

# City of Lincoln, Nebraska

## Electric System Revenue Commercial Paper Notes

### Offering Memorandum

Dated Aug. 24, 2018

Note to readers of the Lincoln Electric System (LES) Commercial Paper Offering Memorandum: U.S. Bancorp Investments, Inc. and J.P. Morgan Securities LLC are dealers for the LES Commercial Paper Program.



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**Lincoln Electric System**

**THE CITY OF LINCOLN, NEBRASKA**

acting by and through

**The Lincoln Electric System**



**ELECTRIC SYSTEM REVENUE COMMERCIAL PAPER NOTES**

**OFFERING MEMORANDUM**

**DATED August 24, 2018**

**THE CITY OF LINCOLN, NEBRASKA**

**CITY ADMINISTRATION**

CHRIS BEUTLER	Mayor
BRANDON KAUFFMAN	Finance Director

**LINCOLN ELECTRIC SYSTEM**

**ADMINISTRATIVE BOARD**

LAYNE SUP	Chair
TAMMY WARD	Vice Chair
DANAY KALKOWSKI	Secretary
JERRY HUDGINS	Member
VICKI HUFF	Member
ANDREW HUNZEKER	Member
SARAH PEETZ	Member
LUCAS SABALKA	Member
VACANT	Member

**MANAGEMENT**

KEVIN G. WAILES	Chief Executive Officer
LAURA L. KAPUSTKA	Vice President and Chief Financial Officer
SHELLEY R. SAHLING-ZART	Vice President and General Counsel
PAUL A. CRIST	Vice President and Chief Technology Officer
JASON L. FORTIK	Vice President-Power Supply
LISA R. HALE	Vice President-Customer Services
PATRICIA A. OWEN	Vice President-Corporate Services
DANNY L. PUDENZ	Vice President-Energy Delivery

**BOND COUNSEL**

Kutak Rock LLP  
Omaha, Nebraska

**FINANCIAL ADVISOR**

PFM Financial Advisors LLC  
Philadelphia, Pennsylvania

## FORWARD-LOOKING STATEMENTS

Certain statements included or incorporated by reference in this Offering Memorandum constitute “forward-looking statements” within the meaning of the federal securities laws, including statements regarding, among other things, anticipated trends, future liquidity requirements and capital resources. When used in this Offering Memorandum, the words “project,” “estimate,” “intend,” “expect,” “anticipate,” “plan” and similar expressions are intended to identify forward-looking statements. These forward-looking statements are based largely on LES’s expectations and are subject to a number of risks and uncertainties, certain of which are beyond the control of the City and LES. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Prospective investors are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. The forward-looking statements have neither been reviewed nor reported on by any third party. Neither LES nor any other party plans to issue any updates or revisions to those forward-looking statements if or when the expectations or events, conditions or circumstances upon which such statements are based occur or do not occur.

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## **THE CITY OF LINCOLN, NEBRASKA**

### **INTRODUCTION**

This Offering Memorandum (which includes the Appendices attached hereto) is furnished by The City of Lincoln, Nebraska (the “City”), a municipal corporation existing pursuant to its home rule Charter and under the laws of the State of Nebraska (the “State”), to provide information concerning: (i) the City; (ii) the City’s electric system (which is hereinafter referred to as the “Lincoln Electric System,” “LES” or the “System” and which is defined in the Bond Ordinance described below to include all property and assets of the City used for or pertaining to the generation, transmission, distribution and sale of electric power and energy); and (iii) the \$150,000,000 maximum aggregate principal amount of the City’s Electric System Revenue Commercial Paper Notes (the “Notes”).

### **AUTHORITY**

The Notes are being issued pursuant to Nebraska law, particularly Sections 15-244 and 18-1803 to 18-1805, inclusive, Reissue Revised Statutes of Nebraska, as amended, and Section 44 of Article IX of the Charter of the City as amended from time to time, and Ordinance No. 18584, adopted August 1, 2005 (the “Note Ordinance”).

This Offering Memorandum includes summaries of the terms of the Notes, certain provisions of the Note Ordinance, and certain contracts and other arrangements relating to LES. The summaries of and references to all documents, reports and other instruments referred to herein do not purport to be complete, comprehensive or definitive and each such summary and reference is qualified in its entirety by references to each such document, report or instrument, copies of which may be obtained, upon request, from Lincoln Electric System, 1040 “O” Street, Lincoln, Nebraska 68508, Attention: Chief Financial Officer. Email inquiries should be addressed to [lkapustka@les.com](mailto:lkapustka@les.com).

### **PURPOSE**

This Offering Memorandum relates to the offering, from time to time, of not to exceed \$150,000,000 aggregate principal amount of the Notes under the Note Ordinance. The aggregate principal amount of Notes outstanding may be increased or decreased from time to time as provided in the Note Ordinance. The Note Ordinance provides for up to \$150,000,000 aggregate principal amount of Notes to be outstanding at any time. The Notes have been and are being issued for the purpose of providing short-term borrowing as needed by LES to pay the costs of capital projects.

### **DESCRIPTION OF THE NOTES**

The Notes will be issued in a maximum aggregate principal amount outstanding at any one time of up to \$150,000,000. The Notes will be issued in denominations of \$100,000, or any integral multiple of \$1,000 in excess of \$100,000 and will be issued in book-entry only form through the book-entry system of The Depository Trust Company, New York, New York, as described below. The Notes will bear interest computed on the basis of actual days elapsed on a 365 or 366 day year, whichever is applicable, at an annual rate not in excess of 16% per annum, and shall have a purchase price of 100% of the principal amount thereof. Interest on the Notes will be payable on their respective maturity dates. The Notes will mature not more than 270 days after the date of issuance. The Notes will not be subject to redemption prior to maturity.

U.S. Bank National Association has been appointed as Issuing and Paying Agent for the Notes (the “Paying Agent”).

## **Book-Entry System**

*General.* The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Notes. The ownership of one fully registered Master Note will be registered in the name of Cede & Co., as the nominee for DTC. Ownership interests in the Notes will be available to purchasers only through a book-entry system maintained by DTC (the “Book-Entry System”). A description of DTC, the Book-Entry System and definitions of initially capitalized terms used herein are found in Appendix E.

*Risk Factors.* Beneficial Owners of the Notes may experience some delay in their receipt of distributions of the principal or redemption price of and interest on the Notes because such distributions will be forwarded by the Paying Agent to DTC, credited by DTC to its Direct Participants, and then credited to the accounts of the Beneficial Owners either directly or indirectly through Indirect Participants.

Because transactions in the Notes can only be effected through DTC, DTC Participants and certain banks, the ability of a Beneficial Owner to pledge Notes to persons or entities that do not participate in the Book-Entry System, or otherwise to take actions in respect of such Notes, may be limited due to the lack of physical certificates. Beneficial Owners will not be recognized by the Paying Agent as registered owners for purposes of the Note Ordinance, and Beneficial Owners will be permitted to exercise the rights of registered owners only indirectly through DTC and DTC Participants.

## **SECURITY FOR THE NOTES**

### **Security and Sources of Payment for the Notes**

The Notes are special obligations of the City payable from and secured solely by the funds pledged therefor pursuant to the Note Ordinance.

To provide security for the payment of the principal of and interest on the Notes as the same shall become due and payable, the Note Ordinance grants a lien on and pledge of, subject only to the provisions of the Bond Ordinance (hereinafter defined) permitting the application thereof for purposes and on the terms and conditions set forth therein, (a) the proceeds from the sale of Notes issued pursuant to the Note Ordinance for the purpose of refinancing, renewing or refunding the Notes, (b) the amounts held in the CP Account in the Payment Fund established by the Note Ordinance, (c) the amounts held in the Note Construction Fund established by the Note Ordinance until the amounts deposited therein are used for authorized purposes, (d) the proceeds of any other evidences of indebtedness of the City issued or incurred solely for the payment of principal of and interest on the Notes, (e) any other moneys of the City hereafter pledged by the City to the payment of principal of and interest on the Notes, and (f) the proceeds of Advances made pursuant to the Liquidity Facility; and the principal of and interest on the Notes are equally and ratably secured by and payable from a lien on and pledge of the sources hereinabove identified in the clauses (a) through (f), subject and subordinate only to the exceptions noted therein.

Additionally, to provide security for the payment of principal of and interest on the Notes as the same shall become due and payable, the Note Ordinance grants a lien on and a pledge of, subject only to the provisions of the Bond Ordinance permitting the application thereof for purposes and on the terms and conditions set forth therein, the Net Revenues (as defined in the Bond Ordinance) of LES that are subject and subordinate to the lien and pledge on, or obligation of, the Net Revenues securing the payment of principal of, premium, if any, interest on, and any reserve fund requirements for, or other obligation with respect to, the 2003 Bonds, the 2012 Bonds, the 2013 Bonds, the 2015 Bonds, the 2016 Bonds, and the 2018 Bonds (collectively the “Outstanding Bonds”) issued pursuant to the provisions of the Ordinance No. 17879 and certain series ordinances adopted thereunder (collectively, the “Bond Ordinance”). The Bond Ordinance provides for the issuance by the City from time to time of Electric System Revenue Bonds (the “Electric

System Revenue Bonds”) including the Outstanding Bonds and additional Parity Obligations as identified below. Payment of the Notes from Net Revenues is expressly subordinated to the Outstanding Bonds and additional Parity Obligations (as defined in the Bond Ordinance). See “Outstanding Debt” below.

Unless the Notes are paid from the sources described in clauses (a) through (f) above, such payment is to be made from Net Revenues deposited in the CP Account in the Payment Fund from the Net Revenues of the System.

To the extent the Notes are not to be paid from the proceeds of Advances or the other sources provided herein and to the extent required for repayment of a Note, the City, subject to the preceding limitations, shall transfer from the Net Revenues into the Note Payment Fund amounts sufficient to pay principal of and interest on the Notes as the same become due.

The Note Ordinance permits the City to issue both the Notes and short-term notes (“Short-term Notes”) payable from and secured by a pledge of and lien on Net Revenues subordinate to the pledge of Net Revenues for the benefit of the Outstanding Bonds and additional Parity Obligations. Any such Short-term Notes shall be secured on a parity basis with the Notes. Pursuant to the Note Ordinance, the total aggregate principal amount of the Notes and the Short-term Notes outstanding at any time may not exceed \$150,000,000. In conjunction with the delivery of a Liquidity Facility (as such term is defined in the Note Ordinance) by JPMorgan Chase Bank, National Association (the “Bank”), the City will enter into a Note Purchase Agreement with the Bank (the “Note Purchase Agreement”) pursuant to which the Bank will be obligated to purchase Short-term Notes of the City when and if requested to do so by the City, subject to the terms of the Note Purchase Agreement. The term of the Note Purchase Agreement will mature on or before August 23, 2021. Short-term Notes issued under the Note Purchase Agreement will mature on or before August 23, 2021. The Note Purchase Agreement is not a Liquidity Facility for the Notes. On or about August 24, 2018, the City will issue \$1,500,000 in Short-term Notes under the Note Purchase Agreement.

### **Limits on Additional Debt**

The City may issue additional Bonds or Parity Obligations provided (a) the Net Revenues for the Fiscal Year immediately preceding the Fiscal Year in which such additional Bonds or Parity Obligations are issued are not less than 100% of the average annual Debt Service on all Bonds and Parity Obligations to be Outstanding upon the issuance of such additional Bonds or Parity Obligations, (b) neither the City nor LES shall be in default under the terms of the Bond Ordinance, (c) the issuance of such additional Bonds or Parity Obligations shall not cause either the City or LES to be in default under the terms of the Bond Ordinance.

The City may issue additional Notes or Short-term Notes pursuant to the Note Ordinance provided the aggregate outstanding amount thereof does not exceed \$150,000,000.

The City may also issue debt subordinate to the Notes from time to time. LES has entered into a Revolving Credit Agreement with U.S. Bank National Association (“U.S. Bank”) effective November 3, 2017 (the “U.S. Bank Revolving Credit Agreement”). The U.S. Bank Revolving Credit Agreement permits LES to draw up to \$50,000,000 on a floating rate basis. The U.S. Bank Revolving Credit Agreement terminates, unless extended in accordance with its terms, on November 2, 2020. LES’ obligation to repay advances and the interest thereon under the U.S. Bank Revolving Credit Agreement is subordinate to the payment of the principal of, and interest on, the Outstanding Bonds as well as LES’ Commercial Paper Notes and Short-term Notes and LES’ obligations under the JPMORGAN Liquidity Facility (See “JPMORGAN Liquidity Facility” below).

## OUTSTANDING DEBT

As of the date hereof, the following Bonds and Notes are Outstanding:

Description	Final Maturity	Outstanding Amount
<u>Commercial Paper Notes:</u>		
	Variable	\$65,500,000
<u>Short-term Notes:</u>		
	August 23, 2021	\$1,500,000
<u>Bond Issued Pursuant to the Bond Ordinance:</u>		
2003 Bonds	September 1, 2021	1,150,000
2012 Bonds	September 1, 2037	217,020,000
2013 Bonds	September 1, 2025	75,525,000
2015 Bonds	September 1, 2040	167,800,000
2016 Bonds	September 1, 2034	99,575,000
2018 Bonds	September 1, 2034	121,205,000

## LIQUIDITY FACILITY

The short-term ratings on the CP Notes are based on the relevant rating agency's evaluation of LES' liquidity reserves generally, and not solely on the strength of a Liquidity Facility (as such term is defined in the Note Ordinance). Notwithstanding the foregoing, a Liquidity Facility has been issued by the Bank for the benefit of the Notes. The interest on the Notes when due is not able to be drawn under the JPMORGAN Liquidity Facility.

### JPMORGAN LIQUIDITY FACILITY

*The following is a summary of certain provisions of the JPMORGAN Liquidity Facility. This summary is not to be considered a full description or restatement of the material provisions of the JPMORGAN Liquidity Facility and accordingly is qualified by reference thereto and is subject to the full text thereof. Investors should obtain and review a copy of the JPMORGAN Liquidity Facility in order to understand all of the terms of such document. Except as otherwise defined herein, capitalized terms used under this caption without definition have the respective meanings set forth in the JPMORGAN Liquidity Facility.*

#### General

The City and LES entered into a Revolving Credit Agreement dated as of August 24, 2018 (the "JPMORGAN Liquidity Facility") with the Bank. Pursuant to the JPMORGAN Liquidity Facility, the Bank has established a revolving line of credit for the benefit of the City and LES for the purpose of making loans, upon the conditions specified in the JPMORGAN Liquidity Facility, to fund the payment of the principal on the Notes at the stated maturity thereof. *The JPMORGAN Liquidity Facility may be*

*drawn only by LES, and only for the purpose of paying maturing principal of the Notes.* If LES makes a request for an advance under the JPMORGAN Liquidity Facility by 11:30 a.m., which conforms to the requirements of the JPMORGAN Liquidity Facility, New York City time, on a Business Day, the Bank has agreed to fund the advance no later than 2:30 p.m., New York City time, on the same day.

**The Bank's obligation to advance funds to enable the City and LES to pay the principal on the Notes maturing on the date of such advance is subject to termination or suspension automatically or immediately without notice in certain cases. The Bank will not be obligated to advance funds to enable the City or LES (or the Issuing and Paying Agent) to pay the principal on Notes maturing in the event of early termination or suspension of the JPMORGAN Liquidity Facility pursuant to the terms thereof.** The Bank is entitled to terminate or suspend its obligations under the JPMORGAN Liquidity Facility upon the occurrence and during the continuation of certain defaults and events of default specified therein including, without limitation, failure to make any payment of maturing Notes. In no case may the JPMORGAN Liquidity Facility be drawn to pay interest on maturing Notes.

Set forth below are brief descriptions or excerpts of certain provisions of the JPMORGAN Liquidity Facility, all of which are qualified in their entirety by reference to the complete provisions of the JPMORGAN Liquidity Facility.

### **Revolving Loan Commitment**

The Bank has agreed, on the terms and conditions set forth in the JPMORGAN Liquidity Facility, to provide liquidity for the payment of principal on maturing Notes. In accordance with the terms thereof, the JPMORGAN Liquidity Facility provides for advances of up to \$150,000,000 for payment of unpaid principal of the Notes at the stated maturity thereof, as such amount may be terminated and reduced pursuant to the terms of the JPMORGAN Liquidity Facility (the "Commitment").

The JPMORGAN Liquidity Facility is set to expire on the earliest of (i) [August 23], 2021, as such date may be extended pursuant to the terms of the JPMORGAN Liquidity Facility, (ii) the date on which the Commitment has been reduced to zero pursuant to the terms of the JPMORGAN Liquidity Facility, or (iii) the date on which the JPMORGAN Liquidity Facility is replaced with an alternate credit or liquidity facility entered into to support the Notes in accordance with the terms and provisions of the Note Ordinance (the earliest of (i), (ii) or (iii), the "Commitment Termination Date").

### **Events of Default**

Each of the following events shall constitute an "Event of Default" under the JPMORGAN Liquidity Facility:

- (a) (1) the City shall fail to pay (i) any principal of or interest on any Notes when due, (ii) any principal of or interest on any Loan (as defined in the JPMORGAN Liquidity Facility) or Bank Note (as defined in the JPMORGAN Liquidity Facility) when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) (other than payments on Loans or Bank Note due solely as a result of acceleration caused by the Bank, or (iii) when due any Facility Fee (as defined in the JPMORGAN Liquidity Facility) or any other amount payable under the JPMORGAN Liquidity Facility and, in the case of such Facility Fee or other amount, such failure shall continue for a period of three (3) Business Days (as defined in the JPMORGAN Liquidity Facility) from the date such obligation was due or (2) the City or LES, as applicable, fails to pay, or cause to be paid, when due any other Obligation (as defined in the JPMORGAN Liquidity Facility) (other than the Obligations described in clause (1) of this paragraph);

(b) any representation, warranty or statement made by or on behalf of the City and/or LES (as defined in the JPMORGAN Liquidity Facility) or in any Related Document (as defined in the JPMORGAN Liquidity Facility) to which the City and/or LES is a party or in any certificate delivered pursuant thereto shall prove to be untrue in any material respect on the date as of which made or deemed made; or the documents, certificates or statements of the City and/or LES (including unaudited financial reports, budgets, projections and cash flows of the City and/or LES) furnished to the Bank by or on behalf of the City and/or LES in connection with the transactions contemplated by the JPMORGAN Liquidity Facility, when taken as a whole, are materially inaccurate in light of the circumstances under which they were made and as of the date on which they were made;

(c) the City and/or LES, as applicable, fails to perform or observe any term, covenant or agreement contained in Sections 6.02, 6.06, 6.08, 6.11, 6.12, 6.13, 6.17, 6.20, 6.21, 6.22, 6.23, 6.24, 6.25, 6.27, 6.28, 6.31, 6.34, 6.37, 6.42(b), 6.42(c), and 8.14 of the JPMORGAN Liquidity Facility;

(d) the City and/or LES, as applicable, shall fail to perform or observe any other covenant, agreement, or condition (other than those referred to or contained in clause (a), (b), or (c) above) contained in the JPMORGAN Liquidity Facility, the Bank Note or any other Related Document and such failure, if capable of being remedied, shall remain unremedied for thirty (30) days after the earlier to occur of (i) written notice thereof shall have been given to the City or LES by the Bank or (ii) the date on which such failure shall first become known to the City or LES;

(e) one or more final unappealable judgments or orders, issued or rendered by a Governmental Authority (as defined in the JPMORGAN Liquidity Facility) of competent jurisdiction, for the payment of money from Revenues (as defined in the JPMORGAN Liquidity Facility) in excess of \$5,000,000, individually or in the aggregate, shall be issued or rendered against the City or LES, and such judgment or order shall continue unsatisfied, unbonded, undismissed and unstayed for a period of sixty (60) days;

(f) (i)(A) either of the City or LES shall fail to pay when due and payable any principal of or interest on any Specified Debt (as defined in the JPMORGAN Liquidity Facility) (including, in each case, without limitation, any principal or sinking fund installments, but excluding, in each case, (I) payments due on Specified Debt owing to a liquidity provider under a liquidity facility solely as a result of acceleration caused by such liquidity provider with respect to such Specified Debt and (II) any Specified Debt which is in the form of commercial paper notes which are supported as to the payment of principal and/or interest thereof by a credit enhancement or liquidity facility if such failure to make such payment is due solely to the failure of the related credit enhancement or liquidity facility provider to make such payment), and such failure shall continue beyond any applicable period of grace specified in any underlying indenture, contract or instrument providing for the creation of or concerning such Specified Debt; or (B) any other default under any indenture, contract or instrument providing for the creation of or concerning such Specified Debt, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such default or event is to cause such Debt (as defined in the JPMORGAN Liquidity Facility) to become due, or permit the holder of such Debt to cause such Debt to become due, prior to its stated maturity; (ii) the City or LES shall fail to pay when due and payable any principal of or interest on any of Senior Lien Debt (as defined in the JPMORGAN Liquidity Facility) other than as described in the foregoing clause (i) (including, in each case, without limitation, any principal or sinking fund installments), and such failure shall continue beyond any applicable period of grace specified in any underlying indenture, contract or instrument providing for the creation of or concerning such Senior Lien Debt; or any other default under any indenture, contract or instrument providing for the creation of or concerning such Senior Lien Debt, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such default or event is to cause such Senior Lien Debt to become due, or permit the holder of such Senior Lien Debt to cause such Senior Lien Debt to become due, prior to its stated

maturity; or (iii) (A) the City or LES shall fail to pay when due and payable any principal of or interest on any Debt of the City or LES payable from Revenues other than as described in clause (i) and (ii) above having a principal amount in excess of \$5,000,000 and such failure shall continue beyond any applicable period of grace specified in any underlying indenture, contract or instrument providing for the creation thereof, or (B) any other default under any indenture, contract or instrument providing for the creation of or concerning such other Debt payable from Revenues, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such default or event is to cause such Debt to become due, or permit the holder of such Debt to cause such Debt to become due, prior to its stated maturity;

(g) (i) the City or LES shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, marshaling of assets, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts or (B) seeking appointment of a receiver, trustee, examiner, liquidator, custodian or other similar official for it or for all or any substantial part of its assets, or the City or LES shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the City or LES any case, proceeding or other action of a nature referred to in clause (i) above which (x) results in an order for such relief or in the appointment of a receiver, trustee, examiner, liquidator, custodian or similar official or (y) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced against the City or LES, any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) the City or LES shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above or fail to contest in good faith any such appointment or proceeding; or (v) the City or LES shall admit in writing its inability to pay its debts generally as they become due, or shall become insolvent within the meaning of Section 101(32) of the United States Bankruptcy Code;

(h) (i) any provision of applicable law or the JPMORGAN Liquidity Facility, the Notes, the Bank Note, the Issuing and Paying Agent Agreement (as defined in the JPMORGAN Liquidity Facility), the Note Ordinance or any other Related Document related to the payment of principal or interest on the Notes, Bank Note or Loans or the pledge of and Lien (as defined in the JPMORGAN Liquidity Facility) on the Net Revenues (as defined in the JPMORGAN Liquidity Facility) or the Security shall at any time for any reason cease to be valid and binding or fully enforceable on the City or LES or shall be declared to be null and void, invalid or unenforceable as determined by any Governmental Authority of competent jurisdiction in a final nonappealable judgment or as a result of any legislative or administrative action by any Governmental Authority having jurisdiction over the City or LES, (ii)(a) the validity or enforceability of any provision of applicable law or the JPMORGAN Liquidity Facility, the Notes, the Bank Note, the Issuing and Paying Agent Agreement, the Note Ordinance or any other Related Document related to the payment of principal or interest on Notes, the Bank Note or Loans or the pledge of and Lien on the Net Revenues or the Security shall be publicly repudiated or repudiated in writing or publicly contested or contested in writing by the City or LES, (b) any Governmental Authority having appropriate jurisdiction over the City or LES shall make a finding or ruling or shall enact or adopt legislation or issue an executive order or enter a judgment or decree which contests the validity or enforceability of any material provision of the JPMORGAN Liquidity Facility, the Notes, the Bank Note, the Issuing and Paying Agent Agreement, the Note Ordinance or any other Related Document related to the payment of principal or interest on the Notes, Bank Note or Loans or the pledge of and Lien on the Net Revenues or the Security, or (c) an authorized representative of the City or LES shall publicly deny or deny in writing that it has any or further liability or obligation under the JPMORGAN Liquidity Facility, Notes, the Bank Note,

the Issuing and Paying Agent Agreement, the Note Ordinance or any other Related Document (other than the Fee Letter (as defined in the JPMORGAN Liquidity Facility), the Offering Memorandum (as defined in the JPMORGAN Liquidity Facility), the Dealer Agreement (as defined in the JPMORGAN Liquidity Facility) or any exhibit or schedule to any of the Related Documents), or (iii) any material provision of the JPMORGAN Liquidity Facility, Notes, the Bank Note, the Issuing and Paying Agent Agreement, the Note Ordinance or any other Related Document other than a provision described in clause (i) and (ii) under this “Events of Default” subheading paragraph (h) shall at any time for any reason cease to be valid and binding on the City or LES, or shall be declared in a final nonappealable judgment by any court having jurisdiction over the City or LES to be null and void, invalid, or unenforceable, or the validity or enforceability thereof shall be denied or contested by the City or LES;

(i) (i) the City or LES shall impose a debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction on the repayment when due and payable of the principal of or interest on any Specified Debt (including, without limitation, the Notes, the Bank Note or the Loans) or (ii) any Governmental Authority having appropriate jurisdiction over the City or LES shall impose as a result of a finding, ruling or other determination or shall enact or adopt legislation or issue an executive order or enter a judgment or decree which results in a debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction on the repayment when due and payable of the principal of or interest on (A) the Notes, the Loans or Bank Note, (B) all of the City’s or LES’s Senior Lien Debt, or (C) all of the City’s or LES’s Debt;

(j) (i) the long-term unenhanced rating by any of Moody’s, S&P or Fitch (in each case to the extent such Rating Agency is then providing a rating) on any Senior Lien Debt shall be withdrawn or suspended (for credit related reasons) or reduced below “Baa3” (or its equivalent), “BBB-” (or its equivalent) or “BBB-” (or its equivalent) respectively, or (ii) the long-term unenhanced ratings by Moody’s, S&P and Fitch (in each case to the extent such Rating Agency is then providing a rating) on (A) the Bonds or (B) any Parity Lien Obligations (as defined in the JPMORGAN Liquidity Facility) (to the extent then rated by Moody’s, S&P and Fitch), shall be withdrawn or suspended (in either case, for credit related reasons) or reduced below “Baa3” (or its equivalent), “BBB-” (or its equivalent) and “BBB-” (or its equivalent);

(k) an “*Event of Default*” as defined in the Note Ordinance, the JPM Note Purchase Agreement or the Issuing and Paying Agent Agreement shall occur and be continuing or the City or LES shall default in the due performance or observance of any material term, covenant or agreement contained in any other Related Document and the same shall not have been cured within any applicable cure period;

(l) (A) (i) the City, LES or any Governmental Authority shall impose a debt moratorium, debt restructuring, debt adjustment or comparable extraordinary restriction on the repayment when due and payable of the principal of or interest on any indebtedness of the City or LES other than as set forth under this “Events of Default” subheading paragraph (i); or (ii) there shall be appointed or designated with respect to the City or LES an entity such as an organization, board, commission, authority, agency or body to monitor or declare a financial emergency or similar state of financial distress with respect to the City or LES, or there shall be declared by the City or LES or by any legislative or regulatory body with competent jurisdiction over the City or LES, the existence of a state of financial emergency or similar state of financial distress in respect of the City or LES; or (B) the City or LES shall not pay, or be unable to pay, its debts generally as they become due;

(m) dissolution or termination of the existence of the City or LES; or

(n) a court of competent jurisdiction has found any of the Senior Lien Debt to have been issued illegally or in violation of the additional debt test in the related ordinance or resolution.

## Remedies

Upon the occurrence of any Event of Default, other than an Event of Default specified in paragraph (g) above, the Bank may declare the Bank Note and the Loans, all accrued interest thereon, and all other amounts payable under the JPMORGAN Liquidity Facility to be forthwith due and payable, whereupon the Bank Note and the Loans and such interest and all such amounts shall become and be forthwith due and payable without presentment, demand, protest or further notice of any kind, all of which are expressly waived by the City and LES. If any Event of Default specified in paragraph (g) above shall occur, without any notice to the City or LES or any other act by the Bank, the Bank Note and the Loans, together with accrued interest thereon, and all other amounts payable under the JPMORGAN Liquidity Facility, shall become forthwith due and payable, without presentment, demand, protest, or other notice of any kind, all of which are waived by the City and LES.

Upon the occurrence of any Special Event of Default described in clause (a)(i), (e), (f)(i)(A), (g), (h)(i), (i), (j) (ii) of (m) (each a “Special Event of Default”), (i) the Commitment shall automatically and immediately terminate with respect to all Notes and the Bank shall have no obligation to make any Loan or to fund any outstanding Note, and (ii) the Bank shall use commercially reasonable efforts to deliver a Notice of Termination (as defined in the JPMORGAN Liquidity Facility) to the Issuing and Paying Agent and the Dealer (as defined in the JPMORGAN Liquidity Facility); *provided, however*, that the failure to do so shall in no way affect the automatic and immediate termination of the Commitment under the JPMORGAN Liquidity Facility.

Upon the occurrence of an Event of Default that is not a Special Event of Default, the Bank may, by notice to the Borrower, terminate the Commitment, if any (except as provided below), deliver a Stop Notice to the Borrower and to the Issuing and Paying Agent directing the Issuing and Paying Agent to cease issuing all Notes, whereupon no additional Notes shall be issued, the Available Commitment shall immediately be reduced to the then outstanding principal amount of Notes plus the amount of interest to accrue on such outstanding Notes, and the Available Commitment shall be further reduced in a similar manner as and when such Notes mature; *provided* that the Commitment shall not terminate, and the right of the Bank to accelerate the maturity of the Bank Note and the Loans shall not effect the obligation of the Bank to make Loans in an aggregate principal amount equal to the Commitment to the extent necessary for the Borrower to make required payments of principal on the Notes issued and sold prior to the date upon which the Stop Notice is received by the Issuing and Paying Agent; *provided further* that if any Loans are made that would not have been made but for the application of the immediately preceding provision, such Loans shall be immediately due and payable on the date such Loans are made.

Upon the occurrence of an Event of Default under clause (ii) of paragraph (h) or Default under clause (g) (ii) or (g) (iii) above, under the subheading “Events of Default”, the obligation of the Bank to make Loans under the JPMORGAN Liquidity Facility shall be suspended from the time of the occurrence of such Event of Default until a final, non appealable judgment of a court having jurisdiction in the premises shall be entered declaring that all contested provisions of the JPMORGAN Liquidity Facility, the Notes, the Bank Note, the Issuing and Paying Agent Agreement, the Note Ordinance or any other Related Document relating to the payment of principal or interest on the Notes, the Bank Note or any Loans or the validity or enforceability of the pledge of and lien on the Security are upheld in their entirety. In the event a judgment is entered declaring that all material contested provisions of the JPMORGAN Liquidity Facility, the Notes, the Bank Note, the Issuing and Paying Agent Agreement, the Note Ordinance and any other Related Document relating to the payment of principal or interest on the Notes, the Bank Note or any Loans or the validity or enforceability of the pledge of and lien on the Security are upheld in their entirety, the obligation of the Bank to make Loans under the JPMORGAN Liquidity Facility shall be automatically reinstated and the terms of the JPMORGAN Liquidity Facility will continue in full force and effect (unless the JPMORGAN Liquidity Facility shall have

otherwise expired or terminated in accordance with the terms or there has occurred a Special Event of Default) as if there had been no suspension. In the event any provision of the JPMORGAN Liquidity Facility, the Notes, the Bank Note, the Issuing and Paying Agent Agreement, the Note Ordinance or any other Related Document relating to the payment of principal or interest on the Notes, the Bank Note or any Loans or the validity or enforceability of the pledge of and lien on the Security is declared to be null and void or unenforceable, or it is determined that the City and LES has no liability or obligation under the JPMORGAN Liquidity Facility, the Notes, the Bank Note, the Issuing and Paying Agent Agreement, the Note Ordinance or any other Related Document, then the obligations of the Bank under the JPMORGAN Liquidity Facility will terminate. Notwithstanding the foregoing, if, upon the date which is the earlier of the Commitment Termination Date (as defined in the JPMORGAN Liquidity Facility) or one (1) year after the effective date of such suspension of the obligation of the Bank pursuant to this paragraph, litigation is still pending and a judgment regarding the validity and enforceability the JPMORGAN Liquidity Facility, the Notes, the Bank Note, the Issuing and Paying Agent Agreement, the Note Ordinance or any other Related Document relating to the payment of principal or interest on the, the Bank Note or any Loans or the validity or enforceability of the pledge of and lien on the Security as is the subject of such Event of Default has not been obtained, then the Commitment and the obligation of the Bank to make Loans under the JPMORGAN Liquidity Facility shall at such time terminate without notice or demand.

Upon the occurrence of an Event of Default under clause (ii) of paragraph (g) under the subheading “Events of Default” above or clause (iii) of paragraph (g) under the subheading “Events of Default” above, the obligation of the Bank to make Loans under the JPMORGAN Liquidity Facility shall be suspended until the proceeding referred to therein is terminated prior to the court entering an order granting the relief sought in such proceeding. In the event such proceeding is terminated, the obligation of the Bank to make Loans under the JPMORGAN Liquidity Facility shall be reinstated and the terms of the JPMORGAN Liquidity Facility will continue in full force and effect (unless the obligation of the Bank to make Loans under (as defined in the JPMORGAN Liquidity Facility) shall have otherwise expired or terminated in accordance with the terms or there has occurred a Special Event of Default) as if there had been no such suspension.

Failure to take action in regard to one or more Events of Default shall not constitute a waiver of, or the right to take action in the future in regard to, such or subsequent Events of Default.

## **THE LIQUIDITY FACILITY AND THE NOTE ORDINANCE**

The Note Ordinance provides that the Liquidity Facility may be reduced or replaced under specified circumstances, as follows:

CP Notes may be executed or delivered under the Note Ordinance from time to time with or without the support of a Liquidity Facility; provided, however that the aggregate principal amount of CP Notes which may be Outstanding at any time shall not exceed the amount available under the Liquidity Facility in effect for such CP Notes. To the extent that the payment of principal of and interest on Notes is supported, in whole or in part, by a Liquidity Facility, the amount available pursuant to such Liquidity Facility to pay principal of and interest on such Notes, may be reduced, in whole or in part, without the consent of the Holders of such Notes, provided that if any Rating Agency shall have a rating then in effect for such Notes, the City shall have received written confirmation from each such Rating Agency that such reduction, in and of itself, shall not adversely affect the then-current rating on such Notes.

In addition, to the extent that the payment of principal of Notes is supported, in whole or in part, by a Liquidity Facility, the City may replace such Liquidity Facility with a substitute Liquidity Facility provided by a substitute Liquidity Provider, provided that, (a) notice of such substitution shall be provided to the Holders of the Notes supported by such Liquidity Facility not less than 15 days prior to such substitution, and (b) if any Rating Agency shall have a rating then in effect for such Notes, either (i) the City shall have received written confirmation from each such Rating Agency that such action, in and of itself, shall not adversely affect the then-current rating on such Notes or (ii) such substitution occurs on a

date on which all of the Notes supported by such Liquidity Facility mature.

### **LIQUIDITY PROVIDER**

Certain information concerning the Bank is attached hereto as Appendix F. The information contained in this Offering Memorandum relating to the Bank has been obtained from the Bank. The delivery of the Offering Memorandum shall not create any implication that there has been no change in the affairs of the Bank since the date hereof, or that the information contained or referred to in this Offering Memorandum is correct as of any time subsequent to its date.

### **FINANCIAL ADVISOR**

PFM Financial Advisors LLC (“PFM”), Philadelphia, Pennsylvania, is serving as financial advisor to LES. The financial advisor assisted in the preparation of this Offering Memorandum. PFM will not participate as an underwriter in any offer to purchase the Notes.

### **APPROVAL OF LEGAL PROCEEDINGS**

All legal matters incident to the authorization and issuance of the Notes were subject to the approval of Kutak Rock LLP, Omaha, Nebraska, Bond Counsel, whose approving opinion in connection with the issuance of the Notes in substantially the form attached hereto as Appendix D was delivered to the City on its date. Certain legal matters with respect to the City have passed upon by the Lincoln City Attorney and certain matters with respect to LES have passed upon by its General Counsel.

## TAX MATTERS

The following is a summary of the material Federal and State of Nebraska income tax consequences of holding and disposing of the Notes. This summary is based upon laws, regulations, rulings and judicial decisions now in effect, all of which are subject to change (possibly on a retroactive basis). This summary does not discuss all aspects of Federal income taxation that may be relevant to investors in light of their personal investment circumstances or describe the tax consequences to certain types of owners subject to special treatment under the Federal income tax laws (for example, dealers in securities or other persons who do not hold the Notes as a capital asset, tax-exempt organizations, individual retirement accounts and other tax deferred accounts, and foreign taxpayers), and, except for the income tax laws of the State of Nebraska, does not discuss the consequences to an owner under any state, local or foreign tax laws. The summary does not deal with the tax treatment of persons who purchase the Notes in the secondary market. Prospective investors are advised to consult their own tax advisors regarding Federal, state, local and other tax considerations of holding and disposing of the Notes.

### Opinion of Bond Counsel

In the opinion of Kutak Rock LLP, Bond Counsel, under the law existing as of the date of Bond Counsel's opinion:

***Federal and Nebraska Tax Exemption.*** The interest on the Notes is excludable from gross income for federal income tax purposes and is exempt from income taxation by the State of Nebraska.

***Alternative Minimum Tax.*** The interest on the Notes is not an item of tax preference for purposes of computing the federal alternative minimum tax imposed on individuals and corporations, but is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations.

***Bank Qualification.*** The Notes have not been designated as "qualified tax-exempt obligations" for purposes of Section 265(b) of the Code.

Bond counsel's opinion was provided as of June 4, 2014, subject to the condition that LES comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Notes in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. LES has covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause the inclusion of interest on the Notes in gross income for federal and State of Nebraska income tax purposes retroactive to the date of issuance of the Notes. Bond Counsel is expressing no opinion regarding other federal, state or local tax consequences arising with respect to the Notes but has reviewed the discussion under the heading "TAX MATTERS."

### Other Tax Consequences

***Sale, Exchange or Retirement of Notes.*** Upon the sale, exchange or retirement (including redemption) of a Note, an owner of the Note generally will recognize gain or loss in an amount equal to the difference between the amount of cash and the fair market value of any property received on the sale, exchange or retirement of the Note (other than in respect of accrued and unpaid interest) and such owner's adjusted tax basis in the Note. To the extent a Note is held as a capital asset, such gain or loss will be capital gain or loss and will be long-term capital gain or loss if the Note has been held for more than 12 months at the time of sale, exchange or retirement.

***Reporting Requirements.*** In general, information reporting requirements will apply to certain payments of principal, interest and premium paid on the Notes, and to the proceeds paid on the sale of the

Notes, other than certain exempt recipients (such as corporations and foreign entities). A backup withholding tax will apply to such payments if the owner fails to provide a taxpayer identification number or certification of foreign or other exempt status or fails to report in full dividend and interest income. The amount of any backup withholding from a payment to an owner will be allowed as a credit against the owner's federal income tax liability.

***Collateral Federal Income Tax Consequences.*** Prospective purchasers of the Notes should be aware that ownership of the Notes may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the Notes. Bond Counsel expresses no opinion regarding these tax consequences. Purchasers of Notes should consult their tax advisors as to the applicability of these tax consequences and other federal income tax consequences of the purchase, ownership and disposition of the Notes, including the possible application of state, local, foreign and other tax laws.

## **APPENDIX A**

### **GENERAL INFORMATION ON THE CITY**

To view the annual financial report for the City of Lincoln, [click here](#). The annual financial report of the City of Lincoln speaks only as of its date. No assurance can be given as to events occurring after such date.

## **APPENDIX B**

### **LES' ANNUAL REPORT AND OFFICIAL STATEMENT**

The auditor's report and financial statements are available in the LES Annual Report.

To view LES's Annual Report, [click here](#). The LES Annual Report speaks only as of its date, no assurance can be given as to the accuracy or completeness of information in the Annual Report after its date.

To view the most recent Official Statement, [click here](#). Official Statements of LES speak only as of their dates. No assurance can be given as to the accuracy or completeness of any Official Statement after its date.



**Lincoln Electric System**

**APPENDIX C**

**SUMMARY OF CERTAIN PROVISIONS OF THE NOTE ORDINANCE**

## SUMMARY OF CERTAIN PROVISIONS OF THE NOTE ORDINANCE

*The following is a summary of certain provisions of the Note Ordinance. Summaries of certain definitions contained in the Note Ordinance are set forth below. Other terms defined by the Note Ordinance for which summary definitions are not set forth below are indicated by capitalization. Generally, capitalized terms used but not defined in the Note Ordinance have the meanings assigned to such terms in the Bond Ordinance. The summary does not purport to be a complete description of the Note Ordinance and, accordingly, is qualified by reference thereto and is subject to the full text thereof. Copies of the Note Ordinance may be obtained from the Lincoln Electric System or its Financial Advisor.*

### **Definitions**

The following are summaries of certain definitions in the Note Ordinance.

“*Act*” means Sections 15-244, 18-1750, 18-1803 to 18-1805, inclusive, Reissue Revised Statutes of Nebraska, as amended, and Section 44 of Article IX of the Charter of the City, as each may be amended from time to time.

“*Administrator*” means the Administrator and Chief Executive Officer of Lincoln Electric System appointed by the Board and approved by the Mayor and Council pursuant to Section 4.24.010 of the Lincoln Municipal Code and shall include any person designed by the Administrator to act on his or her behalf with respect to the Administrator’s duties, Note or responsibilities under the Note Ordinance.

“*Advance*” means a loan made under and subject to the conditions set forth in a Liquidity Facility.

“*Authorized Denominations*” means, with respect to Notes, \$100,000 and any integral multiple of \$1,000 over such amount.

“*Bond Counsel*” means Gilmore & Bell, P.C. or any other attorney or firm of attorneys designated by the Board having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103, 141 and 150 (or any successor provisions of the Code).

“*Bond Ordinance*” means Ordinance No. 17879 of the City, as the same shall be amended and supplemented from time to time.

“*Business Day*” means any day other than (1) a Saturday, Sunday or a day on which the Federal Reserve Banks or the banking institutions in the State or the State of New York are authorized or obligated by law or executive order to be closed, (2) for purposes of payments and other actions relating to a Liquidity Facility, a day upon which commercial banks in the city in which is located the office of the Liquidity Facility Provider at which demands for payment under the credit document with respect to such Liquidity Facility are to be presented are authorized or obligated by law or executive order to be closed, and (3) a day on which the New York Stock Exchange is closed.

“*Code*” means the Internal Revenue Code of 1986, as amended, including regulations, rulings and judicial decisions promulgated thereunder.

“*Council*” means the City Council, as governing body, of the City.

“*Dealer*” means any dealer and co-dealer, if any, appointed by the City with respect to a series of Notes or any successor, alternate or additional dealer or co-dealer with respect to such series of Notes for which such dealer and co-dealer, if any, were appointed.

“*Dealer Agreement*” means collectively, each dealer agreement between a Dealer and the City or any similar agreement between the City and any successor, alternate or additional Dealer.

“*Events of Default*” mean the events of default specified in Section 7.01 of the Note Ordinance.

“*Fitch*” means Fitch Ratings, and its successors and assigns, or, if such firm shall be dissolved or liquidated or shall no longer perform the functions of a securities rating service, Fitch means any other nationally recognized securities rating service designated by the City, with notice to the Liquidity Provider, if any, the Issuing and Paying Agent, if any, and the Registrar, if any.

“*Holder*” means any person, firm, association, or corporation (a) who is the beneficial owner of any Note, (b) in whose name any Note is registered, or (c) who is in possession of any Note drawn, issued or endorsed to such person, firm, association or corporation or to the order of such person, firm, association or corporation or to bearer or in blank.

“*Issuing and Paying Agency Agreement*” means the Issuing and Paying Agency Agreement between the Paying Agent with respect to a series of Notes and the City or any similar agreement between the City and any successor or substitute Paying Agent.

“*Liquidity Facility*” means a liquidity or credit facility provided with respect to a series of Notes or such other liquidity or credit facility provided in lieu thereof.

“*Liquidity Provider*” means any commercial bank, other financial institution, or other institution issuing a Liquidity Facility then in effect in its capacity as issuer of that Liquidity Facility.

“*Maximum Interest Rate*” means the maximum interest rate, if any, then permitted by the Constitution and the laws of the State of Nebraska, and the City’s Home Rule Charter applicable to any series of Notes. As of the date of adoption of the Note Ordinance, no such maximum interest rate was specified by the Constitution and the laws of the State of Nebraska, and the City’s Home Rule Charter.

“*Moody’s*” means Moody’s Investors Services, Inc., and its successors and assigns, or, if such firm shall be dissolved or liquidated or shall no longer perform the functions of a securities rating service, Moody’s means any other nationally recognized securities rating service designated by the City, with notice to the Liquidity Provider, if any, the Issuing and Paying Agent, if any, and the Registrar, if any.

“*Note*” means any Note of the City issued pursuant to the provisions of the Note Ordinance.

“*Note Construction Fund*” means the fund of that name established pursuant to Section 5.04 of the Note Ordinance.

“*Opinion of Bond Counsel*” means an unqualified opinion of Bond Counsel to the effect that interest on the applicable Notes is excludable from income for purposes of federal income taxation.

“*Outstanding*” when used as of any particular time with reference to the Notes means all the Notes theretofore issued and delivered by the City under the Note Ordinance except:

(a) Notes theretofore cancelled by the Registrar or the Paying Agent for such series of Notes or surrendered to the Registrar or such Paying Agent for cancellation;

(b) Notes with respect to which all liability of the City shall have been discharged in accordance with Section 10.02 of the Note Ordinance; and

(c) Notes in lieu of or in substitution for, which other Notes have been issued and delivered by the Registrar or the Paying Agent pursuant to the terms of the Note Ordinance.

“*Paying Agent*” means the Issuing and Paying Agent with respect to a series of Notes appointed by the City pursuant to the provisions of the Note Ordinance or any successor or substitute Paying Agent.

“*Payment Fund*” means the fund of that name established pursuant to the Note Ordinance.

“*Principal Office*” means, with respect to any entity performing functions under the Note Ordinance, the principal office of that entity at which those functions are performed.

“*Project Costs*” means all capital costs and expenses authorized to be incurred under the Act to be payable from the proceeds of the Notes.

“*Rating Agencies*” means any or all of Moody’s, Standard & Poor’s and Fitch and/or such other securities rating agencies providing a rating with respect to the Notes.

“*Registrar*” means the Registrar and Paying Agent or any other commercial bank or trust institution organized under the laws of any state of the United States of America or any national banking association designated by the Administrator pursuant to the provisions of the Note Ordinance as registrar and paying agent for a series of Notes at which the principal of and redemption premium, if any, and interest on such Notes shall be payable.

“*Registrar Agreement*” means any Note Registrar and Paying Agent Agreement between the Registrar with respect to a series of Notes and the City or any similar agreement between the City and any successor or substitute Registrar.

“*Revolving Note*” means any promissory note or notes issued pursuant to the provisions of the Note Ordinance and a Liquidity Facility, having the terms and characteristics contained therein and issued in accordance therewith.

“*S&P*” means Standard & Poor’s Ratings Service, a division of the McGraw-Hill Companies, and its successors and assigns, or, if such firm shall be dissolved or liquidated or shall no longer perform the functions of a securities rating service, S&P means any other nationally recognized securities rating service designated by the City, with notice to the Liquidity Provider, if any, the Issuing and Paying Agent, if any, and the Registrar, if any.

“*Taxable Notes*” means Notes, the interest on which is includable in gross income for federal income tax purposes.

“*Tax-Exempt Notes*” means Notes, the interest on which is excludable from gross income for federal income tax purposes pursuant to the Note Ordinance.

“*Working Capital Costs*” means all expenses or any other costs which are not Project Costs authorized to be incurred under the Constitution and laws of the state of Nebraska which are payable from the proceeds of Notes.

References to the Liquidity Provider, a Revolving Note or a Liquidity Facility shall only be operative with respect to a specific Note if a Liquidity Facility is then in effect with respect to a series of Notes.

### **Authorization of Notes**

At any time after the passage, approval and effective date of the Note Ordinance, the City may execute and the Registrar or the Paying Agent, as shall be appropriate, shall manually authenticate and deliver Notes in one or more series in an aggregate principal amount not to exceed One Hundred Fifty Million Dollars (\$150,000,000) at any one time outstanding for the purpose of financing Project Costs and Working Capital Costs, and to refinance, renew or refund Notes and Advances issued or incurred pursuant to the provisions of the Note Ordinance, and Revolving Notes are authorized to be issued in an aggregate principal amount not to exceed One Hundred Fifty Million Dollars (\$150,000,000) at any one time Outstanding for the purpose of evidencing Advances to refinance, renew or refund Notes; all in accordance with and subject to the terms, conditions and limitations contained in the Note Ordinance and, with respect to a Revolving Note or any Liquidity Facility; provided, however, in no event may the total aggregate principal amount of the Notes and Revolving Notes at any one time Outstanding exceed One Hundred Fifty Million Dollars (\$150,000,000).

Subject to the covenants, provisions and conditions contained in the Note Ordinance, the City may, but is not required to, secure any Notes with a Liquidity Facility in accordance with the provisions of the Note Ordinance.

### **Terms of the Notes; Sale of the Notes**

The Notes shall be issued in Authorized Denominations, bear interest, if any, at such rate or rates or determined in such manner and payable on such dates as may be determined by the Administrator in accordance with the provisions of the Note Ordinance, not to exceed the Maximum Interest Rate.

Notes be issued and sold and delivered from time to time in one or more series and in such principal amounts as determined by the Administrator in accordance with the provisions of the Note Ordinance in Authorized denominations, numbered in such manner as the Paying Agent with respect to such series of Notes shall determine and to mature and become due and payable on such dates as shall be determined by the Administrator at the time of sale; provided, however, that no Note shall have a term in excess of two hundred seventy (270) days or a maturity later than (i) the Business Day prior to the termination date of the Liquidity Facility, if a Liquidity Facility is in effect with respect to such Note, or (ii) the Final Maturity Date.

The Notes are not subject to redemption prior to maturity.

Both principal of and interest on each series of Notes shall be payable in lawful money of the United States of America, without exchange or collection charges; the principal thereof to be payable upon presentation and surrender of such Notes at the Principal Office of the Paying Agent for such series of Notes and interest thereon shall be payable only upon presentation of such Notes at the Principal Office of such Paying Agent.

The City and any Paying Agent may treat the Holder as the absolute owner of any Note for the purpose of receiving payment thereof and for all purposes, and the City and each Paying Agent shall not be affected by any notice or knowledge to the contrary.

### **Interest on Notes; Determination of Rates**

Interest, if any, on (i) a Note shall be payable at the maturity of such Note with the principal thereof. Subject to the limitations contained in the Note Ordinance, the Notes therein authorized shall be dated as of their date of issuance or prior thereto; shall bear no interest or bear interest at such rate or rates per annum (but in no event in any case to exceed the lesser of sixteen percent (16.00%) or the Maximum Interest Rate in effect on the date of issuance thereof) as may be determined by the Administrator, computed on (i) the basis of actual days elapsed and on a 365-day or 366-day year whichever is applicable if the interest on such Note is tax- exempt, or (ii) the basis of actual days elapsed and on a 360-day year if the interest on such Note is taxable.

### **Method and Place of Payment of Notes**

The Paying Agent designated by the Administrator with respect to a series of Notes is designated in the Note Ordinance as the City's paying agent for the payment of the principal of and interest on such Notes.

The principal of and interest on the Notes shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts.

The principal of all Notes of a series shall be payable at maturity or upon earlier redemption (i) by electronic transfer in immediately available funds, if the Notes are held by a Securities Depository, or (ii) by check or draft to the Person in whose names such are registered on the register maintained by the Paying Agent for such series of Notes at the maturity or redemption date thereof, upon the presentation and surrender of such Notes at the Principal Office of such Paying Agent.

### **Registration, Transfer and Exchange of Notes**

Each Paying Agent appointed with respect to a series of Notes will keep or cause to be kept at its designated office sufficient books for the registration and transfer of such series of Notes issued in registered form, which shall at all times be open to inspection during normal business hours by the City; and, upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such books, Notes as hereinbefore provided.

Any Note, may, in accordance with its terms, be transferred, upon the Register required to be kept pursuant to the provisions of the Note Ordinance by the Person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Notes for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form approved by the Paying Agent with respect to such Note.

Whenever any Note shall be surrendered for transfer, the City shall execute and the Paying Agent for such Note shall authenticate and deliver a new Note for a like aggregate principal amount. Such Paying Agent may require the Holder requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer.

Notes may be exchanged at the Principal Office of the Paying Agent appointed with respect to such series of Notes for a like aggregate principal amount of Notes of other authorized denominations of the same Series, tenor and maturity. Such Paying Agent shall require the Holder requesting such exchange to pay any tax or other governmental charge required to be paid with respect to such exchange.

Each Paying Agent will keep or cause to be kept at its designated office sufficient books for the registration and transfer of the Notes for which it has responsibility, which shall at all times be open to inspection during normal business hours by the City or the Board; and, upon presentation for such purpose, each Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such books, Notes as hereinbefore provided.

The Person in whose name any Note shall be registered on the Register for such Note shall be deemed and regarded as the absolute owner of such Note for all purposes, and payment of or on account of the principal of and interest on any such Note shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

At reasonable times and under reasonable regulations established by the appropriate Paying Agent or the appropriate Registrar, the Register maintained by such Paying Agent or Registrar may be inspected and copied by the City or by the Holders (or a designated representative thereof) of 10% or more in principal amount of the series of Notes then Outstanding for which such Paying Agent or Registrar has been appointed, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of such Paying or such Registrar.

### **Proceeds of Sale of Notes**

The proceeds of the sale of the Notes (net of all expenses and costs of sale and issuance) shall be applied for any or all of the following purposes as directed by the Administrator (or his designee):

- (i) Proceeds to be used for the payment or refunding of Outstanding Notes shall be deposited in the Note Payment Fund, and expended therefor in accordance with the provisions of the Note Ordinance;
- (ii) Proceeds of Notes issued to pay Project Costs shall be transferred and deposited to the Note Construction Fund and, if such Notes are Tax-Exempt Notes, such proceeds shall be deposited in the appropriate account within the Note Construction Fund, and used and applied in accordance with the provisions of the Note Ordinance; and
- (iii) Proceeds of Notes issued to pay Working Capital Costs shall be transferred and deposited to the Operating Note Fund and, if such Notes are Tax-Exempt Notes, such proceeds shall be deposited in the appropriate account within the Operating Note Fund, and used and applied in accordance with the provisions of the Note Ordinance.

### **Proceeds of Advances**

The proceeds of Advances with respect to Notes shall be deposited in the Account in the Note Payment Fund and expended for the repayment of Outstanding Notes in accordance with the provisions of the Note Ordinance.

## **Note Payment Fund**

There is, in the Note Ordinance, established with each Paying Agent for a series of Notes, an appropriately designated Account in the Note Payment Fund. Balances in the relevant account in the Note Payment Fund shall be used solely to pay principal of and interest on Notes and for the repayment of any Advances (evidenced by a Revolving Note). Pending the expenditure of moneys in such account in the Note Payment Fund for authorized purposes, moneys deposited in said account may be invested at the direction of the Administrator (or his designee) in such investments as are authorized investments for funds of the City at the time of investment thereof. Until such time as such Paying Agent receives an investment direction from the Administrator (or his designee), such Paying Agent shall, without further direction or authorization, invest all such moneys only in such investments as such Paying Agent shall determine. Any income received from such investments shall be credited to the relevant account in the Note Payment Fund out of which such investments were made.

To the extent the Notes are not to be paid from the proceeds of other Notes or Advances or the other sources provided in the Note Ordinance and to the extent required for repayment of a Revolving Note, the City, subject to the provisions described in this Offering Memorandum under the heading "SECURITY FOR THE NOTES—Security and Sources of Payment for the Notes," shall make payment from such amounts as may from time to time be available for the purpose thereof in the Electric Revenue Fund established by the Bond Ordinance (the "Electric Revenue Fund") into the CP Account in the Payment Fund, of amounts sufficient to pay principal of and interest on the Notes and any Revolving Notes as the same become due; provided, however, that any such payment shall be subordinated in all respects to the payments -made into the Bond Fund and the Bond Reserve Fund established by the Bond Ordinance. Such transfers into any such account in the Payment Fund shall be made prior to and in preference over any other payments on Subordinated Indebtedness hereafter issued by the City payable from the Electric Revenue Fund.

## **Investment of Moneys in Funds and Accounts**

All moneys in any of the funds and accounts held by the City, any Registrar, or any Paying Agent and established pursuant to the Note Ordinance shall be invested solely in such investments (a) as are authorized investments for funds of the City at the time of investment thereof and (b) conform to the investment policy established from time to time by the Board maturing or available not later than the date on which it is estimated that such moneys will be required by the City, the Registrar or the Paying Agent.

The City, any Registrar and any Paying Agent may commingle any of the accounts established pursuant to the Note Ordinance and any other funds or accounts of the City into a separate fund or funds for investment purposes provided that all funds or accounts held by the City, the Registrar and the Paying Agent under the Note Ordinance shall be accounted for separately as required by the Note Ordinance. The City, any Registrar or any Paying Agent may sell at the best price obtainable, or present for redemption, any investment so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such investment is credited.

## **Covenants of the City**

The City covenants that it will duly and punctually pay or cause to be paid the principal of and interest on every Note issued under the Note Ordinance, on the date, at the place and in the manner mentioned in the Notes and in accordance with the Note Ordinance, and that payments into and transfers to the Payment Fund will be made, all in strict conformity with the terms of said Notes and of the Ordinance, and that it will faithfully observe and perform all of the conditions, covenants and requirements of the Note

Ordinance and all ordinances supplemental hereto and of the Notes issued under the Note Ordinance, and that time of such payment and performance is of the essence of the City's contract with the Holders.

The City covenants that it shall keep proper books of record and account.

The City further covenants that it will cause its books and accounts to be audited annually by an independent certified public accountant or firm of certified public accountants.

The City shall establish, maintain, revise and collect charges and rates for so long as any Note is Outstanding at least sufficient to provide for all costs associated with the ownership, operation, maintenance, renewal and replacement of the Electric System, the payment of the principal of and interest on all indebtedness (including the Notes incurred with respect to the Electric System) to maintain such coverage for the payment of such indebtedness as the City from time to time may deem advisable, to maintain such other reserves as may be provided in the Bond Ordinance and the Note Ordinance and to carry out all provisions of the Bond Ordinance and the Note Ordinance. Without limiting the generality of the foregoing, the charges and rates shall be so as to produce Revenues, together with other available funds, at least sufficient:

- (1) to pay all Operation and Maintenance Expenses;
- (2) to produce Net Revenues equal to an amount sufficient to pay the annual debt service due and payable in such Fiscal Year of the then Outstanding Notes and Parity Notes, including the Notes which are payable from and secured by the Net Revenues of the Electric System; and
- (3) to pay after deducting the amounts determined in (1) and (2) above, all other financial Notes of the Electric System reasonably anticipated to be paid from Revenues.

The Board will enforce the payment of any and all accounts owing to the City by reason of the ownership and operation of the Electric System by discontinuing such use, output, capacity, or service, or by taking such action as the Board shall determine in accordance with usual and customary business practice.

### **Events of Default; Remedies**

Each of the following events shall be an Event of Default under the Note Ordinance:

- (a) Default shall be made in the due and punctual payment of principal of any Note when and as the same shall become due and payable;
- (b) Default shall be made in the due and punctual payment of the interest on any Note and such default shall continue for a period of thirty (30) days after the due date for the payment of such interest;
- (c) Default under a Liquidity Facility shall occur as a result of a failure to make the due and punctual payment as required thereby or any other amounts due a Liquidity Provider;
- (d) Default shall be made by the City in the performance or observance of any other of the covenants, agreements or conditions on its part contained in the Note Ordinance or in the Notes, and such default shall continue for a period of sixty (60) days after written notice thereof; provided, however, if such default cannot be cured within the sixty (60) day period but corrective action to such default is commenced

and diligently pursued until the default is corrected, no such Event of Default shall be deemed to have occurred;

(c) The dissolution (without a successor being named to assume the rights and obligations) or liquidation of the City or filing by the City of a voluntary petition in bankruptcy, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceeding for its reorganization instituted under the provisions of the Bankruptcy Code, as amended, or under any similar act in jurisdiction which may now be in effect or hereafter enacted; or

(d) The entry of an order or decree with the consent or acquiescence of the City, appointing a receiver or receivers of the Electric System, or any part thereof, or of the rents, fees, charges or other revenues earned thereby, or if such order or decree, having been entered without the consent or acquiescence of the City, shall not be vacated or discharged or stayed within 90 days after the entry thereof.

In case one or more Events of Default shall occur, then and in every such case the Holder of any Note at the time Outstanding shall be entitled to proceed to protect and enforce such Holder's rights by such appropriate judicial proceeding as such Holder shall deem most effectual to protect and enforce any such right, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained in the Note Ordinance or in aid of the exercise of any power granted in the Note Ordinance, or to enforce any other legal or equitable right vested in the Holders of Notes by the Note Ordinance or the Notes or by law. The provisions of the Note Ordinance shall be a contract with each and every Holder of Notes and the duties of the City shall be enforceable by any Holder of the Notes by appropriate suit, action or proceeding in any court of competent jurisdiction.

No remedy conferred in the Note Ordinance upon or reserved to the Holders of Notes is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Note Ordinance or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised at any time or from time to time, and as often as may be necessary, by the Holder of any one or more of the Notes.

Nothing in the Note Ordinance or in the Notes shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the principal of and interest on the Notes to the respective Holders of the Notes at their respective dates of maturity, as provided in the Note Ordinance, but only out of the Net Revenues and other assets herein pledged in the Note Ordinance, and not otherwise, or affect or impair the right of such Holders, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Notes.

#### **Amendments or Modifications to Note Ordinance Without Consent of Holders of Notes**

The Note Ordinance and the rights and obligations of the City and of the Holders of the Notes may be modified or amended at any time by a Supplemental Ordinance, without notice to or the consent of the Holders of the Notes, but only to the extent permitted by law, and, subject to the rights of the Holders of the Notes, only for any one or more of the following purposes:

(a) to add to the covenants and agreements of the City contained in the Note Ordinance, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved in the Note Ordinance to or conferred upon the City; or

(b) to cure any ambiguity, or to cure or correct any defective provisions contained in the Note Ordinance, upon receipt by the City of an approving opinion of Bond Counsel selected by the Board, that the same is needed for such purpose, and will more clearly express the intent of the Note Ordinance; or

(c) to supplement the security for the Notes, or make such other changes in the provisions of the Note Ordinance as the Board and the City may deem necessary or desirable and which shall not materially adversely affect the interests of the Holders of the Notes or

(d) to increase the aggregate principal amount of Notes which may be Outstanding from time to time under the Note Ordinance; or

(e) to provide for any modification or amendment to this 2005 Short-Term Note Ordinance which will apply only to the Notes issued after the effective date of such modification amendment; provided, however, that nothing in the Note Ordinance contained shall permit or be construed to permit the amendment of the terms and conditions of the Note Ordinance or of the Notes so as to:

(i) Make any change in the maturity of any of the Outstanding Notes; Reduce the rate of interest borne by any of the Outstanding Notes;

(ii) Reduce the amount of the principal payable on any of the Outstanding Notes;

(iii) Modify the terms of payment of principal of or interest on the Outstanding Notes, or impose any conditions with respect to such payment;

(iv) Affect the rights of the Holders of less than all of the Outstanding Notes; or

(v) Reduce or restrict the pledge made pursuant the Note Ordinance for payment of the Notes; and provided, further, that no change, modification or amendment shall be made in the Note Ordinance or become valid and effective without the approval of such change, modification or amendment by the Liquidity Provider of any Liquidity Facility then in full force and effect, to the extent required by such Liquidity Facility, if any.

### **Discharge of Note Ordinance**

The Notes may be paid by the City, any Registrar or any Paying Agent on behalf of the City in any of the following ways:

(a) by paying or causing to be paid the principal of and interest on all Notes Outstanding, as and when the same become due and payable;

(b) by depositing with the City, each Registrar and each Paying Agent, as appropriate, appointed with respect to a series of Notes or a trustee or escrow agent in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 10.03 of the Note Ordinance) to pay when due or redeem all Notes then Outstanding; or

(c) by delivering to each Registrar and each Paying Agent, as appropriate, appointed with respect to a series of Notes for cancellation, all Notes then Outstanding.

If the City shall pay all Notes which are Outstanding and shall also pay or cause to be paid all other sums payable under the Note Ordinance by the City, including all other amounts due each Liquidity Provider under each Liquidity Facility, then and in that case at the election of the City (evidenced by a Certificate of the City filed with each Registrar and each Paying Agent signifying the intentions of the City to discharge all such indebtedness and the Note Ordinance), and notwithstanding that any Notes shall not have been surrendered for payment, the Note Ordinance and the pledge of Net Revenues and other assets made under the Note Ordinance and all covenants, agreements and other Notes of the City under the Note Ordinance shall cease, terminate, become void and be completely discharged and satisfied. In such event, upon the request of the City, any Registrar or any Paying Agent shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and shall execute and deliver to the City all such instruments as may be necessary to evidence such discharge and satisfaction, and such Registrar or such Paying Agent shall pay over, transfer, assign or deliver to the City all moneys or securities or other property held by it pursuant to the Note Ordinance which are not required for the payment or redemption of Notes not theretofore surrendered for such payment or redemption.

Upon the deposit with the City, each Registrar and each Paying Agent, as appropriate, appointed with respect to a series of Notes or a trustee or escrow agent, in trust, at or before maturity, of money or securities in the necessary amount (as provided below) to pay or redeem any Outstanding Note (whether upon or prior to its maturity), then all liability of the City in respect of such Note shall cease and be completely discharged, except only that thereafter the Holder thereof shall be entitled to payment of the principal of and interest on such Note by the City, the Registrar or the Paying Agent, as appropriate, appointed with respect to such Note or such trustee or escrow agent, and the City, the Registrar or the Paying Agent, as appropriate, appointed with respect to such Note or such trustee or escrow agent shall remain liable for such payments, but only out of such money or securities held by or deposited with the City, such Registrar or such Paying Agent, as appropriate, or such trustee or escrow agent as aforesaid for their payment.

The City may at any time cancel any Notes previously issued and delivered, which the City may have acquired in any manner whatsoever, and such. Notes, upon such cancellation, shall be deemed to be paid and retired.

Whenever in the Note Ordinance it is provided or permitted that there be deposited with or held in trust by the City, any Registrar or any Paying Agent, as appropriate, or a trustee or escrow agent money or securities in the necessary amount to pay or redeem any Notes, the money or securities so to be deposited or held may include money or securities held by the City, such Registrar or such Paying Agent, as appropriate, or such trustee or escrow agent in the funds and accounts established pursuant to the Note Ordinance and shall be:

(a) lawful money of the United States of America in an amount equal to the principal amount of such Notes and all unpaid interest thereon to maturity; or

(b) Notes backed by the full faith and credit of the United States of America the principal of and interest on which when due (without any income from the reinvestment thereof) will provide money sufficient to pay the principal of and all unpaid interest to maturity on the Notes to be paid as such principal and interest become due; or

(c) subject to approval under existing Board policy and certification by the City to the Registrar or the Paying Agent, as appropriate, appointed with respect to such

series of Notes that the requirements of this subsection (c) are satisfied, repurchase agreements of a term not to exceed 60 days of United States Treasury notes, bonds, bills or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest; provided that such investments in purchased securities shall be made only with primary dealers in governmental securities or financial institutions with a rating of B/C or better; provided further that investments in such repurchase agreements shall provide for purchased securities with a market value at least 101 percent of the amount of the invested funds; provided further that such investments shall provide for a transfer of ownership and possession of the purchased securities, either to the City directly or to a custodian depository institution which shall take record title and shall establish and maintain a subaccount in its financial records for the securities in the City's name; provided further such custodian shall not be the dealer from which the securities were purchased; provided further the repurchase agreement shall also provide a contractual right to liquidation of the purchased securities upon the bankruptcy, insolvency or other default of the counterparty; and provided further that any such purchased securities shall include only securities maturing within 24 months of the inception of the investment; provided, in each case, that the City, the Registrar or the Paying Agent, as appropriate, or such trustee or escrow agent shall apply such money to the payment of such principal and interest with respect to such Notes, and provided further, that with respect to the deposit of Notes pursuant to subsections (b) or (c), the City, the Registrar or the Paying Agent, as appropriate, and such trustee or escrow agent shall have received the report of an independent firm of nationally recognized public accountants to the effect that the amount deposited is sufficient to make the payments specified therein.

### **Liability of City Limited to Net Revenues**

Notwithstanding anything contained in the Note Ordinance or in the Notes, the City shall not be required to advance any moneys derived from any source other than the funds and other assets pledged under the Note Ordinance for any of the purposes mentioned in the Note Ordinance, whether for the payment of the principal of or interest on the Notes or for any other purpose of the Note Ordinance. Nevertheless, the City may, but shall not be required to, advance for any of the purposes of the Note Ordinance any funds of the City which may be made available to it for such purposes.

### **Waiver of Personal Liability**

No Council member, Board member, officer, agent or employee of the City or the Board shall be individually or personally liable for the payment of the principal of or premium, if any, or interest on the Notes or be subject to any personal liability or accountability by reason of the issuance thereof, but nothing in the Note Ordinance contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by the Note Ordinance. No Council member, Board member, officer, agent or employee of the City or the Board shall be deemed to be included, as an individual, in the definition of Person when acting in their official capacity.

### **Payment and Performance on Business Days**

Whenever under the terms of the Note Ordinance or the Notes, the performance date of any provisions of the Note Ordinance or thereof, including the payment of principal of or interest on the Notes, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Notes, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment.

**APPENDIX D**  
**OPINION OF BOND COUNSEL**

June 4, 2014

The City of Lincoln, Nebraska  
Acting for and on behalf of:  
Lincoln Electric System  
1040 "0" Street  
Lincoln, NE 68508

The City of Lincoln, Nebraska  
Lincoln Electric System Revenue Commercial Paper Notes

Ladies and Gentlemen:

We have examined proceedings relating to the issuance by The City of Lincoln, Nebraska (the "Issuer") of its Lincoln Electric System Revenue Commercial Paper Notes authorized in an aggregate principal amount outstanding at any time not to exceed \$150,000,000 (the "Notes"). The Notes are issued pursuant to Ordinance No. 18584 adopted on August 1, 2005 by the Council (the "Ordinance"). Capitalized terms used and not otherwise defined in this opinion have the meanings assigned to those terms in the Ordinance.

The Notes recite that they are issued under and pursuant to and in full compliance with the Constitution and laws of the State of Nebraska, including the Charter of the Issuer (the "Charter"), and the Ordinance.

The Notes, when issued and delivered in accordance with the Ordinance, will constitute "Subordinated Indebtedness" for purposes of Ordinance No. 17879, pursuant to which Bonds and Parity Obligations of the Issuer payable from the Net Revenues of Lincoln Electric System have been and may be issued. Under the terms of the Ordinance, the lien on the Net Revenues for the payment of the Notes is subordinated and inferior to the lien on such Net Revenues for the payment of the Bonds and Parity Obligations.

We have examined the Constitution and statutes of the State of Nebraska, applicable provisions of the Charter, and a certified transcript of the proceedings of the Issuer authorizing or relating to the Ordinance and the issuance of the Notes outstanding as of the date hereof (including, without limitation, documentation relating to the issuance, in 2011, of those Notes not being initially issued on the date hereof). We have also reviewed such other documentation and certificates as we deem relevant and necessary in rendering this opinion. The Issuer has covenanted in the Ordinance, in the tax certificate of the Issuer dated as of May 18, 2011, with respect to the Notes and in the tax compliance certificate of the Issuer dated the date hereof (the "Tax Certificate") to comply with all necessary provisions of the Internal Revenue Code of 1986 (the "Code") and the related regulations, rulings and judicial decisions in order to preserve the exclusion of interest on the Notes from gross income for federal income tax purposes. Noncompliance by the Issuer with such restrictions may cause the interest on the Notes to be subject to federal income taxation retroactive to their date of issue. We have assumed that the Issuer and others have complied and will continue to comply with the covenants, agreements, representations and certifications included in the items examined. As to questions of fact material to our opinion, we have relied upon the certifications and

representations of public officials and others in the items examined without undertaking to verify the same by independent investigation.

Based on such examination, we are of the opinion that:

1. The Issuer is validly existing as a political subdivision of the State of Nebraska (the “State”) with the power to adopt the Ordinance, perform the agreements on its part contained therein, and issue the Notes.

2. The Notes have been duly authorized, executed and delivered by the Issuer and, once issued in duly authorized form, executed by officials of the Issuer and authenticated by the Paying Agent, when delivered to and paid for by purchasers thereof, will constitute the valid and legally binding special obligations of the Issuer, payable from the sources provided therefor in the Ordinance.

3. The Notes are payable solely from the net income and revenues derived by the Issuer from the operation of the Lincoln Electric System, after providing for the costs of operation and maintenance thereof and payment of the Bonds and Parity Obligations. The Notes do not constitute general obligations of the Issuer and do not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision, limitation or restriction. The taxing power of the Issuer is not pledged to the payment of the Notes.

4. The Ordinance has been duly adopted by the governing body of the Issuer and approved by the Mayor of the Issuer and constitutes a valid and legally binding obligation of the Issuer enforceable against the Issuer in accordance with its terms.

5. Under existing laws, regulations, rulings and judicial decisions, interest on the Notes is not includable in gross income for federal income tax purposes. Interest on the Notes does not constitute an item of tax preference for purposes of the alternative minimum tax imposed on individuals and corporations by the Code. The opinions set forth in this paragraph are subject to continuing compliance by the Issuer with covenants regarding federal tax law contained in the Ordinance and the Tax Certificate. Failure to comply with such covenants could cause interest on the Notes to be included in gross income retroactive to the date of issue of the Notes. Although we are of the opinion that interest on the Notes is excluded from gross income for federal income tax purposes, the accrual or receipt of interest on the Notes may otherwise affect the federal income tax liability of the recipient. The extent of these other tax consequences will depend upon the recipient’s particular tax status and other items of income or deduction. We express no opinion regarding any such consequences.

6. Under existing laws, regulations and judicial decisions, interest on the Notes is exempt from all present Nebraska state income taxes as long as it is exempt for purposes of the federal income tax.

We express no opinion regarding the accuracy, completeness or sufficiency of any commercial paper memorandum or other offering material relating to the Notes (except to the extent, if any, stated in such commercial paper memorandum). Further, we express no opinion regarding the perfection or priority of the lien on revenues or other funds pledged under the Ordinance or tax consequences arising with respect to the Notes other than as expressly set forth in this opinion.

The obligations of the Issuer contained in the Notes and the Ordinance, and the enforceability thereof, are subject to general principles of equity which may permit the exercise of judicial discretion, the reasonable exercise in the future by the State of Nebraska and its governmental bodies of the police power inherent in the sovereignty of the State, applicable bankruptcy, insolvency, moratorium or similar laws

relating to or affecting creditors' rights generally and the exercise by the United States of America of the powers delegated to it by the Constitution of the United States of America.

The scope of our engagement does not extend beyond the examinations and the rendering of the opinions expressed herein. This letter is issued to and for the sole benefit of the above addressees. No person other than the above addressees may rely upon this letter without our express prior written consent. This letter may not be utilized by you for any other purpose whatsoever and may not be quoted by you without our express prior written consent. This letter may not be relied upon relative to subsequent issuances of the Notes unless we deliver an opinion in writing affirming the conclusions set forth herein. We have not assumed any responsibility with respect to the creditworthiness of the security for the Notes, and our engagement as bond counsel with respect to the transaction referred to herein terminates upon the date of this letter. We assume no obligation to review or supplement this letter subsequent to its date, whether by reason of a change in the current laws, by legislative or regulatory action, by judicial decision or for any other reason.

Very truly yours,

**APPENDIX E**  
**BOOK-ENTRY SYSTEM**

## BOOK-ENTRY SYSTEM

1. The Depository Trust Company (“DTC”), New York, NY, is acting as securities depository for the Notes. The Notes will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Master Note certificate has been issued for the Notes, and has been deposited with DTC.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s rating of “AA+.” The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

3. Purchases of the Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the Notes on DTC’s records. The ownership interest of each actual purchaser of each Note (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Notes are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Notes, except in the event that use of the book-entry system for the Notes is discontinued.

4. To facilitate subsequent transfers, all Notes deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Master Note with DTC and its registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Notes; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Notes are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial

Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

6. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Notes unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the LES as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Notes are credited on the record date (identified in a listing attached to the Omnibus Proxy).

7. Payments on the Notes will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from LES or the Paying Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Paying Agent, or LES, subject to any statutory or regulatory requirements as may be in effect from time to time. Payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of LES or the Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

8. DTC may discontinue providing its services as depository with respect to the Notes at any time by giving reasonable notice to LES or the Paying Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

9. LES may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Note certificates will be printed and delivered to DTC.

10. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that LES believes to be reliable, but LES takes no responsibility for the accuracy thereof.

11. LES will not have any responsibility or obligation to Direct or Indirect Participants or to any Beneficial Owner with respect to (i) the accuracy of any records maintained by DTC or any Direct or Indirect Participant; (ii) the payment by DTC or any Direct or Indirect Participant of any amount with respect to the Notes; (iii) any notice which is permitted or required to be given to Noteholders under the Note Ordinance; or (iv) any consent given or other action taken by DTC as Noteholder.

The information included under this heading "BOOK-ENTRY SYSTEM," other than in this paragraph and the preceding bold face paragraphs, has been provided by DTC. No representation is made by LES, the Paying Agent or the Underwriters as to the accuracy or adequacy of such information provided by DTC or as to the absence of material adverse changes in such information subsequent to the date thereof.

## APPENDIX F

**CERTAIN INFORMATION CONCERNING  
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**

JPMorgan Chase Bank, National Association, a national banking association (“JPMorgan Chase Bank, N.A.”), is one of the principal bank subsidiaries of JPMorgan Chase & Co. JPMorgan Chase Bank, N.A. offers a wide range of banking services to its customers both in the United States and internationally, including investment banking, financial services for consumers and small businesses, commercial banking, financial transaction processing and asset management. JPMorgan Chase Bank, N.A. is chartered and its business is subject to examination and regulation by the Office of the Comptroller of the Currency, a bureau of the U.S. Department of the Treasury. As of December 31, 2017, JPMorgan Chase Bank, N.A. had total assets of \$2.1 trillion and total stockholder’s equity of \$211.7 billion.

JPMorgan Chase Bank, N.A. files quarterly Consolidated Reports of Condition and Income for A Bank With Domestic and Foreign Offices (“Call Reports”) with the Federal Financial Institutions Examinations Council (the “FFIEC”). The non-confidential portions of the Call Reports can be viewed on the FFIEC’s website at <https://cdr.ffiec.gov/public>. The Call Reports are prepared in accordance with regulatory instructions issued by the FFIEC and do not in all cases conform to U.S. generally accepted accounting principles (“GAAP”).

Additional information concerning JPMorgan Chase Bank, N.A., including the Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K filed by JPMorgan Chase & Co. with the Securities and Exchange Commission (the “SEC”), as they become available, can be viewed on the SEC’s website at [www.sec.gov](http://www.sec.gov). Those reports and additional information concerning JPMorgan Chase Bank, N.A. can also be viewed on JPMorgan Chase & Co.’s investor relations website at <http://investor.shareholder.com/jpmorganchase>.

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The information contained in this Appendix relates to and has been obtained from JPMorgan Chase Bank, N.A. The delivery of the Official Statement shall not create any implication that there has been no change in the affairs of JPMorgan Chase Bank, N.A. since the date hereof, or that the information contained or referred to in this Appendix is correct as of any time subsequent to its date.