

CITY OF NEBRASKA CITY, NEBRASKA
MINUTES OF CITY COUNCIL REGULAR MEETING
April 20, 2009

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Nebraska City was conducted in the Council Chambers of City Hall, 1409 Central Avenue, on April 20, 2009. Notice of the meeting was given in advance thereof by posting in at least three public places, the designated method for giving notice, as shown by the Certificate of Posting Notice attached to these minutes.

Mayor Hobbie called the meeting to order at 6:00 p.m. The Mayor publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held. Mayor Jack Hobbie led in the Pledge of Allegiance. Upon roll call the following answered present: Jeff Crunk, Dean Handy, and Mark Mercer. Absent: Brett Gay. The following City Officials were present: City Administrator Pat Haverty, City Clerk Arnold M. Ehlers, City Attorney William Davis, Police Chief David Lacy, Building Inspector Alan Viox and Public Properties Director/Zoning Director Dan Giittinger.

Commissioner Handy moved to approve the minutes of the April 6, 2009 City Council Regular Meeting, seconded by Commissioner Crunk. Upon roll call the following voted AYE: Mercer, Crunk, Handy and Mayor Hobbie. Voting NO: None. Motion adopted.

Mayor Hobbie proclaimed the week of May 10 – 16, 2009 as “National Nursing Home Week.”

City Administrator Pat Haverty provided information to the Council on the status of “Stimulus Funding” for the 11th Street/11th Corso Project. Update on progress on the Rowe Memorial Safety Complex change orders, and needs on the Livingston Property (807 Central Avenue). Informed Council on guidelines for Neighborhood Stabilization Program (NSP).

Rebecca Turner, Executive Director delivered the Quarterly Report for NCTC.

Chief David Lacy introduced Coray D. Bell, Nebraska City’s latest addition to the Nebraska City Police Department. City Clerk Arnold M. Ehlers administered the oath of office to Officer Bell.

Chief David Lacy delivered the 1st Quarter 2009 activity report for the Nebraska City Police Department.

Mayor Hobbie introduced Resolution 2407-09 entitled:

A RESOLUTION CALLING THE OUTSTANDING COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES 22, IN THE OUTSTANDING PRINCIPAL AMOUNT OF \$1,505,000 OF THE CITY OF NEBRASKA CITY, NEBRASKA

Commissioner Mercer moved its adoption. Commissioner Handy seconded the foregoing motion and on roll call on the passage and adoption of said resolution, the following voted YEA: Crunk, Handy, Mercer and Mayor Hobbie. The following voted NAY: None. Absent: Gay. Whereupon the Mayor declared said motion carried and said resolution passed and adopted. A true and correct copy of said resolution is as follows.

RESOLUTION NO. 2407-09

A RESOLUTION CALLING THE OUTSTANDING COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES 22, IN THE OUTSTANDING PRINCIPAL AMOUNT OF \$1,505,000 OF THE CITY OF NEBRASKA CITY, NEBRASKA

BE IT RESOLVED AND ENACTED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA, as follows:

Section 1. That the following bonds, in accordance with their option provisions, are hereby irrevocably called for payment on May 21, 2009, after which date interest on the bonds will cease:

Combined Utilities Revenue Refunding Bonds, Series No. 22, dated March 20, 2003, numbered as they are shown on the books and records of the Paying Agent and Registrar, in the total outstanding principal amount of \$1,505,000, issued for the purpose of paying the costs of constructing additions and improvements to the combined utilities of the City, maturing, in the principal amounts, bearing CUSIP numbers as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>CUSIP Number</u>
\$110,000	September 15, 2009	639648 EL4
120,000	September 15, 2010	639648 EM2
125,000	September 15, 2011	639648 EN0
125,000	September 15, 2012	639648 EP5
125,000	September 15, 2013	639648 EQ3
150,000	September 15, 2014	639648 ER1
175,000	September 15, 2015	639648 ES9
175,000	September 15, 2016	639648 ET7
200,000	September 15, 2017	639648 EU4
200,000	September 15, 2018	639648 EV2

Section 2. These bonds are to be paid at the office of City Treasurer, as Paying Agent and Registrar, in Nebraska City, Nebraska.

Section 3. A true copy of this Resolution shall be filed by the City Clerk with the Paying Agent and Registrar at least thirty (30) days prior to call date and the Paying Agent and Registrar is hereby irrevocably instructed to take appropriate action to mail notice to registered owners at least thirty (30) days prior to the call date.

DATED this 20th day of April, 2009.

By _____
Jack Hobbie, Mayor

(S E A L)

ATTEST:

City Clerk

Mayor Jack Hobbie introduced Resolution 2408-09 entitled:

A RESOLUTION CALLING THE OUTSTANDING COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES 23, IN THE OUTSTANDING PRINCIPAL AMOUNT OF \$1,705,000 OF THE CITY OF NEBRASKA CITY, NEBRASKA

Commissioner Mercer moved its adoption. Commissioner Handy seconded the foregoing motion and on roll call on the passage and adoption of said resolution, the following voted YEA: Crunk, Handy, Mercer and Mayor Hobbie. The following voted NAY: None. Absent: Gay. Whereupon the Mayor declared said motion carried and said resolution passed and adopted. A true and correct copy of said resolution is as follows.

RESOLUTION NO. 2408-09

A RESOLUTION CALLING THE OUTSTANDING COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES 23, IN THE OUTSTANDING PRINCIPAL AMOUNT OF \$1,705,000 OF THE CITY OF NEBRASKA CITY, NEBRASKA

BE IT RESOLVED AND ENACTED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA, as follows:

Section 1. That the following bonds, in accordance with their option provisions, are hereby irrevocably called for payment on May 21, 2009, after which date interest on the bonds will cease:

Combined Utilities Revenue Refunding Bonds, Series No. 23, dated October 21, 2003, numbered as they are shown on the books and records of the Paying Agent and Registrar, in the total outstanding principal amount of \$1,705,000, issued for the purpose of paying the costs of constructing additions and improvements to the combined utilities of the City, maturing, in the principal amounts, bearing CUSIP numbers as follows:

<u>Principal Amount</u>	<u>Maturity Date</u>	<u>CUSIP Number</u>
\$ 60,000	September 15, 2009	639648 FB5
60,000	September 15, 2010	639648 FC3
60,000	September 15, 2011	639648 FD1
75,000	September 15, 2012	639648 FE9
75,000	September 15, 2013	639648 FF6
75,000	September 15, 2014	639648 FG4
65,000	September 15, 2015	639648 FH2
75,000	September 15, 2016	639648 FJ8
200,000	September 15, 2017	639648 FK5
300,000	September 15, 2018	639648 FL3
660,000	September 15, 2019	639648 FM1

Section 2. These bonds are to be paid at the office of City Treasurer, as Paying Agent and Registrar, in Nebraska City, Nebraska.

Section 3. A true copy of this Resolution shall be filed by the City Clerk with the Paying Agent

and Registrar at least thirty (30) days prior to call date and the Paying Agent and Registrar is hereby irrevocably instructed to take appropriate action to mail notice to registered owners at least thirty (30) days prior to the call date.

DATED this 20th day of April, 2009.

By _____
Jack Hobbie, Mayor

(S E A L)

ATTEST:

Arnold M. Ehlers, City Clerk

Mayor Hobbie introduced Ordinance 2753-09:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES NO. 27, OF THE CITY OF NEBRASKA CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF THREE MILLION TWO HUNDRED TEN THOUSAND DOLLARS (\$3,210,000) FOR THE PURPOSE OF REFUNDING THE CITY'S OUTSTANDING COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES NO. 22 AND COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES NO. 23; PRESCRIBING THE FORM OF SAID BONDS AND THE COVENANTS AND AGREEMENTS MADE BY SAID CITY TO FACILITATE AND PROTECT THE PAYMENT THEREOF; PROVIDING FOR THE COLLECTION, SEGREGATION, PLEDGING AND APPLICATION OF THE REVENUES OF THE COMBINED UTILITIES OF SAID CITY FOR THE PURPOSE OF PAYING THE COST OF OPERATION AND MAINTENANCE OF SAID UTILITIES AND PAYING THE INTEREST ON AND PRINCIPAL OF SAID SERIES OF BONDS; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; PROVIDING FOR THE DISPOSITION OF THE BOND PROCEEDS AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Handy seconded the motion and upon roll call the following voted AYE: Mercer, Crunk, Handy and Mayor Hobbie. Voting NO: None. The motion to suspend the rule was adopted by three-fifths of the Board and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor stated the question "Shall Ordinance No. 2753-09 be passed and adopted?" Upon roll call the following voted YES: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Board, the Mayor declared the ordinance adopted and the Mayor in the presence of the Board signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto and ordered the Ordinance to be published in pamphlet form as provided therein. A true, correct and complete copy of said ordinance is as follows:

ORDINANCE NO.2753-09

AN ORDINANCE AUTHORIZING THE ISSUANCE OF COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES NO. 27, OF THE CITY OF NEBRASKA CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF THREE MILLION TWO HUNDRED TEN THOUSAND DOLLARS (\$3,210,000) FOR THE PURPOSE OF REFUNDING THE CITY'S OUTSTANDING COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES NO. 22 AND COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES NO. 23; PRESCRIBING THE FORM OF SAID BONDS AND THE COVENANTS AND AGREEMENTS MADE BY SAID CITY TO FACILITATE AND PROTECT THE PAYMENT THEREOF; PROVIDING FOR THE COLLECTION, SEGREGATION, PLEDGING AND APPLICATION OF THE REVENUES OF THE COMBINED UTILITIES OF SAID CITY FOR THE PURPOSE OF PAYING THE COST OF OPERATION AND MAINTENANCE OF SAID UTILITIES AND PAYING THE INTEREST ON AND PRINCIPAL OF SAID SERIES OF BONDS; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; PROVIDING FOR THE DISPOSITION OF THE BOND PROCEEDS AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND BOARD OF COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA:

Section 1. The Mayor and Board of Commissioners hereby find and determine as follows:

a) that the City presently owns and operates an electric light and power plant and distribution system, a waterworks system, sewerage plant and collection system and gas system (collectively the “combined utilities”);

b) that by Ordinance No. 2573-03 the City authorized the issuance of Combined Utilities Revenue Refunding Bonds, Series No. 22, of the City in the amount of Two Million Dollars (\$2,000,000) dated March 20, 2003, of which there presently remain outstanding and unpaid bonds of said issue in the principal amount of \$1,505,000 and that by Ordinance No. 2586-03 the City authorized the issuance of Combined Utility Revenue Refunding Bonds, Series No. 23, of the City in the amount of Two Million Dollars (\$2,000,000) dated October 21, 2003, of which there presently remain outstanding and unpaid bonds of said issue in the principal amount of \$1,705,000 as of the date of this Ordinance; and that since the issuance of the Series No. 22 and Series No. 23 Bonds, the rates of interest have so declined in the markets that by taking up and paying off the Series No. 22 and Series No. 23 Bonds by an issue of refunding bonds of the City, a substantial savings in the amount of yearly running interest will be made to the City; that by issuing its refunding bonds in the amount of \$3,210,000, the Series No. 22 and the Series No. 23 Bonds can be taken up and paid off on May 21, 2009; and that the Series No. 22 and the Series No. 23 Bonds have been called for redemption on said date;

c) that by Ordinance No. 2635-05 the City authorized the issuance of Combined Utilities Revenue Bonds, Series No. 24, of the City in the amount of Two Million One Hundred Thousand Dollars (\$2,100,000) dated July 12, 2005, of which there presently remain outstanding and unpaid bonds of said issue in the principal amount of \$1,785,000, which bonds are secured by a lien upon and a pledge of the revenue and earnings of the combined utilities (the “Series No. 24 Bonds”);

d) that by Ordinance No. 2662-06 the City authorized the issuance of Combined Utilities Revenue Refunding Bonds, Series No. 25, of the City in the amount of Two Million Two Hundred Forty Thousand Dollars (\$2,240,000) dated June 15, 2006, of which there presently remain outstanding and unpaid bonds of said issue in the principal amount of \$1,140,000, which bonds are secured by a lien upon and a pledge of the revenue and earnings of the combined utilities (the “Series No. 25 Bonds”);

e) that by Ordinance No. 2745-09 the City authorized the issuance of Combined Utilities Revenue Refunding Bonds, Series No. 26, of the City in the amount of Two Million Eight Hundred Ten Thousand Dollars (\$2,810,000) dated March 19, 2009, of which there presently remain outstanding and unpaid bonds of said issue in the principal amount of \$2,810,000, which bonds are secured by a lien upon and a pledge of the revenue and earnings of the combined utilities (the “Series No. 26 Bonds”);

e) that the Series No. 24 Bonds, the Series No. 25 Bonds and the Series No. 26 Bonds (collectively, the “Outstanding Parity Bonds”) issued pursuant to Ordinance No. 2635-05, Ordinance No. 2662-06 and Ordinance No. 2745-09 (collectively, the “Outstanding Parity Ordinances”) constitute the only outstanding bonded indebtedness of the City for which the revenues and earnings of the City’s combined utilities have been pledged;

h) that the refunding bonds herein authorized do not mature earlier than the Series No. 22 and Series No. 23 Bonds being refunded by the bonds issued hereunder and are being issued on a par for par basis;

i) all conditions for issuance of the bonds herein authorized as “refunding bonds” of equal lien to the Outstanding Parity Bonds as contained in the Outstanding Parity Ordinances are found to have been met and the City is not in default in making any payments in the respective accounts as set forth in the Outstanding Parity Ordinances and the City has the right to issue the bonds herein authorized as “refunding bonds” on a parity with and equal in lien to the Outstanding Parity Bonds; and

j) that all conditions, acts and things required by law to exist or to be done precedent to the issuance of the Combined Utilities Revenue Refunding Bonds, Series No. 27, contemplated herein do exist and have been done and performed in regular and due form as provided in the Outstanding Parity Ordinances and in Sections 18-1803 to 18-1805, Reissue Revised Statutes of Nebraska, 2007, as amended.

Section 2. Unless the context shall clearly indicate otherwise, the following terms shall have the following meanings when used in this ordinance:

a) “combined utilities” shall mean the electric light and power plant and distribution system, waterworks system, sewerage plant and collection system and gas system of the City of Nebraska City, Nebraska, as now existing and all additions (including any additional systems which may hereafter be lawfully included in the combined utilities of the City), extensions, improvements and betterments hereafter made;

b) “revenues” shall mean all the rates, rentals, fees, charges, earnings and other monies from any source whatever derived by the City of Nebraska City through its ownership and operation of its combined utilities;

c) “Series No. 27 Bonds” shall mean the \$3,210,000 principal amount “Combined Utilities Revenue Refunding Bonds, Series No. 27” authorized to be issued pursuant to Section 3

of this ordinance at any time outstanding;

d) "Series No. 24 Bonds" shall mean the \$2,100,000 principal amount "Combined Utilities Revenue Bonds, Series No. 24" dated July 12, 2005, authorized pursuant to Ordinance No. 2635-05 at any time outstanding;

e) "Series No. 25 Bonds" shall mean the \$2,240,000 principal amount of "Combined Utilities Revenue Refunding Bonds, Series No. 25" dated June 15, 2006, authorized pursuant to Ordinance No. 2662-06 at any time outstanding;

f) "Series No. 26 Bonds" shall mean the \$2,810,000 principal amount "Combined Utilities Revenue Refunding Bonds, Series No. 26" authorized to be issued pursuant to Section 3 of Ordinance No. 2745-09 at any time outstanding;

h) "Additional Bonds" shall mean any bond including refunding bonds, authorized and issued pursuant to the provisions of the Outstanding Parity Ordinances and Section 13 of this ordinance at any time outstanding, which are payable on a parity with the Series No. 27 Bonds and the Outstanding Parity Bonds and equally and ratably secured therewith;

i) "Outstanding Parity Bonds" shall mean, collectively, the Series No. 24 Bonds, the Series No. 25 Bonds and the Series No. 26 Bonds; and

j) "Outstanding Parity Ordinances" shall mean, collectively, Ordinance No. 2635-05, Ordinance No. 2662-06 and Ordinance No. 2745-09, pursuant to which the Outstanding Parity Bonds have been issued.

Section 3. For the purposes as outlined in Section 1 hereof, there shall be and there hereby are ordered issued Combined Utilities Revenue Refunding Bonds, Series No. 27, of the aggregate principal amount of Three Million Two Hundred Ten Thousand Dollars (\$3,210,000) to bear date of original issue of May 21, 2009, in fully registered form. Said Series No. 27 Bonds shall bear interest at the rates per annum and mature on September 15 of each year in the principal amounts as follows:

<u>Principal Amount</u>	<u>Maturing on September 15 of Year</u>	<u>Interest Rate Per Annum</u>
\$170,000	2009	1.00
180,000	2010	1.40
185,000	2011	1.65
200,000	2012	1.95
200,000	2013	2.25
225,000	2014	2.65
240,000	2015	2.90
250,000	2016	3.20
400,000	2017	3.40
500,000	2018	3.60
660,000	2019	3.80

The Series No. 27 Bonds shall be issued in the denominations of \$5,000 or any integral multiple thereof and shall be numbered from 1 upwards in the order of their issuance as shown on the books and records of the Paying Agent and Registrar. No Series No. 27 Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Series No. 27 Bonds issued shall be as directed by the initial purchasers thereof. Interest on the Series No. 27 Bonds shall be payable semiannually on September 15 and March 15 of each year, starting September 15, 2009. The interest due on each interest payment date shall be payable to the registered owners of record as of the close of business on the last day of the calendar month immediately preceding the calendar month in which the interest payment date occurs (the "Record Date"), subject to the provisions of Section 4 hereof. Payments of interest due on the Series No. 27 Bonds prior to maturity or redemption shall be made by the Paying Agent and Registrar, as designated in Section 4 hereof, by mailing a check in the amount due for such interest on each interest payment date to the registered owner of each Series No. 27 Bond as of the Record Date to such owner's registered address as shown on the books of registration as required to be maintained in Section 4 hereof. Payment of principal due at maturity or at any date fixed for redemption prior to maturity, together with any accrued interest then due, shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the Series No. 27 Bonds to said Paying Agent and Registrar. So long as the Series No. 27 Bonds are in "book-entry-only" form the terms of Section 6 of this ordinance and the Letter of Representations (as therein defined and referred to) shall govern the manner of payment for principal of and interest on the Series No. 27 Bonds. The City and said Paying Agent and Registrar may treat the registered owner of any Series No. 27 Bond as the absolute owner of such bond for the purpose of making payments thereon and for all other purposes and neither the City nor said Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary whether such bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Series No. 27 Bond shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Series No. 27 Bonds or claims for interest to the extent of the sum or sums so paid. If any Series No. 27 Bond is not paid upon presentation of such bond at maturity or any interest installment is not paid when due, such

delinquent bond or delinquent interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska 2004, as now existing or as the same may be amended from time to time by the Nebraska Legislature.

Section 4. The City Treasurer is hereby designated as Paying Agent and Registrar for the Series No. 27 Bonds. Said Paying Agent and Registrar shall maintain books reflecting the registration and transfer of the Series 27 Bonds. The names and registered addresses of the initial registered owner or owners of the Series No. 27 Bonds shall at all times be recorded in such books. Any Series No. 27 Bond may be transferred pursuant to its provisions at the office of the Paying Agent and Registrar upon surrender of such bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to such Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar will register such transfer upon said registration books and deliver to the transferee registered owner or owners (or send by registered mail to the transferee owner or owners at such owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new Series No. 27 Bond or Series No. 27 Bonds of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Series No. 27 Bonds by this ordinance, one such bond may be transferred for several such bonds of the same interest rate and maturity and for a like aggregate principal amount, and several such bonds may be transferred for one or several such bonds, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Series No. 27 Bond, the surrendered bond or bonds shall be canceled and destroyed. All Series No. 27 Bonds issued upon transfer of the Series No. 27 Bonds so surrendered shall be valid obligations of the City evidencing the same obligations as the Series No. 27 Bonds surrendered and shall be entitled to all benefits and protection of this ordinance to the same extent as the Series No. 27 Bonds upon transfer of which they were delivered. The City and the Paying Agent and Registrar shall not be required to transfer Series No. 27 Bonds during any period from any Record Date until its immediately following interest payment date or to transfer any Series No. 27 Bonds called for redemption for a period of 30 days next preceding the date fixed for redemption prior to maturity. In the event that payments of interest due on the Series No. 27 Bonds on an interest payment date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such interest payment date and shall be payable to the registered owners of the Series No. 27 Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 5. Series No. 27 Bonds maturing on or after September 15, 2014 shall be subject to redemption, in whole or in part, prior to maturity at any time on or after May 21, 2014, at par plus accrued interest on the principal amount redeemed to the date fixed for redemption. The City may select the Series No. 27 Bonds to be redeemed in its sole discretion but Series No. 27 Bonds shall be redeemed only in the amount of \$5,000 or integral multiples thereof. Notice of redemption of any Series No. 27 Bond called for redemption shall be given at the direction of the Mayor and City Commissioners by the Paying Agent and Registrar by mail not less than thirty days prior to the date fixed for redemption, first class postage prepaid, sent to the registered owner of such bond at said owner's registered address. Such notice shall designate the Series No. 27 Bond or Series No. 27 Bonds to be redeemed by number and maturity, the date of original issue, the date fixed for redemption and state that such bond or bonds are to be presented for prepayment at the office of the Paying Agent and Registrar. In case of any Series No. 27 Bond partially redeemed, such notice shall specify the portion of the principal amount of such bond to be redeemed. No defect in the mailing of notice for any Series No. 27 Bond shall affect the sufficiency of the proceedings of the Mayor and City Commissioners designating the Series No. 27 Bonds called for redemption or the effectiveness of such call for bonds for which notice by mail has been properly given and the Mayor and City Commissioners shall have the right to further direct notice of redemption for any such Series No. 27 Bond for which defective notice has been given.

Section 6. The Series No. 27 Bonds shall be executed on behalf of the City by being signed by the Mayor and the City Clerk, both of which signatures may be facsimile signatures, and shall have the City seal impressed on each Series No. 27 Bond. The City Clerk shall make and certify a transcript of proceedings had and done precedent to the issuance of said Series No. 27 Bonds which shall be delivered to the purchaser of said Series No. 27 Bonds. After being executed by the Mayor and City Clerk, said bonds shall be delivered to the Treasurer of the City who shall be responsible therefore under his/her official bond. Such Treasurer shall maintain a record of information with respect to said Series No. 27 Bonds in accordance with the requirements of Section 10-140, R.R.S. Neb. 2007, and shall cause the same to be filed with the office of the Auditor of Public Accounts of the State of Nebraska. The Paying Agent and Registrar shall register each Series No. 27 Bond in the name of its initial registered owner as designated by the initial purchaser. Each Series No. 27 Bond shall be authenticated on behalf of the City by the Paying Agent and Registrar. The Series No. 27 Bonds (hereinafter in this Section sometimes referred to as "bond" or "bonds") shall be issued initially as "book-entry only" bonds

using the services of The Depository Trust Company, New York, New York (the “Depository”), with one typewritten bond per maturity being issued to the Depository. In such connection said officers of the City are authorized to execute and deliver a letter of representations and inducement (the “Letter of Representations”) in the form required by the Depository, for and on behalf of the City (including any blanket letter previously executed and delivered by the City), which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the bonds. Upon issuance of the bonds as "book-entry-only" bonds, the following provisions shall apply:

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

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the bonds.

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

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

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable to or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the bonds or (ii) to make available bonds registered in whatever name or names the Beneficial Owners transferring or exchanging such bonds shall designate.

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

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

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

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

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section and the terms of the Paying Agent and Registrar’s Agreement (if any).

(f) In the event of any partial redemption of a bond unless and until such partially redeemed bond has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such bond as is then outstanding

and all of the bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced or upon termination by the City of book-entry-only form, the City shall immediately provide a supply of bond certificates for issuance upon subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement bond certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of bond certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting officers. In case any officer whose signature or facsimile thereof shall appear on any Series No. 27 Bond shall cease to be such officer before the delivery of such bond (including any bond certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption) such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such bond. The Series No. 27 Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar.

Section 7. Said Series No. 27 Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF OTOE
CITY OF NEBRASKA CITY
COMBINED UTILITIES REVENUE
REFUNDING BOND, SERIES NO. 27

Bond No.				\$
<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>		<u>CUSIP</u>
<u>No.</u>	%	September 15, ____	May 21, 2009	
Registered Owner:	_____			
Principal Amount:	_____			

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Nebraska City, in the County of Otoe, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner specified above on the maturity date specified above, solely from the Combined Utilities Fund of the City of Nebraska City, as hereinafter mentioned, and not otherwise, the sum specified above in lawful money of the United States of America, with interest thereon from date of original issue specified above or most recent interest payment date, whichever is later, to maturity (or earlier redemption) at the rate per annum specified above. Said interest shall be payable semiannually on the fifteenth day of March and September in each year, starting September 15, 2009. If this bond is not paid upon presentation of the bond at maturity or if any interest installment is not paid when due, such bond or interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska 2004, as now existing or as the same may be amended from time to time by the Nebraska Legislature. The interest hereon due prior to maturity or earlier redemption shall be paid on each interest payment date by the City Treasurer as Paying Agent and Registrar for the City by wire transfer, check or draft mailed to the registered owner hereof as of the close of business on the last day of the month immediately preceding the month in which the interest payment date occurs, at such owner's registered address as it appears on the books of registration of the City. The principal of this bond and the interest due at maturity or upon call for redemption prior to maturity are payable on presentation and surrender to said Paying Agent and Registrar at its office in Nebraska City, Nebraska. Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the record date such interest was payable and shall be payable to the person who is the registered owner of this bond (or of one or more predecessor bonds hereto) on such special record date for payment of such defaulted interest as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available.

This bond is one of an issue of fully registered bonds of the total principal amount of \$3,210,000 of like tenor herewith except as to denomination, date of maturity and rate of interest, issued by said City for the purpose of paying the bonded debt of the City on its legally issued Combined Utilities Revenue Refunding Bonds, Series No. 22, dated March 20, 2003, in the outstanding principal amount of \$1,505,000 and Combined Utilities Revenue Refunding Bonds, Series No. 23, dated October 21, 2003, in the outstanding principal amount of \$1,705,000, in pursuance of the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb. 2007. This bond and the others of said issue have been duly authorized by an ordinance duly passed and adopted by the Mayor and Council of said City.

The City, however, reserves the right and option of paying bonds of this issue maturing on or after September 15, 2014, in whole or in part, on May 21, 2014, or at any time thereafter, at the principal amount thereof plus accrued interest to the date fixed for redemption. Notice of any such redemption shall be given by mail, sent to the registered owner of any bond to be redeemed at said registered owner's address in the manner provided in the ordinance authorizing said bonds.

Individual bonds may be redeemed in part but only in the amount of \$5,000 or integral multiples thereof. Any bond redeemed in part only shall be surrendered to the Paying Agent and Registrar in exchange for a new bond or bonds evidencing the unredeemed principal thereof.

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

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

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

This bond and the interest hereon are payable solely from revenues to be derived by the City of Nebraska City, Nebraska, from the combined electric, water, sewer and gas utilities systems of said City, and not otherwise. Under the ordinance of said City duly passed and approved, the revenues to be derived from the operation of said combined electric, water, sewer and gas utilities systems of said City, including all of the revenues of all improvements, extensions and betterments thereto, shall be deposited in a separate fund designated as the "Combined Utilities Fund" of said City, which shall be used only in paying the reasonable expenses of operation and maintenance of the City's combined utilities system, paying the principal of and interest on the bonds of said City that are issued under the authority of the statutes of the State of Nebraska and the ordinances of said City and which are payable by their terms from the revenues of said combined utilities system, making capital improvements or extensions in or to said combined utilities system of said City in accordance with the provisions of the ordinance hereinbefore referred to, and otherwise as specified in said ordinance, and this bond does not constitute a general obligation of said City nor an indebtedness of said City within any constitutional or statutory limitation.

This bond and the series of which it is a part have been authorized and issued under the provisions of an ordinance of the City duly passed, to which ordinance reference is made for a description of the covenants of the City with respect to the collection, segregation and application of the revenues of the City's combined utilities system, the nature and extent of the security of said bonds, the rights, duties and obligations of the City with respect thereto and the rights of the holders thereof. Under the terms of said ordinance, the City has the right to issue additional parity bonds payable from the same source and secured by the same revenue as this bond and the series of which it is a part and under the conditions set forth in said ordinance, and may refund outstanding revenue bonds of the City which refunding bonds and this bond and the series of which this bond is a part may stand on a parity and equality as to security and payment; provided, however, that any such additional bonds and refunding bonds may be so issued only in accordance with and subject to the covenants, conditions and restrictions relating thereto set forth in said ordinance. The City also reserves the right to issue additional bonds or notes junior in lien to the bonds of this issue on terms set forth in said ordinance. The bonds of this issue are of equal standing with the City's Outstanding Parity Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond have been done, have happened and have been performed in regular and due form of law and that provision has been made for depositing in said Combined Utilities Fund the revenues to be

derived from the operation of said combined utilities system to be applied in the manner hereinbefore referred to. The City further covenants that it will fix, establish, maintain and collect such rates, fees or charges for the services of said combined utilities system, including all improvements, extensions and betterments thereto, as will produce revenues sufficient to provide funds to pay the expense of operating, maintaining and repairing said utilities and to pay promptly when due the principal of and interest on this bond and all other bonds now or hereafter outstanding payable from said revenues.

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

IN WITNESS WHEREOF, the Board of Commissioners of the City of Nebraska City, Nebraska, have caused this bond to be executed on behalf of the City by being signed by the Mayor and Clerk of the City, both of which signatures may be facsimile signatures, and by causing the official seal of the City to be affixed hereto all as of the date of original issue shown above.

ATTEST:

CITY OF NEBRASKA CITY, NEBRASKA

By _____ (do not sign)

Mayor

(do not sign)

City Clerk

(S E A L)

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds authorized by an ordinance passed and approved by the Board of Commissioners of the City of Nebraska City as described in said bonds.

(do not sign)

City Treasurer, Nebraska City, Nebraska,

Paying Agent and Registrar

(FORM OF ASSIGNMENT)

For value received _____ hereby sells, assigns and transfers unto _____ the within bond and hereby irrevocably constitutes and appoints _____ Attorney, to transfer the same on the books of registration in the office of the within mentioned Paying Agent and Registrar with full power of substitution in the premises.

Date: _____

Registered Owner

SIGNATURE GUARANTEED

By _____

Authorized Officer

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

Section 8. As long as any of the Series No. 27 Bonds herein authorized remain outstanding and unpaid the entire combined utilities system of the City of Nebraska City, consisting of the electric light and power plant, distribution system and transmission lines owned by said City and now supplying light and power to said City and the inhabitants of said City and surrounding territory, the waterworks system of said City now supplying service to the City and its inhabitants, the sewerage plant and collection system of said City now supplying service to the City and its inhabitants, and the gas system of said City now supplying service to the City and its inhabitants and surrounding territory, and all improvements and extensions that may hereafter be made to each of said respective utilities (constituting the "combined utilities" as defined in Section 2 of this ordinance), shall continue to be combined and the revenues and earnings of said combined utilities shall be and the same hereby are pledged for the purpose of paying the principal of and the interest on the Series No. 27 Bonds and the Outstanding Parity Bonds, equally and ratably. The issue of Series No. 27 Bonds shall stand on an equal footing with said Outstanding Parity Bonds and any Combined Electric, Water, Sewer and Gas Utilities Revenue Bonds of the City hereafter issued under the conditions and provisions hereafter specified and shall enjoy parity of lien upon the revenues and earnings of said combined utilities with the Outstanding Parity Bonds and such Additional Bonds. Said entire combined utilities, for all the purposes of this ordinance, shall continue to be operated on an annual basis commencing the first day of September and ending the last day of August of each year.

Section 9. The revenues and earnings of the combined utilities are hereby pledged and hypothecated for the payment of the Series No. 27 Bonds and the Outstanding Parity Bonds and the City does hereby agree with the holders of said Series No. 27 Bonds, Outstanding Parity Bonds and any Additional Bonds as follows:

- A. Combined Utilities Fund. The entire gross revenues and income derived from the operation of the combined utilities shall be set aside as collected and deposited in a

separate fund which has been previously created by Ordinance No. 873 of the City of Nebraska City and which is herein confirmed and designated and referred to as the "Combined Utilities Fund". For purposes of allocating the monies in the Combined Utilities Fund, the City shall maintain the following Accounts:

- I. Operation and Maintenance Account;
- II. Combined Utilities Revenue Bond Account;
- III. Tax Reimbursement Account;
- IV. Combined Utilities Bond and Interest Reserve Account;
- V. Improvement and Extension Account; and
- VI. Surplus Account.

For as long as any of the City's Series No. 27 Bonds or Outstanding Parity Bonds or any Additional Bonds remain outstanding and unpaid the City shall maintain said Accounts for the administration of said Fund as follows:

I. **OPERATION AND MAINTENANCE ACCOUNT:** The City shall set aside in this Account each month an amount sufficient to provide for the operation and maintenance of its combined utilities and the expenses of operation and maintenance of said combined utilities shall be paid out of this Account. As used in this Ordinance, the term "operation and maintenance" shall mean the ordinary and reasonable costs of operating and maintaining the electric system determined in accordance with the Uniform System of Accounts, but excluding depreciation, amortization and debt service (also excluding, as debt service, any debt service, however designated, which is to be paid as a component of any contract for the purchase of power or services).

II. **COMBINED UTILITIES REVENUE BOND ACCOUNT:**

A. Interest. On or before the first day of each month commencing with and including June 1, 2009, and continuing on the first day of each month until and including August 1, 2009, the City shall pay from the Combined Utilities Fund into the Combined Utilities Revenue Bond Account an amount equal to one-fifth (1/5) of the interest which will come due on the Series No. 27 Bonds on September 15, 2009. On or before the first day of each month thereafter and continuing on the first day of each month for as long as the Series No. 27 Bonds herein authorized remain outstanding and unpaid the City shall pay from the Combined Utilities Fund into the Combined Utilities Revenue Bond Account an amount equal to one-sixth (1/6) of the interest which will come due during the next six months' period on all of the Series No. 27 Bonds then outstanding.

B. Principal. On or before the first day of each month commencing with and including June 1, 2009, and continuing on the first day of each month until and including August 1, 2009, the City shall pay from the Combined Utilities Fund into the Combined Utilities Revenue Bond Account an amount equal to one-eleventh (1/11) of the principal amount which will become due on the Series No. 27 Bonds on September 15, 2009. On or before the first day of each month thereafter and continuing on the first day of each month for as long as the Series No. 27 Bonds remain outstanding and unpaid, the City shall pay into the Combined Utilities Revenue Bond account an amount equal to one-twelfth (1/12) of the principal amount which will become due during the next twelve months' period on all of the Series No. 27 Bonds then outstanding.

Such transfers to the Combined Utilities Revenue Bond Account shall be made in such amounts and at such times as there will be sufficient sums in such Account to meet the required payments due on the Series No. 27 Bonds. The deposits to the Combined Utilities Revenue Bond Account provided for in this ordinance shall be in addition to those provided in the Outstanding Parity Ordinances with respect to the Outstanding Parity Bonds. All amounts paid into the Combined Utilities Revenue Bond Account shall be used by said City for the sole purpose of paying the interest on and principal of said Series No. 27 Bonds and Outstanding Parity Bonds as and when the same become due.

III. **TAX REIMBURSEMENT ACCOUNT:** The Tax Reimbursement Account created by Section 18 of Ordinance No. 873 of the City of Nebraska City shall continue and so long as any of the Series No. 27 Bonds remain outstanding and unpaid, and the City of Nebraska City covenants and agrees that it will maintain said Account and after providing for the required transfers from the Combined Utilities Fund into the Operation and Maintenance Account and Combined Utilities Revenue Bond Account, said City will pay monthly into said Tax Reimbursement Account out of the Combined Utilities Fund an amount equal to one-twelfth of \$9,633 to pay any contractual obligations made by said City for payment of charges in lieu of taxes to the respective political subdivisions in which any of the properties of said combined utilities is situated or for the payment of any taxes or governmental charges in lieu of taxes imposed by operation of law; provided, no payments shall be made to any political subdivision in default to said City for the payment for any service rendered to any said political subdivision by said combined utilities.

IV. **COMBINED UTILITIES BOND AND INTEREST RESERVE ACCOUNT:** The City hereby confirms its respective undertakings with respect to deposits to the Combined Utilities

Bond and Interest Reserve Account as set forth in the Outstanding Parity Ordinances. Under the terms of the Outstanding Parity Ordinances any ordinance authorizing the issuance of Additional Bonds shall provide for separate sub-accounts to be established within the Combined Utilities Bond and Interest Reserve Account for each outstanding series of bonds, with the required balance for each such issue of Additional Bonds to be established as the Board of Commissioners shall determine appropriate for each such issue, including if deemed appropriate for a particular series no such sub-account. With respect to each such issue, the sub-account is to be equal to ten percent (10%) of the original principal amount of such series (or, if less, the maximum amount which is permitted to be held and invested without yield restriction under applicable regulations of the United States Treasury relating to Section 103(b) and 148 of the Internal Revenue Code of 1986). In accordance with the terms of the Outstanding Parity Ordinances, separate sub-accounts are established within the Combined Utilities Bond and Interest Reserve Account for each currently outstanding series of bonds as follows:

<u>Series No.</u>	<u>Sub-account Amount</u>
24	\$210,000
25	\$224,000
26	\$281,000
27	\$321,000

Upon delivery of the Series No. 27 Bonds, the City shall credit such amounts to said sub-accounts from cash on hand (including reserve funds on hand with respect to the Outstanding Parity Bonds and Series No. 20 Bonds). Each sub-account shall secure the series for which it is established and shall be drawn upon to meet payments on such series only, until such series is no longer outstanding. In the event of withdrawals from any such sub-account or sub-accounts, the City will transfer each month all revenues of the combined utilities available in the Combined Utilities Fund, after making the required payments into the Operation and Maintenance Account, Combined Utilities Revenue Bond Account and Tax Reimbursement Account, until such required balances has been restored, and amounts available to restore deficiencies shall be applied to the respective deficient sub-accounts in the Combined Utilities Bond and Interest Reserve Account on a pro rata basis in accordance with the respective principal amounts outstanding for each such series for which there is a deficient sub-account. The amount of the monthly credit required for the purpose of accumulating any additional amounts in the Combined Utilities Bond and Interest Reserve Account shall be set so that the amounts required in each such sub-account shall be accumulated in a period of not more than five years. In no event shall the amount required to be accumulated and maintained in the Combined Utilities Bond and Interest Reserve Account exceed the maximum amount permitted to be held and invested without yield restrictions under applicable regulations of the United States Treasury relating to Section 103(b) and 148 of the Internal Revenue Code of 1986.

V. IMPROVEMENT AND EXTENSION ACCOUNT: Pursuant to Ordinance No. 2472-96, the City is required to maintain a balance of \$325,000 in the Improvement and Extension Account. The City shall continue to maintain the sum of \$325,000 in such account. If the balance of the Improvement and Extension Account should fall below \$325,000, the City shall make monthly payments of not less than \$6,000 so as to restore said Account to the balance of \$325,000. Money in the Improvement and Extension Account may be used for the extension and improvement of the combined utilities upon order of the City's Board of Public Works and with the consent of the City Commissioners of Commissioners.

VI. SURPLUS ACCOUNT: After providing for the required payments in to the Operation and Maintenance Account, the Combined Utilities Revenue Bond Account, the Tax Reimbursement Account, the Combined Utilities Bond and Interest Reserve Account and the Improvement and Extension Account, all of the remaining revenues shall be credited to the Surplus Account. All money credited to the Surplus Account, from whatever source, shall be used only for the following purposes:

a. Filling any deficiency in required monthly payments in the Operation and Maintenance Account, the Combined Utilities Revenue Bond Account, the Tax Reimbursement Account, the Combined Utilities Bond and Interest Reserve Account and the Improvement and Extension Account.

b. Accelerating the payments for the required balance of the Combined Utilities Revenue Bond Account, the Combined Utilities Bond and Interest Reserve Account and the Improvement and Extension Account.

c. Any lawful corporate purpose of the City.

d. Retiring the Outstanding Parity Bonds or the Series No. 27 Bonds or any Additional Bonds then outstanding prior to their respective maturities under their respective option provisions or by purchase in the open market.

e. Payment of interest on and principal of bonds of the combined utilities system junior in lien to the Outstanding Parity Bonds, the Series No. 27 Bonds and any Additional Bonds, providing such notes or bonds are issued to pay for costs incident to construction of extensions, enlargements, improvements or betterments to said combined utilities.

Money on deposit in the Combined Utilities Fund which has not yet been credited to an Account therein in accordance with this Section, and monies credited to the Operation and Maintenance Account and the Combined Utilities Revenue Bond Account may, to the extent practicable and reasonable, be invested in direct obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America, which investments shall mature, in the case of monies invested from the Operation and Maintenance Account and the Combined Utilities Revenue Bond Account, at such times and in such amounts as shall be required to provide monies to make the payments to be made from said Accounts in a timely fashion. All interest and income derived from monies held in the Combined Utilities Fund and not yet credited to any of the accounts established therein, and from monies credited to the Tax Reimbursement Account, the Operation and Maintenance Account and the Surplus Account shall, when realized and collected, be credited to the said Fund or to the respective Account from which such investments were made. All monies and income from investments made from monies credited to the Combined Utilities Revenue Bond Account and from monies credited to the Combined Utilities Bond and Interest Reserve Account and the Improvement and Extension Account shall, when realized and collected, be credited to the respective Account from which such investments were made, unless there shall be credited thereto the respective amounts then required by paragraphs II, IV and V of this Section 9, in which event such interest and income shall be credited to the Surplus Account. All investments held for the credit of any Fund or Account may be sold when required to make the payments to be made from such Fund or Account. Any monies credited to the Combined Utilities Fund or any Account therein which are not invested shall be secured in the manner provided by law for the security of Funds for cities of the first class within the State of Nebraska.

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

Section 10. The City of Nebraska City covenants and agrees with each of the purchasers and holders of the Series No. 27 Bonds and the Outstanding Parity Bonds that so long as any of said bonds remain outstanding and unpaid said City will fix, establish, maintain and collect such rates, fees or charges for electricity, water, sewer and gas, and for electric, water, sewer and gas service furnished by or through the combined utilities as will produce revenues sufficient to provide funds to pay the reasonable costs of operation and maintenance of the combined utilities of said City and to pay, when due, the principal of and interest on the Outstanding Parity Bonds and the Series No. 27 Bonds together with the principal of and interest on any utilities revenue bonds of the City hereafter issued which are payable from the revenues of the combined utilities as and when the same become due. Said City further covenants and agrees that said rates will be sufficient to provide funds to make the monthly payments into the accounts hereinbefore referred to in accordance with the provisions hereof.

Section 11. The City will not hereafter grant any franchise or right to any person, firm or corporation to own or operate an electric, water, sewer or gas plant or system in competition with that owned by the City.

Section 12. While any of the Outstanding Parity Bonds or Series No. 27 Bonds are outstanding, the City will render bills to all customers for electric, water, sewer and gas services. If bills are not paid within sixty days after due, the City will take all lawful measures to collect delinquent amounts due, including utility service shut-off, in accordance with existing state statutes and City ordinances and other applicable laws, and will make appropriate charge for use of all properties of the City connected to the electric, water, sewer and gas systems.

Section 13. The City of Nebraska City covenants and agrees that so long as any of the Outstanding Parity Bonds or the Series No. 27 Bonds remain outstanding and unpaid said City will not issue any Additional Bonds or other obligations or indebtedness payable out of the revenues and earnings of the combined utilities of said City, or any part thereof, which are superior in position to, or are issued on an equality with, the Outstanding Parity Bonds or Series No. 27 Bonds unless the following appropriate conditions are met:

(a) The revenue of the combined utilities for the fiscal year next preceding the date of the authorization of the Additional Bonds, as based upon a certified public accountant's report, after deduction of operation and maintenance expenses, is (at least) equal to 1.25 times the average annual bond requirements of the Series No. 27 Bonds, the Outstanding Parity Bonds, any Additional Bonds then outstanding and the Additional Bonds to be issued, which average annual

bond requirements shall be determined by adding all of the principal and interest which will become due when computed to the absolute maturity of the Series No. 27 Bonds, the Outstanding Parity Bonds and any Additional Bonds then outstanding and all of the principal and interest of the Additional Bonds to be issued and dividing the total by the number of years remaining that the longest bond of any issue of said bonds (including the Additional Bonds to be issued) has to run to maturity. If a certified public accountant's report for the fiscal year next proceeding the date of issuance of the Additional Bonds is not yet available, the City may rely on a certified public accountant's report for the year next preceding the year next preceding the date of issuance of such Additional Bonds, provided that the City Board of Public Works shall certify that, based upon unaudited information available for the year next preceding the date of issuance of the Additional Bonds, there is no material adverse change in the revenues and earnings of the combined utilities system.

(b) The City shall not be in default in making any payment into the respective accounts created by this ordinance.

The City reserves the right and power, however, to issue Additional Bonds junior and subordinate to the Series No. 27 Bonds, the Outstanding Parity Bonds and any Additional Bonds then outstanding, and the interest and principal of any such bonds can be paid from funds available for improvements and enlargements to the combined utilities of the City as authorized in this ordinance or from other surplus utility funds which are available for such debt service.

The City further reserves the right to issue refunding bonds to refund any revenue bonds then outstanding and unpaid which are payable from the revenues of the combined utilities without compliance with the foregoing conditions if such refunding bonds shall not mature earlier than the bonds being refunded and shall comply with the refunding provisions of the ordinance authorizing the bonds being refunded, if any. In computing average bond requirements with respect to any proposed issue of refunding bonds, debt service on the bonds being refunded shall be disregarded for any period of time when such refunded bonds are to be no longer outstanding under the terms of their authorizing ordinance. All refunding bonds issued in accordance with the terms of this Section 13 shall have the same equality of pledge as the bonds being refunded.

In the event any changes in the rates, rentals and charges for the use and service of the combined utilities have been made during the preceding fiscal year or during the interval between the end of such fiscal year and the issuance of such Additional Bonds, or in the event the City shall covenant in the ordinance or Ordinance authorizing the issuance of such Additional Bonds to impose, effective upon the issuance of such Additional Bonds, higher rates, rentals and charges for such use and service, Additional Bonds may be issued based upon the report of a consulting engineer or certified public accountant and the consulting engineer or independent certified public accountant of the City shall, in determining the net collections for such fiscal year, adjust the net collections to reflect the result as if such changed rates, rentals and charges, or such higher rates, rentals and charges had been in existence for such entire preceding fiscal year period, and the amount of such net collections adjusted as aforesaid shall be conclusive evidence and the only evidence required to show compliance with the provisions and requirements of paragraph (a) of this Section 13.

Section 14. So long as any of the Series No. 27 Bonds or Outstanding Parity Bonds shall remain outstanding said City will carry adequate insurance on the combined utilities properties of said City in such amounts as are normally carried by private companies engaged in similar operations including, without limiting the generality of the foregoing, fire and windstorm insurance, public liability insurance and any additional insurance covering such risks as shall be recommended by the Board of Public Works of the City.

All such insurance policies shall be in such form and amount as shall be approved or recommended by the Board of Public Works of said City or, if there be no such Board, by the Board of Commissioners of said City. All insurance monies, except public liability, shall be used by the City in making good the loss or damage in respect of which they were paid, either by repairing the property damaged or replacing the property destroyed, and any expenditures in excess of \$10,000 from said monies shall be made only upon a certificate issued by the city engineer or by consulting engineers employed by the City and filed with the City Clerk stating that the insurance proceeds, together with any other monies available for that purpose, are sufficient for the repair or replacement of any such properties; and when the City shall have been furnished with a certificate of the city engineer or of consulting engineers employed by the City stating that the property damaged or destroyed has been fully repaired or replaced and such repairs or replacements have been fully paid for, the residue, if any, of such insurance monies shall be paid into the Improvement and Extension Account created by Section 9 of this ordinance unless said Improvement and Extension Account is filled to its maximum amount, in which event the insurance monies shall be paid into the Surplus Account.

If the proceeds of any insurance shall be insufficient to repair or replace the property damaged or destroyed, and if the City shall have no other funds available to pay the amount of the deficiency, the amount of said deficiency may be paid out of the Improvement and Extension Account created by Section 9 of this ordinance; provided, however, that all of the conditions

contained in said Section with respect to the use and application of said Improvement and Extension Account shall be complied with. If, in the opinion of the city engineer or the consulting engineers employed by the City, it is to the best interest of the City not to repair or replace the damaged properties and that failure to repair or replace said properties will not affect the sufficiency of the income and revenue from the remaining properties to maintain and operate the same properly and provide funds sufficient to meet the payments required under all of the provisions of this ordinance, then said insurance monies shall be paid into said Improvement and Extension Account.

The proceeds of any and all policies for public liability receivable by the City shall be paid to and be held by the City Treasurer and used in paying the claims on account of which they were received.

Section 15. So long as any of the Series No. 27 Bonds are outstanding and unpaid, the City of Nebraska City agrees that it will not sell, lease or otherwise dispose of any of the property of the combined utilities, the revenues of which are pledged hereunder, located within the corporate limits of said City or any of the property located within or without the corporate limits of said City which is necessary or useful to the supplying of services from said combined utilities to the inhabitants of said City, except any portion of said properties which is determined to be no longer necessary or useful in the operation of said combined utilities; provided, however, said City shall have the right to sell any of the properties of the combined utilities now or hereafter located outside the corporate limits of said City which are not necessary or useful to the supplying of service to the City and its inhabitants. No sale of any properties shall be made except for cash and then only after certificate has been issued by a consulting engineer setting forth the value of such properties and making a determination of the loss of revenues that will be sustained by the sale of such properties and finding that the revenues to be derived from the remaining properties of said combined utilities will be sufficient to comply with all the terms, covenants and provisions of this ordinance, which said certificate shall be filed in the office of the City Clerk. Any sale of properties made pursuant to the terms and conditions of this Section shall be made free and clear of the pledge of the revenues of said properties under the terms and conditions of this ordinance. The net proceeds of any such sale shall be used by the City for the purpose of redeeming Series No. 27 Bonds, Outstanding Parity Bonds or revenue bonds hereafter issued on an equality with the Series No. 27 Bonds and Outstanding Parity Bonds, or applied to the pro rata payment of the principal of and accrued interest on all of said revenue bonds of the City, such redemption being made in the manner, after the notice and in accordance with all the conditions specified with respect to said bonds.

Section 16. The City will cause proper books and accounts for the combined utilities to be kept and will cause the books and accounts to be audited annually by an independent firm of certified public accountants and will make generally available to the holders of any of the Series No. 27 Bonds the balance sheet and profit and loss statement of the City as certified by such accountants. The holders of any of said bonds shall have at all reasonable times the right to inspect the system and the records, accounts and data of the City relating thereto.

Section 17. The City of Nebraska City hereby covenants and agrees with the holder or holders of the Series No. 27 Bonds, or any of them, that it will punctually perform all duties with reference to said combined utilities required by the Constitution and laws of the State of Nebraska, including the making and collecting of sufficient rates for service of said combined utilities and segregating the revenues of said combined utilities and the application of the respective funds and accounts created by this ordinance, and it hereby covenants and agrees not to sell, lease, loan, mortgage or otherwise encumber, except as provided in this ordinance, or in any manner dispose of said combined utilities, except as provided by Section 15 of this ordinance, until all of the Series No. 27 Bonds shall have been paid in full, both principal and interest, or unless and until provision shall have been made for the payment of all said bonds and interest thereon in full, and the City further covenants and agrees with the holders of said bonds to maintain in good condition and continuously operate said combined utilities, and the City will not permit or allow franchises, permits, privileges, easements or other rights necessary or desirable for said purposes to lapse and will from time to time take all reasonable steps to secure renewal of all such franchises, permits, easements and rights at the expiration thereof, if same shall expire prior to maturity of the Series No. 27 Bonds.

Section 18. The City of Nebraska City hereby agrees that in the event that said City shall default in the payment of the principal of or interest on any of the Series No. 27 Bonds as the same shall become due, whether at maturity or upon call for redemption, and in the event that such default shall continue for a period of thirty (30) days, or in the event that said City or the governing body or officers, agents or employees thereof shall fail or refuse to comply with any of the provisions of this ordinance or of the statutes of the State of Nebraska, then at any time thereafter and while such default shall continue, the holders of twenty-five per cent (25%) of the principal amount of the Series No. 27 Bonds then outstanding may, by written notice to said City filed in the office of the City Clerk or delivered in person to the Mayor or City Clerk of said City, declare the principal of all said Series No. 27 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 said bonds contained to the

contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of said Series No. 27 Bonds shall have been so declared to be due and payable, all arrears of interest upon all of said outstanding bonds, except interest accrued but not yet due on such bonds, and all arrears of principal upon all of said bonds then outstanding shall have been paid in full, and all other defaults, if any, by the City under the provisions of this ordinance and the applicable statutes of the State of Nebraska shall have been cured, then and in every case the holders of a majority in amount of the Series No. 27 Bonds then outstanding, by written notice to the City 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 19. The Series No. 27 Bonds are hereby sold to Ameritas Investment Corp. (the "Underwriter") for \$_____ plus accrued interest, if any, on the stated principal amount of the Series No. 27 Bonds to date of payment and delivery. Such purchase price takes into consideration underwriter's discount in the amount of \$_____. The City Treasurer is authorized to deliver the Series No. 27 Bonds to said purchaser upon receipt of such purchase price plus accrued interest to date of payment. Said Series No. 27 Bonds are sold to the purchaser subject to the opinion of independent bond counsel that said bonds are lawfully issued; that said Series No. 27 Bonds constitute a valid obligation of the City; and that under existing laws and regulations the interest on said Series No. 27 Bonds is exempt from both Nebraska state and federal income taxes. The Board of Commissioners hereby authorizes the Mayor and Clerk or either of them to approve, execute and deliver on behalf of the City a final Official Statement relating to and describing the Series No. 27 Bonds. The officers of the City are further authorized to take any and all actions deemed necessary by them in connection with the carrying out and performance of the terms of this Ordinance. The bond purchase agreement for the Series No. 27 Bonds between the City and the Underwriter is hereby approved in the form presented and its execution and delivery by the City's officers (or any one or more of them) is hereby authorized. Such purchaser and its agents, representatives and counsel (including its bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Series No. 27 Bonds, including, without limitation, authorizing the release of the Series No. 27 Bonds by the Depository (as defined herein) at closing.

Section 20. The Board of Commissioners hereby approves on behalf of the City the preliminary Official Statement prepared with respect to the Series No. 27 Bonds and hereby authorizes the Mayor and Clerk or either of them to approve, execute and deliver on behalf of the City a final Official Statement relating to and describing the Series No. 27 Bonds. The Board of Commissioners hereby deem the information set forth in the Preliminary Official Statement with respect to the Series No. 27 Bonds to be final except for permitted omissions in accordance with the Rule and hereby authorize any of the City's officers to approve the final Official Statement for and on behalf of the City. The officers of the City are further authorized to take any and all actions deemed necessary by them in connection with the carrying out and performance of the terms of this Ordinance.

Section 21. In accordance with the requirements of Rule 15c2-12 (as now existing or hereafter amended, the "Rule") promulgated by the Securities and Exchange Commission (the "Commission"), the City hereby agrees that it will provide the following continuing disclosure information:

- (a) to the Municipal Securities Rulemaking Board (the "MSRB") and to the Underwriter, the City's annual financial and operating information generally consistent with the information set forth in the Introductory Section and the statistical Section of the City's Comprehensive Annual Financial Report and its audited financial statements; such information is expected to be available not later than seven months after the end of each fiscal year for the City. Audited financial information shall be provided in accordance with generally accepted accounting principles);
- (b) in a timely manner to the Municipal Securities Rulemaking Board (as may be required under the terms of the Rule), notice of the occurrence of any of the following events with respect to the Series No. 27 Bonds, if in the judgment of the City, such event is material:
 - (1) principal and interest payment delinquencies,
 - (2) non-payment related defaults,
 - (3) unscheduled draws on debt service reserves reflecting financial difficulties (not applicable to the Series No. 27 Bonds),
 - (4) unscheduled draws on credit enhancements reflecting financial difficulties (not applicable to the Series No. 27 Bonds),
 - (5) substitution of credit or liquidity providers, or their failure to perform (not applicable to the Series No. 27 Bonds),

- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds,
- (7) modifications to rights of the holders of the Series No. 27 Bonds,
- (8) bond calls,
- (9) defeasances,
- (10) release, substitution or sale of property securing repayment of the Series No. 27 Bonds and
- (11) rating changes (not applicable to the Series No. 27 Bonds).

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

(c) in a timely manner to the MSRB notice of any failure on the part of the City to provide required annual financial information not later than seven months from the close of the City's fiscal year.

The City acknowledges that the SEC has approved a final rule (the "Amending Rule") amending the rule and relating to the establishing of a continuing disclosure service to be known as the Electronic Municipal Market Access system. Under the Amending Rule issuers are to be required to file with the MSRB as the sole nationally recognized securities information repository. The wording of the City's undertaking for continuing disclosure as set forth above has been adjusted to reflect the reporting requirements which are to apply under the terms of the Amending Rule (effective July 1, 2009).

The City reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the City, consistent with the Rule. The City hereby agrees that such covenants are for the benefit of the registered owners of the Series No. 27 Bonds (including Beneficial Owners, as defined in the Ordinance) and that such covenants may be enforced by any registered owner or Beneficial Owner, provided that any such right to enforcement shall be limited to specific enforcement of such undertaking and any failure shall not constitute an event of default under the Ordinance. The continuing disclosure obligations of the City under the Ordinance shall cease when none of the Bonds remain outstanding.

Section 22. The City of Nebraska City, Nebraska, hereby covenants to the purchasers and holders of the Series No. 27 Bonds that it will make no use of the proceeds of said bond issue, including monies held in any sinking fund for the payment of said Series No. 27 Bonds, which would cause said Series No. 27 Bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and further covenants to comply with said Sections 103 and 148 and all applicable regulations thereunder throughout the term of said bond issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax-exempt status of interest payable on the Series No. 27 Bonds with respect to taxpayers generally but not including insurance companies or corporations subject to the additional minimum tax. The City hereby designates the Series No. 27 Bonds as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not reasonably expect to issue tax-exempt bonds or other tax-exempt interest bearing obligations aggregating in principal amount more than \$30,000,000 during calendar year 2009 (taking into consideration the exception for current refunding issues), provided that the amount of the Series No. 27 Bonds hereby designated shall be reduced as and to the extent that a portion of the Series No. 27 Bonds may be determined to be "deemed designated" in accordance with the provisions of Section 265(b)(3)(D) of the Code. The Mayor and/or City Treasurer are hereby authorized to make any and all elections or allocations deemed necessary by them in connection with the tax-exempt status of interest on the Series No. 27 Bonds.

Section 23. The City's obligations under this ordinance and the liens, pledges, dedications, covenants and agreements of the City herein made or provided for shall be fully discharged and satisfied as to any Series No. 27 Bonds and said Series No. 27 Bonds shall no longer be deemed outstanding hereunder if such Series No. 27 Bonds shall have been purchased and cancelled by the City or, as to any of said Series No. 27 Bonds not heretofore purchased and cancelled by the City, when payment of the principal of and any applicable redemption premium, if any, on such Series No. 27 Bonds plus interest thereon to the respective dates of maturities or redemption (a) shall have been made or caused to be made in accordance with the terms thereof; or (b) shall have been provided for by depositing in escrow with any state or national bank having trust powers or trust company in trust solely for such payment (i) sufficient monies to make such payment and/or (ii) direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America (herein referred to as "Government Obligations") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal at such times as will insure the availability of sufficient monies to make such payment and such bonds shall cease to draw interest from the date of their redemption or maturity and, except for the purposes of such payment, shall no longer be entitled to the benefits of this Ordinance; provided that, with respect

to any Series No. 27 Bonds called or to be called for redemption, the City shall have duly given notice of redemption or made irrevocable provision for such notice. Any such monies so deposited with such state or national bank or trust company as provided in this section may be invested and reinvested in Government Obligations at the direction of the City and all interest and income from all such Government Obligations in the hands of such bank or trust company which are not required for payment of the Series No. 27 Bonds or interest for which the deposit was made shall be paid to the City as and when realized and collected.

Section 24. The provisions of this ordinance shall constitute a contract between the City of Nebraska City and the holders of the Series No. 27 Bonds, and after the issuance of the bonds no changes, additions or alterations of any kind shall be made in the provisions of this ordinance in any manner, except as herein provided, until such time as all of said Series No. 27 Bonds and the interest thereon shall be paid in full, or unless and until provision shall have been made for the payment of all said bonds and interest thereon in full.

Section 25. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 26. All ordinances, resolutions or orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Section 27. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this _____ day of _____, 2009.

Mayor

ATTEST:

City Clerk
(S E A L)

Commissioner Mercer moved to approve the recommendation by the Board of Public Works for the purchase of an IBM Computer System in the amount of \$13,180. Upon roll call the following voted YEA: Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Handy moved to approve the recommendation by the Board of Public Works to purchase a TOMCO² 1944-R3 Carbon Dioxide pH Control Unit in the amount of \$222,875. Upon roll call the following voted YAE: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Tim Regler provided information on teenage alcohol drinking and the financial impact on the State.

Commissioner Crunk moved to authorize staff to solicit RFQ's for a study of Steinhart Pool. Upon roll call the following voted YEA: Mercer, Handy, Crunk and Mayor Hobbie. Voting NO: None. Motion adopted.

Mayor Hobbie introduced Resolution 2406-09 entitled: ENTER INTO AN AGREEMENT WITH THE STATE OF NEBRASKA DEPARTMENT OF ROADS TO CONSTRUCT A CONCRETE PEDESTRIAN AND BICYCLE TRAIL CONNECTING STEINHART PARK TO ARBOR DAY FARM AND ARBOR LODGE STATE PARK

Commissioner Handy moved to approve the agreement and authorize the Mayor to sign. Upon roll call the following voted YEA: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. The Mayor declared the motion passed and adopted. A true and correct copy of said resolution is as follows:

RESOLUTION 2406-09

WHEREAS, the City of Nebraska City wishes to enter into an agreement with the State of Nebraska Department of Roads to construct a concrete pedestrian and bicycle trail connecting Steinhart Park to Arbor Day Farm and Arbor Lodge State Park with funds made available through STP Enhancement Program Funds, and

WHEREAS, the Federal share payable shall be a maximum of eighty (80%) percent of the eligible costs thereof, up to a maximum payment from federal funds of \$500,000.00, and

WHEREAS, the City of Nebraska City shall be responsible for the balance of project costs estimated to be approximately \$125,000.00, which meets the City's requirement of providing twenty (20%) percent matching share of eligible project costs, and

WHEREAS, the City of Nebraska City has agreed to place in its fiscal budget said amount,

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA, that the City enter into an agreement with the State of Nebraska Department of Roads for the construction of a concrete pedestrian and bicycle trail connecting Steinhart Park to Arbor Day Farm and Arbor Lodge State Park; that this project be constructed under the designation of Project Number ENH-66(34), State Control No. 13055, and that the terms and conditions as contained in

the Agreement with the Nebraska Department of Roads are hereby approved and that the Mayor is hereby authorized to execute this Agreement.

PASSED AND APPROVED this 20th day of April, 2009.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk - Treasurer

Mayor Hobbie introduced Ordinance 2755-09: AN ORDINANCE VACATING THE ALLEY IN BLOCK TEN (10); ANDERSON'S ADDITION TO THE CITY OF NEBRASKA CITY, OTOE COUNTY, NEBRASKA; AND DECLARING AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Mercer seconded the motion and upon roll call the following voted AYE: Mercer, Crunk, Handy and Mayor Hobbie. Voting NO: None. The motion to suspend the rule was adopted by three-fifths of the Board and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor stated the question "Shall Ordinance No. 2755-09 be passed and adopted?" Upon roll call the following voted YES: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Board, the Mayor declared the ordinance adopted and the Mayor in the presence of the Board signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his signature thereto and ordered the Ordinance to be published in pamphlet form as provided therein. A true, correct and complete copy of said ordinance is as follows:

ORDINANCE NO. 2755-09
AN ORDINANCE VACATING THE ALLEY IN BLOCK TEN (10),
ANDERSON'S ADDITION TO THE CITY OF NEBRASKA CITY,
OTOE COUNTY, NEBRASKA; AND DECLARING AN
EFFECTIVE DATE.

WHEREAS, the owners of the property adjacent to the alley in Block Ten (10), Anderson's Addition to the City of Nebraska City, Nebraska, have requested that said alley be vacated, and

WHEREAS, because of the surrounding circumstances the Mayor and City Commissioners of the City of Nebraska City, Nebraska, find the City no longer has a need for the alley in Block Ten (10), Anderson's Addition, to the City of Nebraska City, Nebraska, and the request of the applicants should be approved.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSIONERS OF THE CITY OF NEBRASKA CITY, NEBRASKA as follows:

SECTION 1. That the alley in Block Ten (10), Anderson's Addition to the City of Nebraska City, Nebraska, be and the same is hereby vacated, and title to such property shall vest in the owners of the abutting property and become a part of such property, one-half on each side thereof.

SECTION 2. This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed and Approved this _____ day of April, 2009.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk-Treasurer

Mayor Hobbie introduced Ordinance 2756-09: AN ORDINANCE TO VACATE 5th STREET BETWEEN BLOCKS NINE (9) AND TEN (10); IN ANDERSON'S ADDITION TO THE CITY OF NEBRASKA CITY, OTOE COUNTY, NEBRASKA, AND RESERVING TITLE TO THE SAME IN THE NAME OF NEBRASKA CITY, OTOE COUNTY, AND TO DECLARE AN EFFECTIVE DATE; and moved that the statutory rule requiring reading on three different days be suspended. Commissioner Mercer seconded the motion and upon roll call the following voted AYE: Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. The motion to suspend the rule was adopted by three-fifths of the Board and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Mayor Hobbie moved for final passage of the ordinance, which motion was seconded by Commissioner Handy. The Mayor stated the question "Shall Ordinance No. 2756-09 be passed and adopted?" Upon roll call the following voted YES: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Board, the Mayor declared the ordinance adopted and the Mayor in the presence of the Board signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed his

signature thereto and ordered the Ordinance to be published in pamphlet form as provided therein. A true, correct and complete copy of said ordinance is as follows:

ORDINANCE NO. 2756-09

AN ORDINANCE TO VACATE 5th STREET BETWEEN BLOCKS NINE (9) AND TEN (10), IN ANDERSON'S ADDITION TO THE CITY OF NEBRASKA CITY, OTOE COUNTY, NEBRASKA, AND RESERVING TITLE TO THE SAME IN THE NAME OF NEBRASKA CITY, OTOE COUNTY, AND TO DECLARE AN EFFECTIVE DATE.

WHEREAS, Richard Dean Johnson, the owner of adjacent property has requested that the 5th Street between Blocks Nine (9) and Ten (10), in Anderson's Addition to Nebraska City, Otoe County, Nebraska, as described in Section 1 hereof, be vacated, and that he be permitted to purchase the same from the City of Nebraska City, and

WHEREAS, because of the location of said property, the Mayor and City Commissioners of Nebraska City find and determine the City no longer has a need for 5th Street between Blocks 9 and 10, Anderson's Addition to Nebraska City, described in Section 1 hereof, and approve the application to vacate.

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

SECTION 1. That 5th Street between Blocks 9 and 10, Anderson's Addition to Nebraska City, Nebraska, be and the same is hereby vacated and title to the same is hereby reserved unto the City of Nebraska City, Otoe County, Nebraska.

SECTION 2 This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed and Approved this 20th day of April, 2009.

Jack Hobbie, Mayor

Attest:

Arnold M. Ehlers, City Clerk – Treasurer

Commissioner Handy moved to approve Estimate #3 in the amount of \$289,663.20 for the Rowe Memorial Safety Complex. Upon roll call the following voted YEA: Mercer, Handy and Mayor Hobbie. Voting NO: None. Abstain: Crunk. Mayor declared motion passed and adopted.

Dan Giittinger presented information to the Council on the deteriorated condition of the South 15th Street foot bridge.

Building Inspector Alan Viox presented information to the Council on the condition of the garage located at 420 1st Corso and asked the Council to declare the building unsafe. Commissioner Handy moved to declare the garage located at 420 1st Corso as unsafe and directed the Building Inspector to notify the owner to remedy the unsafe condition or demolish. Upon roll call the following voted YEA: Crunk, Mercer, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Karen Houser with Lied Lodge requested that the City allow parking on the South side of Sylvan Road on April 25th from 5:00 to 10:00 p.m. Mayor Hobbie moved to approve the request to allow parking on the South side of Sylvan Road on April 25th with the condition that cones or barricades be placed on the North side of Sylvan Road to discourage parking. Upon roll call the following voted YEA: Mercer, Crunk, Handy and Mayor Hobbie. Voting NO: None. Motion passed.

Michelle Gleason requested "No Parking" signs adjacent to Lots 6,7&8; Block 49; Kearney Addition. Commissioner Handy moved to place "No Parking Between Signs" adjacent to Lot 7. Upon roll call the following voted YEA: Crunk, Mercer, Handy and Mayor Hobbie. Motion carried.

Commissioner Mercer moved to approve all Claims except Claim # 7250F. Upon roll call the following voted YEA: Crunk, Handy, Mercer and Mayor Hobbie. Voting NO: None. Motion passed.

Commissioner Handy moved to approve Claim #7250F. Upon roll call the following voted YEA: Crunk, Handy and Mayor Hobbie. Voting NO: None. Abstain: Mercer. Motion passed.

A&L Storage	60.00	Contr	Mid-American Res Chem	76.34	Supp
ADT Sec Svc	109.11	Contr	Midwest ROW	12,574.00	ROW
Alco Store	20.15	Supp	Miller Monroe Farrell	7,749.00	Ins
Allied Recyc & Ref	292.08	Garbage	Moore Medical	380.70	Supp
Arbor Mart	1,637.61	Fuel	Moore Wallace	105.72	Unif
Battery Zone	128.12	Supp	Municipal Emerg Svc	594.76	Unif
Benefiel Truck Rep	2,235.03	Rep	Murphy Distributing	106.80	Conc
Bennett, Richard D. Jr.	3,947.11	Contr	N.E.E.D.	375.00	Dues
Bob's Welding Shop	316.08	Rep	NC Clerk & Treasurer	136.00	Misc
Bohl Plmbg & Htg	201.19	Rep	NC News Press	60.00	Misc
Brown, Nancy	150.00	Train	NC Pub School Dist. 111	100.00	Fees
Card Services	80.08	Supp	NC Rotary Club	125.00	Due
Casey's Gen Stores	82.01	Fuel	NC Utilities	7,907.13	Util
Cintas Corp	125.50	Supp	NCTC	11,773.78	Loan
Citizen Printing	275.01	Supp	NE Dept. of Revenue	1,200.16	Sales Tax
City Tire & Auto Access	23.75	Rep	NE Forest Service	15.00	Dues
Concrete Industries	764.00	Concr	NE Orthopaedic Assoc.	190.00	Misc
Creighton Univ Medical	2,740.00	Train	NE Workforce Devlpmnt	2,172.62	Unemp
Data Technologies	170.00	Train	NEXTEL	220.33	Tele
Diesel Power Equip	17.12	Rep	Otoe County Clerk	2,590.86	Contr
Douglas Tire Co.	58.00	Rep	Otoe County Title	90,361.75	Home
Drevo, Karen Wyatt	314.00	Misc	Otoe County Title	17,000.00	Loan
Eagle One	49.31	Supp	Otoe County Title	402.50	Misc
Earl May Seed & Nrsry	12.00	Supp	Paragon	861.32	Msde
EMS Billing Svc	981.18	Contr	Physio-Control, Inc	594.79	Supp
Fire Protection Svc	11.25	Maint	Pitney Bowes	667.99	Postage
First Class Flowers	20.00	Flwr	S & H Investments	25,000.00	Loan
GE Capital	74.67	Tele	SENDD	2,616.81	Contr
Harding & Shultz P.C.	127.11	Legal	Shell	1,579.88	Fuel
Harland Tech Svc	2,936.00	Contr	Stanton Foods	80.20	Conc
Heartland Classified Svc	71.47	Ads	Starnar, Betty & Bobbie	587.00	ROW
Henry Motors South, Inc	1,071.00	ROW	State Chem Manuf. Co	348.00	Supp
HGM Associates	7,500.00	Eng	Tantillo Family , LP	2,206.00	ROW
Hopkins Automotive	143.45	Rep	Tee's Plus	273.28	Supp
Ideal Pure Water	18.00	Water	The Arsenal Group	2,740.00	Maint
Integrated Resources, Inc	190.00	ROW	Tielke's Sandwiches	47.80	Conc
John Deere / Lesco	245.30	Maint	Towns & Associates	350.00	Ads
Keim Farm Equip	85.38	Supp	Tree City Tees	52.99	Unif
KonicaMinolta Bus Sol	160.00	Rep	Turpel, R	299.29	Train
Landis Engine	16.25	Rep	United Seeds Inc.	60.00	Supp
LaRue Coffee	65.97	Supp	UnitedHealthcare	74.74	Misc
Lesoin's, Inc	175.00	Rep	UNL	230.00	Train
Linweld, Inc	99.70	Supp	Wage & Benefits	83,278.68	Payroll
Lynn Peavey Co	79.90	Supp	Wallen, M	374.27	Mileage
Medical & Safety Svc	42.50	Supp	Wampler, Donald	10.00	ROW
Mellage Truck & Trctr	234.25	Rep	Williams, Larry & Amy	930.00	ROW
Mercer's	73.08	Supp	Windstream	2,049.22	Tele
Mid Con Systems	108.66	Supp	Wurtele Distributing	205.15	Conc
Mid-America Termite	43.48	Contr	Wurtele, G	49.61	Mileage

Mayor Hobbie appointed Ben Murry as a probationary member of the Nebraska City Volunteer Fire and Rescue Department. Upon roll call the following voted YEA: Crunk, Mercer, Handy and Mayor Hobbie. Motion carried.

Mayor Hobbie moved to appoint Alan Viox, Pat Haverty, Jeff Crunk, Rebecca Turner, Lawrence Brown, Tom Berger, Mark Cotrupi, Dave LeGrand and Jack Hobbie to the "Commercial Building – Maintenance, Occupancy and Style" committee. Upon roll call the following voted YEA: Crunk, Mercer, Handy and Mayor Hobbie. Motion carried.

Mayor Hobbie moved to appoint Alan Fox to fill an unexpired term on the Library Board. Upon roll call the following voted YEA: Crunk, Mercer, Handy and Mayor Hobbie. Motion carried.

Mayor Hobbie moved to re-appoint John James to the Board of Public Works for another 5 year term. Upon roll call the following voted YEA: Crunk, Mercer, Handy and Mayor Hobbie. Motion carried.

Commissioner Handy moved to add an emergency agenda item appointing a new police officer. Upon roll call the following voted YEA: Crunk, Mercer, Handy and Mayor Hobbie. Motion carried.

Mayor Hobbie moved to appoint Coray Bell as a probationary officer on the Nebraska City Police Department. Upon roll call the following voted YEA: Crunk, Mercer, Handy and Mayor Hobbie. Motion carried.

Meeting adjourned at 8:19 p.m.

Jack Hobbie, Mayor

Arnold M. Ehlers, Clerk - Treasurer