



# City of Grand Island

Tuesday, May 22, 2012

Council Session

## Item F4

### **#9385 - Consideration of Authorization of Series 2012 Water Revenue Bonds**

Staff Contact: Tim Luchsinger, Utilities Director

# **Council Agenda Memo**

**From:** Timothy Luchsinger, Utilities Director

**Meeting:** May 22, 2012

**Subject:** Consideration of Authorizing Series 2012 Water System Revenue Refunding Bonds

**Item #'s:** F-4

**Presenter(s):** Timothy Luchsinger, Utilities Director

## **Background**

Potential bond refinancing activities were reviewed with the Council during a Study Session on January 4, 2011. The Resolution and Ordinance for the fourth refinancing is now ready to be presented to Council for action.

The Water System Revenue Bonds, Series 1999, were originally issued for a refinancing of bonds issued in 1993. The original principal amount was \$4,390,000, of which \$1,095,000 remains outstanding.

The refinancing of these bonds will take advantage of current low interest rates and, along with extending the remaining term from 2014 to 2027, will allow the funding of \$3,000,000 for the capital cost of the uranium removal equipment, while allowing lower debt service coverage and avoiding impact to water utility rates for this expenditure.

## **Discussion**

The Water System Revenue Bonds, Series 1999, date of original issue March 3, 1999, in the principal amount of \$1,095,000 will be called for payment on June 26, 2012; after such time, interest on the bonds will cease.

These bonds will be replaced with the issuance of Water Revenue and Refunding Bonds, Series 2012 in the principal amount of approximately \$3,725,000. The purpose of these bonds is to pay and redeem the City's Bonds referenced above and provide an additional \$3,000,000 for capital costs of the new uranium removal system.

The anticipated changes will be an average interest rate from 4.95% to 2.47%, a maturity date from 7/01/2014 to 7/01/2027, and average annual debt service from \$391,740 to \$296,361.

The recommendation ordinance would authorize the Mayor to execute the bond refinancing documents upon determination of the final rates and financing costs.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve the approve the Redemption of Water Revenue Refunding Bonds, Series 1999 and the Issuance of Water Revenue and Refunding Bonds, Series 2012 in the principal amount of approximately \$3,725,000.

## **Sample Motion**

Move to approve the Redemption of Water Revenue Refunding Bonds, Series 1999 and the Issuance of Water Revenue and Refunding Bonds, Series 2012 in the principal amount of approximately \$3,725,000.

ORDINANCE NO. 9385

AN ORDINANCE AUTHORIZING THE ISSUANCE OF WATER REVENUE AND REFUNDING BONDS, SERIES 2012, OF THE CITY OF GRAND ISLAND, NEBRASKA, IN THE AGGREGATE PRINCIPAL AMOUNT OF \_\_\_\_\_ THOUSAND DOLLARS (\$\_\_\_\_\_) FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT AND REDEMPTION OF THE CITY'S OUTSTANDING WATER REVENUE REFUNDING BONDS, SERIES 1999, IN THE PRINCIPAL AMOUNT OF \$1,095,000, AND FOR THE PURPOSE OF PAYING THE COSTS OF ADDITIONS AND IMPROVEMENTS TO THE WATERWORKS PLANT AND WATER SYSTEM OF SAID CITY; DIRECTING THE APPLICATION OF THE PROCEEDS OF SAID BONDS; PRESCRIBING THE FORM, TERMS AND DETAILS OF SAID BONDS; PLEDGING AND HYPOTHECATING THE REVENUES AND EARNINGS OF THE WATERWORKS PLANT AND WATER SYSTEM OF SAID CITY FOR THE PAYMENT OF SAID BONDS AND INTEREST THEREON; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUES OF SAID WATERWORKS PLANT AND WATER SYSTEM OF SAID CITY; ENTERING INTO A CONTRACT ON BEHALF OF THE CITY WITH THE HOLDERS OF SAID BONDS; AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED by the Mayor and Council of the City of Grand Island, Nebraska, as follows:

Section 1. The Mayor and Council of the City of Grand Island, Nebraska, hereby find and determine:

(a) The City owns and operates a waterworks plant and system (such plant and system, together with all additions and improvements thereto hereafter acquired are herein referred to as the "Water System") which represents a revenue-producing undertaking of the City;

(b) The City has heretofore issued and outstanding the following revenue bonds which are a lien upon and secured by a pledge of the revenue and earnings of the Water System:

Water Revenue Refunding Bonds, Series 1999, Date of Issue – March 3, 1999, authorized pursuant to Ordinance No. 8439 of the City, in the original principal amount of \$4,390,000 of which bonds in the principal amount of \$1,095,000 are outstanding and unpaid (the "1999 Bonds").

The 1999 Bonds constitute the only presently outstanding indebtedness of the City payable from the revenues of the Water System.

(c) In order to effect a savings in interest costs, it is necessary and advisable for the City to provide funds for the purpose of refunding the 1999 Bonds, and said bonds have been called for redemption on June 26, 2012 (the "Redemption Date"). 1999 Bonds maturing July 1, 2012 and a portion maturing July 1, 2013, shall be paid from City funds on hand as called for redemption on the Redemption Date.

(d) The City has constructed or will construct certain improvements to the Water System which include a new plant to treat approximately 5 mgd of the water supply and to remove uranium and related equipment for which the total construction cost is not less than \$3,000,000, and it is further necessary and appropriate to borrow amounts to cover issuance expense, and for all of such purposes it is necessary to borrow monies to provide for such costs as provided herein.

Approved as to Form	by _____
May 21, 2012	City Attorney

ORDINANCE NO. 9385 (Cont.)

(e) To satisfy the funding requirements described in this Section 1, including payment of issuance costs, it is necessary for the City to issue its Water Revenue and Refunding Bonds, Series 2012, in the total principal amount of \$\_\_\_\_\_ pursuant to Sections 18-1803 to 18-1805 R.R.S. Neb. 2007, as amended. All conditions, acts and things required by law to exist or to be done precedent to the issuance of the City's Water Revenue and Refunding Bonds in the principal amount of \$\_\_\_\_\_ do exist and have been done and performed in regular and due time and form as required by law. Said bonds will be payable from the revenues of the Water System.

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 Grand Island, Nebraska, through its ownership and operation of the Water System.

(b) the term "Additional Bonds" shall mean any and all bonds hereafter issued by the City pursuant to the terms of this Ordinance including all such bonds issued pursuant to Section 13 and refunding bonds issued pursuant to Section 14.

(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 "Deposit Securities" shall mean obligations of the United States of America, direct or unconditionally guaranteed, including any such obligations issued in book entry form.

(e) the term "Net Revenues" shall mean the gross revenues derived by the City from the ownership or operation of the Water System, including investment income, but not including any income from sale or disposition of any property belonging to or forming a part of the Water System, less the ordinary expenses for operating and maintaining the Water System payable from the Operation and Maintenance Account described in Section 11 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, provided, however, for purposes of determining compliance with requirements for issuing Additional Bonds, in the event that as of the time of authorization or issuance of Additional Bonds, the financial statements for the most recently completed fiscal year have not yet been completed and reported on by the City's certified public accountant, compliance may be shown using the audited financial statements for the most recently completed fiscal year for which audited financial statements are available and unaudited financial statements (certified by the City Treasurer) for the most recently completed fiscal year so long as compliance is shown for both such fiscal years.

ORDINANCE NO. 9385 (Cont.)

(f) the term "Paying Agent and Registrar" shall mean Wells Fargo Bank, National Association, Minneapolis, Minnesota, 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 for the purposes described in Section 1, there shall be and there are hereby ordered issued the negotiable bonds of the City of Grand Island, Nebraska, to be designated as "Water Revenue and Refunding Bonds, Series 2012" (the "2012 Bonds"), in the aggregate principal amount of \_\_\_\_\_ Thousand Dollars (\$\_\_\_\_\_), with said bonds bearing interest at the rates per annum and to become due on July 1 of the years as indicated below:

<u>Maturing on July 1 of Year</u>	<u>Amount of Principal Maturing</u>	<u>Interest Rate Per Annum</u>
2013	\$ 225,000	
2014	225,000	
2015	225,000	
2016	230,000	
2017	230,000	
2018	235,000	
2019	240,000	
2020	245,000	
2021	250,000	
2022	255,000	
2023	260,000	
2024	265,000	
2025	275,000	
2026	280,000	
2027	290,000	

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 for the 2012 Bonds shall be the date of delivery thereof. Interest on the 2012 Bonds, at the respective rates for each maturity, shall be payable semiannually on January 1 and July 1 of each year commencing January 1, 2013 (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 each 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

ORDINANCE NO. 9385 (Cont.)

redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the 2012 Bonds issued shall be as designated by the City Treasurer 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 said 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. Wells Fargo Bank, National Association, is hereby designated as Paying Agent and Registrar for the 2012 Bonds. Said Paying Agent and Registrar shall serve in such capacities under the terms of an agreement entitled "Paying Agent and Registrar's Agreement" between the City and said Paying Agent and Registrar, in substantially the form presented in connection with the adoption of this Ordinance, which form is hereby approved. The Mayor and City Clerk are hereby authorized to execute said agreement on behalf of the City in the form presented or with such changes, modifications and completions as such officers shall deem appropriate on behalf of the City. The Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the 2012 Bonds at its designated corporate trust office. The names and registered addresses of the registered owner or

## ORDINANCE NO. 9385 (Cont.)

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 designated corporate trust office of said Paying Agent and Registrar by surrender of such 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 such transferee owner or owners, a new 2012 Bond or 2012 Bonds of the same 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 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 interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a 2012 Bond, the surrendered 2012 Bond or 2012 Bonds shall be canceled and destroyed. All 2012 Bonds issued upon transfer of the 2012 Bonds so surrendered shall be valid obligations of the City evidencing the same obligations 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. For purposes of this Ordinance, the designated corporate trust office of the Paying Agent and Registrar shall be the Paying Agent and Registrar's Operating Center in Minneapolis, Minnesota, but such designation may be changed from time to time by notice to the City and the registered owners of the 2012 Bonds.

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



## ORDINANCE NO. 9385 (Cont.)

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 July 1, 2017 shall be subject to redemption, in whole or in part, prior to maturity at any time on or after the fifth anniversary of the date of original issue thereof, at the principal amount thereof together with accrued interest on the principal amount redeemed to the date fixed for redemption. Such optional 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 optional 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 designated 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 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 2012 Bonds for which notice by mail has been properly given and the City shall have the right to further direct 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 banking institutions in the city where the designated corporate trust office of the Paying Agent and Registrar is located 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

ORDINANCE NO. 9385 (Cont.)

payment on such day 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 HALL  
CITY OF GRAND ISLAND

WATER REVENUE AND REFUNDING BOND, SERIES 2012

No. R- \_\_\_\_\_ \$ \_\_\_\_\_

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP No.</u>
	July 1, _____	_____, 2012	

Registered Owner:

Principal Amount: \_\_\_\_\_ Thousand Dollars (\$ \_\_\_\_\_)

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Grand Island, in the County of Hall, 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 semiannually on January 1 and July 1 of each year, commencing January 1, 2013 (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 designated corporate trust office of Wells Fargo Bank, National Association, as Paying Agent and Registrar, in Minneapolis, Minnesota. 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 each 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 \_\_\_\_\_ Thousand Dollars (\$ \_\_\_\_\_), of even date and like tenor except as to date of maturity, rate of interest and denomination, (the "2012 Bonds") which were issued by the City for the purposes of, 1) paying and redeeming the City's outstanding Water Revenue Refunding Bonds, Series 1999, date of original issue – March 3, 1999, in the principal amount of \$1,095,000, and 2) paying the costs of enlarging, expanding and improving the waterworks plant and water system of the City (the "Water System"), and is 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, as amended.

Any or all of the bonds of said issue maturing on or after July 1, 2017, are subject to redemption at the option of the City, in whole or in part, at any time on or after the fifth anniversary of the date of original issue thereof, 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 optional redemption

## ORDINANCE NO. 9385 (Cont.)

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 optional redemption in its sole discretion.

Notice of redemption shall be given by mail to the registered owner of any 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 \$5,000 amounts or integral multiples thereof.

This bond is transferable by the registered owner or such owner's attorney duly authorized in writing at the designated corporate trust 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 purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

If the date 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 where the designated corporate trust office of the Paying Agent and Registrar is located 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 day shall have the same force and effect as if made on the nominal date of payment.

The revenues and earnings of the Water System, including all improvements and additions thereto hereafter constructed or acquired, are pledged and hypothecated, equally and ratably for the payment of this bond and the other 2012 Bonds, and for the payment of any additional bonds of equal priority issued in accordance with the terms of the Ordinance. The 2012 Bonds are a lien only upon said revenue and earnings and are not general obligations of the City of Grand Island, Nebraska.

The Ordinance sets forth the covenants and obligations of the City with respect to the Water System and the applications of the revenues and earnings thereof, which revenues and earnings under the terms of the Ordinance are required to be deposited to the "Grand Island Water System Fund" (as maintained in the Ordinance) and disbursed to pay costs of operation and maintenance of the Water System, make payments of principal and interest on the 2012 Bonds and any additional bonds of equal priority with the 2012 Bonds and other payments as specified in the Ordinance. The Ordinance also designates the terms and conditions under which additional bonds of equal priority with the 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 such 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 if monies or certain specified securities shall have been deposited with a trustee bank. In the Ordinance the City also reserves the right to issue bonds or notes junior in lien to 2012 Bonds and additional bonds of equal priority to the 2012 Bonds, the principal and interest of which shall be payable from monies in the "Surplus Account" of the Grand Island Water System Fund as described in the Ordinance.

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 required 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

ORDINANCE NO. 9385 (Cont.)

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 Grand Island, Nebraska, have caused this bond to be executed on behalf of the City with the facsimile signatures of the Mayor and the City Clerk of the City and by causing the official seal of the City to be imprinted hereon, all as of the Date of Original Issue shown above.

CITY OF GRAND ISLAND, NEBRASKA

\_\_\_\_\_  
(facsimile signature)

Mayor

ATTEST:

\_\_\_\_\_  
(facsimile signature)

City Clerk

(SEAL)

ORDINANCE NO. 9385 (Cont.)

**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 Grand Island, in the State of Nebraska, as described in said bond.

Wells Fargo Bank, National Association,  
Minneapolis, Minnesota,  
Paying Agent and Registrar

By: \_\_\_\_\_  
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.

ORDINANCE NO. 9385 (Cont.)

Section 9. Each of the 2012 Bonds shall be executed on behalf of the City with the facsimile signatures of the Mayor and the City Clerk and shall have imprinted thereon the City's seal. The 2012 Bonds shall be issued initially as "book-entry-only" bonds under 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 of the City are authorized to execute and deliver a Letter of Representations (the "Letter of Representations") in the form required by the Depository (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 2012 Bonds. With respect to the issuance of the 2012 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 2012 Bond from a Bond Participant while the 2012 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 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 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 2012 Bonds. The Paying Agent and Registrar shall make payments with respect to the 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 2012 Bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Bond, except as provided in (e) below.

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

(c) If the City determines that it is desirable that certificates representing the 2012 Bonds be delivered to the ultimate beneficial owners of the 2012 Bonds and so notifies the Paying Agent

ORDINANCE NO. 9385 (Cont.)

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 2012 Bonds. In such event, the Paying Agent and Registrar shall issue, transfer and exchange bond certificates representing the 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 2012 Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such 2012 Bond and all notices with respect to such 2012 Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the 2012 Bonds may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the 2012 Bonds may be delivered in physical form to the following:

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

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

(f) In the event of any partial redemption of a 2012 Bond unless and until such partially redeemed 2012 Bond has been replaced in accordance with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such bond as is then outstanding and all of the 2012 Bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository is terminated or resigns and is not replaced, or upon termination by the City of book-entry-only form, the City shall immediately provide a supply of printed bond 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 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 signatures of its then duly qualified and acting officers. In case any officer whose signature or facsimile thereof shall appear on any 2012 Bond shall cease to be such officer before the delivery of such bond (including such 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 the 2012 Bond. The 2012 Bonds shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The 2012 Bonds shall be delivered to the Paying



ORDINANCE NO. 9385 (Cont.)

Agent and Registrar for registration and authentication. Upon execution, registration, and authentication of the 2012 Bonds, they shall be delivered to the City Treasurer, acting on behalf of the City, who is authorized to deliver them to Ameritas Investment Corp., as initial purchaser thereof. The 2012 Bonds are hereby sold to said purchaser for the sum of \$ \_\_\_\_\_, plus accrued interest, if any, thereon to date of payment and delivery. The officers of the City (or any one of them) are hereby authorized to execute and deliver the Bond Purchase Agreement for and on behalf of the City. Said initial purchaser shall have the right to direct the registration of the 2012 Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. Such purchaser and its agents, representatives and 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 2012 Bonds, including without limitation, authorizing the release of the 2012 Bonds by the Depository at closing. The City Clerk shall make and certify a transcript of the proceedings of the Mayor and Council with respect to the 2012 Bonds which shall be delivered to said purchaser.

Section 10. Accrued interest, if any, received from the sale of the 2012 Bonds shall be applied to pay interest falling due on January 1, 2013, and shall be credited to the Bond Payment Account as described in Section 11 hereof. Expenses of issuance of the 2012 Bonds may be paid from the proceeds of the 2012 Bonds. \$ \_\_\_\_\_ from other funds of the City, specifically reserves attributed to the Refunded Bonds, shall be deposited to the Debt Service Reserve Account (into the sub-account for the 2012 Bonds). \$ \_\_\_\_\_ from proceeds of the 2012 Bonds and reserves attributed to the Refunded Bonds shall be applied to the payment of principal and interest on the Refunded Bonds as called for redemption on June 26, 2012. The City hereby agrees to take all actions necessary to effect the payment and redemption in full of the Refunded Bonds upon the issuance and delivery of the 2012 Bonds. The registered owners and Beneficial Owners of the 2012 Bonds shall be subrogated to the rights of the holders of the Refunded Bonds from and after their redemption. The remaining net proceeds of the 2012 Bonds shall be held in a separate construction account by the City Treasurer and applied to the payment of costs of the improvements to the Water System as directed by the Mayor and Council. Pending disbursement for project costs, such funds shall be invested by the City Treasurer in such investments as

ORDINANCE NO. 9385 (Cont.)

are legal investments for a city of the first class as shall be determined by the City Treasurer.

Section 11. The revenues and earnings of the Water System (including any and all additions and improvements thereto hereafter acquired) are hereby pledged and hypothecated for the payment of the 2012 Bonds and any Additional Bonds as authorized by this Ordinance and interest on such 2012 Bonds and any such Additional Bonds and the City does hereby agree with the holders of said 2012 Bonds as follows:

(a) **GRAND ISLAND WATER SYSTEM FUND** - The entire gross revenues and income derived from the operation of the Water System shall be set aside as collected and deposited in a separate fund which has been previously established and designated as the "Grand Island Water System Fund." For purposes of allocating the monies in the Grand Island Water System Fund, the City shall maintain the following accounts: (1) Operation and Maintenance Account; (2) Bond Payment Account; (3) Debt Service Reserve Account; and (4) Surplus Account.

(b) **OPERATION AND MAINTENANCE ACCOUNT** - Out of the Grand Island Water System 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 Water 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 Grand Island Water System Fund there shall be credited monthly on or before the fifteenth day of each month to the Bond Payment Account, starting with the month of July 2012, the following amounts:

- (1) For the period from and inclusive of July 15, 2012, until the 2012 Bonds have been paid in full, an amount equal to 1/6th of the next interest payment due on the 2012 Bonds; and
- (2) For the period from and inclusive of July 15, 2012, 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, as may then be the next required payment for principal with respect to 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 sub-accounts within the Debt Service Reserve Account (but only for the series of bonds for which each respective sub-account has been established) and next from the Surplus Account, an amount sufficient to pay, when due, the principal of and interest on the 2012 Bonds or any Additional Bonds and to transfer such amounts due to the respective 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 for sufficient to pay principal and interest on said Additional Bonds.

(d) **DEBT SERVICE RESERVE ACCOUNT** -The City agrees that it shall deposit from funds on hand of the City the amount of \$ \_\_\_\_\_ as the amount required to be maintained attributable to the 2012 Bonds in a separate sub-account in the Debt Service Reserve Account. Monies credited to the Debt Service Reserve Account may be withdrawn, but only from the designated sub-account for a specific issue, as needed, to provide funds to pay, when due, the principal of and interest on the 2012 Bonds and any Additional Bonds issued pursuant to this Ordinance, as the case may be, 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 Debt Service Reserve Account, there shall be credited to the Debt Service Reserve Account in the month following such withdrawal all monies in the Grand Island Water System 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 appropriate sub-account in the Debt Service Reserve Account until such sub-account has been restored to the required balance. Upon the issuance of any Additional Bonds, the amount required to be accumulated and maintained in the Debt Service Reserve Account, in a separate sub-account for such Additional Bonds, shall be set at an amount (which may be \$-0-) as determined appropriate by the Mayor and Council in connection with any such issue of Additional Bonds. Any such required increase shall be provided for either by credit made from bond proceeds or current funds of the Water System then available or by equal monthly credits from the Grand Island Water System Fund made in such amounts so that the required amount shall be accumulated in a period of not more than five years. Each sub-account in the Debt Service Reserve Account shall be held solely for the specific issue for which it is established. In the event of withdrawal from any such sub-account which results in the amount in such sub-account being deficient to meet the required balance, available amounts for restoring sub-account balances shall be credited to each deficient sub-account on a pro rata basis in accordance with the respective outstanding principal amounts for those issues for which the respective sub-accounts are then deficient. When the 2012 Bonds or any issue of Additional Bonds for which a sub-account has been established are no longer outstanding, the particular sub-account for such issue shall no longer be required to be maintained. Anything in this subsection 11(d) to the contrary notwithstanding, the amount required to be maintained in the Debt Service Reserve Account with respect to the 2012 Bonds or any issue of Additional Bonds shall not at any time exceed the maximum amount permitted to be invested without yield restriction under Sections 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 in the Grand Island Water System Fund remaining after the credits required in the foregoing Subsections 11(b), 11(c), and 11(d) shall be credited to the Surplus Account. Monies in the Surplus Account may be used to make up any deficiencies in any of the preceding Accounts, to retire any of the 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 Water System, to provide for replacements or improvements for the Water System or to provide for any other lawful purpose of the City including payments in lieu of taxes in an amount not to exceed 1% of the gross revenues of the Water System in any fiscal year (as and to the extent permitted by law) or interfund transfers as directed by the Mayor and City 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 municipal utility enterprises, which books and records shall show credits to and expenditures from the several Accounts required by

## ORDINANCE NO. 9385 (Cont.)

this Section. Monies credited to the Grand Island Water System 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 Debt Service Reserve Account, the City shall not be required to establish separate bank or investment accounts for the Accounts described in Subsections 11(b), 11(c), 11(d), and 11(e). Monies credited to the Debt Service Reserve Account shall, if maintained in a demand or time deposit account, be kept in a separate account and not commingled with other Water System funds or accounts. If invested, monies credited to the Debt Service Reserve Account may be commingled with other Water 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 Debt Service Reserve Account.

Monies in any of said Accounts except the Debt Service Reserve Account may be invested in investments permissible for a city of the first class. Monies in the Debt Service Reserve Account may be invested in Deposit Securities. Monies invested from the Debt Service Reserve Account shall be invested to mature in not more than ten years. Investments held for the Debt Service Reserve Account will be valued at cost for purposes of determining compliance with the requirements of this Ordinance as to the amount required to be maintained in the Debt Service Reserve Account or any sub-account therein. Income from or profit realized from investments for any Account or any sub-account shall be credited to such Account or sub-account until such Account or sub-account contains any amount then required to be therein, and thereafter such income or profit shall be transferred to the Grand Island Water System Fund and treated as other revenues from the operation of the Water System. The ordinance authorizing any series of Additional Bonds for which a debt service reserve sub-account is to be established shall establish the terms for investment related to such sub-account.

The pledge and hypothecation provided for the 2012 Bonds and any Additional Bonds as provided for in this ordinance is intended to and shall provide for a first and prior pledge on, lien upon and security interest in the revenues of the Water System superior to any pledge, lien or security interest made or given with respect to any other indebtedness of the City as to its Water 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. 2007, as now or hereafter amended, with respect to the City's Water System and the revenues and earnings thereof.

## ORDINANCE NO. 9385 (Cont.)

Section 12. So long as any of the 2012 Bonds and any Additional Bonds issued pursuant to this Ordinance shall remain outstanding and unpaid, the City covenants and agrees to establish, revise, from time to time as necessary, and collect such rates and charges for the service furnished from the Water System adequate to produce revenues and earnings sufficient at all times:

(a) To provide funds to pay, when due, the principal of and interest on the 2012 Bonds and any Additional Bonds issued pursuant to this Ordinance;

(b) To pay all proper and necessary costs of operation and maintenance of the Water System and to pay for the necessary and proper repairs, replacements, enlargements, extensions and improvements to the Water System and to pay and perform all contractual obligations of the City related to the Water System;

(c) To provide funds sufficient to make the credits into the Accounts and at the times and in the amounts required by Section 11 of this Ordinance; and

(d) To maintain Net Revenues in each fiscal year adopted by the City for the Water System in an amount not less than 1.20 times the total amount of principal paid or payable (exclusive of any principal redeemed prior to maturity other than principal redeemed pursuant to a schedule of mandatory redemptions) and interest falling due during such fiscal year on the 2012 Bonds and any Additional Bonds.

Section 13. To provide funds for any purpose related to the Water System, the City may issue Additional Bonds, except for Additional Bonds issued for refunding purposes which are governed by Section 14 of this Ordinance, payable from the revenues of the Water System having equal priority and on a parity with the 2012 Bonds and any Additional Bonds then outstanding, only upon compliance with the following conditions:

(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 2012, any Additional Bonds then outstanding and the proposed Additional Bonds and for any monthly credits to the Debt Service Reserve Account as are required under Subsection 11(d).

(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 Water 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 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 Water System in each of the three full fiscal years after the issuance of such Additional Bonds

## ORDINANCE NO. 9385 (Cont.)

will be at least equal to 1.25 times the Average Annual Debt Service Requirements of the 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 Water System during the last fiscal 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 Water System for the year for which the audit was made by reason of: (i) changes of amounts payable under existing contracts for services; (ii) additional general income from sales 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 of 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.

The City hereby covenants and agrees that so long as any of the 2012 Bonds and any Additional Bonds are outstanding, it will not issue any bonds or notes payable from the revenues of the Water System except in accordance with the provisions of this Ordinance, provided, however, the City reserves the right to issue bonds or notes which are junior in lien to the 2012 Bonds and any such Additional Bonds with the principal and interest of such bonds or notes to be payable from monies credited to the Surplus Account as provided in Subsection 11(e).

Section 14. The City may issue refunding bonds which shall qualify as Additional Bonds of equal lien to refund any 2012 Bonds or Additional Bonds then outstanding, provided, that if any such 2012 Bonds or Additional Bonds are to remain outstanding after the issuance of such refunding bonds, the principal payments due in any calendar year in which those bonds which are to remain outstanding mature, or in any calendar year prior thereto, shall not be increased over the amount of such principal payments due in such calendar years immediately prior to such refunding. Refunding bonds issued in accordance with this paragraph of this Section 14 may be issued as Additional Bonds of equal lien without compliance with the conditions set forth in Subsection 13(b) of this Ordinance.

The City may also issue refunding bonds which shall qualify as Additional Bonds of equal lien to

ORDINANCE NO. 9385 (Cont.)

refund any 2012 Bonds or Additional Bonds then outstanding provided, that, if any such 2012 Bonds or Additional Bonds are to remain outstanding after the application of the proceeds of the refunding bonds to the payment of the bonds which are to be refunded, such issuance must comply with the Net Revenues test set forth in Subsection 13(b)(1) of this Ordinance and, if the proceeds of such refunding bonds are not to be applied immediately to the satisfaction of the bonds which are to be refunded, then such refunding bonds must provide by their terms that they shall be junior in lien to all 2012 Bonds and any Additional Bonds outstanding at the time of issuance of such refunding bonds until the time of application of their proceeds to the satisfaction of the bonds which are to be refunded. In computing Average Annual Debt Service Requirements to show compliance with said Net Revenues test for such refunding bonds, all payments of principal and interest due on such refunding bonds from the time of their issuance to the time of application of the proceeds of such refunding bonds to the satisfaction of the bonds which are to be refunded shall be excluded from such computation to the extent that such principal and interest are payable from sources other than the revenues of the Water System (such as bond proceeds held in escrow or investment earnings thereon) or from monies in the Surplus Account, and all payments of principal and interest due on the bonds which are to be refunded from and after the time of such application shall also be excluded. For purposes of this paragraph of this Section 14, the time of application of the proceeds of the refunding bonds to the satisfaction of the bonds which are to be refunded shall be the time of deposit with the paying agent for such bonds which are to be refunded pursuant to Section 10-126 R.R.S. Neb. 2007 (or any successor statutory provision thereto) or the time when such bonds which are to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner.

Section 15. So long as any 2012 Bonds or Additional Bonds are outstanding, the City hereby covenants and agrees as follows:

(a) The City will maintain the Water System in good condition and will continuously operate the same in a reasonable and efficient manner, and the City will punctually perform all the duties with reference to said system required by the Constitution and statutes of the State of Nebraska, but this covenant shall not prevent the City from discontinuing the use and operation of all or any portion of the Water System so long as the revenues derived from the City's ownership of the properties constituting the Water System shall be sufficient to fulfill this City's obligations under Sections 11 and 12 of this Ordinance.

(b) The City will not grant any franchise or right to any person, firm or corporation to

## ORDINANCE NO. 9385 (Cont.)

own or operate a utility system or systems in competition with the Water System.

(c) The City will maintain insurance on the property constituting the Water System (other than such portions of the system as are not normally insured) against risks customarily carried by similar utilities, but including fire and extended coverage insurance in an amount which would enable the City to repair, restore or replace the property damaged to the extent necessary to make the Water System operable in an efficient and proper manner to carry out the City's obligations under this Ordinance. The Mayor and Council shall annually, after the end of each fiscal year adopted by the City for the Water System, examine the amount of insurance carried with respect to the Water System and shall evidence approval of such insurance by resolution. The proceeds of any such insurance received by the City shall be used to repair, replace or restore the property damaged or destroyed to the extent necessary to make the Water System operable in an efficient and proper manner, and any amount of insurance proceeds not so used shall be credited to the Surplus Account. In the event of any such insured casualty loss, the City may advance funds to make temporary repairs or provide for an advance on costs of the permanent repair, restoration or replacement from the Operation and Maintenance Account and any such advances shall be repaid from insurance proceeds received.

(d) The City will keep proper books, records, and accounts separate from all other records and accounts in which complete and correct entries will be made of all transactions relating to the Water System. The City will have its operating and financial statements relating to the Water System audited annually by a certified public accountant or firm of certified public accountants. The City will furnish to the original purchaser of the 2012 Bonds and to the original purchaser or purchasers of each series of Additional Bonds issued hereunder, within six months after the end of each fiscal year of the Water System, a copy of the financial statements of the Water System and the report thereon of the certified public accountants.

(e) The City shall cause each person handling any of the monies in the Grand Island Water System Fund to be bonded by an insurance company licensed to do business in Nebraska in an amount or amounts deemed sufficient by the Mayor and Council to cover the amount of money belonging to said system reasonably expected to be in the possession or control of such person. The amount of such bond or bonds shall be fixed by the Mayor and Council and the costs thereof shall be paid as an operating and maintenance expense from the Operation and Maintenance Account.

Section 16. The City's obligations under this ordinance and the liens, pledges, covenants and agreements of the City herein made or provided for, shall be fully discharged and satisfied as to the 2012 Bonds, and any such bonds shall no longer be deemed outstanding hereunder if such bonds shall have been purchased and canceled by the City, or when payment of the principal of and interest thereon to the respective date 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 the Paying Agent and Registrar or with a national or state bank having trust powers, or trust company, in trust, solely for such payment (1) sufficient money to make such payment deposited in a bank account or bank accounts which are fully insured by insurance of the Federal Deposit Insurance Corporation and/or (2) Deposit Securities



ORDINANCE NO. 9385 (Cont.)

in such amount and bearing interest at such rates and payable at such time or times and maturing or redeemable at stated fixed prices at the option of the holder as to principal at such time or times as will ensure the availability of sufficient money to make such payment; provided, however, that, with respect to any bond to be paid prior to maturity, the City shall have duly given notice of redemption of such bonds as provided by law or made irrevocable provision for the giving of such notice. Any money so deposited with the Paying Agent and Registrar or with such bank or trust company may be invested or reinvested in U.S. Government Obligations at the direction of the City, and all interest and income from U.S. Government Obligations in the hands of the Paying Agent and Registrar or such bank or trust company in excess of the amount required to pay principal of and interest on the 2012 Bonds for which such monies or U.S. Government Obligations were deposited shall be paid over to the City as and when collected.

For purposes of this Section 16, any Deposit Securities shall be noncallable or callable only at the option of the holder.

Section 17. The terms and provisions of this Ordinance do and shall constitute a contract between the City and the registered owner or owners of the 2012 Bonds and no changes, variations or alterations of any kind, except for changes necessary to cure any ambiguity, formal defect or omission, shall be made to this Ordinance without the written consent of the holders of two-thirds (2/3rds) in principal amount of the 2012 Bonds then outstanding, provided, however, that neither the principal and interest to be paid upon any bond nor the maturity date of any 2012 Bond shall be changed without the written consent of the registered owner of all such bonds then outstanding. Any registered owner of a 2012 Bond may by mandamus or other appropriate action or proceedings at law or in equity in any court of competent jurisdiction enforce or compel performance of any and all of the acts and duties required by this Ordinance, and every provision and covenant hereof, including without limiting the generality of the foregoing, the enforcement of the performance of all duties required of the City by this Ordinance and the applicable laws of the State of Nebraska, including in such duties the collecting of revenues of the Water System and the segregation and application of such revenues as described in Section 11 of this Ordinance. After any default in payment or other default in performance, the registered owners of the 2012 Bonds, the 2007 Bond or any Additional Bonds shall be entitled to the appointment of a receiver for the Water

ORDINANCE NO. 9385 (Cont.)

System. Any and all actions brought by any registered owner or owners of the 2012 Bonds or Additional Bonds shall be maintained for the equal and ratable benefit of all registered owners of the 2012 Bonds or Additional Bonds outstanding and no registered owners of any of the 2012 Bonds or Additional Bonds shall have any right in any manner whatsoever by any action or proceedings to affect, disturb or prejudice the pledge created by this Ordinance.

Section 18. In accordance with the requirements of Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission, the City, being the only “obligated person” with respect to the 2012 Bonds, agrees that it will provide the following continuing disclosure information to the Municipal Securities Rulemaking Board (the “MSRB”) in an electronic format as prescribed by the MSRB:

(a) not later than seven months after the end of each fiscal year of the City (the “Delivery Date”), financial information or operating data for the City of the type included in the final official statement under the heading “FINANCIAL STATEMENT” and the financial information for the Water System as shown in the Official Statement (“Annual Financial Information”);

(b) when and if available, audited financial statements for the City; audited financial information shall be prepared on the basis of generally accepted accounting principles and the standards applicable to financial audits contained in *Governmental Auditing Standards*, issued by the Comptroller General of the United States; and

(c) in a timely manner not in excess of ten business days after the occurrence of the event, notice of the occurrence of any of the following events with respect to the 2012 Bonds:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the 2012 Bonds;
- (7) modifications to rights of the holders of the 2012 Bonds, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution, or sale of property securing repayment of the 2012

ORDINANCE NO. 9385 (Cont.)

Bonds, if material;

(11) rating changes;

(12) bankruptcy, insolvency, receivership or similar events of the City (this event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City);

(13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

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

(d) in a timely manner, notice of any failure on the part of the City to provide Annual Financial Information not later than the Delivery Date.

The City agrees that all documents provided to the MSRB under the terms of this continuing disclosure undertaking shall be in such electronic format and accompanied by such identifying information as shall be prescribed by the MSRB. The City reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information or the accounting methods in accordance with which such information is presented, to the extent necessary or appropriate in the judgment of the City, consistent with the Rule. The City agrees that such covenants are for the benefit of the registered owners of the 2012 Bonds (including Beneficial Owners) and that such covenants may be enforced by any registered owner or Beneficial Owner, provided that any such right to enforcement shall be limited to specific enforcement of such undertaking and any failure shall not constitute an event of default under the Resolution. The continuing disclosure obligations of the City, as described above, shall cease when none of the 2012 Bonds remain outstanding.

Section 19. The City hereby covenants and agrees that it will make no use of the proceeds of the

## ORDINANCE NO. 9385 (Cont.)

2012 Bonds which would cause the 2012 Bonds to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103(b) and 148 and all applicable regulations thereunder throughout the term of said issue, including all requirements with respect to payment and reporting of rebates. 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 covenants and agrees to take all actions necessary under the Code to maintain the tax-exempt status of interest payable on the 2012 Bonds with respect to taxpayers generally. 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 tax-exempt bonds or other tax-exempt interest bearing obligations aggregating in principal amount more than \$10,000,000 during calendar year 2012 (taking into consideration the exception for current refunding issues), provided that the amount of the 2012 Bonds hereby designated shall be reduced as and to the extent that a portion of the 2012 Bonds may be determined to be "deemed designated" in accordance with the provisions of Section 265(b)(3)(D) of the Code. The officers of the City (or any one of them) are hereby authorized to make allocations of the 2012 Bonds (as to principal maturities) and of the proceeds of the 2012 Bonds and debt service funds of the City as may be deemed appropriate under the federal tax laws and regulations. Any such allocations made and determinations set forth in a certificate by an officer of the City shall be and constitute authorized determinations made on behalf of the City with the same force and effect as if set forth in this Ordinance.

Section 20. 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 21. If any section, paragraph, clause or provision of this Ordinance shall be held invalid,

ORDINANCE NO. 9385 (Cont.)

the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 22. This Ordinance shall be in force and take effect from and after its passage and approval according to law. This Ordinance shall be published in pamphlet form.

PASSED AND APPROVED this 22nd day of May, 2012.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

ORDINANCE NO. 9385 (Cont.)

EXHIBIT “A”

POLICY AND PROCEDURES

[SEE ATTACHED]

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

**ISSUER NAME:** The City of Grand Island, Nebraska

**COMPLIANCE OFFICER (BY TITLE):** Finance Director/Treasurer, City of Grand Island, Nebraska

**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

## ORDINANCE NO. 9385 (Cont.)

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. In general, if the Issuer identifies a violation of Federal tax requirements in accordance with the implementation of the foregoing procedures the Issuer can generally expect to receive more favorable treatment in resolving its tax violation under VCAP than if the Issuer had not implemented such procedures.



ORDINANCE NO. 9385 (Cont.)

**PAYING AGENT AND REGISTRAR'S AGREEMENT**

This Agreement made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the City of Grand Island, Nebraska (the "City") and Wells Fargo Bank, National Association, Minneapolis, Minnesota (the "Registrar").

WITNESSETH:

WHEREAS, the City has authorized the issuance of \$\_\_\_\_\_ of its Water System Revenue and Refunding Bonds, Series 2012, dated the date of delivery thereof, (the "Bonds") by Ordinance No. \_\_\_\_\_(the "Ordinance") and requires the services of a paying agent and registrar for said issue: and

WHEREAS, the Registrar is willing to provide services as paying agent and registrar pursuant to the terms of this Agreement and the Ordinance in consideration for the compensation described in this Agreement.

NOW, THEREFORE, the City and the Registrar do hereby agree as follows:

1. The Registrar agrees that it shall maintain on behalf of the City books of record in which the registered owners of the Bonds and their registered addresses shall be duly recorded.

2. The Registrar agrees that it shall serve as paying agent for the City in making the payments of principal and interest falling due on the Bonds. The City shall, not later than each interest and principal payment date on the Bonds, deposit with the Registrar an amount sufficient to make such payment and the Registrar shall apply such deposit by mailing a check or draft to each of the registered owners of the Bonds as shown on the books of record maintained pursuant to paragraph 1 hereof for the appropriate amounts of interest due on each respective Bond, and pay principal and interest upon presentation of each respective Bond in accordance with the terms of the Ordinance. The provisions of this paragraph 2 are subject to the terms set forth in paragraph 15 as to the Bonds while outstanding as "book-entry-only bonds."

3. Registrar hereby accepts and agrees to perform all duties directed by the Ordinance to be performed by the "Paying Agent and Registrar" as described in the Ordinance and the terms of the Ordinance are hereby incorporated by reference. Registrar acknowledges receipt of a copy of the Ordinance. Registrar acknowledges that the City may make deposits of money or securities as provided in the Ordinance. In the event of any such deposit, the compensation provided for under this Agreement shall not be altered or abated.

4. The City shall furnish to the Registrar a sufficient supply of forms in blank of the Bonds to be issued upon transfer, signed by the facsimile signatures of the Mayor and City Clerk and sealed with the City seal and shall renew such supply pursuant to the Ordinance upon request by the Registrar.

5. The Registrar shall make the initial registration of the Bonds upon written directions from the original purchaser thereof as designated in the Ordinance.

## ORDINANCE NO. 9385 (Cont.)

6. Transfer of the Bonds shall be registered and new Bonds issued in replacement thereof, pursuant to the limitations prescribed in the Ordinance, upon surrender to the Registrar of any outstanding Bond in form deemed by the Registrar properly endorsed for transfer with all necessary signatures guaranteed in such manner and form as the Registrar may require by a signature guarantor reasonably believed by Registrar to be responsible, accompanied by such assurances as the Registrar shall deem necessary or appropriate to evidence the genuineness and effectiveness of each necessary signature and, if deemed appropriate by the Registrar, satisfactory evidence of compliance with all applicable laws relating to the collection of taxes. In registering transfer of the Bonds, the Registrar may rely upon the Uniform Commercial Code or any other statutes which in the opinion of counsel protect the Registrar and the City in not requiring complete documentation, in registering Bonds without inquiry into adverse claims, in delaying registration for purposes of such inquiry or in refusing registration where in Registrar's judgment an adverse claim requires such refusal.

7. Replacement Bonds for any of the Bonds damaged, lost or stolen shall be issued by the Registrar upon a duly certified resolution or resolutions in compliance with the requirements of Sections 10-127 to 10-130, R.R.S. Neb. 2007, as now existing or as hereafter amended.

8. As provided by law, the books of registration maintained by the Registrar shall not be deemed public records and shall be available for inspection solely pursuant to a court order or a subpoena of any governmental agency having jurisdiction to issue such subpoena.

9. At least annually, the Registrar shall give a report to the City accounting for all funds received and disbursements made. The Registrar shall maintain customary records in connection with its exercise of its duties under this Agreement and the Ordinance.

10. At anytime the Registrar may apply to the City for instructions and may consult with the City's attorney or the Registrar's own counsel in respect to any matter arising in connection with its duties under this Agreement and the Ordinance and the Registrar shall not be liable or accountable for any action taken or omitted by it in good faith in accordance with such instructions or with the opinion of such counsel. The Registrar may rely on any paper or document reasonably believed by it to be genuine and to have been signed by the proper person or persons.

11. The City hereby agrees to pay any expenses reasonably incurred by the Registrar in connection with the performance of its duties under this Agreement and the Ordinance, including counsel fees, and in addition shall pay to the Registrar as compensation for its services the following:

See Attachment

12. Any corporation or association into which the Registrar may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall, ipso facto, be and become successor Registrar hereunder and vested with all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

13. The City shall have the right to remove the Registrar only in the event of a material breach of the Registrar's duties under this Agreement and the Ordinance. In such event the Mayor and Council of the City shall have the right to designate a successor and the Registrar hereby agrees that it shall turn over all of its records with respect to the Bonds to any such successor upon request by the City.

14. This Agreement shall terminate when the Bonds have been paid in full. The Registrar shall

## ORDINANCE NO. 9385 (Cont.)

have no duties with respect to the investment of monies paid to it under this Agreement and the Ordinance. Any deposit of such monies shall be either fully insured by insurance of the Federal Deposit Insurance Corporation or fully secured in the manner required by law for deposit of funds of the City. Any such deposit may be in an account maintained with the Registrar or an affiliate of the Registrar.

15. Under the terms of the Ordinance, the Bonds are to be issued initially as "book-entry-only bonds" using the services of The Depository Trust Company (the "Depository") and initially the entire issue of the Bonds shall be registered in the name of Cede & Co., as nominee for the Depository, with one typewritten bond for each separate stated maturity. Payment of semiannual interest for any Bond registered as of each Record Date in the name of Cede & Co. shall be made by wire transfer to the Depository in accordance with its procedures as in effect from time to time. The Registrar agrees that it will execute and observe the terms and conditions of the Letter of Representations (the "Letter of Representations") as authorized by the Ordinance. The Letter of Representations may be in the form of separate undertakings executed by the Registrar and the City in connection with services provided by the Depository.

The Registrar and the City may treat the Depository (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to bondholders under the Ordinance, registering the transfer of the Bonds, obtaining any consent or other action to be taken by bondholders and for all other purposes whatsoever, and neither the Registrar nor the City shall be affected by any notice to the contrary. Neither the Registrar nor the City shall have any responsibility or obligation to any participant of the Depository ("Participant"), any person claiming a beneficial ownership interest in the Bonds under or through the Depository or any Participant, or any other person which is not shown on the registration books of the Registrar as being a bondholder, with respect to the accuracy of any records maintained by the Depository or any Participant; the payment by the Depository or any Participant of any amount in respect of the principal of or interest on the Bonds; any notice which is permitted or required to be given to bondholders under the Ordinance; the selection by the Depository or any Participant of any person to receive payment in the event of a partial redemption of the Bonds; or any consent given or other action taken by the Depository as bondholder. The Registrar shall pay all principal of and interest on the Bonds only to the Depository, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. Except under the conditions directed below, no person other than the Depository shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal of and interest pursuant to the Ordinance. Upon delivery by the Depository to the Registrar of written notice to the effect that the Depository has determined to substitute a new nominee in the place of Cede & Co., and subject to the provisions in the Ordinance with respect to Record Dates, the term "Cede & Co." in this Agreement shall refer to such new nominee of the Depository. If the Depository gives notice to the City or the Registrar pursuant to the Letter of Representations that it will discontinue providing its services as securities depository with respect to the Bonds, the City shall either appoint a successor securities depository or terminate the book-entry system for the Bonds under the following conditions:

(i) Any successor securities depository must be a clearing agency registered with the Securities and Exchange Commission pursuant to Section 17A of the Securities Exchange Act of 1934 and must enter into an agreement with the City and the Registrar agreeing to act as the depository and clearing agency for all the Bonds. After such agreement has become effective, the Depository shall present the Bonds for registration of transfer in accordance with Section 4 of the Ordinance and the Registrar shall register them in the name of the successor securities depository or its nominee. If a successor securities depository has not accepted such position prior to the effective date of the Depository's termination of its services, the book-entry system shall automatically terminate.

ORDINANCE NO. 9385 (Cont.)

(ii) If the City elects to terminate the book-entry system for the Bonds, it shall so notify the Registrar in writing. Thereafter, upon presentation of the Bonds, or any of them, by the Depository or its nominee to the Registrar for registration of transfer in accordance with Section 4 of the Ordinance, the Registrar shall register the transfer in accordance with such Section 4 of the Ordinance and all provisions of this paragraph 15 shall immediately cease to be in effect, except as and to the extent provided below in this paragraph 15.

The City may elect to terminate the book-entry system for the Bonds at any time by giving written notice to the Depository and the Registrar. On the effective date of such termination, the provisions of this paragraph 15 shall cease to be in effect, except that the Registrar shall continue to comply with applicable provisions of the Letter of Representations with respect to the Bonds as to which the Depository remains the registered owner. After such termination, the Registrar shall, upon presentation of the Bonds by the Depository or its nominee for registration of transfer or exchange in accordance with Section 4 of the Ordinance make such transfer or exchange in accordance with said Section 4. Upon the appointment of a successor securities depository or termination of the book-entry system, the Registrar shall give notice of such event to the registered owners of the Bonds (through the Depository) and (1) of the name and address of the successor securities depository or (2) that the Bonds may now be obtained by the beneficial owners of the Bonds, or their nominees, upon proper instructions being given to the Depository by the relevant Participant and compliance by the Depository with the provisions of the Ordinance regarding registration of transfers. Notwithstanding any other provision of this Agreement to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of the Depository (or any successor nominee), all payments with respect to the principal and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations. In connection with any notice or other communication to be provided to bondholders pursuant to the Ordinance by the City or the Registrar with respect to any consent or other action to be taken by bondholders, the City or the Registrar, as the case may be, shall establish a record date for such consent or other action and give the Depository notice of such record date not less than 15 calendar days in advance of such record date to the extent possible.

16. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

17. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

IN WITNESS WHEREOF, the parties hereto have each caused this Paying Agent and Registrar's Agreement to be executed by their duly authorized officers as of the date first above written.

THE CITY OF GRAND ISLAND, NEBRASKA

(SEAL)

By: \_\_\_\_\_  
Mayor

ATTEST

\_\_\_\_\_  
City Clerk

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Minneapolis, Minnesota  
Paying Agent and Registrar

By: \_\_\_\_\_  
Its: \_\_\_\_\_