

ORDINANCE NO. 2009-3

AN ORDINANCE AUTHORIZING THE ISSUANCE OF COMBINED UTILITY REVENUE BOND ANTICIPATION NOTES, SERIES 2009, OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF ONE MILLION SEVENTY THOUSAND DOLLARS (\$1,070,000), FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS TO THE SANITARY SEWER SYSTEM AND WASTEWATER TREATMENT FACILITIES AND THE WATER SYSTEM OWNED AND OPERATED BY THE CITY PENDING THE ISSUANCE OF PERMANENT COMBINED UTILITY REVENUE BONDS; AGREEING TO ISSUE SUCH BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; PRESCRIBING THE FORM OF SAID NOTES; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE COMBINED UTILITY SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID NOTES AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID COMBINED UTILITY SYSTEMS; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

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

Section 1. The Mayor and Council of the City of Wayne, Nebraska (the "City"), hereby find and determine as follows:

(a) the City owns and operates a water system consisting of water supply facilities, water treatment, water storage and water distribution system mains and lines; that said water system represents a revenue producing undertaking of the City (said system and any and all additions thereto or improvements thereof hereafter made are herein collectively referred to as the "Water System");

(b) the City owns and operates a sanitary sewer system consisting of sanitary sewer mains, lines and outfall sewers and wastewater treatment facilities; that said sewer system represents a revenue producing undertaking of the City (said system and any and all additions thereto or improvements thereof hereafter made are herein collectively referred to as the "Sewer System");

(c) that the Water System and the Sewer System are operated and accounted for as separate business-type activities which may be combined for borrowing purposes under the terms of Sections 18-1803 to 18-1805, R.R.S. Neb. 2007, (the "Act") and treated as combined undertakings and are hereby determined to constitute a combination under the Act for

borrowing, operational and accounting purposes (the "Combined Utility System") and all monies and revenues of the Combined Utility System shall be credited to and accounted for in a separate fund to be known as the Combined Utility System Revenue Fund of the City of Wayne (the "Combined Revenue Fund") with such sub-accounts and separate accounting methods for the Sewer System and the Water System as may shall be determined upon by the Mayor and Council from time to time;

(d) that it is necessary and advisable for the City to provide funds for certain improvements to the Water System, specifically including water main replacements, upgrades, enlargements and extensions, and other improvements, renovations and additions to the Water System together with all other necessary related appurtenant improvements, for which the estimated cost (including costs related to financing) is not less than \$500,000; that there is presently outstanding no bonded indebtedness of the City for which the revenues of the Water System or the Combined Utility System have been pledged and hypothecated;

(e) that it is necessary and advisable for the City to provide funds for certain improvements to the Sewer System, specifically including main replacement, upgrades, enlargements and extensions, and other improvements, renovations and additions and also including UV treatment improvements to the wastewater treatment facilities together with all other necessary related appurtenant improvements, for which the estimated cost (including costs related to financing) is not less than \$500,000; that there is presently outstanding no bonded indebtedness of the City for which the revenues of the Sewer System or Combined Utility System have been pledged and hypothecated;

(f) that all conditions, acts and things required to exist or to be done precedent to the issuance of Combined Utility Revenue Bond Anticipation Notes, Series 2009, in the principal amount of \$1,070,000 (the "Notes") to provide funds to pay a portion of the construction costs for such improvements to the Water System and Sewer System, pay for issuance costs and provide for interest to accrue do exist and have been done as required by law and there shall be and there are hereby ordered issued Combined Utility Revenue Bond Anticipation Notes, Series 2009, of the City of Wayne, Nebraska, as provided herein.

Section 2. For the purpose of providing interim financing as set out in Section 1 hereof pending the issuance of permanent combined utility revenue bonds by the City of Wayne, there shall be and there are hereby ordered issued bond anticipation notes of the City of Wayne, Nebraska, to be known as "Combined Utility Revenue Bond Anticipation Notes, Series 2009" of the aggregate principal amount of One Million Seventy Thousand Dollars (\$1,070,000) (herein referred to as the "Notes"), consisting of fully registered notes numbered from 1 upwards in the order of issuance, in the denomination of \$5,000 each, or integral multiples thereof; said Notes

shall bear date of original issue of February 15, 2009 and each of said Notes shall bear interest from the date of original issue at the rate of 3.25% per annum payable semiannually on February 15 and August 15, commencing August 15, 2009 (each an "Interest Payment Date") until maturity or earlier call for redemption to the holder or holders of record on the fifteenth day immediately preceding the date on which such payment is due (the "Record Date"), as follows:

<u>Principal</u>	<u>Interest Rate</u>	<u>Maturity</u>
<u>Amount</u> \$1,070,000	3.25%	February 15, 2012

provided, however, the Notes may bear interest at any lower rate of interest as shall be provided for in written designation of final interest rate (the "Designation") as may be agreed to between City and the original purchaser specified in Section 6 of this ordinance. And further provided, however, the City reserves the right to redeem any or all of said Notes prior to maturity anytime on or after February 15, 2010, upon not less than thirty days written notice, at par and accrued interest to the date fixed for redemption. Such notice of call for redemption shall be sufficient if it has been sent to a registered holder of said Note or Notes by first class mail addressed to the registered address of said registered holder. If less than all of the Notes are called and redeemed, such Notes shall be called in increments of \$5,000 or integral multiples thereof. If less than all of the principal amount of any outstanding Note is called for redemption, in such case upon the surrender of such Note called for payment, there shall be issued to the registered owner of said Note, without charge therefor, a registered Note or Notes for the unpaid principal balance in any of the authorized denominations authorized by this Ordinance.

Payments of interest due on the Notes prior to maturity or earlier redemption shall be made

by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Note, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 3 hereof. The principal of said Notes and any interest due on said Notes upon maturity or earlier call for redemption shall be payable at the office of the Treasurer of the City of Wayne, Wayne, Nebraska, as Paying Agent and Registrar designated in Section 3 hereof, upon presentation and surrender of the Note or Notes when due or when called for payment prior to maturity. The City and said Paying Agent and Registrar may treat the registered owner of any Note as the absolute owner of such Note for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such Note 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 Note in accordance with the terms of this Ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Note Bonds or claims for interest to the extent of the sum or sums so paid.

Section 3. The City Treasurer is hereby designated as the Paying Agent and Registrar for the Notes. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Notes at the City's administrative offices in Wayne, Nebraska. The names and registered addresses of the registered owner or owners of the Notes shall at all times be recorded in such books. Any Note may be transferred pursuant to its provisions at the office of the Paying Agent and Registrar by surrender or such Note for cancellation, accompanied by a written

instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent and thereupon the Paying Agent and Registrar on behalf of the City will register such transfer and will deliver at such office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new Note or Notes of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Notes by this Ordinance, one Note may be transferred for several such Notes of the same interest rate and maturity and for a like aggregate principal amount, and several such Notes may be transferred for one or several such Notes, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Note, the surrendered Note or Notes shall be canceled and destroyed. All Notes issued upon transfer of the Notes so surrendered shall be valid obligations of the City evidencing the same obligations as the Notes surrendered and shall be entitled to all the benefits and protection of this Ordinance to the same extent as the Notes upon transfer of which they were delivered.

Section 4. Said Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City and the Paying Agent and Registrar shall not be required to transfer any Note during any period from any Record Date until its immediately following Interest Payment Date or to transfer any Note called for redemption for a period of 30 days next preceding the date fixed for redemption. If the date for payment of the principal of or interest on the Notes shall be a Saturday, Sunday, legal holiday or a day on which the banking institutions in the City of Wayne, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a

day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

Section 5. Said Notes shall be substantially in the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF WAYNE
COMBINED UTILITY REVENUE BOND ANTICIPATION NOTE
OF THE CITY OF WAYNE, NEBRASKA
SERIES 2009

No. R-1

<u>Interest Rate</u>	<u>Maturity Date</u>	Date of	CUSIP
%	February 15, 2012	Original Issue February 15, 2009	

Registered Owner: Cede & Co.

13-2555119

Principal Amount: ONE MILLION SEVENTY THOUSAND DOLLARS (\$1,070,000)

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Wayne, in the County of Wayne, in the State of Nebraska, hereby acknowledges itself to owe and for value received promises to pay to the registered owner shown above and as shown on the registration books of the City on the maturity date shown above, the principal amount shown above in lawful money of the United States of America with interest thereon at the rate per annum shown above from the date of original issue shown above payable semiannually on February 15 and August 15 each year, commencing August 15, 2009, until maturity or earlier call for redemption to the holder or holders of record on the fifteenth day immediately preceding the date on which such payment is due. Said interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of this note and any interest due upon maturity or earlier call for redemption are payable at the office of the Treasurer of the City of Wayne, as Paying Agent and Registrar, in Wayne, Nebraska, upon presentation and surrender of the note when due or when called for payment prior to maturity. Interest on this note due prior to maturity or earlier redemption will be

paid on each interest payment date by a check or draft mailed on such interest payment date by the Paying Agent and Registrar to the registered owner of this note, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the fifteenth day immediately preceding such interest payment date, to such owner's address as shown on such books and records.

This note is redeemable at the option of the City prior to maturity anytime on or after February 15, 2010 at par and accrued interest to date fixed for redemption. Notice of call of any note for redemption prior to maturity shall be sufficient if given in writing and mailed by first class mail, postage prepaid, to the registered owner at such owner's address as shown on the note register not less than thirty days prior to the date fixed for redemption.

This note is one of an issue of notes numbered from 1 upwards in order of issuance, of the total principal amount of One Million Seventy Thousand Dollars (\$1,070,000) in the denomination of \$5,000 or integral multiples thereof, of even date and like tenor herewith, issued by the City of Wayne for the purpose of providing interim financing to pay a portion of the cost of improvements to the water system and sewer system of the City, including the cost of issuance of said notes and a portion of the interest to accrue on said notes, pending the issuance of permanent combined utility revenue bonds. The issuance of this note and the other notes of this issue has been lawfully authorized by ordinance duly passed, signed and published by the Mayor and City Council of said City (the "Ordinance") in strict compliance with Sections 18-1803 through 18-1805, R.R.S. Neb. 2007, and all other applicable laws.

The City agrees that the principal and interest of this note shall be payable from the proceeds of the issuance and sale of its combined utility revenue bonds payable from the revenues of the combined water and sewer utility systems of the City, the issuance and sale of further bond anticipation notes of the City or from any other monies of the City lawfully available for such purposes. The notes of this issue shall not be a debt of the municipality within the meaning of any constitutional or statutory limitation upon the creation of general obligation indebtedness of the municipality and the municipality shall not be liable for the payment thereof out of any money of the municipality other than from the proceeds of the issuance of the City's combined utility revenue bonds or notes, or from revenues of the City's combined water and sewer utility systems.

The City reserves the right to issue additional combined utility revenue bond anticipation notes for the purpose of paying a portion of the costs of the projects financed in part by this issue of notes or of other improvement projects of the City for its water and/or sewer system, for the purpose of refunding the notes of this issue at or prior to maturity. Any such notes may be authorized with lien and pledge upon the revenues of the combined water and sewer utility systems equal to that provided for the notes of this issue in the Ordinance. The Ordinance under which these notes are issued constitutes an irrevocable contract between the City and the holders of all of said notes and said contract cannot be changed or altered without the written consent of the holders of seventy-five percent (75%) in principal amount of the notes of this series then outstanding.

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 NOTE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE REGISTRAR. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS NOTE 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 NOTE IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY NOTE ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this note did exist, did happen and were done and performed in regular and due form and time as provided by law.

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

CITY OF WAYNE, NEBRASKA

Mayor

ATTEST:

City Clerk

(SEAL)

CERTIFICATE OF AUTHENTICATION

This note is one of the notes of the issue designated therein and issued under the

provisions of the ordinance authorizing said issue.

THE TREASURER OF THE CITY OF

WAYNE, NEBRASKA

Acting as Paying Agent and Registrar

By _____

Authorized Officer

(Form of Assignment)

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

Dated: _____

Registered Owner(s)

Witness: _____

Note: The signature of this assignment must correspond with the name as written on the face of the within-mentioned note in every particular, without alteration, enlargement or any change whatsoever.

Section 6. Each of the Notes shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Clerk and shall have imprinted thereon the City's seal. The Notes shall be issued initially as "book-entry-only" notes using the services of The Depository Trust Company (DTC), with one typewritten note certificate per maturity being issued to DTC. In such connection, said officers are authorized to execute and deliver a Letter of

Representations in the form required by DTC (which may be in the form of a blanket letter, including any blanket letter previously executed and delivered), for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Notes. Upon the issuance of the Notes as "book-entry-only" notes, 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 Notes as securities depository (each, a "Bond Participant") or to any person who is an actual purchaser of a Note from a Bond Participant while the Notes 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 Notes,

(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 Notes, 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 Notes. The Paying Agent and Registrar shall make payments with respect to the Notes 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 Notes to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Note, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange Notes 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 Notes or (ii) to make available Notes registered in whatever name or names the Beneficial Owners transferring or exchanging such Notes shall designate.

(c) If the City determines that it is desirable that certificates representing the Notes be delivered to the Bond Participants and/or Beneficial Owners of the Notes 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 note certificates representing the Notes. In such event, the Paying Agent and Registrar shall issue, transfer and exchange note certificates representing the Notes 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 Note is registered in the name of the Depository or any nominee thereof, all payments with respect to such Note and all notices with respect to such Note shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

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

(i) any successor securities depository or its nominee;

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

(f) In the event of any partial redemption of a Note unless and until such partially redeemed Note 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 Note as is then outstanding and all of the Notes 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, the City shall immediately provide a supply of printed note certificates for issuance upon the transfers from the Depository and subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement Notes upon transfer or partial redemption, the City agrees to order printed an additional supply of certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting Mayor and City Clerk of such City. In case any officer whose signature or facsimile thereof shall appear on any Note shall cease to be such officer before the delivery of such Note (including any note 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 Note. The Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The City Treasurer shall cause the Notes to be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Notes, they shall be delivered to the City Treasurer, who is authorized to deliver them to D.A. Davidson & Co. (the "Underwriter"), as the initial purchaser thereof, upon receipt of 99.00% of the principal amount of the Notes plus accrued interest thereon to date of payment for the Notes. The Underwriter shall have the right to direct the registration of the Notes and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Underwriter 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 Notes, including, without limitation, authorizing the release of the Notes by the Depository at closing. If no separate written agreement for the sale of the Notes is executed and delivered by and between the City and the Underwriter, this Ordinance shall constitute the agreement for the sale of the Notes.

Section 7. The City covenants and agrees that it will take all steps required to complete the improvements described in Section 1 hereof in a manner to allow it to issue and sell its revenue bonds payable from the revenues of the Combined Utility System or other bonds. The City further covenants and agrees to issue and sell the revenue bonds payable from the revenues of its Combined Utility System or other bonds in a sufficient amount and at such times as will enable it to take up and pay off the Notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources. The City hereby agrees that it will impose rates

and charges for the service from and use of its Combined Utility System sufficient to enable the City to issue and sell permanent combined utility revenue bonds to pay the Notes herein authorized at or prior to maturity. The City hereby pledges the revenues of the Combined Utility System for the payment of the Notes, both principal and interest as the same fall due and the holders of the Notes herein authorized shall have a lien upon the revenues of the City's Combined Utility System. The principal and interest on the Notes may be paid, to the extent not paid from other sources, from revenues of the Combined Utility System.

Section 8. The City hereby reserves the right to issue additional notes for the purpose of paying the balance of the cost of the projects of the City set out in Section 1 hereof, for the purpose of refunding the Notes herein ordered issued at or prior to maturity and for the purpose of paying for additional improvements for the City's Combined Utility System and the City shall have the right to pledge the revenues of the Combined Utility System on an equal and ratable basis with the pledge and lien provided for in this Ordinance for the Notes.

Section 9. The City Clerk shall make and certify a complete transcript of the proceedings had and done by said City precedent to the issuance of said Notes which shall be delivered to the Underwriter. After being executed by the Mayor and Clerk, said Notes shall be delivered to the City Treasurer who shall be responsible therefor under her official bond. The City Treasurer is authorized and directed to deliver said Notes to the Underwriter upon receipt of payment of the purchase price in accordance with the contract of the City with the Underwriter.

Section 10. The City hereby covenants to the purchasers and holders of the Notes that it will make no use of the proceeds of said issue, including money held in any sinking fund

attributable to said Notes which would cause said Notes to be arbitrage bonds within the meaning of the Internal Revenue Code of 1986, as amended, (the "Code") and further covenants and agrees to take all actions necessary under current federal law to maintain the tax-exempt status (as to taxpayers generally) of interest payable on the Notes. The City hereby designates the Notes as its "qualified tax-exempt obligations" under Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not reasonably anticipate issuance of tax-exempt bonds or other tax-exempt interest bearing obligations, not including "private activity bonds" as defined in Section 141 of the Code (other than "qualified 501(c)(3) bonds" as defined in Section 145 of the Code), in the aggregate principal amount of more than \$30,000,000 in calendar year 2009. The City agrees to take all further actions, if any, necessary to qualify the Notes herein authorized for such treatment if available.

Section 11. 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 12. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of said conflict hereby repealed.

Section 13. The Mayor and City Council hereby approve the Preliminary Official Statement with respect to the 2009 Notes and the information therein contained, and the Mayor and City Administrator or either of them is authorized to approve and deliver a final Official Statement for and on behalf of the City, and said final Official Statement shall be delivered in accordance with the requirements of Reg. Sec. 240.15c2-12 of the Securities and Exchange Commission.

Section 14. 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 City hereby agrees that it will provide the following continuing disclosure information:

(1) to the Underwriter and any person making request or in the alternative at least annually to any state information depository ("SID") for the State of Nebraska (no such SID currently exists or is presently expected to exist based upon any current pending legislation), any financial information and operating data which are customarily prepared by the City and publicly available (the "Annual Information"), including the City's most recently prepared audited financial statements, which shall be prepared on the basis of generally accepted accounting principles, subject to the City's right to change accounting methods as determined appropriate from time to time in the future.

(2) in a timely manner to the Underwriter, to the Municipal Securities Rule Making Board (the "MSRB") (as and to the extent required by the Rule), to the SID (if any) and to any nationally recognized municipal securities information repository (as and to the extent required by the Rule), notice of the occurrence of any of the following events with respect to the Notes, if in the judgment of the City, such event is material:

- (a) principal and interest payment delinquencies,
- (b) nonpayment related defaults,
- (c) unscheduled draws on debt service reserves reflecting financial difficulties,
- (d) unscheduled draws on credit enhancements reflecting financial difficulties,
- (e) substitution of credit or liquidity providers, or their failure to perform,
- (f) adverse tax opinions or events affecting the tax-exempt status of the Notes,
- (g) modifications to rights of the bondholders,
- (h) note calls,
- (i) defeasances,
- (j) release, substitution, or sale of property securing repayment of the Notes, and
- (k) rating changes.

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

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 information of the same kind as the Annual Information. The City agrees that either (i) upon request by the Underwriter for purposes of its complying with the requirements of the Rule or (ii) as and to the extent required by the Rule as amended by the Amending Rule, the City will comply with the terms of the Rule as amended by the Amending Rule.

The City reserves the right to modify the type of information or the format for any such information provided pursuant to such undertaking, to the extent necessary or appropriate in the judgment of the City, so long as any such modification is consistent with the requirements of the Rule. The undertakings of the City in this Ordinance relating to continuing disclosure are hereby declared to be for the benefit of the registered owners of the Notes (including beneficial owners of the Notes held in nominee name, each a "Beneficial Owner") and such covenants may be enforced by the registered owner of any of the Notes or by any Beneficial Owner of the Notes, provided that any right to enforcement shall be limited to specific enforcement of such covenants and any failure shall not constitute an event of default under this Ordinance. The City hereby designates its City Treasurer as the contact person from whom the foregoing information, data and notices can be obtained.

Section 15. The City hereby covenants and agrees that it will make no use of the proceeds of the Notes which would cause the Notes to be "arbitrage bonds" within the meaning of Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and further covenants to comply with said Sections 103(b)(2) and 148 and all applicable regulations thereunder throughout the term of said issue, including all requirements with respect to payment

and reporting of rebates, if applicable. The City hereby covenants to take all action necessary to preserve the tax-exempt status of the interest on the Notes for federal income tax purposes under the Code with respect to taxpayers generally. The City further agrees that it will not take any actions which would cause the Notes to constitute "private activity bonds" within the meaning of Section 141 of the Code. The City hereby designates the Notes as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not reasonably expect to issue tax-exempt bonds or other tax-exempt obligations aggregating in principal amount more than \$30,000,000 during calendar 2009.

Section 16. This Ordinance shall be published in pamphlet form as provided by law and shall take effect upon its publication in pamphlet form as provided by law.

PASSED AND APPROVED this 17th day of February 2009.

City Clerk

Mayor

[SEAL]

Motion for adjournment was duly made, seconded and on roll call vote was declared adopted by the Mayor.

I, the undersigned City Clerk for the City of Wayne, Nebraska, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council on February 17, 2009; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that a current copy of the Nebraska Open Meetings Act was available and accessible to members of the public, posted during such meeting in the room in which such meeting was held; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes from which the foregoing proceedings have been extracted were in written form

and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

City Clerk

[SEAL]

Council Member Sturm introduced the following Ordinance entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF COMBINED UTILITY REVENUE BOND ANTICIPATION NOTES, SERIES 2009, OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF ONE MILLION SEVENTY THOUSAND DOLLARS (\$1,070,000), FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS TO THE SANITARY SEWER SYSTEM AND WASTEWATER TREATMENT FACILITIES AND THE WATER SYSTEM OWNED AND OPERATED BY THE CITY PENDING THE ISSUANCE OF PERMANENT COMBINED UTILITY REVENUE BONDS; AGREEING TO ISSUE SUCH BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; PRESCRIBING THE FORM OF SAID NOTES; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE COMBINED UTILITY SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID NOTES AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID COMBINED UTILITY SYSTEMS; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

Said Ordinance was designated as Ordinance No. 2009-3 the title thereof was approved.

Council Member _____ moved that the statutory rule requiring an ordinance to be fully and distinctly read on three different days be suspended. Council Member _____ seconded the motion to suspend the rules and upon roll call vote, the following Council Members voted YEA: _____ . The following voted NAY: _____. The motion to suspend the rules was adopted by three-fourths of the members elected to the Council and the statutory rule was declared suspended for

consideration of said Ordinance.

Thereupon said Ordinance No. 2009-3 was then read by title and Council Member _____ moved for its final passage, which motion was seconded by Council Member _____. The Mayor stated the question "Shall Ordinance No. 2009-3 be passed and adopted?" Upon roll call, the following voted YEA: _____

_____. The following voted NAY: _____. The passage and adoption of said Ordinance having been concurred in by a majority of all the members of the Council, the Mayor declared the Ordinance adopted and the Mayor signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

A true, correct and complete copy of the said Ordinance is as follows:

**NOTICE OF PUBLICATION OF
ORDINANCE NO. 2009-3
IN PAMPHLET FORM**

Public Notice is hereby given that at a meeting of the Mayor and City Council of the City of Wayne, Nebraska, held at 5:30 p.m. on February 17, 2009, there was passed and adopted Ordinance No. 2009-3 entitled:

ORDINANCE NO. 2009-3

AN ORDINANCE AUTHORIZING THE ISSUANCE OF COMBINED UTILITY REVENUE BOND ANTICIPATION NOTES, SERIES 2009, OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF ONE MILLION SEVENTY THOUSAND DOLLARS (\$1,070,000), FOR THE PURPOSE OF PROVIDING INTERIM FINANCING FOR A PORTION OF THE COSTS OF CONSTRUCTING IMPROVEMENTS TO THE SANITARY SEWER SYSTEM AND WASTEWATER TREATMENT FACILITIES AND THE WATER SYSTEM OWNED AND OPERATED BY THE CITY PENDING THE ISSUANCE OF PERMANENT COMBINED UTILITY REVENUE BONDS; AGREEING TO ISSUE SUCH BONDS TO PAY THE NOTES AT MATURITY OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS; PRESCRIBING THE FORM OF SAID NOTES; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE COMBINED UTILITY SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID NOTES AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID COMBINED UTILITY SYSTEMS; ENTERING INTO A

CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID NOTES; AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

Said Ordinance was published in pamphlet form on February 20, 2009. Copies of said Ordinance as published in pamphlet form are available for inspection and distribution at the Office of the City Clerk, in the City of Wayne, Nebraska.

City Clerk

[SEAL]

CERTIFICATE AS TO PUBLICATION IN PAMPHLET FORM

The undersigned City Clerk for the City of Wayne, Nebraska, hereby certifies that Ordinance No. 2008- was passed and approved by the Mayor and Council of the City of Wayne, Nebraska, at their meeting held on February 17, 2009, was published in pamphlet form on February 20, 2009 and that a true and correct copy of such Ordinance as so passed and published is attached hereto.

Dated this _____ day of _____ 2009.

City Clerk

(SEAL)