S 101.97; HIGH PLAINS RADIO-SC 50.00; HOA SOLUTIONS-S 3790.08; HOBBY LOBBY-S 34.22; HOLIDAY INN-SC 599.70; IALEFI-SC 55.00; IDEAL LINEN-S 287.72; INLAND TRUCK PTS-

OS 245.29; INT'L ASSOC OF ARSON INV-SC 500.00; INT'L SOCIETY OF FIRE-SC 485.00; ISLAND SPRINKLER-S 70.45; JBARJ-SC 37,246.21; K&C-S 35,592.46; K-C MOTOR-S 171.87; KEARNEY HUB-S 226.20; KILDARE-S 75.99; KOHL'S-S 298.39; LANDS END-S 149.83; LONM UTILITIES SECTION-SC 1924.00; LONM-SC 12774.00; LIFE-ASSIST-S 1393.38; M&B CONST-CO 275.00; MARC-S 358.73; MARIS CONST-CO 900.00; MATHESON-LINWELD-S 333.97; MCC-SC 100.00; MC HUMANE SOCIETY-SC 3,788.11; MCCOOK GAZETTE-SC 498.40; MPPD-SC 1691.36; MC SCHOOLS-SC 250.00; MCCOOKNET-SC 406.60; MEDC 14,261.05; MEDICARE-PS 4520.78; MENARDS-S 147.96; MICHAEL TODD & CO-S 2033.42; MICRO FORMAT-S 244.00; MICROMARKETING-S 2438.03; MID AM PAY PHONES-SC 40.00; MIDLANDS TOX-SC 238.00; MW AMBUCARE-S 586.00; MW CONNECT-SC 100.94; MW LABS-SC 365.09; MIGHTY DUCTS-S 365.00; MILLER & ASSOC-SC 1560.00, CO 22986.35; MK BATTERY-SC 769.27; MOLCYK, J-SC 62.50; MOTOROLA-S 52.80; MOUSEL LAW-SC 8,219.09; MOTION PICTURE LIC-S 239.70; MUNICIPAL SUPP-S 18784.15; MUTUAL OF OMAHA-SC 939.73; NASC-SC 90.00; NATIONWIDE-SC 613.00; NE ASSN OF TRANSPORTA PROVIDER-SC 50.00; NE DEPT OF HHS-SC 115.00; NE DEPT OF MOTOR VEH-SC 3.00; NE DEPT OF REVENUE-SC 16990.06; NE LAW ENFORCEMENT-SC 20.00; NE LIBRARY ASSOC-SC 160.00; NE LIBRARY COMM-S 1588.70; NE SAFETY & FIRE EQUIP-S 195.00; NE ENVIRON PROD-S 113.58; NE MACHINERY-S 1591.88; NE TRUCK CTR-SC 70.27; NICK'S DIST-S 925.15; NORTHERN SAFETY-S 142.16; NPPD-SC 51064.60; NSI LAB-SC 67.00; NSVFA-SC 466.00; O'NEILL WOOD RESOURCES-SC 5000.00; ONE CALL CONCEPTS-SC 83.28; O'REILLY-S 77.20; OCLC-SC 1608.98; ORSCHELN-S 381.07; PARDE ELEC-S 175.50; PAUL CONWAY SHIELDS-S 54.49; PAULSEN-S 36.15; PETROTEK ENG-SC 10222.50; PLAINS EQUIP GRP-S 993.36; PLATTE VALLEY COMM-SC 2270.96; PRAISE WINDOWS-S 1660.00; PREMIER POLICE TRAINING-SC 50.00; PSAP FUNDS-1538.00; QUILL-S 547.28; RDJ SPEC-S 78.48; RW AVIATION SPRAY-S 54.75; RW HEALTH DEPT-SC 300.00; RW COUNTY CLERK-SC 22.00; RW TREAS-SC 225.00; SCHAMEL'S-S 1128.79; SCHMICK'S-S 6.58; SCHOLASTIC-S 712.25; SENSEL WELDING-SC 38.92; SHURCO-S 1579.44; SIEGFRIED, B-SC 226.69; SLEUTH SOFTWARE-SC 5617.00; SMITH, S-SC 409.56; SPASH DESIGNS-SC 40.00; MMF-MUS ON HOLD SVC-SC 277.22; SPECTRA ASSOC-S 305.50; SWANSON SIGN-SC 363.20; THOMPSON CO-S 3499.96; TITAN-S 374.27; TNA

SAFETY-S 40.00; TJ'S FUN CTR-SC 120.00; TRACTOR SUPPLY-S 19.98; TRANE-S 247.50;
TYLER TECH-SC 2700.00; UMR-SC 151362.67; U-SAVE-S 155.52; UNIQUE TECHNIQUE-S
624.00; UNIV OF NE-SC 20.00; USI-SC 164.00; USPS-SC 1,254.30; UTILITY REFUNDS-SC
987.54; UV DOCTOR-S 2788.08; VAN-DIEST-S 3941.00; VERIZON-SC1746.71; VOLZ-S
221.12; WAGNER FORD-S 4423.11; WALMART-S 3060.75; WALTER HEATING-S 150.00;
WALTER PLUMBING-S 75.00; WASTE SYSTEMS-S 304.91; WESTERN ENG-CO 1048.95;
WESTIN HOTELS-SC 328.36; WESTERN TIRE-SC 5774.60; WOODS & AITKEN-SC 560.00;
ZOLL MED CORP-S 437.86.

-s- Lea Ann Doak
City Clerk

Publish: September 20, 2016

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM NO. 4A Approve, under suspension of the rules, Ordinance No. 2016- ~~2940~~ ²⁹⁴³, establishing a parameters bond ordinance, relating to the authorization of up to \$10,000,000 in aggregate principal amount of Combined Utilities Revenue Refunding Bonds, Series 2016, of the City of McCook Nebraska.

BACKGROUND:

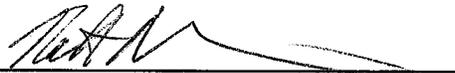
As discussed previously, the City has four outstanding loans with NDEQ, two of which funded past water system improvements and two funding past sewer system improvements. The two sewer loans have an outstanding principal balance of \$127,130 and \$2,155,000, respectively. The smaller loan is at a rate of 3.5%, with the larger loan outstanding at 4%. The City also has \$6,735,000 in water debt outstanding at a rate of 3.8%; the remaining water loan contains a loan clause not allowing for refinance until a later date (2019).

It is being proposed that action be taken on a Parameters Ordinance which will issue combined utilities revenue refunding bonds. This Ordinance will detail that the City will not borrow more than \$10 million, at a rate not to exceed 3%, for an amortization of no longer than 20 years, to pay off NDEQ debt currently outstanding at higher interest rates. By passing this Ordinance, the Council will grant authority to City staff to choose the right structure and amortization for the bond issue that will generate the best possible savings for the City. Also, this Ordinance action provides the City will save a minimum of 4% present value of the debts outstanding, an amount agreed upon by the City Financial Advisor, PFM, and Ameritas. Once the Ordinance has been passed, the City staff will have authority to pursue a possible rating and market the bonds at the most advantageous time.

RECOMMENDATIONS:

ITEM NO. _ Approve, under suspension of the rules, Ordinance No. 2016- ~~2940~~ ²⁹⁴³ establishing a parameters bond ordinance, relating to the authorization of up to \$10,000,000 in aggregate principal amount of Combined Utilities Revenue Refunding Bonds, Series 2016, of the City of McCook Nebraska.

APPROVALS:



Nathan A. Schneider, City Manager

September 15, 2016



Lea Ann Doak, City Clerk

September 15, 2016

September ~~20, 19~~, 2016
McCook, Nebraska

The Mayor and City Council (the "City Council") of the City of McCook, Nebraska (the "City") met in open and general session at 6:30 p.m. on ~~Tuesday~~Monday, September ~~20, 19~~, 2016 in the City Council Chambers in the McCook Municipal Center, located at 505 West C Street, McCook, Nebraska. Advance publicized notice of such meeting was given in strict accordance with the provisions of Article 14, Chapter 84, Reissue Revised Statutes of Nebraska, as amended (the "Open Meetings Act"), and set forth (a) the time, date, and place of such meeting, (b) that such meeting would be open to the attendance of the public and (c) that an agenda of then known subjects to be taken up at such meeting could be obtained from the office of the City Clerk (the "City Clerk"). A copy of said advance publicized notice was ordered annexed to the minutes of this meeting as Attachment 1. Advance notice of this meeting was simultaneously given to all members of the City Council, and a copy of their acknowledgment of receipt of such notice is attached to these minutes as Attachment 2. Availability of the agenda was communicated in the publicized notice and in the notice to the members of the City Council of this meeting. Additionally, reasonable efforts were made to provide advance notification of the meeting to all news media requesting the same of the time, date and place of the meeting.

Mayor _____ presided, and the City Clerk, _____, recorded the proceedings. The following Council Members were present: _____
_____.

The following Council Members were absent: _____. A quorum being present and the meeting duly convened, the following proceedings were had and done.

The Mayor publicly stated to all in attendance that a current copy of the Open Meetings Act was available for review and indicated the location of such copy in the room where the meeting was

being held. All proceedings of the City Council were taken while the convened meeting was open to the attendance of the public.

* * * * *

(Other Proceedings)

* * * * *

Council Member _____ introduced and moved the adoption of an ordinance entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF MCCOOK, NEBRASKA OF ITS COMBINED UTILITIES REVENUE REFUNDING BONDS, IN ONE OR MORE SERIES AND IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$10,000,000; PRESCRIBING THE FORM AND DETAILS OF THE BONDS AND THE COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AUTHORIZING CERTAIN OFFICERS TO DETERMINE THE PRINCIPAL AMOUNT, THE MATURITIES, THE INTEREST RATES, THE REDEMPTION PROVISIONS, THE FINANCIAL COVENANTS AND OTHER TERMS AND PROVISIONS RELATING TO THE BONDS AND TO ENTER INTO A CONTRACT ON BEHALF OF THE CITY WITH THE PURCHASER OF SAID BONDS; PLEDGING THE REVENUES OF THE CITY'S ~~ELECTRIC~~, SEWER, WATER AND SOLID WASTE COLLECTION SYSTEMS TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; DESIGNATING THE BONDS AS QUALIFIED TAX-EXEMPT OBLIGATIONS; ADOPTING CERTAIN POST ISSUANCE TAX COMPLIANCE AND DISCLOSURE POLICIES AND PROCEDURES WITH RESPECT TO THE BONDS; AUTHORIZING THE AMENDMENT OF A LOAN AGREEMENT WITH THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY; PROVIDING FOR THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM; AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS AND PRESCRIBING OTHER MATTERS RELATING THERETO

Said Ordinance, the full text of which is attached hereto as Attachment 3, was designated as Ordinance No. _____, and the title thereof was approved.

Following the reading of the title of Ordinance No. _____, Council Member _____ moved that the statutory rule requiring that ordinances be read by title on three different days be dispensed with so that Ordinance No. _____ might be introduced, read by

title and then moved for final passage on the same day, without the same being read in full, which motion was seconded by Council Member _____. The yeas and nays were called and the vote was as follows: "YEA": _____

_____;

"NAY": _____. Absent and/or not voting: _____.

The motion to suspend the statutory rule, having been agreed upon by three-fourths (3/4) of the Members of the City Council present and acting, was by the Mayor declared passed and adopted.

Council Member _____ then moved that Ordinance No. _____ be passed, which motion was seconded by Council Member _____. The Mayor then stated, "The question is, shall Ordinance No. _____ be passed and adopted?" The yeas and nays were called, the vote being as follows: "YEA": _____

_____;

"NAY": _____. Absent and not voting: _____.

Having been agreed upon by a majority of all of the Members of the City Council present and ac, the Mayor declared Ordinance No. _____ passed and adopted. In the presence of the City Council, the Mayor signed and approved Ordinance No. _____, and the City Clerk attested its passage and approval and affixed the City Clerk's signature thereto.

* * * * *

(Other Proceedings)

* * * * *

Motion for adjournment and meeting adjourned.

Mayor

ATTEST:

City Clerk

ATTACHMENT 1

CERTIFICATE OF POSTING

The City Clerk of the City of McCook, Nebraska (the "City") certifies that a copy of the Notice of Meeting of the Mayor and City Council of the City held on Tuesday, September 20, 2016, such notice being in the form attached hereto, was caused to be posted in the public places in the City listed below on the _____ day September, 2016.

Dated this 20th day of September, 2016.

City Clerk

~~NOTE: Attach Notice of Meeting if such notice was posted.~~

~~ATTACHMENT 1-B~~ AFFIDAVIT OF PUBLICATION OF NOTICE OF MEETING

[To be attached and include Notice of Meeting]

ATTACHMENT 2

**ACKNOWLEDGMENT OF RECEIPT OF
NOTICE OF MEETING**

The undersigned members of the City Council of the City of McCook, Nebraska, acknowledge receipt of advance notice of a meeting of said body, and the agenda for such meeting, held at 6:30 p.m. on ~~Tuesday~~Monday, September ~~20~~19, 2016 at the City Council Chambers in the McCook Municipal Center, located at 505 West C Street in McCook, Nebraska.

Dated this ~~20~~19th day of September, 2016.

ATTACHMENT 3

Bond Ordinance

CITY OF MCCOOK, NEBRASKA

ORDINANCE NO. ____

PASSED SEPTEMBER ~~20~~19, 2016

Authorizing

Not to Exceed
\$10,000,000
City of McCook, Nebraska
Combined Utilities Revenue Refunding Bonds
Series 2016

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EXHIBIT B	POST ISSUANCE COMPLIANCE PROCEDURES	
EXHIBIT C	DISCLOSURE POLICIES AND PROCEDURES	

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF MCCOOK, NEBRASKA OF ITS COMBINED UTILITIES REVENUE REFUNDING BONDS, IN ONE OR MORE SERIES AND IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$10,000,000; PRESCRIBING THE FORM AND DETAILS OF THE BONDS AND THE COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AUTHORIZING CERTAIN OFFICERS TO DETERMINE THE PRINCIPAL AMOUNT, THE MATURITIES, THE INTEREST RATES, THE REDEMPTION PROVISIONS, THE FINANCIAL COVENANTS AND OTHER TERMS AND PROVISIONS RELATING TO THE BONDS AND TO ENTER INTO A CONTRACT ON BEHALF OF THE CITY WITH THE PURCHASER OF SAID BONDS; PLEDGING THE REVENUES OF THE CITY'S ~~ELECTRIC~~, SEWER, WATER AND SOLID WASTE COLLECTION SYSTEMS TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; DESIGNATING THE BONDS AS QUALIFIED TAX-EXEMPT OBLIGATIONS; ADOPTING CERTAIN POST ISSUANCE TAX COMPLIANCE AND DISCLOSURE POLICIES AND PROCEDURES WITH RESPECT TO THE BONDS; AUTHORIZING THE AMENDMENT OF A LOAN AGREEMENT WITH THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY; PROVIDING FOR THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM; AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, The City of McCook, Nebraska (the "Issuer"), is a political subdivision and city of the ~~second~~first class duly organized and existing under the laws of the State of Nebraska (the "State");

WHEREAS, The Issuer owns and operates ~~a revenue-producing electric distribution system~~, a revenue-producing sanitary sewer plant and system, a revenue-producing water distribution system and a revenue-producing solid waste collection system serving the Issuer and its inhabitants within the Issuer's service area (collectively, the "Systems," as hereinafter more fully defined); and

WHEREAS, The Issuer has previously entered into a loan contract with the Nebraska Department of Environmental Quality ("NDEQ") dated February 10, 2000 in the original principal amount not to exceed \$1,750,000 to pay the costs of certain additions and improvements to the Issuer's Sewer System (the "2000 NDEQ Sewer Note"), of which \$~~_____~~127,129.48 is presently outstanding; and

WHEREAS, The Issuer has previously entered into a loan contract with NDEQ dated February 14, 2005 in the original principal amount not to exceed \$9,922,000, for the purpose of financing the costs of constructing certain additions and improvements to the Issuer's Water system (the "2005 NDEQ Water Note"), of which \$~~_____~~6,734,479.28 is presently outstanding; and

WHEREAS, The Issuer has previously entered into a loan contract with NDEQ dated April 5, 2005 in the original principal amount of \$4,200,000, of which \$3,800,000 was for the purpose of financing the costs of certain additions and improvements to the Issuer's Sewer System and \$400,000 was for the purpose of financing the costs of constructing certain additions and improvements to the Issuer's Water System (the "2005 NDEQ Sewer/Water Note" and together with the 2000 NDEQ Sewer Note and the 2005 NDEQ Water Note, the "NDEQ Notes" or the "Prior Obligations"), of which \$~~_____~~2,154,772.67 is presently outstanding.

WHEREAS, Since the issuance of the NDEQ Notes, the rates of interest available in the markets have declined such that the Issuer can effect a savings in interest costs by providing for the prepayment of the NDEQ Notes through the issuance of its combined utilities revenue refunding bonds pursuant to Sections 10-142 and 18-1803 through 18-1805 Reissue Revised Statutes of Nebraska, as amended (collectively, the "Act"); and

WHEREAS, The NDEQ Notes are subject to prepayment at any time at a price equal to the outstanding principal amount, plus accrued interest on such principal amount to the date of redemption; and

WHEREAS, The Issuer has on hand no debt service or other sinking fund monies for the payment of principal and interest on the NDEQ Notes other than monies, if any, which are to be deposited in accordance with Section 5.02 hereof; and

WHEREAS, To provide funds for the prepayment of the NDEQ Notes, it is necessary and advisable that the Issuer issue its combined utilities revenue refunding bonds in accordance with the provisions of the Act, which bonds will be payable from the revenues of the Systems; and

WHEREAS, In connection with the issuance of such refunding bonds, it is necessary that the Issuer enter into an amendment with NDEQ regarding a loan contract April 9, 2014 in the original principal amount not to exceed \$2,086,810, originally entered into for the purpose of financing the costs of constructing certain additions and improvements to the Issuer's Water system (the "2014 NDEQ Water Note"), of which \$~~_____~~1,210,524.62 is presently outstanding; and

WHEREAS, All conditions, acts and things required by law to exist or to be done precedent to the issuance of bonds pursuant to the Act do exist and have been done as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MCCOOK, NEBRASKA, AS FOLLOWS:

ARTICLE I

DEFINITIONS

In addition to words and terms defined elsewhere herein, the following capitalized words and terms as used in this Ordinance shall have the following meanings:

“*Act*” means Sections 18–1803 through 18–1805 and Section 10-142 of the Reissue Revised Statutes of Nebraska, as amended.

“*Authorized Officer*” means the Mayor, the City Clerk, the City Treasurer or any individual authorized to act on behalf of any such officer.

“*Bond Counsel*” means Kutak Rock LLP, Omaha, Nebraska, or other attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the Issuer.

“*Bondowner*” or “*Registered Owner*” when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register.

“*Bond Payment Date*” means any date on which principal of or interest on any Bond is payable at the Maturity thereof or on any Interest Payment Date.

“*Bond Purchase Agreement*” means the Bond Purchase Agreement between the Issuer and the Original Purchaser relating to the purchase and sale of the Bonds.

“*Bond Register*” means the books for the registration, transfer and exchange of Bonds kept at the office of the Paying Agent.

“*Bonds*” means the Issuer’s Combined Utilities Revenue Refunding Bonds, Series 2016, in the original aggregate principal amount of not to exceed \$10,000,000, authorized to be issued pursuant to this Ordinance.

“*Business Day*” means a day other than a Saturday, Sunday or holiday on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

“*Cede & Co.*” means Cede & Co., as nominee name of The Depository Trust Company, New York, New York.

“*City Council*” means the Mayor and Council Members who governs the actions of the Issuer.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the Treasury Department proposed or promulgated thereunder.

“*Consultant*” means an independent engineer or engineering firm, having a favorable reputation for skill and experience in the construction, financing and operation of public utilities and the preparation of management studies and financial feasibility studies in connection therewith, selected by the Issuer for the purpose of carrying out the duties imposed on the Consultant by this Ordinance.

“*Debt Service Fund*” means the fund by that name created by Section 5.01 hereof.

“*Debt Service Requirements*” means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on all System Revenue Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company having full trust powers.

“*Debt Service Reserve Fund*” means the fund by that name created by Section 5.01 hereof.

“*Debt Service Reserve Requirement*” means the amount on the date of original issuance and delivery of the Bonds equal to or less than the least of (i) 10% of the stated principal amount of the Bonds, (ii) the maximum Debt Service Requirements for the Bonds during any fiscal year, or (iii) ~~125~~110% of the average annual Debt Service Requirements for the Bonds over the term of the Bonds, subject to adjustment as described herein. The initial Debt Service Reserve Requirement for the Bonds shall be determined in accordance with Section 2.12 herein.

“*Defaulted Interest*” means interest on any Bond that is payable but not paid on any Interest Payment Date.

“*Defeasance Obligations*” means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(i) the obligations are (A) not subject to redemption prior to maturity or (B) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(ii) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(iii) such cash and the principal of and interest on such United States Government Obligations serving as security for the obligations, plus any cash in the escrow fund, are sufficient to meet the liabilities of the obligations;

(iv) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(v) such cash and United States Government Obligations serving as security for the obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(vi) the obligations are rated in at least the second highest rating category by Moody's Investors Service, Inc. (presently "Aa") or Standard & Poor's Ratings Group (presently "AA").

"Expenses" means all reasonable and necessary expenses of operation, maintenance and repair of the Systems and keeping the Systems in good repair and working order (other than interest paid on System Revenue Bonds and depreciation and amortization charges during the period of determination), determined in accordance with generally accepted accounting principles, including, without limiting the generality of the foregoing, current maintenance charges, expenses of reasonable upkeep and repairs, salaries, wages, costs of materials and supplies, Paying Agent fees and expenses, annual audits, periodic Consultant's reports, properly allocated share of charges for insurance, the cost of purchased water, gas and power, if any, obligations (other than for borrowed money or for rents payable under capital leases) incurred in the ordinary course of business, liabilities incurred by endorsement for collection or deposit of checks or drafts received in the ordinary course of business, short-term obligations incurred and payable within a particular fiscal year, other obligations or indebtedness incurred for the purpose of leasing (pursuant to a true or operating lease) equipment, fixtures, inventory or other personal property, and all other expenses incident to the operation of the Systems, but shall exclude all general administrative expenses of the Issuer not related to the operation of the Systems.

"Insurance Consultant" means an individual or firm selected by the Issuer qualified to survey risks and to recommend insurance coverage for entities engaged in operations similar to those of the Systems and having a favorable reputation for skill and experience in making such surveys and recommendations.

"Interest Payment Date" means such dates as determined by an Authorized Officer in accordance with Section 2.12 hereof, until maturity or earlier redemption, or any other date on which interest shall be paid.

"Maturity" when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for optional or mandatory redemption or otherwise.

"Maximum Annual Debt Service" means the maximum amount of Debt Service Requirements as computed for the then current or any future fiscal year.

"NDEQ Notes" has the meaning set forth in the recitals hereto, but does not include the 2014 NDEQ Water Note.

"Net Revenues Available for Debt Service" means, for the period of determination, all Revenues less all Expenses as determined in accordance with generally accepted accounting principles.

“*Operation and Maintenance Fund*” means the fund by that name created by Section 5.01 hereof.

“*Ordinance*” means this Ordinance as from time to time amended in accordance with the terms hereof.

“*Original Purchaser*” means Ameritas Investment Corp., the original purchaser of the Bonds.

“*Outstanding*” means, when used with reference to Bonds, as of any particular date, all Bonds theretofore issued and delivered hereunder, except the following Bonds:

- (a) Bonds theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of Article XI hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been registered and delivered hereunder.

“*Parity Bonds*” means the 2014 NDEQ Water Note and any parity bonds or other long-term obligations payable out of the net income and revenues of the Systems hereafter issued or incurred in accordance with the provisions of this Ordinance and standing on a parity and equality with the Bonds with respect to the payment of principal and interest out of the net income and Revenues of the Systems, so long as any such bonds remain outstanding and unpaid or until provision is made for the payment and defeasance of such bonds.

“*Parity Ordinance*” means the ordinances under which any Parity Bonds are hereafter issued.

“*Participants*” means those financial institutions for which the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“*Paying Agent*” means such financial institution as determined by an Authorized Officer in accordance with Section 2.12 hereof, and its successors and assigns.

“*Permitted Investments*” means any securities and obligations permitted under the laws, statues and Constitution of the State for investment of the Issuer’s moneys held in the funds referred to in Section 5.01 hereof.

“*Person*” means any natural person, corporation, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“*Prior Obligations*” has the meaning set forth in the recitals hereto.

“*Project Fund*” means the fund by that name created by Section 5.01 hereof.

“*Record Date*” for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) immediately preceding each Interest Payment Date.

“*Redemption Date*,” when used with respect to any Bond to be redeemed, means the date fixed for such redemption pursuant to the terms of this Ordinance; and when used with respect to the NDEQ Notes, means the date of delivery of the Bonds.

“*Redemption Price*,” when used with respect to any Bond to be redeemed, means the price at which such Bond is to be redeemed pursuant to the terms of this Ordinance, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

“*Replacement Bonds*” means Bonds issued to the beneficial owners of the Bonds in accordance with Section 2.09(b) hereof.

“*Revenue Fund*” means the fund by that name created by Section 5.01 hereof.

“*Revenues*” means all income and revenues derived from the operation of the Systems, including investment and rental income, net proceeds from business interruption insurance (if any) the principal of gifts, bequests, contributions, grants and donations available to pay debt service of System Revenue Bonds and actually received during such period, and any amounts deposited in escrow in connection with the acquisition, construction, remodeling, renovation and equipping of facilities to be applied during the period of determination to pay interest on System Revenue Bonds, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets, and also excluding the principal of gifts, bequests, contributions, grants and donations which are specifically restricted by the donor, testator or grantor to a particular purpose which is inconsistent with their use for the payment of debt service on System Revenue Bonds.

“*Securities Depository*” means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

“*Special Record Date*” means the date fixed by the Paying Agent pursuant to Section 2.04 hereof for the payment of Defaulted Interest.

“*State*” means the State of Nebraska.

“*Stated Maturity*,” when used with respect to any Bond or any installment of interest thereon, means the date specified in such Bond and this Ordinance as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

“*Surplus Fund*” means the fund by that name created by Section 5.01 hereof.

“*System*” or “*Systems*” means, collectively, ~~the electric generation and distribution system of the Issuer presently serving electric users (the “*Electric System*”)~~, the sanitary sewer system of the Issuer presently serving the sewer users (the “*Sewer System*”), the water distribution system of

the Issuer presently serving the water users (the “*Water System*”), and the solid waste collection system of the Issuer presently serving the solid waste disposers (the “*Solid Waste System*”), including, respectively, the plants and all appurtenances thereto, together with all extensions, improvements and repairs thereto hereafter made or acquired by the Issuer.

“*System Revenue Bonds*” means, collectively, the Bonds, the Parity Bonds and all other revenue bonds which are payable out of, or secured by an interest in, the income and Revenues derived from the operation of the Systems.

“*United States Government Obligations*” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service, and such obligations are held in a custodial or trust account for the benefit of the Issuer.

ARTICLE II

AUTHORIZATION OF BONDS

Section 2.01. Authorization of Bonds. At such time as the present value savings to the Issuer resulting from the issuance of the Bonds herein authorized would equal or exceed 4% of the principal amount of each of the Prior Obligations secured by and payable from the Water System Revenues and the Prior Obligations secured by and payable from the Sewer System Revenues, the Issuer is authorized and directed to issue one or more series of Bonds, designated “Combined Utilities Revenue Refunding Bonds, Series 2016”, with such other designations as may be appropriate, in an aggregate principal amount not to exceed \$10,000,000, for the purpose of providing funds to redeem and prepay the Prior Obligations.

Section 2.02. Description of Bonds. The Bonds shall consist of fully registered bonds without coupons, numbered from R-1 upward, with such other designation as the Authorized Officers, or each individually, shall deem appropriate, in denominations of \$5,000 or whole multiples thereof. The Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be substantially in the form set forth in Exhibit A attached hereto, with such changes acceptable to the Authorized Officers, or each individually, and bond counsel. The Bonds shall be dated, shall be due and payable on the dates and in the amounts (subject to optional and mandatory redemption as provided in Article III hereof), and shall bear interest at the rates per annum as set forth in the Award Certificate as defined in Section 2.12 hereof, computed on the basis of a 360-day year of twelve 30-day months, from the date thereof or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable each Interest Payment Date.

Section 2.03. Designation of Paying Agent. The Paying Agent shall be the paying agent for the payment of the principal or Redemption Price of and interest on the Bonds and the bond

registrar with respect to the registration, transfer and exchange of the Bonds. If the Paying Agent is other than the City Treasurer, the Paying Agent shall serve in such capacities under the terms of an agreement entitled "Bond Registrar and Paying Agent Agreement" between the Issuer and the Paying Agent (the "**Paying Agent Agreement**") in the such form as the Authorized Officers, or each individually, shall deem appropriate and necessary. The Authorized Officers, or each individually, may execute the Paying Agent Agreement on behalf of the Issuer. The Paying Agent shall have only such duties and obligations as are expressly specified by this Ordinance and the Registrar and Paying Agent Agreement, and no other duties or obligations shall be implied to the Paying Agent.

The Issuer will at all times maintain a Paying Agent meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right, and does hereby authorize the Authorized Officers, or each individually, to appoint a successor Paying Agent by (a) filing with the Paying Agent then performing such function notice of the termination of such Paying Agent and appointing a successor, and (b) causing notice of the appointment of the successor Paying Agent to be given by first-class mail to each Registered Owner. No resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of Paying Agent.

Unless the Paying Agent is the City Treasurer, every Paying Agent appointed hereunder shall at all times be a commercial banking association or corporation or trust company organized and doing business under the laws of the United States or of a state of the United States, authorized under such laws to exercise trust powers and subject to supervision or examination by federal or state regulatory authority

The Paying Agent shall be paid the usual fees and expenses for its services in connection therewith, which fees and expenses shall be paid as other Expenses are paid.

Section 2.04. Method and Place of Payment of Bonds. The principal or Redemption Price of and interest on the Bonds shall be payable in any coin or currency of the United States of America that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. The principal or Redemption Price of each Bond shall be paid at Maturity by check or draft to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the designated office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Registered Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest by check or draft mailed by the Paying Agent to such Registered Owner at the address shown on the Bond Register or in the case of an interest payment to any Registered Owner of \$100,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Registered Owner upon written notice given to the Paying Agent by such Registered Owner not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions, including the bank (which shall be in the continental United States), ABA routing number and account number to which such Registered Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Registered Owner of such Bond on the relevant Record Date and shall be payable to the Registered Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds, the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed by first-class mail, postage prepaid, to each Registered Owner of a Bond entitled to such notice at the address of such Registered Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and shall at least annually forward a copy or summary of such records to the Issuer.

Section 2.05. Registration, Transfer and Exchange of Bonds. As long as any of the Bonds remain Outstanding, the Issuer will cause the Bond Register to be kept at the designated office of the Paying Agent for the registration, transfer and exchange of Bonds as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the designated office of the Paying Agent, the Paying Agent shall transfer or exchange such Bond for a new Bond or Bonds in any authorized denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange. Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The Issuer shall pay the fees and expenses of the Paying Agent for the registration, transfer and exchange of Bonds provided for by this Ordinance and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Paying Agent, are the responsibility of the Registered Owners of the Bonds. If any Registered Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Registered Owner sufficient to pay any governmental charge required to be paid as a result of such failure.

The Issuer and the Paying Agent shall not be required (a) to register the transfer or exchange of any Bond after notice calling such Bond or portion thereof for redemption has been given or during the period of 15 days immediately preceding the first mailing of such notice of redemption (b) to issue, transfer or exchange Bonds from the Record Date to the next Interest Payment Date, or (c) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to Section 2.04 hereof.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Paying Agent, the Bond Register may be inspected and copied by the Registered Owners (or a designated representative thereof) of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Registered Owners to be evidenced to the satisfaction of the Paying Agent.

Section 2.06. Execution, Authentication and Delivery of Bonds. The Mayor and the Clerk (including anyone authorized to act on his or her behalf) are hereby authorized and directed to prepare and execute the Bonds as herein specified and, when duly executed, to deliver the Bonds to the Paying Agent for authentication. Each of the Bonds, including any Bonds issued in exchange or as substitution for the Bonds initially delivered, shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the Clerk. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such Persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form set forth in Exhibit A attached hereto, which shall be manually executed by an authorized officer or employee of the Paying Agent, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Ordinance or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Paying Agent. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Ordinance. Upon authentication, the Paying Agent shall deliver the Bonds to the Original Purchaser, upon payment of the purchase price of the Bonds plus accrued interest thereon to the date of their delivery.

Section 2.07. Mutilated, Destroyed, Lost and Stolen Bonds. If (a) any mutilated Bond is surrendered to the Paying Agent, or the Issuer and the Paying Agent receive evidence to their satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Paying Agent such security or indemnity as may be required by the Paying Agent, then, in the absence of notice to the Paying Agent that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer request, the Paying Agent shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount. If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer in its discretion may pay such Bond instead of issuing a new Bond. Upon the issuance of any new Bond under this Section, the Issuer may require the payment by the Registered Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith. Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds.

Section 2.08. Cancellation and Destruction of Bonds Upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent and applicable record retention laws. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

Section 2.09. Book-Entry Bonds; Securities Depository.

(a) The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no beneficial owner will receive certificates representing their respective interests in the Bonds, except if the Paying Agent issues Replacement Bonds as provided in paragraph (b) hereof. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Paying Agent authenticates and delivers Replacement Bonds to the beneficial owners as described in paragraph (b).

(b) (i) If the Issuer determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Bondowner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Bonds, or (ii) if the Paying Agent receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Bondowner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Bonds,

then the Paying Agent shall notify the Bondowners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Paying Agent shall register in the name of and authenticate and deliver Replacement Bonds to the beneficial owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under clause (i)(A) or (i)(B) of this paragraph (b), the Issuer, with the consent of the Paying Agent, may select a successor securities depository in accordance with Section 2.09(c) hereof to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Paying Agent, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Issuer, the Paying Agent or Bondowners are unable to locate a qualified successor of the Securities Depository in accordance with Section 2.09(c) hereof, then the Paying Agent shall authenticate and cause delivery of Replacement Bonds to Bondowners, as provided herein. The Paying Agent may rely on information from the Securities Depository and its Participants as to the names of the beneficial owners of the Bonds. The cost of printing Replacement Bonds shall be paid for by the Issuer.

(c) If the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Paying Agent receives written evidence satisfactory to the Paying Agent with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Paying Agent upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

Section 2.10. Preliminary and Final Official Statement. The Preliminary Official Statement, in the form presented to and reviewed by the City Council, and filed in the records of the Issuer, is ratified and approved, and the final Official Statement is hereby authorized and approved by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The use and public distribution of the Preliminary Official Statement and the Official Statement by the Original Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Preliminary Official Statement and Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Bonds.

For the purpose of enabling the Original Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission, the Issuer deems the information regarding the Issuer and the Bonds contained in the Preliminary Official Statement to be “final” as

of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1), and the appropriate officers of the Issuer are hereby authorized, if requested, to provide the Original Purchaser a letter or certification to such effect and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Original Purchaser to comply with the requirement of such Rule.

The Issuer agrees to provide to the Original Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the final Official Statement to enable the Original Purchaser to comply with the requirements of Rule 15c2-12(b)(4) of the Securities and Exchange Commission and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

Section 2.11. Sale of Bonds. In accordance with and subject to the provisions of Section 2.12, the Authorized Officer, or each individually, is hereby authorized to sell the Bonds through a negotiated sale to the Original Purchaser and to enter into the Bond Purchase Agreement between the Issuer and the Original Purchaser, under which the Issuer agrees to sell the Bonds to the Original Purchaser, upon the terms and conditions set forth therein and with such changes therein as shall be approved by the Authorized Officer.

Section 2.12. Parameters and Authorization of Award Certificate. The Authorized Officer, or each individually, is authorized and directed, in the exercise of his or her independent judgment and absolute discretion, 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 pursuant to a certificate executed at the time the Bond Purchase Agreement shall be signed (the “**Award Certificate**”): (a) the dates of original issue; (b) the aggregate principal amount of Bonds to be issued, not exceeding aggregate principal amount set forth in Section 2.01; (c) the dates and years in which a principal maturity of the Bonds shall occur and the principal amount of the Bonds to mature in each of such years; (d) the date of final maturity of the Bonds, which shall in no event be later than December 15, 2036; (e) the dates upon which the Bonds shall be sold; (f) the rates of interest to be carried by each maturity of the Bonds, such that the true interest cost of the Bonds shall not exceed ~~_____~~ 3.00%; (g) the method by which such rate or rates of interest shall be calculated; (h) the Interest Payment Dates for the Bonds; (i) the redemption dates and prices and all terms relating thereto, including the amount and maturity date of any Bonds issued as “term bonds” and the amount of each sinking fund installment therefor, and all terms relating thereto, if any; (j) the identity of the Paying Agent; (k) any financial covenants; (l) the form, content, terms and provisions of the Bond Purchase Agreement entered into by the Issuer with the Original Purchaser; (m) the purchase price for the Bonds, which shall not be less than 96.00% of the aggregate principal amount thereof (inclusive of the Original Purchaser’s discount (which shall not exceed ~~_____~~ 1.00% of the aggregate principal amount of the Bonds and any original issue discount); (n) the form and contents of any preliminary and final official statement or other offering materials of the Issuer utilized in connection with any offering or sale of the Bonds to the public; (o) the types and the amounts of any reserves; (p) such covenants and other security as may be necessary in addition to those set forth in this Ordinance; (q) the initial Debt Service Reserve Requirement; (r) the form, content, terms, and provisions of any closing and other documentation executed and delivered by the Issuer in connection with the authorization, issuance, sale and delivery of the Bonds; and (s) all of the other terms of the Bonds not otherwise determined or fixed by the provisions of this Ordinance.

ARTICLE III

REDEMPTION OF BONDS

Section 3.01. Optional and Mandatory Redemption of Bonds.

(a) **Optional Redemption by City.** At the option of the Issuer, the Bonds or portions thereof may be called for redemption and payment prior to their Stated Maturity on the dates and at the Redemption Prices determined by the Authorized Officers, or each individually, in accordance with the provisions of **Section 2.12** hereof.

(b) **Mandatory Redemption.** The Authorized Officers, or each individually, may designate in the Award Certificate certain Bonds as “**Term Bonds**”, portions of which are to be redeemed on the dates (each such date being herein referred to as a “**Sinking Fund Payment Date**”) and in the amounts (hereinafter referred to as a “**Mandatory Sinking Fund Payment**”) set forth in such certificate. The Paying Agent shall select and call for redemption, in accordance with this subsection (b), from the Term Bonds the amounts specified by such Authorized Officer in the Award Certificate, and the Term Bonds selected by the Paying Agent shall become due and payable on such date.

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Issuer may: (i) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (ii) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Registered Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (iii) receive a credit with respect to the mandatory redemption obligation of the Issuer under this Section for any Term Bonds subject to mandatory redemption on such mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this **Section 301(b)**) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this **Section 301(b)**. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the Issuer to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity in chronological order, and the principal amount of Term Bonds of the same Stated Maturity to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the Issuer intends to exercise any option granted by the provisions of clauses (i), (ii) or (iii) above, the Issuer will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (i), (ii) and (iii) are to be complied with respect to such mandatory redemption payment.

Section 3.02. Selection of Bonds To Be Redeemed.

(a) The Paying Agent shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Paying Agent at least

45 days prior to the Redemption Date of written instructions of the Issuer specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in Section 3.03 hereof are met. The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Bonds hereunder, and Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.

(b) Bonds shall be redeemed only in the principal amount of \$5,000 or whole multiples thereof. When less than all of the Outstanding Bonds are to be redeemed, such Bonds shall be redeemed from the Stated Maturities selected by the Issuer, and Bonds of less than a full Stated Maturity shall be selected by the Paying Agent in \$5,000 units of principal amount in such equitable manner as the Paying Agent may determine.

(c) In the case of a partial redemption of Bonds when Bonds of denominations greater than \$5,000 are then Outstanding, then for all purposes in connection with such redemption, each \$5,000 of face value shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond are selected for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the Registered Owner of such Bond or the Registered Owner's duly authorized agent shall present and surrender such Bond to the Paying Agent (i) for payment of the Redemption Price and interest to the Redemption Date of such \$5,000 unit or units of face value called for redemption, and (ii) for exchange, without charge to the Registered Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Registered Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the Redemption Date to the extent of the \$5,000 unit or units of face value called for redemption (and to that extent only).

Section 3.03. Notice and Effect of Call for Redemption. Unless waived by any Registered Owner of Bonds to be redeemed, official notice of any redemption shall be given by the Paying Agent on behalf of the Issuer by mailing a copy of an official redemption notice by first-class mail at least 30 days prior to the Redemption Date (or such shorter period as may be acceptable to the then-Registered Owner), to the Original Purchaser of the Bonds and each Registered Owner of the Bonds to be redeemed at the address shown on the Bond Register.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;

(c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;

(d) a statement that on the Redemption Date, the Redemption Price will become due and payable upon each Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and

(e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the designated corporate trust office of the Paying Agent.

The failure of any Registered Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Issuer shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer defaults in the payment of the Redemption Price), such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been redeemed shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

In addition to the foregoing notice, further notice shall be given by the Paying Agent on behalf of the Issuer as set out below, but no defect in said further notice or any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed.

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (i) the CUSIP numbers of all Bonds being redeemed; (ii) the date of issue of the Bonds as originally issued; (iii) the rate of interest borne by each Bond being redeemed; (iv) the Stated Maturity of each Bond being redeemed; and (v) any other descriptive information needed to identify accurately the Bonds being redeemed; and

(b) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

The Paying Agent is also directed to comply with any mandatory or voluntary standards established by the Securities and Exchange Commission then in effect for processing redemptions

of municipal securities. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

So long as the Securities Depository is effecting book-entry transfers of the Bonds, the Issuer or the Paying Agent shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the beneficial owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a beneficial owner of a Bond (having been mailed notice from the Paying Agent, a Participant or otherwise) to notify the beneficial owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

ARTICLE IV

SECURITY FOR BONDS

The Bonds are limited, special obligations of the Issuer payable solely from, and secured as to the payment of principal, premium and interest by a pledge of the Revenues, which include all income and revenues derived from the operation of the Systems, including investment and rental income, net proceeds from business interruption insurance (if any) the principal of gifts, bequests, contributions, grants and donations available to pay debt service of System Revenue Bonds and actually received during such period, and any amounts deposited in escrow in connection with the acquisition, construction, remodeling, renovation and equipping of facilities to be applied during the period of determination to pay interest on System Revenue Bonds, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets, and also excluding the principal of gifts, bequests, contributions, grants and donations which are specifically restricted by the donor, testator or grantor to a particular purpose which is inconsistent with their use for the payment of debt service on System Revenue Bonds. The Issuer hereby pledges said Revenues to the payment of the principal of, the premium and the interest on the Bonds.

The Bonds are further secured by amounts in the Debt Service Reserve Fund.

The Bonds shall not be or constitute a general obligation of the Issuer, nor shall they constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision, limitation or restriction. The taxing power of the Issuer is not pledged to the payment of debt service on the Bonds.

The covenants and agreements of the Issuer contained in this Ordinance and in the Bonds shall be for the equal benefit, protection and security of the legal owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of, the premium and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Ordinance. The Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal, premium and interest from the net income and revenues derived from the operation of the Systems and in all other respects with any Parity Bonds. The Bonds shall not have any priority with respect to the payment of

principal, premium or interest from said net income and revenues or otherwise over the Parity Bonds, and the Parity Bonds shall not have any priority with respect to the payment of principal, premium or interest from said net income and revenues or otherwise over the Bonds.

ARTICLE V

FUNDS; DEPOSIT AND APPLICATION OF BOND PROCEEDS

Section 5.01. Establishment of Funds. There are hereby created and ordered to be established and maintained by the Treasurer of the Issuer the following separate funds to be known respectively as follows:

- (a) Combined Utilities Systems Cost of Issuance Fund (the “**Cost of Issuance Fund**”);
- (b) Combined Utilities System Revenue Fund (the “**Revenue Fund**”);
- (c) Combined Utilities System Operation and Maintenance Fund (the “**Operation and Maintenance Fund**”);
- (d) Debt Service Fund for Combined Utilities Revenue Refunding Bonds, Series 2016 (the “**Debt Service Fund**”);
- (e) Debt Service Reserve Fund for Combined Utilities Revenue Refunding Bonds, Series 2016 (the “**Debt Service Reserve Fund**”); and
- (f) Combined Utilities Surplus Fund (the “**Surplus Fund**”).

The funds referred to in paragraphs (a) through (f) of this Section shall be maintained and administered by the Issuer solely for the purposes and in the manner as provided in this Ordinance so long as any of the Bonds remain Outstanding within the meaning of this Ordinance.

Section 5.02. Deposit of Bond Proceeds. The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds, as follows:

- (a) All accrued interest received from the sale of the Bonds shall be deposited in the Debt Service Fund and applied in accordance with Section 6.02(b) hereof.
- (b) An amount equal to the Debt Service Reserve Requirement from the proceeds of the Bonds (with a credit for any funds of the Issuer or moneys related to the Series 2012 Bonds deposited in the debt service reserve fund related to such bonds) shall be deposited in the Debt Service Reserve Fund and applied in accordance with Section 6.02(c) hereof.
- (c) Certain proceeds, together with moneys currently held in the debt service fund with respect to the NDEQ Notes, shall be deposited with the Treasurer of the Issuer

and used to prepay the NDEQ Notes on their Redemption Date together with all interest thereon accrued to such date.

(d) The remaining balance of the proceeds of the Bonds shall be deposited in the Cost of Issuance Fund and applied in accordance with Section 5.03 hereof.

Section 5.03. Application of Moneys in the Cost of Issuance Fund. Moneys in the Cost of Issuance Fund shall be used solely for the purposes of paying the costs of issuing the Bonds.

Upon the prepayment of the NDEQ Notes, but in no event later than six months from the date of issuance of the Bonds, any surplus moneys remaining in the Cost of Issuance Fund and not required for the payment of unpaid costs thereof shall be deposited in the Debt Service Fund.

Section 5.04. Prepayment of NDEQ Notes. The outstanding aggregate principal amount of the NDEQ Notes are hereby called for prepayment on the delivery date of the Bonds at a prepayment price equal to the outstanding aggregate principal amount of the NDEQ Notes on such date of prepayment plus all accrued and unpaid interest to such date. The Authorized Officers, or each individually, is directed to take any and all actions necessary to effect the prepayment of the NDEQ Notes.

ARTICLE VI

APPLICATION OF REVENUES

Section 6.01. Revenue Fund. The Issuer covenants and agrees that from and after the delivery of the Bonds, and continuing as long as any of the Bonds remain Outstanding hereunder, all of the Revenues derived and collected from the operation of the Systems shall as and when received be paid and deposited into the Revenue Fund. Said Revenues shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the Issuer and shall not be commingled with any other moneys, revenues, funds and accounts of the Issuer. The Revenue Fund shall be administered and applied solely for the purposes and in the manner provided in this Ordinance.

Section 6.02. Application of Moneys in Funds. The Issuer covenants and agrees that from and after the delivery of the Bonds and continuing, so long as any of the Bonds shall remain Outstanding, it will on the first day of each month administer and allocate all of the moneys then held in the Revenue Fund as follows:

(a) **Operation and Maintenance.** There shall first be paid and credited to the Operation and Maintenance Fund (i) the Expenses of the Systems as the same become due and payable and the reasonable and (ii) the customary charges of the Registrar.

(b) **Debt Service Fund.** There shall next be paid and credited to the Debt Service Fund, to the extent necessary to meet on each Bond Payment Date the payment of all interest on and principal of the Bonds, the following sums:

(i) Beginning with the month following the month in which the Bonds are issued and delivered, and continuing each month thereafter so long as any of the

Bonds remain Outstanding and unpaid, an amount not less than one-sixth (or such equal pro rata percentage for any shorter or longer period) of the amount of interest that will become due on the Bonds on the next succeeding Interest Payment Date; and

(ii) Beginning with the month following the month in which the Bonds are issued and delivered, and continuing each month thereafter so long as any of the Bonds remain Outstanding and unpaid, an amount not less than one-twelfth (or such equal pro rata percentage for any shorter or longer period) of the amount of principal that will become due on the Bonds on the next succeeding Maturity date.

Any amounts deposited in the Debt Service Fund as accrued interest in accordance with Section 5.02(a) hereof shall be credited against the Issuer's payment obligations as set forth in Section 6.02(b)(i) above.

All amounts paid and credited to the Debt Service Fund shall be expended and used by the Issuer for the sole purpose of paying the interest on and the principal of the Bonds as and when the same become due at Maturity and on each Interest Payment Date, as applicable.

The amounts required to be paid and credited to the Debt Service Fund pursuant to this Section shall be made at the same time and on a parity with the amounts at the time required to be paid and credited to the debt service funds established for the payment of principal and interest on any Parity Bonds pursuant to the provisions of the respective Parity Ordinances. If at any time the moneys in the Revenue Fund are insufficient to make in full the payments and credits at the time required to be made to the Debt Service Fund and to the debt service funds established to pay the principal of and interest on any Parity Bonds, the available moneys in the Revenue Fund shall be divided among such debt service funds in proportion to the respective principal amounts of said series of bonds at the time outstanding which are payable from the moneys in said debt service funds.

(c) ***Debt Service Reserve Fund.*** After all payments and credits required at the time to be made under the provisions of paragraphs (a) and (b) of this Section have been made, there shall next be paid and credited to the Debt Service Reserve Fund the sum, if any, necessary to maintain the balance of the Debt Service Reserve Fund at the Debt Service Reserve Requirement. Except as hereinafter provided in this Section, all amounts paid and credited to the Debt Service Reserve Fund shall be expended and used by the Issuer solely to prevent any default in the payment of interest on, premium, if any, or principal of the Bonds on any Maturity date or Interest Payment Date if the moneys in the Debt Service Fund are insufficient to pay the interest on, premium, if any, or principal of said Bonds when due. So long as the Debt Service Reserve Fund aggregates the Debt Service Reserve Requirement, no further payments into said Fund shall be required.

The amounts required to be paid and credited to the Debt Service Reserve Fund pursuant to this Section shall be made at the same time and on a parity with the amounts at the time required to be paid and credited to the debt service reserve funds established for the Parity Bonds, if any, under the provisions of the Parity Ordinances, if any.

All income derived from the investment of amounts on deposit in the Debt Service Reserve Fund shall remain in, and be credited to, such fund until such time as the amount on deposit in the Debt Service Reserve Fund is equal to the Debt Service Reserve Requirement, and thereafter all such investment income shall be transferred to the Debt Service Fund. If upon a valuation of the investments on deposit in the Debt Service Reserve Fund, the amount on deposit in the Debt Service Reserve Fund exceeds the Debt Service Reserve Requirement, the Trustee shall transfer from the Debt Service Reserve Fund to the Debt Service Fund an amount equal to such excess.

Moneys in the Debt Service Reserve Fund may be used to call the Bonds for redemption and payment prior to their Stated Maturity, provided all of the Bonds at the time Outstanding are called for payment and funds are available to pay the same according to their terms. If fewer than all Bonds are to be redeemed and prepaid, on such such redemption date the Debt Service Reserve Requirement shall be recalculated as of such date, and all moneys in excess of such requirement shall be used to redeem and prepay Bonds on such date. Moneys in the Debt Service Reserve Fund shall be used to pay and retire the last Outstanding Bonds unless such Bonds and all interest thereon are otherwise paid.

If at any time the moneys in the Revenue Fund are insufficient to make in full the payments and credits at the time required to be made to the Debt Service Reserve Fund and to the debt service reserve funds established to protect the payment of any Parity Bonds, the available moneys in the Revenue Fund shall be divided among such debt service reserve funds in proportion to the respective principal amounts of said series of bonds at the time outstanding which are payable from the moneys in such debt service reserve funds.

(d) ***Surplus Fund.*** After all payments and credits required at the time to be made under the provisions of paragraphs (a), (b) and (c) of this Section have been made, all moneys remaining in the Revenue Fund shall be paid and credited to the Surplus Fund. Moneys in the Surplus Fund may be expended and used for the following purposes as determined by the Authorized Officer, or each individually:

(i) Paying the cost of the operation, maintenance and repair of the Systems to the extent necessary after the application of the moneys held in the Operation and Maintenance Fund under the provisions of paragraph (a) of this Section;

(ii) Paying the cost of extending, enlarging, improving and/or repairing the Systems;

(iii) Preventing default in, anticipating payments into or increasing the amounts in the Debt Service Fund or the Debt Service Reserve Fund referred to in paragraphs (b) or (c) of this Section, or any one of them, or establishing or increasing the amount of any debt service fund or debt service reserve fund created by the Issuer for the payment of any Parity Bonds;

(iv) Calling, redeeming and paying prior to Stated Maturity, or, at the option of the Issuer, purchasing in the open market at the best price obtainable not exceeding the redemption price (if any bonds are callable), the Bonds or any Parity Bonds, including principal, interest and redemption premium, if any; or

(v) Any other lawful purpose in connection with the operation of the Systems and benefiting the Systems.

So long as any of the Bonds remain Outstanding, no moneys derived from the operation of the Systems shall be diverted to the general governmental or municipal functions of the Issuer.

(e) **Deficiency of Payments Into Funds.** If at any time the revenues derived from the operation of the Systems are insufficient to make any payment on the date or dates hereinbefore specified, the Issuer will make good the amount of such deficiency by making additional payments or credits out of the first available revenues thereafter received from the operation of the Systems, such payments and credits being made and applied in the order hereinbefore specified in this Section.

Section 6.03. Transfer of Funds to Paying Agent. The Treasurer or other Authorized Officer is hereby authorized and directed to withdraw from the Debt Service Fund, and, to the extent necessary to prevent a default in the payment of either principal of or interest on the Bonds, from the Debt Service Reserve Fund and the Surplus Fund as provided in Section 6.02 hereof, sums sufficient to pay the principal of, premium, if any, and interest on the Bonds as and when the same become due on any Bond Payment Date, and to forward such sums to the Paying Agent in a manner which ensures the Paying Agent will have available funds in such amounts on or before the Business Day immediately preceding each Bond Payment Date. If, through lapse of time or otherwise, the Registered Owners of Bonds are no longer entitled to enforce payment of their obligations, it shall be the duty of the Paying Agent forthwith to return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance.

Section 6.04. Payments Due on Saturdays, Sundays and Holidays. In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

Section 6.05. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent, all liability of the Issuer to the Registered Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Ordinance or on, or with respect to, said Bond. If any Bond is not presented for payment within four years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay to the Issuer the

funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Registered Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VII

DEPOSIT AND INVESTMENT OF MONEYS

(a) Money in each of the funds and accounts created by and referred to in this Ordinance shall be deposited in a bank or banks that are members of the Federal Deposit Insurance Corporation. All such deposits shall be continuously and adequately secured by the banks holding such deposits as provided by the laws of the United States of America or their state of incorporation.

(b) Money held in any fund or account referred to in this Ordinance may be invested in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than the date when the money invested may be needed for the purpose for which such fund or account was created. All earnings on any investments held in any fund or account shall accrue to and become a part of such fund or account. All earnings on investments held in the Debt Service Reserve Fund shall accrue to and become a part of such Fund until the amount on deposit in the Debt Service Reserve Fund shall aggregate the Debt Service Reserve Requirement; thereafter, all such earnings shall be credited to the Debt Service Fund. In determining the amount held in any fund or account under any of the provisions of this Ordinance, obligations shall be valued at the lower of the cost or the market value thereof; provided, however, that investments held in the Debt Service Reserve Fund shall be valued at market value only. If and when the amount held in any fund or account shall be in excess of the amount required by the provisions of this Ordinance, the Issuer shall direct that such excess be paid and credited to the Debt Service Fund.

(c) So long as any Parity Bonds remain outstanding and unpaid, any investments made pursuant to this Article shall be subject to any restrictions in the Parity Ordinance with respect to the funds and accounts created by and referred to in the Parity Ordinance.

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

The Issuer covenants and agrees with each of the Registered Owners of any of the Bonds that so long as any of the Bonds remain Outstanding and unpaid, it will, acting by and through the City Council, comply with each of the following covenants:

Section 8.01. Efficient and Economical Operation. The Issuer will continuously own and will operate the Systems as revenue-producing facilities in an efficient and economical

manner and will keep and maintain the same in good repair and working order. The Issuer will establish and maintain such rules and regulations for the use of the Systems as may be necessary to assure maximum utilization and most efficient operation of the Systems.

Section 8.02. Rate Covenant. The Issuer in accordance with and subject to applicable legal requirements will fix, establish, maintain and collect such rates and charges for the use and services furnished by or through the Systems as will produce revenues sufficient to (a) pay the costs of the operation and maintenance of the Systems, (b) pay the principal of and interest on the System Revenue Bonds then outstanding as and when the same become due at the Maturity thereof or on any Interest Payment Date, (c) enable the Issuer to have in each fiscal year Net Revenues Available for Debt Service not less than ~~125~~110% of Maximum Annual Debt Service on all System Revenue Bonds at the time outstanding and (d) provide reasonable and adequate reserves for the payment of all System Revenue Bonds then outstanding and the interest thereon and for the protection and benefit of the Systems as provided in this Ordinance. The Issuer will require the prompt payment of accounts for service rendered by or through the Systems and will promptly take whatever action is legally permissible to enforce and collect delinquent charges. The Issuer will, from time to time as often as necessary, in accordance with and subject to applicable legal requirements, revise the rates and charges aforesaid in such manner as may be necessary or proper so that the Net Revenues Available for Debt Service will be sufficient to cover the obligations under this Section and otherwise under the provisions of this Ordinance. If in any fiscal year the Net Revenues Available for Debt Service are less than ~~125~~110% of Maximum Annual Debt Service on all System Revenue Bonds then outstanding, the Issuer will immediately employ a Consultant to make recommendations with respect to such rates and charges. A copy of the Consultant's report and recommendations shall be filed with the City Clerk and the Original Purchaser of the Bonds and shall be furnished to any Registered Owner of the Bonds requesting a copy of the same, at the cost of such Registered Owner. The Issuer shall, to the extent feasible, follow the recommendations of the Consultant.

Section 8.03. Reasonable Charges for All Services. None of the facilities or services provided by the Systems will be furnished to any user (excepting the Issuer itself) without a reasonable charge being made therefor. If the revenues derived from the Systems are at any time insufficient to pay the reasonable Expenses of the Systems and also to pay all interest on and principal of the Bonds as and when the same become due, then the Issuer will thereafter pay into the Revenue Fund a fair and reasonable payment in accordance with effective applicable rates and charges for all services provided by the Systems, and such payments will continue so long as the same may be necessary in order to prevent or reduce the amount of any default in the payment of the interest on or principal of the Bonds.

Section 8.04. Restrictions on Mortgage or Sale of System. The Issuer will not mortgage, pledge or otherwise encumber the Systems or any part thereof, nor will it sell, lease or otherwise dispose of the Systems or any material part thereof; provided, however, the Issuer may:

- (a) sell at fair market value any portion of the Systems which has been replaced by other similar property of at least equal value, or which ceases to be necessary for the efficient operation of the Systems, and in the event of sale, the Issuer will apply the proceeds to either (i) redemption of Outstanding Bonds in accordance with the provisions governing repayment of Bonds in advance of Stated Maturity, or (ii) replacement of the

property so disposed of by other property the revenues of which shall be incorporated into the Systems as hereinbefore provided;

(b) cease to operate, abandon or otherwise dispose of any property which has become obsolete, nonproductive or otherwise unusable to the advantage of the Issuer;

(c) lease, (i) as lessor, any real or personal property which is unused or unimproved, or which has become obsolete, nonproductive or otherwise unusable to the advantage of the Issuer, or which is being acquired as a part of a lease/purchase financing for the acquisition and/or improvement of such property; and/or (ii) as lessee, with an option of the Issuer to purchase, any real or personal property for the extension and improvement of the Systems; property being leased as lessor and/or lessee pursuant to this paragraph (c) shall not be treated as part of the Systems for purposes of this Section 8.05 and may be mortgaged, pledged or otherwise encumbered; or

(c) grant a security interest in equipment to be purchased with the proceeds of any loan, lease or other obligation undertaken in accordance with Article IX hereof; or

(d) sell, lease or convey all or substantially all of the Systems to another entity or enter into a management contract with another entity if:

(i) The transferee entity is a political subdivision organized and existing under the laws of the State, or instrumentality thereof, or an organization described in Section 501(c)(3) of the Code, and expressly assumes in writing the due and punctual payment of the principal of and premium, if any, and interest on all outstanding System Revenue Bonds according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Ordinance;

(ii) If there remains unpaid any System Revenue Bond which bears interest that is not includable in gross income under the Code, the Issuer receives an opinion of Bond Counsel, in form and substance satisfactory to the Issuer, to the effect that under then existing law the consummation of such sale, lease or conveyance, whether or not contemplated on any date of the delivery of such System Revenue Bond, would not cause the interest payable on such System Revenue Bond to become includable in gross income under the Code;

(iii) The Issuer receives a certificate of the Consultant which demonstrates and certifies that immediately upon such sale or conveyance the transferee entity will not, as a result thereof, be in default in the performance or observance of any covenant or agreement to be performed or observed by it under this Ordinance;

(iv) Such transferee entity possesses such licenses to operate the Systems as may be required if it is to operate the Systems; and

(v) The Issuer receives an opinion of Bond Counsel, in form and substance satisfactory to the Issuer, as conclusive evidence that any such sale, lease

or conveyance, and any such assumption, is permitted by law and complies with the provisions of this Section.

Section 8.05. Insurance. The Issuer will carry and maintain insurance with respect to the Systems and its operations against such casualties, contingencies and risks (including, but not limited to, property and casualty, fire and extended coverage insurance upon all of the properties being parts of the Systems insofar as the same are of an insurable nature, public liability, worker's compensation and employee dishonesty insurance), such insurance to be of the character and coverage and in such amounts as would normally be carried by other enterprises engaged in similar activities of comparable size and similarly situated. In the event of loss or damage, the Issuer, with reasonable dispatch, will use the proceeds of such insurance in reconstructing and replacing the property damaged or destroyed, or in paying the claims on account of which such proceeds were received, or if such reconstruction or replacement is unnecessary or impracticable, then the Issuer will pay and deposit the proceeds of such insurance into the Revenue Fund. The Issuer will annually review the insurance it maintains with respect to the Systems to determine that it is customary and adequate to protect its property and operations. The Issuer may elect to be self-insured for all or any part of the foregoing requirements if (a) the Issuer annually obtains a written evaluation with respect to such self-insurance program from an Insurance Consultant, (b) the evaluation is to the effect that the self-insurance program is actuarially sound, (c) unless the evaluation states that such reserves are not necessary, the Issuer deposits and maintains adequate reserves for the self-insurance program with a corporate trustee, who may be the Paying Agent, and (d) in the case of workers' compensation, adequate reserves created by the Issuer for such self-insurance program are deposited and maintained in such amount and manner as are acceptable to the State. The Issuer shall pay any fees and expenses of such Insurance Consultant in connection therewith. The cost of all insurance obtained pursuant to the requirements of this Section shall be paid as an Expense out of the Revenues of the Systems.

Section 8.06. Books, Records and Accounts. The Issuer will install and maintain proper books, records and accounts (entirely separate from all other records and accounts of the Issuer) in which complete and correct entries will be made of all dealings and transactions of or in relation to the Systems. Such accounts shall show the amount of Revenues received from the Systems, the application of such Revenues, and all financial transactions in connection therewith. Said books shall be kept by the Issuer according to standard accounting practices as applicable to the operation of facilities comparable to the Systems.

Section 8.07. Annual Budget. Prior to the commencement of each fiscal year, the Issuer will cause to be prepared and filed with the Treasurer a budget setting forth the estimated receipts and expenditures of the Systems, or a separate schedule for the Systems within the Issuer's overall budget, for the next succeeding fiscal year. The Clerk, promptly upon the filing of said budget in the City Clerk's office, will mail a copy of said budget to the Original Purchaser of the Bonds. Said annual budget shall be prepared in accordance with the laws and regulations of the State.

Section 8.08. Annual Audit. After the end of each fiscal year, the Issuer will cause an audit to be made of the Systems, or a separate schedule within the Issuer's audited financial statements, for the preceding fiscal year by a certified public accountant or firm of certified public accountants to be employed for that purpose and paid from the revenues of the Issuer. Said annual audit shall cover in reasonable detail the operations of the Systems during such fiscal year.

Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the City Clerk, and a duplicate copy of the audit shall be mailed to the Original Purchaser of the Bonds. Such audits shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any user of the services of the Systems, any Registered Owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer, user or Registered Owner.

As soon as possible after the completion of the annual audit, the City Council shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Ordinance, the Issuer will promptly cure such deficiency and will promptly proceed to increase the rates and charges to be charged for the use and services furnished by the Systems as may be necessary to adequately provide for such requirements.

Section 8.09. Right of Inspection. The Original Purchaser of the Bonds and any Registered Owner or Owners of 10% of the principal amount of the Bonds then Outstanding shall have the right at all reasonable times to inspect the Systems and all records, accounts and data relating thereto, and shall be furnished all such information concerning the Systems and the operation thereof which the Original Purchaser or such Registered Owner or Owners may reasonably request.

Section 8.10. Administrative Personnel. The Issuer shall use its best efforts to employ at all times administrative personnel experienced and well qualified to operate the Systems. The Issuer further agrees that such administrative personnel shall be employed in sufficient numbers to ensure that the Systems will be operated in a prudent and efficient manner, following procedures generally accepted within the public utilities industry in the United States of America.

Section 8.11. Rules and Regulations. The Issuer will establish and maintain such rules and regulations for the use of the Systems as may be necessary to assure maximum occupancy and use thereof.

Section 8.12. Performance of Duties and Covenants. The Issuer will faithfully and punctually perform all duties, covenants and obligations with respect to the operation of the Systems now or hereafter imposed upon the Issuer by the Constitution and laws of the State and by the provisions of this Ordinance.

Section 8.13. Tax Covenants.

(a) The Issuer covenants that (i) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from federal gross income of the interest on the Bonds, and (ii) it will not use or permit the use of any proceeds of Bonds or any other funds of the Issuer, or take or permit any other action, or fail to take any action, which would adversely affect the exclusion from federal gross income of the interest on the Bonds. The Issuer will also adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with other applicable future law, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

(b) The Issuer covenants that (i) it will use the proceeds of the Bonds as soon as practicable for the purposes for which the Bonds are issued, and (ii) it will not invest or directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the Issuer in any manner, or take or omit to take any action, that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

(c) The Issuer covenants and agrees that it will pay or provide for the payment from time to time of all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any Treasury Regulations applicable to the Bonds from time to time. The District specifically covenants to pay or cause to be paid to the United States the required amounts of rebatable arbitrage at the times when due, if any.

(d) The Issuer covenants that it will not use any portion of the proceeds of the Bonds, including any investment income earned on such proceeds, directly or indirectly, (i) in a manner that would cause any Bond to be a “private activity bond” within the meaning of Section 141(a) of the Code, or (ii) to make or finance a loan to any Person.

(e) The Issuer hereby designates the Bonds as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code. In addition, the Issuer hereby represents that:

(i) the aggregate face amount of all tax-exempt obligations (other than private activity bonds which are not “qualified 501(c)(3) bonds” and certain refunding bonds) which will be issued by the Issuer (and all subordinate entities thereof) during the calendar year in which the Bonds are issued is not reasonably expected to exceed \$10,000,000; and

(ii) the Issuer (including all subordinate entities thereof) will not issue an aggregate principal amount of tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds” and certain refunding bonds) during the calendar year in which the Bonds are issued, including the Bonds, in excess of \$10,000,000, without first obtaining an opinion of Bond Counsel that the designation of the Bonds as “qualified tax-exempt obligations” will not be adversely affected.

Any Authorized Officer is hereby authorized to take such other action as may be necessary to make effective the designation in this paragraph (e).

(f) The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to Article XI of this Ordinance or any other provision of this Ordinance, until the final Maturity of all Bonds Outstanding.

(g) The Issuer adopts the Post-Issuance Tax Compliance Procedures attached to this Ordinance as Exhibit B to ensure that all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Bonds that are intended to be tax-exempt are met. The Issuer designates the Treasurer as the “responsible person” for implementing such procedures. The Issuer reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions

as it may determine. The Issuer also reserves the right to change such policies and procedures from time to time, without notice.

Section 8.14. Continuing Disclosure.

(a) The Issuer (i) authorizes and directs any Authorized Officer to execute and deliver, on the date of the issuance of the Bonds, a Continuing Disclosure Undertaking (the “**Undertaking**”) in such form that satisfies the requirements of Rule 15c2-12 promulgated under the Securities and Exchange Act of 1934, as amended (“**Rule 15c2-12**”) and is acceptable to the Original Purchaser and Bond Counsel and (ii) covenants that it will comply with and carry out all of the provisions of the Undertaking. The Authorized Officers, or each individually, may designate a dissemination agent thereunder to assist with compliance. Notwithstanding any other provisions of this Ordinance, failure of the Issuer to comply with the Undertaking will not be considered a default under this Ordinance or the Bonds; however, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer to comply with its obligations under this Section and the Undertaking. For purposes of this Section, “Beneficial Owner” means any person who (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of any Bonds for federal income tax purposes.

(b) The Issuer hereby adopts the Disclosure Policies and Procedures attached to this Ordinance as Exhibit C to ensure the Issuer satisfies the requirements of Rule 15c2-12 and the Undertaking. The Issuer reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as it may determine. The District also reserves the right to change such policies and procedures from time to time, without notice.

ARTICLE IX

ADDITIONAL BONDS AND OBLIGATIONS

Section 9.01. Senior Lien Bonds. So long as any of the Bonds remain Outstanding, the Issuer will not issue any additional bonds or incur or assume any other debt obligations appearing as liabilities on the balance sheet of the Issuer for the payment of moneys determined in accordance with generally accepted accounting principles, including capital leases as defined by generally accepted accounting principles, payable out of the net income and revenues of the Systems or any part thereof which are superior to the Bonds.

Section 9.02. Parity Lien Bonds. The Issuer covenants and agrees that so long as any of the Bonds remain Outstanding, it will not issue any additional Parity Bonds payable out of the net income and revenues of the Systems or any part thereof which stand on a parity or equality with the Bonds unless the following conditions are met:

(a) The Issuer shall not be in default in the payment of principal of or interest on any Bonds or any Parity Bonds at the time outstanding or in making any payment at the time required to be made into the respective funds and accounts created by and referred to in this Ordinance or any Parity Ordinance (unless such additional revenue bonds or obligations are being issued to provide funds to cure such default); and

(b) The Issuer shall obtain a certificate of a Consultant showing either of the following:

(i) The annual Net Revenues Available for Debt Service derived by the Issuer from the operation of the Systems, for the two fiscal year(s) immediately preceding the issuance of Parity bonds shall have been equal to at least ~~125~~110% of the Maximum Annual Debt Service required to be paid out of said revenues in any succeeding fiscal year on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the Issuer, including the Parity Bonds proposed to be issued. In determining the Net Revenues Available for Debt Service for the purpose of this clause, the Consultant may adjust said Net Revenues Available for Debt Service by adding thereto, if the Issuer has made any increase in rates for the use and services of the Systems and such increase has not been in effect during all of the two fiscal year(s) immediately preceding the issuance of Parity Bonds, the amount, as estimated by the Consultant, of the additional Net Revenues Available for Debt Service which would have resulted from the operation of the Systems during said two preceding fiscal year(s) had such rate increase been in effect for the entire period; or

(ii) The annual Net Revenues Available for Debt Service projected to be derived by the Issuer from the operation of the Systems for the two fiscal year(s) immediately following the fiscal year in which the improvements to the Systems, the cost of which is being financed by such additional bonds, are to be in commercial operation, shall be equal to at least ~~125~~110% of the Maximum Annual Debt Service required to be paid out of said revenues in any succeeding fiscal year following such commercial operation on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the Issuer, including the Parity Bonds proposed to be issued. In determining the projected Net Revenues Available for Debt Service for the purpose of this clause, the Consultant may adjust said net revenues by adding thereto any estimated increase in Net Revenues Available for Debt Service resulting from any increase in rates for the use and services of the Systems which, in the opinion of the Consultant, are economically feasible and reasonably considered necessary based on projected operations of the Systems.

Additional revenue bonds of the Issuer issued under the conditions set forth in this Section shall stand on a parity with the Bonds and shall enjoy complete equality or lien on and claim against the net revenues of the Systems with the Bonds, and the Issuer may make equal provision for paying said bonds and the interest thereon out of the Revenue Fund and may likewise provide for the creation of reasonable debt service funds and debt service reserve funds for the payment of such additional bonds and the interest thereon out of moneys in the Revenue Fund.

Section 9.03. Junior Lien Bonds and Other Obligations. Nothing in this Section contained shall prohibit or restrict the right of the Issuer to issue additional revenue bonds or other revenue obligations for any lawful purpose in connection with the operation of the facility and benefiting the Systems and to provide that the principal of and interest on said revenue bonds or obligations shall be payable out of the revenues of the Systems, provided, at the time of the issuance of such additional revenue bonds or obligations, the Issuer is not in default in the performance of any covenant or agreement contained in this Ordinance (unless such additional revenue bonds or obligations are being issued to provide funds to cure such default), and provided, further, that such additional revenue bonds or obligations shall be junior and subordinate to the Bonds so that if at any time the Issuer shall be in default in paying either interest on or principal of the Bonds, or if the Issuer is in default in making any payments required to be made by it under the provisions of Sections 6.02(a), (b) and (c) of this Ordinance, the Issuer shall make no payments of either principal of or interest on said junior and subordinate revenue bonds or obligations until said default or defaults be cured. In the event of the issuance of any such junior and subordinate revenue bonds or obligations, the Issuer, subject to the provisions aforesaid, may make provision for paying the principal of and interest on said revenue bonds or obligations out of moneys in the Revenue Fund.

Section 9.04. Refunding Bonds. The Issuer shall have the right, without complying with the provisions of Section 9.02 hereof, to refund any of the Bonds under the provisions of any law then available, and the refunding bonds so issued, shall enjoy complete equality of pledge with any of the Bonds which are not refunded, if any, upon the revenues of the Systems; provided, however, that if only a portion of the Bonds are refunded and if said Bonds are refunded in such manner that the refunding bonds bear a higher average rate of interest or become due on a date earlier than that of the Bonds which are refunded, then said Bonds may be refunded without complying with the provisions of Section 9.02 hereof only by and with the written consent of the Registered Owners of a majority in principal amount of the Bonds not refunded.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01. Acceleration of Maturity Upon Default. The Issuer covenants and agrees that if it defaults in the payment of the principal of or interest on any of the Bonds as the same becomes due on any Bond Payment Date, or if the Issuer or the City Council or any of the officers, agents or employees thereof fail or refuse to comply with any of the provisions of this Ordinance or of the Constitution or statutes of the State, and such default continues for a period of 60 days after written notice specifying such default has been given to the Issuer by the Registered Owner of any Bond then Outstanding, then, at any time thereafter and while such default continues, the Registered Owners of 25% in principal amount of the Bonds then Outstanding may, by written notice to the Issuer filed in the office of the Clerk or delivered in person to said Clerk, declare the principal of all Bonds then Outstanding to be due and payable immediately, and upon any such declaration given as aforesaid, all of said Bonds shall become and be immediately due and payable, anything in this Ordinance or in the Bonds contained to the contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of said Outstanding Bonds has been so declared to be due and payable, all arrears of interest upon all of said Bonds, except interest accrued but not yet due on such Bonds, and all arrears of principal upon

all of said Bonds has been paid in full and all other defaults, if any, by the Issuer under the provisions of this Ordinance and under the provisions of the statutes of the State have been cured, then and in every such case the Registered Owners of a majority in principal amount of the Bonds then Outstanding, by written notice to the Issuer given as hereinbefore specified, may rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any rights consequent thereon.

Section 10.02. Other Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and the Registered Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Registered Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Registered Owner or Owners against the Issuer and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Ordinance or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Registered Owners of the Bonds.

Section 10.03. Limitation on Rights of Bondowners. No one or more Bondowners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of such Outstanding Bonds.

Section 10.04. Remedies Cumulative. No remedy conferred herein upon the Bondowners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Registered Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies consequent thereon. No delay or omission of any Bondowner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Registered Owners of the Bonds by this Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceeding taken by any Bondowner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to such Bondowner, then, and in every such case, the Issuer and the Registered Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of

the Bondowners shall continue as if no such suit, action or other proceeding had been brought or taken.

Section 10.05. No Obligation To Levy Taxes. Nothing contained in this Ordinance shall be construed as imposing on the Issuer any duty or obligation to levy any taxes either to meet any obligation incurred herein or to pay the principal of or interest on the Bonds.

ARTICLE XI

DEFEASANCE

When any or all of the Bonds or the interest payments thereon have been paid and discharged, then the requirements contained in this Ordinance and the pledge of revenues made hereunder and all other rights granted hereby shall terminate with respect to the Bonds so paid and discharged. Bonds or the interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Ordinance if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds, in trust for and irrevocably appropriated thereto, money and/or Defeasance Obligations which, together with the interest to be earned thereon, will be sufficient for the payment of the principal or Redemption Price of said Bonds, and/or interest to accrue on such Bonds to the Stated Maturity or Redemption Date, as the case may be, or if default in such payment shall have occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Bonds shall be redeemed prior to the Stated Maturity thereof, (a) the Issuer shall have elected to redeem such Bonds, and (b) either notice of such redemption shall have been given, or the Issuer shall have given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to redeem such Bonds in compliance with Section 3.02(a) of this Ordinance. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Bonds or the interest payments thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Registered Owners of the Bonds, and such money shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Defeasance Obligations deposited with the Paying Agent or other bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 12.01. Amendments. The rights and duties of the Issuer and the Bondowners, and the terms and provisions of the Bonds or of this Ordinance, may be amended or modified at any time in any respect by Ordinance of the Issuer with the written consent of the Registered Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Registered Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the Issuer is required to pay by way of principal of or interest on any Bond;
- (c) permit the creation of a lien on the revenues of the Systems prior or equal to the lien of the Bonds or Parity Bonds;
- (d) permit preference or priority of any Bonds over any other Bonds; or
- (e) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Ordinance.

Any provision of the Bonds or of this Ordinance may, however, be amended or modified by Ordinance duly adopted by the City Council of the Issuer at any time in any respect with the written consent of the Registered Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Bondowners, the Issuer may amend or supplement this Ordinance for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Bondowners.

Every amendment or modification of the provisions of the Bonds or of this Ordinance shall be expressed in an ordinance adopted by the City Council of the Issuer amending or supplementing the provisions of this Ordinance and shall be deemed to be a part of this Ordinance. A certified copy of every such amendatory or supplemental Ordinance, if any, and a certified copy of this Ordinance shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Registered Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Ordinance, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental Ordinance or of this Ordinance will be sent by the Clerk to any such Bondowner or prospective Bondowner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the Ordinance of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Registered Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Ordinance made hereunder which affects the duties or obligations of the Paying Agent under this Ordinance.

Section 12.02. Notices, Consents and Other Instruments by Bondowners. Any notice, consent, request, direction, approval, objection or other instrument required by this Ordinance to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent

and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any Person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The Bond Register shall prove the fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same.

In determining whether the Registered Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Ordinance, Bonds owned by the Issuer shall be disregarded and deemed not to be Outstanding under this Ordinance, except that, in determining whether the Bondowners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Bondowners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Bondowners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer.

Section 12.03. Further Authority. The officers of the Issuer, including the Mayor and Clerk, shall be, and they hereby are, authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 12.04. Severability. If any Section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

Section 12.05. Governing Law. This Ordinance shall be governed by and constructed in accordance with the applicable laws of the State.

Section 12.06. Amendment of 2014 NDEQ Note. The Authorized Officers, or each individually, is authorized to enter into an amendment relating to the 2014 NDEQ Note, the effect of which is to pledge the System Revenues to the 2014 NDEQ Note on a parity with the Bonds and other Parity Obligations.

Section 12.07. Effective Date; Publication in Pamphlet Form. This Ordinance shall take effect and be in full force from and after its passage by the City Council and approval by the Mayor and upon its publication in pamphlet form as provided by law.

PASSED AND APPROVED this 2019th day of September, 2016.

ATTEST:

Mayor

City Clerk

**EXHIBIT A TO ORDINANCE
(FORM OF BONDS)**

EXCEPT AS OTHERWISE PROVIDED IN THE ORDINANCE (REFERRED TO HEREIN), THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY (AS DEFINED HEREIN) OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

UNITED STATES OF AMERICA
STATE OF NEBRASKA

Registered
No. R-

Registered
\$

THE CITY OF MCCOOK, NEBRASKA
COMBINED UTILITIES REVENUE REFUNDING BOND
SERIES 2016

Interest Rate	Maturity Date	Dated Date of Bonds	CUSIP Number
---------------	---------------	---------------------	--------------

December 15,

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The City of McCook, Nebraska, a political subdivision of the State of Nebraska (the "Issuer"), for value received, promises to pay to the registered owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the principal amount shown above on the maturity date shown above, and to pay interest thereon, but solely from the source and in the manner herein specified, at the interest rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months) from the Dated Date shown above or from the most recent interest payment date to which interest has been paid or duly provided for, payable semiannually on June 15 and December 15 in each year, beginning on December 15, 201__, until said principal amount has been paid.

The principal or redemption price of this Bond shall be paid at maturity by check or draft or upon earlier redemption to the person in whose name this Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Bond at the designated corporate trust office of _____ in the _____, Nebraska (the "Paying Agent"). The interest payable on this Bond on any interest payment date shall be paid to the person in whose name this Bond is registered on the Bond Register at the close of business on the Record Date for such interest by check or draft mailed by the Paying Agent to such registered owner at the address shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such registered owner or in the case of an interest payment to any registered owner of \$100,000 or more in aggregate principal amount of Bonds, by electronic transfer to such registered owner upon written notice given to the Paying Agent by such registered owner not less than 15 days prior

to the Record Date for such interest, containing the electronic transfer instructions, including the bank (which shall be in the continental United States), ABA routing number and account number to which such Registered Owner wishes to have such transfer directed.

THE TERMS AND PROVISIONS OF THIS BOND ARE CONTINUED ON THE REVERSE SIDE HEREOF, AND SUCH CONTINUED TERMS AND PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH AT THIS PLACE.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the Certificate of Authentication hereon has been executed by the Paying Agent.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds have existed, happened and been performed in due time, form and manner as required by law, and that before the issuance of the Bonds, provision has been duly made for the collection and segregation of the revenues of the Systems and for the application of the same as provided in the Ordinance.

IN WITNESS WHEREOF, the City of McCook, Nebraska, has executed this Bond by causing it to be signed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk.

THE CITY OF MCCOOK, NEBRASKA

By _____
Mayor

ATTEST:

Clerk

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within-mentioned Ordinance.

Registration Date:

_____, as Paying
Agent

By _____
Name _____
Title _____

ADDITIONAL PROVISIONS

This Bond is one of a duly authorized series of bonds of the Issuer designated “Combined Utilities Revenue Refunding Bonds, Series 2016,” aggregating the principal amount of \$_____ (the “Bonds”), issued by the Issuer for the purpose of refunding outstanding indebtedness of the Issuer, under the authority of and in full compliance with the Constitution and laws of the State of Nebraska, including particularly Sections 10-142 and 18–1803 through 18–1805 of the Reissue Revised Statutes of Nebraska, as amended, and pursuant to an ordinance duly adopted by the governing body of the Issuer (herein called the “Ordinance”). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Ordinance.

At the option of the Issuer, Bonds or portions thereof maturing on December 15, 2021, and thereafter may be called for redemption and payment prior to maturity on _____, 2021, and thereafter in whole or in part at any time from the Stated Maturities selected by the Issuer (Bonds of less than a full maturity to be selected in multiples of \$5,000 principal amount in such equitable manner as the Paying Agent shall designate) at par plus accrued interest thereon to the redemption date.

Bonds maturing on _____ 15, _____, are subject to mandatory redemption and payment prior to maturity pursuant to the mandatory redemption requirements of the Ordinance on 1, _____, and on each _____ 1 thereafter prior to maturity, at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date.

Notice of redemption, unless waived, is to be given by the Paying Agent by mailing an official redemption notice by first-class mail at least 30 days prior to the redemption date (or such shorter date as may be acceptable to the then registered owner), to the original purchaser(s) of the Bonds and each Registered Owner of each of the Bonds to be redeemed at the address shown on the Bond Register. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer defaults in the payment of the redemption price), such Bonds or portions of Bonds shall cease to bear interest.

The Bonds are special obligations of the Issuer payable solely from, and secured as to the payment of principal and interest by a pledge of, the revenues derived from the operation of the ~~electric generation and distribution system of the Issuer, the~~ sanitary sewer system of the Issuer, the water treatment and distribution system of the Issuer and the solid waste collection system of the Issuer (collectively, the “Systems”), and the taxing power of the Issuer is not pledged to the payment of the Bonds either as to principal or interest. The Bonds shall not be or constitute a general obligation of the Issuer, nor shall they constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter provision, limitation or restriction. Under the conditions set forth in the Ordinance, the Issuer has the right to issue parity bonds and other obligations payable from the same source and secured by the same revenues as the Bonds; provided, however, that such additional bonds may be so issued only in accordance with and subject to the covenants, conditions and restrictions relating thereto set forth in the Ordinance.

The Issuer hereby covenants and agrees with the Registered Owner of this Bond that it will keep and perform all covenants and agreements contained in the Ordinance, and will fix, establish,

maintain and collect such rates, fees and charges for the use and services furnished by or through the Systems, as will produce revenues sufficient to pay the costs of operation and maintenance of the Systems, pay the principal of and interest on the Bonds as and when the same become due, and provide reasonable and adequate reserve funds. Reference is made to the Ordinance for a description of the covenants and agreements made by the Issuer with respect to the collection, segregation and application of the revenues of the Systems, the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer with respect thereto, and the rights of the Registered Owners thereof.

The Bonds are issuable in the form of fully registered Bonds without coupons in the denomination of \$5,000 or any whole multiple thereof.

This Bond may be transferred or exchanged, as provided in the Ordinance, only on the Bond Register upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Paying Agent duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any authorized denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance and upon payment of the charges therein prescribed. The Issuer and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One Bond certificate with respect to each date on which the Bonds are stated to mature or with respect to each form of Bonds, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository's participants, the beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Issuer and the Paying Agent will recognize the Securities Depository nominee, while the registered owner of this Bond, as the owner of this Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of the Securities Depository, will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer and the Paying Agent will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Bond shall be made in accordance with existing arrangements among the Issuer, the Paying Agent and the Securities Depository.

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 Paying Agent 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 C.F.R. 240.17 Ad-15)

By _____
Name _____
Title _____

EXHIBIT B TO ORDINANCE

Post-Issuance Compliance Procedures

General

In connection with the issuance of the Bonds, the Issuer will execute a tax compliance certificate (the “**Tax Certificate**”) that describes the requirements and provisions of the Code that must be followed in order to maintain the tax-exempt status of interest on such bonds. In addition, the Tax Certificate will contain the reasonable expectations of the Issuer at the time of issuance of the Bonds with respect to the use of the gross proceeds of such bonds and the assets to be financed or refinanced with the proceeds thereof. These Procedures supplement and support the covenants and representations made by the Issuer in the Tax Certificate related to specific issues of tax-exempt obligations. In order to comply with the covenants and representations set forth in the Bond documents and in the Tax Certificate, the Issuer tracks and monitors the actual use of the proceeds of the Bonds, the investment and expenditure of the Bond proceeds and the assets financed or refinanced with the proceeds of such bonds over their life.

Designation of Responsible Person

The Treasurer of the Issuer shall maintain an inventory of Bonds and assets financed which contains the pertinent data to satisfy the Issuer’s monitoring responsibilities. Any transfer, sale or other disposition of bond-financed assets must be reviewed and approved by the Treasurer.

Post-Issuance Compliance Requirements

External Advisors/Documentation

The Issuer shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for tax-exempt status. Those requirements and procedures shall be documented in the Tax Certificate and/or other documents finalized at or before issuance of the Bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

The Issuer also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of the Bonds to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of Bond-financed or refinanced assets.

The Issuer shall train and employ or otherwise engage expert advisors (a “**Rebate Analyst**”) to assist in the calculation of arbitrage rebate payable in respect of the investment of Bonds proceeds, unless the Tax Certificate documents that arbitrage rebate will not be applicable to the Bonds.

Unless otherwise provided by the Ordinance or other authorizing documents relating to the Bonds, unexpended Bond proceeds shall be held in a segregated account, and the Issuer, pursuant to the terms of the Ordinance, shall manage the investment of Bond proceeds. The Issuer shall prepare regular, periodic statements regarding the investments and transactions involving Bond proceeds.

Arbitrage Rebate and Yield

Unless the Tax Certificate documents that arbitrage rebate will not be applicable to the Bonds, the Issuer shall be responsible for:

- engaging the services of a Rebate Analyst and, prior to each rebate calculation date, causing the account holder to deliver periodic statements concerning the investment of Bond proceeds to the Rebate Analyst;
- providing to the Rebate Analyst additional documents and information reasonably requested by the Rebate Analyst;
- monitoring efforts of the Rebate Analyst;
- assuring payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond is redeemed;
- during the construction period of each capital project financed in whole or in part by the Bonds, monitoring the investment and expenditure of Bond proceeds and consulting with the Rebate Analyst to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the Bonds; and
- retaining copies of all arbitrage reports and account statements as described below under “Record Keeping Requirements”.

The Issuer, in the Tax Certificate and/or other documents finalized at or before the issuance of the Bonds, has agreed to undertake the tasks listed above (unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of the Bonds).

Use of Bond Proceeds and Bond-Financed or Refinanced Assets:

The Issuer shall be responsible for:

- monitoring the use of Bond proceeds and the use of Bond-financed or refinanced assets (*e.g.*, facilities, furnishings or equipment) throughout the term of the Bonds to ensure compliance with covenants and restrictions set forth in the Tax Certificate;
- maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of the Bonds, including a final allocation of Bond proceeds as described below under “Record Keeping Requirements”;
- consulting with bond counsel and other legal counsel and advisers in the review of any contracts or arrangements involving use of Bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Tax Certificate;
- maintaining records for any contracts or arrangements involving the use of Bond-financed or refinanced assets as described below under “Record Keeping Requirements”;
- conferring at least annually with personnel responsible for Bond-financed or refinanced assets to identify and discuss any existing or planned use of Bond-financed or refinanced assets, to ensure that

those uses are consistent with all covenants and restrictions set forth in the Tax Certificate; and

- to the extent that the Issuer discovers that any applicable tax restrictions regarding use of Bond proceeds and bond-financed or refinanced assets will or may be violated, consulting promptly with bond counsel and other legal counsel and advisers to determine a course of action to remediate all nonqualified bonds, if such counsel advises that a remedial action is necessary.

The Issuer, in the Tax Certificate and/or other documents finalized at or before the issuance of the Bonds, has agreed to undertake the tasks listed above.

All relevant records and contracts shall be maintained as described below.

Record Keeping Requirements

The Issuer shall be responsible for maintaining the following documents for the term of the Bonds (including refunding bonds, if any) plus at least three years:

- a copy of the Bond closing transcript(s) and other relevant documentation delivered to the Issuer at or in connection with closing of the issue of the Bonds, including any elections made by the Issuer in connection therewith;
- a copy of all material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, draw requests for Bond proceeds and evidence as to the amount and date for each draw down of Bond proceeds, as well as documents relating to costs paid or reimbursed with Bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with Bond proceeds, including a final allocation of Bond proceeds;
- a copy of all contracts and arrangements involving the use of Bond-financed or refinanced assets;
- copies of all statements and reports, including arbitrage reports, prepared with respect to the Issuer's bonds; and
- a copy of all records of investments, investment agreements, arbitrage reports and underlying documents, including statements, in connection with any investment agreements, and copies of all bidding documents, if any.

EXHIBIT C TO ORDINANCE

Disclosure Policies and Procedures

Purpose of Disclosure Policies and Procedures

The issuance and sale of certain municipal bonds, notes, certificates of participation or other obligations (collectively, “**Obligations**”) are subject to certain federal and state securities laws, including Rule 15c2-12 (the “**Rule**”) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”). The Rule requires that an underwriter, prior to purchasing or selling an issue of Obligations in a principal amount over \$1,000,000, obtain a written agreement from the issuer of such Obligations to provide certain financial information or operating data on an annual basis and notices of the occurrence of certain enumerated events with the Municipal Securities Rulemaking Board (“**MSRB**”) using the MSRB’s Electronic Municipal Market Access system (“**EMMA**”).

The Issuer has previously issued or may in the future issue Obligations subject to the Rule, and in connection with such issuances the Issuer has entered and/or will enter into one or more Continuing Disclosure Certificates or Continuing Disclosure Undertakings (collectively, the “**Undertakings**”) in accordance with the Rule. Pursuant to such Undertakings, the Issuer has covenanted or will covenant to comply with the Rule by timely making the required filings. These Policies and Procedures are intended to assure that all filings required under the Rule are made timely and completely and meet all requirements of the Rule.

Designation of Issuer Representative; Maintenance of List and Files

The “**Issuer Representative**” for the Issuer shall be the City Clerk of the Issuer and any alternate or assistant as such City Clerk shall appoint. The Issuer Representative is directed to employ the policies and procedures described herein. The Issuer Representative shall be knowledgeable and familiar with the provisions of each Undertaking as to the type, format and content of the financial information or operating data to be included in each Annual Report required to be made thereunder, the instances in which notice of the occurrence of certain events must be given, and the timing requirements for the filing thereof. The Issuer and the Issuer Representative recognize and acknowledge that the terms, requirements and filing deadlines may vary by Undertaking.

The Issuer Representative shall maintain a current list for each fiscal year identifying each issue of Obligations of the Issuer outstanding during such fiscal year setting forth the name, original principal amount, date of issuance and CUSIP numbers for each such issue and the dates by which the Annual Reports are required to be submitted to the MSRB using EMMA, such list to be accompanied by copies of the related Undertakings.

Dissemination Agents

The Issuer and the Issuer Representative may utilize the services of a financial institution or other provider to act as dissemination agent (each, a “**Dissemination Agent**”) in filing the disclosures and notices described herein and performing the duties of the Dissemination Agent in accordance with the terms of the applicable Undertaking. The Dissemination Agent shall review and be familiar with the contents and filing requirements of the particular Undertaking and with the procedures for making the filings required under such Undertaking with the MSRB using the EMMA system. The Issuer Representative shall coordinate the preparation and submission of the required information with such Dissemination Agent to ensure full compliance with the requirements of the Rule and the applicable Undertakings.

Annual Financial Filings

The Issuer Representative will review the Undertaking related to each outstanding issue of Obligations to determine the financial information required to be included in the Annual Report (i.e., the Issuer's audited financial statements and certain other financial information or operating data with respect to the Issuer, if applicable (the "Annual Report")) required to be filed annually with the MSRB using the EMMA system, and the deadline by which such information must be filed. Unless required otherwise by an Undertaking and as permitted by EMMA filing procedures, the Issuer Representative may file identical Annual Reports with respect to each issue of the Issuer's Obligations. The Issuer Representative shall be knowledgeable and familiar with the specific requirements for the filing of a Notice of Failure to File the Annual Report by the date(s) required under the terms of each Undertaking, if applicable.

The Issuer Representative shall timely initiate the process of preparing the financial information or operating data required to be submitted under each Undertaking as part of the Annual Report. The Issuer Representative shall assemble the information as soon as it becomes available and determine the scope of additional information to be required and also contact the auditors to establish a schedule for completion and submission for the Audited Financial Statements.

The Issuer Representative will timely file the Annual Report, or will cause the Dissemination Agent to file the Annual Report, with the MSRB using the EMMA system. If the Audited Financial Statements are not then available, unaudited financial information may be filed with the MSRB using EMMA and the Audited Financial Statements shall be filed within 10 business days of their receipt and acceptance.

Listed Event Filings

The Issuer Representative will review the Undertaking related to each outstanding issue of Obligations for the listed events which, upon the occurrence thereof, require prompt notices to be filed with the MSRB using the EMMA system. The Issuer Representative will monitor the Obligations and the Issuer's operations for occurrences of any such events and will actively evaluate whether an event may be a listed event as set forth in the Issuer's outstanding Undertakings. After obtaining actual knowledge of such an event, the Issuer Representative will promptly contact the Issuer's bond counsel and the Dissemination Agent, if any, to determine whether the Issuer must file notice of the event with the MSRB under one or more of its Undertakings. Upon a determination that the Issuer must file such notice, the Issuer Representative will file the appropriate notice, or will cause the Dissemination Agent to file such notice, with the MSRB using the EMMA system within ten (10) business days after the occurrence of the listed event or as the Issuer's bond counsel may otherwise direct.

Reports of Issuer Representative; Record Retention

The Issuer Representative shall provide to the Mayor and City Council of the Issuer, any Dissemination Agent and the underwriter of each issue of Obligations confirmation from EMMA received upon the filing of each Annual Report and any other filings made with the MSRB using the EMMA system promptly upon receipt of each such confirmation.

The Issuer Representative shall maintain records with respect to the filings with the MSRB using EMMA, including, but not limited to, EMMA posting receipts showing the dates and nature or contents of all filings for each issue of Obligations outstanding during each fiscal year. Such records shall be kept for at least 5 years after the respective issue of Obligations is no longer outstanding.

Familiarity with EMMA Submission Process

The Issuer Representative shall register with EMMA and review the on-line process of filing with EMMA located at www.emma.msrb.org in order to submit the required information. The MSRB market Information Department can also be contacted at 703.797.6668. A tutorial is available at the website and a practice submission is available as well. The Issuer Representative also shall enroll the Issuer in EMMA's reminder system to ensure timely performance of its responsibilities and obligations.

Notwithstanding the foregoing, if the Issuer has retained a Dissemination Agent to assist with making the filings required by the Issuer's Undertakings and to remind the Issuer of its filing deadlines, the Issuer Representative need not register with EMMA or enroll in EMMA's reminder system.

Training

To ensure adequate resources to comply with the Rule, the Issuer Representative shall develop a training process aimed at providing additional assistance in preparing required information. The training process shall be conducted at least annually and shall encompass a review of the EMMA submission process and an understanding of the timing requirements necessary for full compliance. The retention by the Issuer of a Dissemination Agent to assist it with compliance under its Undertakings and the Rule may be deemed part of such training process.

Review of Offering Document in Connection with Primary Offerings

In connection with a new issue of Obligations, the Issuer Representative, together with such Issuer officials as the Issuer Representative deems appropriate, shall promptly review upon receipt the offering document by which such Obligations shall be offered and sold. For any issue of Obligations subject to the Rule, prior to the distribution of the related offering document the Issuer shall deem the information concerning the Issuer in such offering document as accurate and complete in all material respects (except for such information as permitted to be omitted by the Rule) as of the date of such offering document. The Issuer shall confirm prior to the final pricing of the Obligations that the information concerning the Issuer in the offering document does not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

NOTICE OF PUBLICATION
OF ORDINANCE NO. _____
IN PAMPHLET FORM

Public Notice is hereby given that at a meeting of the Mayor and City Council of the City of McCook, Nebraska, held at 6:00 p.m. on June 13, 2016 there was passed and adopted Ordinance No. _____ entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF MCCOOK, NEBRASKA OF ITS COMBINED UTILITIES REVENUE REFUNDING BONDS, IN ONE OR MORE SERIES AND IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$10,000,000; PRESCRIBING THE FORM AND DETAILS OF THE BONDS AND THE COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AUTHORIZING CERTAIN OFFICERS TO DETERMINE THE PRINCIPAL AMOUNT, THE MATURITIES, THE INTEREST RATES, THE REDEMPTION PROVISIONS, THE FINANCIAL COVENANTS AND OTHER TERMS AND PROVISIONS RELATING TO THE BONDS AND TO ENTER INTO A CONTRACT ON BEHALF OF THE CITY WITH THE PURCHASER OF SAID BONDS; PLEDGING THE REVENUES OF THE CITY'S ~~ELECTRIC~~, SEWER, WATER AND SOLID WASTE COLLECTION SYSTEMS TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; DESIGNATING THE BONDS AS QUALIFIED TAX-EXEMPT OBLIGATIONS; ADOPTING CERTAIN POST ISSUANCE TAX COMPLIANCE AND DISCLOSURE POLICIES AND PROCEDURES WITH RESPECT TO THE BONDS; AUTHORIZING THE AMENDMENT OF A LOAN AGREEMENT WITH THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY; PROVIDING FOR THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM; AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS AND PRESCRIBING OTHER MATTERS RELATING THERETO

Said Ordinance has been published in pamphlet form, and copies of said Ordinance as published in pamphlet form are available for inspection and distribution at the Office of the City Clerk at the City Office.

City Clerk

Document comparison by Workshare Compare on Thursday, September 15, 2016
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Total changes	103

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: 4B

Approve Ordinance No. 2016-2939 providing for the amendment of Appendix F, Solid Waste Collection Fees, of the City of McCook Code of Ordinances upon its third and final reading.

BACKGROUND:

This Ordinance provides for the increase to the solid waste collection fees as included in the proposed FY 2016-2017 budget.

The fee for Residential Trash Collection will increase from \$21.50 to \$22.50 per month which includes a \$2.00/month recycling fee to help support the recycling program. The last increase was in October 2014 where the fee increased from \$19.00/month to \$21.50/month. The 2014 increase included an increase in the recycling fee from \$1.00 to \$2.00/month.

The fee for Household/Commercial Waste will increase from \$60.00/ton to \$62.00/ton. The last increase was in October 2014 where the fee increased from \$57.50 to \$60.00.

**FISCAL
IMPACT:** None.

RECOMMENDATION:

Approve Ordinance No. 2016-2939 providing for the amendment of Appendix F, Solid Waste Collection Fees, of the City of McCook Code of Ordinances upon its third and final reading.

APPROVALS:



Kyle Potthoff, Director of Public Works

September 15, 2016



Nathan A. Schneider, City Manager

September 15, 2016

ORDINANCE NO. 2016-2939

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF APPENDIX F, SOLID WASTE COLLECTION FEES, OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES; PROVIDING FOR A RATE TO BE CHARGED FOR SOLID WASTE COLLECTION AND DISPOSAL; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2014-2909 AND ANY AND ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM AND FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. That Appendix F, Solid Waste Collection Fees, of the City of McCook, Nebraska Code of Ordinances, shall be and is hereby amended to read as follows:

APPENDIX F: SOLID WASTE COLLECTION FEES
SOLID WASTE COLLECTION FEES

(A) In order to pay for the cost of operation and maintenance of the Transfer Station and to provide funds necessary for equipment and future land acquisition, the following fees are hereby established in compliance with Section 55.02:

(1) All residents of the corporate limits of the City of McCook shall not be charged a fee at the Transfer Station for any refuse or debris that is generated on their own residential property and personally delivered to the Transfer Station. Except as provided in Section E of this Appendix, residents and nonresidents delivering construction, demolition, or remodeling and all persons hauling for hire, commercial, contract for commercial tree trimmers, lawn caretakers, or nonresidents of the City of McCook shall be assessed according to the Solid Waste Collection schedule of fees.

(2) The City will operate in accordance with Nebraska Department of Environmental Quality's *Title 132 Integrated Solid Waste Management* regulations.

(B) (1) *Solid Waste Collection schedule of fees.* See Chapter 38, Fee Schedule.

Household/Commercial Waste No Yard Waste	\$.031000 per pound (\$62.00 per ton) minimum charge - \$5.00
Yard Waste Only	\$.011675 per pound (\$23.35 per ton) minimum charge - \$5.00
Non Solid Waste Scale Fee	\$5.00

(2) *Solid Waste Collection payment due.* Payment of the above fee(s) is due and payable upon entrance into the Transfer Station.

(C) *Fee for U-Load-It Clean-up program.* A fee of fifty dollars (\$50.00) for the use of a city truck is hereby provided for use of the City's U-Load-It Clean-Up Program. Scale fees will be charged according to the above schedule as outlined in Sections A and B of the Appendix.

(D) *Solid Waste Collection/Disposal fee.*

(1) All residential units within the corporate City Limits shall be charged a monthly solid waste collection/disposal fee of \$20.50 and a monthly recycling fee of \$2.00.

(2) All residential units within the corporate City Limits may request an additional container to be used for yard waste only, and shall be charged a monthly disposal fee of \$5.00 per month, effective April 1, 2002, during those months that yard waste is banned from Landfills.

(3) Tracts of land or buildings containing three (3) or more residential units may choose alternative solid waste collection/disposal methods upon the approval of the City Manager.

(4) All solid waste collection/disposal fees prescribed by this Appendix shall be a lien upon the premises and real estate for which the service is supplied and if not paid when due such charge shall be certified to the City Treasurer and may be recovered by the City in an action at law and it may be certified to the County Clerk and assessed against said real estate and premises served and be collected and returned in the same manner as other City taxes are certified, assessed, collected and returned.

(5) Bills for solid waste collection/disposal fees charged pursuant to this Appendix shall be rendered at the same time that bills are rendered for water service, and all collection/disposal fees levied by this Appendix which are not paid at or before water service charges are required to be paid, shall be deemed delinquent and the water service of such user may be discontinued.

(E) *Waiver of fees for affordable housing projects.* Disposal fees shall be waived for the deposit at the Transfer Station of solid waste that was generated by the remodeling or clean up of a residential dwelling located within the corporate limits of the City of McCook using funds provided by the Nebraska Department of Economic Development pursuant to the Nebraska Affordable Housing Trust Fund Act.

(F) *Partial waiver of fees for demolition of certain residential dwelling units.* Thirty percent of the total disposal fees shall be waived for the deposit at the Transfer Station of solid waste generated by the demolition of a residential dwelling unit located within the corporate limits of the City of McCook along with an accessory detached garage if the requirements set forth in this subsection are satisfied. In order to qualify for such partial waiver of disposal fees, the owner of the dwelling unit must apply in writing to the Building Inspector of the City for a partial waiver of fees at least 14 days prior to commencement of the demolition work and must establish to the satisfaction of the Building Inspector that:

(1) The owner received written confirmation from the Building Inspector that the demolition qualifies for a partial waiver of disposal fees prior to commencing with the demolition work;

(2) all asbestos and other hazardous materials were abated and removed from the structures prior to commencing demolition work in accordance with all federal, state, and local laws;

(3) the dwelling unit has been abandoned for a continuous period of at least twelve (12) months prior to submission of the application for partial waiver of fees as shown by water, gas or electric utility records;

(4) the dwelling unit is so old, dilapidated, or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy such that it is unreasonable to repair the structure;

(5) there is no reimbursement for disposal fees available from any other source such as homeowner's insurance; and

(6) the owner obtained a permit authorizing such demolition from the City of McCook prior to commencement of the demolition work.

SECTION 2. Any and all ordinances or parts of ordinances in conflict herewith shall be and are hereby repealed.

SECTION 3. This ordinance shall take effect and be in full force October 1, 2016 and from and after its passage, approval and publication in pamphlet form according to law.

PASSED AND APPROVED THIS _____ day of _____, 2016.

-s- Michael D. Gonzales
Mayor

ATTEST:

-s- Lea Ann Doak
City Clerk

SOLID WASTE FEE HISTORY

TRANSFER STATION FEES	OLD RATE	NEW RATE	DOLLAR INCREASE	% INCREASE
PROPOSED: OCTOBER 1, 2016	\$60.00	\$62.00	\$2.00	3.33%
OCTOBER 1, 2015	No Increase	No Increase	No Increase	No Increase
OCTOBER 1, 2014	\$57.50	\$60.00	\$2.50	4.35%
OCTOBER 1, 2013	\$57.00	\$57.50	\$0.50	0.88%
OCTOBER 1, 2009	\$56.00	\$57.00	\$1.00	1.79%
OCTOBER 1, 2008	\$54.68	\$56.00	\$1.32	2.41%
OCTOBER 1, 2005	\$46.68	\$54.68	\$8.00	17.14%
OCTOBER 1, 2001	\$38.58	\$46.68	\$8.10	21.00%
NOVEMBER 1, 1997	\$36.41	\$38.58	\$2.17	5.96%

RESIDENTIAL FEES	OLD RATE	NEW RATE	DOLLAR INCREASE	% INCREASE
PROPOSED: OCTOBER 1, 2016	\$21.50	\$22.50	\$1.00	4.65%
OCTOBER 1, 2015	\$21.50	\$21.50	NO INCREASE	0.00%
OCTOBER 1, 2014	\$19.00	\$21.50	\$2.50	13.16%
OCTOBER 1, 2013	\$18.50	\$19.00	\$0.50	2.70%
OCTOBER 1, 2009	\$17.00	\$18.50	\$1.50	8.82%
OCTOBER 1, 2008	\$15.50	\$17.00	\$1.50	9.68%
OCTOBER 1, 2005	\$14.50	\$15.50	\$1.00	6.90%
OCTOBER 1, 2001	\$12.00	\$14.50	\$2.50	20.83%
JANUARY 1998	\$9.75	\$12.00	\$2.25	23.08%
JANUARY 1997	\$7.00	\$9.75	\$2.75	39.29%

Includes \$1.00 increase to help support the recycling department

Includes \$2.00 Recycling Fee

**CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING**

ITEM: 4C

RECOMMENDATION:

Introduce and approve on first reading Ordinance No. 2016-2941 providing for the amendment to Appendix D, Sewer Department Rates and Fees.

BACKGROUND:

Upon completing the 2016 review of the Sewer Enterprise Fund, Public Financial Management (PFM) is recommending that the base fee for residential and commercial customer be increased by \$1.00 per month. The increase will raise the base charge which includes the first 333 cubic feet of usage from \$14.279 per month to \$15.279 for residential and from \$21.259 to 22.259 for commercial. The per 100 cubic feet fee will not change from the current amount of \$3.299 for both residential and commercial.

During the current budget year (10-1-15 to 9-30-16) 39,898 bills will be sent to the user of the McCook Public Owned Sewer System. Using the number of bills from this year carried forward to next budget will translate to approximately \$40,000 for the Sewer Enterprise Fund per year with users paying \$12 more per year. The last rate increase was 3.25% in 2012, and was on both the base and 100 cubic feet charge.

FISCAL IMPACT: An estimated \$ 40,000 increase in Sewer Enterprise revenue.

RECOMMENDATION:

Introduce and approve on first reading Ordinance No. 2016-2941 providing for the amendment to Appendix D, Sewer Department Rates and Fees.

APPROVALS:



Lea Ann Doak, City Clerk

9/15/16

Date



Jesse Dutcher, Utilities Director

9-13-16

Date



Nate Schneider, City Manager

9-13-16

Date

ORDINANCE NO. 2016-2941

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF FEE SCHEDULE - APPENDIX D, SEWER DEPARTMENT RATES AND FEES; OF THE CITY OF MCCOOK CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2012-2881 AND ANY AND ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. That Fee Schedule - Appendix D, Sewer Department Rates and Fees; Section D - Sewer Use Charges, shall be amended to read as follows:

D. Sewer Use Charges.

1. Residential. The residential sewer use charges provided for in Section 51.072 are as follows:

Minimum Charges of \$15.279 per month based on the first 333 cubic feet of water usage.

Residential Rate - \$3.299 per 100 cubic feet for everything over 333 cubic feet water usage.

2. Commercial. The commercial sewer use charges provided for in Section 51.072 are as follows:

Minimum Charge of \$22.259 per month based on the first 333 cubic feet of water usage.

Commercial Rate - \$3.299 per 100 cubic feet for everything over 333 cubic feet water usage.

3. Sewage Disposal at the Treatment Plant. All sewage that is transported by truck or any vehicle to the plant for disposal will be assessed a fee of \$. 10 per gallon.

SECTION 2. Ordinance No. 2012-2881 and any and all other ordinances or parts of ordinances in conflict herewith shall be and are hereby repealed.

SECTION 3. This ordinance shall take effect with the bills dated November 1, 2016 and be in full force from and after its passage, approval, and publication as required by law in its entirety or in pamphlet form, as the case may be.

PASSED AND APPROVED this _____ day of _____, 2016.

- s - Michael D. Gonzales, Mayor

ATTEST:

-s- Lea Ann Doak, City Clerk

CITY MANAGER'S REPORT
SEPTEMBER 19, 2016 CITY COUNCIL MEETING

ITEM: 4D

RECOMMENDATION:

INTRODUCE AND APROVE ON FIRST READING ORDINANCE NO. 2016-2942 AN AMENDMENT TO 51.072 DETERMINATION OF USE CHARGES CHANGING THE LANGUAGE OF HOW SEWER USAGE IS CALCULATED FOR COMMERCIAL AND CARWASH FACILITIES.

BACKGROUND:

Ordinance 51.072 sets how sewer usage is determined. The language in the ordinance states that residential users are billed monthly based on water usage in December, January and February. Commercial users have been calculated using the same method for a number of years. The months of December, January and February are used because these are months when outside water use is not common. Therefore water passing through the water meter is going into the city sewer and thus used to set the usage amount.

For a number of years it has been the policy of the Sewer Department to bill commercial user using the residential formula (January, December & February). Even though the language in 51.072 (B) differs for commercial in that the ordinance states that commercial is billed using the "*first billing quarter of each year*". The department uses the residential formula to avoid the possibility of billing commercial users for early spring irrigation. By the end of the first quarter, ie March some irrigation is being utilized.

With that in mind staff is requesting that Council changes section (B) of 51.072 to read "*months of December, January and February*" Bring the language for commercials in line with residential users.

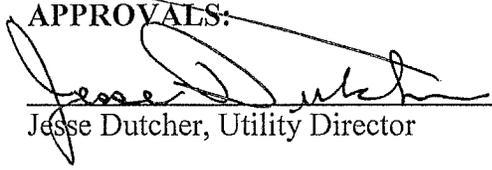
With one class exclusion Vehicle Washing Facilities typically see much higher usage during the winter months. Therefore it has also been the policy of the Sewer Department to calculate the usage for carwashes based on the amount of water they use each month. This has worked out well since none of the carwash businesses have irrigation and all of the water passing through the meter goes to the sanitary sewer. The language change in the ordinance will bring the ordinance in line with policy.

FISCAL
IMPACT: None

RECOMMENDATION:

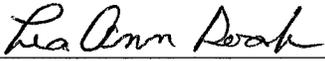
INTRODUCE AND APROVE ON FIRST READING ORDINANCE NO. 2016-2942 AN AMENDMENT TO 51.072 DETERMINATION OF USE CHARGES CHANGING THE LANGUAGE OF HOW SEWER USAGE IS CALCULATED FOR COMMERCIAL AND CARWASH FACILITIES.

APPROVALS:



Jesse Dutcher, Utility Director

Nate Schneider, City Manager



Lea Ann Doak, City Clerk

September 14, 2016

Date

September 14, 2016

Date

September 14, 2016

Date

ORDINANCE NO. 2016-2942

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 51 - SEWER REGULATIONS, SECTION 51.072 DETERMINATION OF USE CHARGES; OF THE CITY OF MCCOOK CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF ANY AND ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. That Chapter 51 - Sewer Regulations, Section 51.072 Determination of Use Charges; shall be amended to read as follows:

“§ 51.072 DETERMINATION OF USE CHARGES.

(A) Residential users served by the sewerage system shall pay the charges provided for by ordinance of the City Council and set out in Chapter 38, Fee Schedule. Sewer charge shall be based on water consumed annually during the months of December, January, and February. One-third of that charge will be billed monthly, starting with the bill mailed on or about May 1. In the case of multiple dwelling units or trailer courts served by a single meter, the rate shall be the same as for residential units served by the meter, provided the minimum charge for sewer service shall be the minimum average charge times the number of units that have used any quantity of water during the quarter, or 900 cubic feet of water usage times the number of units that have used any quantity of water during that quarter, whichever is smaller. The sewage contribution of a new residential user either within or without the corporate limits of the city with no established first quarter water record shall be based on the regular average charge until such time as the base contribution of sewage is determined. Use of minimum charge for schools during summer months will be determined by the city.

(B) Commercial users served by the sewage system shall pay the charges provided by ordinance of the City Council and set out in Chapter 38, Fee Schedule. Sewer charge shall be based on water consumed during the ~~first billing quarter of each year.~~ **months of December, January, and February.** One-third of that charge will be billed monthly, starting with the bill mailed on or about May 1. In the case of industries discharging only non-process related wastewater, the rate shall be the same as for commercial users. **In the case of vehicle washing facilities, the rate shall be the same as for commercial users and based on water consumed monthly.**

(C) (1) Industrial users contributing process waste to the sewerage system shall be billed monthly and charged according to the average daily contribution of flow, suspended solids, and BOD. The formula for determining the total amount to be charged each industrial process waste contributor is as follows:

$$A = \frac{(1/3) C (Vu)}{V} + \frac{(1/3) C (Su)}{S} = \frac{(1/3) C (Bu)}{B}$$

Where A= Amount owed by industrial user for sewage treatment and collection
 C= Total sewage treatment collection expense for the year
 Vu= Volume of flow from industrial user (gallons)
 V= Total volume of flow to sewer system (gallons)
 Su= Suspended solids from industrial user (pounds)
 S= Total suspended solids to sewer system (pounds)
 Bu= BOD from industrial user (pounds)
 B= Total BOD to sewer system (pounds)

(2) Obtaining and analyzing sewage samples for use in determining the industrial sewer use charge to be billed against a given industrial user shall be the responsibility of the city and performed according to § 51.041 of this chapter.

(D) All sewage that is transported by truck or any vehicle to the plant for disposal shall pay the charges provided for by ordinance of the City Council and set out in Chapter 38, Fee Schedule.

SECTION 2. Any and all other ordinances or parts of ordinances in conflict herewith shall be and are hereby repealed.

SECTION 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law in its entirety or in pamphlet form, as the case may be.

PASSED AND APPROVED this _____ day of _____, 2016.

- s - Michael D. Gonzales, Mayor

ATTEST:

-s- Lea Ann Doak, City Clerk