

[DISCUSSION DRAFT DATED FEBRUARY 14, 2012]

ORDINANCE NO. 2012-8

AN ORDINANCE OF THE CITY OF WAYNE, NEBRASKA, AUTHORIZING THE ISSUANCE OF ELECTRIC REVENUE BONDS, SERIES 2012, OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF TWO MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$2,150,000), FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF CERTAIN ELECTRIC SYSTEM IMPROVMENTS; PROVIDING FOR NECESSARY RESERVE FUNDS AND PAYING COSTS OF ISSUANCE OF SAID BONDS; PRESCRIBING THE FORM, TERMS AND DETAILS OF SAID BONDS; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE ELECTRIC PLANT AND DISTRIBUTION SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID BONDS AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID ELECTRIC SYSTEM; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID BONDS; REPEALING ANY CONFLICTING ORDINANCES 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, as follows:

Section 1. The Mayor and Council of the City of Wayne, Nebraska, hereby find and determine that (a) the City owns and operates an electric plant and distribution system which constitutes a revenue producing facility and undertaking within the meaning of such term as set forth in Sections 18-1803 to 18-1805 R.R.S. Neb. 2007; that said electric plant, system and facilities, taken together with all additions and improvements thereto hereafter acquired or constructed are herein referred to as the "Electric System;" (b) that there is presently outstanding bonded indebtedness of the City, consisting of Electric Revenue Refunding Bonds, Series 2009, dated February 15, 2009, issued in the original principal amount of \$1,535,000 of which the outstanding principal balance is \$1,050,000, maturing serially June 15, 2012 through June 15, 2015, both inclusive (the " Outstanding Series 2009 Bonds" or the "2009 Bonds")), for which the revenues of the Electric System have been pledged and hypothecated; and (c) that it is necessary and in the best interests of the City to acquire and construct certain improvements to the Electric System, the cost of which improvements, including engineering, costs of issuance and creation of required debt service reserve funds in not less than \$2,150,000; and that all conditions, acts and things required to exist or

to be done precedent to the issuance of electric revenue bonds of the City of Wayne, Nebraska, in the principal amount of Two Million One Hundred Fifty Thousand Dollars (\$2,150,000) pursuant to Sections 18-1803 to 18-1805, R.R.S. Neb. 2007, do exist and have been done as required by law.

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

(a) the term "revenues" shall mean all of the rates, rentals, fees and charges, earnings and other monies, including investment income, from any source derived by the City of Wayne, Nebraska, through its ownership and operation of the Electric System.

(b) the term "Additional Bonds" shall mean any and all bonds hereafter issued by the City pursuant to the terms of this Ordinance which are equal in lien to the Series 2012 Bonds, including all such bonds issued pursuant to Section 14 of this ordinance.

(c) the term "Average Annual Debt Service Requirements" shall mean that number computed by adding all of the principal and interest due when computed to the absolute maturity of the bonds for which such computation is required and dividing by the number of years remaining that the longest bond of any issue for which such computation is required has to run to maturity. In making such computation, the principal of any bonds for which mandatory redemptions are scheduled shall be treated as maturing in accordance with such schedule of mandatory redemptions.

(d) the term "Net Revenues" shall mean the revenues derived by the City from the ownership or operation of the Electric System, including investment income, but not including any income from the sale or other disposition of any property belonging to or forming a part of the Electric System, less the ordinary expenses for operating and maintaining the Electric System payable from the Operation and Maintenance Account described in Section 13 of this Ordinance. Operation and Maintenance expenses for purposes of determining "Net Revenues" shall not include depreciation, amortization of financing expenses or interest on any bonds or other indebtedness. Net Revenues for all purposes of this Ordinance shall be shown by an audit for the fiscal year in question as conducted by an independent certified public accountant or firm of such accountants.

(f) the term "Paying Agent and Registrar" shall mean the Treasurer of the City of Wayne, Nebraska, as appointed to act as paying agent and registrar for the Series 2012 Bonds pursuant to Section 4 hereof, or any successor thereto.

Section 3. To provide funds to pay the costs of improvements as described in Section 1 hereof, including engineering, costs of issuance and creation of a debt service reserve fund, there shall be and there are hereby ordered issued negotiable bonds of the City of Wayne, Nebraska, to be designated as "Electric Revenue Bonds, Series 2012" (the "2012 Bonds") in the aggregate principal amount of Two Million One

Hundred Fifty Thousand Dollars (\$2,150,000), with said bonds bearing interest at the rates per annum and to become due on June 15 of the year as indicated below:

<u>Principal Amount</u>	<u>Maturing June 15</u>	<u>Interest Rate</u>
\$150,000	2016	%
150,000	2017	
150,000	2018	
155,000	2019	
155,000	2020	
160,000	2021	
165,000	2022	
165,000	2023	
170,000	2024	
175,000	2025	
180,000	2026	
185,000	2027	
190,000	2028	

[Provided, however, certain maturities of bonds are subject to redemption prior to maturity through a mandatory sinking fund call as follows:

\$,000 Principal Maturing June 15, 20
\$,000 to be called June 15, 20
\$,000 Payable June 15, 20

\$,000 Principal Maturing June 15, 20
\$,000 to be called June 15, 20
\$,000 Payable June 15, 20

\$,000 Principal Maturing June 15, 20
\$,000 to be called June 15, 20
\$,000 Payable June 15, 20

and provided further, that the Bonds shall bear interest at any such lower rates per annum as shall be determined in a written designation (the "Designation") signed by the Mayor and also signed by the City Treasurer (the "Authorized Officers") on behalf of the City and which may be agreed to by D.A. Davidson & Co. (the "Underwriter"), which Designation may also determine or modify the principal amount for each maturity of the Bonds, mandatory redemption provisions (if any) and pricing terms as set forth in Section 9 hereof, all within the following limitations:

- (a) *the aggregate principal amount of the Bonds shall not exceed \$2,150,000, but may be reduced in principal amount;*
- (b) *the average coupon interest rate on the Bonds shall not exceed _____% per annum;*

- (c) *the principal amount due in any year (including principal due as mandatory redemption amounts) for each maturity may be decreased by any amount determined but shall not increase by more than 10% or \$15,000, whichever is greater;*
- (d) *the longest maturity of the Bonds may not be later than June 15, 2028;*
- (e) *two or more of the principal maturities may be combined and issued as “term bonds” and the Authorized Officers may determine the mandatory sinking fund payments and mandatory redemption amounts. Any Bonds issued as “term bonds” shall be redeemed at a redemption price equal to 100% of the principal amount thereof plus accrued interest thereon to the date of redemption and may be selected for redemption by any random method of selection determined appropriate by the Registrar (as hereinafter designated) or by the Depository (as hereinafter designated).*

The Authorized Officers are hereby authorized to make such determinations on behalf of the City and to evidence the same by execution and delivery of the Designation and such determinations, when made and agreed to by the Underwriter, shall constitute the action of the Mayor and City Council without further action of the Mayor and City Council.

The 2012 Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue of the 2012 Bonds shall be their date of original delivery. Interest on the 2012 Bonds, at the respective rate for each maturity, shall be payable on June 15, 2012, and semiannually thereafter on June 15 and December 15 of each year (each an "Interest Payment date"), and the 2012 Bonds shall bear such interest from the date of original issue or the most recent Interest Payment Date, whichever is later. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the fifteenth day immediately preceding the Interest Payment Date (the "Record Date"), subject to the provisions of Section 5 hereof. The 2012 Bonds shall be numbered from 1 upwards in the order of their issuance. No 2012 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 2012 Bonds issued shall be as directed by the initial purchaser thereof. Payments of interest due on the 2012 Bonds prior to maturity or earlier redemption shall be made by the Paying Agent and Registrar as designated pursuant to Section 4 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment

Date to the registered owner of each 2012 Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 4 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity together with any unpaid interest accrued thereon shall be made by the Paying Agent and Registrar to the registered owners upon presentation and surrender of the 2012 Bonds to the Paying Agent and Registrar. The City and the Paying Agent and Registrar may treat the registered owner of any 2012 Bond as the absolute owner of such 2012 Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary whether such 2012 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 2012 Bond in accordance with the terms of this Ordinance shall be valid and effectual and shall be a discharge of the City and the Paying Agent and Registrar, in respect of the liability upon the 2012 Bonds or claims for interest to the extent of the sum or sums so paid.

Section 4. The Treasurer of the City of Wayne, Nebraska is hereby designated to serve as Paying Agent and Registrar for the 2012 Bonds. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the 2012 Bonds at its office. The names and registered addresses of the registered owner or owners of the 2012 Bonds shall at all times be recorded in such books. Any 2012 Bond may be transferred pursuant to its provisions at the office of said Paying Agent and Registrar by surrender of such 2012 Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to said Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar, on behalf of the City, will deliver at its office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of the transferee owner or owners, a new 2012 Bond or 2012 Bonds of the same series, interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the 2012 Bonds by this ordinance, one 2012 Bond may be transferred for several such 2012 Bonds of the same series, interest rate and maturity, and for a like

aggregate principal amount, and several such 2012 Bonds may be transferred for one or several such 2012 Bonds, respectively, of the same series, interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a 2012 Bond, the surrendered 2012 Bond shall be canceled and destroyed. All 2012 Bonds issued upon transfer of the bonds so surrendered shall be valid obligations of the City evidencing the same obligation as the 2012 Bonds surrendered and shall be entitled to all the benefits and protection of this ordinance to the same extent as the 2012 Bonds upon transfer of which they were delivered. The City and said Paying Agent and Registrar shall not be required to transfer any 2012 Bond during any period from any Record Date until its immediately following Interest Payment Date or to transfer any 2012 Bond called for redemption for a period of 30 days next preceding the date fixed for redemption.

Section 5. In the event that payments of interest due on the 2012 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 2012 Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Paying Agent and Registrar whenever monies for the purpose of paying such defaulted interest become available.

Section 6. The 2012 Bonds maturing on or after June 15, 2017 shall be subject to redemption, in whole or in part, prior to maturity on the fifth anniversary of their date of original delivery, or at any time thereafter, at the principal amount thereof together with accrued interest on the principal amount redeemed to the date fixed for redemption. Such redemption shall be made from time to time as shall be directed by the Mayor and Council of the City. The City may select the 2012 Bonds for redemption in its sole discretion. The 2012 Bonds shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Any 2012 Bond redeemed in part only shall be surrendered to said Paying Agent and Registrar in exchange for a new 2012 Bond evidencing the unredeemed principal thereof. Notice of redemption of any 2012 Bond called for redemption shall be given, at the direction of the City by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of such 2012 Bond at said owner's registered address. Such notice shall designate the 2012 Bond or 2012 Bonds to be redeemed by maturity or otherwise, the date of original issue and the date fixed for

redemption and shall state that such 2012 Bond or 2012 Bonds are to be presented for prepayment at the principal corporate trust office of said Paying Agent and Registrar. In case of any 2012 Bond partially redeemed, such notice shall specify the portion of the principal amount of such 2012 Bond to be redeemed. No defect in the mailing of notice for any 2012 Bond shall affect the sufficiency of the proceedings of the City designating the 2012 Bonds called for redemption or the effectiveness of such call for the 2012 Bonds for which notice by mail has been properly given and the City shall have the right to direct further notice of redemption for any such 2012 Bond for which defective notice has been given.

Section 7. If the date for payment of the principal of or interest on the 2012 Bonds 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 8. The 2012 Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF WAYNE

CITY OF WAYNE
ELECTRIC REVENUE BOND
SERIES 2012

No. _____ \$ _____

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
____%	June 15,	_____, 2012	

Registered Owner:

Principal Amount:

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, but only from the special sources hereinafter described, to the registered owner specified above, or registered assigns, the principal amount specified above in lawful money of the United States of America on the date of maturity specified above with interest thereon to maturity (or earlier redemption) from the date of original issue or most recent Interest Payment Date, whichever is later, at the rate per annum specified above, payable June 15, 2012 and semiannually thereafter on June 15 and December 15 of each year (each, an "Interest Payment Date"). Such interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The principal of this bond together with interest thereon unpaid and accrued at maturity (or earlier redemption) is payable upon presentation and surrender of this bond at the Office of the Treasurer of the City of Wayne, Nebraska, as Paying Agent and Registrar. Interest on this bond due prior to maturity or earlier redemption will be paid on each Interest Payment Date by a check or draft mailed by the Paying Agent and Registrar to the registered owner of this bond, 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 the Interest Payment Date, to such owner's address as shown on such books and records. 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 Two Million One Hundred Fifty Thousand Dollars (\$2,150,000) of even date and like tenor, except as to the date of maturity, rate of interest and denomination (the "Series 2012 Bonds" or "the 2009 Bonds"), issued by the City for the purpose of paying costs to acquire and construct certain improvements to the Electric System, the cost of which improvements, including engineering, costs of issuance and creation of required debt service reserve funds in not less than \$2,150,000, issued pursuant to the terms of an ordinance (the "Ordinance") passed and approved by the Mayor and Council of said City in accordance with and under the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb. 2007.

Any or all of the bonds of said issue maturing on or after June 15, 2017, are subject to redemption at the option of the City, in whole or in part, on the fifth anniversary of their date of original issuance, or at any time thereafter, at the principal amount thereof together with accrued interest on the principal amount redeemed to the date fixed for redemption. Such redemption shall be made from time to

time as shall be directed by the Mayor and Council of the City. The City may select the Series 2012 Bonds for redemption in its sole discretion. Notice of redemption shall be given by mail to the registered owner of any Series 2012 Bond called for redemption in the manner specified in the Ordinance authorizing said issue of bonds. Individual bonds may be redeemed in part but only in the amount of \$5,000 or integral multiples thereof.

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

If the day for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which 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.

The revenues and earnings of the electric system of the City, including all improvements and additions thereto hereafter constructed or acquired (the "Electric System"), are pledged and hypothecated by the City for the payment of this bond and the other Series 2012 Bonds and for the payment of the Outstanding Series 2009 Bonds (the "Series 2009 Bonds") any additional bonds of equal priority issued in accordance with the terms of the Ordinances authorizing the Series 2009 Bonds and the Series 2012 Bonds. The Series 2012 Bonds are a lien only upon said revenues and earnings and are not general obligations of the City of Wayne, Nebraska.

The Ordinances authorizing the Series 2009 Bonds and the Series 2012 Bonds set forth the covenants and obligations of the City with respect to the Electric System and the applications of the revenues and earnings thereof, which revenues and earnings under the terms of the Ordinances are required to be deposited to the "Wayne Electric Fund" as established under the Ordinances and disbursed to pay costs of operation and maintenance of the Electric System, make payments of principal and interest on the Series 2009 Bonds, and the Series 2012 Bonds and any additional bonds of equal priority with said Series 2009 Bonds and Series 2012 Bonds and other payments as specified in the Ordinances authorizing the Series 2009 Bonds and the Series 2012 Bonds. The Ordinances authorizing the Series 2009 Bonds and the Series 2012 Bonds also designate the terms and conditions under which additional bonds of equal priority with the Series 2009 Bonds and the Series 2012 Bonds may be issued. The Ordinance also designates the terms and conditions upon which this bond shall cease to be entitled to any lien, benefit or security under the Ordinance and all covenants, agreements and obligations of the City under the Ordinance may be discharged and satisfied at or prior to the maturity or redemption of this bond or bonds of equal lien if monies or certain specified securities shall have been deposited with a trustee bank. In the Ordinances authorizing the Series 2009 Bonds and the Series 2012 Bonds, the City also reserves the right to issue bonds or notes junior in lien to the Series 2009 Bonds and the Series 2012 Bonds and any additional bonds of equal priority to the Series 2009 Bonds and the Series 2012 Bonds, the principal and interest of which shall be payable from monies in the "Surplus Account" of the Wayne Electric Fund as described in the Ordinances authorizing the Series 2009 Bonds and the Series 2012 Bonds.

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

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

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

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

IN WITNESS WHEREOF, the Mayor and Council of the City of Wayne, Nebraska, have caused this bond to be executed on behalf of the City with the facsimile signatures of the Mayor and City Clerk of the City, all as of the Date of Original Issue shown above.

CITY OF WAYNE, NEBRASKA

ATTEST:

(facsimile signature)

Mayor

(facsimile signature)

City Clerk

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds authorized by Ordinance passed and approved by the Mayor and Council of the City of Wayne, Nebraska, as described in said bond.

THE FREMONT NATIONAL BANK & TRUST
COMPANY, FREMONT, NEBRASKA,
as Paying Agent and Registrar

Authorized Signature

(FORM OF ASSIGNMENT)

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

Date: _____

Registered Owner

Signature Guaranteed

By: _____

Authorized Officer

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

Section 9. Each of the Series 2012 Bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk of the City. The Series 2012 Bonds shall be issued initially as “book-entry-only” bonds using the services of The Depository Trust Company (the “Depository”), with one typewritten bond per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a letter of representations (the “Letter of Representations”) in the form required by the Depository, for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Bonds. Upon the 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 2012 Bonds as securities depository (each, a “Bond Participant”) or to any person who is an actual purchaser of a 2008 Bond from a Bond Participant while the Series 2008 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 Series 2012 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 Series 2012 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 Series 2012 Bonds. The Paying Agent and Registrar shall make payments with respect to the Series 2012 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 Series 2012 Bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated 2012 Bond, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange 2012 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 Series 2012 Bonds or (ii) to make available 2012 Bonds registered in whatever name or names the Beneficial Owners transferring or exchanging such Series 2012 Bonds shall designate.

(c) If the City determines that it is desirable that certificates representing the Series 2012 Bonds be delivered to the Bond Participants and/or Beneficial Owners of the Series 2012 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 Series 2012 Bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the Series 2012 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 Series 2012 Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such Series 2012 Bond and all notices with respect to such Series 2012 Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Series 2012 Bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the Series 2008 Bonds 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 2012 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 Series 2012 Bond as is then outstanding and all of the Series 2012 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 2012 Bond shall cease to be such officer before the delivery of such Series 2012 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 Series 2012 Bond. The Series 2012 Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Series 2012 Bonds shall be delivered to the Paying Agent and Registrar for registration and authentication. Upon execution, registration and authentication of the Series 2012 Bonds, they shall be delivered to the City's Treasurer, acting on behalf of the City, who is authorized to deliver them to D.A. Davidson & Co., as initial purchaser thereof, upon receipt of the purchase price of 98.65% of the principal amount thereof plus accrued interest on the principal amount of the Series 2012 Bonds to date of payment for the Series 2012 Bonds. Said initial purchasers shall have the right to direct the registration of the Series 2012 Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. 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 2012 Bonds, including without limitation, authorizing the release of the Series 2012 Bonds by the Depository at closing. The City Clerk, acting on behalf of the City, shall make and certify a transcript of the proceedings of the governing body with respect to the Series 2012 Bonds which shall be delivered to said purchaser. If no separate written agreement for the sale of the Bonds is executed and delivered by and between the City and the Underwriter, this Ordinance shall constitute the agreement for sale of the Bond to the Underwriter.

Section 10. For the payment of the 2009 Bonds and 2012 Bonds, both principal and interest, together with any Additional Bonds, both principal and interest, the City hereby pledges and hypothecates the entire revenues and earnings of the Electric System of the City as a first and prior pledge and encumbrance of such revenues, in accordance with the terms of this Ordinance. The pledge and hypothecation provided for the 2009 Bonds and 2012 Bonds and any Additional Bonds in this ordinance is intended to and shall provide for a first and prior pledge or lien upon and security interest in the revenues of the Electric System superior to any pledge, lien or security interest made or given with respect to any other indebtedness of the City as to its Electric System and is intended as a full exercise of

the powers of the City provided for in Sections 18-1803 to 18-1805, R.R.S. Neb. 1997, as now or hereafter amended, with respect to the City's Electric System.

Section 11. The City hereby agrees that it will impose and maintain and shall revise from time to time when necessary and shall collect such rentals, rates, fees and charges for the use and services of the Electric System which in the aggregate shall be sufficient at all times to enable the City to pay the principal and interest on the 2009 Bonds and 2012 Bonds and any Additional Bonds as the same become due.

Section 12. The City will maintain and collect rates and charges for all services furnished from its Electric System adequate to produce revenues and earnings sufficient at all times:

(a) to provide for the payment of interest on and principal of the 2009 Bonds and 2012 Bonds and any Additional Bonds as such interest and principal become due;

(b) to pay all reasonable costs of operation and maintenance of the Electric System, including adequate insurance as provided by this ordinance and to pay for the necessary and reasonable repairs, replacements and extensions of said Electric System; and

(c) to establish and maintain the 2012 Debt Service Reserve Account as hereinafter set forth and any debt service reserves account for Additional Bonds.

Section 13. The revenues and earnings of the Electric System, in accordance with the pledge set forth in Section 10 of this ordinance shall be collected, deposited, held and applied as follows:

(a) **WAYNE ELECTRIC FUND** - The entire gross revenues and income derived from the operation of the Electric System shall be set aside as collected and deposited in a separate fund which is hereby ordered established to be designated as the "Wayne Electric Fund." For purposes of allocating the monies in the Wayne Electric Fund, the City shall maintain the following accounts: (1) Operation and Maintenance Account; (2) Bond Payment Account; (3) 2012 Debt Service Reserve Account; and (4) Surplus Account.

(b) **OPERATION AND MAINTENANCE ACCOUNT** - Out of the Wayne Electric Fund there shall be monthly credited into the Operation and Maintenance Account such amounts as the City shall from time to time determine to be necessary to pay the reasonable and necessary expenses of operating and maintaining the Electric System, and the City may withdraw funds credited to the Operation and Maintenance Account as necessary from time to time to pay such expenses.

(c) **BOND PAYMENT ACCOUNT** - Out of the Wayne Electric Fund there shall be credited monthly on or before the first day of each month to the Bond Payment Account, starting with the month of April, 2012, the following amounts:

- (1) For the period from April 1, 2012 through June 1, 2012 an amount equal to 1/3 of the next maturing interest payment, and from July 1, 2012 until the 2012 Bonds have been paid in full, an amount equal to 1/6th of the next maturing semiannual interest payment on the 2012 Bonds; and
- (2) For the period from July 1, 2015 until the 2012 Bonds have been paid in full, an amount equal to 1/12th of the next maturing principal payment for the 2012 Bonds.

The City Treasurer is hereby authorized and directed, without further authorization, to withdraw monies credited to the Bond Payment Account, or if the monies in such Account are insufficient, then from the Debt Service Reserve Account and next from the Surplus Account, in an amount sufficient to pay, when due, the principal of and interest on the 2009 Bonds and 2012 Bonds or any Additional Bonds and to transfer such amounts due to the Paying Agent and Registrar (or other paying agent for Additional Bonds) at least five (5) business days before each principal and interest payment date. Upon the issuance of any Additional Bonds pursuant to this Ordinance appropriate additional credits to the Bond Payment Account shall be provided sufficient to pay principal and interest on said Additional Bonds.

(d) **2012 DEBT SERVICE RESERVE ACCOUNT** - The City agrees that it shall deposit from monies on hand or from bond proceeds the amount of \$215,000 as the amount required to be maintained as a debt service reserve attributable to the 2012 Bonds (the "2012 Reserve Requirement"). Monies credited to the 2012 Debt Service Reserve Account may be withdrawn, as needed to provide funds to pay, when due, the principal and interest on the 2012 Bonds issued pursuant to this Ordinance, if the Bond Payment Account contains insufficient funds for that purpose, and the City Treasurer is hereby authorized and directed to make such withdrawal if and when needed. In the event of a withdrawal from the 2012 Debt Service Reserve Account, there shall be credited to the 2012 Debt Service Reserve Account in the month following such withdrawal all monies in the Wayne Electric Fund remaining after making the payments required to be made in such month to the Operation and Maintenance Account and Bond Payment Account and each month thereafter all such remaining monies shall be credited to the 2012 Debt Service Reserve Account until such account has been restored to the 2012 Reserve Requirement. Upon the issuance of any Additional Bonds a separate debt service reserve account may, in accordance with the terms of Section 14 of this ordinance, be established and any such separate debt service reserve account shall have the right to share, in the event of drawings upon the 2012 Debt Service Reserve Account and such reserve account for Additional Bonds, in revenues available in the Wayne Electric Fund upon a pro rata basis in accordance with the respective outstanding principal amounts or each such issue. Anything in this Subsection 13(d) to the contrary notwithstanding, the amount required to be maintained in the 2012 Debt Service Reserve Account with respect to the 2012 Bonds or in any debt service reserve account for any issue of Additional Bonds shall not be required to exceed at any time the maximum amount permitted to be invested without yield restriction under Section 103(b) and 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations of the United States Treasury Department.

(e) **SURPLUS ACCOUNT** - Monies from the Wayne Electric Fund remaining after the credits required in the foregoing Subsections 13(b), 13(c) and 13(d) shall be credited to the Surplus Account. Monies in the Surplus Account may be used to make up any deficiencies in the preceding Accounts, to retire any of the 2009 Bonds and

2012 Bonds, or any Additional Bonds prior to their maturity, to pay principal of and interest on any junior lien indebtedness incurred with respect to the Electric System, to provide for replacements or improvements for the Electric System or to provide for any other lawful purpose of the City determined upon by the Mayor and Council.

The provisions of this Section shall require the City to maintain a set of books and records in accordance with such accounting methods and procedures as are generally applicable to a municipal utility enterprise, which books and records shall show credits to and expenditures from the several Accounts required by this Section. Monies credited to the Wayne Electric Fund or any of the Accounts therein as established by this Ordinance shall be deposited or invested separate and apart from other City funds. Except as specified below for the 2012 Debt Service Reserve Account and any reserve account for Additional Bonds, the City shall not be required to establish separate bank or investment accounts for the Accounts described in Subsection 13(b), 13(c), 13(d) and 13(e). Monies credited to the 2012 Debt Service Reserve Account or any reserve account for Additional Bonds (unless otherwise directed in their authorizing ordinance) shall, if maintained in a demand or time deposit account, be kept in a separate account and not commingled with other Electric System funds or accounts. If invested, monies credited to the 2012 Debt Service Reserve Account or any reserve account established for Additional Bonds may be commingled with other Electric System funds or accounts so long as the City maintains books and records clearly identifying the specific investments, or portions thereof, which belong to the 2012 Debt Service Reserve Account or reserve account for Additional Bonds.

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

Section 14. To provide funds for any purpose related to the Electric System, the City may issue Additional Bonds payable from the revenues of the Electric System having equal priority and on a parity with the 2009 Bonds and 2012 Bonds and any Additional Bonds then outstanding, only upon compliance with the conditions set forth in this Section 14 including the following conditions set forth in this paragraph

and, as applicable for combining of additional utilities and issuance of bonds those conditions set forth in the subsequent paragraphs of this Section 14:

(a) Such Additional Bonds shall be issued only pursuant to an ordinance which shall provide for an increase in the monthly credits into the Bond Payment Account in amounts sufficient to pay, when due, the principal of and interest on the 2009 Bonds and 2012 Bonds, any Additional Bonds then outstanding and the proposed Additional Bonds and for a separate debt service reserve account for Additional Bonds, if deemed appropriate by the Mayor and Council, for which the required amount shall not exceed 1.25 times the Average Annual Debt Service Requirements for such Additional Bonds.

(b) The City shall have complied with one or the other of the two following requirements:

- (1) The Net Revenues derived by the City from its Electric System for the fiscal year next preceding the issuance of the Additional Bonds shall have been at least equal to 1.25 times the Average Annual Debt Service Requirements of the 2009 Bonds and 2012 Bonds and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds; or
- (2) The City shall have received a projection made by a consulting engineer or firm of consulting engineers, recognized as having experience and expertise in municipal utility systems, projecting that the Net Revenues of the Electric System in each of the three full fiscal years after the issuance of such Additional Bonds will be at least equal to 1.25 times the Average Annual Debt Service Requirements of the 2009 Bonds and 2012 Bonds and any Additional Bonds, all as then outstanding, and of the proposed Additional Bonds. In making such projection, the consulting engineer shall use as a basis the Net Revenues of the Electric System during the last year for which an independent audit has been prepared and shall adjust such Net Revenues as follows: (A) to reflect changes in rates which have gone into effect since the beginning of the year for which the audit was made, (B) to reflect such engineer's estimate of the net increase over or net decrease under the Net Revenues of the Electric System for the year which the audit was made by reason of: (i) changes of amounts payable under existing contracts for service; (ii) additional general income from sales or charges to customers under existing rate schedules for various classes of customers or as such schedules may be revised under a program of changes which has been adopted by the Mayor and Council of the City; (iii) projected revisions in costs for labor, wages, salaries, machinery, equipment, supplies and other operational items; (iv) revisions in the amount of service to be supplied and any related administrative or other costs associated with such increases due to increased supply from the acquisition of any new facility; and (v) such other factors affecting the projections or revenues and expenses as the consulting engineer deems reasonable and proper. Annual debt service on any proposed Additional Bonds to be issued may be estimated by

the consulting engineer in projecting Average Annual Debt Service Requirements, but no Additional Bonds shall be issued requiring any annual debt service payment in excess of the amount so estimated by the consulting engineer.

If the City shall find it desirable, it shall also have the right when issuing Additional Bonds to combine with its electric system any other utilities of the City authorized to be combined under Sections 18-1803 through 18-1805, R.R.S. Neb. 1997, including, but not limited to, a water system, a sanitary sewer system, a municipal gas system, a solid waste disposal system or such other system as may constitute a revenue producing undertaking, and to cause all of the revenues of such system or systems to be paid into the Electric Fund, which Fund may be appropriately redesignated, and to provide that all of the 2009 Bonds and 2012 Bonds and any Additional Bonds previously issued, all as then outstanding, and the proposed issue of Additional Bonds shall be payable from the revenues of such Electric System and such other utility or utilities and shall stand on a parity and in equality as to security and payment, provided, however, no such utility shall be combined with the electric system as contemplated in this paragraph unless the City is current with all the payments required to be made into the accounts set out in this Ordinance and the revenues of the Electric System and such other combined utility or utilities shall satisfy one or the other of the requirements for Additional Bonds provided for in the first paragraph of this Section 14. For purposes of meeting such requirement, the definition of "Net Revenues" shall be altered to include the gross revenues of the additional utility or utilities and there shall be deducted from such revenues the ordinary expenses of operating and maintaining the additional utility or utilities (not including any deduction for depreciation, amortization of financing expenses or interest) and for such purposes any engineer or accountant furnishing projections may take into consideration the factors similar to those described in (b)(2) of the first paragraph of this Section 14 with respect to such additional utility or utilities. Revenues of the additional utility or utilities shall be based upon the report or reports of independent certified public accountants in the same manner as is required above.

For purposes of this ordinance, bonds, which are issued to take up and pay off any or all of the 2009 Bonds and 2012 Bonds or Additional Bonds then outstanding may be issued and shall themselves qualify as Additional Bonds having equal lien and priority as to the revenues of the Electric System with any of the

2009 Bonds and 2012 Bonds or Additional Bonds which are to remain outstanding after the completion of such refunding provided that the following conditions are met:

- (1) if the proceeds of such bonds are not to be applied immediately to the taking up and paying off of the bonds to be refunded from their proceeds, then such bonds must provide by their terms that they shall be junior in lien to all such 2009 Bonds and 2012 Bonds or Additional Bonds, as shall be then outstanding, until the time of application of the proceeds of such bonds to the taking up and paying off of the bonds to be refunded by deposit with the designated paying agent pursuant to Section 10-126, R.R.S. Neb. 1997 (or any successor statutory provision thereto) or until the bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner;
- (2) such bonds shall qualify as Additional Bonds under one or another of the revenues tests described in (b) of the first paragraph of this Section 14, provided that in computing Average Annual Debt Service Requirements, all payments of principal and interest due on such bonds from the time of their issuance to the time of application of the proceeds thereof by deposit with the designated paying agent pursuant to Section 10-126, R.R.S. Neb. 1997 (or any successor statutory provision thereto) or until the bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner, shall be excluded from such computation to the extent that such principal or interest are payable from other sources (such as bond proceeds or investment earnings thereon) or from moneys in the Surplus Account, and all payments of principal and interest due on the bonds to be refunded, from and after the time of the deposit with the designated paying agent pursuant to Section 10-126 R.R.S. Neb. 1997 (or any successor statutory provision thereto) or the time when such bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner, shall also be excluded from such computation.

The City hereby covenants and agrees that so long as any of the 2009 Bonds and 2012 Bonds and any Additional Bonds are outstanding, it will not issue any bonds, notes or other indebtedness payable from the revenues of the Electric System except in accordance with the provisions of this ordinance, provided, however, the City reserves the right to issue bonds, notes or other obligations which are junior in lien to the 2009 Bonds and 2012 Bonds and any such Additional Bonds with the principal and interest on such bonds or notes to be payable from monies credited to the Surplus Account as provided in Subsection 13(e).

Section 15. Moneys on deposit in the Electric Fund shall be invested in such obligations as are permitted by law for cities of the class to which the City belongs, maturing at such times not later than ten

years from the date of such investment and in such amounts as shall be determined by the City. Earnings from the investment of such moneys shall not be credited to the particular fund, account or sub-account from which the investment was made, but shall be treated as earnings of the Electric System and shall be treated as any other revenues of the Electric System. All investments held for the credit of any Fund or Account may be sold when required to make the payments to be made from such Fund or Account. Any moneys credited to the Wayne Electric Fund or any Account therein which are not invested shall be secured in the manner provided by law for the security of funds of cities of the class to which the City of Wayne belongs.

Section 16. The City of Wayne shall keep proper books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Electric System and the holders of any of the 2009 Bonds and 2012 Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all records, accounts and data relating thereto and to inspect the Electric System and all properties comprising the same. Within ninety days following the close of each fiscal year the City shall cause an audit of such books and accounts to be commenced by an independent firm of certified public accountants, showing the receipts and disbursements for account of the Electric System, and such audit, as soon as it is complete, shall be available for inspection by the holders of any of the aforesaid bonds. Each such audit, in addition to whatever matters may be thought proper by the accountant to be included therein, shall include the following:

1. A statement in detail of the income and expenditures of the Electric System for such fiscal year.
2. A balance sheet for the Electric System as of the end of such fiscal year.

All expenses incurred in the making of the audits required by this Section shall be regarded and paid as a maintenance and operation expense. The City shall furnish a copy of each such audit to Kirkpatrick Pettis as the original purchaser of the 2012 Bonds and to the holder of at least twenty-five percent (25%) of any issue of bonds outstanding, upon request, after the close of each fiscal year, and said purchasers or any such holder shall have the right to discuss with the accountant making the audit the contents of the audit and to ask for such additional information as each may require.

Section 17. The City Treasurer shall be bonded, in addition to said Treasurer's official bond, by an insurance company licensed to do business in Nebraska, in an amount sufficient to cover at all times all the revenues and earnings of the Electric System placed in said Treasurer's hands. Any other person employed by the City in the collection or handling of moneys derived from the operation of the Electric System shall also be bonded in an amount sufficient to cover all moneys which may at any time be placed in his or her hands. The amount of such bonds shall be fixed by the Council and the cost thereof shall be paid from the earnings of said Electric System, and such bonds shall secure the faithful accounting of all moneys.

Section 18. The City will carry adequate insurance on the Electric System 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 insurance covering such risks as shall be recommended by a consulting engineer. The cost of all such insurance shall be regarded and paid as an operation and maintenance expense.

All insurance moneys, except from public liability insurance, shall be deposited in the Surplus Account and shall be used in making good the loss or damage in respect of which they were paid either by repairing the property damaged or replacing the property destroyed, and expenditures from said moneys shall be made only upon a certificate issued by a consulting engineer and filed with the City Clerk stating that the proceeds, together with any other moneys available for such purposes, are sufficient for the repair or replacement of any such properties; and when the City shall have been furnished with a certificate of a consulting engineer stating that the property damaged or destroyed has been fully repaired or replaced and such repairs or replacements have been fully paid for, the residue, if any, of such insurance moneys shall be transferred from the Surplus Account to the Bond Payment Account to make up any deficiency in said account, if any such deficiency exists.

If the proceeds of any insurance shall be insufficient to repair or replace the property damaged or destroyed, the City may use and shall pay out for such purpose, to the extent of such deficiency, any money remaining in the Surplus Account. If, in the opinion of a consulting engineer the proceeds of any insurance, together with any amount then available for that purpose in the Surplus Account shall be insufficient to fully

complete and pay for such repairs or replacements and if the City shall fail to supply such deficiency from other sources within a period of six months after receipt by the City of such insurance moneys, or if in the opinion of a consulting engineer it is to the best interest of the City not to repair or replace all or any part of the damaged properties and that failure to repair or replace the damaged properties shall not affect the sufficiency of the income and revenue from the remaining properties to properly maintain and operate the same, provide funds for the Bond Payment Account, the 2012 Debt Service Reserve Account, any reserve account established for Additional Bonds and the Surplus Account, as herein provided for, then such insurance moneys to the extent not applied to repair or replace the damaged properties shall be deposited in the 2012 Debt Service Reserve Account as described in Section 13 hereof and any debt service reserve account established for Additional Bonds (subject to pro rata allocation in accordance with respective principal amounts outstanding in the event that there are deficiencies for both such accounts) and used for the purposes for which said accounts have been created, so as to fill any deficiency in said accounts, or if no deficiency exists, then to the Surplus Account.

If the holders of sixty percent (60%) or more in principal amount of the 2012 Bonds and any Additional Bonds at the time outstanding hereunder and under this Ordinance shall at any time direct the City in writing to do so, then any insurance moneys theretofore credited to the Surplus Account and then in the hands of the City may be used for extensions and betterments of the Electric System or applied to the pro rata payment of the principal of and accrued interest on all such bonds then outstanding.

The proceeds of any and all policies for public liability insurance, to the extent payable to 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 19. The City will maintain the Electric System in good condition and operate the same in an efficient manner and at a reasonable cost. The City agrees with the holders from time to time of the 2009 Bonds and 2012 Bonds and any Additional Bonds that the City will continue to own, free from all liens and encumbrances, except the liens and pledges provided for herein and will adequately maintain and efficiently operate the Electric System; provided, however, the City may sell for cash, property which is

recommended to be sold by the manager or superintendent of utilities, or an independent Consulting Engineer and which is determined as a matter of record by the Council to have become obsolete, non-productive or otherwise unusable to the advantage of the City.

Section 20. The City will not hereafter grant any franchise or right to any person, firm or corporation to own or operate an electric plant or system in competition with that owned by the City.

Section 21. While any of the 2009 Bonds and 2012 Bonds are outstanding, the City will render bills to all customers for electric services. If bills are not paid within sixty days after due, such utility service will be discontinued, as and to the extent permitted by law. The City agrees that it will order electric service shut off on all properties served by electric service where there are delinquent electric service use charges and will make appropriate charge for use of all properties of the City connected to the Electric System, all as and to the extent permitted by law.

Section 22. Except for amendments which are required for the correction of language to cure any ambiguity or defective or inconsistent provisions, omission or mistake or manifest error contained herein, no changes, additions or alterations of any kind shall be made by the City in the provisions of this ordinance in any manner; provided, however, that from time to time the holders of sixty percent (60%) in principal amount of the 2009 Bonds and 2012 Bonds and of Additional Bonds outstanding authorized hereunder (not including any of said bonds credited to any of the Accounts described in this Ordinance or any other of said bonds owned or controlled directly or indirectly by the City) by an instrument or instruments in writing signed by such holders and filed with the City Clerk shall have the power to assent to and authorize any modification of the rights and obligations of the City and of the holders of the said bonds and the provisions of this ordinance that shall be proposed by the City, and any action authorized to be taken with the assent and authority given as aforesaid of the holders of sixty percent (60%) in principal amount of said bonds at the time outstanding hereunder shall be binding upon the holders of said bonds then outstanding and upon the City as fully as though such action were specifically and expressly authorized by the terms of this ordinance; provided, always, that no such modification shall be made which will (a) extend the time of payment of the principal of or interest on any of said bonds or reduce the principal amount

thereof or the rate of interest thereon; or (b) give to any of said bonds secured by this ordinance any preference over any other of said bond or bonds; or (c) authorize the creation of any lien prior to the pledge of the revenues afforded by this Ordinance, for the 2009 Bonds and 2012 Bonds and Additional Bonds; or (d) reduce the percentage in principal amount of said outstanding bonds required to assent to or authorize any such modification. Any modification of the provisions of this ordinance made as aforesaid shall be set forth in a supplemental ordinance to be adopted by the Mayor and Council of the City.

Section 23. So long as any of the 2009 Bonds and 2012 Bonds or any Additional Bonds of equal lien are outstanding, each of the obligations, duties, limitations and restraints imposed upon the City by this ordinance shall be deemed to be a covenant between the City and every holder of said bonds, and this ordinance and every provision and covenant hereof shall constitute a contract of the City with every holder from time to time of said bonds. Any holder of a 2012 Bond or of an Additional Bond or Bonds may by mandamus or other appropriate action or proceeding at law or in equity in any court of competent jurisdiction enforce and compel performance of this ordinance and every provision and covenant thereof including, without limiting the generality of the foregoing, the enforcement of the performance of all duties required by the City by this ordinance and the applicable laws of the State of Nebraska, including in such duties the making and collecting of sufficient rates, rentals, fees or charges for the use and service of the Electric System, the segregation of the revenues of said system, and the application thereof to the respective Fund and Accounts referred to and described in this ordinance. Any holder of a 2012 Bond or Additional Bond shall, after any default in payment, have the right to request the appointment of a receiver for the Electric System.

Section 24. 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 of the 2009 Bonds and 2012 Bonds or Additional Bonds issued hereunder, and said bonds shall no longer be deemed outstanding hereunder if such bonds shall have been purchased and canceled by the City or, as to any of said bonds not theretofore purchased and canceled by the City, when payment of the principal of and any applicable redemption premium, if any, on such bonds plus interest thereon to the

respective dates of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof; or (b) shall have been provided for by depositing with a state or national bank having trust powers or trust company in trust solely for such payment (i) sufficient moneys 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 ensure the availability of sufficient moneys to make such payment and such bonds shall cease to draw interest from the date fixed for 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 such 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 moneys so deposited with the aforesaid 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 the aforesaid trustee bank or trust company which are not required to pay principal and interest on the 2009 Bonds and 2012 Bonds or Additional Bonds for which such deposit has been made shall be paid to the City as and when realized and collected.

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. The Mayor and City Council hereby approve the Preliminary Official Statement with respect to the 2012 Bonds 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 28. 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, including the City’s most recently prepared audited financial statements, which shall be prepared on the same basis of accounting as the City’s financial statements for the fiscal year ended September 30, 2012, which basis may be a basis other than 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 Bonds, 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 Series 2009 Bonds and 2012 Bonds,
- (g) modifications to rights of the bondholders,
- (h) bond calls,
- (i) defeasances,
- (j) release, substitution, or sale of property securing repayment of the Series 2012 Bonds, 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 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 Series 2009 Bonds and 2012 Bonds (including beneficial owners of the Series 2009 Bonds and 2012 Bonds held in nominee name, each a "Beneficial Owner") and such covenants may be enforced by the registered owner of any of the Series 2009 Bonds and 2012 Bonds or by any Beneficial Owner of the Series 2009 Bonds and 2012 Bonds, 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 29. The City hereby covenants and agrees that it will make no use of the proceeds of the 2012 Bonds which would cause the 2012 Bonds 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 2012 Bonds 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 2012 Bonds to constitute "private activity bonds" within the meaning of Section 141 of the Code. The City hereby designates the 2012 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 bonds or other obligations aggregating in principal amount more than \$10,000,000 during calendar 2012.

Section 30. In order to promote compliance with certain federal tax and securities laws relating to the bonds herein authorized (as well as other outstanding bonds) the policy and procedures attached hereto as Exhibit "A" (the "Post-Issuance Compliance Policy and Procedures") are hereby adopted and approved in all respects. To the extent that there is any inconsistency

between the attached Post-Issuance Compliance Policy and Procedures and any similar policy or procedures previously adopted and approved, the Post-Issuance Compliance Policy and Procedures shall control.

Section 31. This ordinance shall be published in pamphlet form and shall be in force and effect from and after its passage as provided by law.

PASSED AND APPROVED this 21st day of February, 2012.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

[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 _____, 2012; 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; kept continually current, was available for public inspection at the office of that such subjects were contained in said agenda for at least 24 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 ordinances or other reproducible materials 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.

[SEAL]

City Clerk

**NOTICE OF PUBLICATION
OF ORDINANCE NO. 2012-8
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 21, 2012, there was passed and adopted Ordinance No. 2012-8 entitled:

ORDINANCE NO. 2012-8

AN ORDINANCE OF THE CITY OF WAYNE, NEBRASKA, AUTHORIZING THE ISSUANCE OF ELECTRIC REVENUE BONDS, SERIES 2012, OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF TWO MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$2,150,000), FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF CERTAIN ELECTRIC SYSTEM IMPROVMENTS; PROVIDING FOR NECESSARY RESERVE FUNDS AND PAYING COSTS OF ISSUANCE OF SAID BONDS; PRESCRIBING THE FORM, TERMS AND DETAILS OF SAID BONDS; PLEDGING AND HYPOTHECATING THE REVENUE AND EARNINGS OF THE ELECTRIC PLANT AND DISTRIBUTION SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID BONDS AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUE OF SAID ELECTRIC SYSTEM; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID BONDS; REPEALING ANY CONFLICTING ORDINANCES AND PROVIDING FOR PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

Said Ordinance was published in pamphlet form on March 1, 2012. Copies of said Ordinance as published in pamphlet form are available for inspection and distribution at the Office of the City Clerk, at the Wayne City Hall in the City of Wayne, Nebraska.

City Clerk

Publish: March 1, 2012

EXHIBIT "A"
POLICY AND PROCEDURE
[SEE ATTACHED]

**Policy and Procedures
Federal Tax Law and Disclosure Requirements for
Tax-exempt Bonds and/or Build America Bonds**

ISSUER NAME: City of Wayne, Nebraska

COMPLIANCE OFFICER (BY TITLE): City Treasurer

POLICY

It is the policy of the Issuer identified above (the “Issuer”) to comply with all Federal tax requirements and securities law continuing disclosure obligations for its obligations issued as tax-exempt bonds or as direct pay build America bonds to ensure, as applicable (a) that interest on its tax-exempt bonds remains exempt from Federal income tax, (b) that the direct payments associated with its bonds issued as “build America bonds” are received by the Issuer in a timely manner and (c) compliance with any continuing disclosure obligations of the Issuer with respect to its outstanding bonds.

PROCEDURES

Compliance Officer. Review of compliance with Federal tax requirements and securities law continuing disclosure obligations as generally outlined below shall be conducted by the Compliance Officer identified above (the “Compliance Officer”). To the extent more than one person has been delegated specific responsibilities, the Compliance Officer shall be responsible for ensuring coordination of all compliance review efforts.

Training. The Compliance Officer shall evaluate and review educational resources regarding post-issuance compliance with Federal tax and securities laws, including periodic review of resources published for issuers of tax-exempt obligations by the Internal Revenue Service (either on its website at <http://www.irs.gov/taxexemptbond>, or elsewhere) and the Municipal Securities Rulemaking Board (either on its Electronic Municipal Market Access website [“EMMA”] at <http://www.emma.msrb.org>, or elsewhere).

Compliance Review. A compliance review shall be conducted at least annually by or at the direction of the Compliance Officer. The review shall occur at the time the Issuer’s annual audit takes place, unless the Compliance Officer otherwise specifically determines a different time period or frequency of review would be more appropriate.

Scope of Review.

Document Review. At the compliance review, the following documents (the “Bond Documents”) shall be reviewed for general compliance with covenants and agreements and applicable regulations with respect to each outstanding bond issue:

- (a) the resolution(s) and/or ordinance(s), as applicable, adopted by the governing body of the Issuer authorizing the issuance of its outstanding bonds, together with any documents setting the final rates and terms of such bonds (the “Authorizing Proceedings”),

- (b) the tax documentation associated with each bond issue, which may include some or all of the following (the “Tax Documents”):
- (i) covenants, certifications and expectations regarding Federal tax requirements which are described in the Authorizing Proceedings;
 - (ii) Form 8038 series filed with the Internal Revenue Service;
 - (iii) tax certificates, tax compliance agreements, tax regulatory agreement or similar documents;
 - (iv) covenants, agreements, instructions or memoranda with respect to rebate or private use;
 - (v) any reports from rebate analysts received as a result of prior compliance review or evaluation efforts; and
 - (vi) any and all other agreements, certificates and documents contained in the transcript associated with the Authorizing Proceedings relating to federal tax matters.
- (c) the Issuer’s continuing disclosure obligations, if any, contained in the Authorizing Proceedings or in a separate agreement (the “Continuing Disclosure Obligations”), and
- (d) any communications or other materials received by the Issuer or its counsel, from bond counsel, the underwriter or placement agent or its counsel, the IRS, or any other material correspondence relating to the tax-exempt status of the Issuer’s bonds or relating to the Issuer’s Continuing Disclosure Obligations.

Use and Timely Expenditure of Bond Proceeds. Expenditure of bond proceeds shall be reviewed by the Compliance Officer to ensure (a) such proceeds are spent for the purpose stated in the Authorizing Proceedings and as described in the Tax Documents and (b) that the proceeds, together with investment earnings on such proceeds, are spent within the timeframes described in the Tax Documents, and (c) that any mandatory redemptions from excess bond proceeds are timely made if required under the Authorizing Proceedings and Tax Documents.

Arbitrage Yield Restrictions and Rebate Matters. The Tax Documents shall be reviewed by the Compliance Officer to ensure compliance with any applicable yield restriction requirements under Section 148(a) of the Internal Revenue Code (the “Code”) and timely calculation and payment of any rebate and the filing of any associated returns pursuant to Section 148(f) of the Code. A qualified rebate analyst shall be engaged as appropriate or as may be required under the Tax Documents.

Use of Bond Financed Property. Expectations and covenants contained in the Bond Documents regarding private use shall be reviewed by the Compliance Officer to ensure compliance. Bond-financed properties shall be clearly identified (by mapping or other reasonable means). Prior to execution, the Compliance Officer (and bond counsel, if deemed appropriate by the Compliance Officer) shall review (a) all proposed leases, contracts related to operation or management of bond-financed property, sponsored research agreements, take-or-pay contracts or other agreements or arrangements or proposed uses which have the potential to give any entity any special legal entitlement to the bond-financed property, (b) all proposed agreements which would result in disposal of any bond-financed property, and (c) all proposed uses of bond-financed property which were not anticipated at the time the bonds were issued. Such actions could be prohibited by the Authorizing Proceedings, the Tax Documents or Federal tax law.

Continuing Disclosure. Compliance with the Continuing Disclosure Obligations with respect to each bond issue shall be evaluated (a) to ensure timely compliance with any annual disclosure requirement, and (b) to ensure that any material events have been properly disclosed as required by the Continuing Disclosure Obligation.

Record Keeping. If not otherwise specified in the Bond Documents, all records related to each bond issue shall be kept for the life of the indebtedness associated with such bond issue (including all tax-exempt refundings) plus six (6) years.

Incorporation of Tax Documents. The requirements, agreements and procedures set forth in the Tax Documents, now or hereafter in existence, are hereby incorporated into these procedures by this reference and are adopted as procedures of the Issuer with respect to the series of bonds to which such Tax Documents relate.

Consultation Regarding Questions or Concerns. Any questions or concerns which arise as a result of any review by the Compliance Officer shall be raised by the Compliance Officer with the Issuer's counsel or with bond counsel to determine whether non-compliance exists and what measures should be taken with respect to any non-compliance.

VCAP and Remedial Actions. The Issuer is aware of (a) the Voluntary Closing Agreement Program (known as "VCAP") operated by the Internal Revenue Service which allows issuers under certain circumstances to voluntarily enter into a closing agreement in the event of certain non-compliance with Federal tax requirements and (b) the remedial actions available to issuers of certain bonds under Section 1.141-12 of the Income Tax Regulations for private use of bond financed property which was not expected at the time the bonds were issued.